

Investigation Protocol for Sexual Misconduct

1. Introduction

This protocol gives specific information about student disciplinary cases in relation to sexual misconduct and harassment.

The protocol should be read in conjunction with the [Student Disciplinary Policy](#). If you are the subject of disciplinary proceedings in this area (either as a Student Reporter or a Student Responder), we advise you to read this protocol carefully and familiarise yourself with its contents.

The purpose of this document is:

- To reinforce our expectations around the unacceptability of sexual misconduct, harassment and associated behaviours;
- To provide you with clarity and confidence around the processes in place to deal with sexual misconduct, harassment and associated behaviours when it occurs;
- To outline how the University will respond to reports of incidents of sexual misconduct, harassment and associated behaviours between or by student members of the University community and support students;
- To show how reports of this nature will be specifically investigated and managed under its civil Student Discipline Procedure.

2. A note on terminology

The University understands that preferred terminology surrounding sexual violence differs from person to person. For the purposes of University procedures, we refer to all acts of sexual violence investigated by the University, including unwanted sexual contact, harassment and stalking, as 'sexual misconduct'. This is because the University's Disciplinary procedures are civil proceedings: student disciplinary investigations cannot investigate whether criminal offences have occurred, but rather whether there has been a breach of the University's code of conduct (i.e. whether "misconduct" has occurred).

3. Key principles

Anyone can be subjected to sexual misconduct, regardless of age, disability, gender identity or expression, relationship status, sex, sexual orientation, or any other facet of their identity.

Support is available to any student who has experienced sexual misconduct, regardless of when and where the incident(s) took place and whether they choose to make a formal report.

Reporters will be empowered to make their own decisions regarding how they would like to take forward a disclosure of sexual misconduct.

When investigating reports of sexual misconduct, the University uses the civil standard of proof, which means that the Academic Registrar (or their nominee) will decide whether, 'on the balance of probabilities', University policies have been breached.

Disciplinary action will not be brought against any reporter for the consumption of alcohol or drugs in relation to report of sexual misconduct.

4. Options for reporting incidents and obtaining support

Any student can report or disclose potential sexual misconduct, or seek support, via the following routes:

- **The University's Survivor Support Service:**
<https://www.ncl.ac.uk/wellbeing/about/survivorsupportservice>
Disclosures received via this route are held confidentially by the Student Health and Wellbeing Service, and will not be shared with other departments without the explicit consent of the Reporter unless they, or anyone else, is at risk of harm. Students have the option to submit anonymous reports via this route, or can choose to provide their contact details if they wish for the report to be investigated by the University.
- **Student Health and Wellbeing Service:**
<https://www.ncl.ac.uk/wellbeing/supportservices/>
- **The Student Progress Service:** casework@ncl.ac.uk
- **The Students' Union Report and Support system:** <https://www.nusu.co.uk/support/>

Further support can be obtained from the following external agencies:

[Rape Crisis Tyneside and Northumberland](#) is a charity which provides free confidential support, information and counselling to women who have experienced sexual violence. They are completely independent of the criminal justice system including the police. Tel: 0800 035 2794

[North East SARC Support:](#) 24-hour crisis intervention and support for anyone who has experienced a sexual offence, regardless of when the offence occurred or whether the incident was reported to the police or not. Tel: 0333 344 8283.

[Survivors UK:](#) support and help for male survivors of sexual violence including counselling and therapy appointments as well as online chat. Tel: 020 3598 3898

[Victim Support](#) is an independent charity, who work to support people affected by crime or traumatic events. They provide help to ensure people feel safer and find strength to move beyond crime. Their support is free, confidential and can be tailored to your needs. Tel: 0808 168 9111

5. Definitions

Sexual violence and misconduct: any unwanted or non-consensual act of a sexual nature (this includes acts which occur in-person or via other forms of communication, such as online, and acts which occur both on and off campus).

Non-consensual sexual contact: sexually touching another person without their consent

Non-consensual sexual act: engaging or attempting to engage in a sexual act with another person without their consent

Sexual harassment: any conduct of a sexual nature that is unwanted, including verbal, non-verbal and physical behaviour, which violates the recipient's dignity or creates an

intimidating, hostile, degrading or offensive environment. This could be one incident or a pattern of behaviours.

Online sexual misconduct: including cyberstalking, image-based sexual abuse (revenge porn), upskirting (filming or photographing a person under their clothes without their consent).

Stalking: persistent, unwanted communication or behaviour intended to frighten, intimidate or harass someone, such as repeatedly following them.

Relationship abuse: any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those who are, or have been, intimate partners; this includes psychological, physical, sexual, financial and/or emotional abuse.

Coercive control: is any behaviour or pattern of behaviour used to harm, punish, threaten or intimidate someone. Examples of coercive control include: isolating someone from their friends and family; depriving someone of basic needs, such as food, medication or money; humiliating, degrading or dehumanising someone; controlling what someone wears or who they spend time with.

Gaslighting: the act of manipulating someone by psychological means into questioning their own reality, sanity or memories (for example, by denying facts).

Group sexual misconduct: planning or attending inappropriately themed events aimed at degrading individuals subjected to sexual violence, or initiations that involve non-consensual or coerced sexual acts.

Complicity: any act that knowingly helps, promotes or encourages any form of sexual violence by another individual.

Retaliation: any adverse actions against another person, including but not limited to harassment, threats, intimidation, coercion, made in response to someone disclosing or reporting any form of sexual violence.

6. Consent

An individual can give consent to engage in a sexual activity only if they have the freedom and capacity to make the choice to do so.

In this context, 'freedom' means being able to make a choice without being coerced, threatened, intimidated or forced; 'capacity' means being of legal age and being able to understand the 'who, what, where, when, why and how' of their choice. A person does not have the capacity to consent if they are asleep, unconscious or not fully conscious, or if their judgement has become impaired due to the use of alcohol or drugs.

Consent can be withdrawn at any time before or during a sexual act. Consent is specific to the type of sexual act (for example, oral sex, sexual intercourse) and the time of the act (which is to say that even when a person has previously consented to any sexual act, consent must be given for any subsequent sexual act). Consent can never be assumed, even within intimate relationships.

7. Investigation process

Where a report of sexual misconduct is made to the University, one of the following procedures will be followed:

- For students reporting that they have been subjected to sexual misconduct by a University employee, this will be investigated under the [Student Complaint and Resolution Procedure](#);
- For anyone reporting that they have been subjected to sexual misconduct by a Newcastle University student, this will be investigated under the [Student Disciplinary Procedure](#).

After the initial meeting (see 'Investigation Process' in the [Student Disciplinary Procedure](#)), the Student Reporter for the case has the following options available to them:

- Request the University formally investigate the incident under the [Student Disciplinary Procedure](#) (or the [Student Complaints and Resolution Procedure](#) if the incident relates to a University employee);
- Report the incident to the Police;
- Initiate support via [University Sexual Violence Liaison Officers \(SVLOs\)](#) or external agencies;
- Make a disclosure which will be held confidentially;
- Make no report of the incident at this time.

The provision of support is not dependent on a formal report being made.

If a Student Reporter doesn't wish to attend a meeting, they can submit a statement for consideration in any disciplinary case or can decide to allow the initial report or Police Disclosure (if applicable) to be investigated without their further involvement. The Student Reporter will be advised of the implications of their decision and their wishes will be respected if they subsequently decide to withdraw their report, unless it is determined by the Academic Registrar or Risk Assessment Panel that the case is sufficiently serious and/or there are safeguarding issues and an investigation should go ahead.

The University will not normally investigate reports made about another student anonymously. However, if a student wishes to make a report of sexual misconduct in confidence, a discussion may take place as to whether it is appropriate for their name and any other identifying details to be removed from the report before it is shared with the Student Responder. This will usually take place as part of a wider risk assessment exercise.

In most cases, the investigation of the incident will follow the Level 2 Investigation Procedure as set out in the [Student Disciplinary Procedure](#). Occasionally, the Academic Registrar will determine that the case is sufficiently serious or complex that it should be referred to the Disciplinary Convener. The case will then be investigated in accordance with Level 3 of the [Student Disciplinary Procedure](#).

To support a Student Reporter, neutral precautionary measures may be implemented (including, but not limited to, a no contact instruction for all parties and boundaries within University accommodation, academic units or services). During the investigation, a Risk

Assessment Panel will carry out a risk assessment and this may result in a Student Responder receiving an interim suspension/ban from attending the Campus and/or include relocation of their accommodation or, in consultation with the Head of Academic Unit, a change to their timetabled programme sessions.

In accordance with the [Student Disciplinary Procedure](#) if a case is being considered under the criminal process, the University reserves the right to pause its disciplinary investigation until any criminal investigation or judicial proceedings have come to a conclusion. Where the University has postponed its investigation, and the conclusion of the criminal investigation/judicial proceedings result in an acquittal, consideration will be given, as relevant, to the details of the case and the needs of all parties (including Student Reporters and Student Responders), as to whether the disciplinary investigation should continue.

Sanctions

The level of Investigation and potential sanctions are listed in [Appendix 1](#). Any sanctions imposed as a result of a Student Disciplinary Committee on sexual misconduct may prevent a Student Responder from readmission to the University for a further programme of study until any Student Reporter(s) is no longer a registered student at the University. This is specific to any Newcastle University sanction imposed as a result of a disciplinary hearing and will remain in place for the length of time that any Student Reporter is still a Newcastle University Student.

Information sharing

Reports of sexual misconduct will be handled confidentially by the Student Progress Service. Where the reported incident raises concerns for the wellbeing of a Newcastle University student, information may be shared in confidence with the Student Health and Wellbeing Service.

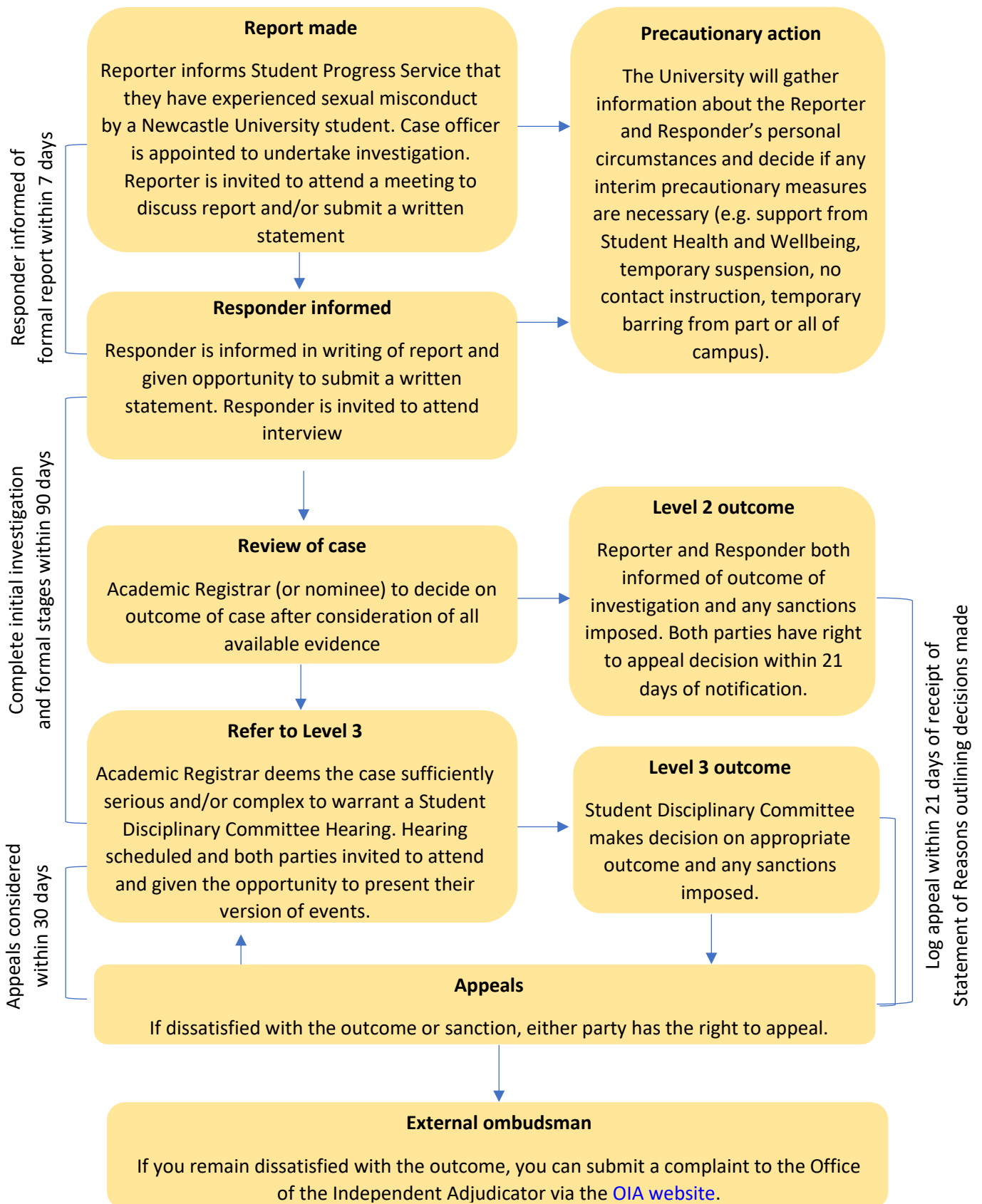
If a case is referred to a Student Disciplinary Committee, both a Student Reporter and Student Responder will be provided with all the documentation in advance.

When a case has been determined, a Student Reporter will be informed that the case has been concluded and whether misconduct was established. A Student Reporter will be told whether a Student Responder remains on campus and what sanctions have been imposed. Both a Student Reporter and a Student Responder have the right to appeal.

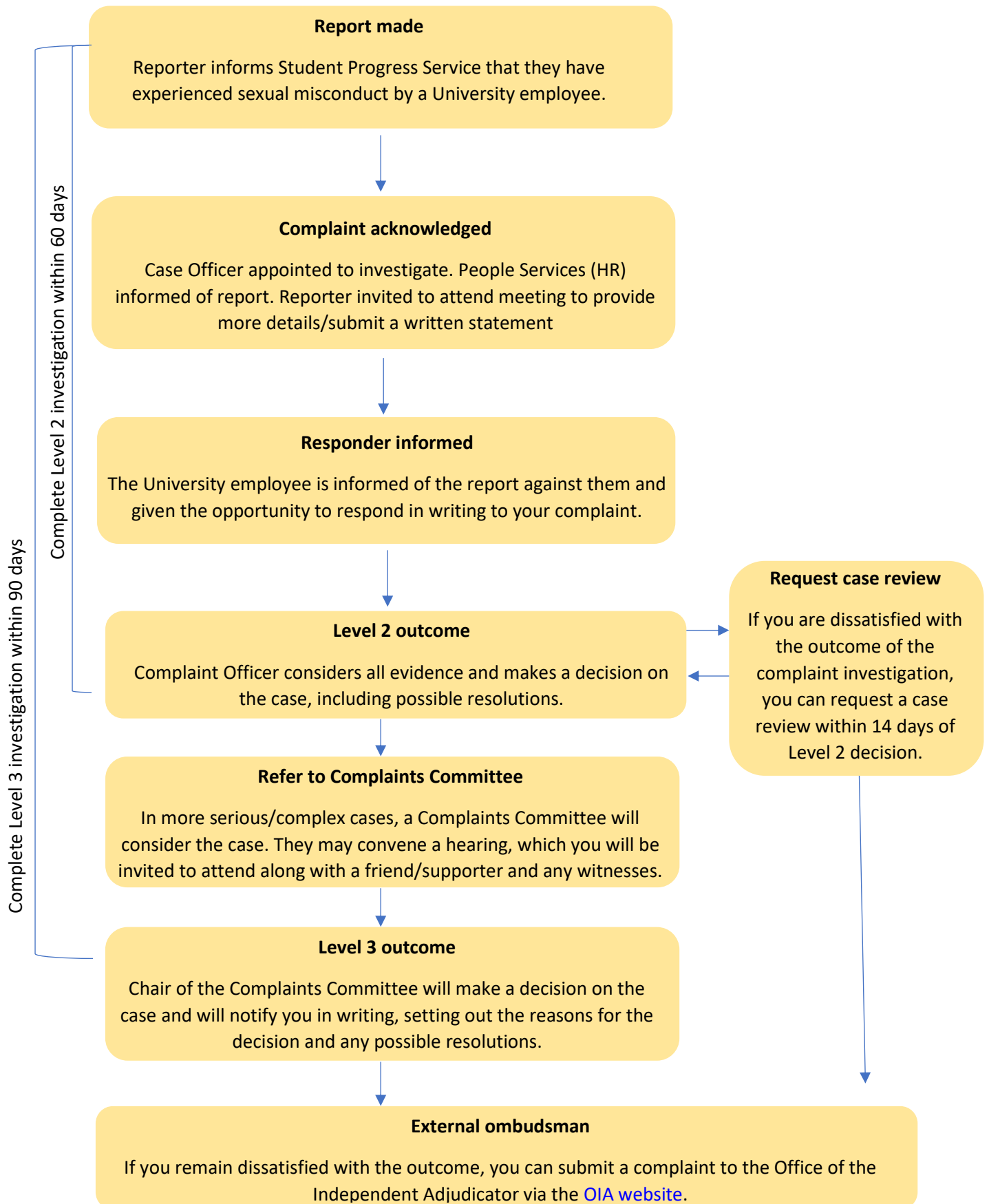
Appeals

Both a Student Responder and Student Reporter have the right to appeal against any decision, instruction or sanction imposed as a result of the investigation. If you wish to submit an appeal, you should follow the appeals process as set out in the [Student Disciplinary Procedure](#).

Quick guide: how will my case be handled under the Student Disciplinary Procedure (where the Responder is a Newcastle University student)?



Quick guide: how will my case be handled under the Complaints and Resolution Procedure (where the Responder is a University employee)?



Appendix 1: Examples of harassment/sexual misconduct considered under this protocol

1.1 Examples of sexual misconduct involving contact

Examples of sexual misconduct involving contact	Indicative level of procedure	Likely sanctions
Unwanted kissing (without consent), varying in seriousness depending on the circumstances and the part of the body kissed.	Level 2	- Caution - Written warning - Final warning
Inappropriate touching, in what may reasonably be perceived to be an intentional and sexual manner, without consent (e.g. touching a person's clothes, hair or body; standing too close to a person; rubbing or brushing up against them).	Level 2	- Caution - Written warning - Final warning
Attempting to engage in sexual intercourse or a sexual act including penetration without consent.	Level 2 or 3	- Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Sexual intercourse or engaging in sexual acts without consent (sexual acts are defined as including, but not limited to, cunnilingus, fellatio and masturbation).	Level 2 or 3	- Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Any physical or sexual misconduct where there is or was an intimate relationship between the Responder and the Reporter, including incidents of domestic violence.	Level 2 or 3	- Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect

1.2 Examples of sexual misconduct not involving contact

Examples of sexual misconduct involving no contact	Indicative level of procedure	Likely sanctions
Making unwanted remarks that may reasonably be perceived to be of a sexual nature (e.g. asking personal questions about sexual matters; making sexual comments about a person's body; telling sexual jokes or stories; making sexual comments or innuendo).	Level 2	- Caution - Written warning - Final warning

Making unwanted and unsolicited sex-based noises to another person (e.g. catcalling, wolf-whistling, sexual grunting or moaning).	Level 2	- Caution - Written warning - Final warning
Repeated unwanted and unsolicited contact of a sexual nature with another person, harassment or stalking (including in person, online, or by writing, telephone or via social media).	Level 2 or 3	- Caution - Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Any abusive behaviour where there is, or was, an intimate relationship between the responder and the reporter.	Level 2 or 3	- Caution - Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Sharing or creating public sexual materials (i.e. pornographic materials that are widely available via media outlets) with the intention to sexually harass and/or incite gender-based violence (this includes upskirting).	Level 2 or 3	- Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Inappropriately showing sexual organs to another person, or inappropriately allowing sexual organs to be seen, in a physical space.	Level 2 or 3	- Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Active complicity in any of the above contact or non-contact offences. Active complicity implies active promotion of the offence and does not cover inaction or failure to prevent an offence.	Level 2 or 3	- Caution - Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect

1.3 Examples of sexual misconduct online or in digital spaces

Examples of online or digital sexual misconduct	Indicative level of procedure	Likely sanctions
Storing or viewing inappropriate material on University IT equipment, as covered by the University Policy on the Use of IT Facilities (https://www.ncl.ac.uk/itservice/rules/)	Level 2	- Caution - Written warning - Final warning

Repeated, unwanted and unsolicited contact of a sexual nature with another person by email, text, social media or in any online digital space. 'Repeated contact' in this context encompasses repeated unsolicited contact in one digital platform, or multiple unwanted contacts in numerous digital platforms).	Level 2	<ul style="list-style-type: none"> - Caution - Written warning - Final warning
Storing or viewing illegal material online, whether on University IT equipment or personal devices.	Level 2 or 3	<ul style="list-style-type: none"> - Caution - Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Creating or sharing illegal online content (for example, images of child sexual abuse)	Level 2 or 3	<ul style="list-style-type: none"> - Caution - Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Creating or sharing private sexual materials (i.e. materials made of an individual with the understanding that such material would not be shared) online or in digital spaces (i.e. Revenge Porn)	Level 2 or 3	<ul style="list-style-type: none"> - Caution - Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Inappropriately showing sexual organs to another person or inappropriately allowing sexual organs to be seen, online or in digital spaces.	Level 2 or 3	<ul style="list-style-type: none"> - Caution - Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect
Active complicity in any of the above online or digital offences. Active complicity implies active promotion of the offence and does not cover inaction or failure to prevent an offence.	Level 2 or 3	<ul style="list-style-type: none"> - Caution - Written warning - Final warning - Suspension - Deferred expulsion - Expulsion with immediate effect