

MOUNTVIEW

Student Sexual Misconduct Policy

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1. Statement of Intent

Mountview is committed to creating a working and learning environment that is safe and inclusive so that all members of Mountview community are able to achieve their full potential. Therefore, Mountview aims to promote a culture in which no incidents of sexual misconduct are tolerated. All allegations will be handled sensitively and in a timely manner to ensure the preservation of a safe work and training environment.

2. Definitions

Sexual Violence can take many forms and may include, but is not limited to, the following: rape, sexual assault by penetration, sexual assault including groping, making unwelcome sexual advances, harassment including following, catcalling, making sexualised comments, showing sexual organs to another person, asking intrusive personal questions and displaying or sharing sexual material.

Sexual Misconduct is an umbrella term for the range of behaviours that are sexual, unwanted, and cause distress, or that otherwise constitutes harassment, bullying or victimisation that goes against Mountview's [Student Code of Conduct](#).

Online sexual misconduct includes cyberstalking which is repeated and deliberate use of the internet and other electronic communication tools to engage in persistent, unwanted communication intended to frighten, intimidate, or harass someone. Also included is image-based sexual abuse or what is known as 'revenge pornography' i.e., recording or sharing sexual or intimate photos or videos, without the consent of the person pictured.

Sexual Harassment is a form of sexual violence and may be defined as unwanted conduct of a sexual nature which has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating, or offensive environment for them. Sexual harassment can take place in person, or it can occur on social media or via any electronic mode of communication.

Sexual Violence Liaison Officers (SVLO) is a role fulfilled at Mountview by the Student Welfare Manager and a member of the Student Services team, and they provide a pro-active support and advice service to any students who have experienced sexual violence or misconduct.

Reporting student is the person who is alleging the occurrence of a breach of Mountview's Student Code of Conduct.

Responding student/party is the person who is alleged to have breached Mountview's Student Code of Conduct.

Mountview's policies prohibit behaviour that is violent, indecent, disorderly, threatening, offensive or inappropriate, or those that constitute harassment, bullying, discrimination, and misconduct. The [Bullying, Harassment and Misconduct policy](#) also prohibits sexual misconduct specifically. Allegations of a breach of Mountview's policies are considered under the [Non-Academic Misconduct Policy](#). Students are responsible for making themselves aware of the full range of behaviour that is prohibited under the

3. Consent

A clear understanding of consent is fundamental to respectful relationships. Cases of sexual misconduct often include a determination of whether consent was sought and gained before and during a sexual act. Mountview is committed to promoting an understanding of consent as part of the commitment to a culture of respect and dignity.

Consent is the agreement by choice to a sexual act and having the freedom and capacity to make that choice. The person seeking consent should always take steps to ensure that consent is freely given, that it is informed, and they must recognise that it can be withdrawn at any time. Consent cannot be assumed on the basis of a previous sexual act or encounter or previously given consent.

Freedom to consent: A person can only be free to make a choice if they understand that there will be no negative consequences for them if they said no. For example, a person may not be free to make a choice if:

- a. they are being threatened with violence.
- b. they are being threatened with humiliation.
- c. they believe that the continuation or assessment of their studies, or progression or advancement of their career, will be at risk if they refused.
- d. they are being intimidated or coerced.
- e. there is a significant power imbalance in the relationship between the parties, and the party with less power, feels pressured to continue against their will.

Capacity to consent: Capacity is about whether someone is physically and/or mentally able to make a choice and to understand the consequences of that choice. For example, a person does not have the capacity to give consent if:

- a. they are drunk or under the influence of drugs.
- b. they are asleep or unconscious.
- c. a person may also not have capacity to give consent if they have, for example, a cognitive or learning difficulty, or are experiencing a mental health crisis.

Obtaining consent: Obtaining consent is not simply a matter of hearing 'yes' or 'no', it includes body language, actions, and reciprocity. If there is any doubt as to the level of one's own or another's capacity, the safest approach is to not engage in the sexual act. A misunderstanding of consent or a misjudgement can have traumatic consequences. It is important to be very clear and note:

- a. Being intoxicated with alcohol or drugs is never a defence for committing an act of sexual misconduct, or for failing to obtain consent.
- b. Consent needs to be negotiated every time you initiate sexual acts and also during sex acts as you start to do different things.
- c. Any prior sexual activity or relationship does not constitute consent – never assume that previous consent applies at any other time.
- d. Consent may be withdrawn at any time, including during sexual acts.

- e. Consent can never be implied, assumed, or coerced.
- f. Consent means a very clear, knowing, enthusiastic, conscious, freely offered agreement to sex or a sexual act.

4. Key Principles

Mountview is committed to creating a culture where acts of sexual misconduct are understood to have no place in our community. In support of this we will provide:

- Clear policy, information, and training to students about what is meant by sexual misconduct, including matters relating to consent.
- Easily accessible support and documented procedures for any student wishing to disclose an alleged case of sexual misconduct either informally or formally.
- Information about the options open to a student who wishes to have an alleged case of sexual misconduct investigated by Mountview and/or by the police, and an understanding about the scope and possible outcomes from each process.
- Timely investigations into alleged sexual misconduct cases where a student wishes to use the process set out in Mountview's policies.
- A fair and open process which hears from the reporting student, the responding student, and any relevant witnesses.
- Personal and separate support for the reporting and the responding student.
- Information about how a decision will be made arising from an investigation.
- Information about the disciplinary action that may be taken where a case is upheld.
- Criteria against which an upheld outcome can be appealed.
- Processes that comply with Data Protection and Confidentiality Policies.

5. Scope

All staff and students are required to comply with the terms of this policy.

When students enter into a contract with Mountview they agree to abide by Mountview's rules, regulations, policies, and codes that are in force at any given time. This includes actions both on Mountview premises and off-site.

Allegations of sexual misconduct can only be investigated by Mountview when the responding person is registered as a student with, or employed by, Mountview.

6. Preventing Sexual Violence

Mountview provides students with various opportunities to learn about consent and bystander awareness, with the aim of reducing incidents of sexual violence. The following initiatives promote these aims:

- All students attend Induction Week workshops on Consent.
- The SVLOs promote campaigns throughout the academic year focusing on consent and

bystander awareness.

7. Disclosing and reporting sexual violence

Disclosure and formally complaining are separate actions that a reporting student may choose to take. A disclosure to a member of staff will lead to support and information on options for taking the matter forward if the reporting student wishes to. If a student wishes to submit a complaint to Mountview or make a report to the police, more formal processes will be followed. Students are free to decide whether they would like to make a formal complaint/report, and Mountview will support their decision without judgement or prejudice.

The following section outlines the principles which underpin the disclosure and reporting of incidents of sexual violence. Detailed guidance for students outlining reporting procedures is provided in Appendix 1.

Any student who discloses an allegation of sexual violence will be treated with respect and dignity. They will be listened to and provided with information about the support available to them, both internally within Mountview as well as external providers.

A disclosure does not automatically result in any formal reporting, either to Mountview or to the police. A police report will only be made with the consent of the reporting student, except where there are reasonable grounds to believe either:

- that there is a risk to the reporting student or other members of the Mountview community, or;
- that there is a risk to children or vulnerable adults.

Any student disclosing an incident of sexual violence will be referred to the SVLO, who will provide them with information on their rights and the options open to them, including making a report to the police or, in cases involving a member of the Mountview community, a formal complaint through Mountview's policies.

8. Investigating a Formal Complaint of Sexual Misconduct by a Student

A formal complaint that a student has allegedly breached the Student Code of Conduct will be considered in line with the Non-Academic Misconduct Policy. This section sets out the general principles which will underpin the consideration of a complaint of sexual misconduct.

Mountview will normally postpone consideration of any complaint under the Non-Academic Misconduct Policy where the same report is subject to investigation by the police or other authority. The decision to begin, end, postpone, or resume an internal investigation will be taken by Mountview in line with their policies. Regardless of any external investigation, Mountview may take immediate **precautionary action** in line with these policies, following a risk assessment. Precautionary action might include suspension from Mountview, preventing a student from entering communal spaces, or putting a no-contact order in place between the reporting student and the responding student(s).

Mountview will provide regular updates throughout any complaint procedure on its progress, in line with its obligations under the Data Protection Act 2018.

Mountview will consider a complaint of sexual misconduct in line with the overriding principles of fairness and natural justice. All students involved, both reporting and responding, will be given the opportunity to make appropriate representations to the decision-maker. The responding student will normally be told the identity of the reporting student and of any witnesses.

All students who are involved in the investigation of a complaint of sexual misconduct will be provided with appropriate support, advice, and guidance throughout the process. Students are entitled to bring another registered student (not involved in the process as a witness) to any meeting held under the Non-Academic Misconduct Policy.

Mountview will take all reasonable steps to minimise the impact of the student disciplinary process on those involved. At no time will the reporting student and the responding student be required to have direct contact. Appropriate steps will be taken to ensure that the process is fair to all parties involved.

Mountview cannot determine whether a criminal offence has occurred. Any consideration of a complaint under the Non-Academic Misconduct Policy will be restricted to determining whether a student has breached the Student Code of Conduct. In cases where a complaint is upheld, appropriate disciplinary action will be taken, up to and including suspension or compulsory withdrawal from Mountview. Examples of possible sanctions are given in the Non-Academic Misconduct Policy.

Any decisions taken under the Non-Academic Misconduct Policy will be communicated promptly to those involved. As a result of data protection legislation, the reporting student may receive less information about the decision than the responding student, but they will receive details about the outcome. The responding student may appeal against a decision under the Non-Academic Misconduct Policy, and the reporting student has a right to make a complaint if they feel that Mountview has not handled their complaint adequately.

9. Investigating a Formal Complaint of Sexual Misconduct by a Staff Member

A formal complaint that a member of staff has allegedly committed an act of sexual misconduct against a student will be considered under the Staff-to-Student Sexual Misconduct Policy. The principles outlined above in Section 8 will also underpin any investigation of sexual misconduct that involves a member of Mountview staff and a student.

10. Associated Policies

- Non-Academic Misconduct Policy & Procedure
- Non-Academic Concerns and Complaints Procedure
- Student Bullying, Harassment, and Misconduct Policy
- Staff-to-Student Sexual Misconduct Policy

11. Data Protection

We process personal data collected during the disciplinary procedure in accordance with our Data Protection Policy. In particular, data collected as part of the disciplinary procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of conducting the disciplinary procedure, including undertaking investigations. Any inappropriate access or disclosure of student data should immediately be reported in accordance with our data protection policy as this constitutes a data protection breach. It may also constitute a disciplinary offence, which we will deal with under the appropriate disciplinary procedure.

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Owner: Student Welfare Manager

12. Appendix 1

Student Information Sheet: Reporting an Incident of Sexual Misconduct

Mountview is committed to addressing the issue of sexual misconduct and enforcing a zero-tolerance approach. If you have experienced sexual misconduct there is help available to you.

You can report the incident to your Personal Tutor or the Student Welfare Manager, who will support you through the next steps that you want to take. The Student Welfare Manager is a trained SVLO and can provide confidential advice and guidance about your options *whether you want to report it to the police or Academy or not*. If you decide to report it to the police, the Student Welfare Manager can support you through the reporting process. If you decide to submit a formal complaint to Mountview (in cases where the alleged perpetrator is a Mountview student), the Student Welfare Manager will provide support and guidance on this process as well. The Student Welfare Manager can also signpost you to relevant organisations for additional expertise and support.

Reporting to the police

Emergency call 999

Non-emergency call 101

What happens next will vary, depending on when the sexual violence occurred, but may include:

- an officer attending and taking an initial account
- possibly being taken to a Sexual Assault Referral Centre (SARC) for a forensic medical examination

When the police investigation begins, you will give a full statement (which is sometimes video recorded).

You may also be assigned a Specially Trained Officer (STO). The STO will facilitate your care from the initial report, through medical examination, interview, and subsequent investigation.

If you choose to report it straight to the police, we encourage you to inform the Student Welfare Manager so that confidential emotional support and practical support can also be put in place.

Retain and preserve evidence.

In the event of a recent assault, it is recommended that you do not:

- Use the lavatory or discard underwear or sanitary products.
- Wash, shower, bathe, or shave.
- Wash your hands.
- Remove, wash, discard or destroy clothing worn, or bedding and towels used at the time of the incident or after it.
- Drink or eat anything, including non-essential medication.
- Clean your teeth.
- Smoke.

Where possible you should preserve non-physical evidence, such as relevant texts, photos, social media messages and emails.