

Office for
Students



Regulating harassment and sexual misconduct: a webinar for students

9 March 2023

Event notices

- Closed captions are available – please click the CC icon
- A recording of this event will be available on the OfS website
- Please use the Q&A box rather than the Chat box to ask a question
- Use the Chat box if you would like to speak to the events team.

Agenda

1330 **Welcome**

Introduction

Consultation proposals: Proposals A-B

Questions and answers on Proposals A-B

Consultation proposals: Proposals D-F

Questions and answers on Proposals D-F

1500 **Close**

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Questions and answers on Proposals D-F

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Introducing the team



Emma Douthwaite
Safeguarding and
Welfare Manager



Misha Patel
Student Panel
member



Amy Norton
Head of Equality,
Diversity and
Inclusion



Gemma Tombs
Senior Risk
Manager -
Compliance and
Student Protection

Who is the OfS?

- The independent regulator for higher education in England
- Our mission:

We aim to ensure that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers.

OfS objectives

Every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers.

Participation

Objective 1

All students, from all backgrounds, with the ability and desire to undertake higher education, are supported to access, succeed in, and progress from higher education.

Experience

Objective 2

All students, from all backgrounds, receive a high quality academic experience, and their interests are protected while they study or in the event of provider, campus or course closure.

Outcomes

Objective 3

All students, from all backgrounds, are able to progress into employment, further study, and fulfilling lives, and their qualifications hold their value over time.

Value for money

Objective 4

All students, from all backgrounds, receive value for money.

Expected timeline



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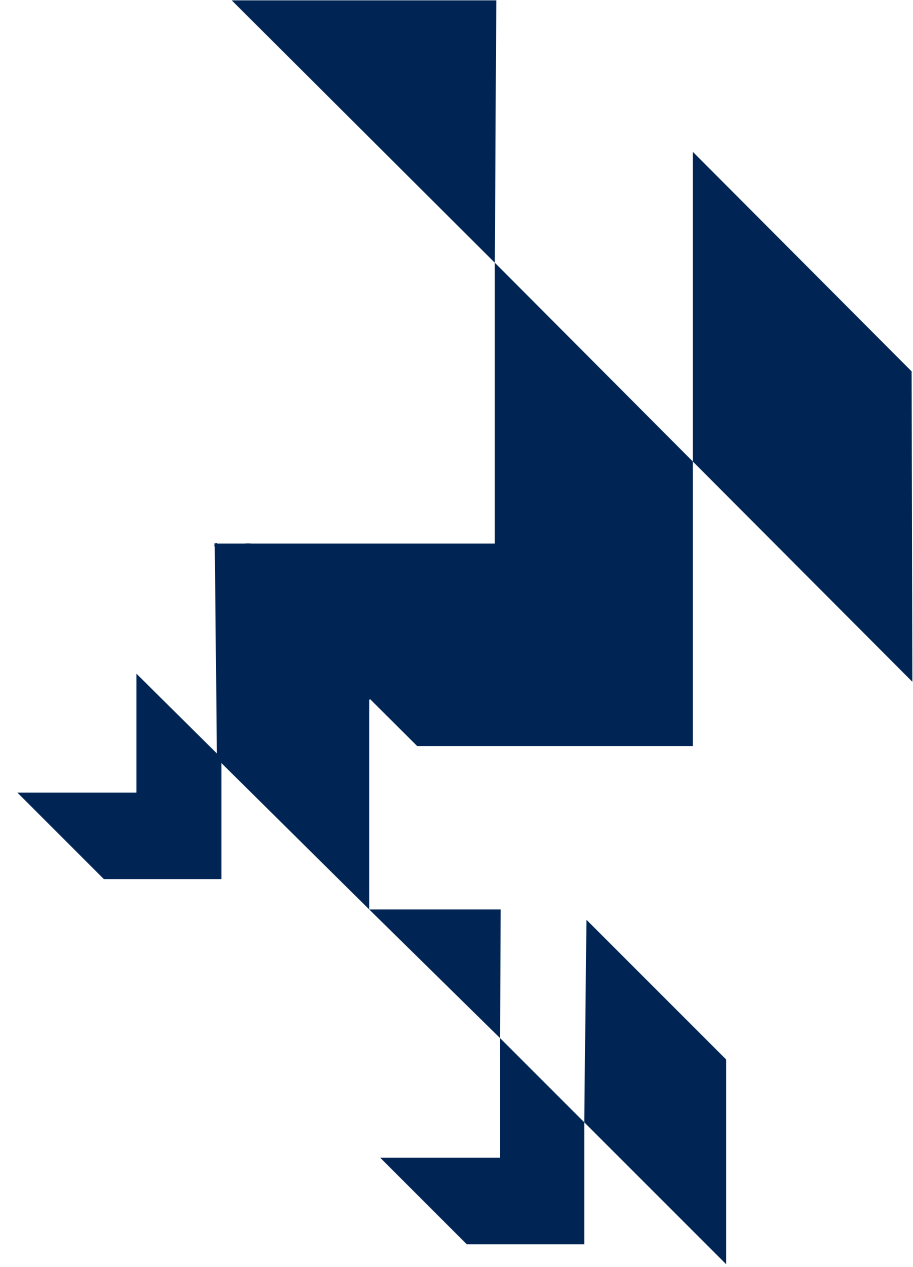
Consultation proposals: Proposals D-F

Questions and answers on Proposals D-F

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Why should you get involved in the consultation?

Misha Patel, OfS Student Panel
member





Background

- Harassment and sexual misconduct in higher education
- OfS activity to date
- Independent evaluation of our statement of expectations

Consultation proposals



- We are proposing to introduce new requirements for universities and colleges registered with the OfS – an 'ongoing condition of registration' – to address harassment and sexual misconduct
- Topics covered by our proposals include:
 - A. Defining harassment and sexual misconduct
 - B. Requiring a provider to develop and publish a 'single document' explaining its approach to harassment and sexual misconduct
 - C. Capacity and resources
 - D. Freedom of speech principles
 - E. Non-disclosure agreements
 - F. Personal relationships between staff and students
 - G. Implementation

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Definitions

- **‘Harassment’** has the meaning given in section 26 of the Equality Act 2010 and section 1 of the Protection from Harassment Act 1997 (in its entirety, and as interpreted by section 7 of the Act).
 - Objective tests for harassment under both the Equality Act and Protection from Harassment Act
- **‘Sexual misconduct’** means any unwanted or attempted unwanted conduct of a sexual nature and **includes but is not limited to:**
 - i. sexual harassment as defined by section 26(2) of the Equality Act 2010; and
 - ii. assault as defined by the Sexual Offences Act 2003; and
 - iii. rape as defined by the Sexual Offences Act 2003.



A 'single document' on harassment and sexual misconduct

- Requirement to have a 'single document' which should be 'prominently published'
- Document should include steps which could make a significant difference in protecting students from harassment and sexual misconduct, including those which might reduce the likelihood of harassment or sexual misconduct taking place
- Other minimum content requirements cover reporting, information handling, staff and student training, student support, investigations, and how those involved are informed of the outcomes of investigations
- Additional 'content principles' for the single document ensure and explain that a provider may include other information in its single document, but that these or any other document must not contradict, undermine or conflict with the minimum content requirements. The minimum content requirements take precedence over any other information or provisions.

Reporting, investigations and decisions about complaints



- How students, staff or others can report incidents to the university and college
- How information related to incidents will be handled sensitively and used fairly
- How the university or college will ensure that investigations undertaken and decisions made are credible, fair and otherwise reflect established principles of natural justice
- Staff training requirements

Support for students

- Support for **all** students – covers potential or actual victims, witnesses, and actual or alleged perpetrators of harassment/sexual misconduct
- Support is provided at all relevant times as appropriate, for example, before any formal investigation, for the duration of an investigation, and following its outcome





Support for students

- Students do not need to formally report an incident to be eligible to receive support
- Support is appropriate for a student's individual needs
- Covers both personal support (e.g. counselling) and academic support (e.g. extenuating circumstances)



Training

- Students must be ‘appropriately taught’ about harassment and sexual misconduct. Examples of how to ensure students are appropriately taught might include:
 - mandatory training for all students
 - bystander training and sexual consent training
 - training is underpinned by credible evidence, evaluated, and designed and delivered by those with expertise

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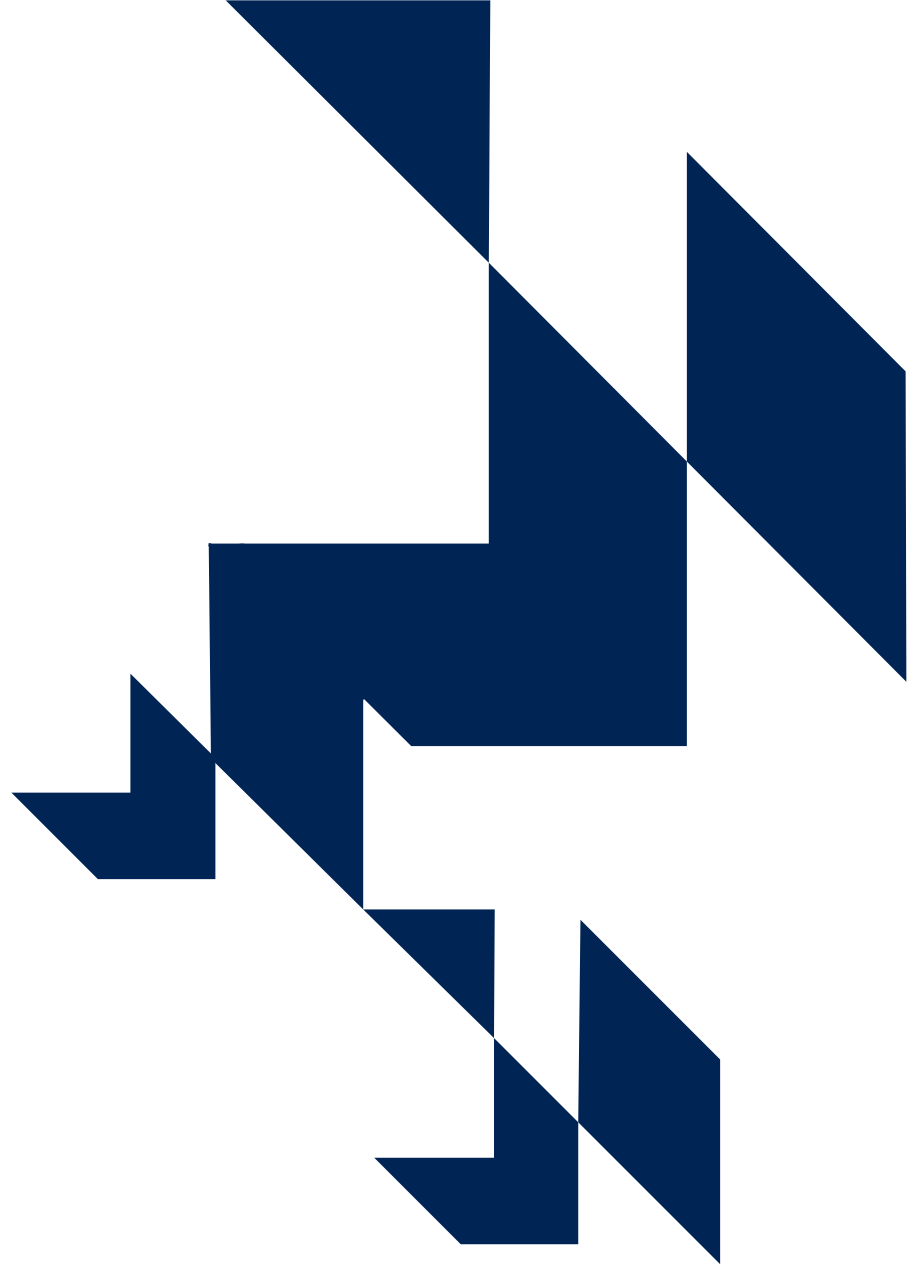
Questions and answers on Proposals A-B

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Questions and answers



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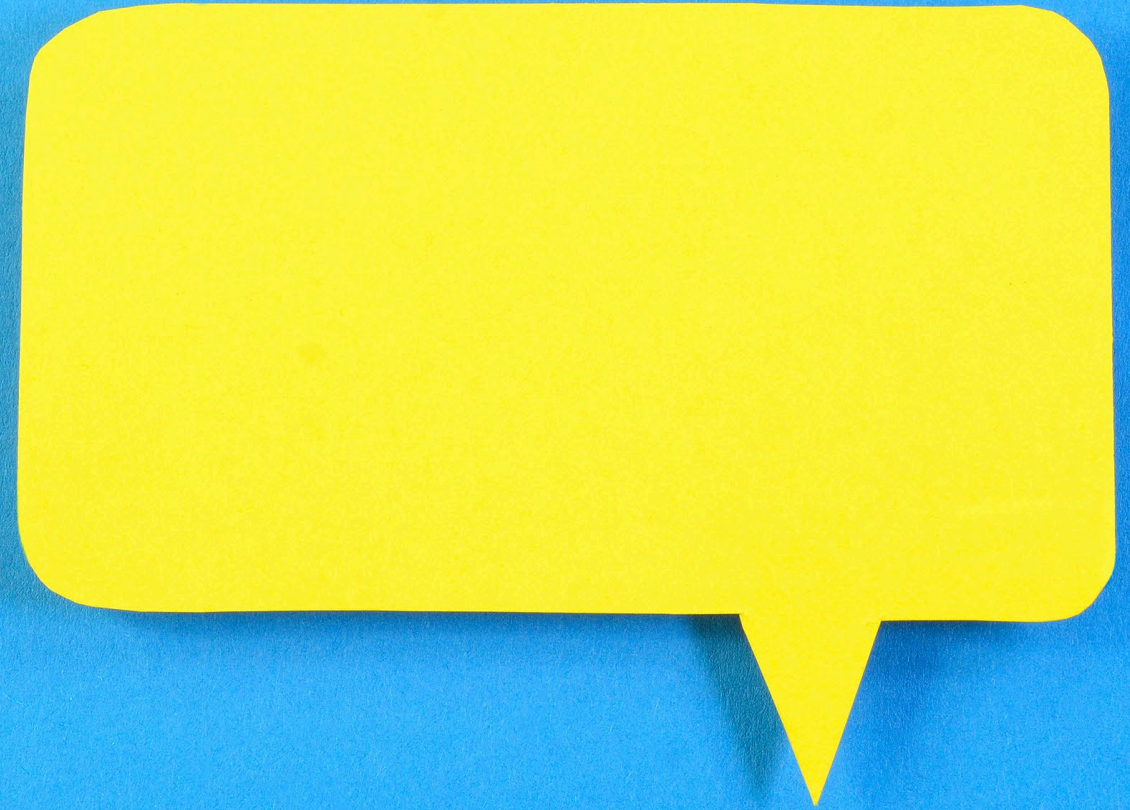
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Freedom of speech principles

- A university or college must have particular regard to and place significant weight on the importance of freedom of speech within the law, academic freedom and tolerance for controversial views.
- Exposure of students to course materials or views expressed by a person as part of teaching, research or discussions about subject matter is unlikely to constitute harassment unless this is proven to be the case.

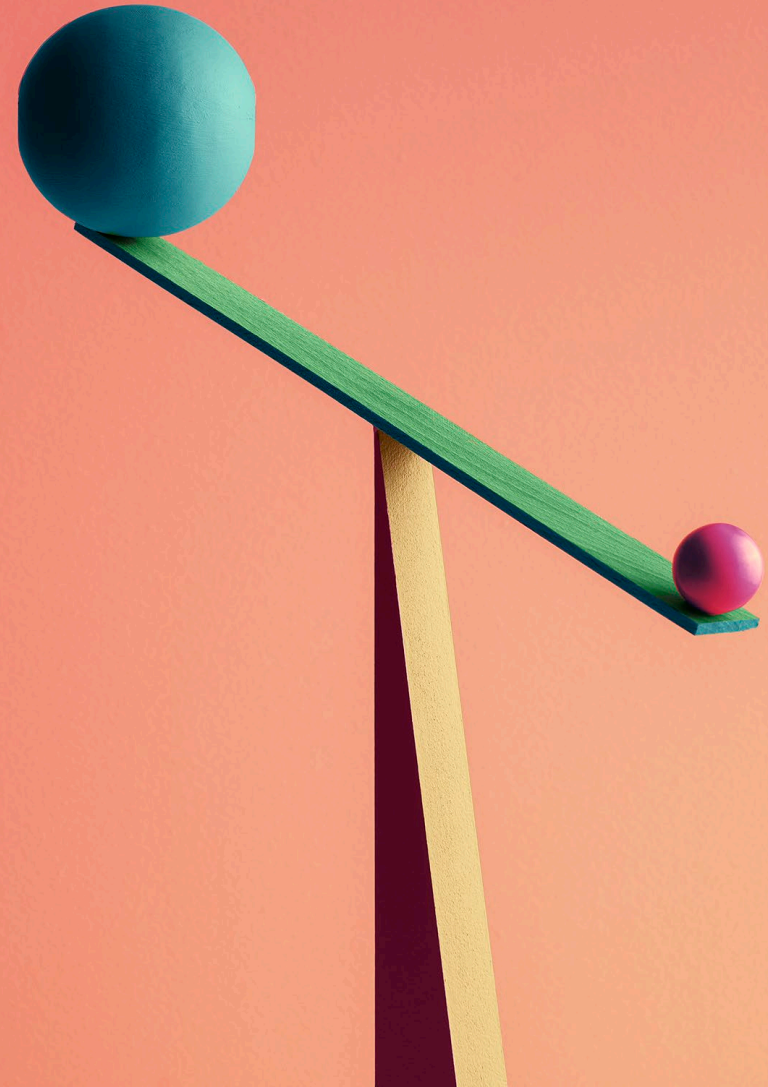


Non-disclosure agreements (NDAs)

- Universities and colleges should:
 1. Not include any restrictions on disclosure on contracts formed after the condition takes effect
 2. Not rely on or enforce restrictions on contracts already in place
 3. Take all reasonable steps to prevent any other person from including or relying on terms in contracts that apply to students that seek to restrict disclosure
- Alternative option: setting regulatory obligations to refer to compliance with the Higher Education (Freedom of Speech) Bill's provisions on NDAs

Personal relationships between staff and students

- Power imbalance
- Relationships between students and 'relevant staff members'
- Students who are also staff members



Personal relationships between staff and students



- Option A:
 - Disclosure and register of personal relationships between students and relevant staff
 - Requirement to manage and address actual or potential conflicts of interest/abuses of power
- Option B: Prohibition of personal relationships between students and relevant staff members, except where there is a marriage or civil partnership in place before this condition

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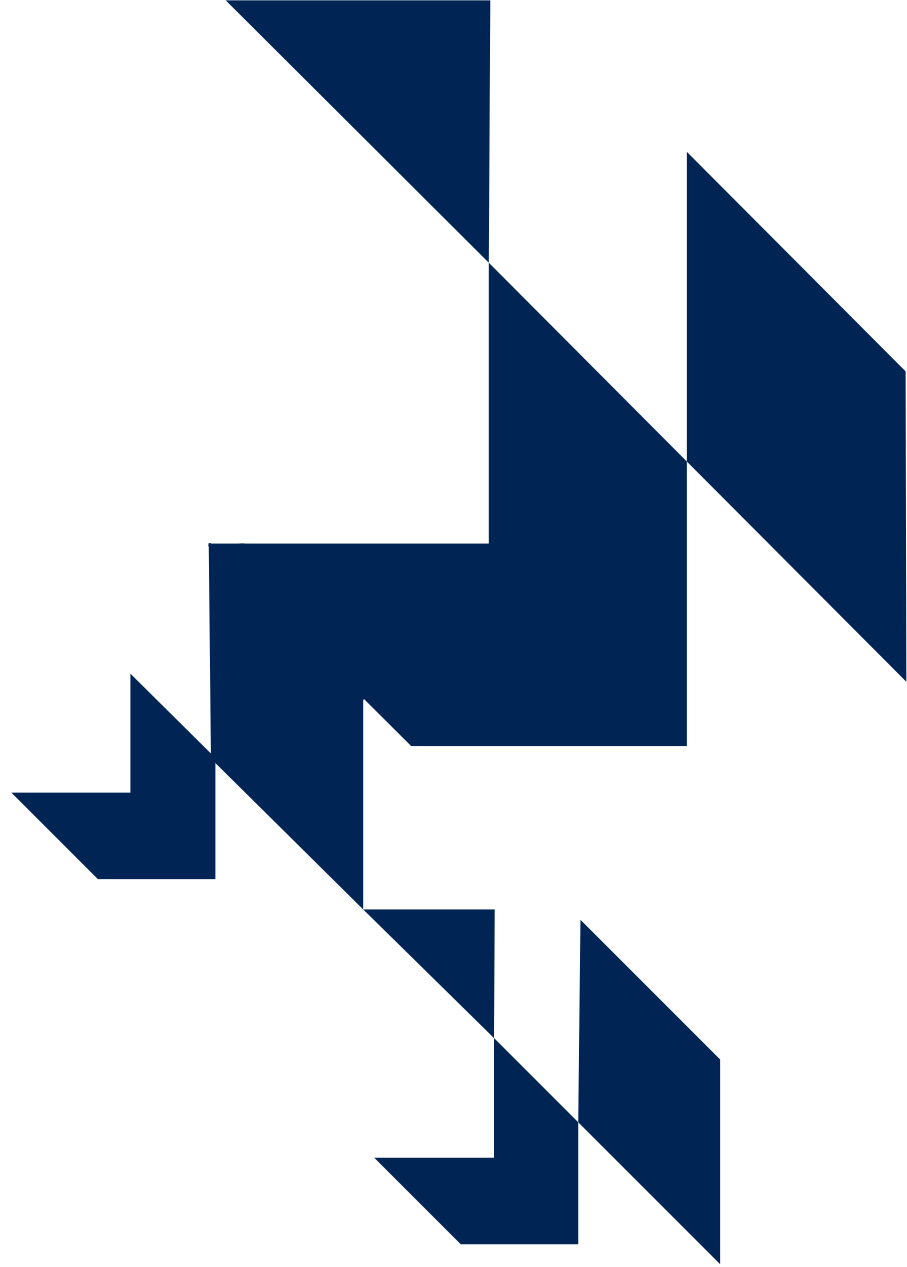
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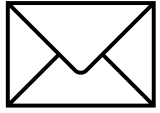
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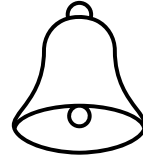
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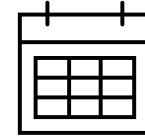




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Reminder:
These slides
will be available
on our website



Deadline of
consultation:
4 May 2023

Office for
Students

The logo for the Office for Students, featuring a dark blue square with a yellow square in the top right corner containing the letters 'OfS' in dark blue.

OfS

Thank you for listening

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