

HIGHER EDUCATION SEXUAL HARASSMENT AND SEXUAL MISCONDUCT POLICY

POLICY STATEMENT:

EKC Group is committed to the elimination of sexual misconduct, harassment, and victimisation across our college sites and campuses, as well as the higher education institutions we partner with such as the University of Kent.

It is the right of every member of EKC Group to work or study without fear of being victimised or becoming the target of sexual misconduct, sexual harassment, or subjected to bullying as a result of these offences. The Group recognises that the safety and wellbeing of its students is central to its success and reputation. The Group is therefore committed to providing a supportive, friendly, safe, and positive environment which is free from unacceptable behaviours so that students may learn in an atmosphere which enables and supports educational progression.

Sexual misconduct, sexual harassment, and other forms of victimisation are considered unacceptable behaviour at EKC Group; any such behaviours are considered an offence under the Equality Act 2010¹, the Sexual Offences Act 2003², and the Criminal Justice and Courts Act 2015.³ A zero-tolerance approach will be used to address reported behaviour or actions that constitute sexual harassment and sexual misconduct as these are counter to the Group's culture and values as an organisation. Reports and allegations will be investigated in full and will be treated as possible grounds for termination of registration.

¹ *Equality Act 2010*. Available at: <https://www.legislation.gov.uk/ukpga/2010/15/contents> (Accessed: 20 September 2021).

² Crown Prosecution Service (2021) *Rape and Sexual Offences - Chapter 7 Key Legislation and Offences*. Available at: <https://www.cps.gov.uk/legal-guidance/rape-and-sexual-offences-chapter-7-key-legislation-and-offences> (Accessed: 20 September 2021).

³ *Criminal Justice and Courts Act 2015*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/428204/cjc-act-circular.pdf (Accessed: 20 September 2021).

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Incidents of sexual harassment, sexual misconduct, or subsequent victimisation that are instigated against a student by a third party will be pursued and resolved by the Group as appropriate and may be subject to an external investigation by the relevant authorities.

Specific reference to this issue will be made during student induction and the respective Colleges will provide annual training sessions for all staff and students on both this policy and their individual responsibilities.

Any conduct by staff or students outside of college which is considered to be inappropriate including allegations of sexual misconduct, sexual harassment, or victimisation which directly affects a staff member or fellow student(s) will also be subject to this policy and details may be passed on for an external investigation to be conducted by the relevant authorities.

DEFINITIONS

Sexual harassment

Harassment (as defined by Section 26 of the Equality Act 2010⁴) 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
- pregnancy and maternity

⁴ *Equality Act 2010*. Available at: <https://www.legislation.gov.uk/ukpga/2010/15/contents> (Accessed: 20 September 2021).

- marriage or civil partnership

We subscribe to the Office for Students (OfS) definition as understanding harassment to include domestic violence and abuse (which can also involve control, coercion, threats, and stalking). We also consider harassment, specifically sexual harassment, to include incidents of physical violence towards another person(s) on the basis of a protected characteristic which is either perceived by the victim or any other person to be motivated by hostility or prejudice based on a person's sexual orientation, perceived sexual orientation, sex, gender, gender identity, transgender identity, or perceived transgender identity.⁵

Sexual harassment is unwanted behaviour, conduct, or words of a sexual nature that can be suggestive, intimidating, degrading, humiliating, or embarrassing. This can include sexual jokes, innuendos, leering, wolf-whistling, upskirting, derogatory remarks, inappropriate physical contact (groping, touching), sexual propositions, stalking, and the display or circulation of sexual literature/materials, via any form of communication including but not limited to - face to face, emails, messaging, and social media. This also includes any incident which the individual feels crosses personal and professional boundaries according to the nature of their experience and the incident itself.

Sexual Misconduct

Sexual misconduct relates to all unwanted conduct of a sexual nature. This can include sexual harassment (as defined by Section 26 (2) of the Equality Act 2010)⁶, assault (defined by the Sexual Offences Act 2003)⁷, rape⁸, unwanted conduct and unwanted sexual advances which creates an intimidating, degrading,

⁵ Office for Students (2021) *Prevent and address harassment and sexual misconduct*. Available at: <https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/prevent-and-address-harassment-and-sexual-misconduct/statement-of-expectations/> (Accessed: 20 September 2021).

⁶ *Equality Act 2010*. Available at: <https://www.legislation.gov.uk/ukpga/2010/15/contents> (Accessed: 20 September 2021).

⁷ Crown Prosecution Service (2021) *Rape and Sexual Offences - Chapter 7 Key Legislation and Offences*. Available at: <https://www.cps.gov.uk/legal-guidance/rape-and-sexual-offences-chapter-7-key-legislation-and-offences> (Accessed: 20 September 2021).

⁸ Ibid.

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humiliating, or offensive environment (as defined by the Equality Act 2010)⁹, physical unwanted sexual advances¹⁰, intimidation or promising resources or benefits in return for sexual favours, grooming, or the distribution of private and personal explicit images or video footage of an individual without their consent (as defined by the Criminal Justice and Courts Act 2015).¹¹

Sexual harassment and sexual misconduct can take place as part of an isolated incident or over a prolonged period of time, targeting individuals or a group. It is often subtle and therefore difficult to define, but regularly is informed by an uneven distribution of power in interpersonal dynamics and relationships, personal or professional. Following are several examples of sexual harassment and sexual misconduct that can take place:

Physical

Includes sexual contact, sexual assault, rape, physical intimidation, aggressive behaviour, or actions that are threatening or demeaning.

Emotional and psychological abuse

Includes abuse which can involve exerting control over another person, coercion, threats, and stalking.

Verbal

Includes sexually suggestive comments, assumptions, stereotyping, unwelcome remarks, suggestions and propositions, malicious gossip, jokes, and name calling.

⁹ Office for Students (2021) *Prevent and address harassment and sexual misconduct*. Available at: <https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/prevent-and-address-harassment-and-sexual-misconduct/statement-of-expectations/> (Accessed: 20 September 2021).

¹⁰ Equality and Human Rights Commission (2017) *Sexual Harassment and the law: Guidance for Employers*. Available at: <https://www.equalityhumanrights.com/sites/default/files/sexual-harassment-and-the-law-guidance-for-employers.pdf> (Accessed: 20 September 2021).

¹¹ *Criminal Justice and Courts Act 2015*. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/428204/cjc-act-circular.pdf (Accessed 20 September 2021).

This may be in relation to one or more protected characteristics or seek to target a specific group that categorically share a protected characteristic. Tone of voice, or other types of verbal insinuations, may be used with the intention of causing offence.

Non-verbal

Includes offensive literature or pictures, sexual gestures, sexual body language, invasion of personal space, sexually explicit imagery received or sent without explicit consent. Isolation, ostracization, or non-co-operation and exclusion from educational or social activities can also signal an offence has taken place where this had not been prior issue.

The power imbalance present in a majority of cases can make it difficult for victims to defend themselves or to have their speech acts, such as consent, recognised and acknowledged. There are also many cases where a power imbalance is not apparent or recognised, but other factors allow a victim to be silenced by the perpetrator.

Cyber-bullying (including use of social networking sites)

This is the sending or posting of harmful or cruel text or images using the internet or other digital communication devices. Examples of cyber-bullying, which can also constitute sexual harassment and sexual misconduct are as follows.

- Text messages- unwelcome texts of a sexual or suggestive nature that are unwanted, threatening, or cause discomfort.
- Picture/video-clips via mobile phone cameras – images sent to others without consent which make the victim feel threatened, humiliated, fearful, or embarrassed. This can also be the case if the victim is sent a picture or video clip of themselves as a means of blackmailing, extortion, or exploitation.
- Mobile phone calls – silent calls, abusive messages, or unwanted calls; or stealing the victim's phone and using it to harass others, to make them believe the victim is responsible for the offences committed against them.
- Emails – threatening or bullying emails, often sent using a pseudonym or somebody else's name.

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- Chat room bullying – menacing or upsetting responses shared between participants in a web-based chatroom.
- Instant messaging – unpleasant messages sent online with immediacy.
- Bullying via websites – use of defamatory blogs, personal websites, and online personal polling sites.
- Comments, images etc. posted on social networking sites that make an individual feel threatened, intimidated and have an adverse effect on that individual's wellbeing.
- Trolling – posting abusive, offensive messages on social media which have the purpose of causing distress to an individual.

Our definitions of sexual harassment and sexual misconduct apply to all online mediums and the use of social media platforms.

The actions listed above must be viewed in terms of the distress they cause the individual. Motive is not necessarily relevant – “it’s a joke,” is not a defence. It is the perception of the **recipient or individual** that determine whether any action or statement can be viewed as sexual harassment or sexual misconduct. The investigation following allegations of sexual harassment or sexual misconduct will consider the reporting individual's perception as it relates to the case and in determining whether an act was unlawful, or a criminal act.

EKC Group has a statutory duty under the Education and Inspections Act 2006¹² to provide students, their parents and carers, staff, and visitors with support if cyber-bullying takes place. The College is able to conduct searches of internet use which includes chat rooms, messaging services and email. Using these facilities to harass others sexually or otherwise will be dealt with according to the College's Disciplinary Procedures. EKC Group's Acceptable Use of IT and Email Policy should be read in conjunction with this policy.

Whilst it is recognised that staff and students may communicate with other students and staff via College social networking sites (e.g., Virtual Learning Centre, text tools, e-mail, Facebook, Twitter etc.), communication between staff and students via external social networking sites that do not belong to the College is not permitted. Any communication between staff/students and

¹² *Education and Inspections Act 2006*. Available at: <https://www.legislation.gov.uk/ukpga/2006/40/contents> (Accessed: 20 September 2021).

students/students that is inappropriate and/or of a nature that could constitute sexual harassment or suggest sexual misconduct has taken place will be subject to scrutiny if brought to the attention of a relevant member of staff, even if such communication is taking place outside of the College environment.

Signs and symptoms that may help to recognise that an individual may have been the target or subjected to sexual harassment or sexual misconduct

A person who has been victimised may exhibit some or all of the following signs and symptoms:

- Low self esteem
- Not wanting to come to college, either walking or on public transport
- Poor attendance
- Poor performance
- Becoming withdrawn and anxious, which can involve interrupted sleep, nightmares, increasing stress, or becoming combative when questioning their behaviour
- Feeling ill in the mornings
- Personal possessions being damaged, money stolen
- Unexplained cuts and bruises
- Falling achievement in class work
- Attempts at death by suicide, or suicidal ideation
- Anxiety when communicating online or receiving message notifications.
- Refusal or hesitance to engage with a specific person, staff, or student, at the college or a third party off-site.

If you notice any of these signs/symptoms in the people with whom you work and study on a daily basis, and you feel able to do so, speak with them about your concerns, or make another member of staff aware of your concerns to enable support to the student.

It must be stressed that this policy applies to the whole EKC Group community and covers issues of sexual misconduct and sexual harassment that may occur between:

- Students, peer on peer
- A student and staff member

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- A student and visitor
- A student and members of the governing body
- For students whilst on placement
- For students undertaking social action activities
- For students using resources at the University of Kent campus (Canterbury and Medway)

EKC Group aims to promote respect for others, through a demonstrable intolerance of sexual misconduct and sexual harassment, enforcing the right of every individual to be treated with dignity and respect. The College requires all staff and students therefore to take responsibility for their behaviour and modify it, to ensure it does not cause offence to or subject others to a risk of harm.

EKC Group Procedures to Help Prevent Sexual Misconduct and Sexual Harassment

EKC Group must be able to demonstrate that all reasonable steps have been taken in the prevention of sexual misconduct and sexual harassment, and that an effective and robust response mechanism exists to manage allegations reported as part of our commitment towards keeping students, staff, and wider communities safe.

EKC Group will take the following steps to prevent incidents of sexual misconduct and sexual harassment as follows:

- Raising general awareness through induction, tutorials, and training.
- Implementing policy and procedures to follow if an instance of sexual misconduct, sexual harassment and/or subsequent bullying should take place. These will be made available to all staff and students through electronic media such as the staff intranet, student intranet, College website and will be available on request.
- EKC Group will provide annual update sessions for all staff and students on both the policy and each individual's responsibilities.
- Emphasising that the HE Sexual Harassment and Sexual Misconduct Policy, as well as the separate anti-bullying and harassment policy, applies during any activity connected with EKC Group, such as travelling to and from the College, on the College premises, and on trips, visits, or other related business.

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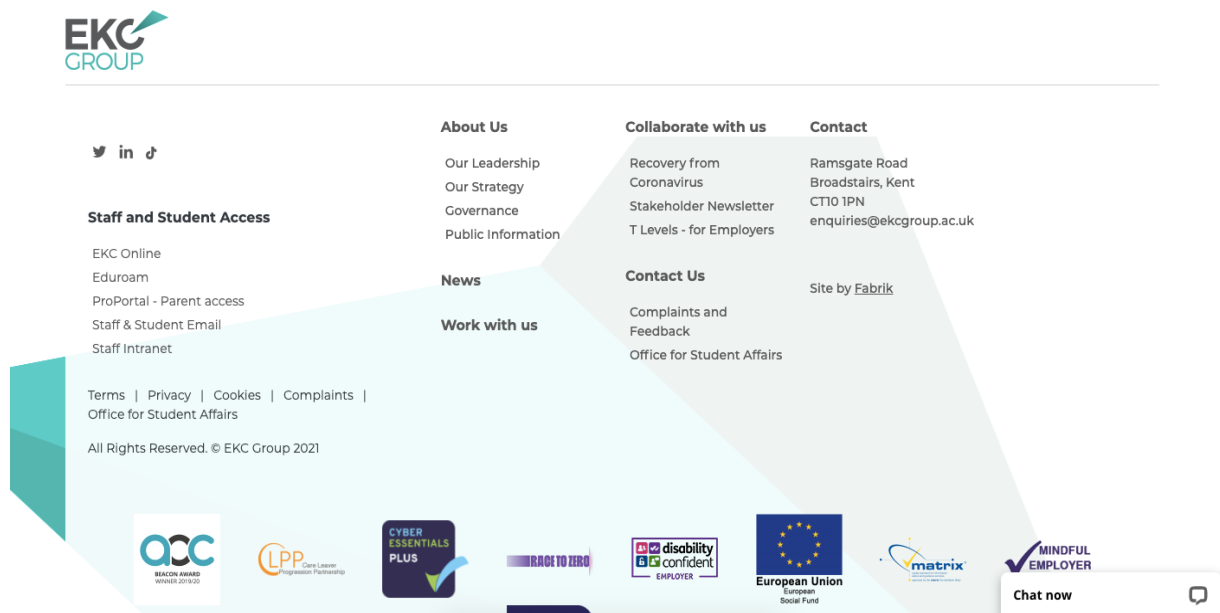
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- Expecting all staff and students to recognise that they are responsible for adhering to and supporting the policy.
- Providing training and specific information for managers and programme directors to ensure they gain the knowledge, skills, and awareness necessary to comply with the HE Sexual Harassment and Sexual Misconduct policy and to adhere to relevant legislation efficiently and effectively, with the ability to communicate these expectations to other staff members and students.
- The policy will form part of EKC Group's safe student and staff survey process.
- Students with a specific learning difficulty, which prevents them from accessing information through the above strategies, will be risk assessed and will be provided with the information in a way that meets their needs.

The Group has also designed and implemented the 'Report and Support' button available on the EKC Online Portal.

'Report and Support' can be found on the EKC website landing page at the bottom under 'Staff and Student Access'.



You can log on the EKC Online portal with your staff or student details.

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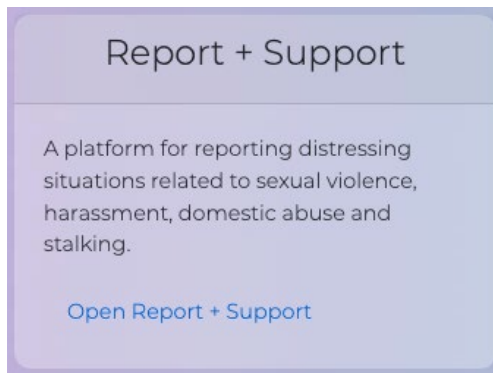
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The 'Report and Support' button will be visible on the next screen on the EKC Online home page.



By clicking on 'Open Report + Support', a new report can be created in the system where details of the offence can be recorded. 'Report and Support' can be used anonymously or the individual's name and contact details can be supplied for follow-up with the appropriate team.

For Business Unit, HE students are asked to select their college site (e.g., Ashford, Broadstairs, Canterbury).

[Privacy](#)



How to use Report + Support

You can report in two different ways, both anonymous or named so we can support further. Please be aware that reporting in this way does not mean a student complaint is automatically instigated, but if you choose to report with your name, we can discuss this option further with you. You can choose how you wish to be contacted, and what gender of staff will contact you if you would like. The site is not an emergency site, and is not staffed over the weekend.

Business Unit (required)

Details (required)

Contact name (optional)

Contact details (optional)

Contact by gender (optional)

Reference code (optional)

How to complete this form

Business unit Please select a business unit to email the details to.

Details Please enter details of your concern, using a minimum of 10 and maximum of 1000 characters.

Contact name This is optional if you wish to be contactable.

Contact details This is optional if you wish to be contactable. Please enter your contact details, such as an email or telephone number.

Contact by gender This is optional if you have a gender preference for who you wish to be contacted by.

Reference code This is optional if you wish to link this report to a previous one. If you can't remember the reference code do not worry, a new reference code will be provided if none is entered.

Send email Click to send the email and get your reference code. Please wait for the message to confirm the email has been sent. Moving away from this page before confirmation may stop the page.

Trouble viewing this page? Please speak to a member of staff.

Staff Responsibilities

Every member of staff has a responsibility to treat all students with dignity and respect and to ensure their own conduct does not cause offence or misunderstanding.

- Higher Education Department Staff (including the Higher Education Quality Assurance Manager, Information Officer, and Student Services Officer) have a particular responsibility to support their students through any investigation into allegations of sexual harassment, sexual misconduct, or sexual assault.
- Lecturers and Heads of Department/Programme Directors have a responsibility to ensure that the delivery of the curriculum does not contravene the requirements or spirit of this policy.
- All staff have a duty to ensure that any allegations of sexual harassment, sexual misconduct, and sexual assault are treated with seriousness and are investigated fully by the relevant college teams and relevant authorities.
- All staff who witness sexual harassment or sexual misconduct taking place, or who are approached in confidence by students who have been sexually harassed, subjected to sexual misconduct by staff or peers, or have been the

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victim of an act of sexual assault, or by students who have witnessed such actions, have a duty to act in line with this policy to prevent the reoccurrence of such acts.

Since incidents of sexual misconduct and sexual harassment can vary from explicit acts of sexual violence to implicit acts of misogyny, sexism, or other kinds of behaviour informed by intersecting and complex harmful prejudices, it is vital that the behaviour is always challenged, investigated, and that a formal complaint be recorded to support the victim(s) account.

Challenge the Behaviour

Anyone who is subjected to sexual harassment or victimised by sexual misconduct must report the incident to either the Higher Education Department, a trusted member of staff, or the Designated Safeguarding team at their college.

If an individual feels that they are safe to do so, they may challenge the behaviour themselves. However, we operate on the understanding that doing so may put victim(s) at risk. If the behaviour is not challenged by the individual, it will not have any impact on the truth or validity of the victim's account.

All staff and students should feel that they will be supported by the Higher Education department for challenging unacceptable actions and behaviour by staff or students, regardless of the perpetrator's intentions or excuse given for their actions. Victim(s), along with targeted individuals or groups, should be supported first and foremost throughout the allegation and investigation process.

In all cases a formal complaint should be made and investigated. Sexual misconduct and sexual assault can constitute sexual offences which are criminal acts under UK law. We will treat all allegations seriously and liaise with external agencies/authorities to ensure that safety within our student and wider communities is prioritised.

Student Disciplinary Policy

All reports of sexual harassment and misconduct constitute a serious breach of the 'Agreed Standards of Behaviour' (Student Code of Conduct) and amounts to

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gross misconduct. Immediate suspension is justified and could lead to termination of registration. This would invoke Stage 2 and/or possibly Stage 3 of the disciplinary procedure.

The process of appeal formalised for students who receive a disciplinary notice or outcome in line with the Student Disciplinary policy applies to cases of sexual harassment and sexual misconduct. The Student Disciplinary policy also clearly outlines the approach of EKC Group to disciplinary actions that constitute criminal offences.

Support

EKC Group recognises that making a complaint of sexual harassment, sexual misconduct, and/or sexual assault is likely to be a distressing experience and that it may be difficult for students to raise complaints directly. Accordingly, students may approach a friend or another appropriate individual (e.g. programme director, programme tutor, HE department staff, student union) to raise a report or incident on their behalf. Any complaint of sexual harassment or sexual misconduct will be investigated in a serious and sensitive manner, with due respect for the victim prioritised throughout the investigation process.

Support and assistance to the complainant and the alleged perpetrator/offender will be offered separately. Mediation between the victim and perpetrator will not be used as a means of resolving or dealing effectively with the complaint as this has been proven to place undue burden on the victim's emotional and psychological well-being.

If students wish to receive anonymous support, they can use one of the national forums below:

<https://leanin.org/sexual-harassment/individuals>
[Help after rape and sexual assault - NHS \(www.nhs.uk\)](https://www.nhs.uk)
[Home | Rape Crisis England & Wales](#)

Sexual harassment and sexual misconduct are criminal offences. Students are entitled to report directly to the police: <https://www.kent.police.uk/ro/report/>

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This policy should be read in conjunction with:

[Student Disciplinary Policy](#)
[Student Disciplinary Procedure](#)
[Student Code of Conduct](#)
[Safeguarding policy](#)
[Safe EKC Group Policy](#)
[Anti-Bullying & Harassment Policy \(Students\)](#)

DETAIL OF PROCEDURE

Student - Student

Any student wishing to report an incident involving another student should speak to a member of the Higher Education administrative team, mentor support for HE, their course programme director, or their college's safeguarding team.

Incidents may also be reported by following these directions for each college site:

Ashford

Students should speak to the Well-being and Progression Mentors responsible for safeguarding at the college.

Safeguarding leads for Ashford College (Principal, Deputy Principal, Head of ALS) can also assist with reports of sexual harassment and sexual misconduct.

Broadstairs

Students can ring the safeguarding number on the back of their student ID cards - 01843 605005 – whereby a member of the Safeguarding team will offer support.

Canterbury

Students may report the incident directly to the HE Safeguarding Officer at Canterbury College. Details for the HE Safeguarding Officer for Canterbury College can be found on the HE Student Information Hub on Moodle.

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All reported incidents will be taken seriously; the student's safety will be assessed, and they will be reassured and supported throughout the process. A statement will be taken with details of the incident/report and the victim(s) will review the statement before it is submitted to the Safeguarding Team to ensure it is an accurate and transparent account.

EKC Group's zero tolerance stance means that incidents should be dealt with as quickly as possible. Every effort will be made to ensure the safety of the victim whilst at college. This may mean the perpetrator(s) will be suspended following further investigation or consideration of evidence. Police involvement will be actioned where appropriate. During or after investigation, the perpetrator or perpetrators may be dealt with under the College's Student Disciplinary Procedure and potentially have their registration with the college terminated.

The person who makes the report will be notified of the next steps within 3 working days. Due to the nature of such investigations, it may be a matter of weeks until an investigation can be formally completed. In the case that an investigation goes on for longer than one week, the student who has made the report will be notified on a weekly basis that the investigation remains ongoing.

The HE Student Service Officer can be used as a resource to liaise with the victim to confirm an ongoing investigation and continue to offer support via the college and external agencies where necessary.

Staff – Student

Where a student wishes to lodge a complaint about a member of staff, then the student should put this in writing and hand it in to the Assistant Principal in the first instance. The student is welcome to disclose to another trusted member of staff who can support delivering and raising the allegations to the appropriate staff or team within the college.

The incident or allegation will then be investigated by an appropriate member of the Safeguarding and management team with arrangements put in place which prioritise the student's safety and well-being.

All evidence and witness statements will be reviewed by the investigating manager and a recommendation made. Where the student's complaint is upheld, the manager will inform the student in writing, along with offering further support mechanisms that can be arranged to minimise the risk of further harm or trauma.

Human Resources will inform the member of staff of the decision of an investigation in writing. The member of staff will also be informed of any further action deemed necessary under the College's Staff Disciplinary Procedure.

Where the student's complaint is not upheld, then the manager will inform the student in writing. Human Resources and the member of staff's line manager will inform the member of staff of any outcome.

If the student is found to have fabricated information, then the student will be dealt with under the College's Student Disciplinary Procedure. We do not go into formal investigations with the attitude or belief that allegations will be fabricated and are interested in prioritising the safety and wellbeing of our College community above all else.

Confidentiality and Protections

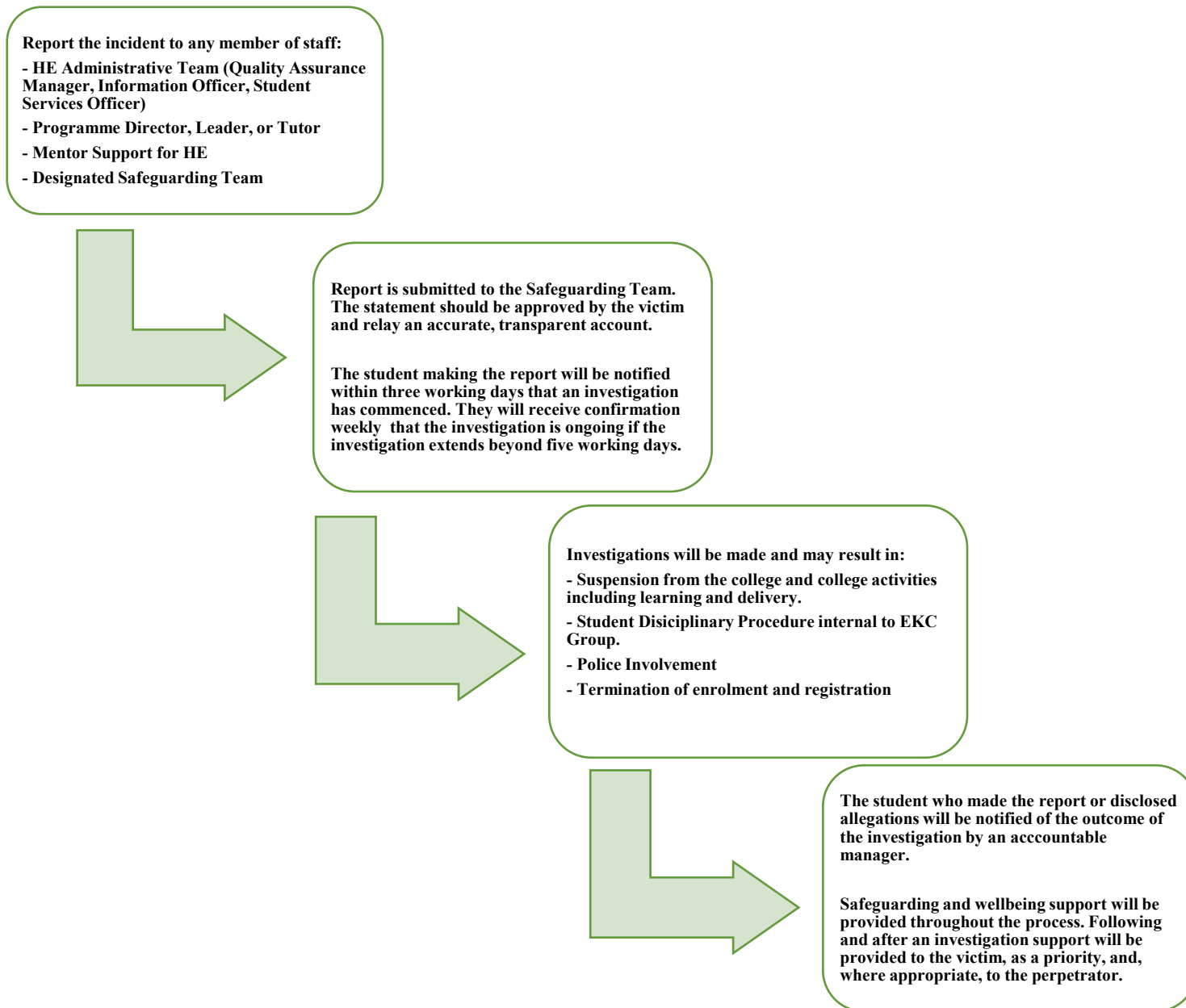
Confidential information will be shared and disclosed on a need-to-know basis in line with best practice safeguarding in order to investigate allegations and reports with rigour.

Safeguarding and well-being support will be offered and provided at every stage of the investigation as well as after an outcome has been determined.

We will make every effort to consult with the victim or person who discloses sexual harassment and misconduct to assess and provide the care they require to safely continue with their studies.

Reporting Mechanisms and Procedures

Student - Student



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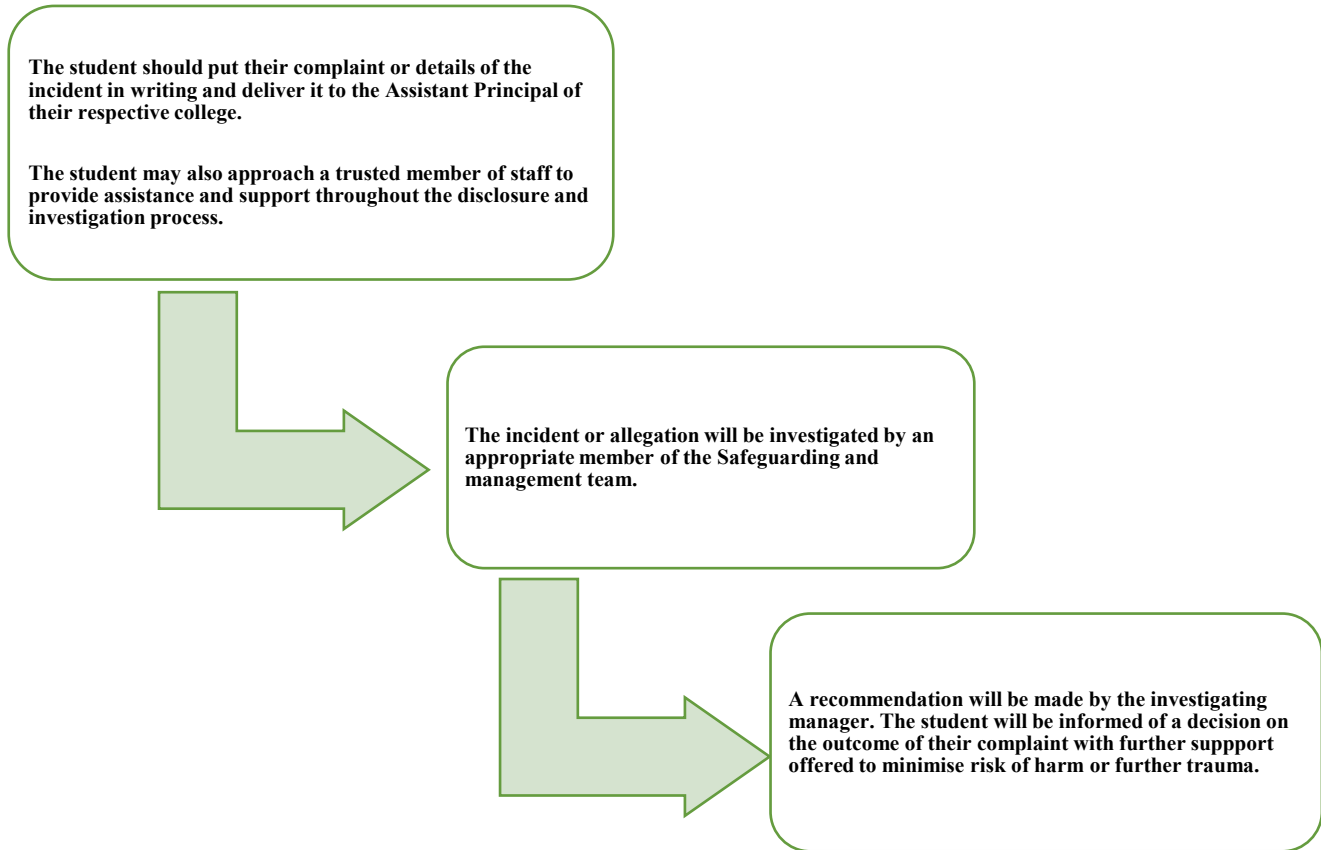
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Student-Staff



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