



**BALLIOL**  
**COLLEGE**  
UNIVERSITY OF OXFORD

## **STUDENT AND NON-ACADEMIC STAFF COMPLAINTS POLICY**

January 2024

## **1 INTRODUCTION**

1.1 The College takes all complaints seriously and this policy is part of the framework for the handling of most complaints within the College which are brought by students, and non-academic members of staff (including workplace grievances).

1.2 Given the sensitive nature of such issues, it also sets out additional guidance to be followed when the College is dealing with any complaints relating to harassment, bullying or sexual misconduct brought by students and non-academic staff, against a member of the College community, including fellows, staff members, or students. These measures can be found in Appendix 1.

1.3 This policy is kept under review by the Executive Committee of the College, which is responsible for its implementation, with appropriate consideration of the views of the student and staff of the College.

1.4 The College has produced a simplified guide to accompany this policy, called [Making a Complaint - A Simplified Guide](#).

1.5 It should be noted that this policy is for the raising and handling of complaints and that the consideration of resulting disciplinary action (if any) would subsequently take place in accordance with the relevant disciplinary policy as outlined in 7.3 below. If a malicious or vexatious complaint is brought under this policy, then the person bringing it may also be subject to disciplinary proceedings (and the College reserves the right to take no (further) steps under this Policy in respect of such a complaint).

1.6 This policy does not form part of any contract of employment or contract to provide services, and we may amend it at any time.

1.7 Defined terms used in this policy are listed in Appendix 3.

## **2 WHO AND WHAT DOES THIS POLICY APPLY TO?**

2.1 This policy applies to most complaints which might be brought by students, or non-academic staff, except for complaints by a student against another student (which are normally handled in the Non-Academic Disciplinary Procedure, see 2.6.1 below).

2.2 Students who are able to bring a complaint under this policy are current students of the College, students temporarily suspended from the College for disciplinary, medical or pastoral reasons (whether or not a condition attaches to their return),

and former students of the College whose Complaint relates to a matter that arose while they were current or temporarily suspended students. Non-academic staff who may bring a complaint are those employed or engaged by the College (which may include agency staff in some circumstances). A complaint will not normally be considered if the alleged event or events occurred more than six months before the complaint is made.

- 2.3 A complaint may be made and pursued by another person (a **Nominee**) on behalf of a person eligible to make a complaint under 2.2 but only in exceptional circumstances of illness or other severe difficulty. In such a case the Nominee must be authorised, in writing to the College by the complainant, to make and pursue the complaint, and an explanation must be given for why a Nominee has been appointed. The College will not be in communication with more than one person at a time in connection with any complaint under this policy, so the appointment of a Nominee to make and pursue such a complaint is also, until revoked in writing, the surrender of the student's own right to make and pursue the same complaint. The College will not entertain a complaint under this policy made or pursued on the student's behalf by the student's legal or other professional representatives. In what follows 'student' refers to student complainants and their Nominees alike.
- 2.4 This policy does not apply to complaints by members of the academic staff defined pursuant to the [Statutes](#). They should use the grievance procedure in Statute X, Part VI.
- 2.5 Areas in which complaints may arise include:
- 2.5.1 terms and conditions of employment;
  - 2.5.2 health and safety;

- 2.5.3 work relations;
  - 2.5.4 new working practices;
  - 2.5.5 working environment;
  - 2.5.6 organisational change;
  - 2.5.7 objection to the College's academic, pastoral, or domestic provision, the behaviour of its senior members (Fellows) or employees, or any other aspect of College life, where what is objected to is alleged to have had a special individual impact upon the person making the complaint; and/or
  - 2.5.8 bullying, harassment or sexual misconduct.
- 2.6 This policy does not apply to the following types of complaints:
- 2.6.1 complaints by a student about another junior member of the College. The College would normally deal with such matters by invoking its [Non-Academic Disciplinary Procedure](#) against the other student, where there is cause to do so;
  - 2.6.2 complaints falling within the reach of any other more specific procedures that may be established from time to time by the College;
  - 2.6.3 private disputes between students and members or employees of the College, meaning those that do not arise out of the conduct of those members or employees acting or holding themselves out as acting in their capacity as members or employees of the College;
  - 2.6.4 in certain circumstances, complaints by a student about people who are not members or employees of the College (If any such complaint arises, the student should consult an appropriate senior member about how to proceed – if the complaint arises against a member of another College or the University, the student will generally be referred to the appropriate complaint process of the relevant organisation);

- 2.6.5 complaints of matters affecting a wider circle of students, where there is no special individual impact upon the student making the complaint. These should instead be raised through JCR and MCR Officers and student representation in the governance of the College; or
- 2.6.6 complaints about dismissal or disciplinary action (which will be dealt with under the relevant disciplinary policy).
- 2.7 A complainant who faces difficulty with any part of this policy because of a disability or because English is not their first language, should discuss the situation with their line manager or a suitable senior member of the College as soon as possible.
- 3 INFORMAL COMPLAINTS: PROCEDURE**
- 3.1 Most complaints can be resolved quickly and informally through discussion with the line manager or the appropriate Senior College Officer. (Please see definition in Appendix 3.) If the complaint concerns that person, then a complainant should speak informally to their Head of Department or another Senior College Officer. If this does not resolve the issue, the procedure below should be followed.
- 3.2 Anyone who feels their safety or that of others is threatened should make their line manager or relevant College officer aware of this at the earliest opportunity so that appropriate action may be taken. Such action 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 University Harassment Advisers as outlined in Appendix 1.
- 3.3 The line manager or relevant College officer to whom an issue is reported will at first seek to discover whether there exists an informal (and hence non-

disciplinary) action which might successfully resolve the issue to the satisfaction of both parties. For example, there may be a process of mediation by a College officer that would resolve the issue. Such an action during the informal stage will not amount to disciplinary action. If the person to whom the matter is reported considers that an investigation of some appropriate extent should be carried out in the circumstances in order to properly dispose of the matter on an informal basis, they should refer the matter to an appropriate senior member of the College. That person may either carry out due investigation or appoint an appropriate person, including an external person, to assist as they see fit.

- 3.4 The line manager or relevant College officer shall not (unless there are exceptional circumstances or the complaint is brought against the College itself) directly discuss the complaint with the person or organisation against whom the complaint is made (the "**Subject**"), unless the person who brings the complaint (the "**Referrer**") provides their prior consent. For the purposes of this policy a "Subject" may be the College itself or something within it (such as a practice, policy or procedure) which is not readily identifiable as being the responsibility of any named individual(s). If that is the case, references to Subject below shall be construed accordingly and an appropriate member of the College who can speak to the relevant issue shall be involved on the College's behalf.
- 3.5 Referrers are free during the informal stages to use any College channel of support, as may seem to them most appropriate (e.g. a College counsellor, College officer or personal tutor). Any Referrer is also at liberty to consult appropriate College officers in confidence to discuss whether or not the behaviour of another may amount to harassment (see Appendix 1), or any other cause for complaint, and what their options might be. Discussion of such options does not commit a Referrer to making a formal complaint.
- 3.6 Where a student Referrer feels they are not able to resolve the matter informally, but also do not wish to make a formal complaint, they may refer the case to the Student Resolution Service. This process is entirely voluntary and both parties must agree to participate. Further information can be found on the University's

[Student Resolution Service webpage](#). This process is generally not open to persons who are not students.

3.7 Where necessary, for example on account of the gravity of the allegation or because of the intractability of the problem, the line manager or relevant College officer may, with the consent of the Referrer, involve the relevant Lead Officer (see definition in Appendix 3).

3.8 If informal steps and the Student Resolution Service are not appropriate, or have been unsuccessful, the formal complaint procedure set out below should be followed.

#### **4 RAISING A FORMAL COMPLAINT**

4.1 If a Referrer wishes to make a formal complaint under this policy, the complaint should be submitted in writing as follows:

4.1.1 If the Referrer is a non-academic staff member, to the Domestic Bursar, or if it concerns, the Domestic Bursar, to the Master; or

4.1.2 If the Referrer is a student, to the appropriate Senior College Officer (please see definition in Appendix 3);

4.2 The person to whom a complaint is brought under clause 4.1 above shall, in consultation with appropriate senior member(s) of the College, arrange for the appointment of a suitably independent person to act as the **"Investigator"** for the purposes of this policy. Where appropriate, the College may instead appoint as Investigator an appropriate individual from outside the College, including from the University of Oxford's panel of investigators.

4.3 The written complaint should set out full details of the complaint. These should include, as appropriate: a description of the complaint itself, the name or details of the Subject, the date(s) and time(s) at which the event or events occurred, the names of any witnesses and any action that has been taken so far to attempt to stop them it from occurring.

4.4 As a general principle, the decision on whether to progress a complaint is up to the Referrer. However, the College has a duty to protect all members of the College, including staff and students, and may pursue the matter independently if, in all the circumstances, it is appropriate to do so.

## **5 FORMAL COMPLAINT INVESTIGATIONS**

5.1 Investigators will investigate complaints in a timely, respectful and confidential manner. Bearing in mind what is allowed by clause 10.2, individuals not involved in the complaint or the investigation should not be told about it.

5.2 The Investigator will arrange a meeting with the Referrer, usually within one week of receiving the complaint, so that the Referrer can give their account of events. The Referrer has the right to be accompanied, by an applicable individual as listed in clause 6.5, who must respect the confidentiality of the investigation.

5.3 Where the complaint is about a member of the College community (or someone teaching through the College), the College may consider suspending them on full pay or making other temporary changes to working or educational arrangements pending the outcome of the investigation, if circumstances require. This may include appropriate changes to teaching arrangements.

5.4 The Investigator will also meet with the Subject to hear their account of events (or if the Subject is the College itself or some aspect of the College, then an appropriate person within the College who can speak to the issue in question). They have a right to be told the details of the allegations against them, so that they can respond.

5.5 Where the complaint is about someone other than a staff member, such as a customer, supplier or visitor, the Investigator will consider what action may be appropriate to protect the Referrer and anyone involved pending the outcome of the investigation and the integrity of the investigation, bearing in mind the reasonable needs of the College and the rights of that person. Where



appropriate, the Investigator will attempt to discuss the matter with the third party.

- 5.6 The Investigator will also seriously consider any request that the Referrer may make for changes to their own working or educational arrangements during the investigation. For example, a Referrer might ask for changes to duties, working arrangements or teaching to avoid or minimise contact with the Subject.
- 5.7 It may be necessary to interview witnesses to any of the incidents mentioned in the complaint. If so, the importance of confidentiality will be emphasised to them.
- 5.8 At the end of the investigation, the Investigator will submit a report to a suitably senior and disinterested person appointed by the College (the "**Decision Maker**"), who may be the person to whom the complaint was originally brought under clause 4.1. If the College considers it appropriate, for example in the case of a less complex complaint, and having secured the Referrer's consent, the Investigator may also act as the Decision Maker and the process be adjusted accordingly. In the case of a complaint brought by a student, the College may appoint a panel as the Decision Maker, such panel to be composed of three suitably senior and disinterested persons. Any decision taken by such a panel shall be by simple majority.

## **6 DECIDING WHETHER THE COMPLAINT IS WELL FOUNDED**

- 6.1 The Decision Maker shall be responsible for deciding whether the complaint (or parts of it) is well founded. The standard of proof which the Referrer must satisfy is the balance of probabilities. This is a legal standard which applies in civil cases. The Decision Maker should bear in mind that this standard means that the event or events complained about must be, on the evidence, more likely than not to have occurred.
- 6.2 The Decision Maker will arrange meetings with the Referrer and the Subject (or any appropriate person with the College), usually within a week of receiving the report, in order to discuss the complaint. Anyone invited to such a meeting (and any companion) should make every effort to attend and should inform the College without delay if they cannot.

- 6.3 The purpose of a meeting with the Decision Maker is to enable the Referrer and the Subject to explain their position with respect to the complaint and how they think it should be resolved, and to assist the Decision Maker to reach a decision based on the available evidence and the representations made by the parties.
- 6.4 After the initial meeting(s), the Decision Maker may carry out further investigations and hold further meetings as they consider appropriate. Such meetings will be arranged without unreasonable delay.
- 6.5 Subject to clause 6.6, both the Referrer and the Subject, have the following companion rights during any hearing held by the Decision Maker (or any appeal meeting):
- 6.5.1 academic and non-academic staff members may bring a colleague or trade union representative; and
  - 6.5.2 students may bring a member or employee of the College.
- If the Decision Maker considers it necessary in the circumstances, they may – in exceptional circumstances – allow an appropriate alternative companion (such as a member of the University support service or other specialist external agency), but this will not generally be appropriate.
- 6.6 The College may require the Referrer or Subject to nominate a different companion if, in the opinion of the College, that companion has, or is likely to have in the future, a conflict of interest, for instance due to being previously involved in the case in a different capacity or otherwise have a connection to the parties of the case which may cause issues for the fairness or impartiality of the relevant process. It is therefore recommended that the Referrer or Subject inform the Decision Maker of their nominated companion as soon as practicable so that an appropriate alternative may be found if necessary. The Decision Maker's ruling on such matters will be final. A legal representative will not be permitted to attend any meeting, unless very exceptional circumstances apply. The Decision Maker will rule on any such application, and that decision will be final on the matter.
- 6.7 The Decision Maker will write to the Referrer and the Subject, usually within one week of the final meeting, to inform them of the outcome of the complaint and any

further action that will be taken to resolve the complaint. They will also remind the Referrer and the Subject of their right of appeal. Where appropriate the Decision Maker may hold a meeting to give this information in person.

- 6.8 A copy of the report and the Decision Maker's findings will be made available on a confidential basis to relevant senior members of the College in order to allow the complaint to be properly handled. The College will endeavour, throughout the progress of the complaint, to disclose to the Referrer, via a single point of contact if requested, such information which is reasonable and proportionate in the circumstances in a mutually agreed form of communication. Please note this will usually be limited to the outcome only.
- 6.9 If at any stage the complaint becomes the basis for a criminal investigation, an investigation by the Proctors of the University, or investigation or action by any other external authority, then the College's own procedures (other than teaching changes under clause 5.3 or other protective measures) will be suspended and may be resumed when the College deems it appropriate to do so. Any decision by the Police, Crown Prosecution Service, any court or tribunal, or the Proctors will not necessarily fetter or determine what further steps are taken by the College in relation to any matter.

## **7 ACTION FOLLOWING THE INVESTIGATION**

- 7.1 If the Decision Maker considers that the complaint is well founded, appropriate and prompt action will, if appropriate and proportionate in the relevant circumstances, be taken to address the complaint, including under the relevant College disciplinary procedure.
- 7.2 Whether or not a complaint is well founded, the College will consider how best to manage the ongoing relationship (whether working or otherwise) between the Referrer and the Subject. It may be appropriate to arrange some form of mediation and/or counselling, or to change the duties, teaching arrangements, working location or reporting lines of one or both parties.

- 7.3 The relevant College disciplinary procedures are as follows:
- 7.3.1 A case concerning a student will be dealt with under the [Non-Academic Disciplinary Procedure](#);
  - 7.3.2 A case concerning a non-academic member of staff will be dealt with under the College's disciplinary policy in the [College Handbook](#); and
  - 7.3.3 A case concerning someone defined as academic staff in Statute X of the [College Statutes](#), will be dealt with under the disciplinary procedure in Statute X.

## 8 APPEALS

- 8.1 If either the Referrer or the Subject (which, if the Subject is the College, means any person against whom a finding is made pursuant to clause 7.1 above) is not satisfied with the outcome they may appeal in writing to the Master (or if their complaint concerns the Master, the Vice-Master) stating their full grounds of appeal, within one calendar week of the date on which the decision was sent or otherwise communicated to them.
- 8.2 The College will hold appeal meetings with the Referrer and the Subject separately, normally within one week of receiving the written appeal. The appeal hearing will be conducted by an appropriate person or body of the College who has not been previously involved in the case. They may ask anyone previously involved to be present. The Referrer and the Subject have the right to bring a companion to the meeting as set out in clause 6.5 above.
- 8.3 In most cases, the appeal process will be limited to a review of the relevant process with reference to the grounds of appeal, rather than a re-hearing or re-opening of factual findings. If it is fair and reasonable in all the circumstances, the person hearing the appeal may admit new evidence which was not reasonably available to the person asking for it to be considered at the time of the relevant hearing with the Decision Maker.

8.4 The final decision in relation to the appeal will be communicated to the person bringing the appeal in writing, usually within one week of the appeal hearing. As soon as possible (and in any event no later than 28 days after a final decision in relation to a complaint has been made), a Referrer who is a student shall receive a Completion of Procedures Letter.

8.5 Unless the person bringing the appeal is a student, this is the end of the procedure and there is no further appeal. Any student wishing to take their complaint further may have their case reviewed by the Office of the Independent Adjudicator for Higher Education (OIA). Such a referral must be made within 12 months of a Completion of Procedures Letter being sent to them. Further details can be found on the [OIA website](#).

## **9 ANONYMOUS COMPLAINTS**

9.1 Where complaints are submitted anonymously the College will endeavour to investigate the complaint in line with this policy as far as it deems reasonable and appropriate. However, if a complaint is brought anonymously, the Referrer must appreciate that the College may be very limited in the action which it can take, bearing in mind the principles of natural justice and its duties set out in Appendix 2 of this policy (Free Expression and Academic Freedom).

## **10 CONFIDENTIALITY AND RECORD-KEEPING**

10.1 All members of the College community covered by this policy may seek personal support and advice from the Welfare Team at any point. Their contact details can be found on the [College welfare webpages](#).

10.2 Complainants may also seek private support from family, friends outside of the College and professional advisers. However, they should recognise the importance of not publicising allegations more widely, and should not allow those with whom they discuss it to publicise it.

10.3 Parties involved in a complaint are reminded that those who publicise allegations are subject to other jurisdictions, including but not limited to the University, and

rules on the use of electronic facilities, as well as the laws concerning defamation and data protection.

- 10.4 All parties involved in a complaint should maintain the confidentiality of the process, in order to protect the privacy of individuals and the integrity of the process. Those involved in advising Referrers should, where possible, seek the consent of the individual for the onward disclosure of relevant information to those with a clear need to know. Where such consent is not forthcoming, the person entrusted with the information should make it clear that, in exceptional circumstances, it may nevertheless be necessary to disclose the information, taking account of the duty of care which may be owed to the individual and/or others.
- 10.5 Confidentiality is an important part of the procedures provided under this policy. Details of the investigation and the names of the Referrer and the Subject must only be disclosed on a "need to know" basis. Breach of confidentiality may give rise to disciplinary action under the relevant disciplinary procedure.
- 10.6 Information about complaints shall be recorded in accordance with the College [Privacy Policy](#).

## APPENDIX 1 – SPECIAL GUIDANCE FOR COMPLAINTS INVOLVING HARASSMENT, BULLYING OR SEXUAL MISCONDUCT

### 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 HARASSMENT ADVISERS

- 2.1 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.

### **3 WHAT IS HARASSMENT?**

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

3.1.1 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.

3.2 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.

3.3 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.

3.4 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.

3.5 Harassment may include, for example:

- 3.5.1 unwanted conduct of a sexual nature;
- 3.5.2 unwanted physical conduct or "horseplay", even if not of a sexual nature, including touching, pinching, pushing and grabbing;
- 3.5.3 continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- 3.5.4 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);
- 3.5.5 unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless);
- 3.5.6 racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- 3.5.7 outing or threatening to out somebody in relation to their gender or sexuality;
- 3.5.8 offensive emails, text messages or social media content;
- 3.5.9 stalking behaviours; or
- 3.5.10 mocking, mimicking or belittling a person's disability.

- 3.6 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.
- 3.7 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.
- 3.8 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.

#### **4 WHAT IS BULLYING?**

- 4.1 Bullying is offensive, intimidating, malicious or insulting behaviour (sometimes but not exclusively involving the misuse of power such as arising from a position of authority) that can make a person feel vulnerable, upset, humiliated, undermined or threatened.
- 4.2 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.

#### **5 PROTECTION AND SUPPORT FOR THOSE INVOLVED**

- 5.1 Anyone who makes a complaint or grievance which relates to harassment or sexual harassment under this policy, or who participates in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way will be subject to disciplinary action under the relevant disciplinary procedure.

5.2 If a formal allegation of harassment or bullying is made about a teaching member of the College by one of their current students or academic advisees, the Master will be informed without delay so that administrative action can be considered to safeguard students and advisees. The Master will as soon as possible undertake a risk assessment to take a decision, taking into account, as may be appropriate in the circumstances, the student's or advisee's need for confidentiality, about whether or not alternative provision will be made temporarily (and for as long as is appropriate) for that student or advisee and others within the College, or any other measures which they consider appropriate in the circumstances, including suspending or amending the duties of the Subject. Any such decision will be made without prejudice as to the facts of the case and should be not considered as a determination of guilt or a disciplinary sanction of any kind. The Master should, if possible, seek legal advice and may consult the Visitor and/or other advisers before taking such a decision.

5.3 The College encourages the use of the University support services, such as the Sexual Harassment and Violence Support Service, and Harassment Adviser Network. More details on the University support services can be found below.

## **6 SPECIAL MEASURES CONCERNING SEXUAL HARASSMENT AND/OR MISCONDUCT**

6.1 This section sets out specific considerations and arrangements that may apply in the investigation of allegations of sexual harassment and/or misconduct, under the Complaints or other College procedures.

## **7 GENERAL CONSIDERATIONS**

7.1 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.

7.2 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.

7.3 The College also uses the following definition of consent:

"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."

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

## **8 SUPPORT FROM THE UNIVERSITY SERVICES**

8.1 Reporting students or non-academic staff can access support from the Sexual Harassment and Violence Support Service. This may involve a specialist adviser 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 Adviser Network. Where the complaint or grievance concerns sexual misconduct, it will likely be appropriate for a Decision Maker to allow such accompaniment.

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

## **9 INVESTIGATION AND HEARING SAFEGUARDS**

9.1 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 adviser) to act as or assist the Investigator and/or Decision Maker.

9.2 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.

- 9.3 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.
- 9.4 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.
- 9.5 Decision-makers and support staff at all stages of the procedure should be mindful that:
  - 9.5.1 Reports of sexual misconduct are more likely to be reported later than other allegations of misconduct.
  - 9.5.2 Delays in reporting, or reluctance to involve the Police, should have no bearing on determining the veracity of the allegation.
  - 9.5.3 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.
- 9.6 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.
- 9.7 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:
  - 9.7.1 separate waiting areas for the Referrer and the Subject;
  - 9.7.2 the Referrer bringing a supporter to sit with them whilst giving evidence;

- 9.7.3 the Referrer giving evidence from behind a screen so that the reporter does not need to see the Subject;
- 9.7.4 the Referrer responding to written questions from the Subject, or questions via the person chairing the relevant meeting, rather than an oral cross examination;
- 9.7.5 the Referrer responding to questions via video link from a different location; and
- 9.7.6 providing appropriate welfare support where the Referrer is a student.

## **10 KEY CONTACTS**

- 10.1 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.
- 10.2 E-mail: [supportservice@admin.ox.ac.uk](mailto:supportservice@admin.ox.ac.uk)
- 10.3 Trained Caseworkers in the Proctors' Office can advise on the procedural aspects of the disciplinary process.
- 10.4 E-mail [casework@proctors.ox.ac.uk](mailto:casework@proctors.ox.ac.uk) or Tel: 01865 (2)80185 or (2)70093.
- 10.5 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 - FREE EXPRESSION AND ACADEMIC FREEDOM

### 1 FREE EXPRESSION AND ACADEMIC FREEDOM

- 1.1 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 2010 ("**EqA**") 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.
- 1.2 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.
- 1.3 As explained by the 2019 guidance for higher education providers issued by the Equality and Human Rights Commission:
  - 1.3.1 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.
  - 1.3.2 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.
  - 1.3.3 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.

## **APPENDIX 3 – 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.