



**ARTS
UNIVERSITY
BOURNEMOUTH**

Sexual Assault and Misconduct Policy

Date: 10 June 2026

Last amended by: Tim Johnson

1 Policy Statement

- 1.1 ThinkSpace Education (TSE) recognises that incidents of sexual assault and sexual misconduct occur within the Higher Education (HE) community. Sexual assault and sexual misconduct refer to a broad spectrum of behaviours that cannot be divorced from other types of gender-based violence including, but not limited to, intimate partner violence or domestic abuse, coercive and/or controlling behaviour, and stalking.
- 1.2 TSE acknowledges that sexual assault and sexual misconduct can be experienced by any individual. We are committed to promoting a culture in which any such incident will not be tolerated, and which encourages the reporting of all instances. All reported incidents will be addressed to ensure all concerned parties receive appropriate support and guidance, to ensure any breaches of this policy are dealt with appropriately, and to ensure that this Policy and Procedure remain effective and relevant.

2 Definitions

- 2.1 The definitions below have been separated into explanations of the types of behaviour captured under this Policy which amount to Policy breaches and clarification of the terminology used within the Policy.
- 2.2 Sexual assault and sexual misconduct is defined as any unwanted conduct of a sexual nature which occurred in person or by letter, telephone, text, email or other electronic and/or social media and includes, but is not limited to, the following behaviour:

Online Harassment

- 2.3 As technology develops and social networking sites continue to expand, online harassment will continue to grow and take on different forms; consequently, definitions of online harassment and the behaviour it encompasses will be in a state of flux. Some forms of online harassment are set out below.
 - 2.3.1 Cyberstalking: repeated and deliberate use of the internet and other electronic communication tools to engage in persistent, unwanted communication intending to frighten, intimidate or harass someone, or to spy on someone.
 - 2.3.2 Denigration: sending or posting harmful, untrue or cruel statements about a person to other people.
 - 2.3.3 Doxxing: sharing someone else's personal information without their permission.
 - 2.3.4 Exclusion: purposeful isolation of individuals from online communications with others in a network.
 - 2.3.5 Image-based sexual abuse: (also known as 'revenge pornography') online disclosure of sexual or intimate photos or videos, without the consent of the person pictured.
 - 2.3.6 Internet pile-on: where large numbers of people are encouraged to target one individual with numerous messages.
 - 2.3.7 Masquerading: pretending to be someone else online.

- 2.3.8 Sexting: the exchange of online sexual images or videos. This is illegal for under-18s. Where sexual photos of adults are shared online between adults (that is, over 18), without permission of the person/people photographed, this is usually classified as 'revenge porn'.
- 2.3.9 Trickery: engaging in tricks to solicit personal information that is then made public, often to blackmail the individual.
- 2.3.10 Trolling: sending or posting deliberately inflammatory, inappropriate, or controversial messages or comments on the internet, in order to upset and provoke responses from other internet users.
- 2.3.11 Upskirting: filming or photographing under a person's clothes without their consent to capture images of their body or underwear.
- 2.3.12 Virtual mobbing: where a person tries to attract attention to someone else by getting other people to bully a person. For example, by using hashtags to encourage other people to join in.

Other Forms of Harassment

- Engaging, or attempting to engage in a sexual act with another individual without consent;
 - Sexually touching another person without their consent;
 - Conduct of a sexual nature which creates (or could create) an intimidating, hostile, degrading, humiliating, or offensive environment for others including making unwanted remarks of a sexual nature;
 - Inappropriately showing sexual organs to another person;
 - Repeatedly following another person without good reason;
 - Recording and/or sharing intimate images or recordings of another person without their consent; and
 - Arranging or participating in events which may reasonably be assumed to cause degradation and humiliation to those who have experienced sexual violence, for example inappropriately themed social events or initiations.
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- 2.4 Complicity is any act that knowingly helps, promotes, or encourages any form of sexual assault or sexual misconduct by another individual.
 - 2.5 Retaliation may constitute any words or actions, including intimidation, threats, or coercion, made in response to disclosures or reports made under the Sexual Assault and Misconduct Policy, by any individual including both the Responding Party and the Reporting Party, as well as witnesses, friends, or relatives.
 - 2.6 TSE recognises that there are potentially additional types of behaviour that will constitute a breach of this Policy and which will therefore need to be considered under the relevant internal disciplinary regulations, including:
 - 2.7 Vexatious reporting involves the creation of persistent, unwarranted reports made under the Sexual Assault and Misconduct Policy, or a refusal to accept any reasonable decisions arising from the application of the accompanying procedures to this Policy.
 - 2.8 Malicious reporting occurs when an individual shares allegations of sexual assault or sexual misconduct that the individual knows to lack a basis in fact.

3 Terminology

- 3.1 **Disclosure** involves an individual choosing to tell anyone who is part of the TSE community about their experience of sexual assault or sexual misconduct (different from Report).
- 3.2 **Report is the sharing of information with a staff member of TSE regarding an incident of sexual assault or sexual misconduct experienced by that individual for the purposes of initiating the investigation process by TSE, as set out in this Policy and the accompanying procedures (different from Disclosure).**
- 3.3 **Reporting Party** is the person(s) who has been the subject of the alleged incident of sexual assault or sexual misconduct or other policy breach.
- 3.4 **Responding Party** is the person(s) whose behaviour it is alleged amounted to an incident of sexual assault or sexual misconduct or other policy breach.
- 3.5 Consent is the agreement by choice where the individual has both the freedom and 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 complaint, and each new sexual act requires a re-confirmation of consent as the foundation of a healthy and respectful sexual relationship. Consent may be withdrawn at any time before or during a sexual act.
- 3.6 Freedom to consent: For consent to be present, the individual has to freely engage in a sexual act. Consent cannot be inferred from a lack of verbal or physical resistance. Consent is not present when submission by an unwilling participant results from coercion, force, threat, intimidation, or the exploitation of power.
- 3.7 Coercion or force includes any physical or emotional harm or threat of physical or emotional harm which would reasonably place an individual in fear of immediate or future harm, with the result that the individual is compelled to engage in a sexual act.
- 3.8 Capacity to consent: Free consent cannot be given if the individual does not have the capacity to give consent. An individual is incapacitated when asleep, unconscious, semi-conscious, or in a state of intermittent consciousness, or any other state of unawareness that a sexual act may be occurring. Incapacitation may occur on account of a mental or developmental disability, or as the result of alcohol or drug use.
- 3.9 Alcohol and/or drug use: Incapacitation arising from alcohol or drug consumption should be evaluated on the basis of how the alcohol/drugs have affected the individual; signs of incapacitation may include, but are not limited to, one or more of the following: slurred speech, unsteady gait, bloodshot eyes, dilated pupils, unusual behaviour, blacking out, a lack of full control over physical movements, a lack of awareness of circumstances or surroundings, and/or an inability to communicate effectively. Intoxication is never a defence for committing an act of sexual assault or sexual misconduct, or for failing to obtain consent. If there is any doubt as to the level or extent of one's own or the other individual's incapacitation, the safest approach is not to engage in a sexual act.
- 3.10 Confidentiality will be maintained, where possible, throughout the disclosure, reporting and investigative processes in recognition of the sensitive nature of sexual assault and sexual misconduct matters. As such, information will usually only be shared with relevant individuals/entities (who may be internal or external to TSE, e.g. Arts University Bournemouth (AUB), Health Advisers, witnesses, external experts from specialist agencies, or the Police) with the agreement of the Reporting Party. TSE reserves the right, and may be under an obligation, to share information in exceptional circumstances where such disclosure is necessary to protect any individual or the wider institution's community from harm or to prevent a crime from taking place. All individuals involved in any process under this Policy must keep information that is disclosed to them as part of the process confidential. Any unauthorised disclosure of confidential information will be considered a Policy violation and will be addressed accordingly. Throughout all proceedings, TSE will act in compliance with current data protection legislation.

4 Principles

- 4.1 TSE holds the following set of Principles to reflect our commitment to establishing a culture of support and respect. All staff and students have a responsibility for upholding the Principles that are as follows:

- 4.2 We will treat all members of our community with dignity and respect at all times, and it is expected that all members of our community will share in this responsibility for creating and sustaining an environment which upholds the dignity of all.
- 4.3 We recognise the significant impact of all experiences of sexual assault and sexual misconduct, and acknowledge the potential detriment to studies and employment, regardless of when the experience occurred.
- 4.4 We strive to maintain equality and diversity within our community, and will work to sustain an equal and safe environment in which a culture of prevention will be promoted through appropriate and consistently applied education and training.
- 4.5 We will actively respond to all Reports of sexual assault and sexual misconduct and, whilst recognising that some experiences may constitute a criminal offence, we will ensure that, in all cases, Reports are carefully and thoughtfully considered by relevant staff members through a process that is transparent and clearly communicated to the individuals involved. We will respect the right of the individual disclosing an experience to choose how to take forward a Disclosure.
- 4.6 All Reports considered under the accompanying procedures will be assessed in line with:
- o TSE Student Contract
 - o TSE Staff Contracts
 - o TSE's student policies
 - o Sector guidance
 - o AUB Student Disciplinary Policy
 - o AUB Student Complaint Procedure
 - o AUB Sexual Misconduct Commitment
- 4.6.1 Where a matter requires action by Arts University Bournemouth (AUB), for example under the AUB Student Disciplinary Policy, TSE will involve AUB and share information in accordance with the confidentiality provisions of this Policy.
- 4.7 All members of staff should be aware of this Policy. TSE will widely publicise this Policy and do all it can to ensure all members of staff are aware of its contents. All staff involved in any safeguarding issue will act with impartiality and discretion at all times.
- 4.8 We believe that no person should suffer the effects of sexual assault or sexual misconduct alone and will ensure every effort is made to support the Reporting Party in a reasonable manner. For example, the signposting free and accessible counselling for all individuals involved.
- 4.9 We are mindful of our civic responsibilities to the wider community.
- 4.10 In addressing experiences and working with both internal and external experts, we will seek to learn from experience, enabling TSE to both shape and respond to national and international policy and practice, and to provide regular assurance to the Board of Directors and the wider TSE community, that specific incidents and broader cultural issues are appropriately captured and addressed.

5 Scope of the Policy

- 5.1 This Policy relates to all incidents of sexual assault and sexual misconduct, as well as complicity, retaliation, vexatious reporting, and malicious reporting as defined in Section 2 above.

- 5.2 The accompanying procedures to this Policy relate specifically to those experiences which have occurred during the course of study or work whilst a member of the TSE community. Disclosures and Reports made under this Policy are not limited to TSE premises and/or online platforms.
- 5.3 Some incidents of sexual assault and sexual misconduct may also constitute a criminal offence under English law. Such incidents may be addressed through criminal proceedings, internal disciplinary proceedings, or, in some cases, both criminal and internal proceedings.

6 Equality and Diversity

- 6.1 Sexual assault and sexual misconduct can be experienced by any individual, regardless of sex, gender, sexual orientation, relationship status, age, disability, faith, ethnicity, nationality and economic status. Women, members of the LGBTQIA+ community, and individuals with disabilities are disproportionately affected by experiences of sexual assault. Experiences of sexual assault and sexual misconduct may intersect with other forms of harassment and discrimination.

7 Responsibilities

- 7.1 The Director is responsible for the application of the procedures associated with this Policy. The Director will nominate a lead adviser to support the Reporting Party and an alternative adviser to support the Responding Party (if appropriate).
- 7.2 Members of staff to whom a disclosure or report of an incident of sexual misconduct or sexual assault is made are directed to encourage the Reporting Party to disclose to an appropriate member of senior staff, or to seek consent to share the information with an appropriate member of senior staff. For the purposes of this Policy, an appropriate member of staff will normally be:
- Director
 - Head of Postgraduate Education
- 7.3 Where the Responding Party is a member of staff, the Director will be responsible for taking action. This may result in further action being taken under the staff Disciplinary Policy and Procedure.

Procedure

8 Scope of Procedure

- 8.1 This procedure applies to all alleged incidents of Sexual Assault and Misconduct Policy breaches.
- 8.2 In the event that the Reporting Party is a student or member of staff and the Responding Party is a student, this procedure will apply and the investigation will be managed by the Director.
- 8.3 In the event that the Responding Party is a member of staff, action will be taken by the Director and may result in action under the Disciplinary Policy and Procedure (staff).
- 8.4 If a decision is taken not to deal with a case under this procedure then the Reporting Party can request a review of that decision in accordance with the review process set out in section 28 below.

9 Police Investigations and Judicial Proceedings

- 9.1 This procedure is designed to support the Reporting Party to disclose incidents of sexual assault and sexual misconduct to TSE. It also provides guidance on support for both the Reporting Party, when they choose, and the Responding Party, if appropriate, and on assessing the course of action that is most appropriate for each of them.
- 9.2 Where a criminal investigation or judicial proceedings are ongoing or are likely to commence in respect of a Disclosure, TSE can receive a Report of sexual assault or sexual misconduct. However, in the interest of not causing impediment to the criminal proceedings, TSE will not commence an internal investigation or will suspend an ongoing investigation. In all instances TSE will undertake necessary precautionary action.
- 9.3 TSE, whilst meeting its own 'duty of care', will seek to work with the Police when a criminal investigation is being carried out involving an allegation of sexual assault or sexual misconduct against a current student. In all such cases TSE will ensure that any disclosure of personal information to the Police will be in compliance with current data protection legislation and due Police procedure.
- 9.4 Reports of alleged incidents of sexual assault and sexual misconduct will be considered at an Initial Review Meeting (IRM) whether the Reporting Party chooses to report the matter to the Police or not. A review meeting may also be called after the conclusion of a criminal investigation or judicial proceedings where there are issues outstanding and pertinent to the students involved.
- 9.5 A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter or an acquittal at a trial does not preclude TSE from taking action under this procedure and does not mean the Reporting Party has made a vexatious or malicious report.
- 9.6 In all cases, TSE will advise the Reporting Party that it does not have the legal investigatory powers of the Police, and cannot make a determination on criminal guilt. An internal investigation is focussed exclusively on whether a breach of TSE's Sexual Assault and Misconduct Policy has occurred. The internal process cannot therefore be regarded as a substitute for a Police investigation or criminal prosecution.

- 9.7 Where a student has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the TSE Sexual Assault and Misconduct Policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place and no further investigation under this Policy shall be required by TSE. The case will be considered an allegation of 'misconduct which is, or may be, a criminal offence' under the TSE's student policies.

10 Support

- 10.1 TSE is committed to providing support for those members of its community affected by these issues. TSE will provide information on support resources available and offer interim measures as appropriate to the Reporting Party, Responding Party, and witnesses involved in alleged incidents of sexual assault and sexual misconduct.
- 10.2 Support resources are available to any member of the TSE community who discloses an incident regardless of their choice to make a Report to TSE or the Police. Support remains available irrespective of the outcome of an investigation.
- 10.3 As an online and global institution, the support available to the Reporting Party will be bespoke and discussed with the Reporting Party on a case by case basis. Every reasonable effort will be made to support the Reporting Party with regards to soliciting the services of local physical and/or mental health services, in collaboration with the Reporting Party.
- 10.4 The Reporting Party and Responding Party will each be offered an appropriate member of staff for welfare and pastoral support. This support will be separate; one member of staff will not provide support to both parties.
- 10.5 The Reporting Party and Responding Party may also be signposted to free, impartial and confidential advice and/or any other resources that TSE has at its disposal, e.g. Togetherall.

11 Monitoring

- 11.1 TSE will maintain a central record of incidents to effectively engage in prevention and response initiatives. The Director is responsible for ensuring there is a centralised record of all Disclosures and Reports of sexual assault and sexual misconduct incidents involving students, together with a log of third-party reports and relevant anonymised reports. Anonymised statistics may be drawn from all these records for trend monitoring purposes.
- 11.2 The Director will ensure that the Board of Directors is regularly provided with updates concerning the cases that are dealt with under this procedure.

12 Procedure Following a Disclosure and/or Report

- 12.1 Disclosure and Reporting are separate actions that the Reporting Party may choose to take. TSE recognises the importance of minimising the number of times the Reporting Party has to disclose an incident of sexual assault or sexual misconduct.

13 Disclosure

- 13.1 The process below will be initiated following receipt by TSE of a Disclosure of an incident of sexual assault or sexual misconduct or other Policy breach. The Disclosure may be received in a variety of ways and may not necessarily be brought forward by the Reporting Party.
- 13.2 A Disclosure may relate to a Responding Party who is or is not a member of the TSE community. A Disclosure does not automatically result in a Report to TSE being made under the Sexual Assault and Misconduct Policy. TSE respects the right of the Reporting Party to choose how to take forward a Disclosure.
- 13.3 Following a Disclosure, the Reporting Party will be given their reporting options.
- 13.4 TSE recognises that the Reporting Party may require time and reflection before making a decision. The Reporting Party will be given the option and support to do one or more of the following:
- 13.4.1 report to the Police
 - 13.4.2 make an anonymous third-party report to the Police
 - 13.4.3 make an anonymous report to TSE
 - 13.4.4 make a Report to TSE under TSE's Sexual Assault and Misconduct Policy
 - 13.4.5 make no report of the incident
 - 13.4.6 receive advice on the support that is available from both internal and external support services.

14 Collating Disclosures

- 14.1 Staff who receive a Disclosure that may amount to a breach of the Sexual Assault and Misconduct Policy must inform a senior member of TSE staff. They may, if the Reporting Party requests, omit the name of the Reporting Party and/or Responding Party.
- 14.2 Any perceived initial risks will be considered and appropriate safeguarding action taken under the authority of the Director.

15 Report

- 15.1 The Reporting Party may choose to make a Report to TSE under the Sexual Assault and Misconduct Policy with the intention of initiating the investigation process set out in this Policy. To make a Report to TSE, the Reporting Party should submit a written statement of the allegation (including by email) to a senior member of staff. The Report must indicate the Responding Party and any witnesses. A Report cannot be investigated by TSE if the Reporting Party does not wish the substance of the allegation to be made known to the Responding Party.

- 15.2 The Director will be notified as soon as possible of the Report and will appoint a lead adviser for the Reporting Party. The lead adviser will meet the Reporting Party to confirm the details of the report and explain the procedure to be followed. If the Reporting Party is unwilling for the Responding Party to be informed of the allegation against them, the investigation cannot proceed. A note of this initial meeting will be sent to the Reporting Party who will be asked to confirm whether it is an accurate summary of the discussion.
- 15.3 Once the report has been confirmed by the lead adviser, an initial review meeting (IRM) will be arranged as soon as practicable.
- 15.4 Pending the outcome of the IRM, TSE will take the following action when required:
- 15.4.1 Ensure that the students involved receive appropriate pastoral and academic support.
 - 15.4.2 Safeguard the health, safety and welfare of members of the TSE community
 - 15.4.3 NOTE: if there is perceived to be a safeguarding issue TSE may share relevant personal data without the consent of the Reporting Party when this is necessary.
 - 15.4.4 Ensure that confidentiality is maintained as appropriate.
- 15.5 The decision to further investigate a Report can only be made at the IRM if supported/ requested by the Reporting Party. Staff must not attempt to investigate the incident or inform the Responding Party or any other student of the Report or Disclosure unless directed to do so by the Director.

Responding to a Report and Initial Review Meeting (IRM)

16 Membership of the IRM

- 16.1 The purpose of an IRM is to assess support needs, consider how to protect the interests of all parties and members of the TSE community who may be affected by the case, and to agree next steps. The Report itself will not be investigated at the IRM.
- 16.2 The IRM will be chaired by the Director, who will determine the membership of the meeting depending upon the nature of the alleged incident.

17 Activity of the IRM

- 17.1 During the IRM, the members will:
 - 17.1.1 Consider the academic, welfare and support needs of the Reporting Party and of the Responding Party and of any other members of the TSE community directly involved in the Report and identify any actions required to ensure that those needs are met.
 - 17.1.2 Assess the current risk in order to determine whether any precautionary measures need to be put in place to:
 - o ensure that a full and proper investigation can be carried out (either by the Police or TSE) where this is called for.
 - o implement measures to reasonably ensure the safety and wellbeing of those involved during an investigation carried out by the Police or TSE.
 - o implement measures to ensure the safety and wellbeing of the TSE community.

18 Precautionary Measures

- 18.1 Precautionary measures may include:
 - 18.1.1 Imposing conditions on the Responding Party (for example, requiring the Responding Party not to contact certain witnesses, or participate in specific activities, online or 'in person', including but not limited to the TSE VLE and other online platforms under the ownership of TSE.
 - 18.1.2 Advising the Reporting Party of conditions to ensure their safety, e.g. to 'block' the Responding party on social media platforms.
 - 18.1.3 Suspending the Responding Party from TSE activities.
 - 18.1.4 Identify the members of staff within TSE with responsibility for supporting the Reporting Party and Responding Party and, where appropriate, inform them of the outcome of the IRM.
 - 18.1.5 Where required, identifying members of staff within TSE with responsibility for supporting any witnesses and/or the person who received the initial Disclosure.
 - 18.1.6 Ensure that arrangements are in place to maintain confidentiality as appropriate.
 - 18.1.7 Review the involvement of external agencies (e.g. specialist support services and the Police).
 - 18.1.8 Decide/make recommendations about what the next steps should be and determine how to carry forward the decisions and/or recommendations that are made.

- 18.1.9 Consider any other actions relevant to the alleged incident.

19 Actions Arising out of the IRM

- 19.1 Actions arising out of the IRM may include (but are not limited to):
- 19.1.1 The provision of further or different support to the students involved (and members of staff when relevant). The support measures may relate to academic, finance, health and wellbeing matters.
 - 19.1.2 The imposition of precautionary measures on the Responding Party and/or the Reporting Party pending the outcome of the criminal and/or the TSE investigation process.
 - 19.1.3 A suspension from TSE activities and online platforms be imposed on the Responding Party pending the outcome of criminal investigations/proceedings and/or internal investigations/disciplinary proceedings.
 - 19.1.4 A recommendation that the alleged incident be investigated under this procedure, in which case the Director will carry out the investigation or will nominate an appropriate member of staff to do this.
 - 19.1.5 Appropriate communication with the parties involved.
 - 19.1.6 Collection of further information necessary for ongoing management of the situation.
 - 19.1.7 A recommendation that any investigation into an alleged incident that has already commenced should be suspended or terminated.
- 19.2 The Director will be responsible for ensuring that any decisions or recommendations made at the IRM are recorded and acted upon.

20 Reviews

- 20.1 The current and potential ongoing risks and any precautionary measures that are put in place will be reviewed regularly and amended as appropriate. Additional review meetings may be convened as required.

21 Decision not to Take Action

- 21.1 Where either the IRM or the Director determines that an alleged incident should not be considered under this procedure, the Director shall provide the Reporting Party with written reasons for the determination and information about their right to request a review.
- 21.2 The Director may also advise the Reporting Party of other action that may be open to them and offer ongoing support.

Investigating a report under this procedure

22 Investigation Procedure

- 22.1 Where the IRM recommends that a Report should be investigated under this procedure the following process will apply:
- 22.2 The Director (or nominee) will seek to gather evidence as to whether or not a breach of ThinkSpace Education's Sexual Assault and Misconduct Policy has occurred. This investigation will be undertaken as quickly as possible and will normally begin within 5 working days of that meeting. All parties involved will be expected to maintain appropriate levels of confidentiality. The Reporting Party and Responding Party will be informed that they must not make any contact with each other during the course of the investigation unless otherwise instructed by the Director (or nominee). The Director (or nominee) will also send formal letters to both parties with guidance on how to mitigate any potential contact.
- 22.3 Additional precautionary measures will be implemented as appropriate.
- 22.4 The Director (or nominee) will act promptly and tactfully, observing appropriate levels of confidentiality at all times. Appropriate measures will be taken to provide a safe, comfortable and supportive environment in which to discuss the Report with the Reporting Party, Responding Party and any witnesses during investigation meetings. External parties may be consulted to seek specialist advice as required while maintaining confidentiality.
- 22.5 The purpose of an investigation meeting is to provide each party with a full and fair opportunity to explain or present their version of events. Investigation meetings will be conducted with sensitivity and with opportunities for breaks should they be required.

23 Conduct of Meetings

- 23.1 All students involved in the investigation process have the right to attend any meetings accompanied for support by a member of the TSE community such as a member of staff, Student Representative or a fellow student. The accompanier is there to provide moral support and may not be a legal representative or advocate. The student is expected to speak on their own behalf; there is no automatic right for an accompanier to speak on the student's behalf and it is at the TSE's discretion as to whether the accompanier is permitted to address the meeting. Students will be advised of their right to be accompanied.
- 23.2 The order of investigation meetings is at the discretion of the Director (or nominee), but normally the first meeting will be held with the Reporting Party. The Reporting Party may be accompanied for support by a member of the TSE community, or a representative from a relevant specialist external agency.
- 23.3 The Responding Party will also be required to attend a meeting with the Director (or nominee). During this meeting the procedure will be explained and the details of the allegation against them will be confirmed. The Responding Party will be given a full and fair opportunity to explain or present their version of events in response to the allegation.

24 Witnesses

- 24.1 The Reporting Party and Responding Party may identify witnesses for the incident. Witnesses will be required to keep the details of the investigation confidential. Witnesses (who must be willing) will be required to attend a meeting with the Director (or nominee) and will be asked to present their version of events.
- 24.2 It is at the discretion of the Director (or nominee) whether the witnesses' statements will be provided to the Reporting and Responding Parties; however, it should be noted that witnesses will not normally be provided with any investigation materials.

25 Evidence and Notes

- 25.1 All students involved in the investigation process must provide any and all relevant evidence at the time of the investigation. It is at the discretion of the Director (or nominee) whether evidence will be shared with the Reporting Party and the Responding Party. It should be noted that it is highly unlikely that any such evidence will be shared unless it is pertinent to a specific line of investigation.
- 25.2 In all formal investigatory meetings, notes will be made and the interviewee will be asked to confirm that it is an accurate summary of the discussion. The interviewee may make any written comments about any section of the notes that they do not agree with. Copies of the notes, with any comments, will be retained by the interviewee and the Director (or nominee); these notes will not be shared with the other party.
- 25.3 The Director (or nominee) may hold additional meetings or consult with additional parties as necessary to obtain relevant information and evidence.

26 Investigation Findings

- 26.1 The Director (or nominee) will determine, on the balance of probabilities (that is, whether it is more likely than not that the alleged behaviour occurred), whether the evidence available indicates a breach of the policy. The findings could be:
- 26.1.1 The evidence does not support a breach of the policy; therefore, no further action is required. In such an instance, the case will be dismissed and no disciplinary action will be taken, but continued support will be offered to both parties.
- Or
- 26.1.2 The evidence does indicate a breach of the policy and further disciplinary action is required. In such an instance, the Director (or nominee) will be required to determine the level of seriousness of the breach and follow the appropriate further action under TSE's student policies.
- 26.2 In addition, the Director (or nominee) may decide the evidence indicates an emerging safeguarding issue which could lead to a criminal investigation. In such a case, advice (maintaining anonymity where possible and when requested by the Reporting Party) may be sought from external agencies.

Categorisation of the breach of the Sexual Assault and Misconduct Policy

27 Categorisation

- 27.1 If the Director (or nominee) determines that further action is required under this Policy, they will be required to reach a determination as to whether a breach of the Sexual Assault and Misconduct Policy has taken place and, therefore, which of the appropriate regulations and action that should be taken.
- 27.2 All forms of sexual assault and sexual misconduct are wholly unacceptable and the procedures laid out in this policy will be followed regardless of the severity of the breach of this policy.
- 27.3 The circumstances and context of each case will be considered in conjunction with the relevant disciplinary policy. When determining which penalty should be imposed and, where relevant, the timeframe for compliance.
- 27.4 The Director (or nominee) will provide an investigation report to the Reporting Party and the Responding Party explaining their written decision summarising their findings and considerations which led them to reach their decision and outlining any penalties, recommendations or next steps required.

28 Reporting Party Request

- 28.1 In the event an IRM concludes the Report received does not meet the criteria for investigation under this Policy, the Reporting Party can request a review of that decision in writing to the Chair of the Board of Directors within 10 working days of notification of that decision.
- 28.2 A request for a review can be made on the following grounds only and should include supporting evidence where appropriate:

- 28.2.1 Evidence that the Director (or nominee) did not follow appropriate procedure in investigating the Report and that this had a material effect on the investigation outcome, making it unsound;

and/or

- 28.2.2 Substantial and relevant new information which the Reporting Party or Responding Party was unable to provide previously for a good reason and that this had a material effect on the investigation outcome, making it unsound.
- 28.3 The Reporting Party does not have a right to appeal a disciplinary decision.

29 Review Procedure

- 29.1 The Chair of the Board of Directors or their nominee, may choose to undertake the review if they are independent of the case or will identify a senior officer, independent of the case to undertake the review (the Reviewer). The Reviewer will not re- investigate the report. The request will be reviewed on the basis of the documentation provided by the student and that held by the Director (or nominee). The Reviewer may seek further information if necessary.
- 29.2 At the discretion of the Reviewer, during the review period any penalties determined by the Director (or nominee) will remain in force until the review decision determines grounds for these to be overturned.
- 29.3 If the Reviewer decides the review is upheld for one or more reasons, they may decide either:
- 29.3.1 To refer the case back to the Director (or nominee) for continued investigation in light of new evidence or in a procedurally correct manner
 - 29.3.2 Require a new investigation by a different investigator
 - 29.3.3 To specify appropriate recommendations to annul, amend, confirm or reduce the imposed penalties.
- 29.4 If the Reviewer decides that the case has been handled fairly and the outcome is reasonable, the review request will be dismissed.
- 29.5 If both parties submit a review request a single Reviewer will review both requests. The review is confined to consideration of whether the grounds for the review are demonstrated or not. The review will not re-investigate the report.
- 29.6 At the point a request for review is accepted, the other party will be informed of the review and the timeline to be informed of the outcome.
- 29.7 Both parties will be informed of the outcome of the review request within 10 working days of receipt. In all instances the decision reached by the review is final. In the event the Reviewer determines that a new investigation takes place, an additional review request will not be available. This procedure provides both parties a single opportunity to request a review.

30 Office of the Independent Adjudicator for Higher Education

- 30.1 Once all internal processes have been exhausted, a student can make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA) if they remain dissatisfied with TSE's decision. Further information is available on the OIA website: <https://www.oiahe.org.uk>.