
Bullying, Harassment and Sexual Misconduct policy

Policy Overview

Summary	This policy reinforces that HIUK has a zero-tolerance approach to bullying, harassment and sexual misconduct in any form.		
Policy Owner	Group Principal		
Policy Sponsor	Chief Executive Officer		
Policy applies to	All staff and students		
Relevant Legislation and Policies			
Version	1		
Approved by	Board of Directors	Approval date	01/06/25
Date of implementation	01/06/25	Date of next formal review	3 years following approval date.

1. Context

This Policy applies to HIUK staff and students wherever situated and should be read in conjunction with policies of relevant partner institutions. This policy (and previous versions of this policy over the previous three years) will be placed on the 'Policies' section of the HIUK website. This policy will be directly emailed to all registered students and staff of the institute on an annual basis.

2. Purpose

- 2.1 Holmes promotes an environment that is free from bullying, harassment and sexual misconduct. Holmes is committed to providing students with a safe environment which promotes the respect of each member of the university community.
- 2.2 Bullying, Harassment and Sexual Misconduct affecting any student or staff member is unacceptable.
- 2.3 Any reported occurrence of Bullying, Harassment or Sexual misconduct will be taken seriously and will be investigated.
- 2.4 In support of this commitment, Holmes will take steps to increase awareness of Bullying, Harassment and Sexual Misconduct, provide support for victims, investigate all reports of such behaviour, and deal fairly with all parties.
- 2.5 Where investigations find that an incident has occurred Holmes Institute will take appropriate action.
- 2.6 This policy supports Holmes Institute's framework for dealing with student misconduct, (Refer to Student Charter and Conduct Policy).
- 2.7 Alleged misconduct by staff is also managed under the Holmes Institute Code of Conduct Policy. (Refer to Code of Conduct Policy).

3. Definitions

- 3.1 **Alleged Offender** means a person against whom a complaint of Bullying, Harassment or Sexual Misconduct is made.
- 3.2 **Complainant** means a person who makes a Disclosure or a Report.
- 3.3 **Consent** is having the capacity to give free and clear agreement, expressed outwardly through mutually understandable words or communication, agreeing to engage in a particular activity. Consent can be withdrawn by any party at any point and must be voluntarily given and is not valid if a person is being subjected to actions or behaviours that elicit emotional, psychological, physical, reputational, financial pressure, threat, intimidation, or fear (coercion or force). Consent to engage in one sexual activity, or past agreement to engage in a particular sexual activity, cannot be presumed as agreement for consent to engage in a different sexual activity or to repeat a sexual activity. Consent cannot be given by a person who does not have the capacity to give consent, including those who are intoxicated, unwell, distressed or otherwise disadvantaged. Circumstances in which a person does not consent to an act include, but are not limited to, the following:
 - a) The person submits to the act because of force or fear of force, whether to that person or someone else;
 - b) The person submits to the act because of the fear of harm of any type, whether to that person or someone else;
 - c) The person submits to the act because the person is unlawfully detained;
 - d) The person is asleep or unconscious;
 - e) The person is so affected by alcohol or another drug as to be incapable of consenting to the act;
 - f) The person is incapable of understanding the sexual nature of the act;

- g) The person is mistaken about the sexual nature of the act;
- h) The person is mistaken about the identity of any other person involved in the act;
- i) The person does not say or do anything to indicate consent to the act;
- j) Having initially given consent to the act, the person later withdraws consent to the act taking place or continuing;
- m) It is important to understand that a person might not consent to behaviour even though they were, or are, in a relationship with the alleged offender.

3.4 **External Report** means a report to the police and/or external agency.

3.5 **Procedural Fairness** is the procedural requirement to ensure that a standard of fairness is applied in the investigation and adjudication of a dispute. This involves:

- a) Fully informing a person of any allegation/s made against them;
- b) Giving them the opportunity to state their case, provide an explanation or put forward their viewpoint;
- c) Conducting a proper investigation of the allegations, ensuring that all parties are heard and that all relevant submissions are considered, with reasons given for any decision;
- d) Acting fairly, impartially and without bias; and
- e) Declaring any real or potential conflict of interest.

3.6 **Reasonable Measures** are arrangements or adjustments that may be implemented on a case-by-case basis where a Disclosure or Report has been made in order to minimise the potential for harm to any person.

3.7 **Report** means the sharing of information regarding an incident of Bullying, Harassment or Sexual Misconduct to Holmes for the purpose of accessing support which may require further action, therefore reasonable measures will be taken initiating further action such as an investigation.

3.8 **Bullying and Harassment** mean unwanted conduct that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for a person. The Equality Act 2010 prohibits harassment that is related to age, disability, gender re-assignment, race, religion or belief, sex or sexual orientation.

Harassment can take many forms – occurring in face-to-face settings, by telephone, or in written or electronic communications. This list is by no means exhaustive but provides some examples of behaviour that can amount to harassment:

- Unwanted physical contact, verbal conduct or intrusive questioning.
- Embarrassing or otherwise offensive jokes.
- The expression of racist or homophobic views.
- Unwelcome written or visual communications, including emails, notes or pictures.
- Use of social media sites to ridicule, harass or bully.

3.9 **Sexual Misconduct** refers to any inappropriate sexual behaviour between members of staff, staff and students or between students. Sexual misconduct may include Sexual Assault or Sexual Harassment, but may also involve inappropriate consensual relationships between staff and students or between staff members.

3.10 **Consensual relationships:** where an intimate personal relationship overlaps with a working relationship, this may give rise to an actual or perceived conflict of interest which compromises the integrity of the people involved and undermines the good running and reputation of the University.

At different times individuals could fall within or move between different relationship categorisations, such as a student who also works for the University as a member of staff. In such cases, the person should act in accordance with the requirements that apply to both staff and students.

Personal relationships might include a family relationship, an intimate relationship (for example, a sexual or romantic relationship (current or former)), or a business or commercial relationship (for example, where two people are involved in a (non-University) business together). This list is not exhaustive.

3.11 **Relationships between staff and students:** The integrity of the academic relationship between staff and their students is of fundamental importance. All members of staff have a professional and ethical responsibility to protect the interests of students, to respect the trust involved in the staff/student relationship, and to accept the constraints and obligations inherent in that responsibility. Personal relationships between staff and students are absolutely prohibited where a staff member has responsibility for, or any involvement in, a student's academic studies and/or personal welfare. In other circumstances, personal relationships other than family relationships between staff and students are unlikely to be appropriate but will be assessed on a case-by-case basis.

3.10 **Sexual Assault** is any unwanted sexual behaviour that makes a person feel uncomfortable, threatened or scared; and is an inclusive term used to describe sexual behaviour to which a person does not give consent to. It can be perpetrated by a person of any gender on a person of any gender. It covers:

- a) Rape: forced, unwanted sex or sexual acts;
- b) Child sexual abuse: using power over a child or young person to involve them in sexual activity; and
- c) Indecent assault: indecent behaviour before, during or after an assault.

3.11 **Sexual Harassment** is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment is not consensual sexual interaction, flirtation or friendship and is not behaviour that is mutually agreed upon. Sexual harassment can be physical, verbal or written and it can include:

- a) Comments about a person's private life or the way they look;
- b) Sexually suggestive behaviour, such as leering or staring;
- c) Physical contact of a sexual nature such as brushing up against someone, touching, fondling or hugging;
- d) Sexually suggestive comments or jokes;
- e) Displaying sexually offensive material;
- f) Accessing pornographic websites on campus, at work or the Institute network;
- g) Continued requests for dates that have been previously denied, or requests for sex;
- h) Sexually explicit emails, text messages or posts on social networking sites;
- i) Making or distributing sexually explicit photos or videos;
- j) Unwelcome sexual advances;
- k) Making or distributing sexually explicit photos or videos;
- l) Acts of indecency; and
- m) Sexual assault.

3.12 **Personal Information** means information that names a person, or from which the identity of the person can be worked out.

4. Support Principles

The Bullying, Harassment and Sexual Misconduct Policy for Holmes support principles consists of the following:

4.1 The safety and wellbeing of students and staff is of the highest priority of Holmes Institute.

- 4.2 Holmes has zero tolerance for any form of harassment or sexual misconduct.
- 4.3 Holmes will support all students who are parties to reports of Harassment or Sexual Misconduct including facilitating access to relevant counselling, medical, police or legal services.
- 4.4 Holmes will work to promote and encourage a culture of safety and respect.
- 4.5 Holmes will respect the rights of students to privacy and confidentiality.
- 4.6 Holmes supports the right of students who have experienced Harassment or Sexual Misconduct to choose whether they want to make a Report to Holmes or make an External Report.
- 4.7 Holmes will treat individuals fairly, impartially, and with compassion and empathy, while adhering to the principles of Procedural Fairness in proceedings or decisions under this policy.
- 4.8 Former students who report an incident of Harassment or Sexual Misconduct which occurred when they were a student will be provided with information and referred to relevant support services by Holmes Institute. Former students should be aware that Holmes may be limited in any investigative actions it can take.

5. Procedure

Disclosure of an Incident

- 5.1 If any student of Holmes Institute has experienced harassment or sexual misconduct, they are encouraged to disclose the matter by completing the SASH Incident Form and emailing it or by speaking directly to a SASH Support Officer (Campus Directors), or Manager of Student Engagement.
- 5.2 The role of the Support Officer is to:
 - a) Be always willing to listen to any disclosure of an incident involving harassment or sexual misconduct;
 - b) Provide appropriate support for the person making the disclosure;
 - c) Ensure the person making the disclosure is treated with compassion, empathy, understanding and respect;
 - d) Act in accordance with the Institute's Policies and Procedures;
 - e) Inform the person wishing to make a disclosure that they understand the difference between a disclosure and a formal report. The Support Officer needs to explain that the student can still access support services without making a formal report; and
 - f) Inform the person making the disclosure or formal report that their privacy will always be maintained and their own information or any other person they may report, will be dealt with by Holmes Institute.
- 5.3 The disclosure will be dealt with in the following way:
 - a) Any data related to the incident will be de-identified of personal information to safeguard against privacy, and held and stored only for the purposes of a data collection mechanism;
 - b) The person making the disclosure has the right to review the information for factual accuracy before it is formally submitted for data collection; and

Formal Reporting of an Incident

- 5.4 Where a Formal Report is lodged, the person making this request will be advised of the Institute's threshold for determining whether to undertake a formal investigation or refer the matter to external professional services such as Police or other external professional services; and therefore, will request from the reporting student how they would like to see their report resolved.
- 5.5 The Institute will make every effort to facilitate reasonable requests in a safe and supportive way.

- 5.6 Where a Misconduct Assessment is deemed appropriate, the appropriate steps will be taken to commence a misconduct assessment and investigation under our Institute procedure if in relation to a current Institute staff member or student; and therefore, all information will continue to be held securely.
- 5.7 Information collected from reports will also be used for internal reports to assist Holmes Institute Campuses to identify areas or activities of risk and take measures to eliminate the incidence of sexual misconduct at Holmes Institute Campuses. This information does not identify individuals and does not include personal information.
- 5.8 If a Disclosure is made to a Support Officer, the Support Officer will:
- a) Assess and ensure the immediate safety and security of the person involved in an incident and/or any other members of the Holmes Institute community;
 - b) Encourage and assist the person to contact a specialised Counselling Service;
 - c) Explain the difference between a Disclosure and a Formal Report and ensure the reporting student understands they will receive full support for either option;
 - d) Provide information about other internal support options (including academic, and/or welfare support options);
 - e) Provide information about external support and reporting options (including Police, Health and Emergency Services);
 - f) Provide information regarding the choice to make a Formal Report of Sexual Assault or Sexual Harassment;
 - g) Provide the person with a copy of the Harassment and Sexual Misconduct Policy and a copy of this Procedure document: Disclosing Sexual Assault or Sexual Harassment.
- 5.9 If a Formal Report of Sexual Assault or Sexual Harassment is made, Holmes Institute will investigate and act in accordance with its policies and procedures and any applicable Commonwealth and State legislation and act.
- 5.10 If a person does not wish to make a Formal Report, Holmes Institute will provide support and guidance as outlined in Sections 4.1- 4.3 of this procedure.
- 5.11 If Holmes Institute becomes aware of an incident of Sexual Assault or Sexual Harassment that has occurred on campus, at an Institute Event, or involving an alleged perpetrator who is a member of the Holmes Institute community, including any Holmes student placed by our Homestay provider, the Institute may instigate its own action in accordance with Sections 4.1- 4.3 of this Procedure.

6. Confidentiality

- 6.1 Any Disclosure or Formal Report of Harassment or Sexual Misconduct will be treated confidentially.
- 6.2 However, information Disclosed or Reported may be shared on a confidential basis with relevant Institute staff, as necessary, to ensure the safety of the person making the report as well as the broader Holmes Institute community, and to ensure that coordinated support is provided.
- 6.3 There are also circumstances in which Holmes is required by law to disclose information to the police and/or other government agencies, as per 7.2 and 7.3 below.

7. External Reporting

- 7.1 A person who is alleging sexual assault is given the option to report the matter directly to the police. Holmes must let the person making the Disclosure decide if they wish to report to the police and regardless of their decision, must continue to provide support and guidance as outlined in Section 1 of this Procedure.

- 7.2 Holmes is required to report information externally and/or contact emergency services if there is a threat or physical harm or danger to any person.
- 7.3 If a report is made to both the Institute and the police, the Institute may be required to suspend any internal investigation pending the outcome of the police investigation.