

**Year 2 Public Description of Work for  
Action Collaborative on Preventing Sexual Harassment in Higher Education**

**The 1752 Group *with* McAllister Olivarius**

**Sector guidance to address staff/faculty sexual misconduct in UK  
higher education**

**Relevant Rubric Area:**

Improved policies

**Description of Work:**

This briefing introduces our *Sector Guidance to Address Staff/Faculty Sexual Misconduct in UK Higher Education*, available [here](#). The authors' respective previous work in this area led to our collaboration on this guidance. Georgina Calvert-Lee, head of UK practice at discrimination law firm McAllister Olivarius, has taken legal action on behalf of students against higher education institutions under the Equality Act (2010) in relation to their handling of sexual violence and harassment complaints. Anna Bull and Tiffany Page are co-founders of The 1752 Group, a research and campaign organisation addressing staff/faculty sexual misconduct in higher education (Page et al., 2019). Our respective work provided a common understanding of the problems with complaints processes in this area: that the process itself can be discriminatory, compounding the discrimination that has already occurred.

While the guidance focuses on the UK context, the principles of parity between reporting and responding parties, can be adapted for use in other jurisdictions. In the US context, and despite the requirements of Title IX, reporting parties still often feel excluded from or without rights in investigations and hearings. Disparities of treatment arise from the same systemic problems noted in the UK, and, as in the UK, reporting parties' concerns are often swept under a rug of confidentiality, either because this is demanded by the university as a condition of taking action or through the over-use of NDAs, either with the reporting or responding party, or both.

The problem that the guidance seeks to address is that existing student complaints and staff/faculty disciplinary procedures in the UK fail to offer similar protections and privileges to the student complainant and the responding staff/faculty member and, as a result, students are often excluded from the process purporting to resolve their complaint. We outline the changes that would need to be made to staff/faculty disciplinary processes to follow a process more akin to civil justice than criminal justice, thus ensuring that the process accords equal rights to complainants and respondents. Overall we argue:

“In a society where vastly more sexual misconduct complaints are made by women against men than vice versa, a process for investigating sexual misconduct complaints which gives those responding more rights than those complaining might well be thought to place women as a group at a particular disadvantage and so to amount to indirect discrimination, in breach of the Equality Act 2010” (p.4-5).

## Year 2 Public Description of Work for Action Collaborative on Preventing Sexual Harassment in Higher Education

Therefore, we have suggested that higher education institutions (HEIs) modify their existing disciplinary processes to provide similar protections and privileges in the process to the complainant and the responding staff member. The **two key principles** that the guidance puts forward are:

1. Where staff disciplinary procedures are used to address student complaints, HEIs must modify these to ensure a fair process for student complainants
2. Student complainants and responding staff members must be accorded equal rights in the complaints process

What this means in practice is that the complaints process must provide both the student complainant and responding staff/faculty member equal access to evidence (including relevant sections of the investigation report), equal opportunity to put their case (including submission of evidence and attendance in person or via video link at any formal hearings), equal opportunity to challenge the evidence of the other, and to request an appeal or review, which should have full autonomy to strengthen or overturn previous findings. In addition, if the HEI decides to resolve the complaint by way of a settlement, this must be agreed by all parties rather than being solely between the institution and the staff member, as currently seems to happen.

We produced a consultation edition of this guidance in September 2018. This coincided with the publication of the report *Silencing Students* (Bull and Rye, 2018), which outlined some of the difficulties students and staff faced in making complaints of staff sexual misconduct. Points we have endeavoured to address in this guidance arising from the consultation with sector leader and organisations in the UK include showing awareness of the variety of sizes and types of HEIs; being clear on how our guidance fits in with existing guidance in the area, and where it differs explaining why; and showing sensitivity to the rights of the responding party. It became clear from the consultation that more dialogue is needed between complainants and sector organisations, as some of the points that complainants repeatedly raised in our research and advocacy work were new or unclear to sector bodies. One such point was the need for outcomes, including where disciplinary sanctions were taken against staff members, to be shared with complainants (see discussion in Bull et al., 2020; Bull and Page, 2021).

There are various implications of this guidance for university administrators. First, when a concern is raised (whether formally or informally) about staff sexual misconduct, one of the major shifts from current practice that we recommend is that proactive steps should be taken by the institution towards safeguarding the whole staff and student body (The 1752 Group and McAllister Olivarius, 2020b). Second, where formal complaints of staff/faculty sexual misconduct are brought by students, student services staff and/or sexual violence liaison officers will need to be much more closely involved in the HR staff disciplinary process to ensure that students are accorded parity throughout. Thirdly, some policies and procedures may need to be revisited (ahead of the expected statutory Code of Practice and UUK guidance, as noted above) such as removing time limits on complaints about current members of staff/faculty. More generally, throughout the process, the student complainant needs to be consulted about steps that affect them within the investigation, in line with the principle of giving victim-survivors choice and control where possible (Bull et al., 2019).

This guidance should be implemented as part of a larger programme of prevention and response work to address sexual and domestic abuse on campus.

**Website for further information:** [www.1752group.com/sector-guidance](http://www.1752group.com/sector-guidance)

## Year 2 Public Description of Work for Action Collaborative on Preventing Sexual Harassment in Higher Education

**Point of Contact Name:** Anna Bull

**Email Address for Point of Contact:** [anna.bull@1752group.com](mailto:anna.bull@1752group.com)

### References and further reading:

Bull, A., Rye, R., 2018. *Silencing students: institutional responses to staff sexual misconduct in higher education*. The 1752 Group/University of Portsmouth.

[https://1752group.files.wordpress.com/2018/09/silencing-students\\_the-1752-group.pdf](https://1752group.files.wordpress.com/2018/09/silencing-students_the-1752-group.pdf)

Bull, Anna, Tiffany Page, and Jayne Bullough. 2019. "What Would a Survivor-Centred Higher Education Sector Look Like?" In *A New Vision for Further and Higher Education*, edited by Sol Gamsu, 73–82. London: Centre for Labour and Social Studies.

[http://classonline.org.uk/docs/A\\_New\\_Vision\\_For\\_Further\\_and\\_Higher\\_Education\\_220519\\_1647\\_forwebv1.pdf](http://classonline.org.uk/docs/A_New_Vision_For_Further_and_Higher_Education_220519_1647_forwebv1.pdf)

Bull, A., Calvert-Lee, G., Page, T., 2020. Discrimination in the complaints process: introducing the sector guidance to address staff sexual misconduct in UK higher education. *Perspectives: Policy and Practice in Higher Education* 1–6. <https://doi.org/10.1080/13603108.2020.1823512>

Bull, Anna, and Tiffany Page. 2021. 'The Governance of Complaints in UK Higher Education: Critically Examining "Remedies" for Staff Sexual Misconduct'. *Social & Legal Studies*, April, 09646639211002243. <https://doi.org/10.1177/09646639211002243>.

Page, T., Bull, A., Chapman, E., 2019. Making Power Visible: "Slow Activism" to Address Staff Sexual Misconduct in Higher Education. *Violence Against Women* 25, 1309–1330. <https://doi.org/10.1177/1077801219844606>

The 1752 Group, McAllister Olivarius, 2020a. *Sector guidance to address staff sexual misconduct in UK higher education: Recommendations for reporting, investigation and decision-making procedures relating to student complaints of staff sexual misconduct*.

<https://1752group.files.wordpress.com/2020/03/the-1752-group-and-mcallister-olivarius-sector-guidance-to-address-staff-sexual-misconduct-in-uk-he-1.pdf>

The 1752 Group, McAllister Olivarius, 2020b. *Briefing no. 1: In cases of suspected sexual misconduct can a university pro-actively investigate and speak to potential witnesses in the absence of any formal complaint or complainant?* [https://1752group.files.wordpress.com/2020/03/the-1752-group-and-mcallister-olivarius\\_briefing-note-1.pdf](https://1752group.files.wordpress.com/2020/03/the-1752-group-and-mcallister-olivarius_briefing-note-1.pdf)