No Space for Hate Policy

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Approved by:
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1. Scope

1.1 This policy aims to ensure students and visitors are able to challenge behaviour which does not respect the rights and dignity of others and to raise genuine complaints about hate, harassment, discrimination or bullying without fear of victimisation.

1.2 The procedure aims to ensure that a fair, constructive and consistent approach is taken when dealing with bullying and harassment, and that issues are resolved as fairly and promptly as possible.

1.3 This policy should be used where a student or visitor to the University considers they have experienced hate, harassment or bullying by:

- a member of staff
- a student
- a third party under contract with the University

1.4 Where a complaint of harassment and bullying is made by a student or visitor against a member of staff the matter will be referred to Human Resources (HR) by the Student Appeals & Conduct Officer (or nominee).

1.5 Where the student is also an employee of De Montfort University, Student and Academic Services (SAAS) will work collaboratively with Human Resources to investigate the case.

1.6 This policy works alongside the following separate university policies and regulations:

- General Regulations and Procedures Affecting Students
- Policy on Dignity and Respect (Students)
- Dignity at Work (Staff)
- Student Social Media Policy
- Use of Computers Policy
- Freedom of Expression
- Academic Freedom Policy

1.7 Hate, harassment, bullying and discrimination can occur in various ways, for example:

- Amongst students
- Students towards staff
- Staff towards students
- Face to face, in writing, electronically (e.g. texts or emails) or via social media (e.g. Facebook, Twitter, Snapchat, Instagram).

1.8 The purpose of this policy is to promote the development of a working environment in which these actions are known to be unacceptable and where individuals have the confidence to report these, should they arise, in the knowledge that their concerns will be dealt with appropriately and fairly.

1.9 It is normally expected that a student who is experiencing hate, discrimination,

bullying or harassment will raise a complaint themselves. However, where another student or member of staff becomes aware of hate, discrimination, bullying or harassment, they may raise a complaint. Further investigation will not go ahead if the person being bullied or harassed does not wish it to.

1.10 If the Associate Chief Operating Officer & Executive Director of Student & Academic Services determines a safeguarding concern is present, further action will be taken in line with the Care Act 2014.

2. Definitions (Types of behaviour are outlined in Annex 1)

2.1 Hate incidents and hate crimes are acts of violence or hostility directed at people because of who they are or who someone thinks they are. For example, verbal abuse directed towards someone because of their actual or perceived disability, race, religion, sexual orientation or transgender identity

2.2 People can also be targeted with hate because of their perceived relationship to others, due to the actual or assumed disability, race, religion, sexual orientation or transgender identity of these others.

2.3 The police and Crown Prosecution Service (CPS) have agreed a common definition of hate incidents. Something is a hate incident if the victim or anyone else perceives was motivated by hostility or prejudice based on one or more of the following things:

- disability or perceived disability
- race or perceived race
- religion or perceived religion
- transgender identity or perceived transgender identity
- sexual orientation or perceived sexual orientation

2.4 This means that if you perceive something is a hate incident it should be recorded as such by the person you are reporting it to.

2.5 Anyone can be the victim of a hate incident. For example, someone could be targeted because of an incorrect perception they follow a particular religion, or because they have a family member with a disability.

2.6 <u>Other personal characteristics</u>
De Montfort University recognises and will investigate incidents based on someone's appearance, including alternative subcultures. It also considers misogyny and misandry as forms of hate incidents.

2.7 Hate incidents can take many forms. Below are some examples, but not exhaustive:

- verbal abuse like name-calling and offensive jokes
- harassment
- bullying or intimidation
- threats of violence
- hoax calls, abusive phone or text messages, hate mail
- online abuse on social media which may infringe the rights, or privacy, of other students or staff
- displaying or circulating discriminatory literature or posters

- harm or damage to things such as your home, pet, vehicle
- graffiti
- throwing rubbish into a garden
- malicious complaints for example over parking, smells or noise

2.8 The above examples may be classed as a crime by the police if they are conducted with physical assault or the act is regular and constant, and becomes stalking or harassment.

2.9 Hate Crime
When hate incidents become criminal offences they are known as hate crimes. A criminal offence is something which breaks the law.

2.10 Any criminal offence can be a hate crime if it is perceived by the victim or any other person, to be motivated by hostility or prejudice based on a person's:

- race or perceived race
- religion or perceived religion
- sexual orientation or perceived sexual orientation
- disability or perceived disability
- transgender identity or perceived transgender identity.

2.11 Incidents which are based on other personal characteristics, such as age and belonging to an alternative subculture, are not considered to be hate crimes under the law. You can still report these, but they will not be prosecuted specifically as hate crimes by the police and the Crown Prosecution Service.

2.12 Harassment
There are three types of harassment which are unlawful under the Equality Act 2010:

- Harassment related to a relevant protected characteristic
- Less favourable treatment of a student because they submit to or reject sexual harassment or harassment related to sex
- Sexual harassment

2.13 Harassment related to a protected characteristic is when unwanted behaviour related to a relevant protected characteristic occurs, which has the purpose or effect of violating the persons dignity or creating an intimidating, hostile, humiliating or offensive environment.

2.14 Unwanted behaviour could include, but is not limited to:

- spoken or written abuse
- offensive emails
- tweets or comments on websites and social media
- images and graffiti
- physical gestures
- facial expressions
- banter that is offensive to you

2.15 Anything that is unwelcome to you is unwanted. You don't need to have previously objected to it. The unwanted behaviour must have the purpose or effect of violating your dignity, or creating a degrading, humiliating, hostile, intimidating or offensive environment for you.

2.16 To be unlawful, the treatment must have happened in one of the situations that are covered by the Equality Act 2010. For example, in the workplace or when you are receiving goods or services. Registered students are in receipt of services provided by the University under Contract.

2.17 It is unlawful to treat a student less favourably because they either submit to, or reject, sexual harassment and it is also unlawful to cause harassment related to sex or gender reassignment.

2.18 Sexual Harassment is when someone behaves in a way which makes you or others feel distressed, intimidated or offended and the behaviour is of a sexual nature. Behaviour that does not involve physical contact can also be sexual harassment. If contact or violence is involved the offence becomes sexual assault or violence.

2.19 The main factor in incidences of sexual harassment and violence is a lack of active consent. Sexual harassment and sexual incidents are addressed in the **University's Sexual Misconduct Policy.**

2.20 Bullying is offensive, abusive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power, which undermines, humiliates, denigrates or injures the recipient. Bullying is a pattern of repeated and persistent behaviour rather than isolated instances.

2.21 Direct discrimination occurs when you treat a person less favourably than you treat (or would treat) another person because of a protected characteristic of their own, through association or perception. It is not possible to justify direct discrimination, so it is always unlawful.

2.22 Indirect discrimination occurs when a provision, criteria or practice is applied for all groups of people, staff or students, in the same way but this has the effect of putting people sharing a protected characteristic within the general group at a particular disadvantage compared to another group sharing a characteristic. Indirect discrimination can be justified if the action that has resulted in the disadvantage is a 'proportionate means of achieving a legitimate aim'.

2.25 Victimisation occurs when a person is treated less favourably because they have asserted their rights to raise a complaint. This also applies to those who have acted as witnesses or supporters of individuals who complained of harassment or bullying.

Examples of the above behaviour can be found in Annex 1, attached to this policy.

3. Procedure

3.1 Disclosures of any type of unacceptable behaviour, laid out in this policy, can be reported to any member of staff, although it is best if staff from the 'No Space for Hate' project are contacted directly. More information is available at www.dmu.ac.uk/nospaceforhate.

3.2 The University provides staff with guidance on how to respond to cases of disclosure. Staff will follow the disclosure pathway (Annex 3 Process Map) for further guidance.

3.3 The procedure for investigating a report of hate, discrimination, bullying or harassment of any kind is not the same as the Student Complaints Procedure. The University follows the disciplinary procedure in cases of hate, discrimination, bullying or harassment. The disciplinary pathway is attached to this policy at Annex 2.

3.4 The staff member will refer the student to the No Space for Hate Project where trained responders will support the reporting student through next steps and options available. The following is a list of some potential options a student may want to take, but is not exhaustive:

- The reporting student may wish to report the incident to the police, more information on how Leicestershire Police deal with cases of hate crime can be found here: https://www.leics.police.uk/advice/advice-and-information/hco/hate-crime/

- The student may only wish the University to investigate the incident as a breach of the University regulations. In this instance the University Security team will appoint a trained, impartial investigator to make further enquiries. The security team will also conduct a risk assessment and take further immediate action if required.

- A student may not wish to pursue any further action and will be offered support for welfare and academic concerns:
  - Support to access specialist support for example through Victim First
  - Support to access extensions, deferrals or interruptions if appropriate
  - Support to access specialist teams such as the Wellbeing Team or the Disability Team

3.5 All action is bespoke to the reporting student's situation and undertaken with the consent of the student.

3.6 By exception the University may refer the case to the Police if the risk is deemed to warrant it, e.g. a safeguarding concern

3.7 If the reported student is registered on a professionally accredited programme, the faculty will be informed to consider whether there are grounds for Fitness to Practise procedures to be invoked.

3.8 Once an investigation is complete, a report is presented which may lead to disciplinary action for any student reported to be in breach of this policy, in accordance with the University's General Regulations.

3.9 Throughout this procedure the reporting student will be offered support and guidance for both welfare and academic concerns.

3.10 Any police investigation will take priority over internal investigations so as not to jeopardise a criminal case. This may delay any internal investigation that the University undertakes.

A flowchart outlining the above can be found at Appendix 2.

4. Reporting

4.1 The university cannot investigate anonymous reports. The university will make provision for anonymous disclosures, but these will be used for soft intelligence only. There will not be a free text option. The university does however recognise that students may wish to raise concerns confidentially. Any disclosure will be treated in the strictest confidence and, in such cases the investigation team will try to resolve the issue without disclosing the student's identity.

4.2 By knowing the identity of the complainant, the University will be able to implement its investigatory procedures to its fullest extent. It must be borne in mind that:

- It may be difficult to investigate complaints without revealing the identity of the reporting student.
- It may be possible to make preliminary investigations without revealing the identity of the reporting student but if the allegations are serious or the case is complex, the reporting student may need to be identified if the case is to be pursued further. In such instances the investigation team will discuss the situation with the reporting student before the case proceeds.
- No student will suffer reprisals for making a complaint.

4.3 Complaints Made Without Basis and With Intent to Cause Harm

The university reserves the right to terminate consideration of a complaint if it considers it to be frivolous, malicious or vexatious. In such instances the Student Appeals and Conduct Officer (or their designated nominee) will write to the complainant or his/her representative explaining why he/she is terminating consideration of the matter. In such circumstances the decision of the Student Appeals and Conduct Officer (or their designated nominee) is final and not subject to review by any other university body.

4.4 Should the Student Appeals and Conduct Officer (or their designated nominee) determine that a complaint is frivolous, malicious or vexatious, the complaint will be closed and appropriate disciplinary action may be taken under the University's General Regulations and Procedures Affecting Students, Chapter 2, the link to which can be found on the following webpage:
https://www.dmu.ac.uk/current-students/student-support/exams-deferrals-regulations-policies/studentregulations-and-policies/index.aspx

5. Timescales

5.1 The University endeavours to investigate all incidents within a timely manner.

5.2 It must be noted that a number of factors can impact the speed at which investigations can be conducted. These include police involvement, judicial procedures and availability of relevant witnesses or evidence.

5.3 The University has recommended timescales for processing major and minor disciplinary cases which can be found in the General Regulations & Procedures Affecting Students, Chapter 2 Annex 2.

5.4 Reporting Students, and Reported Students, will be kept informed on the progress of their case.

6. Outcomes

6.1 Once an internal investigation is complete a report will be made to the Executive Director of Student and Academic Services, and the Student Appeals & Conduct Officer for consideration of any further action at Minor or Major disciplinary levels.

6.2 Authorised Officers and the Disciplinary Committee have a mandate to determine whether a Reported Student has breached the University Regulations and Code of Conduct, based on the evidence provided and the individual merits of each case.

6.3 The Authorised Officers and the Disciplinary Committee can only make a judgement on the balance of probabilities (see Annex 2) and will issue an appropriate penalty accordingly.

6.4 Once a case had been completed through the internal University Disciplinary Procedure the Reporting Student will be informed of its conclusion, and where appropriate, any further action taken by the University.

6.5 The University's decision regarding disciplinary action is final and no further action may be taken by the Reporting Student within the University's procedures.

6.6 Any Student reporting an incident involving any of the circumstances defined in this policy will be given support to enable their continued presence at the University and continue their learning.

7. Training

7.1 Inquiries into reports of harassment, hate and bullying require specialist training to ensure a robust, fair and impartial investigation. Reports of harassment, hate and bullying by students, that require further investigation, will be conducted by staff from the University Security team who have received appropriate training, as directed by the Academic Support Office.

7.2 Inquiries into cases brought against members of staff will be investigated by the University HR department/ Security.

7.3 The university is committed to ensuring all panel members involved in cases of harassment receive the appropriate training and support.

7.4 The university provides staff with guidance on how to respond to cases of disclosure.

Accompanying Documents to this Policy

Annex 1 Types of Behaviour
Annex 2 Disciplinary Pathway

Annex 1 Types of Behaviour

Types of behaviour that form hate incidents and crimes, and bullying, harassment and discrimination.

Harassment may include, for example:

- offensive or intimidating comments or gestures
- unwanted physical conduct or 'horseplay', including touching, pinching, pushing, grabbing, brushing past someone, invading their personal space and more serious forms of physical or sexual assault
- mocking, mimicking or belittling a person because of their individual characteristics
- patterns of behaviour that are received as micro-aggressions*
- racist, sexist, homophobic or ageist jokes or pranks, or derogatory remarks about a particular group of people
- outing or threatening to out someone as gay, lesbian, bisexual or trans, or unwanted questioning about a person's identity, including about their sexual orientation or gender identity
- ignoring or shunning someone because of their characteristics, for example, by deliberately excluding them from a conversation or a social activity.
- continued invitations to person to engage in social activity after it has been made clear by that person that such suggestions are unwelcome
- the open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, e.g. pictures, screen savers, calendars
- sending material that is of a sexual nature or that some people may find offensive (including emails, text messages, video clips and images sent by mobile phone or posted on the internet or social media - see also the university's Email, Internet and Social Media (EISM) Policy)

*Micro-aggression is a term used for brief and commonplace daily verbal, behavioural, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative prejudicial slights and insults toward any group, particularly culturally marginalized groups. Examples might include:

- Telling someone "Your English is so good"
- Calling something you find strange "gay"
- Telling a woman she needs to smile more
- Asking a person of colour "Where are you really from?"

Abuse is to treat someone with cruelty or violence, especially regularly or repeatedly. Abuse includes any action that intentionally harms or injures another person.

Abuse can take many different forms and can be enacted in different ways. There are different types of abuse and these can include: physical abuse, domestic violence or abuse, sexual abuse, psychological/ emotional abuse, financial/ material abuse, modern slavery, discriminatory abuse, organisation/ institutional abuse, neglect/ acts of omission, self-neglect.

Domestic abuse and coercion is defined as any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those who are, or

have been, intimate partners or family members regardless of gender or sexuality. This can include, but is not limited to, psychological, physical, sexual, financial and/or emotional abuse.

Bullying is offensive, abusive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power, which undermines, humiliates, denigrates or injures the recipient. Bullying is a pattern of repeated and persistent behaviour rather than isolated instances. Bullying behaviour can include:

- Threats of a physical or psychological nature
- Making offensive jokes or comments and being sarcastic towards, ridiculing or demeaning others
- Intruding on a person's privacy by pestering, spying or stalking
- overbearing and intimidating levels of supervision
- inappropriate and/or derogatory remarks about someone's performance
- denigrating, ridiculing or humiliating an individual, especially in front of others;
- abuse of authority or power by those in positions of seniority
- spreading malicious rumours or insulting someone
- incitement of others to commit harassment
- cyber bullying for example by email or the use of social networking sites to post
- derogatory messages or distribute confidential information about someone
- picking on someone or demonstrably setting them up to fail
- isolation or non-cooperation at work
- excluding someone from social activities
- Coercive behaviour

Abuse of specific groups

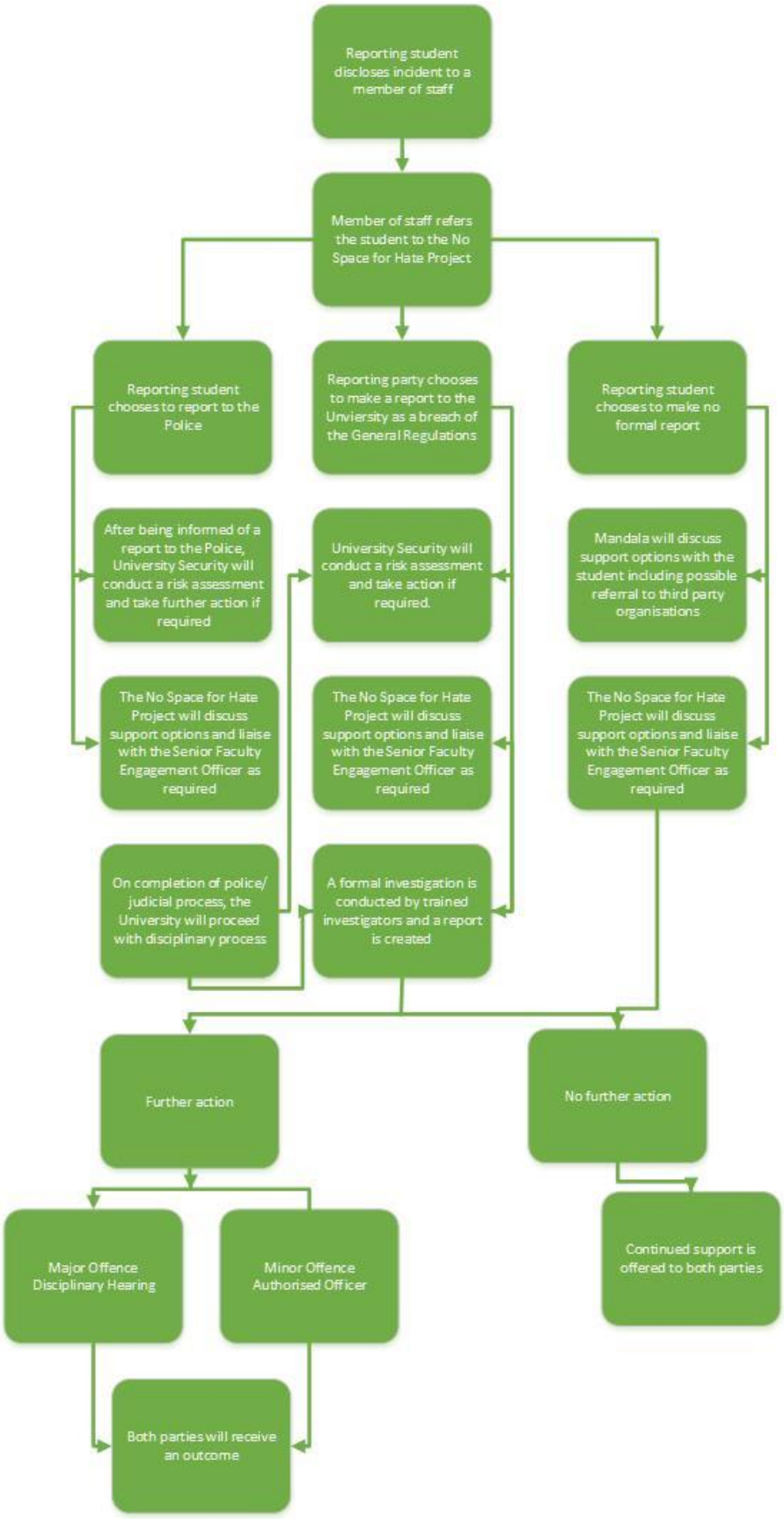
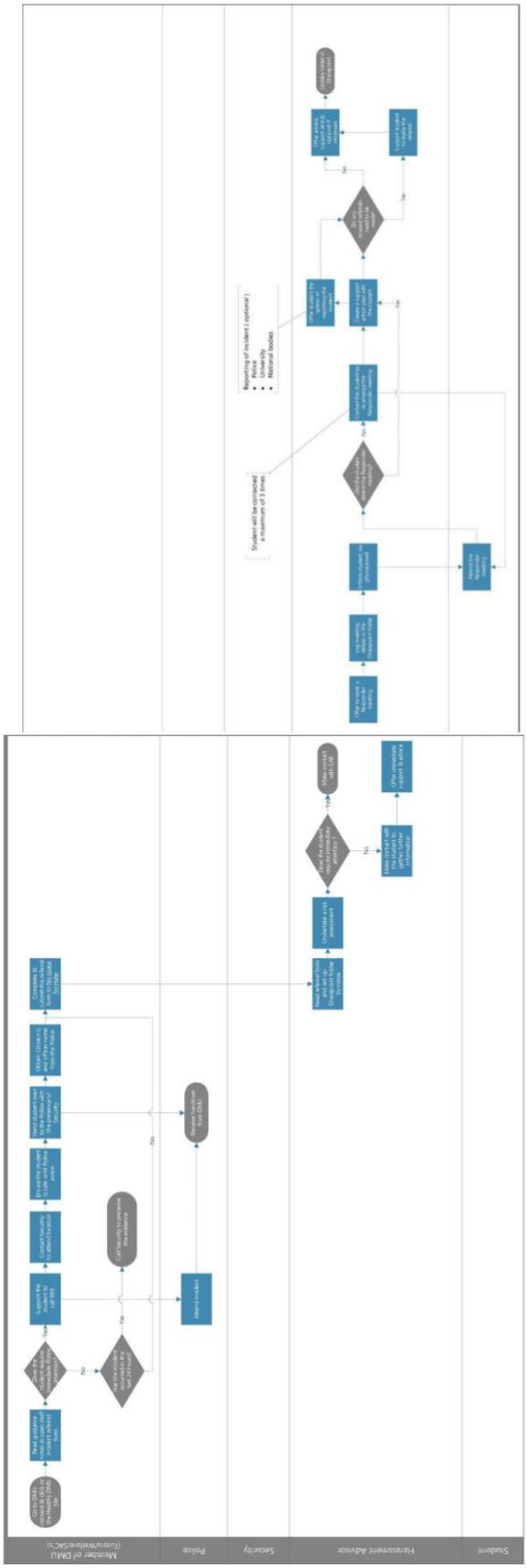
It is recognised that any group can be targeted for harassment and abusive behaviour and it is not possible to list all potential groups in this policy. However *examples* of specific abuse groups are:

- Islamophobia is rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness.

- Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

- Transphobia is intolerance of gender diversity. It can be active (intentionally going against gender variant people) or passive (not recognising or allowing for the fact that gender variance exists).

Annex 2 Disciplinary Pathway



Staff Pathway for Disclosures