



Code: QA606

Title: **Student Sexual Harassment and Harassment Policy**

Date: 15 February 2018 with additional amendments approved 5 December 2018

Approval: Academic Council

1.0 POLICY STATEMENT

The University encourages the promotion of a learning, working and social environment where all staff and students work positively and harmoniously together. All staff and students have the right to be treated with dignity and respect in their day to day dealings in the University. NUI Galway believes that the University environment should give all staff and students the freedom to do their work, research and study without having to suffer harassment or sexual harassment in the University environment.

This policy exists as NUI Galway is of the view that harassment or sexual harassment is a particularly insidious form of discrimination. All staff and students are to be aware that harassment and sexual harassment are unacceptable within the University and can be grounds for disciplinary action.

All allegations of harassment or sexual harassment will be dealt with in a fair and sensitive manner, and as confidentially as is possible.

2.0 AIM OF THIS POLICY

The aim of this policy is to eliminate all forms of harassment or sexual harassment by both students and staff, to raise awareness of the effects of such behaviour on individuals in the working and learning environment and to promote a climate in which students feel able to raise complaints of harassment or sexual harassment without fear of victimisation. It is also the aim of this policy to provide a procedure to address complaints in this regard, to safeguard against the victimisation of complainants, persons who give evidence in proceedings or otherwise support a complainant¹.

3.0 RESPONSIBILITY OF PARTIES GENERALLY

It is the responsibility of Heads of Schools and other units to lead by example by treating all staff and students with dignity and respect. The promotion of awareness of this policy and associated procedures will be the responsibility of Heads of Schools and other units, who will be assisted in this by the Offices of the Dean of Students (or designated authority) and the Vice President for Equality and Diversity through training and awareness activities. It is the responsibility of all members of staff to be vigilant for signs of harassment and to take action, where possible, before a problem escalates. All staff and students can contribute to achieving an environment free of harassment and sexual harassment through cooperation with University, staff trade union and Student Union strategies.

This policy will be communicated to all students and staff through the NUI Galway website and other fora.

¹ Throughout this policy and procedure the individual who feels that they have been harassed or otherwise aggrieved is referred to as the "complainant" and the student against whom these allegations have been made is referred to as the "respondent".

4.0 DEFINING HARASSMENT AND SEXUAL HARASSMENT

4.1 Harassment

Harassment is any form of unwanted verbal, non-verbal or physical conduct related to any of the discriminatory grounds (other than gender). Those grounds are age, family status, civil status, sexual orientation, nationality, religious belief, disability, or membership of the traveller community.

It is important to note that intention to harass is not required in order for an action to be considered harassment; nor, does the activity have to be repeated in order for it to be considered harassment. Furthermore, it is not necessary for the victim of harassment to state that they consider the activity harassment in order for it to be considered so.

Examples of Harassment (not an exhaustive list)

- a. Remarks, insults, gestures, jokes which utilise derogatory language relating to one or more of the eight grounds listed above (e.g., jokes which utilize racist stereotyping, or refer to a person's particular characteristics)
- b. The use of or the circulation of explicit or other offensive material
- c. Written harassment, including text messages, emails, notices, letters, screen savers or calendars

4.2 Sexual harassment

Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature. For the avoidance of doubt, sexual harassment also includes unwanted conduct (as described above) related to gender, and sexual harassment between those of the same sex.

Examples of Sexual Harassment (not an exhaustive list)

- a. Physical – Unnecessary touching, pinching, or brushing against another; assault; coercive sexual intercourse; indecent exposure.
- b. Verbal – Unwelcome sexual advances, demands for sexual favours, suggestive remarks, innuendoes or lewd comments.
- c. Non-verbal – Displays of pornographic, or sexually suggestive pictures and objects; leering, whistling or sexually suggestive gestures.

4.3 Effects of Harassment or Sexual Harassment

Both Harassment and Sexual Harassment have the effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. The impact of harassment and sexual harassment can be devastating. It can affect not only the health, social and personal life of victims, but can also lead to significant adverse professional and educational outcomes.

4.4 Scope of conduct the subject of this policy

This policy applies to staff, students and third party contractors within the control of the University in the conduct of activities relating to University operations and programmes, and University-related activities, on University property and off. This section will not preclude the authorized adjudicators/investigators or otherwise from concluding that the actions impugned are too remote from University life to fall under this policy.

A complaint of bullying, harassment or sexual harassment made under this Policy, should be made within 12 months of the alleged incident(s) giving rise to the complaint or within 12 months of the date of the alleged last recurring incident.

5.0 HARASSMENT AND THE CONTENT OR PRESENTATION OF TEACHING MATERIALS, ARTISTIC EXHIBITION OR PERFORMANCE

It is recognised that those teaching certain subjects such as languages and literature, business, law, biological or social sciences and medicine must occasionally present and discuss material relating to sex and sexuality, and that students may sometimes find this material embarrassing or upsetting. While teachers are under an obligation not to be gratuitously offensive, they must be protected from unfair allegations of harassment based on the subject matter being discussed. Likewise, it is important that members of the University community have access to art exhibitions, dramatic and cinematic productions, and discussion and debate on a wide range of political, cultural and social issues. However, it should be noted that the material *per se* may not be offensive, but the manner in which it is discussed may be. University policy does not permit the gratuitous use of pornographic or other offensive material.

6.0 MONITORING AND REVIEW

Reported incidents of Harassment and Sexual Harassment will be monitored to evaluate the effectiveness of the Harassment and Sexual Harassment Policy. The policy will be reviewed in line with relevant legislative developments as appropriate.

7.0 PROCEDURE FOR MAKING A COMPLAINT

7.1 Scope

The procedures set out in this document are to be followed where:

- A student feels themselves a victim of harassment or sexual harassment by another student(s), or
- Where an allegation of harassment or sexual harassment has been made against a student by a member(s) of staff.

Where a student makes a complaint of harassment/sexual harassment against a member of staff, the procedure set out in the staff "Harassment and Sexual Harassment Policy" is to be followed. Students are advised and encouraged to make contact with the Students' Union, the Dean of Students (or designated authority) or the Equality Manager, Office of the Vice President for Equality and Diversity for further information on making such a complaint.

Where a student wishes to make a complaint about an employee of a third party contractor contracted by NUI Galway or its service companies, students are to make a complaint in writing to the Dean of Students (or designated authority) who will decide on the procedure to be followed, or otherwise how the complaint is to be dealt with.

In all cases, subject to the outcome of the procedures, there will be a presumption of innocence for the respondent(s).

7.2 What to do if you consider yourself to be the victim of Harassment or Sexual Harassment

Complainants are advised to utilize the following procedures:

- The Informal Procedure (as set out at Section 7.3), or
- The Formal Procedure (as set out at Section 7.4).

It is recognised that it may not always be practical to use the informal procedure – especially in relation to allegations of sexual harassment. Therefore, a complainant may decide, for whatever reason, to bypass the informal procedure. Choosing not to use the informal procedure will not reflect negatively on a complainant during the formal procedure.

Potential complainants and respondents are reminded that all information concerning allegations of harassment or victimization (whether made under this policy or any other) will be treated in confidence

by all parties, as far as is possible, in order to protect all parties involved. Students and staff are to be aware that breaches of confidentiality may give rise to action being taken under the University's Staff or Student disciplinary policies.

7.3 Informal Procedure

The University supports the resolution of complaints, as far as is possible and appropriate, through informal processes. In many cases the problem of harassment can be resolved informally. Complainants who believe they are being subjected to harassment and wish to attempt to resolve it informally should explain the following clearly to the respondent(s):

- Details of the behaviour in question.
- The fact that it is unwelcome and offensive to them.
- The harmful effects it is having on them.
- That it is contrary to University policy.

To facilitate this, the complainant should keep a record of events as they occur; what happened, dates, times, places, witnesses (if any), the respondent(s)' response and the impact of this behaviour.

Where students find it difficult to communicate directly with the respondent(s), they should be accompanied by a third party, for example a friend, Students' Union representative, or a Contact Person. This person's role will be to provide moral support to the complainant while they are making their issues known to the respondent(s). It is not their role to make the complaint on behalf of the complainant; however, where it is evident that the complainant is having difficulty in presenting their issues the person accompanying them will be free to assist in the presentation of the complaint. The respondent(s) should be made aware at the time the meeting is being arranged that the complainant will be accompanied at this meeting. The respondent(s) also has the right to be accompanied by a third party. Should they wish to have a person with them at the meeting, they should make the complainant aware of this at the time the meeting is being arranged.

If at this point the parties come to an agreement or solution, the remedial actions should be clearly identified and agreed to by both parties. This will allow both parties to monitor the situation going forward. Both parties are encouraged to agree notes in order to remove ambiguity later. The objective of the informal procedure is to allow both parties agree a framework where they will be able to continue to interact together in an appropriate manner.

If this fails to resolve the issue or if either party wishes to have the matter dealt with formally they are entitled to refer the issue for processing through the formal procedure.

7.4 Formal Procedure

This procedure is to be followed where:

- If following the informal route and there is no resolution; or,
- At any point during the informal procedure the complainant wishes to do so; or,
- The matter is too serious to be resolved in an informal way.

To begin the formal procedure, a written complaint should be addressed to the Dean of Students (or designated authority). The Dean of Students (or designated authority) will then arrange for the investigation of the complaint as set out in the Student Code of Conduct.

7.4.1 Content of Written Complaint

In the letter of complaint, the complainant should set out as clearly and briefly as possible:

- The nature of the behaviour they are concerned about;
- The effect this behaviour has on them;

- Dates of, and the identity of any witnesses to, any incidents complained about, together with any documentary evidence of same;
- Details of any attempts that have been made to resolve the difficulties;
- If appropriate, the outcome/resolution they are seeking.

To assist students in setting out their complaint, there is a template complaint form set out at Appendix 2 which may be used if a student wishes to do so. This complaint form is available in soft copy on the University's website, as well as from the Students' Union, Contact Persons as well as the Dean of Students (or designated authority) Office.

7.5 Victimisation

Where an individual makes a complaint in good faith, gives evidence in proceedings or gives notice of intention to do so, they will not be victimised or subject to sanction.

Victimisation is regarded as gross misconduct, and students should note that any such action may result in formal investigation, a disciplinary hearing and serious sanction.

7.6 Malicious complaints

All complaints of harassment, bullying or victimisation will be considered within the context of the right of each individual to be treated with dignity and fairness. However, a formal complaint of harassment or sexual harassment should never be made on a malicious or vexatious basis and the possible making of a complaint should never be used as a threat against an individual.

Where, following investigation under the Formal Procedure it is concluded that complaints were made or threatened to be made on a malicious and/or vexatious basis, the complainant's conduct will be investigated under the University's Staff or Student Disciplinary policies and may lead to disciplinary action up to and including summary dismissal/expulsion of the complainant.

8.0 THIS POLICY AND CRIMINAL INVESTIGATIONS

Where the University becomes aware of any criminal investigation into matters which form the subject matter of a complaint, the University will seek to act in the best interests of all parties and shall utilize its own discretion in its handling of any internal policies and procedures. The aim of the University shall be to balance the principles of natural justice, the health and safety of staff and students, the integrity of any possible criminal investigation, and the right to the good name and presumption of innocence of all parties concerned.

9.0 CONTACT PERSONS

Contact Persons will be made available to students to assist in navigating the procedures set out in this document. Their role is to provide information and emotional support in a confidential, non-judgmental and off-the-record manner to any student involved in this process. A description of their role is more fully set out at Appendix 1 below.

Details of the current list of Contact Persons will be available on the University website, from the Students' Union and the Office of the Dean of Students (or designated authority).

10.0 SUPPORT FOR THOSE EXPERIENCING SEXUAL HARASSMENT

The University recognises the particular difficulties raised for students in the context of sexual harassment. Support is available for students from a number of sources both within the University and from outside agencies in this regard.

Please see Appendix 3 for a list of groups and organisations who may be able to provide support for those who have or are experiencing sexual harassment.

11.0 Responsibilities

Name

Dean of Students (or designated authority)

Responsibility

As policy owner, to ensure that reviews of this policy occur at least once every 5 years and that best practice is reflected in any revisions.

Appendix 1: Contact Persons and their Role

Role of the Contact Person:

1. The role of the Contact Person is to provide information and emotional support in a confidential, non-judgmental and off-the-record discussion(s) to any student who feels that s/he is being subjected to bullying, harassment or sexual harassment, or to any student against whom a complaint of bullying, harassment or sexual harassment has been made. In doing so, the Contact Person is expected to be accessible, supportive and available and to listen, discuss and provide information to the complainant.
2. The Contact Person only offers emotional support and advice for issues relating to bullying, harassment or sexual harassment, applicable only to areas of University operations and/or programmes. The role does not extend to any other forms of grievances or personal problems, nor should the Contact Person engage in any investigations related to the issues raised to him/her.
3. The objective for the Contact Person is to help the student to clarify what s/he is experiencing and to empower the student to decide what course of action, if any, s/he may wish to take. The Contact Person may not act as an advocate or representative on behalf of the person s/he is supporting nor can s/he tell the person what course of action to take.
4. A Contact Person may not approach the respondent/complainant on behalf of the person s/he is supporting. They may, however, accompany the person s/he is supporting to meetings with the other party, on request of the person s/he is supporting.
5. The Contact Person may offer support to a student who feels that s/he is being subjected to bullying, harassment or sexual harassment or a student against whom a complaint of bullying, harassment or sexual harassment has been made but not both. If a Contact Person is approached by both parties, s/he should support the first person who requests support and refer the second person to another Contact Person.
6. All discussions will be treated as completely confidential by the Contact Person, who will not be requested to disclose information to a third party. However, in a situation of exceptional circumstance regarding safety, including suicidal intent, sexual abuse and/or threats to the life of others, the Equality Manager should be contacted so that appropriate professional assistance can be sought. All individuals who make contact with a Contact Person will be made aware of these guiding principles of confidentiality.

HAVE YOU ALREADY RAISED THE CONCERNS INFORMALLY IN THE FIRST INSTANCE?
YES / NO (CIRCLE). IF YES, PLEASE STATE STAFF DEALT WITH AND DATE CONCERNS RAISED.
IF APPLICABLE LIST ANY ADDITIONAL DOCUMENTS ATTACHED.
Suggested Action or Remedy (Optional)

Statement by Student

I wish this complaint to be considered under the Formal Procedure as set out in the Student Anti-Bullying Policy, Harassment and Sexual Harassment Policy and Code of Conduct as applicable. I declare that the statements made are to the best of my knowledge true.

Student's Signature..... **Date**.....

Completed Form to be returned to:

Dean of Students (or designated authority), disciplinary.officer@nuigalway.ie.

Appendix 3: Supports For Students Experiencing Sexual Harassment

NUI Galway Health Unit

The doctors and nurses at the Student Health Unit are available to help with any sexual health issues.

091-492604
(Mon-Fri 9am-5pm)

087-2623997
(Out of hours)

Students' Union

The Welfare Officer and Equality Officer can offer you information, advice and support.

091-524810
or
086-3853659 (Welfare Officer)

Mill St. Garda Station

NUI Galway has a dedicated Garda Liaison Officer who is available to speak to students with regard to any problems that they might have.

091-538079

NUI Galway Counselling

Professional counselling services are available to all NUI Galway students free of charge.

091-492484
or
087-6644299

Dean of Students (or designated authority)

The Dean of Students (or designated authority) can advise you on the campus procedure for reporting and making a complaint about sexual harassment or assault.

091-495367

Galway Rape Crisis Centre

GRCC operates a free telephone helpline and face-to-face professional counselling service.

www.galwayrcc.org

or
1800 355 355

Galway Sexual Assault Treatment Unit

091-765751
or
087-6338118
(Mon-Fri 8am-4pm)