



BALLIOL
COLLEGE
UNIVERSITY OF OXFORD

**ANTI-HARASSMENT, SEXUAL MISCONDUCT AND BULLYING
POLICY**

January 2024

1 POLICY STATEMENT

All members of the Balliol College community have a personal responsibility to ensure that their behaviour is not contrary to this policy and are encouraged to ensure the maintenance of a working environment in the College which is free from harassment. The College takes a zero-tolerance approach to bullying, harassment and sexual misconduct of any kind.

No complainant will suffer any disadvantage as a result of making a complaint in good faith. It should be noted, however, that making a complaint which is vexatious or malicious is likely to be a breach of that person's obligations to the College and may result in disciplinary action.

The College will ensure that those involved in the handling of any such complaints will receive appropriate training to enable them to respond effectively to such complaints and will keep its training strategy under review to ensure that it remains fit for purpose. The College will follow its [Privacy Policy](#) at all times when handling complaints pursuant to this policy.

2 WHO AND WHAT DOES THIS POLICY APPLY TO?

2.1 This policy applies to the making of complaints by all non-academic staff and students. Members of the academic staff defined pursuant to the [Balliol College Statutes](#) should see the grievance procedure in Statute X, Part VI, albeit the broad structure of the process is similar.

2.2 As outlined above, this policy only applies to complaints or grievances which concern bullying, harassment or sexual misconduct done by a specific person or persons. If you wish to raise a complaint or grievance about another matter or in relation to general complaints against the College, please see the [Student and Non-Academic Staff Complaints Policy](#) or, for academic staff defined pursuant to the [Statutes](#), the grievance procedure in Statute X, Part VI.

3 WHO IS RESPONSIBLE FOR THIS POLICY?

3.1 This policy is reviewed regularly by the College, which is responsible for its implementation, with appropriate consideration of the views of the students and staff of the College.

3.2 The College has also appointed a panel of harassment advisers. ("**Harassment**

Advisers") The College endeavours to make the panel appropriately diverse, within the limits of what is feasible within an organization of its size. Members of the panel are available to have a non-committal and non-judgmental conversations with those who have experienced or are accused of harassment. If asked, they will offer guidance through the University or College policies, and clarify what options and support is available to individuals. The names and contact details of the advisers are available on the [College welfare webpages](#) and in the [College Handbook](#). They will respond promptly to all enquiries. Other College officers involved in the various disciplinary procedures may also be approached.

4 WHAT IS HARASSMENT?

4.1 For the purposes of this policy, harassment occurs when a person engages in:

4.1.1 any unwanted conduct (whether physical, verbal or non-verbal and whether a one off or a course of conduct); and

either (i) the conduct has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for a person; or

(ii) has such an effect on a person and it was reasonable that it would have such an effect in the relevant circumstances.

4.2 In relation to (ii) above, it is very important to note, on the question of the effect of the conduct, that harassment does not occur *merely* because of an effect on a person. It must also be that the alleged effect on that person is objectively reasonable in the relevant circumstances. The Equality Act 2010, for example, does not protect hypersensitive complainants.

4.3 It is important to note, in particular, that the College is an academic environment, and it is important that it uphold rights of free expression and academic freedom within the law (see Appendix 2). While all harassment is unacceptable, not all instances of bullying or harassment will necessarily be unlawful. This will be particularly relevant when considering how any complaint is to be considered in light of the College's legal obligations with respect to free expression and academic freedom.

4.4 Under the Equality Act 2010, some forms of harassment are unlawful where they

involve conduct of a sexual nature (in relation to sexual harassment or misconduct – please see below), or are related to the protected characteristics of: age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief (including any lack thereof), sex or sexual orientation. There may also be instances in which the alleged conduct is potentially unlawful for other reasons, such as under defamation law or the criminal law (in particular the Protection from Harassment Act 1997). The definition also includes treating someone less favourably because they have submitted or refused to submit to conduct of a sexual nature. Harassment is unacceptable even if it does not fall within any of these categories. The College may still consider inappropriate behaviour to amount to harassment contrary to this policy, even where it falls short of the legal definition outlined above.

4.5 Harassment may include, for example:

- 4.5.1 Unwanted conduct of a sexual nature;
- 4.5.2 unwanted physical conduct or "horseplay", including touching, pinching, pushing and grabbing;
- 4.5.3 continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- 4.5.4 sending or displaying material that is pornographic or that some people may find offensive (including emails, text messages, video clips and images sent by mobile phone or posted on the internet);
- 4.5.5 unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless);
- 4.5.6 racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- 4.5.7 outing or threatening to out somebody in relation to their gender or sexuality;
- 4.5.8 offensive emails, text messages or social media content;
- 4.5.9 stalking behaviours; or

- 4.5.10 mocking, mimicking or belittling a person's disability.
- 4.6 A person may be harassed even if they were not the intended target. For example, a person may be harassed by racist jokes about a different ethnic group if the jokes create an offensive environment. Harassment may involve repeated forms of unwanted and unwarranted behaviour, but a one-off incident can also amount to harassment.
- 4.7 Special arrangements relating to sexual misconduct are set out below and these should be considered and applied as appropriate in the circumstances during any investigation or hearing undertaken under this policy.
- 4.8 When harassment is directed at a person's age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief (including any lack thereof), sex or sexual orientation, that will be regarded as an aggravating feature of the case.
- 5 WHAT IS BULLYING?**
- 5.1 Bullying is offensive, intimidating, malicious or insulting behaviour (sometimes but not exclusively involving the misuse of power such as being in a position of authority) that can make a person feel vulnerable, upset, humiliated, undermined or threatened.
- 5.2 Bullying may include overbearing and intimidating levels of supervision or inappropriate derogatory remarks about someone's performance. However, legitimate, reasonable and constructive criticism of a worker's or student's performance or behaviour, or reasonable instructions given to workers or students in the course of their employment or studies, will not amount to bullying on their own.
- 6 FREE EXPRESSION AND ACADEMIC FREEDOM**
- 6.1 The College's duties to protect (academic) freedom of expression and the law on (academic) free expression more generally must also be considered when evaluating the wider circumstances and reasonableness of alleging that certain conduct amounts to unlawful harassment. The Explanatory Notes of the Equality Act explicitly recognise that the prohibition on harassment must be balanced against the right to free expression and academic freedom where the effect of the impugned conduct is in issue and it is necessary to carry out an objective

assessment with reference to all circumstances of the case.

- 6.2 Critical to this consideration is human rights law in the UK, which draws on the case law of the European Court of Human Rights, whose task is applying the European Convention on Human Rights (the "**Convention**"). Freedom of expression is robustly protected by Article 10 of the Convention, by which the College, as a public authority, must abide.
- 6.3 As explained by the 2019 guidance for higher education providers issued by the Equality and Human Rights Commission:
- 6.3.1 Harassment provisions cannot be used to undermine academic freedom. Students' learning experience may include exposure to course material, discussions or speaker's views that they find offensive or unacceptable, and this is unlikely to be considered harassment under the EqA.
- 6.3.2 If the subject matter of a talk is clear from material promoting an event, then people who attend are unlikely to succeed in a claim for harassment arising from views expressed by the speaker.
- 6.3.3 Views expressed in teaching, debate or discussion on matters of public interest, including political or academic communication, are therefore unlikely to amount to harassment contrary to the EqA, even if they are deeply offensive to some of the people who are listening.

7 **CONCERNS ABOUT THE SAFETY OF OTHERS**

Anyone who feels their safety or that of others is threatened should make the relevant College officer aware of this at the earliest opportunity so that appropriate action may be taken, which may include rapid escalation to a formal complaint. Particularly where sexual misconduct is concerned, individuals should consider also making a report to the police (where the incident or ongoing conduct may be a criminal offence), and if required, contacting the University Services support groups listed in Appendix 1. Informal support and advice is also available from the College or University Harassment Advisors as outlined above.

APPENDIX 1 – SPECIAL MEASURE CONCERNING SEXUAL HARASSMENT AND/OR MISCONDUCT

Appendix 1 to the College's Student and Non-Academic Staff Complaints Policy sets out specific considerations and arrangements that apply when handling reports of sexual harassment and/or misconduct. These are reproduced here:

1. GENERAL CONSIDERATIONS

1.1 The College recognises that cases of sexual harassment, misconduct and/or violence can affect anyone and can have a serious impact on health, wellbeing and academic progress.

1.2 The University of Oxford has defined sexual misconduct as "*any behaviour of a sexual nature which takes place without consent where the person alleged to have carried out the misconduct has no reasonable belief in consent*" (Statute XI Part A 1. (1)(h)). The College has also adopted that definition.

1.3 The College also uses the following definition of consent:

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

1.5 Harassment, including sexual harassment, and bullying are defined in the main body of this policy.

2. SUPPORT FROM THE UNIVERSITY SERVICES

2.1 Reporting students or non-academic staff can access support from the Sexual Harassment and Violence Support Service. This may involve a specialist advisor offering support at each stage throughout the disciplinary process, including accompanying the Referrer to interviews and hearings, if appropriate. Reporting students or non-academic staff can also access support through the Oxford University Harassment Advisor Network. Where the complaint or grievance concerns sexual misconduct, it will likely be appropriate for a Decision Maker to allow such accompaniment.

2.2 Support for students who are the subjects of reports is available from [University Student Welfare and Support Services](#) and [Oxford SU Advice Service](#).

3. INVESTIGATION AND HEARING SAFEGUARDS

3.1 Where the Governing Body or Master considers it appropriate in dealing with an allegation of sexual harassment or misconduct, the College may wish to appoint a person external to the College (including a qualified legal advisor) to act as or assist the Investigator and/or Decision Maker.

3.2 If the Referrer or Subject objects to the identity of any Investigator or Decision Maker appointed they may notify the Master or Vice-Master as appropriate within five working days of that person's appointment. The Master or Vice-Master shall promptly make a decision as to whether an appropriate alternative person should be appointed.

3.3 Any Investigator or Decision Maker considering allegations of lack of consent should enquire as to the steps taken to obtain consent, including how the subject knew or believed the reporter was (a) consenting to the sexual behaviour and (b) continued to consent.

3.4 In cases of alleged sexual harassment or misconduct, all staff involved in investigations and decision-making should have received appropriate training, specific to the handling of such complaints.

3.5 Decision-makers and support staff at all stages of the procedure should be mindful that:

3.6 Reports of sexual misconduct are more likely to be reported later than other allegations of misconduct.

3.7 Delays in reporting, or reluctance to involve the Police, should have no bearing on determining the veracity of the allegation.

3.8 The College does not have the legal investigatory powers of the Police and cannot make a determination on criminal guilt. A College investigation determines only whether a breach of this policy has occurred.

3.9 While it will not normally be allowed for a reporter or subject of a complaint to be legally represented at any hearing, the Decision Maker may, if there is a compelling reason, allow such person to be so represented.

3.10 Where a Referrer is to be a witness at any hearing, the relevant investigator or

decision-maker can put practical arrangements in place to safeguard that individual.

This could include:

- 3.10.1 separate waiting areas for the Referrer and the Subject;
- 3.10.2 the Referrer bringing a supporter to sit with them whilst giving evidence;
- 3.10.3 the Referrer giving evidence from behind a screen so that the reporter does not need to see the Subject;
- 3.10.4 the Referrer responding to written questions from the Subject, or questions via the person chairing the relevant meeting, rather than an oral cross examination;
- 3.10.5 the Referrer responding to questions via video link from a different location; and
- 3.10.6 providing appropriate welfare support where the Referrer is a student.

4. **KEY CONTACTS**

4.1 The University's Sexual Harassment and Violence Support Service provides free, impartial, confidential support and advice to any students who have been affected by sexual misconduct.

4.2 E-mail: supportservice@admin.ox.ac.uk

4.3 Trained Caseworkers in the Proctors' Office can advise on the procedural aspects of the disciplinary process.

4.4 E-mail casework@proctors.ox.ac.uk or Tel: 01865 (2)80185 or (2)70093.

4.5 The Oxford SU Student Advice Service offers independent advice to matriculated students. External sources of advice and support are listed on the University website.

APPENDIX 2 – DEFINITIONS

Lead Officer means:

- In cases involving only junior members, either or both the Dean (with reference to undergraduates) and the Praefectus (with reference to graduates).
- In cases involving only non-academic staff, the Domestic Bursar.
- In all other cases, the Master, who may refer the issue to other college officers as appropriate.

Appropriate Senior College Officer based on content of complaint means:

- Complaints which have a connection to academic provision and support: the Senior Tutor;
- Complaints which have a connection to welfare and pastoral support: the Welfare Lead;
- Complaints about non-academic staff: the Domestic Bursar;
- Complaints about the conduct of Junior Deans or Graduate Officers: the Dean;
- Complaints about one of the above College Officers and complaints not assigned on the list above: the Master or a Vice-Master;
- Complaints about the Master: a Vice-Master; and
- Complaints about a Vice-Master: the Master.

For definitions of the roles named in this document, refer to the [Student and Non-Academic Complaints Policy](#):

Decision Maker (5.8); Referrer (3.4); Investigator (4.2); Subject (3.4).