

# Student Sexual Misconduct Policy

**Scope**

All students of City, University of London.

**Senate Regulations**

[Senate Regulation 13 Student Discipline](#)

**Date approved/re-approved**

Approved by Senate, October 2020

**To be read in conjunction with**

*Senate Regulation 13 Student Discipline*

*Student Harassment and Bullying Policy*

# Student Sexual Misconduct Policy

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### 1. Policy Statement and Vision

The University aims to operate an enabling environment where all students are supported to feel safe, respected and able to challenge inappropriate behaviours wherever they occur. The University maintains transparent and robust mechanisms that allow students to raise concerns over sexual misconduct.

Students are partners in the University's processes. The University will work with its students to ensure that their rights, safety and welfare are protected throughout their involvement in any processes relating to a disclosure or formal report of sexual misconduct. The University will respond appropriately and effectively to any breaches of the Sexual Misconduct Policy and associated regulations.

This Policy should be read alongside:

- [Student Harassment and Bullying Policy](#)
- [Student Discipline Regulation](#)
- [Safeguarding Policy](#) (for disclosures or reports relating to persons under the age of 18, or who may be considered to be 'Adults at Risk')
- [Student Complaints Regulation](#)
- [Staff Grievance Procedure](#)
- [Staff Disciplinary Procedure](#)
- [Staff Dismissal Procedure](#)
- [Staff Harassment and Dignity at Work Guidelines](#)

## Equality and Diversity Statement

City, University of London ("the University") is committed to promoting equality, diversity and inclusion in all its activities, processes, and culture, under its Public Sector Equality Duties and the Equality Act 2010. This includes promoting equality and diversity for all, irrespective of any protected characteristic, working pattern, family circumstance, socio-economic background, political belief or other irrelevant distinction.

Where relevant to the policy, decision-making panels will ensure a reasonable gender balance (with at least one man and one woman) and will actively consider representation of other protected groups.

## 2. Scope

This Policy applies to students, staff and third parties to the University. The Policy applies to alleged incidents of sexual misconduct which have either taken place on University premises, or to off-campus activities which are University sanctioned or sponsored, or which have a direct impact on a student or staff member of the University, or the University itself. The Policy also applies to alleged interactions which occur within an online or virtual space, such as a virtual learning environment used by the University, a social media group relating to a University activity, or text messages and emails which may have an impact on a student or staff member of the University, or the University itself.

Where possible, the University will provide guidance and support to students who have experienced sexual misconduct by a visitor to the University. The University will also take reasonable steps to support a student in a Police investigation against a visitor. However, the University does not have jurisdiction to take any action against a visitor with whom the University does not have a contract or agreement.

For students who are under the age of 18, or who are considered to be 'Adults at Risk' (which includes vulnerable adults and adults who are experiencing abuse: see the University's [Safeguarding Policy](#) for more information on these definitions), any response to sexual misconduct will also need to be considered with regard to the [Safeguarding Policy](#).

The role of the University is to test whether misconduct has occurred in relation to its own regulations, policies and procedures, and not to seek to determine matters of civil or criminal law. To this end, the University will set its own definitions of misconduct within this Policy.

## 3. University Framework and Principles

Where a report of sexual misconduct is brought by a student, this will be reviewed in line with the [Student Discipline Regulation](#) and the following:

- [Student Harassment and Bullying Policy](#)
- [Safeguarding Policy](#) (for disclosures and reports relating to persons under the age of 18, or who may be considered to be 'Adults at Risk')
- Professional Relationships Policy (a Harassment Adviser or Safeguarding and Welfare Officer can provide this policy)

This Policy comprises a Code of Conduct of the Student Discipline Regulation. The role of the University is to undertake an investigation into a breach of this Policy, and not to attempt to be a substitute for a Police investigation or criminal proceedings. In doing so, the Investigating Officer(s), on behalf of the University, will undertake an assessment of the evidence made available in order to determine whether, on the balance of probabilities, misconduct which would be considered a breach of this Policy occurred or not.

### 3.1. Vexatious or Malicious Allegations

Should an Investigating Officer determine that a report has been made which is malicious or vexatious in nature, including where false representations have knowingly been provided by the reporting student or their representative, they may

be able to close this case and to pursue actions against the reporting student under the [Student Discipline Regulation](#).

### 3.2. Fitness to Practise

Some programmes within the University are regulated by professional and statutory bodies (PSRBs). In such programmes, students are normally required to demonstrate that they have the good character to be able to carry out their professional role safely and effectively as part of the learning outcomes for their programme.

Harassment and bullying behaviours may constitute a 'lack of professionalism', as defined in 'Fitness to Practise' procedures. These will have been provided to students by their Programme Team, if relevant, along with any specific School policies, information or forms that are relevant.

### 4. Timeframe for reporting

A report in relation to a breach of the Student Sexual Misconduct Policy should be made as soon as possible, or within 12 calendar months of the date on which the last alleged breach of this Policy has taken place, unless appropriate grounds for a report at a later point have been established, as determined by the Investigating Officer. Grounds which may be considered as valid for considering a report outside of 12 calendar months would usually be as follows:

- The reporting student had been fearful of the repercussions of reporting and may have put themselves or others at risk if they were to have made a report, and they can evidence this claim;
- The reporting student had interrupted their studies or been signed-off from work, and had not had consistent contact with the University for around 12 calendar months or more;
- Another good or exceptional reason considered to be valid by the Investigating Officer.

If the reporting student has recently graduated from the University, the reporting student will be able to make a report up to 12 calendar months from the date of the most recent incident, regardless of the date of their graduation within this twelve-month period, and subject to the above requirements.

### 5. Terminology

#### 5.1. Disclosure

A disclosure means that an individual tells a member of the University community that they have experienced sexual misconduct (this is different to a formal report).

#### 5.2. Formal Report

A formal report is the sharing of information on an alleged experience of sexual misconduct in order to instruct the University to seek to take appropriate action. This allows the University to initiate the relevant process under the [Student Discipline Regulation](#) (this is different from a disclosure).

### 5.3. Investigating Officer

An Investigating Officer may be a Head of Academic Services; a senior academic or professional member of the School the student is studying in, or another School; a senior member of Student and Academic Services; a Safeguarding and Welfare Officer or other staff member with responsibility for student welfare; or an appropriate appointed external to the University.

Usually, the Investigating Officer should be appointed from within the School of the responding student, or if a report is made against a staff member, they should be from within the School of the reporting student. In the case of a report of sexual misconduct, where appropriate, an external Investigating Officer should be appointed to conduct the investigation of the report.

Before handling any reports, an Investigating Officer will have been appropriately trained to do so by the University, and will undergo a series of refresher training across the duration of their role.

### 5.4. Reporting Party (including 'student' or 'staff member')

The Reporting Party is the person(s) who has experienced the alleged incident of sexual misconduct, and breach of this policy, and who has made a formal report to the University.

### 5.5. Responding Party (including 'student' or 'staff member')

The Responding Party is the person(s) whose behaviour has been alleged to have amounted to sexual misconduct and a breach of this policy, and who has been named as such in a formal report to the University.

## 6. Definitions

### 6.1. Sexual Misconduct

Sexual Misconduct is a broad term encompassing any unwelcome behaviour of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation. Sexual misconduct can be committed by a person of any gender, and it can occur between people of the same or different genders.

The University might consider the following behaviours to be examples of sexual misconduct. This is not intended to be an exhaustive list and other behaviours may also be considered relevant:

- Sexual assault, which includes non-consensual sexual intercourse or attempted sexual intercourse (vaginal, anal or oral), any intentional unwanted bodily contact of a sexual nature, or the use of coercion, manipulation or force to make someone else engage in touching of a sexual nature;
- Sexual harassment, as defined in 5.4. above;
- Sexual exploitation, which involves taking non-consensual, unjust, or abusive sexual advantage of another person;
- Sexual intimidation, which includes threatening another person that you will commit a sex act against them, or engaging in indecent exposure.

### 6.2. Consent

Consent is agreeing by choice to a sexual act and having the *freedom* and *capacity* to make that choice. The person seeking consent should always take steps to ensure that consent is freely given, that it is informed and recognises that it can be

withdrawn at any time. Consent cannot be assumed on the basis of a previous sexual act or encounter or previously given consent. Consent may be withdrawn at any time throughout a sexual encounter or act.

**Freedom to consent:** a person is free to make a choice if nothing negative would happen to them if they said no. For example, a person may not feel free to make a choice if:

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

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

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

### 6.3. Victimisation

Victimisation occurs when someone is treated less favourably because they have made or supported disclosures or reports about discrimination or harassment, or because an individual thinks that they may do so. Victimisation or retaliation as a result of disclosures or reports about bullying or harassment being made is unacceptable, and may lead to disciplinary action.

The University might consider the following behaviours to be examples of victimisation. This is not intended to be an exhaustive list and other behaviours may also be considered relevant:

- Excluding someone from social situations following a complaint or rumour of a complaint;
- Denying someone the opportunity to participate in an activity/opportunity because they are perceived to be a 'troublemaker' or 'different';
- Lowering a student's assessment results because they have made or supported a complaint.

## 7. University Responsibilities

### 7.1. Responsibility to all parties

The University recognises its equal responsibility to both the reporting student and the responding student or staff member. Any report of a breach of this Policy, where Formal Resolution is sought, cannot be considered anonymously, and will be investigated through the appropriate process outlined in this policy, and may be

referred for consideration under the [Student Discipline Regulation](#) where a disciplinary investigation is required.

The University will ensure that it is mindful of the rights and welfare of both the reporting student and the responding student or staff member, throughout any investigation, and that both parties have the opportunity to a fair hearing. As such, both parties will have the right to put their case forward and to respond to the case against them, and to have an outcome determined through a fair and impartial process. Students and staff will have access to the dedicated and specialist University Support Services outlined in point 8 of this Policy, and would be equally supported to engage with any relevant specialist support services. Staff may also seek support from a Trade Union representative. Steps will be taken to ensure that either student's use of a service does not conflict with the ability of any other students involved in a case to do the same.

## 7.2. Reporting to the Police

Where behaviour has been alleged which would amount to a serious criminal offence (for example, sexual assault or rape) an assessment of risk will be undertaken by the University as to whether this should be reported to the Police by the University.

In line with the University's Duty of Care to its students, and other relevant legal requirements, the University would usually only report a matter to the Police with the consent of the student who has been subject to the criminal offence. In exceptional circumstances, the University may take the decision to report an incident to the Police where the University understands there to be a considerable concern about the safety of its students, staff or others.

Where a report has also been made to the Police, any resulting Police investigation or criminal proceedings would normally be expected to have been completed before the University will take any action formally under this policy (although emergency action via the [Student Discipline Regulation](#) may be considered appropriate if necessary, to protect the welfare, safety and dignity of City students, staff and others).

Where a Police investigation or criminal proceedings begins once the University has already initiated an investigation, the University may suspend its investigation and defer to the Police investigation or criminal proceedings, as considered on a case-by-case basis. The University will consider the introduction of measures to safeguard the reporting and responding students, and any other students and staff as relevant, such as a No-Contact Arrangement, or emergency actions under the [Student Discipline Regulation](#), without hindering or interfering with the Police investigation.

The University also acknowledges the rights of students and staff to report an issue directly to the Police. Where a report relating to sexual misconduct has been made to the Police, this should be made known to the University as there may be support that the University can provide.

## 8. Support Available to Students

Students have access to a range of support in relation to sexual misconduct, regardless of whether they are the reporting student or responding student or

another party affected by conduct of this nature (e.g. a witness to an alleged incident). For signposting to any of the below support services, students can contact their Personal Tutor, Course Officer, or a Harassment Adviser at the University.

Students can access support through one or more of the following support services:

- Local Safeguarding and Welfare Officer in their School;
- The University Harassment Advisers;
- The University Student Counselling, Mental Health and Accessibility Services;
- The University Health Centre;
- The University Chaplaincy;
- The University Student Centre;
- City Students' Union.

The University will also signpost and refer students to specialist external support services where appropriate, such as one the following:

- The Police;
- Rape Crisis;
- Survivors UK;
- A Sexual Assault Referral Centre (SARC).

## 9. Processes for Managing Reports of Sexual Misconduct

The University treats reports relating to sexual misconduct seriously and in consideration of our equal responsibility to any City students and staff who make a report, or have a report made against them. The University must take appropriate and proportionate action within its own relevant student and staff policies.

In making a report to the University, the reporting student should identify the most relevant definition to describe the issue they are reporting (e.g. *bullying* or *sexual harassment*) and in doing so, establishes the appropriate process to be used (e.g. *Student Harassment and Bullying Policy* or *Student Sexual Misconduct Policy*).

### 9.1. For reports made between students

#### i. Precautionary Measures

In the case of sexual misconduct cases, precautionary action may be required to protect the integrity of the investigation and to safeguard the welfare of both the reporting student and responding student, as well as protecting others from potential harm, while having the minimal possible impact on the responding student. The University will take into account the interests and welfare of both students and endeavour to treat them fairly and equally when ascertaining the potential effectiveness and impact of precautionary measures.

Precautionary action is only intended to be a precaution to achieve the above aims, and is not a penalty or sanction. It also does not indicate a decision on the part of the University as to whether the responding student has completed misconduct which would be considered a breach of this Policy, or a criminal offence.

Precautionary action must be reasonable and proportionate and should be considered on a case-by-case basis. In imposing precautionary action, the University should be able to demonstrate the rationale for its decision.



Precautionary action may include:

- Imposing a No-Contact Arrangement or other similar condition on the responding student, as well as the reporting student and possibly any witnesses;
- Suspending the responding student from their studies;
- Excluding the responding student from aspects of the University experience.

Any precautionary action should be considered and introduced in line with the process outlined in the [Student Discipline Regulation](#).

#### ii. Formal Reports

Reports relating to alleged misconduct where the responding party is another City student should be considered under the [Student Discipline Regulation](#). Depending on the perceived severity of the nature of the report, this can be looked at under Stage 1 or Stage 2 of the [Student Discipline Regulation](#), or referred directly to a Disciplinary Panel.

The [Student Discipline Regulation](#) also establishes emergency precautionary actions which can be put in place in order to safeguard the welfare of City students and staff in relation to a formal report of sexual misconduct.

To make a formal report, the reporting student should write to the Head of Academic Services or Safeguarding and Welfare Officer in the School of the student they are making the report against.

Students seeking to make a formal report to the University can access support in doing so from any of the internal staff or services included in section 8 of this policy.

#### 9.2. For reports made by a student against a member of staff:

##### i. Precautionary Measures

Precautionary action may be required to protect the integrity of the investigation and to safeguard the welfare of both the reporting student and responding staff member, as well as protecting others from potential harm, while having the minimal possible impact on the responding student. The University will take into account the interests and welfare of both individuals and endeavour to treat them fairly and equally when ascertaining the potential effectiveness and impact of precautionary measures.

Precautionary action is only intended to be a precaution to achieve the above aims, and is not a penalty or sanction. It also does not indicate a decision on the part of the University as to whether the responding staff member has completed misconduct which would be considered a breach of this Policy, or a criminal offence.

Precautionary action must be reasonable and proportionate and should be considered on a case-by-case basis. In imposing precautionary action, the University should be able to demonstrate the rationale for its decision.

Human Resources will work with the Investigating Officer to identify available precautionary measures in the instance of a report of sexual misconduct or serious misconduct made against a staff member by a student.

## ii. Formal Report

Students seeking to make a formal report to the University can access support in doing so from any of the internal staff or services included in section 8 of this policy.

In order to make a formal report relating to sexual misconduct, to the University, the reporting student will need to name the member(s) of staff against whom the report is made, and submit their report, in writing, to the relevant Safeguarding and Welfare Officer in the School, who can refer this to the Head of Department/Service (or equivalent) with responsibility for the member of staff that the report is being made against. If the reporting student would not feel comfortable with the Head of Department/Service being involved, they should make this clear in their report.

The Head of Department/Service will undertake an initial assessment of the report and any supporting evidence. Student and Academic Services and Human Resources may provide support to the Head of Department/Service in undertaking this initial assessment.

Where the Head of Department/Service determines that there is sufficient available evidence, a formal investigation will be undertaken. In order to undertake a formal investigation, an independent Investigating Officer will be appointed by the Head of Department/Service.

If it might be reasonably considered that any responsible party within the investigation could be conflicted in their management of this process due to their prior knowledge, role or relationships with the involved parties, it is the responsibility of the party to make this known to the Safeguarding and Welfare Officer, and the investigation should be delegated to an alternative Officer.

If a report is made against a Head of Department/Service or another senior officer within a School, it may be reasonable for the formal investigation to be undertaken by an Investigating Officer outside of the School. The most relevant senior manager should take a decision on the suitability of the Investigating Officer, in consultation with Student and Academic Services and/or Human Resources.

The responding staff member will be notified of the report made against them, and given an opportunity to respond to the report and to provide their own statements and supporting evidence, and to present any potentially mitigating circumstances which they feel are relevant. This process may involve a preliminary meeting between the Investigating Officer and the responding staff member. The responding staff member will also be notified of their right to be accompanied at any meetings related to the investigation by a colleague or Trade Union representative.

The Investigating Officer will undertake a full investigation into the statement and evidence provided by both the reporting student and the responding staff member and will ensure that any witnesses or other relevant people are interviewed and evidence is gathered and considered.

The Investigating Officer will provide a report of the investigation's findings and recommendations to the Head of Department/Service who will be responsible for determining the next steps.

The responding staff member will be provided with a written outcome of the investigation and next steps within 28 calendar days of their notification of the report made against them. The reporting student would only be notified that this process has been concluded, and of any action required of them relating to any sanctions which may be imposed.

Information will be shared in line with the Data Protection Act and General Data Protection Regulation (GDPR), in order to maintain confidentiality. The reporting student would usually only be informed that their case is being considered under the appropriate University procedure for staff.

Following the outcome of the investigation, the Head of Department/Service with responsibility for the responding staff member will determine, with guidance from Human Resources, the next steps to be taken in accordance with the appropriate staff procedure, which would usually be one of the following:

- The investigation finds insufficient evidence to substantiate the allegations or the evidence is not substantive enough for further consideration under a staff procedure;
- The investigation finds evidence to substantiate the allegations and local measures can be put into place in order to protect the welfare of all parties;
- The Head of Department/Service may determine that the matter should be considered under either the Disciplinary, Dismissal, or Capability Procedure for staff.

The Head of Department/Service should consult with Human Resources and their local Safeguarding and Welfare Officer if there are necessary steps to be put in place in order to protect the welfare of the alleged victim or any other students and staff at the University.

Regardless of the outcome of the investigation, the School should be seeking to provide the reporting student with support, and to consider any steps which may be required in order to enable them to continue their studies.

Where in the view of the Head of Department/Service, either at the outset or after the investigation has been completed, the reporting student has made a report which is malicious or vexatious, they may recommend on guidance from Student and Academic Services that the matter is referred to a Disciplinary Panel for University-Level Review, under the Student Discipline Regulation.

9.3. For reports made by members of staff against a student:

Formal reports made by a member of staff against a City student should be considered under the [Student Discipline Regulation](#), and in cases of serious sexual misconduct, and so a major breach of this policy, these should be referred directly either to Stage 2 of the Disciplinary Procedure, or a Disciplinary Panel.

9.4. For reports where external parties are involved (including third parties and contractors of the University)

If a student is making a formal report of a breach of this Policy against an individual who is either a contractor, part of a third-party arrangement with the University, or a member of the public who has been invited to interact with the University, they should make the report to a Safeguarding and Welfare Officer based within their School.

The Safeguarding and Welfare Officer will then conduct a preliminary assessment based on the statement and evidence provided by the reporting student. If the outcome of this preliminary assessment is that the Officer finds the report to be substantiated, this will be referred to the service in the University with responsibility for managing the relationship with the contractor or third-party, including recommendations for resulting actions.

Where a formal report relates to an individual who the reporting student has interacted with as a result of a clinical, practice-based or industry placement which forms part of their studies, a recommendation should be made by the Safeguarding and Welfare Officer to the relevant Programme Director, Placements Manager or other service-lead with responsibility for managing the placement element of the reporting student's study experience.

This individual would then explore the support available to the reporting student, and undertake an assessment of whether it is safe or reasonable for the reporting student to return to this placement, in line with existing welfare processes already in place to support students on placement. They would also be asked to consider the safety of other current or future students engaging with this placement provider and, with the consent of the reporting student, may contact the Human Resources department of the placement provider to raise an issue. The placement provider may initiate their own process separately to the University's processes.

This assessment would be a precautionary action based on the report that the reporting student has made, and not an investigation or a determination on the part of the University that the alleged behaviours have conclusively taken place.

i. Reports made by a contractor or third-party, or a member of the public, to the University against a student

Where a report has been made against a student by a contractor or a third-party to the University, this should initially be considered by an appointed Investigating Officer within the reporting student's School, who will review the report made and any supporting evidence, and give the responding student the opportunity to provide their own statement and evidence in response to the report made.

Following the initial investigation, the following outcomes will be available to the Investigating Officer:

- No further action;
- Issue of a formal warning letter on behalf of the University;
- Introduction of a no-contact arrangement between two members of the University;

- Recommendation that an individual undertake a relevant course of training;
- Referral to a Disciplinary Panel, under the Student Discipline Regulation.

ii. Reports made by a student against a member of the public

If a student is making a report of sexual misconduct where the responding party is a member of the public unrelated to the University, the University would usually advise the reporting student to report this to the Police. Although the University will not be able to take action against the member of the public, University support services may be available to support the reporting student by signposting them to relevant support services internally and externally. In order to access support, students may need to contact one of the University's Safeguarding and Welfare Officers.

9.5. Providing the reporting party with a resolution to their report

The University is bound by the requirements of the General Data Protection Regulation (GDPR) and its duty of care to all students and staff. The University will not share the full details of the outcome of an investigation with the reporting party. The University does, however, acknowledge the need for the reporting party to feel that their report has been heard and appropriately dealt with, and City will inform the reporting party when a resolution has been reached regarding their report. Further details of the outcome may be provided where specific actions are required of the reporting party. The reporting party will be notified in writing by the relevant Investigating Officer.

10. Confidentiality and Information Sharing

City acknowledges the importance of privacy in cases relating to harassment, bullying and sexual misconduct, and the impact which mishandling of a disclosure can have on the welfare and wellbeing of an alleged victim or perpetrator. Discretion and confidentiality will be maintained as far as is possible, except for in circumstances where there is considered to be a significant risk of harm to one or more individuals if sensitive information were not appropriately shared.

If a member of staff feels that there is significant risk of harm, and that confidentiality should be broken, they should attempt to gain the consent of the reporting student before doing so, and document this in writing. Reports should not be made to external authorities, such as the Police or psychological services, without the consent of the relevant student, and/or compliance with City's processes.

If confidentiality does need to be broken, in order to enable City to act in accordance with its Duty of Care and its own regulations, this should always be on a need-to-know basis, and the reporting student should be notified of this action.

The University may also be required to provide information relating to a report or investigation to the Police as part of a Police investigation or criminal proceedings, and staff or students at the University may also be required to provide evidence as a witness in these proceedings. To enable this, staff should keep accurate and appropriate records in relation to investigations of harassment and bullying, and should ensure the security of any records kept.

Any sensitive information disclosed will be securely held by the University, subject to and in accordance with the provisions of the General Data Protection Regulation (GDPR) 2018 and the Data Protection Act 2018.

## Policy Details Table

<b>Document title:</b>	Student Sexual Misconduct Policy
<b>Maintained by:</b>	Education & Student Strategy
<b>Owned by:</b>	Student and Academic Services
<b>Approving Committee or Body:</b>	Senate
<b>Last updated:</b>	October 2020
<b>Review date:</b>	October 2023  To be reviewed after one calendar year (July 2021), and then periodically (every three academic years)
<b>Current version:</b>	Version 1.1
<b>Location of master document:</b>	Drive Address: S:\QUAD\Quality Manual
<b>Website Link:</b>	<a href="https://www.city.ac.uk/about/governance/quality-manual">https://www.city.ac.uk/about/governance/quality-manual</a>
<b>If you have queries about this document or if you require this document in an alternative format, please contact:</b>	<a href="mailto:ace@city.ac.uk">ace@city.ac.uk</a>