

Bury College Policy and Procedures

Harassment and Sexual Misconduct Policy for Higher Education

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V1	05/02/25	New Policy	Sarah Walton	Approved

1. Introduction & Purpose

Allegations relating to this policy will be dealt with through the Behaviour and Pastoral Policy. Our College Principles make clear that we do not tolerate sexual misconduct and relationship abuse or violence. They also make clear that we are committed to providing a campus environment in which all members of our community feel safe and are respected.

We are committed to preventing and eliminating all forms of sexual misconduct and relationship abuse.

We recognise the significant negative effects that experiencing sexual misconduct and relationship abuse can have upon individuals, and we will support them, as well as supporting those members of the College community (peers, personal tutors, etc.) to whom such experiences are disclosed.

We are committed to providing a supportive and confidential environment where individuals feel confident and empowered to disclose, will be listened to and understand the options available to them.

We will support everyone in our community to challenge inappropriate behaviour where it is safe for them to do so.

This policy only applies to students on higher education courses at Bury College. Other students will be addressed through the Bury College's Safeguarding policy.

The purpose of this policy is to outline how we will:

- provide a campus environment in which all members of our community feel safe and are respected.
- set out our expectations around the unacceptability of sexual misconduct and relationship abuse.
- support students who have experienced any form of sexual misconduct.
- respond appropriately and effectively to disclosed incidents which breach this policy.

2. The definitions we use

For the purposes of this policy, we will use the term "sexual misconduct" and "relationship abuse", and harassment as defined below. It should be noted that there are links and overlap between relationship abuse and the continuum of sexual misconduct.

Harassment (as defined by Section 26 of the Equality Act 2010) includes unwanted behaviour or conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment because of, or connected to, one or more of the following protected characteristics:

- age
- disability
- gender reassignment
- race
- religion or belief
- sex
- sexual orientation

We have summarised section 26 of the Equality Act 2010 as follows:

'harassment, including sexual harassment, includes unwanted behaviour or conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment because of, or connected to, one or more of the following protected characteristics: age; disability; gender reassignment; race; religion or belief; sex; and sexual orientation.'

We have summarised section 1 of the Protection from Harassment Act 1997 as follows:

'a course of conduct conducted on at least two occasions that harasses one other person, or a course of conduct that harasses two or more persons at least once each. References to harassing a person include alarming the person or causing the person distress.'

We have also extended these definitions to include harassment of one student by another student.

These definitions include tests that are designed to establish, objectively and reasonably, whether conduct could be considered as 'harassment'.

This means providers should take into account:

- the perception of the person who is at the receiving end of the conduct
- the other circumstances of the case
- whether it is reasonable for the conduct to have the effect under scrutiny.

Under section 1 of the Protection from Harassment Act 1997, an offence is committed only if:

- the person knows the conduct amounts to harassment of the other, or
- a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other person.

2.1 'Sexual misconduct'

We define sexual misconduct as any unwanted or attempted unwanted conduct of a sexual nature. This includes, but is not limited to:

- sexual harassment
- sexual assault; and
- rape.

makes you feel intimidated, degraded or humiliated or creates a hostile or offensive environment), stalking, abusive or degrading remarks of a sexual nature, and a vast range of other behaviours.

(2.2) Consent

Consent is the agreement to participate in a sexual act where the individual has both the freedom and capacity to make that decision. Consent cannot be assumed on the basis of a previous sexual experience or previously given consent, and consent may be withdrawn at any time.

Freedom to consent: For consent to be present, the individual has to freely engage in a sexual act. Consent is not present when submission by an unwilling participant results from the exploitation of power, deception, coercion, pressure or force, regardless of whether there is verbal or physical resistance.

- Coercion or Force includes any physical or emotional harm or threat of physical or emotional harm which would reasonably place an individual in fear of immediate or future harm, with the result that the individual feels compelled to engage in a sexual act.

Capacity to consent: Free consent cannot be given if the individual does not have the capacity to give consent. Incapacitation occurs when an individual is asleep, unconscious, semi-conscious, or in a state of intermittent consciousness, or any other state of unawareness that a sexual act may be occurring. Incapacitation may also occur on account of a mental or developmental disability, or as the result of alcohol or drug use.

- Alcohol and/or Drug Use: Incapacitation arising from alcohol or drug consumption should be evaluated on the basis of how the alcohol/drugs have affected the individual; signs of incapacitation may include, but are not limited to, one or more of the following: slurred speech, unsteady gait, bloodshot eyes, dilated pupils, unusual behaviour, blacking out, a lack of full control over physical movements, a lack of awareness of circumstances or surroundings, and/or an inability to communicate effectively. Intoxication is never a defence for committing an act of Sexual Violence and Misconduct, or for failing to obtain consent. If there is any doubt as to the level or extent of one's own or the other individual's incapacitation, the safest approach is to not engage in a sexual act.

Professional Relationships

The professional boundaries associated with a relationship of trust and confidence, that exists between a student and a member of staff is a central and essential part of a student's educational development and pastoral care. For that reason, and given the inherent imbalance of power between staff and students, the College discourages intimate relationships between its staff and its adult students.

An 'intimate personal relationship' is defined as a relationship that involves one or more of the following elements:

- physical intimacy including isolated or repeated sexual activity; or
- romantic or emotional intimacy.

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- physical intimacy including isolated or repeated sexual activity; or
- romantic or emotional intimacy.

Any intimate relationship between an adult student must be declared. When declared we conduct a normal conflict of interest/ risk assessment.

(2.3) Relationship Abuse

Relationship abuse can be any incident or pattern of incidents of controlling, coercive, threatening behaviour and/or violence between those aged 16 or over, who are, or have been in a personal relationship with the individual abusing them, regardless of gender or sexuality.

It covers all forms of domestic and relationship abuse including:

- Psychological
- Physical
- Financial
- Emotional
- Stalking (online and in person)
- Digital and online
- “Honour”-based abuse (including forced marriage) and Female Genital Mutilation

People who are “personally connected” include:

- Partners
- Former partners
- Family members
- Individuals who share parental responsibility for a child
- Teachers

There is no requirement for the person being abused and the person abusing them to live in the same household.

(2.4) Controlling Behaviour

Controlling behaviour is an act or range of acts designed to make someone subordinate and dependent by controlling their sources of support, finances, movements, health, body, means needed for independence, resistance and escape.

(2.5) Coercive Behaviour

Coercive behaviour is an act or pattern of acts which make someone feel dependent, isolated, punished, or frightened. Examples include isolating someone from their family or friends, monitoring someone's activities or movements and threatening to harm someone.

(2.6) Stalking

Stalking is a specific type of harassment which involves a pattern of unwanted, fixated, repetitive or obsessive behaviour that is intrusive and causes fear or distress. Stalking can take many different forms, including online and in person.

(2.7) "Honour"-based abuse (including forced marriage) and Female Genital Mutilation

An incident involving violence, threats of violence or harm, intimidation, coercion, or abuse (including psychological, physical, sexual, financial, or emotional abuse) which has or may have been committed to protect or defend the honour of an individual, family and/or community for alleged or perceived breaches of the family and/or community's code of behaviour.

(2.8) Disclosure

Disclosure means that an individual tells a member of the College community that they have experienced Sexual Misconduct and/or Relationship Abuse (this is different from a formal Complaint).

(2.9) Formal Complaint

Submitting a formal complaint to the College regarding an individual's experience of Sexual Misconduct and/or Relationship Abuse is an instruction for the College to take appropriate action. The complaint will allow the College to investigate the misconduct as set out in this Policy and the accompanying processes.

(2.10) Designated Safeguarding Lead(DSL)

THE DSL is specially trained for anyone who has experienced or been affected by sexual misconduct and/or relationship abuse. They offer confidential support and signposting to students. They can also offer support for anyone who has experienced or been affected by sexual misconduct and/or relationship abuse. They offer confidential, emotional support and advocacy.

(2.12) Reporting Party

The Reporting Party is the person(s) who has made a formal Complaint regarding an experience of sexual misconduct.

(2.13) Responding Party

The Responding Party is the person(s) named in a formal Complaint who is alleged to have committed an act of sexual misconduct.

3. What we commit to do

- Support anyone in our student community who is subject to any form of sexual misconduct and relationship abuse
- Ensure that reporters are responded to in a safe, supportive and trauma-informed environment
- Prioritise their safety and wellbeing, whilst ensuring the dignity of all those involved in any investigations or disciplinary proceedings
- Listen to the voice of the reporter when considering sanctions.

In addition to this, we will:

- Support all staff and students so that they understand:
 - what sexual misconduct and relationship abuse is and that it is not tolerated;
 - what consent is; *and*
 - when consent is, and is not, given.
- Make clear how to disclose sexual misconduct and/or relationship abuse, in person, online and anonymously, what options are available and the support that can be provided.
- Ensure that all relevant staff are informed of how to receive and signpost a disclosure of sexual misconduct and/or relationship abuse in a sensitive way.
- Empower those who disclose an experience to choose which options are best for them and provide access to expert professional support via the DSL.
- Set out all options and processes clearly and transparently. This includes the option to not make a formal complaint.
- Ensure that all relevant staff are provided with training to enable them to support and advise a student who has experienced sexual misconduct and/or relationship abuse.
- Respect the sensitivity of disclosures of sexual misconduct and/or relationship abuse and their consequences, and treat any disclosure confidentially, in line with our Data Protection Policy and the College's duty of care under safeguarding.
- Within Disciplinary Proceedings, ensure fairness to both Reporting and Responding parties.
- Ensure that all communications are sufficiently clear and detailed, and accurately reflect any decisions made.
- Learn from our experiences and regularly review this policy informed by data trends and with input from independent external experts to ensure it remains relevant.

4. Implementation

How students can disclose

Both disclosure and reporting are important steps in addressing sexual harassment and misconduct, and students may choose to disclose or report based on their own preferences, needs, and circumstances. Students can disclose or report to any member

of Bury College staff so everyone needs to be aware of the distinction between disclosure and reporting and be prepared to respond appropriately to both.

Disclosure refers to the voluntary sharing of information about an incident of sexual harassment or misconduct for support or validation, while reporting involves the formal communication of information to initiate a process of investigation and intervention by Bury College.

- 1) **Disclosure:** making new or secret information known – this could be to, for example, to any member of staff at Bury College. They may not want to report formally at this stage.
- 2) **Report:** formally reporting the incident(s) to Bury College to be processed through our disciplinary regulations and procedures and/or the police. Making a report inherently involves the act of making a disclosure, but making a disclosure does not necessarily always lead to making a formal report.

In student handbooks and at induction, we encourage students to speak to Personal Tutors in the first instance but given the sensitivity of this, students will most likely disclose to those they trust.

Any one in the Bury College Community, including students, staff, guest lecturers, visitors, contractors can make a report. Contact safeguarding@burycollege.ac.uk

Once a disclosure and report has been received, staff should contact the Safeguarding Team to ensure support is put in place for the students. Staff should be aware the student, is most likely to be signposted to specialist services to include Manchester Rape Crisis Centre [Listen, Believe, Support | Manchester Rape Crisis](#) and St Mary's [St Mary's Centre :: Home \(stmaryscentre.org\)](#). Both organisations support students no matter the severity of sexual harassment experienced. All information relating to the Disclosure will be added to the CPOMS platform by the Safeguarding Team.

5. Investigation and Disciplinary Process

Both reporting and responding to reports are important aspects of addressing sexual harassment and misconduct within an institution.

- 1) **Reporting party:** the person reporting themselves to be a victim of sexual misconduct and where they want Bury College to undertake an investigation into their report.
- 2) **Reported party:** the person who has been reported to have perpetrated sexual misconduct.

Reports, where students are alleging sexual harassment and sexual misconduct by Bury College staff to include Guest Speakers will be investigated by Human Resources.

Reports in relation to perpetrators who do not study or work at Bury College can not be investigated by us. The reporting party will be encouraged and supported to make a report to the police if this is what they wish. They can access support from the Safeguarding Team.

When reports are subject to a criminal investigation by the police, Bury College will take no further investigative action until the police investigation has been completed.

In instances, where reports will be investigated by Bury College, the following actions will be taken:

Acknowledgement of the report

- Reports made using Safeguarding email or phone are received by the Safeguarding Team. They will contact the reporting party to acknowledge receipt and to advise of next steps within 24 hours of receiving the report.
- Reports received by staff members, should be shared as soon as possible with the Safeguarding team and on CPOMs

Initial Assessment

- The Safeguarding Team will conduct an initial risk assessment of the report to determine its credibility, severity, and whether it falls within the scope of the sexual harassment and misconduct policy or disciplinary policy.
- Interim measures may be implemented to ensure the safety and well-being of the parties involved, such as no-contact orders, changes to timetable, or temporary suspensions without prejudice.

Formal Investigation

- If the report is deemed credible and warrants further investigation, it will be referred to the Assistant Principal for Personal Development.
- A Pastoral Manager will be assigned to conduct a thorough and impartial investigation into the allegations.
- If the case is deemed to be high risk, for example an allegation of rape but where the reporting party does not want to report to the police, Bury College will engage the support of specialist services.

Gathering Evidence

- Pastoral Managers collect evidence related to the incident, which may include witness statements, documents, emails, text messages, social media posts, and any other relevant information.

Interviews

- Pastoral Managers interview the parties involved, as well as any witnesses identified during the investigation, to gather additional information and perspectives on the incident.

Review of Evidence

- Investigators review all evidence collected during the investigation, assess its credibility and relevance, and analyse the findings to determine whether the reported behaviour constitutes a violation of the sexual harassment and misconduct policy

Findings

- The investigators will compile their findings and log all details on CPOMs. conclusions regarding whether the reported behaviour occurred and whether it violated Bury College policies.

Disciplinary Action

- If the investigation substantiates the allegations of sexual harassment or misconduct, disciplinary action may be imposed on the reported party in line with the Disciplinary Policy under 'misconduct or gross misconduct'.

- Pastoral Managers will refer to the Student Pastoral and Behaviour Policy and follow as appropriate.
- Disciplinary measures may include formal written warnings, suspension, expulsion, or other sanctions, depending on the severity of the behaviour.

Appeals

- Both the reporting and the reported party have the right to appeal the outcome of the investigation or any disciplinary action imposed. This can be done by emailing appeals@burycollege.ac.uk.

Resolution and Follow up

- Once the investigation and any subsequent disciplinary processes are completed, the Assistant Principal communicates the outcome to the parties involved and takes steps to ensure compliance with any disciplinary measures imposed.
- Ongoing support and resources are provided to survivors of sexual harassment or misconduct, and efforts are made to address any systemic issues or concerns identified during the investigation process.

The investigation and disciplinary process should be conducted in a fair, prompt, and impartial manner, with respect for the rights and privacy of all parties involved. The investigation aims to be concluded within 28 working days, however, this is dependent on the complexity and sensitivity of the case.

Both parties are expected to respect the process and should be aware that if they seek to influence or prejudice the investigation in any way, they may be subject to disciplinary action. If either party wants to complain about how this process was conducted, they should be directed to

The implementation of this policy will be addressed through the Pastoral and Behaviour Policy.

6. Support Available

The following support is available for students to access:

- Report & Support- safeguarding@burycollege.ac.uk
- Manchester Rape Crisis – 0161 273 4500
- Women's Aid – 0161 660 7999
- National Domestic Abuse helpline 0808 2000 247
- Respect - 0808 8024040 or visit respectphoneline.org.uk
- Men's Advice Line - 0808 8010327 or visit mensadviceline.org.uk

Screening for effects on equality	
Name of policy being assessed.	Harassment and Sexual Misconduct Policy in Higher Education
Policy Holder and/or person with authority to make changes to policy:	Sarah Walton
Position:	Assistant Principal Personal Development
Directorate:	Personal Development
New/Revised/Reviewed Policy:	Revised
What is the aim, objective or purpose of the policy, procedure, strategy or decision?	
<p>This dedicated Higher Education policy outlines Bury College's commitment to addressing and preventing sexual misconduct and relationship abuse within Higher Education. The college adheres to its core values by fostering a safe and respectful environment where such misconduct is not tolerated, and individuals are supported. The policy's purpose is to establish clear expectations around sexual misconduct and relationship abuse, provide effective support to affected students, and ensure appropriate responses to disclosed incidents. This policy is in line with the requirements set by the Office for Students (OFS), ensuring that the college meets its regulatory obligations regarding student welfare and safeguarding.</p>	
Who was consulted when the policy was first written?	
<p>Leadership Team Pastoral Staff Additional Learning support staff HE Students</p>	
Who does the policy affect?	
<p>All staff; students; partners; suppliers; visitors; contractors etc in relation to HE</p>	
Who implements the policy, and what steps will be taken to ensure the effective implementation of the policy?	
<p>The policy implementation will be implemented by all staff in the college.</p>	
What pre-existing evidence is available to facilitate the screening of the policy?	

This has been in place and there are no issues screening the policy.

What impact is the policy likely to have on the following characteristics?					
Protected characteristic*	Positive impact	Negative impact	Neutral impact	Unclear	Further comments
Age (or age group)	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	
Disability	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	Reasonable adjustments in place where necessary.
Gender reassignment	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	
Pregnancy and maternity	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	
Race (including ethnicity and nationality)	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	
Religion or belief	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	
Sex	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	
Sexual orientation	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	
Looked after learners	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	
Social-economic	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	
Carers	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	Carers go through HR for DBS
Ex-offenders	<input type="checkbox"/>	<input type="checkbox"/>	✓ <input type="checkbox"/>	<input type="checkbox"/>	

*Protected Characteristics as identified by the Equality Act 2010.

If any answers are 'negative' can any adverse impact be justified on the basis of a legal requirement? Yes ☐ No ☐

If 'yes', please explain:

Some adverse impact may be justified on the basis of a legal requirement or applicable exemption including where positive action is undertaken or where there is a conflict with other legislation e.g. health and safety. If this is the case, please explain. A Full Equality Impact Assessment may not need to be completed if justification on this basis can be provided.

Please detail any suggested actions identified to improve positive impact or remove negative impact of this policy.

Issue identified	Suggestion action to address this issue
No Issues	

Should a Full Equality Impact Assessment be carried out?

No ☐

If 'yes', is the priority High or Low? (Based on the number of people to whom the policy applies and the level of impact it is likely to have as a result.)

No ☐

Please explain the justification of Full Equality Impact Assessment Decision

Consider all information provided on this form when making a decision about whether a Full Equality Impact Assessment should be carried out.

A full EIA may be required if any of the following apply:-

- a) An adverse impact is identified with regards one or more of the protected characteristics with no legal justification;
- b) An adverse impact is identified with regards one or more of the protected characteristics with no explanation provided about how this may be removed by changes to the policy or the way it is implemented.

Note: an adverse impact does not necessarily require action to be taken. Actions must remain in proportion with the benefits that could be achieved and resources available to complete them. If adverse impacts are identified and actions for improvements are not proportionate, the reasons for not taking the action should be detailed and open to challenge.

How will this policy be approved?

This policy will be approved by the leadership team.

There is no adverse impact from this policy

This Preliminary Impact Assessment was checked and signed off by the policy holder:

Name & Signature	Sarah Walton
Date	05/02/25

Once completed please return (a) a signed hard copy of the form and (b) an electronic version (to be published on the intranet) to