



Leeds Trinity
University

Student Conduct and Discipline Code

incorporating Policy on Sexual Misconduct

September 2020

Student Conduct and Discipline Code

1. Leeds Trinity Values

Leeds Trinity University respects its contractual relationships with students. It seeks to create a tolerant and harmonious community. All members of the University are expected to act in accordance with its values of dignity, respect, social justice and equality.

2. The Student Discipline Code

- 2.1 The Code applies to any registered student of Leeds Trinity. This includes all police student officers, apprentices and students at partner institutions, subsumed in the term "student" hereafter.
- 2.2 Nothing in the Code shall invalidate a student's rights under English law. At no time shall it be construed that the University is investigating a crime nor determining that a crime has taken place. Only the criminal justice system may reach such a conclusion. The University is investigating misconduct against its own procedures which, however, has a lower burden of proof and may be determined on the balance of probabilities rather than beyond reasonable doubt. Accordingly, in all cases the University reserves the right to instigate a misconduct investigation notwithstanding a police or CPS decision not to proceed with charges because of higher thresholds of evidence and proof.
- 2.3 In all cases involving police student officers, the Director of Student Support & Engagement [DSSE] will liaise with West Yorkshire Police Apprenticeship and PEQF Lead to discuss and determine the significance of allegations (see 3.2.1 below). The University reserves the right to pursue investigations as set out in these procedures but will pause procedures if a police internal investigation is required. The West Yorkshire Police will report the outcome of its investigation to the University which will then determine whether to resume action, having due regard to double jeopardy for the individual, avoidance of duplicate procedures alongside the University's obligation to maintain standards and protect students, staff and property as appropriate
- 2.4 Allegations of sexual misconduct which may constitute a criminal offence are the subject of supplementary policy guidance drawn up in alignment with sectoral initiatives [see Annex B].
- 2.5 The Code is applicable to allegations of student misconduct made by another student or a member of staff. Allegations made by a third party on behalf of a student or member of staff cannot be pursued under this code. Any student making false or vexatious allegations may be subject to the Code.
- 2.6 The definition of misconduct as applicable to this Code is improper interference with the proper functioning of Leeds Trinity, or those who work and study at Leeds Trinity, or action which damages Leeds Trinity or its reputation. There is a separate code for cases of Academic or Professional Misconduct which applies to matters such as plagiarism, cheating or unprofessional behaviour in relation to placements.
- 2.7 Action taken under this Code takes precedence over any action taken under all other Leeds Trinity codes and regulations including those of the Leeds Trinity Students' Union. Students who raise concerns in good faith in accordance with the Whistleblowing Policy shall not be subject to disciplinary procedures.
- 2.8 Leeds Trinity's jurisdiction under this Code is not limited to its own premises. The Code includes misconduct occurring in any place to which a student is guaranteed access by

virtue of his/her status as a student. This would therefore include placements, research and field trips. Moreover, the University's jurisdiction extends to relevant matters and actions online, in social media or other platforms, with particular regard to allegations of cyber-bullying.

- 2.9 The Vice-Chancellor shall be responsible for determining any issues of interpretation and for providing any clarification of this Code, with particular regard to issues which might fall under the Code of Practice on Freedom of Expression. His/her decision shall be final.

3. Student Discipline Procedures

3.1 Structure and Responsibilities

- 3.1.1 The **Governors** have ultimate responsibility for all matters of student discipline. The **Vice-Chancellor** shall act on behalf of the Governors within the **Formal Procedure** as below (section 3.3.1). The Student Conduct Panel (SCP), chaired by a senior member of staff nominated by the Vice-Chancellor or Chief Operating Officer, will be the primary vehicle for the consideration of individual student cases.
- 3.1.2 The Vice-Chancellor may delegate powers under this Code to the **Director of Student Support & Engagement** (DSSE) (or nominee) or the **Accommodation Officer** (AO) (or nominee) who operate under the **Minor Procedure** as below (section 3.2.1).

3.2 Minor Allegations / Offences

Minor Procedures

- 3.2.1. Misconduct in a teaching session is actionable under this code but should be addressed directly and immediately by the member of staff involved. Where such misconduct involves a police student officer, the West Yorkshire Police expect the University to take direct action without formal referral for jurisdiction.
- 3.2.2 For matters which relate to noise levels or smoking in Leeds Trinity residences, as set out in the residential contract, the AO (or nominee) shall issue warnings in accordance with the guidelines issued to students on smoking or acceptable noise levels. Following receipt of two warnings, a student committing a third offence will be referred by the AO to the SCP with a recommendation that they be asked to leave Leeds Trinity accommodation.
- 3.2.3 For all other matters except in 3.2.1 and 3.2.2. above, the DSSE (or alternate senior member of staff) will require a written statement of the allegation from the informant with any evidence or corroboration available and will provide written information to those who are the subject of the allegation, outlining its nature.
- 3.2.4 The DSSE (or alternate) will instigate an investigation of the allegation, including an interview with the student(s) against whom the allegation is made, securing further evidence where possible. This process should normally be undertaken within two weeks. The DSSE(or alternate) should have due regard to objectivity in gathering, testing and presenting evidence and testimony.
- 3.2.5 Following investigation, the DSSE (or alternate) will decide upon one or more of the following courses of action:
- a) dismissal of the case;
 - b) oral reprimand/warning;

- c) written reprimand/warning, a copy to lie on the student's file for one calendar year;
 - d) requirement to communicate a written apology that is approved by the DSSE (or alternate);
 - e) financial restitution of any damage caused;
 - f) imposition of a specified number of hours of community service;
 - g) recommendation to licensee for exclusion from Leeds Trinity licensed premises;
 - h) referral of case to the Student Conduct Panel.
- 3.2.6 The student has the right to appeal to the Chief Operating Officer who will confirm, vary or set aside the findings and/or the penalty. In order to appeal, the student must submit a written appeal to the office of the Chief Operating Officer within 10 working days of the penalty being imposed.

3.3 Major Allegations / Offences

Major Procedure

- 3.3.1 The Major Procedure is invoked when the initial investigation leads the DSSE (or alternate) to refer a student to the Student Conduct Panel in cases of:
- a) persistent misconduct
 - b) failure of action taken under section 3.2.1 or 3.2.2
 - c) inadequate penalties under 3.2.1 or 3.2.2
 - d) serious allegations/offences
- 3.3.2 The office of the Chief Operating Officer will notify any student referred to the SCP in writing a minimum of 7 days before the meeting of:
- a) the case against him/her;
 - b) the date and location of the Panel meeting;
 - c) the procedures of the Panel;
 - d) the membership of the Panel;
 - e) their right to be accompanied only by a fellow student or Student Union officer as supporter. The supporter may advise the student, if necessary, away from the Panel, but may not speak on behalf of the student.
- 3.3.3 The office of the Chief Operating Officer (located in the Executive suite) will provide the student with a copy of, or access to, all evidence acquired.
- 3.3.4 Where a student is referred to the SCP the student may request, in writing, for the matter to be dealt with by the Chairperson of the Panel through executive action to expedite proceedings. The Chairperson of the Panel has the right to decide that a SCP hearing is required and may refuse this request. The powers available to the Chairperson of the Panel remain the same as in section 3.2.5 (a-h). The student must be advised that s/he does not have the right of appeal against a decision made through executive action.
- 3.3.5 Any written submission to the SCP from the student must be submitted to the office of the Chief Operating Officer at least three working days before the meeting.
- 3.3.6 The Chief Operating Officer shall appoint a senior member of staff as Chairperson of the SCP who will be responsible for conducting the meeting. The panel shall include two additional senior members of staff. A senior member of

the Students Union shall have right of attendance at all stages of the Panel.

- 3.3.7 The SCP will require the attendance of the student. Where appropriate, the DSSE (or alternate), the AO (or nominee) and/or witnesses may be required to attend. However, a penalty may be imposed in the absence of the student if the SCP is convinced that all reasonable steps have been made to advise the student of the date, time and place of the SCP and no satisfactory explanation of absence has been provided.
- 3.3.8 At the conclusion of the meeting the SCP will reach a decision based on the evidence available. Decisions must be fair, reasonable, proportionate while based on a balance of probabilities. Other than for cases under 3.3.1 (a), the decision as to guilt or responsibility shall be made without reference to previous offences; the Panel shall only take into account previous offences in determining any penalty. The SCP will make their decision known to the student in writing within 3 working days.
- 3.3.9 Subject to due consideration, misconduct may result in any of the following actions through the SCP or executive action on behalf of the panel:
- a) any action listed in section 3.2.1.4 or variant thereof
 - b) imposition of a fine not exceeding £1,000
 - c) suspension (temporary prohibition on attendance)
 - d) exclusion (partial or selective prohibition on access to Leeds Trinity facilities, including termination of a student's Residential Accommodation Agreement contract)
 - e) expulsion
- 3.3.10 The SCP retains the right to vary sanctions at its discretion for each case throughout the academic year. Student disciplinary hearings are not designed to set a precedent and the outcome of each incident will be dealt with on the findings of that particular case. Decisions of an SCP are not binding on another even where the circumstances are similar.
- 3.3.11 The student shall have the right of appeal to the Vice-Chancellor against any SCP decision under section 3.3.9 (a-d) and to the Governors' Disciplinary Committee against any SCP decision under section 3.3.9 (e). See Section 4 below.

3.4 Immediate/Emergency Action

- 3.4.9 Where a student is subject to a criminal charge or to a police investigation or where a student's behaviour is considered likely to cause injury to students, staff or property, the Chief Operating Officer or alternate such as the University Secretary, may suspend or exclude the student or limit their interaction with the Leeds Trinity community pending the SCP hearing. Such action will be invoked, and reported to the Vice-Chancellor, with immediate effect in which case an SCP hearing will be held within two weeks of suspension/exclusion. All such cases of suspension or exclusion will be subject to review at four weekly intervals.
- 3.4.10 In such circumstances every effort will be made to minimize the effect of suspension or exclusion under section 3.3.9 on the student's capacity to engage in a learning experience and their access to student services. Such suspension or exclusion should not be construed as a penalty. It is a mechanism to secure the protection of members of the Leeds Trinity community. See Section 7.5 below.

- 3.4.11 Where this action under section 3.4.1 is invoked, the student has the right of appeal to the Vice-Chancellor. See Section 4 below.
- 3.4.12 Any period of suspension/exclusion may be effective until the outcome of any criminal proceedings or investigations at which point a decision will be made about any further disciplinary action under this Code. Where such action is required, the procedures set out in section 3.3.1 apply.

4 Appeals against a decision of the Student Disciplinary Panel (SDP) regarding discipline/conduct cases

4.1 Appeal to the Vice-Chancellor

- 4.1.1 If a student wishes to appeal against an SCP decision under section 3.3.9 (a-d) s/he must submit that appeal in writing to the office of the Vice-Chancellor within 10 working days of the SCP issuing a decision. The appeal must set out in writing the grounds for the appeal. An appeal will only be admitted on grounds relating to the conduct of the disciplinary process and its effect on the disciplinary decision or on the grounds of evidence which has emerged subsequent to the SCP decision.
- 4.1.2 The Vice-Chancellor will consider the appeal together with the report from the SCP and will confirm, vary or set aside the findings and/or the penalty and will inform the student and the Chairperson of the SCP of the outcome within 10 working days of receipt of the appeal.
- 4.1.3 The decision of the Vice-Chancellor is final and will complete the University's procedures. See Sections 5 and 6 below.

4.2 Appeal to the Governors' Disciplinary Committee (GDC)

- 4.2.1 If a student wishes to appeal against an SCP decision under section 3.3.9 (e) s/he must submit that appeal in writing to the office of the Chief Operating Officer (who will forward it to the external Clerk to the Governors) within 10 working days of the SCP issuing a decision. The appeal must set out in writing the grounds for the appeal. An appeal will only be admitted on grounds relating to the conduct of the disciplinary process and its effect on the disciplinary decision or on the grounds of evidence which has emerged subsequent to the SCP decision.
- 4.2.2 The Chairperson of the GDC will consider whether or not the written submission constitutes grounds for appeal. If s/he considers that there are grounds for appeal, s/he will call a meeting to hear the appeal. If the Chairperson decides that a case has not been made, the Clerk to the Governors will write to the student to communicate that there are no grounds for an appeal.
- 4.2.3 The GDC shall normally be constituted to hear the appeal within four weeks of receipt of the appeal being submitted. The GDC shall have the following membership:
- Three external Governors
 - The Clerk to the Governors (or his/her nominee) will be in attendance
- 4.2.4 The student must attend the meeting if required, in which case the Clerk to the Governors will provide the appellant with at least eight working days' notice of the meeting, remind them of their right to be accompanied by a fellow student

and confirm the evidence being considered.

- 4.2.5 The appellant shall be invited to submit any further evidence in writing to the GDC. Any new evidence must be accompanied by a written statement as to why this evidence was not available to SCP. All information should be submitted directly to the Clerk to the Governors at least five working days before the meeting.
- 4.2.6 The GDC shall have full access to all documentation relating to the case but will make no further enquiry into matters of fact relating to the allegation and the existing evidence. It will hear the appeal as follows:
- a) The Chairperson of the SCP will present the report of the SCP which will include a summary of process, evidence and conclusions with all papers associated with the case;
 - b) The appellant will have the opportunity to address the GDC in support of the grounds for appeal; and
 - c) Members of the GDC will then have the opportunity to ask questions of the Chairperson of the SCP and the appellant.
- 4.2.7 The GDC may consider and determine the appeal in the absence of the appellant if it is satisfied that the time, date and location of the hearing have been notified in writing to the appellant and that the appellant has not notified the Clerk that s/he will not be able to attend. The GDC may exercise its discretion to adjourn the meeting at any time.
- 4.2.8 The GDC will consider whether to endorse the decision of the SCP or to uphold the appeal or substitute such other decision of its own as it thinks fit. This may involve increasing or reducing a penalty imposed by the SCP. The GDC decision is final and will be communicated to the appellant and the Chair of the SCP, in writing, within 7 working days of its having been made.
- 4.2.9 Any decision whether by the SCP or the GDC that results in suspension or expulsion shall be reported to the next meeting of the Board of Governors.

5 Case Closure

If an appeal is submitted by the deadline in 4.1.1 or 4.2.1 above, Leeds Trinity will issue a "Completion of Procedures" letter at the same time as it informs the student of the outcome of the appeal.

6 Independent External Review

- 6.1 If, on completion of Leeds Trinity procedures detailed above, a student wishes to seek an independent external review, then they should apply to the **Office of the Independent Adjudicator** (OIA) within twelve months of the date of the "Completion of Procedures" letter.
- 6.2 The "Completion of Procedures" letter will contain information on the services provided by the OIA and how to submit an application.

7 Policy on Referral to Police

- 7.1 Anyone may report a matter to the police and no-one may prevent this.
- 7.2 Where an offence is committed against Leeds Trinity, the matter shall normally be reported to the police, whether or not any culprit has been identified. All allegations of

illegal drug use are routinely reported to the police regardless of any referral to the SCP. (Please refer to Students, Drugs and Substance Abuse Policy).

- 7.3 Leeds Trinity will offer support and advice to anyone wishing to report to the Police matters of criminal conduct. Leeds Trinity will encourage students to report serious personal matters to the police and the University will not attempt to investigate matters on its own authority which should properly be investigated by the police. The University has separate specialist policy guidance on its handling of sexual misconduct which might constitute a criminal offence [see Annex B].
- 7.4 Where the victim of an alleged crime does not wish the matter to be reported to the police, but the matter has come to Leeds Trinity's attention, the Vice-Chancellor (or nominee) shall be informed and the final decision to inform the police on behalf of Leeds Trinity will rest with him/her. Only in exceptional circumstances and after careful consideration will Leeds Trinity report a matter to the police against the wishes of the victim, although in certain circumstances it is a legal requirement to report incidents to the police e.g. under the Acts of Parliament relating to the prevention of terrorism and the protection of children.
- 7.5 In a serious matter under police investigation or awaiting trial, the Chief Operating Officer may consider taking immediate action under the Student Conduct and Discipline Code, for example, suspending or excluding a student until the outcome of a police or court action is known or because of bail conditions.
- 7.6 Where the alleged offence under the criminal law is considered by the DSSE (or nominee) to be not serious, taking account of all the relevant circumstances, action under this Code would be deferred pending the outcome of any police investigation or prosecution.
- 7.7 Where a finding of misconduct is made, and the student has also been sentenced by a criminal or civil court in respect of the same facts, the court's penalty shall be taken into consideration in determining any penalty under this Code.

Glossary

<i>AO</i>	<i>Accommodation Officer</i>
<i>COO</i>	<i>Chief Operating Officer</i>
<i>CPS</i>	<i>Crown Prosecution Service</i>
<i>DSSE</i>	<i>Director of Student Support & Engagement</i>
<i>FOS</i>	<i>Financial Ombudsman Service</i>
<i>GDC</i>	<i>Governors' Disciplinary Committee</i>
<i>LTU</i>	<i>Leeds Trinity University</i>
<i>OIA</i>	<i>Office of the Independent Adjudicator</i>
<i>SCP</i>	<i>Student Conduct Panel</i>
<i>WYP</i>	<i>West Yorkshire Police</i>

Annex A

The following list exemplifies student misconduct but is not exhaustive. Categorisation of offences as 'major' or 'minor' is dependent upon several factors: the context of the offence, the nature and sincerity of any admission and/or expression of regret by the offender and the offender's record regarding similar previous offences.

In all matters, online misconduct is subject to the provisions of this code and annex.

- a) disruption of the academic, administrative, sporting, recreational, social or other activities of Leeds Trinity, including inappropriate or inattentive behaviour in learning groups as determined by the staff present, or anti-social behaviour on campus;
- b) obstruction of the functions, duties or activities of any student or staff member or other employee of Leeds Trinity or any authorised visitor to Leeds Trinity;
- c) behaviour which restricts the legitimate freedom of speech, ideas, actions or inquiry of any other student or staff member;
- d) behaviour which breaches Leeds Trinity regulations on health and safety, on smoking or on eating and drinking on Leeds Trinity premises;
- e) behaviour which brings Leeds Trinity into disrepute – with particular regard to (a) social media and other platforms and (b) antisocial behaviour in and around student houses (or equivalent) in Leeds;
- f) violent, indecent, disorderly, threatening or offensive behaviour or language whilst on Leeds Trinity premises or engaged in any Leeds Trinity activity;
- g) malicious damage to Leeds Trinity property which includes halls of residence, sports facilities, library and learning resources, Students' Union property or the property of any other student, staff member or authorised visitor;
- h) conduct, including the possession of or use of drugs, which constitutes a criminal offence, where that conduct:
 - took place on Leeds Trinity property;
 - affected or concerned other members of the Leeds Trinity community, individuals or groups in related organisations or partner institutions;
 - damages the good name of Leeds Trinity;
 - is an offence of dishonesty, where the student holds an office of responsibility at Leeds Trinity;
 - poses a danger to other members, or to the good order of the Leeds Trinity community;
- i) breaches of Leeds Trinity's Equal Opportunities Policy, including discrimination against and/or harassment of any student or member of staff of, or any visitor to, Leeds Trinity and any acts liable to render the University in breach of the Equality Act 2010;
- j) action likely to cause injury or impair safety on Leeds Trinity premises or property;
- k) behaviour which would be likely to cause fear, distress or offence to others;
- l) breach of other Leeds Trinity regulations where further action under this Code is deemed to be necessary;

- m) fraud, deceit, deception, dishonesty or piracy, that is the deliberate infringement of statutory protections of copyright and licences, in relation to the property of Leeds Trinity or its staff or other students or placement organisations used by Leeds Trinity or in connection with the holding of any office at Leeds Trinity;
- n) failure to disclose the name and other relevant details to an officer or employee of Leeds Trinity in circumstances when it is reasonable to require that such information be given;
- o) failure to comply with a previously imposed penalty under this Code or other Leeds Trinity regulation;
- p) behaviour which is counter to the legal aspects of professional codes of practice in programmes which require professional validation e.g. teacher education;
- q) possession of offensive weapons on Leeds Trinity property (items which could be described as such used in recreational activities, for example martial arts equipment, or as course equipment, must be declared to the Director of Student and Academic Services and used only under qualified supervision);
- r) behaviour which breaches any health and safety restrictions which have been put in place to control the spread of coronavirus and other infectious diseases.

Policy on Sexual Misconduct

1 Introduction

- 1.1 This document sets out the University's policy for dealing with student cases of sexual misconduct which may constitute criminal activity. It does not replace the Conduct and Discipline Code. It amplifies and explains the steps and decisions that the University should take between disclosure and any referral to the Student Disciplinary Panel for the understanding of anyone involved in cases: students and staff, family members, police and lawyers.
- 1.2 The term sexual misconduct encompasses any unwanted sexual activity including: rape, sexual assault, sexual abuse, sexual exploitation, sexual harassment, voyeurism and unauthorised use of sexual images (sexting and revenge porn). Outside of a university situation, these are typically termed 'sexual harassment and violence'.
- 1.3 The University's disciplinary procedures are subject to civil contract law only and cannot determine criminal guilt. In the absence of criminal process, making such declarations is potentially defamatory. Despite reservations about its lesser significance, it is therefore more appropriate to use the term misconduct in relation to University policy and process. The expression sexual misconduct which may constitute criminal activity is used in the sectoral guidance.
- 1.4 This policy is aligned with the sectoral guidance drawn up in 2016 by Pinsent Masons and issued by Universities UK following the work of a sector taskforce: How to Handle Alleged Student Misconduct Which May Also Constitute A Criminal Offence. This policy also draws on training delivered by Support After Rape and Sexual Violence Leeds [SARSVL] to key welfare staff at Leeds Trinity in 2019. Annex A lists other guidance and relevant policies.

2 Language and other preliminaries

- 2.1 In all situations, the basic legal right to be considered innocent until found guilty must apply. Investigators need to be careful in this regard and university professionals have an impartial duty of care to all students, including perpetrators. However, to be believed is a fundamental need and anxiety of victims and disclosers and it is usually the case that supporter-advocates, witnesses, flatmates or others can demand action well before any judgments have been made. Managing this tension is enormously difficult.
- 2.2 In such a climate, careful reference to "alleged victim" and "alleged perpetrator" might be regarded as insensitive. Sectoral guidance recommends use of terms such as "discloser" and "responder" (the person responding to allegations made against them). However, "responder" feels more natural as the term for the person responding supportively to a first disclosure as set out in section 4 below. Victim is a natural term without legal significance. Perpetrator is hereafter used with the assumption that alleged is implied in all usage.

3 Scope and scenarios

- 3.1 This policy covers all allegations involving registered students and apprentices (hereafter student(s)). Allegations which involve staff only or staff but not current students should be directed to Human Resources. Allegations or disclosures which involve pupils or summer school residents should be regarded as safeguarding incidents requiring separate procedure.
- 3.2 The University notes that the vast majority of cases of sexual violence involve people who already know each other, including partners in a relationship, whether sexual or not. Accordingly, staff will not prejudge situations or context to allegations.
- 3.3 The following scenarios are likely and not exhaustive; incidents may be recent or historic.
- Social event off campus (nightclub, street)
 - Private accommodation (housemate or guest)
 - Resident student victim, perpetrator not our student
 - On campus incident, student on student
 - On or off campus incident, staff on student or student on staff
 - Off campus workplace
 - Franchise partner site
- 3.4 The University will not pursue allegations against people who are not student or staff members of the University nor will it inform or request assistance from third party organisations such as other universities or employers. All such matters or information should be referred to the police.

4 Disclosure: immediate response and professional support

- 4.1 Disclosure does not require an investigative response and University staff should respond appropriately (as set out in separate guidance, Annex A below).
- 4.2 Responders should listen actively and protect their own wellbeing by remaining calm. They should refrain from anger as demonstration of serious intent.
- 4.3 Responders should only make brief factually accurate notes at the end of the disclosure conversation (see 5.2.1 below about use in court).
- 4.4 Responders should signpost students to trained professional services, typically Student Support or Student Mental Health and Wellbeing, for specialist advice about external services and options.
- 4.5 Responders must never seek to deter students from reporting to the police either immediately or later.
- 4.6 The University will ensure that victim and perpetrator have separate, fair and equal guidance about steps and constraints in all further stages of the process.
- 4.7 Professional support staff will encourage victims who are still reluctant to report an incident to the police to avail themselves of physical / medical evidence collection facilities in the city.
- 4.8 Professional support staff will advise disclosers that their engagement with

psychotherapeutic services may be tested in court: support for trauma and after-effects is not questionable but analysis of the incident itself may be open to cross-examination of possible interpretation and a false recollection.

- 4.9 The University will assess whether to take precautionary measures to protect safety, reduce anxiety and allow for continuation of studies as far as possible.

5 Investigation: basic University protocols

- 5.1 The sectoral guidance prepared for Universities UK, prepared by Pinsent Masons, sets out two fundamental recommendations, namely that:

(1)The criminal process must take priority; there must be no duplication of or concurrent process; internal investigation should be suspended for the duration of the criminal process.

Not only could an internal disciplinary process jeopardise a criminal trial but a defendant has the right not to cooperate, on legal advice, with an internal disciplinary process in advance of a trial. This is likely to compromise the fairness of the internal process and would likely render it void on appeal (to the OIA for example). This could be extremely harmful to the victim.

(2)If there is no criminal process or when that process has concluded, a university must decide whether to open an internal investigation and disciplinary process.

It is not acceptable to rule out disciplinary process on the grounds that an allegation is too serious for internal process. The disciplinary process is not a criminal process and cannot, in law, determine whether or not, for example, a student has committed rape or sexual assault. It can only determine whether misconduct or unacceptable behaviour contrary to the University's regulations has taken place.

- 5.2 In addition, it is sectorally recommended that:

5.2.1 All involved realise that any and all notes and records may be used in a criminal trial and must be clear, accurate and appropriate.

5.2.2 The main parties involved should have a different trained single point of contact [SPOC] in support staff. The SPOC should be able to advise a student about the options available to them, the limitations of a university process in terms of outcomes (penalties) and related confidentiality. The SPOC is not a therapeutic role.

5.2.3 University staff should not put any pressure on someone either to report or not report a matter to the police. The University should respect the student's wishes and only exceptionally report a matter contrary to the victim's wishes. If a student wishes not to report a matter to the police but wishes the University to investigate, the University should accede to this wish.

- 5.2.4 An accused student should have the right to test evidence against themselves but the University should ensure, for welfare reasons, that arrangements are made so that accuser and accused are not physically present in one room at the same time.
- 5.2.5 The University has the right to pursue a related disciplinary matter concurrently with a criminal investigation provided that it is not the subject of the criminal investigation. An example given would be abusive behaviour to another student while under the influence of drugs; the drugs issue might be dealt with by the police, the abusive behaviour by the University.
- 5.3 The University will be mindful that police investigation, prosecution, trial and appeal will take months and quite possibly extend through and beyond the remaining years of study of those involved.

6 Police Investigation

- 6.1 In cases where the matter has been referred to the police or the discloser has been encouraged to report it to the police, the University will need only to note the identities of those directly involved and any witnesses, pending the outcome of the police investigation.
- 6.2 The University will inform these people that the University is aware of the case but is not at this stage seeking further detail in order not to contaminate any police investigation and prejudice a future trial.
- 6.3 The University will impress on these people that there should not be any public discussion in person or on social media which might lead to an escalation of tension or otherwise jeopardise both external or internal processes. This does not include personal or professional support.

7 University Investigation

- 7.1 The University will normally wait for the outcome of police investigation and a decision to refer, or not, to the Crown Prosecution Service and the decision of the CPS as to whether to prosecute before deciding whether to launch its own investigation
- 7.2 The University will take account of the police and CPS decisions in framing that investigation. However, it will be mindful that (a) student registration is governed by contract law only and (b) the burden of proof in a criminal prosecution – beyond reasonable doubt - is higher than would be expected of a University investigation - on the balance of probabilities.
- 7.3 **Cases without referral to the police**
 - 7.3.1 In cases where the discloser does not want to refer the matter to the police, the University will take a decision on whether to proceed to a full internal investigation.
 - 7.3.2 Specialist guidance recommends that such investigations are not handled by a single person within the organisation, synthesising information in a process vulnerable to filtering and accusations of bias or conflict of interest.

7.3.3 Accordingly, the University will seek to appoint an independent experienced investigator to interview those involved and prepare a report for the appropriate panel (e.g., the Student Disciplinary Panel).

7.4 **Cases in which external investigations have been concluded**

7.4.1 The University will need to take a decision about internal disciplinary procedures at the point when

- A police investigation has been dropped without charges and without referral to the CPS
- The CPS has concluded that a prosecution is not viable
- A trial has resulted in acquittal or collapsed
- A trial has resulted in a guilty verdict

7.4.2 As stated above, the University will be mindful that the burden of proof expected in an internal investigation is lower than in criminal proceedings.

7.4.3 If the University decides not to proceed with an internal investigation it should write to those involved to give its reasons.

7.4.4 If it decides to proceed then, as above, the University will appoint an independent person to conduct the investigation and submit a report to the Student Disciplinary Panel.

7.4.5 The University is fully entitled to use the outcomes of the external investigation in reaching its own conclusions about misconduct.

8 Records and Freedom of Information

The University will maintain, in granular but anonymised manner, a register of all cases relating to sexual violence in order to respond efficiently to Freedom of Information requests. It should be noted that sexual violence is second only to mental health in terms of student-centred Freedom of Information requests to this University and thus to all almost certainly. However, requests can vary in terms of definitions, locations, outcomes and time-periods (calendar years instead of academic years for example). In order to respond time-effectively to these requests, it is necessary to record definitive information according to the prevalent external demand rather than internal categories. However, in the absence of convictions, low numbers and possible identification remain problematic.

Annex A

Legal guidance prepared by the Crown Prosecution Service on sexual offences can be found here:

<https://www.cps.gov.uk/legal-guidance/rape-and-sexual-offences-chapter-1-cps-policy-statement>

and chapter 3 contains specific guidance on the crucial legal consideration of consent.

The primary Leeds Trinity University procedures which apply in this area are:

- Student Conduct and Discipline Code
- Policy on Dignity at Work and Study
- Staff Disciplinary procedures
- In addition, there are:
- Policy on Sexual Relationships
- The Zero Tolerance statement jointly endorsed by the University and the Leeds Trinity Students' Union

Guidance on responding to disclosures

1. The most important thing the first responder must do is **be present** for the discloser – in other words, to be patient and sensitive and to listen attentively.
2. Responders should mirror the language adopted by the discloser, even if casual or slang.
3. Responders should monitor their own emotional responses and keep calm and safe.
4. Responders should be realistic about their professional boundaries and should make clear that not all support can come from them.
5. Responders should refrain from any kind of judgmental response. Sudden attacks by strangers constitute the minority. Accordingly, victims often feel compromised by an initial scenario of normality or agreement to normal social interaction. This might include being 'alone' with the perpetrator in a room, a vehicle or a bed.
6. Responders will not be judged on their emotional response and should not be tempted to declare actions that must be taken in order to prove they are taking the matter seriously. Neither will they be judged on what the truth is.
7. Responders should not assume an immediate investigative approach but should record factual accurate notes before the end of any meeting or conversation. These may be used in court.
8. Responders should suggest, if possible, that disclosers do not immediately identify or name perpetrators. Responders should explain that names can be disclosed in an investigative stage in order to allow the discloser time to consider whether they want the police involved. Once names have been identified, it may not be possible not to involve the police.
9. The staff of the University need to maintain open minds and ensure that equitable confidential support is provided without judgment and without cross-contamination of information. If the disclosure occurs in Student Support, it will be important to keep a discreet separation between initial interviews for the purpose of support and subsequent interviews for the purposes of preliminary investigation.

Key decisions for the discloser to consider

10. A key support moment – and for all subsequent institutional actions - will be exploring whether the discloser wishes to report matters to the police. The institution has a policy position that it will never seek to dissuade anyone from taking matters to the police and it follows that staff will support a student who wishes to do so.

11. However, there are steps which can be taken by the victim-discloser without or before deciding to report formally to the police. Forensic evidence is not necessary in order to secure a conviction. However, there is a window, varying according to the bodily site of assault, in which it is possible to obtain such evidence. It does not have to be the police who conduct the examination and the evidence can be retained for seven years in case of a later prosecution. Accordingly, should they wish, victims can be given contact details of the Sexual Assault Referral Centre (SARC) in Dewsbury where the examination can take place and victims can be given additional medical checks and ongoing support, such as the Independent Sexual Violence Advocates [ISVA] and Victim Support. Additional support services are listed at the end of this document.