



Appendix B - Addendum to the SCoB

This addendum is to provide additional information on how NTU will deal with COVID-19 guideline breaches of the SCoB. This should be read in conjunction with the full policy.

In line with section 3 of The Code, this addendum applies to all students from enrolment to graduation and action can be taken in or out of term time, related to behaviour both on and off campus.

Action under the SCoB will be taken when a report has been received that a student has allegedly broken COVID-19 regulations (see 8.1). Reports can be received from a wide variety of stakeholders, including, but not limited to, the police, local authority officers, NTU security, staff at non NTU accommodation.

When reports are received from the Police, Community Protection or other local authority employees, NTU employees and non NTU accommodation employees, it is on the understanding that the report is made in good faith and is an honest reflection of what has occurred. NTU will undertake their own investigation and consider information contained within those reports.

Police and Community Protection officers regularly update NTU on breaches of COVID-19 regulations and provide details of those spoken to at gatherings or incidents and inform us of those issued with Fixed Penalty Notices (FPN).

NTU investigators will act under the delegated authority of the Academic Registrar. They will decide if a case is serious misconduct and can apply a penalty under Serious Misconduct if the case does not need to be heard by a serious disciplinary panel. Decision on a case can also be taken by Summary Decision from Academic Registrar.

Process

When NTU are made aware of a breach, the student will be contacted via their NTU email, to inform them of the breach.

There will be a letter attached to the email, detailing the action that the student needs to take, which is likely to be either:

- The student will be required to attend a meeting with an investigating officer; or
- The student will have 48 hours to get in touch and either inform us they would like to submit a written statement or they would like to arrange a meeting with the investigating officer to discuss the case because they have additional information. The investigator may also want to speak to the student after receiving a written statement.

If the student does not submit additional information or if the student does not respond within 48 hours, it will be determined that the student accepts the allegation. The University will make best efforts to ensure that students are aware of the breach, and may consider representations received after this time. In instances where there is no contestation of the breach, the student does not need to meet the investigating officer and the case will be considered with the information already received and a sanction will be applied.

In cases where a meeting is required with an investigating officer, this will normally be arranged within 5 days. Students should submit their statement within 5 days of the report of the incident. If a case is referred to a Serious Disciplinary panel or hearing, section 11 of the Code provides full details of the process and timescales.

The student has a right to appeal once they have received an outcome (see section 15 of the Code). The grounds for appeal are:

- That there was a material failure by the University to follow the procedures specified in the Code, including that the level of sanction or penalty imposed is disproportionate as authorised in the Code; or
- That significant new or additional evidence is available that was not available during the investigation or at the panel (evidence should be submitted along with the appeal).

Sanctions for COVID-19 guideline breaches

There may be multiple factors to consider when determining the level of fine which will be issued for COVID-19 guideline breaches. A level of judgement will be required and the following will be used as a guide:

- Unauthorised guest/failure to self-isolate/comply with campus regulations – warning letter and £50 fine
- Attendance at party or gathering – Warning letter and £100 fine
- Attendance at a party or gathering and fixed penalty notice (FPN) issued – Warning letter and £200 fine
- Attendance at a party or gathering, FPN issued and abusive behaviour witnessed – Warning letter, £200 fine (for attending a party or gathering and FPN issued) and a £200 fine (for abusive behaviour).

For the breaches indicated below, the sanctions issued could include a fine of between £200-£500; a written warning; suspension; or referral to a Serious Disciplinary Panel:

- Organising a party or gathering in your house/room/flat etc.;
- Organising a party or gathering in your house/room/flat etc. that resulted in a £10,000 FPN;
- Abusive or aggressive behaviour;
- Posting videos of a party or gathering on social media.

In cases where a student commits multiple breaches, the potential sanctions include escalation of the fine up to £500 and a written warning; consideration to suspend where multiple FPNs have been issued or reports of abusive or aggressive behaviour are received; potential referral to a Serious Disciplinary Panel. A panel can impose any penalty available within the scope of the SCOB.

For any of the above, other restorative sanctions, e.g. help in the community may be applied – depending upon the government guidelines at the time.

Appendix C - Approved NTU Response: Office for Students consultation on Harassment and Sexual Misconduct in Higher Education (prepared but not sent)

Section 1: Scope

Question 1: To what extent do you agree or disagree with the scope of our proposed regulatory approach, as set out in paragraphs 1-7? [Strongly disagree, Tend to disagree, Tend to agree, Strongly agree, Not applicable] [Any further comments]

Tend to agree.

We share a concern in the sector that OfS have defined sexual violence and harassment in terms of various crimes defined by Statute, whereas the disciplinary basis under which we would wish to investigate and determine misconduct is based on a breach of our internal behaviour and conduct regulations, which would not meet the threshold of a prosecutable offence under criminal law.

Further guidance required, specifically in regard to sub-contracted provision, particularly partnerships overseas and regarding responsibilities for historic disclosures.

Section 2: Statement of expectations

Question 2: To what extent do you agree or disagree that the OfS should publish a statement of expectations in relation to harassment and sexual misconduct for higher education providers, as set out in pages 10-14?

Strongly agree.

This will promote consistency, clarity and more responsive student focused provision across the sector.

Question 3: To what extent do you agree or disagree with our proposed approach to future engagement with the sector on these issues, as set out in paragraph 10?

Strongly agree.

Question 4: To what extent do you agree or disagree with the proposals for evaluating the impact of the statement of expectations, as set out in paragraphs 11 and 12?

Strongly agree.

The addition of a standardised template to record evidence and to gather insights will be useful.

Question 5: Do you have any comments about the proposed statement of expectations?

We agree with the statement of expectations as a mechanism to support good practice and consistency across the sector. NTU is committed to an embedded institutional leadership approach and we feel this has been achieved with regard to sexual violence via clear transparent behavioural expectations, training, support and reporting processes. The additional clarity on harassment is welcome and will support ongoing consultation with students, staff and governance structures to continually develop best practice.

NTU has been preparing revisions to its procedures for responding to incidents which it is confident will meet the expectations when implemented.



Question 6 (for higher education providers and their representative bodies): To what extent do you think that the policies, processes and systems at your provider (or the providers that you represent) will need to change in order to meet the proposed statement of expectations?

We need to build and develop our existing sexual misconduct policy framework. We are confident in our overall approach, staff and student training and support for students. We have prepared revisions to our procedures for reporting and responding to incidents which we will implement. We will need to review the appropriateness of the ways our Governing Body ensures the university's approach is adequate and effective.

Section 3: Regulating complaints handling through existing ongoing conditions of registration

Question 7: To what extent do you agree or disagree that the OfS should assess compliance with ongoing conditions of registration (B2 and C1), where there is evidence that registered providers have not effectively addressed harassment and sexual misconduct cases, as set out on paragraphs 13-29?

Tend to disagree.

We support OfS taking a risk-based approach to assessing compliance, not attempting to assess compliance by reviewing policy documents, however we think the proposed approach to regulating complaints is too early, before providers have made a response to the statement of expectations. It will be important to strike a balance between the information that can be gained from the accounts of people, including third parties, who may believe that a provider has not effectively addressed a case, and the provider itself. Although OfS will not be determining the case, the experience of working with the OIA shows that there may be considerable merit in examining the case from other perspectives. Guidance/ clarity around OfS drawing conclusions from cases that are also subject to police investigation would be welcome. There may be situations where NTU cannot conclude internal processes as the result of the above.

All proposals

Question 8: Do you have any comments about the interaction of these proposals with other regulatory or statutory requirements?

We do not agree that sexual violence and harassment should be defined with reference to British criminal law as defined by Statute. The issues of cultural relevance and jurisdiction for overseas partnerships, (Age of consent etc) need to be considered.

Although not represented in our casework, there are concerns about the intersection between freedom of expression and sexual harassment that need to be addressed.

Question 9: Do you have any comments about the impact of these proposals for particular types of providers (e.g. proportionality)?

Further guidance required, specifically in regard to sub-contracted provision, particularly partnerships overseas.



Question 10: Do you have any comments about the impact of these proposals for particular groups of students?

We agree that students should be subject to the University's student code of behaviour, but there are particular challenges for considering cases for those who are not young, full-time and resident, especially including mature and part-time students. Third parties raise concerns with us about the conduct of students away from the university and where the conduct is of an historic nature.

Question 11: Do you have any other comments?

Delivery by summer 2020 will be challenging and does not allow sufficient time to engage with our students and collaborative partners, or to implement any necessary changes as a result of their feedback. The Statement of Expectations will require us to review our policies and procedures (although these would be minor based on the current draft). Normally we implement changes to the Student Code of Behaviour before the start of an academic year, if we engage with students and partners and then take these through our academic governance procedures there will not be time to complete this before we would need to require incoming students to accept these.