Higher Education After #MeToo: Institutional responses to reports of gender-based violence and harassment (summary report)

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INTRODUCTION

This study aims to capture some of the changes that have been occurring in UK higher education institutional responses to gender-based violence and harassment (GBVH) since 2016. It focuses specifically on reporting and disciplinary processes, paying attention to how formal reports are being handled as well as what happened when interviewees disclose but do not report. Unlike our previous research which has been concerned with staff-student sexual misconduct, this study also includes interviewees who disclosed or reported staff-staff and student-student GBVH. The research analyses accounts from victim-survivors who reported or disclosed to their institutions ('reporting parties') as well as perspectives from staff in a variety of roles who were involved in handling reports/complaints of gender-based violence and harassment in higher education ('response staff').

This is the summary version of this report; to read the full-length version please go to
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The data sources are as follows:

1. 25 interviews with staff in HEIs and students' unions who were involved in handling reports/ complaints on gender-based violence and harassment (described as 'staff handling reports' or 'response staff').
20 interviewees were based across three case study institutions and students' unions, in roles including student services, students' union advice and sabbatical officers, human resources (HR) staff, and academic managers, among others. Five further interviewees comprised three external investigators working across different higher education institutions (HEIs), and two further staff who had specific experience of addressing GDPR-related issues.

2. 27 interviews with staff and students who disclosed or reported GBVH to their institution (described as 'reporting parties') whose experiences were as follows:

- Staff who were targeted by other staff: 6 interviewees.
- Students who were targeted by staff: 13 interviewees.[1]
- Students who were targeted by other students: 8 interviewees.

Interviews were carried out in the second half of 2020 and during 2021. All identified as women, other than two male interviewees who had not themselves been subjected to GBVH but had reported as part of a group that included women reporting GBVH from the same responding party. This sample should not be taken as representative but rather as descriptive, giving an overview of the challenges identified by both these groups.

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[1]	This figure includes three interviewees whose status changed between student and staff member during their experiences. Their status at the time of the main incident(s) of GBVH is used here.

Key terms

The phrase 'gender-based violence and harassment' (GBVH) is used throughout. This refers to a continuum including sexual harassment, gendered bullying, sexualised abuses of power including grooming and consensual relationships across positions of power that were harmful to one party, as well as sexual assault/violence, abusive relationships, stalking, and spiking.

In line with the terminology used for internal investigations within HEIs (Humphreys and Towl, 2020, p.7), we use the term 'reporting parties' to refer to anyone who disclosed or reported GBVH to their institution, and the term 'responding parties' to refer to the people who they were reporting for carrying out such behaviours. The term 'response staff' refers to interviewees employed by an HEI who were involved in handling reports or disclosures in any way. These terms are chosen reflect the focus of this research on reporting or disclosing to the institution.

SUMMARY OF KEY FINDINGS

- There is some evidence of good quality, specialist support being provided to students who were targeted for GBVH (although not all students in this study received such support). This does not appear to extend to support for staff reporting parties.

- A lack of detailed guidance at sector-level means that staff responding to disclosures/reports of GBVH are carrying a high level of risk. This also means that work is being duplicated at individual institutions, and institutional responses to disclosures/reports of GBVH vary greatly across the sector.

- The most common outcome of a formal report among this sample was responding parties (both staff and students) leaving the institution or graduating during an investigation/disciplinary process. This study was not representative of any wider populations, so this finding is not generalisable. However, it does indicate that better systems for information-sharing between institutions are needed to tackle this issue.

- There is a high level of variation between HEIs in how GBVH is being handled, including the level of investment; whether specialist staff are employed; whether appropriate systems and policies are in place; and HEIs' willingness to take robust action in response to reports. In general, student services are more advanced in this work than HR departments.

- While there is a substantial amount of work that can be done at the level of individual institutions to improve systems, there are urgent sector-level or structural issues that need to be addressed in order to ensure that GBVH reports are appropriately handled. While some HEIs are attempting to tackle these issues at institution-level, such complex legal and procedural questions require a standardized approach. These include:

  - The reporting party being structurally disadvantaged in reporting processes, with fewer rights than responding parties.

  - The variation in reporting parties' rights according to whether they are staff or students, and whether they are reporting misconduct from staff or students.

  - The reporting process being centred on the responding party, which includes a lack of remedy for reporting parties.

  - Related to the above points, the inappropriateness of the standard grievance/complaints/disciplinary process for tackling sexual harassment.

  - The continued lack of clarity around information-sharing between institutions.

  - The lack of appropriate alternative options to formal disciplinary processes.

- Despite some evidence of good practice from the Universities and Colleges Union (UCU), this report found that some UCU local branches are prioritising representation for responding parties over reporting parties, and that in some cases UCU representatives are using harmful tactics to defend staff respondents.

- As the findings of this study show that actions are most urgently needed at sector-level, the recommendations focus on actions that are needed from sector organisations including the Health and Safety Executive, the Office for the Independent Adjudicator for Higher Education, UCU, ACAS, the Office for Students, and others.

FINDINGS

Experiences of GBVH

- 'Grooming' and boundary-blurring behaviours - alongside or leading to sexual harassment – were experienced by seven out of 27 reporting party interviewees.

- Six further interviewees (four students and two staff members) were targeted for sexual harassment by staff members without any 'grooming' behaviours.

- Three students had been subjected to sexual assault or rape by staff, and one further interviewee had been in an abusive relationship with a member of staff.

- All eight of the students who were targeted by other students were subjected to sexual assault or rape.

- Two interviewees, both men, had reported as part of a group where other members of the group (but not themselves) had been targeted for GBVH.

- Two further interviewees were subjected to behaviours that they found difficult to label, but which can be described as sexualised abuse of power and gendered bullying.

Impacts of GBVH and the reporting process on reporting parties

Academic and career impacts included:

- Having to change universities or take time out of studying.

- Academic work impeded or halted.

- Becoming isolated.

- Losing funding, job interviews, losing collaborative opportunities.

- Having complaints launched against them after they raised concerns.
  - One interviewee was fired from her job after raising concerns while the other had to leave a good job to take up one with worse conditions.

- Being scared or nervous about working with men following being targeted for GBVH.

- Being unable to network, for example unable to join regional/disciplinary networks or present at/attend conferences.

'[it] felt like a dream being taken away from you, almost. Because I'd worked hard to get into this institution, and now suddenly I'm too scared to be in the city. So, it was impacted in the way that I lost all aspects of university life. Just never being on campus, never being able to have, I guess, the typical experience, but knowing that my perpetrator was allowed to have that, because he wasn't suffering from whatever fallout I was suffering from.' – Victoria, undergraduate student

Mental health, emotional and physical impacts included:

- Feeling suicidal.

- Being hospitalised in a psychiatric unit.

- Panic attacks.

- Nightmares.

- PTSD.

- Depression.

- HPV infection.

- Sleep issues.

- Exhaustion.

Social, personal and financial impacts included:

- Withdrawing from socialising and/or having difficulty making friends.

- Being unable to have a romantic relationship, or ruining an existing romantic relationship.

- Having to pay for an extra year of PhD fees and living costs.

- Paying for therapy.

A few interviewees – usually those whose case led to an upheld or partially upheld outcome – also described some **positive impacts of the reporting process**. Courtney, whose report about an abusive relationship with her lecturer was upheld, described how 'the aftermath of getting a report of the result of the process was like a real kind of book closing like, "I can move on"'. While the reporting process was very difficult, it helped her deal with the experience.

Outcomes of reporting parties' disclosures and reports

Before exploring reporting parties' perspectives on the process of disclosure and reporting, we outline below an overview of the outcomes of reporting parties' disclosures, in Table 1.

Outcome of reporting process	Number of cases
Responding party left or graduated during the investigation	9
Complaint(s) upheld	3
Complaint(s) partly upheld	5
Complaint(s) not upheld	3
Informal process only	5
Interviewee disclosed but did not report	4
Other (respondent died)	1

Table 1: Outcomes of reporting parties' cases[2]

Responding parties leaving or graduating during the investigation (both staff and students) was the most common outcome for this group of interviewees. As this study did not have a representative sample of interviewees in any way, this overview should not be generalised but instead should be taken to illustrate the range of ways in which problems can arise in the process.

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[2]   The number of cases adds up to more than the total number of interviewees as in three cases, the responding party left the university during the reporting process but the complaint was still upheld or partly upheld.

WHAT WENT WELL – REPORTING PARTIES' ACCOUNTS

All interviewees who had disclosed/reported GBVH to their institution were asked whether they thought there was anything their institution had done well as part of the process.

- **'They did well in general': positive experiences of reporting.**

In recent years, many HEIs have invested significant resources into tackling sexual violence and harassment, leading to improved practices this area in some institutions and a body of expert knowledge starting to form. This shift was visible in some interviewees' accounts, for example:

> "I think they did well in general, I would say that. The most difficult part was to start it, and after I started reporting him, the university actually make me feel encouraged and more relieved or reassured about reporting. They offered me the counselling, all kinds of support. They talked to me whenever I feel not sure. [...] And it was really slow, that was the part [that] makes me worry, but... Yeah, investigation process itself is quite good." – Xuilin, PhD student

- **'She really, really supported me through it': staff with expert knowledge of GBVH.**

The investment that some HEIs have made towards supporting students was evident in the accounts from some students, particularly in relation to specialist support they had from staff with expertise in gender-based violence and good responses to disclosures.

> "There was a sexual violence officer who met up with me once a week. [...] She was just amazing. [...] She had a real understanding of these kinds of abusive powers and, again, gender-based violence. [...] Because she was on my side, and because she believed me, and because I was heard- And that's what it was about: it was about being heard, and when I spoke about it, having everything validated, as in, "This isn't your fault. There's nothing you could have done. This wasn't your fault," and just being told that over and over again [...] all members of staff that were involved, as in my tutors, my supervisors, they also understood that this wasn't my fault. They were able to see it for what it was. Whereas during it, I wasn't able to see it for what it was." – Kelly, undergraduate student

- **'He really did try his best': committed staff within inadequate systems.**

Many interviewees described individual staff members who were respectful, immensely supportive, and bringing their own values to the process, even within systems that were inadequate.

- **'It gave me confidence that they were taking it seriously': Good practice and proactive responses in handling reports.**

There were examples of good practice in handling formal reports as well as adjustments made to make the process more manageable for reporting parties. In two cases, HEIs proactively opened up their own formal investigations without a named complainant.

- **'I've been really trying to advocate for getting things changed at the university so that this doesn't happen to anyone else': Good practice after the end of the process.**

There were a small number of examples of good practice after the end of a process, for example reporting parties feeding into changes at their institution, or in two cases, emeritus professors losing their status as a result of a report. However, among the accounts from reporting party interviewees there did not appear to be any staff or students sacked or excluded from the institution as a result of reports (although there was some evidence from response staff that this was happening).

- **'They did really well at covering their own arse': no good practice could be identified**

Four interviewees could think of nothing or almost nothing positive to say about how their institution handled their disclosure or report.

CHALLENGES ARISING IN INSTITUTIONS' HANDLING OF DISCLOSURES AND REPORTS

These are separated into two areas:

1 **Cultural and implementation issues** which are able to be tackled on an institutional or local level.

2 **Structural issues** which need to be addressed at a higher level than the institution, such as through sector-wide guidance or legislative reform.

Reporting parties' and response staff's perspectives on each of these levels are outlined separately.

Reporting parties' perspectives on challenges

Cultural and implementation issues

Challenges arising prior to, and during the reporting process

- Abusive behaviours could be difficult to recognise and label by staff receiving disclosures (as well as by those victimised).

- While intersectional inequalities could shape experiences of, and recovery from, GBVH, this was not necessarily recognized or addressed in institutional responses.

- When reporting parties disclosed their experiences on social media, marketing departments led on the institutional response instead of specialist GBVH staff.

- A lack of support with the reporting process was described by some reporting parties.

- There was a lack of joined-up working/information-sharing between agencies (such as between police, placement organisations, fitness-to-practice bodies, and HEIs).

- There was evidence of gender bias in some processes.

- There could be a lack of protection against victimisation during reporting processes.

- There were problems with gathering, assessing, and reaching conclusions from evidence. These took three main forms:

  - Failure to interview witnesses leading to gaps in investigation report.

  - Inability to assess evidence/carry out credibility assessments.

  - Contradictions in investigation report.

Issues with disciplinary panels, outcomes and appeals

- There was evidence of some good practice in disciplinary panels but also poor practice, such as victim-blaming questions.

- Some interviewees described contradictions in the case outcomes, for example sanctions being applied to the responding party despite cases not being upheld.

- The appeals process could be unclear. This could be because reporting parties' rights within appeals process are indeed unclear in existing guidance (See The 1752 Group and McAllister Olivarius, 2020, p.22; Eversheds Sutherland 2022, p.54).

Issues arising after the reporting process

- Even after the end of a formal disciplinary case, or after the responding party had left the institution and the case had been dropped, there could be ongoing issues for victim-survivors such as post-traumatic stress disorder (PTSD) stemming from GBVH. These more complex, longer-term impacts of GBVH were not always recognized or addressed within HEIs, including within their own disability provision (even where the PTSD had been caused by GBVH from those responsible for a student's education).

- Systems and expertise are needed to enable recognition of multiple perpetration.

Further challenges

- Departments could exist in a silo where reports of GBVH did not escalate beyond the department to be dealt with appropriately and/or cultural issues in the department overrode any formal institutional process.

- Formal processes could be very slow, for example taking over a year. The majority of interviewees described issues with the length of time their reports took.

- Processes could be unclear and/or staff sometimes did not know how their own institutions' processes worked.

- Inadequate administrative practices such as poor quality note-taking could impact on investigation/decision-making processes.

'[The student who had assaulted me] left [the university] and then I was just left to pick up the pieces by myself because the university were like, "Okay, well the case is closed, we have no safeguarding issues anymore, he's not here. What else do we need to do?" – Zainab, undergraduate student

Structural issues

This section describes problems that exist at the level of policies and structures for tackling sexual misconduct, i.e. they are issues that cannot be tackled effectively by staff alone. These are, therefore, issues that need a sector-wide response.

- Inappropriateness of the formal grievance/complaints process for tackling sexual harassment.
  - While some HEIs now have bespoke policies and processes for reporting GBVH, this does not appear to be standard.
- Formal processes do not prioritise the outcomes that reporting parties need.
  - The formal reporting process is centred on the responding party in the form of a disciplinary case against them. This prioritises punitive sanctions for the responding party; this focus risks losing sight of alternative outcomes that reporting parties may want.

- The reporting process may not include remedies for reporting parties.
  - Reporting parties often had to go through a further round of complaints processes in order to gain any remedy – for example an extension on their PhD enrolment period, or academic support – following a reporting process.
- The reporting process assumes people are reporting on behalf of themselves alone.
  - In fact interviewees often reported sexual misconduct on behalf of others as well as themselves.
- Lack of appropriate alternative options for actions that institution could take.
  - This included a lack of resources to deal with cultural issues within departments or research groups including bullying/gender inequality.
- Lack of oversight/regulation of HEIs in their work in this area.
  - Some complainants commented on the lack of oversight or regulation in this area. In some cases institutions were carrying out their own internal reviews of policies or processes but interviewees also had concerns about the lack of transparency or oversight in such reviews.
- Unclear practices around confidentiality and information-sharing.
  - Unequal – and sometimes unsafe – practices around data sharing led to a variety of harms and injustices for reporting parties and for the wider institutional community.
- Difficulties arising from lack of joined-up approach across sector/institutions.
  - While many instances of GBVH reports occur between members of the same institution, there were many examples of situations that did not fit this model.

'I don't think unless you've been through it you can really appreciate the huge amount of emotional energy it takes to go through [a reporting process], which is so far beyond what I would have ever predicted. And so far beyond what you would objectively guess just looking at like the process like. [...] I feel like I spent most of 2020 just in bed. Just crying every day in bed. [...] it's so hard to explain why it is such a massive drain. But it is.' – Charlotte, reporting staff member

Response staff's perspectives on challenges

Response staff working in a variety of roles described the following challenges with handling GBVH disclosures and reports in higher education.

Cultural and implementation issues

- At some institutions, students are not reporting due to fears of being identifiable.
- Parts of an institution may have endemic cultures of poor behaviour which are very challenging to address.
- Support is needed for staff reporting parties (as well as for students).
- Lengthy delays are occurring in investigations/disciplinary processes.
- Untrained staff are attempting to investigate and adjudicate cases.
- There can be a lack of consistency in applying processes.
- There can be a lack of consistency in decision-making from disciplinary panels.
- HR buy-in can be a challenge.
- Resourcing issues can inhibit this work.
- Institutional change work can be slow.
- Support is needed for response staff.

"When [GBVH cases] happen, they can be just such difficult cases for everyone, for the department, for the students, for the support services, for the complaints team, for everyone. They're emotionally so hard." – Response staff interviewee, student services

"[The student-student formal reporting process at this institution] is very dependent on the individual person who is implementing the process [...] There's no specific training as you arrive at this institution and it's the same everywhere, pretty much. It's different with the HR side to the student side, if there's a staff case there is support from HR and there's a kind of a structure [...] That doesn't exist for the student casework." – Response staff member, academic manager

Structural challenges

- Inadequacy of sector-level guidance and structures.
  - Across interviewees from all three institutions, as well as from the external investigators, grave concerns were expressed at the inadequacy of sector level guidance and structures in this area.

- Lack of parity in rights between responding and reporting parties.

  - One of the major structural challenges that remains unresolved in existing guidance is the lack of parity in rights between responding and reporting parties whereby the reporting party only has the status of 'witness' in the responding party's disciplinary case, and therefore has no formal status in the process (see Bull et al., 2021).

- Lack of parity between staff and student reporting parties.

  - Interviewees noted differences in rights depending on whether reporting parties are staff or students; in staff-student complaints, staff members have more rights as they can go to an employment tribunal and levels of evidence needed may differ. However, interviewees noted that it was easier to give remedies to student reporting parties than staff.

- The continuing lack of clarity around information sharing.

  - Despite this new guidance (Universities UK, 2022b; Eversheds Sutherland, 2022) there remain unanswered questions around information-sharing in GBVH cases, including differences in rights between staff and students, and between reporting and responding parties.

- The large gap between formal and informal processes.

  - There were concerns expressed about the gap between formal and informal processes, for example when people disclose but do not want to make a formal report and do not want anyone else to know.[3]

- Processes in some cases are unfit for purpose.

  - While at some institutions significant amounts of work had been undertaken to overhaul reporting and disciplinary processes, this work had not progressed to a place where interviewees felt that all of their processes were fit for purpose at the time of interview, at any of the three case study institutions.

- Tackling sexual misconduct is not an institutional priority in some institutions.

  - At two of the three case study institutions, prioritisation of this work was a challenge.

"In all honesty, I feel in some ways like regulating bodies, since 2016 and overturning Zellick[4], they've lobbed a hand grenade into the sector, and have asked us to deal with that. And there is some guidance out there, some of it is good, but when you get into this work, you realise that it really [only] scratches the surface. When we've gone back to various guidance from different bodies to try and find answers to the questions that we've got, they're rarely covered in that guidance" – Response staff interviewee, student services

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[3] Some of these issues can be addressed through our guidance on 'proactive investigations' (The 1752 Group and McAllister Olivarius, 2020) or Kelsey Paske's work on 'environmental investigations' (Culture Shift, 2019).

[4] 'Zellick' refers to guidance from 1994 which stated that rape and sexual assault should never be investigated via internal disciplinary procedures within HEIs. This was overturned in 2016 by guidance from Pinsent Mason (2016) which stated that HEIs have an obligation to investigate breaches of their policies – such as sexual harassment or violence that breaches staff and student codes of conduct – whether or not reporting parties also choose to go to the police.

FURTHER ISSUES

The role of UCU in disciplinary cases

Accounts of involvement from the staff trade union in UK higher education (Universities and Colleges Union (UCU)) in reporting processes were mixed, and in some cases highly critical.

- Two staff reporting parties had very good experiences with UCU support.
  - For example, one interviewee described UCU support for a collective grievance in compiling a report with evidence from multiple staff who had been targeted by the same responding party.
- Several staff reporting parties had poor experiences with the union.
  - One staff member in fact left the union due to the aggressive action against her that union representatives were encouraging the responding staff member to engage in.
  - There were also difficulties recounted by reporting parties – corroborated by some response staff – in accessing representation from UCU.
  - Three other response staff described UCU using technicalities to support responding staff members in ways that were harmful and damaging to reporting parties.

See the full report for sections discussing:

- Informal processes: successes and failures.
- Cases where students reported to the police as well as to their institution.
- Handling reports from former students.
- Anonymity in the reporting process.
- Handling of group/multiple reports.
- Balancing data protection and safety: Implementing mechanisms for institutional memory

CONCLUSION

While there were significant issues with the ways in which individual HEIs were implementing reporting and disciplinary processes to tackle GBVH, the conclusion and recommendations focus on the structural issues that this research has revealed in order to open up discussions towards shared solutions across the sector.

Overall, it is clear that there are significant structural barriers to case handling for GBVH being effective and fair. Issues identified by both response staff and reporting parties included:

- Inappropriateness of the formal grievance/complaints process for tackling sexual harassment. Processes in some cases are unfit for purpose, and there is a lack of guidance for how issues specific to sexual misconduct cases should be handled. In particular:

  - The formal process is centred around the responding party and works on the assumption that reporting parties want punitive sanctions against responding party/ies, which is often untrue.

  - The process works on the assumption that people are reporting on behalf of themselves alone, rather than with or on behalf of others.

- Lack of appropriate alternative options to formal disciplinary processes for actions that institution could take.

  - There is a gap between formal and informal processes where reporting parties may need informal adjustments to teaching/work arrangements, or monitoring and oversight of staff behaviours/interactions where concerns have been raised, but may not be able to go through a formal reporting process.

- Confidentiality and unclear practices around information-sharing. Despite recent guidance published in this area, there remains a lack of clarity around information sharing practices.

- Responding parties (either staff or students) are continuing to leave their institution during investigations.

  - There is no existing structure for joining up institutional processes or information sharing.

- The reporting party is structurally disadvantaged in the process, having fewer rights than responding parties at various points.

  - Reporting parties have different rights according to whether they are staff or students, and whether they are reporting misconduct from staff or students.

- Reporting process may not include remedies for reporting parties; across all three case study institutions, students and staff had to go through a further process to get any remedy.

It is important to highlight these critiques did not solely, or even primarily, come from reporting parties; in fact, staff handling complaints were highly aware of the limitations in their own institutions' processes and in many cases were equally, or even more critical of (some) HEIs' handling of GBVH cases than reporting parties. Both perspectives are important in helping to make sense of where the challenges lie in improving processes.

These fundamental, structural problems with reporting processes are due to a range of factors; in some institutions there is still a failure to accept that tackling GBVH is part of their role. However, another major factor is that staff handling disclosures and reports are struggling with the lack of clear legal or policy guidance in this area. This leaves institutions, and in some cases individual staff members, having to carry responsibility for unclear procedures.

There is also a lack of accountability mechanisms for when HEIs fail in this area; while the OIA is starting to receive a few more sexual misconduct reports (Office for the Independent Adjudicator, 2023, p.26), it is extremely difficult for some students to access their services (or public sector ombuds organisations in Scotland and Northern Ireland) due to the difficulty of completing internal reporting processes within institutions (Bull and Page, 2022). The financial burden of taking legal action makes it prohibitive for many, or most students and staff, as well as time limits on such action.

It is clear that students and staff who disclose/report GBVH could get entirely different experiences depending on what institution they report to, and whether they are reporting a student or staff member. It is also clear that in many institutions, student services are a long way ahead of HR in this work. While there was evidence that HR departments at some institutions have been working to improve their response, in most cases they were a long way behind student services, and in some institutions were seen as lacking motivation for and commitment to this work.

More widely, it appears that a fragmented approach and lack of clear standards is leading to siloed approaches across the sector. Due to the lack of guidance, a lot of work appears to depend on the commitment of individual staff within each institution. The current model of 'sharing best practice' in order to disseminate ideas across the sector is insufficient, as there exist complex processual and legal questions that cannot be resolved by frontline staff or even, in many cases, within individual institutions.

These findings only relate to the sector up until end of 2021 when data collection finished. Since then, there appears to have been a high level of activity with many institutions hiring new staff and accelerating their work in this area. There have also been several new pieces of guidance on tackling staff-student sexual misconduct and data sharing in harassment cases (Universities UK, 2022a and b, Eversheds Sutherland, 2022) as well as (for HEIs in England and Wales) the new Good Practice Framework from the OIA (2022). Therefore, it is possible that institutional responses – particularly around implementation of existing guidance – have therefore improved since data collection was completed for this study. However, the structural issues that this report identifies are not as easily overcome as the issues around implementation. In particular, ongoing issues include the lack of accountability mechanisms; the lack of structures for ensuring reporting parties have access to remedy, and responding parties (particularly staff) leaving the institution during an investigation. Overall, there is evidence that institutions are sometimes failing to uphold reports even where significant amounts of evidence is presented, and therefore are ultimately failing to take action to address GBVH.

RECOMMENDATIONS

Reporting parties' perspectives on what the higher education sector should do to address GBVH

- Processes for handling reports need to be improved and standardised so that they are consistent between institutions.
- Structural issues need to be addressed such as:
  - Processes for information-sharing between institutions.
  - Independent oversight of HEIs' handling of reports.
  - Better rights to protection at work/study for both students and staff.
- HEIs need to be more proactive in taking action when they receive disclosures.
- More education and training for staff and students is needed to raise awareness of how to recognise GBVH and where to go for help.
- Specialist staff need to be employed to handle cases and support reporting parties.
- Reporting parties need to be at the centre of the reporting process.
- Open discussion of this issue within HEIs is needed.

Our recommendations

These recommendations are shaped around the changing policy context in different countries within the UK.[5] They are aimed at the HE sector as a whole; while there is a substantial amount of work that can be done at the level of individual institutions, currently there is little oversight or scrutiny for institutions' work in this area. While the Office for Students (OfS) is currently consulting on introducing regulatory requirements in this area in England and Wales for harassment and sexual violence experienced by students, this approach will not encompass staff reporting parties, nor does it include Scotland. Furthermore, the unevenness of institutional approaches to this work means mean that some HEIs may struggle to meet the OfS' expectations. More generally, successful regulation will require appropriate accountability mechanisms; responsibility for these should, we suggest, be shared across more than one regulatory agency. As such, these recommendations aim to complement the OfS' proposed work in this area.

1   Scrutiny and accountability mechanisms.

To improve scrutiny and accountability mechanisms at the whole-sector level, sexual harassment needs to be addressed as part of HEIs' health and safety responsibilities (as well as under their equality, diversity and inclusion remit). However, the Health and Safety Executive (HSE), who have a remit for addressing workplace violence, currently defer most of their responsibility for sexual harassment to the Equality and Human Rights Commission.

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5   However, they do not address Northern Ireland which has a separate Health and Safety Executive to the rest of the UK.

We therefore recommend that the Health and Safety Executive should fulfil their remit in relation to GBVH in HE – to require reporting and to record and monitor this data; to include GBVH risks in its investigations and inspections; and to take appropriate enforcement action where appropriate (i.e. where employers are in breach of their statutory duty to do all that is reasonably practicable to protect the health, safety and welfare of their employees).

We also suggest that HE sector bodies and trades unions (Office for Students, OIA, UUK, NUS, UCU, Scottish Funding Council, Scottish Public Sector Ombudsman, Universities Scotland) raise the issue of sexual harassment prevention, reporting and investigation with the HSE Board.

An urgent area for action is around mechanisms for individual students/staff to hold their institutions accountable when they fail to protect them from reasonably foreseeable harms. This study found that both response staff and reporting party interviewees had valid and important concerns over the difficulties in holding HEIs to account in individual cases, which need to be addressed. However, the sector landscape is currently shifting due to the forthcoming Higher Education (Freedom of Speech) Bill as well as the proposed regulation of harassment and sexual violence from the Office for Students, so it is challenging to make recommendations at this stage.[6] Nevertheless, it is clear that **steps need to be taken to ensure that the OIA is more accessible for student complainants who have been subjected to sexual misconduct (as well as other discrimination-related issues)**.

In addition, **we support the #ForThe100 campaign to introduce a statutory duty of care for higher education institutions towards their students**. Such a duty of care would make a material difference to students who have been subjected to gender-based violence and harassment, giving them more possibility of seeking redress.

2   More detailed guidance for handling GBVH cases and ongoing development of shared practice.

For HEIs to be effective in carrying out this work, more detailed guidance is needed on processual details and case handling. We note that ACAS has been updating its guidance on handling sexual harassment cases; we have supported them with this work and hope to continue to do so.

In England and Wales, we recommend that the OIA draw on independent expertise to produce a new section of the Good Practice Framework focusing on handling complaints and disciplinary cases relating to gender-based violence and harassment, with specific attention paid to staff-student cases. The Scottish Public Sector Ombudsman along with the Scottish Funding Council should produce similar guidance.

Across the UK, we recommend that ACAS produce guidance on bespoke processes for handling sexual harassment complaints, in order to support organisations to move away from using standard grievance/disciplinary processes for this issue.

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6   To improve accountability mechanisms for individual reporting/responding parties, one option would be to take forward primary legislation to reconfigure the OIA to become a full higher education ombuds organisation, open to complaints from staff, students, and members of the public, with more powers to enable it to hold HEIs to account in handling of discrimination-related cases, including GBVH. Such a move would bring England and Wales in line with Scotland and Northern Ireland in having access to a public sector ombuds organisation. This reform would recognise the increasing number and importance of discrimination-related cases, including GBVH but also harassment and discrimination related to all protected characteristics.

There also needs to be ongoing cross-sector mechanisms within the HE sector for scrutinising complex cases and producing guidance on emerging issues, such as a national serious cases review panel (as recommended by Dickinson (2023)).

We therefore recommend that a complex cases panel is set up to serve this purpose, with membership including representatives from practitioners handling cases in HEIs as well as reporting parties, specialist gender-based violence organisations, Universities HR, and relevant sector organisations as above.

3   Data reporting and transparency

While this report has not focused on data reporting within HEIs on this issue, this research has been necessary in part due to the lack of transparency and data reporting by HEIs on this issue.

We therefore recommend that public data reporting for GBVH disclosure, reporting and outcomes in HEIs are made mandatory as part of the proposed regulatory regime from the OfS in England and Wales, and are also required from institutions by the Scottish Funding Council, (following the model of similar work ongoing in Ireland).

4   A further recommendation is aimed at UCU

This report found that UCU local branches appear to prioritise representation for responding parties over reporting parties; that in some cases they are using harmful tactics to defend staff respondents; and that ECRs who are looking for work may be unable to access union representation in complaints.

We recommend that UCU produces a good practice guide for local branches and representatives in how to tackle these issues and work towards more ethical conduct in handling cases, as well as gathering and publicising data on whether reporting and responding parties are being represented.

As above, we also recommend that UCU – via the Trades Unions Congress – raise the issue of sexual harassment prevention, reporting and investigation with the HSE Board.

REFERENCES

Bull, A., & Page, T. (2022). The Governance of Complaints in UK Higher Education: Critically Examining 'Remedies' for Staff Sexual Misconduct. *Social & Legal Studies*, 31(1), 27–49.

Bull, A., Calvert-Lee, G., and Page, T. (2021). 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* 25, no. 2 (April 3): 72–77.

Culture Shift. (2019). *How to use the insight from anonymous reports with UCL*. https://insight.culture-shift.co.uk/higher-education/how-to-use-insights-from-anonymous-reports-effectively

Dickinson, J. (2023). *Student calls for freedom from harm are finally being heeded*. Wonkhe. https://wonkhe.com/blogs/student-calls-for-freedom-from-harm-are-finally-being-heeded/

Eversheds Sutherland. (2022). *Legal Briefing Staff to student sexual misconduct*. Universities UK. https://www.universitiesuk.ac.uk/sites/default/files/field/downloads/2022-09/uuk-eversheds-sutherland-staff-to-student-sexual-misconduct-legal-briefing.pdf

Humphreys, C.J., Towl, G.J. (2020). *Addressing Student Sexual Violence in Higher Education: A Good Practice Guide*. Emerald Publishing Limited, Bingley, U.K.

Office of the Independent Adjudicator. (2022). *Good Practice Framework*. https://www.oiahe.org.uk/resources-and-publications/good-practice-framework/

Office of the Independent Adjudicator. (2023). 2022 *Annual Repor*t. https://www.oiahe.org.uk/media/2832/oia-annual-report-2022.pdf

Pinsent Masons, & Universities UK. (2016). *Guidance For Higher Education Institutions How To Handle Alleged Student Misconduct Which May Also Constitute A Criminal Offence*. https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2016/guidance-for-higher-education-institutions.pdf

The 1752 Group, & McAllister Olivarius. (2020). *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/2021/09/5ed32-the-1752-group-and-mcallister-olivarius-sector-guidance-to-address-staff-sexual-misconduct-in-uk-he.pdf

Universities UK. (2022a). *Changing the culture: Tackling staff-to-student sexual misconduct. Strategic guide for universities*. https://www.universitiesuk.ac.uk/sites/default/files/field/downloads/2022-02/staff-to-student-misconduct-strategic-guide-28-02-22_1.pdf

Universities UK. (2022b). *Changing the culture: Sharing personal data in harassment cases. Strategic guide*. https://www.universitiesuk.ac.uk/sites/default/files/uploads/Reports/Changing-the-culture-sharing-personal-data-in-harassment-cases-Strategic-guide.pdf