# **Staff sexual misconduct in higher education: impacts, responses and challenges**

## Abstract

Sexual misconduct perpetrated by academic staff affects tens of thousands of students in the UK, particularly women, LGBTQ+ students and postgraduate students. It can take a variety of forms including sexual or gender harassment, ‘grooming’, and/or sexual assault or rape. It can be difficult for those targeted to recognise sexual misconduct while it is occurring due to a lack of clear professional boundaries between staff and students in higher education. Staff sexual misconduct can have both academic and non-academic impacts, however, most people do not report it and rely on family and friends for support. Those who do report tend to do so in order to protect themselves from further harm, to protect other students or staff from being targeted by the same perpetrator, or to be able to continue their studies/career. Unfortunately, current practice for handling staff sexual misconduct complaints in UK HE institutions fails to offer a fair process, as the complainant is relegated to the status of ‘witness’ in disciplinary proceedings taken by the institution against the perpetrator. Institutions also need to improve safeguarding practices and remedies offered to students whose complaints are upheld.

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## **Introduction**

Sexual misconduct towards students by academic staff[[1]](#footnote-1) in Higher Education (HE) is both a cause and a consequence of gender inequality. Not only that, but it also reflects and exacerbates other inequalities: female, queer, trans and non-binary students, and students of colour are more at risk of experiencing sexual misconduct from staff, and experience greater harms when it occurs (Australian Human Rights Commission, 2017; Cantor et al., 2015; Kalof et al., 2001; National Union of Students, 2018). Existing research, policy, and practical interventions into sexual violence in HE have focused on violence or harassment perpetrated by students on other students (see for example Phipps and Young, 2014; Universities UK, 2016). As a result, staff sexual misconduct has only recently been formulated as a policy problem at national level in the UK. Outside the UK, there has also been recent attention to staff sexual misconduct, for example, in the US and Australia, where large-scale studies have found a relatively high incidence of staff sexual misconduct towards students (Australian Human Rights Commission, 2017; Cantor et al., 2015; National Academies, 2018). In a US study of 150,000 students, out of the 47.7% of students who indicated that they have been the victims of sexual harassment since enrolled, 9.3% of these indicated they had experienced sexual harassment from a member of faculty; a figure which rose to 22.4% among women graduate students (Cantor et al., 2015: 29-31). While no comparable prevalence study exists in the UK, if the proportion is similar, 105,755 students out of the 2018-19 UK student population would have experienced sexual harassment from HE staff, out of which 36,639 would be women postgraduate students (Higher Education Statistics Agency, 2018). Tackling this issue will therefore affect the lives and careers of many students, predominantly women.

While there are many similarities between student and staff sexual misconduct in terms of how institutions should respond, there are also some differences, relating to the different status of students and staff within HE institutions as well as the different rights and protections for staff under employment law compared to students. In addition, the very fact that students are dependent on staff for their teaching and learning creates a relationship of trust that is also a power imbalance. This chapter draws on data from two research projects to outline what this power imbalance means for students who are subjected to sexual misconduct from staff: a qualitative study of interviews with 16 students and Early Career Researchers (ECRs), first published as the report ‘Silencing Students’ (Bull and Rye, 2018) as well as data from the collaborative research with the Women’s Campaign of the National Union of Students published in 2018 as the report ‘Power in the Academy’. The chapter explores what forms staff sexual misconduct takes; how the context of HE enables misconduct to occur; how survivors respond to misconduct and the impacts it has on them; and how they experience the reporting process, if they report to their institution. Throughout, the chapter draws on a case study from a student survivor, Gemma[[2]](#footnote-2), and the chapter begins by introducing her experience.

## **Gemma’s experience**

I interviewed Gemma in early 2018 about her reporting process that took place in 2016-17 (Bull and Rye, 2018). While I could have drawn on a more recent account from interviews carried out in 2020-21, my ongoing research shows that Gemma’s experience of reporting – while distressing and life-changing for her – followed standard practice for such reports. It therefore shows how an institutional response that is, on paper, following good practice, can still have very poor outcomes for the complainant, and reveals changes that need to be made to such standard practice. There are also other reasons for drawing on Gemma’s account here: her experience shows how verbal sexual harassment, stalking and boundary-blurring behaviours from staff can have a profound impact on students, even while such behaviours can sometimes be minimized as ‘not serious’ (Jackson and Sundaram, 2020). In addition, it shows how the intersection of class and gender affected her experience; as she describes below, her working-class background made this experience even more difficult and confusing for her. Finally, Gemma wanted her account to be used for educational purposes; she has given permission for it to be used in training (and readers are therefore welcome to use this case study in their own institutional training).

Her experience is atypical in various ways – she is an undergraduate, whereas it is more common for postgraduate students to be targeted. She had written evidence of sexual harassment through messages from the perpetrator to her university email account, as opposed to many cases where there is no written evidence, as a result of which survivors find it difficult to get through a complaints process. And her experience is less complicated than that of many other interviewees, who found the process could drag on for years and fail to come to resolution. However, Gemma herself finds the idea that her case was ‘straightforward’ laughable, as it felt anything but that to her. Her experience should therefore not be taken as typical, but as one illustration of the types of issues that can come up in institutional responses to this issue.

Gemma was first in her family to go to university, progressing directly from school to an elite university to study a subject she was passionate about. In her first term, she and a friend were having trouble with the department’s provision for disabilities as well as finding that their seminars were dominated by male students who made it difficult for the women to contribute. In order to raise these concerns they met with the member of staff in their department who was responsible for teaching. Following this meeting, this lecturer started sending emails to Gemma and following her on social media. In her own words:

I got a follow request off him on Instagram, so did my friend, and then I remember one night, he’d liked a picture from the very bottom of my profile, it was from two years before I’d even started uni – from ages ago, it took a lot of scrolling to get down. So I got a notification that that had been liked, and I was like, “You’re sat there on my profile,” and it was, I don’t know, 4:00am. It was a bit weird. And then, every time I’d put something on Instagram I’d get a comment or a like from him almost immediately, almost like he’d had my notifications turned on or something. So I very quickly stopped using Instagram, I was like, “I don’t want anything to do with that.” Stuff kept happening, there was an email when he was on holiday, he was in an airport and he called me a ‘bad girl’ over email. Again over the university email system.

The lecturer invited Gemma and her friend for coffee off campus on a weekend. He then persuaded them all to go for dinner together, but her friend left very soon.

During that evening […] I learned all about his ex-wife and his divorce – I didn’t ask any of this. He asked me at one point if I had a boyfriend, and I said no. I don’t know why I just didn’t say yes. Then I got invited to his flat, and I made a face, because I was like, “Oh my God, no,” and he said, “Oh, was that a bit inappropriate?” And I said, “Yes.” That was the only time I really ever said anything to him, face to face, about his behaviour. He wouldn’t let me pay for the dinner, even though I was like, “It’s not expensive, I really can pay for my own half, it’s fine.”

At this point I started blocking him on social media. I was realising this was weird. I didn’t tell my mum, because I knew she would be like, “What the hell are you doing?” So, towards the end of the first semester was when I left university. I withdrew from my course, mainly because of all of the stuff that had been happening with this professor. I wasn’t going into uni anyway. I’d stopped going to his lectures a long time before, because he used to watch me. I didn’t sit at the front, I used to sit towards the back, near the door, and I used to get emails like, “I saw you yawning today, are you tired?” And it was, “This lecture has got at least 100 people in, why are you watching me, constantly?” And it happened on multiple occasions.

As the next section explores, while Gemma initially thought that these behaviours from the lecturer were just ‘weird’, in fact they clearly constitute sexual harassment.

## **What forms does staff/faculty sexual misconduct take?**

Sexual misconduct from staff takes a range of forms. Perhaps most well-documented is sexual harassment, which under the UK’s Equality Act 2010 is defined as unwanted conduct of a sexual nature which has the purpose or effect of violating the recipient’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Harassment can also relate to other “protected characteristics” under the Equality Act, i.e. harassment relating to sex, race, age, disability, and others (although notably, class or socioeconomic disadvantage is not a protected characteristic). In the US, harassment on the basis of sex is termed ‘gender harassment’, defined as ‘verbal and nonverbal behaviors that convey hostility, objectification, exclusion, or second-class status about members of one gender’ (National Academies, 2018, 2). In Gemma’s account, the lecturer’s behaviour primarily constituted sexual harassment. As outlined above, he was trying to draw her into sexualised discussions by talking about what type of women he is attracted to and asking her about her relationship status. He was also engaging in stalking and surveillance behaviours from the lecturer, primarily on social media, but also by letting her know that he was singling her out to watch her in a class of 100 students.

Other forms of sexual misconduct include sexual violence or assault. In the study ‘Power in the Academy’, out of 1528 responses from current students, there were 35 respondents who had been subjected to non-consensual sexual contact by a staff member (2.3%), and 9 who had been subjected to sexual assault or rape (National Union of Students, 2018, 24). These behaviours could occur alongside bullying, and/or within the context of an intimate relationship with a member of staff, sometimes alongside other coercive and controlling behaviours.

Sexual harassment, assault or rape can also occur as part of a pattern of boundary-blurring and grooming behaviours. In Bull and Page (2021a, 12) we define boundary-blurring as behaviours ‘that transgress (often tacit) professional boundaries, and grooming as a pattern of these behaviours over time between people in positions of unequal power that may lead to an abuse of power’. While grooming, under the law, only refers to behaviours by an adults towards a child, this term was used by interviewees in Bull and Rye (2018) to make sense of their experiences of staff sexual misconduct. Indeed, since then, University College London has formally recognised ‘grooming’ in its [Prevention of Bullying, Harassment and Sexual Misconduct Policy](https://www.ucl.ac.uk/equality-diversity-inclusion/dignity-ucl/prevention-bullying-harassment-and-sexual-misconduct-policy) (2020, 3.6):

Grooming can be defined as a gradual process that someone in a position of power uses to manipulate someone to do things they may not be comfortable with and to make them less likely to reject or report abusive behaviour.  Grooming will initially start as befriending someone and making them feel special and may result in sexual abuse and/or exploitation.

Definitions such as these in policy, publicly visible, are important not only to be drawn on in complaints processes, but also to help students and staff make sense of their experiences. A common theme for interviewees in Bull and Rye (2018) was that even if they knew they were uncomfortable about something, they didn’t recognise what was happening for some time. Indeed, this was precisely Gemma’s experience. She described how, when she was writing up an account of what had happened in order to report it, she took the advice of the Students’ Union to write it in a timeline:

so that they could really see the escalation and progression of things, because rather than one solo incident, it was like a build-up of stuff over time, and lots and lots of small things that alone would have been just a bit strange, but put together was a serious issue, which again, I only realised when it was at the end of it, and when someone said, “This is bad,” because I was like, “Oh, that’s just a bit weird. He’s just a bit weird.” But then when you added it all together, it was strange. It was sexual harassment. That’s what it was.

Gemma’s account illustrates a point that comes up time and time again in interviewees’ accounts: although she had dropped out of university primarily because of this experience, it wasn’t until she wrote it up in a timeline and looked at all the behaviours together that she realised the weight of it. A lot of ‘small things’ that were about the lecturer ‘being a bit weird’, when added up together could be seen for what they were: sexual harassment.

## **How does HE create the context for staff sexual misconduct to occur?**

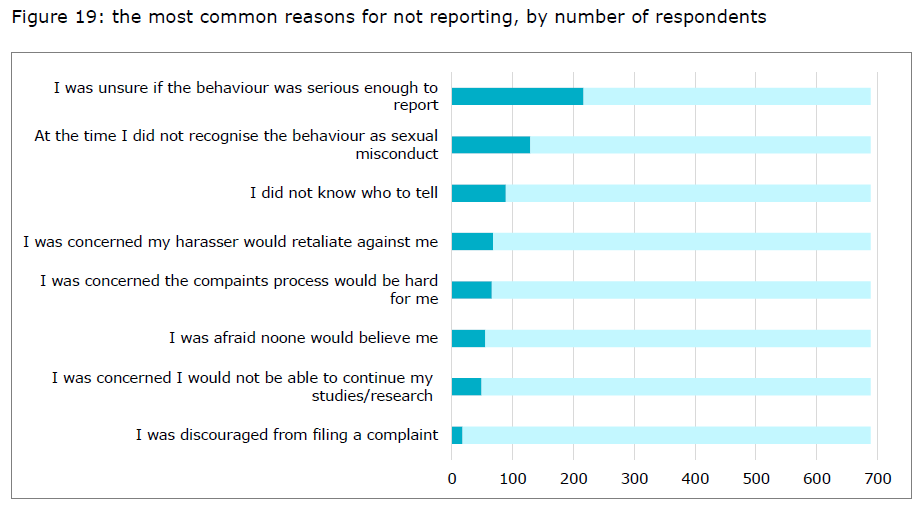
Higher education is saturated with power hierarchies, whether of age, gender, gender identity, sexuality, knowledge/expertise, class, race, level of seniority or level of study, contract and funding status, visa status, or temporary/permanent membership of the institution. An extensive research literature has documented these inequalities and the various ways that they affect students’ and staff members’ ability to engage with their work and study (see, for example, Arday and Mirza 201; Bhopal 2015).

Inequalities create what Liz Kelly calls a ‘conducive context’ that allows harassment and abuse to occur (2016. While anyone, anywhere can be subjected to sexual and gender-based violence or harassment, it is much more likely to happen within a relationship of unequal power. Here I focus on one aspect of inequality that has been well documented in UK higher education: class. Working-class students’ experiences of higher education varied across different types of institutions, but at so-called ‘elite’ institutions they had to do considerable ‘identity work’ to manage to ‘fit in’ (Reay 2010, 120). However, one aspect of this experience that has been less documented is the way it affects relationships with academic staff. Gemma found that her lack of family history of higher education – often used as one indicator of class in the UK – meant she was unfamiliar with how to interact with lecturers:

I’m the eldest in my family, I’ve got no older siblings, no one in my family at all has ever been to uni, so I was the first of my immediate and then also wider family to have ever gone to uni. No one has ever been. So I had no idea what to expect. I didn’t have any friends who were older than me or anything, so it was completely new, and it was a similar situation for the friends that I made as well. So we were all very new to the whole university experience. They don’t tell you what normal interaction with the lecturers is like. This is the problem. I had no idea what was normal. I thought his behaviour was like, “Oh, he’s just being really friendly, it’s fine.” It was only when I sat down at the end and added up everything that I thought, “No, that’s not right,” but it took me a long time to realise.

Class status can also affect help-seeking behaviour as students may not want to disclose that something is wrong if they have already taken a risk by going to university. These issues can be compounded by racial inequalities and/or visa status or international student status, where students may be unwilling to disclose to family or unable to report due to time restrictions on their visa. It’s also important to highlight the interactions of disability and sexual misconduct. Perpetrators can target those who are vulnerable in some way – including those who are disabled or have mental ill-health – but also sexual violence or harassment can cause disability in the form of post-traumatic stress disorder. This can then have a long-term impact on the survivor’s studies and career.

## **How do people respond to harassment?**

There are numerous ways in which people respond to harassment, but common responses include trying to avoid the perpetrator, trying to appease them, putting up with it, minimizing the behavior or ignoring it, and/or seeking social support from friends and family in order to be able to deal with it (National Academies, 2018, 79). In addition, it is important to remember that the vast majority of people who are subjected to staff sexual misconduct do not report to their institution, or to the police, and may not even tell anyone about this. In our report ‘Power in the Academy’ (National Union of Students, 2018), we found that fewer than 10% of those who had been subjected to any of the behaviours we asked about had reported this to their institution. The reasons given for not reporting are outlined in Figure one. 

**Figure one: The most common barriers to reporting (National Union of Students, 2018).**

Free text responses to this question showed that, as well as the points outlined above, there was a certain amount of low-level boundary-blurring behavior that respondents didn’t feel any need to report, for example, ‘the odd sexual joke in class [which] wasn't anything untoward’, or ‘I didn't feel threatened, just awkward, so didn't feel it necessary’. Other responses pointed to more complex experiences, with one respondent stating that ‘I liked the attention and frankly wanted more’ and others not reporting due to concerns over ‘retaliation/judgement from everyone else’ and being ‘concerned it would exacerbate untrue rumours being spread’. A number of responses noted that they didn’t report misconduct because the experience was something they witnessed rather than experienced themselves; it’s important to remember, however, that sexual harassment affects those who witness it, as well as those who are directly targeted (National Academies, 2018, 78).

Overall, these responses – unsurprisingly – point towards a wide range of interpersonal experiences between staff and students, some of which may blur boundaries but in a consensual way, and others of which suggest that there are unclear boundaries in staff-student – and perhaps also in staff-staff – relationships. Indeed, not all higher education institutions in the UK have a staff code of conduct and only a few have policies prohibiting staff-student sexual and romantic relationships. This means that the behaviour that Gemma experienced from her lecturer is even more difficult to label as inappropriate, as there is a lack of consensus as to what is acceptable or normal in this relationship. Indeed, one issue that she found very confusing was moving from school, where there are very clear boundaries between teachers and students, to university just a few months later, “where anything goes and everyone is supposed to be a consenting adult” as she described it.

While prohibiting staff-student sexual relationships is a blunt tool to address unclear boundaries, it does at least send a clear signal that the teaching and learning relationship between staff and students should take priority over romantic or sexual relationships in the higher education space.

## **Why do people report sexual misconduct?**

Deciding to report is sometimes discussed as though it is a straightforward step. However, this is seldom the case. In the accounts from interviewees for the Silencing Students report:

Multiple, overlapping reasons for disclosure and/or reporting were discussed over the course of what were sometimes very complex accounts. The decision to report could rarely be narrowed down to a single point in time. Initial disclosures could prove ineffective, leading to the decision-making process having to happen all over again in light of this response, or previous decisions *not* to report were later revisited by interviewees in light of changed circumstances (Bull, forthcoming).

In Gemma’s case, she did not initially intend to report her experiences as she was, effectively, solving the problem – even if in a very drastic way – by dropping out of university. However, before she left, she and her friend met with the Students’ Union about the university’s failure to support them with their disability support, and her friend mentioned this lecturer’s behavior. As Gemma explained,

As soon as that was mentioned, the Student Union advisor immediately was like, “What’s this? Tell me everything.” So I did, and she was like, “This is the problem here. I mean, sure, the department have been rubbish, but this is a really, really massive issue.” I remember leaving that meeting like, “Oh dear.” So I wrote my complaint with the help of the Students’ Union.

In Gemma’s account, it is the Students’ Union advice worker who first labels and calls out this behaviour, helping Gemma shift from seeing it as ‘a bit weird’ to something that was having a powerful impact on her engagement at university. Indeed, a study of 40 academic staff in the US who were sexually harassed by other staff found that some respondents noted that they had not immediately recognized those experiences as such (National Academies, 2018, p.236). As a result, it is crucial for others – particularly staff in student-facing roles – to recognise, and avoid minimising, sexual harassment and grooming behaviours.

The most common reasons for reporting staff sexual misconduct given by interviewees were to protect oneself from further harm and get the harassment to stop; to protect other women; to continue ones’ career or studies; and because reporting is seen as the ‘right thing to do’ (Bull, forthcoming; this is in line with the findings from National Academies study (2018, 241)). However, as well as these rationales for reporting, there were also specific catalysts or triggers that affected the timing of reporting. These could include a change in circumstances, perhaps due to graduating or leaving the institution; finding out new information, for example, realising that others had also been targeted; or being validated by someone within the institution that what they had experienced was not ok. The catalyst for Gemma’s report was being validated by the Students’ Union advisor that this behaviour was not acceptable. For Gemma, the rationale for reporting came later, during the reporting process, where she found the strength to fight to ‘do the right thing’. It is helpful to think about these two different aspects of the decision to report, as it means that institutions can deliberately create catalysts to reporting. This could include explicitly asking students/staff if they want to disclose issues at ‘trigger’ points such as when they are dropping out of or leaving the institution (as already happens for staff if they have exit interviews), and by making sure staff give clear and consistent messages about what behaviours are acceptable.

## **How do students experience the reporting process?**

Once the initial disclosure or report has been made, the process can be immensely difficult. Gemma moved back in with her mother, away from her university, and dealt with the complaint from there. After just over a month, her report was passed from the student complaints department to Human Resources (HR). Someone from the HR department arranged a phone call with her, which proved to be distressing:

I spoke to [the HR representative] on the phone, during which he told me that I should be very careful about what I was doing because I could ruin someone’s career, and that things like this were often found to be a misunderstanding. Then I asked, “How does the process work? What happens from now?” And he told me that at one point I’d be interviewed or questioned by the lecturer that I submitted a complaint against, in front of a large audience, and that I’d be questioned by him and his union representative.

I sat there in my bedroom, on my own, because my mum was at work and my sister was out all day at school, and I vividly remember being in an absolute state after this phone call, because he was really quite intimidating, and made it sound like such a scary thing that I literally wrote out an email to HR and said, “No, I’m not doing this” which is obviously what they wanted; they wanted me to not go forward with it. But instead, I emailed the Students’ Union, and I said, “I’m having some issues, what on earth does all of this mean? This dude has really scared me, help.” So they rang me back really quickly, and they said, “That’s not okay, he should not have said those things to you. This is not going to happen, there’s no way you’re going to be questioned by the lecturer and you’re not going to do it in front of a large audience.”

This conversation marked the start of Gemma’s fight to make the complaints process safe for her. Together with the students’ union, she had to fight to ask for a woman to be included as a member of the disciplinary panel, and to give her evidence at a different time from the lecturer rather than to face him directly. Some issues that she was concerned about were not addressed, for example, she was unhappy that the head of her department was leading the investigation, who was the line manager of the lecturer who had harassed her. While this is standard practice, it felt to her that this was a conflict of interest.

Overall, Gemma felt like they were making it up the process they went along, as the university didn’t have policies that explicitly addressed this situation. She found it hugely stressful as she was a long way out of her depth. She also found it made her very angry and frustrated. Throughout the process there was a lack of parity between her and the lecturer. For example, they sent him all the notes from meetings with her, but failed to send her the notes and material from meetings with him until she pushed for this. When she was finally allowed to read notes from meetings and submissions to the tribunal from the lecturer, she found that he was maligning her and calling her a liar, saying that she was only doing this to get her tuition fees back, even though she had never asked for this. This was also distressing to experience. Overall, she felt like the university were protecting the member of staff, and that she was just an inconvenience.

Gemma’s experience is sadly not an isolated one. Indeed, the lack of parity between herself and the lecturer in the disciplinary process is not an aberration, but is standard practice for workplace or higher education complaints and disciplinary processes. This is because complaints – whether in student-student cases, staff-student cases, or staff-staff cases – are dealt with in a separate process to the disciplinary case that the university takes against the reported party. This means that when a complaint is passed onto a disciplinary process, the complainant becomes a witness to the university’s process against the reported party. As a witness, the complainant does not have the right to see evidence presented to the disciplinary panel by the reported party, does not have the right to call witnesses, does not have the right to union or legal advocacy, and does not even have the right to know the outcome of the case. As myself, Tiffany Page and Georgina Calvert-Lee have outlined (2020), this amounts to a discriminatory process. This is because:

In a society where vastly more sexual misconduct complaints are made by women against men than vice versa, a process for investigating sexual misconduct complaints which gives those responding more rights than those complaining might well be thought to place women as a group at a particular disadvantage and so to amount to indirect discrimination, in breach of the Equality Act 2010 (The 1752 Group and McAllister Olivarius, 2020b, 4-5).

Such discrimination is exacerbated in staff-student complaints processes due to the power imbalance between staff and students, whereby staff are usually older, in a position of expertise and authority over the student, and may have permanent contracts at the institution whereas students are only temporary members. These inequalities are often compounded by a gender power imbalance as well as fear or trauma stemming from the sexual misconduct.

This discrimination in the complaints process is one of the main problems with institutional complaints processes. However, other problems also arise. These include a lack of knowledge among investigators or disciplinary panel members as to what constitutes sexual harassment or consent; retaliation or victimization from the perpetrator and his allies during the process; lack of support from the institution during the process; lack of communication from the institution to the complainant; inadequate policies for dealing with staff-student complaints; lack of joined-up working within the institution; or complaints handlers simply failing to follow institutional policies.

In addition, it is common for staff sexual misconduct complaints to take a very long time. Indeed, this was the case for Gemma, who spent nine months pursuing her case. Finally after the disciplinary panel meeting, she received a short email from HR saying that the sexual harassment complaint had been upheld and ‘appropriate disciplinary action would be taken’. This was, apparently, the end of the process.

## **What impacts do staff sexual misconduct and the reporting process have on complainants?**

It is crucial for anyone working or studying in higher education to understand the many and varied ways in which sexual misconduct impacts on those who are targeted. This can help to better understand the types of support and remedy that are needed, as well as to build empathy for victim-survivors. As Bongiorno et al. (2019) show, victim blaming for sexual harassment can be explained in a large part through male-perpetrator empathy (or ‘himpathy’ as it is colloquially known). Therefore, increasing understanding and empathy for victim-survivors may help redress this imbalance of empathy favouring male perpetrators.

Impacts of staff sexual misconduct can be both academic and non-academic. In academic impacts, a survey of 28,270 students enrolled at the University of Texas found ‘significant differences in reports of missing class, being late for class, [and] making excuses to get out of class’ between students who had been subjected to staff/faculty sexual harassment, compared with those who had not (National Academies, 2018, 284; see also Lorenz et al., 2019). Those subjected to staff sexual harassment often report feeling less safe on campus (National Academies, 2018, 281; Rosenthal et al., 2016, 374; Bull and Rye, 2018, 17). Other academic impacts documented include loss of access to teaching; difficulty in getting references; changing research area or sub-discipline; dropping out of degree programme or career; effects on grades and degree results; loss of confidence, affecting ability to work; and loss of networks, or ability to network (Bull and Rye, 2018, 17; see National Academies (2018, 245-6) for similar impacts on staff who are targeted by other staff).

Non-academic impacts, including emotional and physical impacts, can also be very severe. In a study of graduate students who were subjected to sexual harassment, Rosenthal et al. found an ‘association of sexual harassment with post-traumatic symptoms, even when statistically controlling for other forms of trauma’ (Rosenthal et al., 2016, 374). There is evidence that being victimised within a trusted institution exacerbates posttraumatic symptoms (Rosenthal et al., 2016, 374). Other mental health impacts include depression, anxiety, and suicide attempts, while emotional impacts can include fear, anger, and a sense of powerlessness (Bull and Rye, 2018, p.17). Not only this, but financial impacts can also occur through loss of earnings, loss of tuition/living costs, and needing to pay legal and counselling fees.

In students’ own words, some of the impacts described by respondents to the ‘Power in the Academy’ survey included:

* ‘Avoided staff members associated with the academic who assaulted me’
* ‘Felt frustrated and helpless. Lost confidence in my institution and their ability to help’
* ‘Avoided choosing a project I was interested in’
* ‘Lost a job opportunity’
* ‘Avoided student support services as they made me feel very insecure with comments about being trans’

As the final comment shows, the impacts of staff sexual misconduct can be compounded by those who also hold other marginalized identities. In this case the ‘comments about being trans’ meant the student was unable to seek support from the usual channels. This is particularly concerning as LGBTQ+ students are even more likely to be targeted for sexual harassment by staff than other groups (National Union of Students, 2018).

Many of these impacts were experienced by Gemma. She decided to return to the same university the following year, but to do a different degree course on a different campus. This meant she was able to avoid being in any spaces where the lecturer who had targeted her might be. Before she got back to university she checked online, and he was still in post, and as a result she was unable to stomach doing any modules in his department, even though that was a possibility on her new degree course, and the subject she had been studying was her passion.

On returning to the university, there appeared to have been no effects for the lecturer as a result of her complaint. She still felt angry and didn’t make friends on her new degree course as she found it difficult to explain to them what happened – a further impact on her was therefore isolation from her fellow students. She did enjoy her new degree but felt nothing like the passion she had for her previous subject, and she remained suspicious of male lecturers, avoiding attending office hours with them. She also avoided any spaces where the lecturer who targeted her might be on campus. Her friends from her old degree course also avoided taking any modules with the lecturer for fear that he would retaliate towards them due to being friends with her. The impacts of his actions therefore continued to be felt both by Gemma and by other students even after the complaint was closed.

## **Remedy and safeguarding**

One of the things that kept Gemma going with her complaint was the knowledge that the lecturer had a reputation for being ‘creepy’ among other students. She told me that her housemates were aware of the lecturer stalking others on social media, including sending them private messages on Facebook. This points to one area where HE institutions still have some way to go in improving practice: safeguarding both complainants and other staff/students from harm. Indeed, risk assessments have been highlighted as one area that UK universities need to improve on (Universities UK, 2019). Gemma’s experience highlights this clearly: despite being the victim, she was the one who had to change her plans and avoid the lecturer on campus, rather than any efforts being made to make the department safe for her. But not only that, but other students in the department were aware of the lecturer’s ‘creepy’ reputation and were warning each other and avoiding his modules. While the university had treated the complaint as an individualised case, such an approach fails to recognise that it is common for multiple students – and sometimes other staff as well – to be targeted by a staff perpetrator (Bull and Rye, 2018).

When institutions receive a report or disclosure of staff sexual misconduct, they should therefore assume that other students have been or will be targeted, and should implement safeguarding actions accordingly. This may include suspending a staff member during an investigation, as well as asking any other students/staff in the department who have been affected to come forward (without naming the staff member) as outlined in The 1752 Group and McAllister Olivarius (2020b). They can also implement no-contact agreements (during an investigation) or orders (after an upheld complaint) that prioritise the complainant’s access to their teaching and learning spaces. In addition, disciplinary panels should consider safeguarding actions as well as disciplinary sanctions after an upheld complaint.

A second area in which HE institutions need to improve their practice is around ‘remedy’. Remedy can be defined in the UK HE context, for students, as:

An apology, an explanation of any actions the provider has taken as a result of learning from the complaint, or an academic or financial remedy, depending on the nature of the concern, the impact on the student, and what the student is seeking (Office for the Independent Adjudicator, 2018).

Out of 15 student complainants interviewed in 2018 for Bull and Rye (2018), only four managed to obtain any form of remedy after making a complaint. For the other complainants, either the institution took no action or inadequate, informal action only on their complaint or disclosure; or the complainant was a witness or third party to a complaint (even if they had been subject to misconduct themselves) and so they did not receive any remedy or information about the outcome; or they were unable to finish the internal complaints process within their institution because it was too convoluted, lengthy and traumatising. For those who did obtain remedy, as described in Bull and Page (2021b):

None of [them] thought that the remedy they had obtained succeeded in ‘putting things right’ […] The remedies obtained, in being primarily financial, were in keeping with a private or consumerist model of complaints, and did not safeguard complainants or others from further harm from the staff member, nor address the harms they had suffered during the complaints process.

Remedy is therefore linked in with safeguarding; for many complainants, safeguarding other students/staff was the remedy they were looking for. However, not only was it very difficult for complainants to obtain remedy, but even to obtain information about what had happened during their complaint was very difficult. As noted above, at the end of Gemma’s complaint:

All I received was this email saying, “Appropriate disciplinary action will be taken.” So that’s the end of that. […] The head of department could have just sat down with [the lecturer] with a coffee and been like, “Mate, don’t do that again. Don’t be an idiot,” […] I could have spent 10 months of my life stressed to high heaven about this bloody procedure and this stupid man, and it’s literally done nothing.

This is in line with some/many? current interpretations of data protection legislation in some UK universities. However, as the Equality and Human Rights Commission have outlined, it is possible to provide information on disciplinary sanctions to the complainant as long as policies and employment contracts state that this information might be shared (2020, 5.66-5.68). Other institutions go further; UN Women (2018: 5) argue that in order to create a ‘new normal’ around sexual harassment across society, ‘prompt, appropriate, and *publicly disseminated* sanctions against perpetrators, regardless of their status or seniority’ are needed (my emphasis). Ongoing discussions on how to balance the Equality Act, Human Rights Act and GDPR are discussed in chapter xxx in this volume. Here, it can be seen that failure to provide complainants with any information at the end of a complaint has the effect of alienating them and causing them to lose trust in the institution. Indeed, Gemma felt that it was hypocritical that the leader of her university was talking about ‘zero tolerance’ for sexual harassment at a time when she was having an awful time in the complaints process, and there were no visible sanctions for the perpetrator.

Unusually, Gemma did indeed receive some remedy at the end of her complaint, in the form of a fees refund for her first year. For her, however, this did not go very far at all towards ‘putting things right’ by returning the student ‘to the position they were in before the circumstances of the complaint’ (2019: 4), as the Office for the Independent Adjudicator describe it. She lost the chance to study the subject she was passionate about, and she lost trust in male lecturers, and indeed in the institution itself.

## **Conclusion**

I asked Gemma if there was anything her university did well in handling her report. Her response was clear:

Gemma: The Students’ Union were helpful, they were good, but they’re not affiliated with the uni. I mean, my harassment advisor that I had, she was really nice and she was helpful, and she did help me, but as an employee of the university [she] was very much, “They’ve tried their best.” I mean, she is angry about it as well, I’m sure, but when I was expressing real anger about not finding out what had happened, she was just like […] “That’s just how it is, you’re just going to have to accept it.” And I’m, “I don’t want to accept it, that’s not the point. I’m angry about it.” I say to people I’m going to die bitter. I’m so fed up.

Anna: So you’re still angry?

Gemma: Yes, yes. I don’t think they did anything right.

Ultimately, Gemma’s anger was due to the lack of accountability by the staff member for his actions, and the extremely stressful complaints process she had had to go through, to obtain no adequate outcome. Her experience points to sector-wide issues in the ways in how HEIs respond to staff sexual misconduct. It suggests – as is confirmed by our findings in Power in the Academy (2018) – that there are still parts of higher education where sexual harassment by students from staff is normalised, and that students may be aware of such issues when the institution is not. It suggests that the standard process followed by institutions is not a ‘fair’ one as required from the Office for Students’ (2021), as there is a lack of parity between complainant and responding party. It shows that HR departments urgently need training in dealing with sexual harassment and violence. It points to ongoing questions around what safeguarding and risk assessments should look like in higher education, to ensure that not only the reporting party is protected but also other students/staff who may be targeted. And it suggests that current interpretations of ‘remedy’ for sexual harassment complaints fail to live up to OIA guidance of ‘putting things right’ and fail to take into account the many and varied impacts of sexual harassment for those who are subjected to it.

In a post-#MeToo world, the extent of the shift that is required for institutions to play their part in tackling sexual and gender-based violence is perhaps only now becoming clear. It requires a seismic shift – even an historic shift – that parallels some of the changes made to tackle violence against women by second-wave feminists in the 1970s and 1980s. Society has finally woken up to the fact that sexual and gender-based violence are endemic, and that it is not only the criminal justice system that has to deal with this issue, but *all* institutions in society – from education institutions to workplaces to community groups. This is a huge task. In HE, such a shift requires universities to *prioritise* tackling sexual and gender-based violence. It also requires a level of care for students and staff that is not incentivised in a marketised system; in the UK, market incentives form part of a wider regulatory system for HE (McCaig, 2017: 18) but at the time of writing there existed no statutory requirements for addressing sexual misconduct, and even if these were introduced it seems likely that the imperative to maximise student numbers would still take priority. Nevertheless, if HEIs were to take this seriously, they would need to engage with specialist sexual and gender-based violence organisations such as Rape Crisis in order to implement survivor-centred approaches to tackling this issue (Bull et al., 2019). More broadly, at a government level tackling this issue requires specific, careful regulation, for example, around requirements for data collection and publication, and it requires courage and ingenuity from non-governmental organisations that work in related areas such as data protection or complaints adjudication. And from all of us, it requires no longer being complicit with everyday words and actions that minimise or normalise sexual and gender-based violence and harassment, but instead stepping up to challenge these.

# **Summary**

Sexual misconduct perpetrated by academic staff has only recently been formulated as a policy problem at national level in the UK, despite evidence that this issue affects tens of thousands of students, particularly women, LGBTQ+ students and postgraduate students. Staff sexual misconduct can take a variety of forms, from sexual or gender harassment such as sexualised comments or interactions, and/or sexual assault or rape. These behaviours may occur alongside bullying or within an intimate partner relationship. The chapter also introduces the terms ‘boundary-blurring behaviours’ – those that transgress (often tacit) professional boundaries – and ‘grooming’: a pattern of these behaviours over time between people in positions of unequal power that may lead to an abuse of power. It can be difficult for those targeted to recognise sexual harassment and grooming while it is occurring, in part due to a lack of clear professional boundaries between staff and students in higher education.

This chapter introduces the case study of Gemma, a student who was subjected to sexual harassment in the first year of her degree course from a lecturer and subsequently dropped out of university, and going through a formal complaints process at her university. For Gemma, the impact of sexual harassment was to drop out of university, and then when she eventually returned, to be unable to study the subject that she loved. Sexual misconduct can therefore have both academic and non-academic impacts. These impacts can include day-to-day problems such as being unable to access spaces on campus, or life-changing outcomes such as losing a career, as well as physical impacts such as PTSD. Most people do not report sexual misconduct and rely on family and friends for support, however, for those who do report, they tend to do so in order to protect themselves from further harm, to protect other students or staff from being targeted by the same perpetrator, or to be able to continue their studies/career. Unfortunately, current practice for handling sexual misconduct complaints in UK HE institutions fails to offer a fair process, as the complainant is relegated to the status of ‘witness’ in disciplinary proceedings taken by the institution against the perpetrator. This means the complainant has fewer rights in the process than the perpetrator, which compounds other difficulties of going through a complaints process.

As well as addressing this discrimination in the complaints process, the chapter highlights safeguarding issues in relation to staff sexual misconduct, arguing that when institutions receive a report or disclosure of staff sexual misconduct, they should therefore assume that other students have been or will be targeted, and should implement safeguarding actions accordingly. This is also linked with another area that institutions need to improve in: remedy, i.e. putting things right for complainants. For some complainants, safeguarding other students/staff was the remedy they were looking for. However this remedy – and any sense of justice or accountability – is difficult to obtain when no information is given to complainants at the end of their complaint. There are therefore urgent sector-wide issues to address in order to move towards justice for staff sexual misconduct complainants.

# Annotated references

Bull, A., & Page, T. (2021a). Students’ accounts of grooming and boundary-blurring behaviours by academic staff in UK higher education. *Gender and Education*, 1–16. <https://doi.org/10.1080/09540253.2021.1884199>

This article introduces and defines the terms ‘grooming’ and ‘boundary-blurring’ behaviours in HE. It draws on interviews with 15 students and one early career academic in UK higher education who had reported or attempted to report sexual harassment/violence from a member of academic staff to their university or the police. Interviews were carried out in early 2018. The article defines **boundary-blurring:** behaviours as behaviours that ‘transgress (often tacit) professional boundaries’ and **grooming** as ‘a pattern of these behaviours over time between people in positions of unequal power that may lead to an abuse of power’. In UK law, ‘grooming’ as a criminal offence can only occur between an adult and a child. However, some interviewees used the term ‘grooming’ to describe their experiences and therefore the authors argue that this term is helpful to understand how power relations work in higher education.

One student who used the term ‘grooming’ to describe her experiences was ‘Andrea’ (all names have been changed). In her words:

“From an outsider[‘s perspective], I was saying ‘yes’ to doing certain things with him, which, for all intents and purposes, would have counted as consent, but what you don’t see is the internal conflict and the invisible power structure where he could make me say ‘yes’. […] He knew the right thing to ask and how to ask it in the right way in which it was pretty much impossible… I felt it was impossible for me to say ‘no’.” – Andrea, Master’s student

The article analyses the power imbalances interviewees described that created the context for these behaviours. These were constituted by social inequalities including gender, class, and age, as well as stemming from students’ position within their institutions. The article also explores how heterosexualised normativity allows such behaviours to be minimised and invisibilised.

The 1752 Group, & McAllister Olivarius. (2020b). *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/2020/03/the-1752-group-and-mcallister-olivarius-sector-guidance-to-address-staff-sexual-misconduct-in-uk-he-1.pdf>

One of the key actions that needs to be taken in order to encourage students to report sexual misconduct is to make the reporting and complaints process more manageable and fairer to all parties. It is to this end that we have written ‘[Sector Guidance to Address Staff Sexual Misconduct in UK Higher Education](https://1752group.com/sector-guidance/)’. The central problem that the guidance seeks to address is that existing student complaints and staff disciplinary procedures are separate processes which fail to offer similar protections and privileges to the student complainant and the responding staff member and, as a result, students are often excluded from the process purporting to resolve their complaint. We suggest that this exclusion arises because current disciplinary processes are modelled on the criminal justice system. In order to address this issue, we suggest that changes could be made to staff disciplinary processes to follow a process more akin to civil justice, thus ensuring that the process accords equal rights to complainants and respondents. This will allow HEIs to move towards a fairer process that is not open to legal challenges under the Equality Act.

We have suggested that HEIs modify their existing disciplinary processes to provide similar protections and privileges in the process to the complainant and the responding staff member. The two key principles that the guidance puts forward are:

1. Where staff disciplinary procedures are used to address student complaints, HEIs must modify these to ensure a fair process for student complainants

2. Student complainants and responding staff members must be accorded equal rights in the complaints process

What this means in practice is that the complaints process must provide both the student complainant and responding staff member equal access to evidence (including relevant sections of the investigation report), equal opportunity to put their case (including submission of evidence and attendance in person or via video link at any formal hearings), equal opportunity to challenge the evidence of the other, and to request an appeal or review, which should have full autonomy to strengthen or overturn previous findings. This is what OIA requires of HEIs handling student complaints of student sexual misconduct (OIA 2018a, 24) and there is no legitimate reason for HEIs to treat complaints of staff sexual misconduct differently, especially as they are more often liable for the unlawful actions of their staff. In addition, if the HEI decides to resolve the complaint by way of a settlement, this must be agreed by all parties rather than being solely between the institution and the staff member.

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1. In the US the term ‘faculty’ is used to refer to academic staff, and ‘staff’ refers to those in administrative or professional services roles. Here, we use the term ‘staff’ to reflect the UK context. [↑](#footnote-ref-1)
2. All names have been changed. [↑](#footnote-ref-2)