



Policy on Sexual Misconduct, Harassment and Unacceptable Behaviours

Appendix A Stage 1: Disclosure Procedure

IMPORTANT INFORMATION

1. This Disclosure Procedure should normally be used to handle allegations of behaviour that may constitute a breach of the Policy on Sexual Misconduct, Harassment and Unacceptable Behaviours.
2. Before operating this Stage of the procedures under the Policy on Sexual Misconduct, Harassment and Related Behaviours, please ensure you have read and familiarised yourself with the Policy and its principles.
3. Please also ensure you have read through the Disclosure Report Form as soon as possible in the event of operating this Stage of the procedures, and in all cases, before commencing any investigation into allegations raised.
4. This Disclosure Procedure under the Policy applies to students and staff of the institution. Via the Disclosure Report Form, the purpose of this procedure is to provide support to a Complainant and to gather information, identifying what a Complainant would like to happen and any additional support needs, beginning an early investigation where relevant into allegations raised, and determining next steps.
5. The Disclosure Investigation Officer may or may not be the person who receives an initial report or disclosure from an individual. The person performing this role will vary as appropriate and necessary to the context in which a disclosure/allegations have been raised.
6. This procedure is designed to be flexible and take account of the needs and wishes of Complainants. However, the decision as to any action to be taken is at the full discretion of the Disclosure Investigation Officer, and any action taken must be fair and proportionate. Whilst they will take into account any expressed wishes of a Complainant, they may conclude that certain action (or no action) is appropriate and necessary, even when this is not in accordance with the wishes of a Complainant. The Disclosure Investigation Officer should clearly document their reasons for decisions about what (if any) action should be taken arising from a disclosure.

Disclosure Report Form

7. The Disclosure Report Form should ideally be used to record the initial disclosure but sometimes a person in receipt of an initial disclosure may . This report should then be referred to the Disclosure Investigation Officer (if this is a different person from the person receiving the disclosure). The Disclosure Report Form may be used in full or in part, as appropriate, to form the basis of documentation in the event of any institutional proceedings. Where sensitive personal information has been disclosed by a Complainant in a Disclosure Report Form and it is appropriate to strictly limit the sharing of that information, the Disclosure Investigation may at their discretion complete a secondary Disclosure Report Form to produce a record that the Complainant is comfortable having shared.

For example, the disclosure may warrant disciplinary action against another member of staff or student in the institution, necessitating the sharing of the Disclosure Report Form as the record of the disclosure. In this instance, the institution may hold the initial Disclosure Report Form that contains personal sensitive information on file, sharing it on a strictly limited and necessary basis with certain staff only, and the Disclosure Investigation Officer may produce a second Report which is agreed with the Complainant, that can subsequently be shared with a Respondent. In this instance, both reports should be clearly labelled so that there is no ambiguity about which has agreement to be shared.

Good practices in managing this procedure

8. It is good practice to ensure that:

- proactive steps are taken to avoid the Complainant having to make repeated disclosures, as this can cause stress and distress, and in extreme cases, trauma;
- flexibility and time should be given to a Complainant before they agree to any actions proposed. It is helpful to share a draft version of the Disclosure Report Form for information and agreement and to allow a reasonable time-period for the Complainant to have time to reflect and consider any proposed actions. It is usual for Complainants to have lost agency in the issue of disclosure, therefore it is important to afford them agency in this process;
- the Complainant understands that the Disclosure Investigation Officer will seek to act as far as possible in accordance with their wishes, but that they may find that action needs to be taken which is not ultimately in accordance with the preference of the Complainant;
- the Complainant understands what information (as is recorded on the Final Disclosure Report Form) will be shared with a Respondent;
- the Complainant understands that a Respondent must receive all information for which they may be expected to answer to;

- the Complainant has signed off the accuracy of any information reported by them as recorded on the final Disclosure Report form, so that the Disclosure Investigation Officer is clear about what the Complainant is comfortable sharing.

9. Please ensure the Disclosure Report Form is fully completed.

In the course of operating this procedure, you may find it useful to refer to the following sections of the Policy:

- ‘Management of cases under this Policy’ (in Section 4)
- ‘Definitions’ (Section 2)
- ‘Scope and principles of this Policy and its procedures’ (Section 3)
- ‘Outcomes of cases’ (Section 5)
- ‘Right to choose action, or withdraw a complaint/allegations’ (Section 8)
- ‘Written and Oral representations: Notification of Legal Implications’ (in Section 4)

1. A Stage 1 Initial Support Meeting and Early Investigation under this Policy may be instigated in any of the following instances:

Event instigating the Stage 1 Disclosure Procedure	What should happen; Important / Relevant Information
<p>a) Allegations are received from any individual (including students, staff and non-members of the institution) that the behaviour of one or more students constitutes a breach of this Policy and/or any other policy (eg Non-Academic Misconduct, in respect of sexual misconduct, harassment of any kind and/or related unacceptable behaviours, as defined in the Policy on Sexual Misconduct,</p>	<ul style="list-style-type: none"> · A Disclosure Report Form (Appendix A1) should be used ideally from the outset to record any initial discussions and/or notes taken (notes may informally be taken in the first instance, but please be aware that these may also constitute relevant evidence in the event of any police investigation arising from the allegations, along with any Stage 1 Report). The Report plus any notes taken should be passed to the Disclosure Investigation Officer if this is a different person from the person receiving the initial Disclosure. · As noted above in this appendix, the initially completed Disclosure Report Form may be used as the basis for the final Disclosure Report Form that is completed and signed off by the Disclosure Investigation Officer, or as necessary, a new Final Disclosure Report Form may be completed and signed off. This flexibility affords a Complainant agency over information that may be shared with a Respondent. · The need for Precautionary Measures should be considered, supported by a risk assessment.

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- Consideration should also be given as to whether any other institutional policies and processes may apply.

<p>b) Allegations are received from any individual that the behaviour of a member (or members) of staff of the institution constitutes a breach of this policy.</p>	<ul style="list-style-type: none"> · In such cases, the matter will be referred into this Stage 1 Disclosure Procedure of the Policy, but cannot progress to any of the procedures under this Policy beyond Stage 1. · A Disclosure Report Form (Appendix A1) should be used ideally from the outset to record any initial discussions and/or notes taken (notes may informally be taken in the first instance, but please be aware that these may also constitute relevant evidence in the event of any police investigation arising from the allegations, along with any Disclosure Report). The Report plus any notes taken should be passed to the Disclosure Investigation Officer if this is a different person from the person receiving the initial Disclosure. · The Disclosure Investigation Officer will as appropriate and in consultation with the Complainant refer the matter to the relevant HR staff/procedures of the institution. The Disclosure Investigation Officer may consult with a senior HR Manager to seek advice and guidance on procedures, but the decision as to whether to refer the matter into HR procedures is at the discretion of the Disclosure Investigation Officer. · It is recommended that a risk assessment, taking account of the severity of allegations and the role of the staff member concerned, may assist with this decision. Early Investigation Officers may wish to complete a risk assessment jointly with a member of staff who has a Safeguarding remit within their role.
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<p>c) Allegations are received from any individual that the behaviour of an individual who is not a member of the institution constitutes a breach of this Policy (including non-recent allegations).</p>	<ul style="list-style-type: none"> In such cases, the matter will be referred into the Stage One Disclosure procedure but cannot progress to any of the other procedures under this Policy beyond Stage One. The Disclosure Investigation Officer will, as appropriate and in consultation with the Complainant, determine next steps with regard to any support requirements (including referral to/engagement with external services) and will determine whether there are any other measures^[1] that should be taken. A Disclosure Report Form (Appendix A1) should ideally be used from the outset to record any initial discussions and/or notes taken (notes may informally be taken in the first instance, but please be aware that these may also constitute relevant evidence in the event of any police investigation arising from the allegations, along with any Disclosure Report). The Report plus any notes taken should be passed to the Disclosure Investigation Officer if this is a different person from the person receiving the initial Disclosure. If the Complainant is a third party, they should be clearly informed about the retention schedule of the Disclosure Report Form by the institution. In the event that the Complainant requests that a Disclosure Report Form is destroyed and deleted by the institution, the institutional Data Protection Officer should be consulted.
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2. Important points to consider

- This Stage 1 Disclosure procedure may identify the need for Precautionary Measures (see Appendix C) to be instigated. It is helpful to undertake a Risk Assessment (Appendix E) to support the decision to impose Precautionary Measures if there is a need to impose measures that extend beyond 'no contact conditions' (such as exclusion/suspension).
- Stage 1 includes a procedure for handling non-recent allegations (see section 3 of the Policy, specifically 'Non-Recent Allegations').
- Where allegations have been or there is an indication they will be reported to the Police, please consult Appendix D 'Procedures for allegations reported to the Police'.
- There are **legal implications** for any disclosures or admissions made that may fall within the scope of criminal offences. It is therefore essential for staff managing these procedures to issue warnings to individuals about these implications. Please see Section 4 of this Appendix and Section 4 of the Policy for relevant information.

Purposes of the Stage 1 Disclosure Procedure:

There are two purposes of Stage 1:

- a) **SUPPORT:**

- To provide immediate support;
- To identify any additional/further support (including external support) needed by the Complainant;
- To identify whether there is a need to instigate Precautionary Measures (or take any other emergency action);
- To explain the procedures and principles of this policy (and where necessary point to allied institutional policies and procedures);
- To gather initial information and evidence;
- To explore potential options with the Complainant and wherever possible, to agree next steps.

b) EARLY INVESTIGATION:

- To instigate/undertake the initial investigation of a complaint or allegations raised, and to gather as much information as is necessary in order to determine next steps.
- Next steps may include action to be taken, deferral of action pending certain conditions/circumstances, or no action.
- The rationale for decisions made by the Disclosure Investigation Officer should be recorded in the Disclosure Report Form (Appendix A1).

3. STAGE 1 Disclosure Procedure

- 3.1 Upon receiving allegations/a complaint about behaviour or action that may fall under the scope of this policy, an Initial Support meeting should take place in a safe, confidential space. This meeting may form part of, or conclude, the Disclosure Investigation.
- 3.2 The person conducting this initial support meeting may or may not be the Disclosure Investigation Officer appointed by a member of senior management in the institution, or they may refer the matter to a designated institutional Disclosure Investigation Officer.
- 3.3 The person receiving the complaint/disclosure of allegations shall immediately determine whether they are comfortable and competent to conduct an initial support meeting, ideally using the Stage 1 Disclosure Report Form to inform how the meeting is conducted and what information is gathered, and to record the meeting.
- 3.4 Staff should take care to try to avoid a situation where a Complainant is forced to repeat a disclosure already made. However, where a staff member believes they do not have sufficient capacity at that time to conduct this initial support meeting, they may immediately refer the Complainant and/or the case to another designated member of staff to act as Disclosure Investigation Officer for this initial meeting.

Referral to the Disclosure Investigation Officer where this is a different person from the Initial Supporter

3.5 Where, following an Initial Support meeting the Early Investigation Officer role is assigned to another member of staff, the Initial Supporter will forward their Stage 1 Disclosure Report Form and/or any notes they made to the Disclosure Investigation Officer. It is essential to ensure that the Complainant has as much agency in this initial stage of the Stage 1 procedures as possible. Please therefore note the following protocols for referring a case to a Disclosure Investigation Officer:

- The Complainant's agreement will be sought before the Stage 1 Report and any notes are forwarded to the Disclosure Investigation Officer (please see further on for action in the event of non-agreement by a Complainant).
- The Disclosure Report and as applicable any notes will be shown to the Complainant ahead of being forwarded to the Disclosure Investigation Officer, so that they are aware of the content and can discuss this with the Disclosure Investigation Officer;
- To reach an agreed version of the Disclosure Report that the Complainant is comfortable with being circulated/shared further, the Disclosure Investigation Officer may produce a second 'official agreed' version of the Disclosure Report with only the necessary information that needs to be addressed with the Respondent(s). This approach can alleviate the need for the Complainant to self-censor personal sensitive information when engaging with the Disclosure Investigation Officer, as they can initially freely and openly make their initial disclosure and disclose any personal sensitive information that can be confidentially recorded by the Disclosure Investigation Officer and retained by IFG without unnecessary processing of that information with other parties.
- The Complainant may be comfortable with the Disclosure Report being forwarded but not other informal notes made by the Initial Supporter. In this instance the Initial Supporter can just forward the Disclosure Report Form to the Early Investigation Officer but should ensure they advise the Complainant that if there is any information in the informal notes that is not contained within the Disclosure Report Form, the institution will not be able to take it into account or act upon it;
- Where the Complainant does not consent to either the Report and/or notes being forwarded to the Disclosure Investigation Officer, the matter will not normally be progressed unless the Initial Supporter considers that there may be a safeguarding issue which overrides the wishes of the Complainant. This may particularly be the case for allegations concerning members of staff. Where the Complainant does not

agree to this, the Initial Supporter will record in writing that this was the decision and will forward this written confirmation along with a copy of the Disclosure Report to the institutional Designated Safeguarding Officer (at IFG this is the Academic Director/CEO) who will determine whether there are any Safeguarding concerns that necessitate the institution to act upon any of the information disclosed.

3.6 Where a Complainant raises a complaint or allegations which may fall within the scope of this procedure, they have the right to express their wishes about whether they want any action to be taken. In determining this, officers of the institution will normally afford a reasonable period of time to allow the Complainant to reach a decision about whether they are seeking any action to be taken (including the nature of any action), though the circumstances and any relative urgency of the case may affect the length of the period that can be offered. As relevant and applicable, the Initial Supporter and Disclosure Investigation Officer will determine what constitutes a reasonable period of time, taking into account the circumstances of the Complainant and alleged Respondent, and any other relevant factors (such as holiday periods; whether a complaint has been made to the Police etc.).

4. Written and oral representations; Notification of legal implications

4.1 Please see Section 4 of the Policy for information about the need to provide notification of legal implications with regard to any admissions made, written representations submitted or notes produced by any individual under any of the processes under this Policy.

5. Disclosure Investigation Officer procedures

5.1 The role of the Disclosure Investigation Officer is to gather as much information as they need in order to reach a decision about next steps. Sometimes, this will involve a lot of information gathering, and this may have an impact on any subsequent procedures (eg Fitness to Work/Support to Study; Disciplinary/Non-Academic Misconduct) that may reduce the need for, or extent of, information gathering in those procedures.

5.2 The Disclosure Investigation Officer will review the information thus far gathered, and will determine whether any investigative and/or supportive action for both the Complainant and Respondent is necessary before completing a Stage 1 Disclosure Report. The Disclosure Investigation Officer will assure themselves that they have sufficient information to reach this determination, and may seek further information/clarification as necessary in order to do so.

5.3 Following any initial investigations, the Disclosure Investigation Officer will complete a **Final Stage 1 Disclosure Report Form** (Appendix A1) using any previous Report/notes as necessary, and the report will be released to the Complainant and – where applicable – the Respondent. Please note the following:

- The notes from any individual meetings conducted with any party (including witnesses) by the Initial Supporter and/or Disclosure Investigation Officer in respect of allegations/complaints made will not normally be released with the report.
- However, should a student case necessitate referral to a Misconduct Panel where the Respondent must consequently answer to allegations of misconduct, notes from meetings (redacted as appropriate) will form part of the evidence that the Panel must consider and therefore will normally need to be disclosed to all parties concerned (the Respondent, the Complainant and the Panel).
- At all times, Complainants should be aware of what information will be shared with a Respondent. The Disclosure Investigation Officer may work with a Complainant to produce a final agreed version of the Stage 1 Disclosure Report contents that they are comfortable sharing. Disclosure Investigation Officers should take care to explain the implications and limitations afforded by restricting information where a Complainant wishes the institution to take action.

- The decision of the Disclosure Investigation Officer as to what action(s) may be taken may be guided and/or limited by what information a Complainant is prepared to formally disclose.
- The Disclosure Investigation may take some time, owing to the necessary flexibility needed to give a Complainant time to consider their options, and the need to gather any relevant information.

5.4 The Disclosure Investigation Officer may find it is necessary to meet with the Respondent in order to determine the most appropriate next steps towards closing the Disclosure Investigation. It is at the discretion of the Disclosure Investigation Officer, taking account of the wishes of the Complainant, as to whether this is necessary and appropriate.

6. Complaints against the Stage 1 Procedure

6.1 Please see Section 6 of the Policy on Sexual Misconduct, Harassment and Unacceptable Behaviours, which covers Complaints under this Policy. However, please find below some useful information pertinent to the Disclosure Investigation procedure.

Complaints about a decision that differs from a Complainant's wishes

6.2 Complainants cannot make a complaint about the Disclosure Investigation Officer's decision on the basis that the decision differs from the wishes of the Complainant. For example, a Complainant cannot complain that the Disclosure Investigation Officer determined that action should be taken when the preference of the Complainant was that no action be taken, or that Alternative Resolution was not pursued when this was their preference. Complaints made on the basis of disagreement with the Disclosure Investigation Officer's decision will not be considered.

Complaints about a decision to report allegations which may constitute a possible criminal offence to the Police.

6.3 No-one may prevent anyone else from reporting or referring a matter to the police. Where the Complainant reports allegations to the Police, this is their right. Where the institution determines in accordance with its duty of care obligations that allegations which may constitute a possible criminal offence should be reported to the Police, this is subsequently a matter for the Police.

[1] Such measures may include, for example, whether the matter should be reported to the Police (with the consent of the Complainant), and whether the disclosure impacts upon the institutional Duty of Care to its students.