



Ollscoil
Teicneolaíochta
an Atlantaigh

Atlantic
Technological
University

**Preventing and Responding
to Sexual Violence and
Harassment Policy
Quality Assurance Area: EDI
EDI 001/01**

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Written by:	CUA Sexual Violence and Harassment Working Group Policy Sub Committee	
Approved by:	VP Online Development, IT Sligo, VP Research, Equality and External Affairs, President, GMIT	
Approving Authority:	ATU Governing Body	
Head of Function responsible:	President ATU and President's Nominee	
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This Policy was approved by the Governing Body on 1 April 2022. It shall be reviewed and, as necessary, amended by the University annually. All amendments shall be recorded on the revision history section above.

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1. Purpose of Document

- 1.1 The University commits to provide a safe, respectful, and supportive work and study environment for all members of its community. It is the responsibility of the University, together with all its staff and students, to ensure a working and learning environment where everyone is treated with equality, dignity, and respect.
- 1.2 Sexual violence and harassment are unacceptable, and the University considers such behaviours to constitute Sexual Misconduct. When such behaviours are found to have occurred, they are deemed by the University to amount to a breach of discipline and a failure to meet the required standard of conduct. Subject to the gravity of any breach, sanctions can range up to and including suspension and expulsion / dismissal.
- 1.3 The University has developed an Action Plan and is committed to a range of specific actions and preventative measures including training and awareness-raising which aims to end sexual violence and harassment.
- 1.4 The University has developed a Procedure for Preventing and Responding to Sexual Violence and Harassment to implement this policy.

2. Scope

- 2.1 The policy extends to any alleged Sexual Misconduct that occurs to any member of the University community. It is not limited to on-campus incidents only. Rather, it encompasses allegations relating to conduct that occurs during university or related activities, including field trips, conferences, official social functions, clubs and societies activities, sporting events (both in Ireland or overseas) and other social activities considered to be part of usual student life. The policy applies to conduct in writing, by phone and online that is connected to any university activity.
- 2.2 Alleged behaviours that occur beyond university settings or outside their immediate activities can still have an impact that is strongly and adversely felt by staff and students within the University. Indeed, such behaviours may pose a health and safety risk for the University, its staff and/or students, and/or directly or indirectly lead to subsequent incidents that are immediately related to university activities. Allegations relating to conduct that occurs in these circumstances will be assessed on a case-by-case basis to determine whether it fall under the scope of this policy.
- 2.3 The policy relates to all types of Sexual Misconduct allegation: staff-to-staff; student-to-student; staff-to-student; and student-to-staff. Further, the policy applies to all members of the University's community – not only its staff and students, including contractors, vendors, visitors, external members of university clubs and societies. It also encompasses all who engage with

the University, including those who provide or avail of its services. Where the Responding Party is neither a student nor a staff member, action(s) to be taken will necessarily be determined on a case-by-case basis in accordance with the role/function of the individual in question. For example, the matter may be referred to the relevant third-party employer; Precautionary Measures may also be taken by the University.

- 2.4 There is no time limit within which Formal Reports may be lodged as it is in the interest of the University to receive such complaints, even if delayed. Due to the trauma of sexual violence and harassment it is recognised that there may be a delay in disclosing an incident. However, it is noted that a delay in reporting may affect the University's ability to investigate.
- 2.5 In circumstances where a person does not wish to make a Formal Complaint there may be sufficient concern for the University's broader obligation to the safety and welfare of others to justify a formal investigation being instigated. The University will also consider how to respond to reports of sexual misconduct from third parties such as an alleged witness or bystander and anonymous reports. Whilst it would be exceptional for the University to pursue a formal investigation where an individual chooses not to make a formal complaint, a third-party or anonymous report, such decisions will be taken on a case-by-case basis by Sexual Misconduct Prevention and Response Manager in consultation with the preliminary review group and informed by legal advice as appropriate.
- 2.6 Where there are more than two reports concerning sexual misconduct within a department, school, faculty or function, the University may conduct an environmental investigation with staff and/or students within that department, school, faculty or function. Such an investigation would aim to understand the behaviours in more detail, so as to identify and implement appropriate support and interventions. An environmental investigation will involve the development of Terms of Reference by the Sexual Misconduct Prevention and Response Manager in consultation with the department, school, faculty or function. As part of this process interviews and/or focus groups will be conducted with students and/or staff to ascertain the key concerns and possible solutions. The introduction of environmental investigations is intended to ensure effective resolution of complaints and prevention of future unacceptable behaviours.
- 2.7 Some instances of Sexual Misconduct may also constitute a criminal offence. A person who discloses an allegation of this nature will be given clear guidance regarding the options open to them, including internal support and reporting options, attending the nearest HSE Sexual Assault Treatment Unit (SATU) and/or referral to the Gardaí and/or specialist support services such as a Rape Crisis Centre. Where alleged incidents may also constitute a criminal offence, these may be investigated through criminal proceedings, internal disciplinary proceedings, or both. If the Reporting Party chooses to pursue both avenues, the University will reserve the right to suspend its internal investigation until that of An Garda Síochána has concluded so as not to prejudice the criminal investigation. The decision regarding whether or not to pause an investigation will be determined by the Sexual Misconduct Prevention and Response Manager, informed by An Garda Síochána and legal advice. Where it is possible to do so, the investigation will proceed. If the University process is paused, the University will take any necessary Precautionary Measures to protect all parties in the interim. Only in exceptional

circumstances, and with specific legal advice, will the University report a disclosure to the Gardaí contrary to the wishes of the individual.

- 2.8 The criminal process and investigations conducted in adherence to university policy are fundamentally different. For example: The standard of proof in a university investigation is lower. The University typically seeks to determine whether a person has, on the balance of probabilities, breached the policy. For the criminal process, the standard of proof is beyond a reasonable doubt.
- 2.9 Only a court can find a person guilty of a criminal offence. The University's investigations of this kind are limited to making findings of a breach in policy or discipline. The most serious sanction that can be applied as a result of a university investigation is permanent expulsion or termination of employment; for a criminal process, the most serious sanction that can be applied is imprisonment. When the criminal process has concluded, the University may refer the matter for consideration under its disciplinary procedures. Where the Responding Party has been convicted, this can be relied upon to establish a disciplinary offence without requiring internal investigation. Where the Responding Party is acquitted following a criminal investigation, the University may still take disciplinary action if there is sufficient evidence that the behaviour constituted a breach of policy.

3. Reference Document

Safe, Respectful, Supportive and Positive Ending Sexual Violence and Harassment in Irish Higher Education Institutions, Dept of Education (2019).

Promoting Consent and Preventing Sexual Violence (PROPEL), THEA (2021)

4. Policy Description

4.1 Roles and Responsibilities

- 4.1.1 All staff and students have a responsibility to treat all members of the community with equality, dignity and respect.
- 4.1.2 The President, Executive Management Team and all senior managers have a responsibility for promoting a safe, respectful and supportive culture in the University.

- 4.1.3 The President will assign specific responsibility for the overall implementation of the policy to a member of the Executive Management Team.
- 4.1.4 The Sexual Misconduct Prevention and Response Manager has operational responsibility for implementing this policy across the University.
- 4.1.5 The University will identify and train a gender-balanced group of Designated Disclosure Persons (DDP). The role of DDP, as set out in the Procedure for Preventing and Responding to Sexual Violence and Harassment, is to support students and staff who experience sexual violence and harassment, informing them of the options open to them and the support services that are available internally in the University and externally in the community.
- 4.1.6 Heads of Departments / Line Managers, Human Resources, Equality, Diversity and Inclusion (EDI) staff, Trade Union Representatives and the Employee Assistance Programme are available to support staff.
- 4.1.7 Student Counsellors, Student Services, Student's Union Welfare Officers, Heads of Department, Programme Chairs and EDI staff are available to support students.

4.2 Definitions

- 4.2.1 A **Disclosure** occurs when an individual shares informally with another person who is part of the University community that they may have been subjected to sexual violence or harassment. When a person discloses, they should be given information about all options available to them, including how to make a Formal Report. It should be made clear that support services, both internal and external, are available to them whether or not they choose to make a Formal Report.
- 4.2.2 A **Formal Report** occurs when a person makes a formal statement about Sexual Misconduct to a staff-member in the University who has the authority to initiate a formal investigation process (e.g. the Sexual Misconduct Prevention and Response Manager). The Formal Report will then be managed in accordance with the University's policy and accompanying procedures.
- 4.2.3 The **Reporting Party** is the person who has allegedly been subject to Sexual Misconduct and has made a Formal Report.
- 4.2.4 The **Responding Party** is the person who has allegedly carried out the Sexual Misconduct and against whom a Formal Report of Sexual Misconduct has been made.
- 4.2.5 The **Sexual Misconduct Prevention and Response Manager** is the person who has been nominated by the University to hold a key role in addressing all allegations of Sexual Misconduct. As indicated by the title, this role will entail both prevention and response actions. They will play a central and proactive role in fostering a safe, respectful, and supportive culture in the University.

- 4.2.6 **Consent** is the freely given verbal or non-verbal communication of a feeling of willingness to engage in sexual activity. There is no consent if the person is asleep or unconscious; force or the threat of force is used; they cannot consent because of the effect of alcohol/other drug; they cannot communicate consent because of a physical disability; they are mistaken about the act or about the identity of the other person; the only indication of consent came from a third person; or they are being unlawfully detained at the time of the act. The law is also clear that failure to resist is not consent and that consent, once given, may be withdrawn at any time before or during the act.
- 4.2.7 The **legal age of consent**. It is a criminal offence to engage or attempt to engage in a sexual act with a child under 17 years of age. Under the Children First Act (2015) the University must report harm to a child to Tusla.
- 4.2.8 **Sexual Misconduct** is any form of unwelcome behaviour of a sexual nature; it is unacceptable behaviour that may be subject to disciplinary proceedings. Sexual misconduct includes crimes of sexual violence, sexual cyberbullying of any kind including non-consensual taking and/or sharing of intimate images, creating, accessing, viewing, or distributing child pornography material online or offline, stalking behaviours whether online or offline in a sexual context, and any verbal or physical harassment in a sexual context. Sexual misconduct can be committed by a person of any gender and it can occur between people of the same or different genders. It is often gender targeted and perpetrated to demean, diminish, and intimidate. Sexual misconduct may occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. This definition of Sexual Misconduct includes sexual violence and harassment.
- 4.2.9 **Sexual Harassment** is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. Such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures, or material.
- 4.2.10 **Sexual Violence** is any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic/exploit for personal benefit or financial gain, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the person, in any setting, including but not limited to home and work. Coercion can cover a whole spectrum of degrees of force. Apart from physical force, it may involve psychological intimidation, blackmail or other threats – for instance, the threat of physical harm, of being dismissed from a job or of not obtaining a job that is sought. It may also occur when the person aggressed is unable to give consent – for instance because of the effects of alcohol/other drug, asleep or mentally incapable at that time of understanding the situation.
- 4.2.11 **Precautionary Measures** are actions that may be taken by the University at any stage with the aim of protecting all parties for example measures that ensure that both parties do not come into contact with each other whilst an investigation is underway. Any such measures will be reasonable and proportionate and will have the minimum possible impact on the Responding Party, while also providing a safe environment for the Reporting Party. These measures are not disciplinary sanctions, and they do not indicate that the University has made conclusions regarding any alleged breach of discipline, failure to meet the required standard of conduct, or criminal offence.

4.3 Confidentiality

4.3.1 Confidentiality is essential when a Formal Report is made. Both the Reporting and Responding Parties have a right to privacy and protection, and information should only be shared on a need-to-know basis, i.e., with those involved in the process of investigating complaints and those involved with precautionary measures, to the necessary extent. The requirement for confidentiality extends to all who are party to a Formal Report, including witnesses and to those managing the complaint. However, where there is a risk that the Responding Party may pose a threat to the physical or psychological safety of others, information may be disclosed to the relevant agencies. Additionally, under the Children First Act (2015) the University must report harm to a child to Tusla.

5. Link to Related Documents

5.1 Pending the approval of a suite of University Policies, this policy should be read in conjunction with the below listed legacy policies and procedures;

GMIT	LYIT	IT Sligo
Dignity at Work	Dignity at Work	Dignity at Work
Grievance	Grievance	Grievance
Disciplinary Procedure	Disciplinary Procedure	Disciplinary Procedure
Protected Disclosures Policy	Protected Disclosures Policy	Protected Disclosures Policy
Employee Code of Conduct	Employee Code of Conduct	Employee Code of Conduct
Student Code of Conduct	Student Code of Conduct	Student Charter
EDI Policy	EDI Policy	EDI Policy
Gender Identity and Expression Policy		Child, Young and Vulnerable Persons Policy
Equality Policy for Students		

6. Record Keeping and Data Collection

6.1 The Sexual Misconduct Prevention and Response Manager will record all Formal Reports in a university register. This register will include all actions and decisions taken and the outcome of the investigation. The purpose of this is to identify patterns of behaviour to determine the effectiveness of existing procedures, to publish aggregated university data for monitoring purposes and to report to statutory agencies as required. All such data will be retained in accordance with data protection legislation and data subjects will have access to their information.

7. Procedures and Records Generated by this Policy

- 7.1 The University has developed a Procedure for Preventing and Responding to Sexual Violence and Harassment to implement this policy