

Open College of the Arts (OCA)

Anti-Harassment & Bullying Policy

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1. The purpose of the policy

- 1.1. This policy sets out the steps that the Open College of the Arts takes in dealing with harassment and bullying. This relates to the culture that we create, and the specific actions we take to address these issues including

training. It also details the behaviours expected of students, staff, visitors, and contractors to OCA.

2. Who does this policy apply to?

- 2.1. This policy applies to all students, staff, tutors, visitors, contractors, and other third parties at OCA, or in connection with OCA, and the OCA Student Association.

3. General principles

- 3.1. It is the aim of OCA to provide a harassment and bullying policy that ensures all members of OCA understand their rights and responsibilities when engaging with other members of OCA.
- 3.2. The Open College of the Arts is committed to providing a learning and working environment that is fair, inclusive, and supportive for students, tutors, and staff. We value the inherent diversity in our student, tutor, and staff body and aim to enhance this through this policy and others to support our strategic aims.
- 3.3. In line with our charitable mission, we aim to provide opportunities to access the creative arts to everyone in society, and to treat everyone fairly and equally, with respect and dignity.
- 3.4. The College does not tolerate any behaviour which any member of the College community feels is harassment, bullying or victimisation. Bullying and/or harassment that is based on a person's age, sex, religion, disability, sexual orientation, gender reassignment, or race is unlawful.
- 3.5. We aim to foster an environment whereby differences including, but not limited to, opinion, skin colour, gender, sexuality, and religious belief are valued and respected. Through exposure to different opinions and perspectives, in our learning materials, study events, blogs, and tutorials, we provide opportunities to challenge preconceptions and beliefs.
- 3.6. OCA recognises and endorses that freedom of speech and expression within the law has fundamental importance for institutions as places of education, learning and the disinterested pursuit of truth. In particular, institutions are obliged under section 43 of the [Education \(No. 2\) Act 1986](#) to take reasonable measures to protect freedom of lawful speech. In addition, a principle of freedom of lawful expression is enshrined in Article 10 of the European Convention on Human Rights.
- 3.7. Not all behaviour that is experienced as offensive will be unlawful harassment under the Equality Act 2021. For example, students' learning experiences may include exposure to course material, or discussions of speaker's views that they find offensive or unacceptable, and this is unlikely to be considered harassment when balanced against the right to freedom of expression.
- 3.8. Cases of alleged serious criminal offences, such as physical or sexual assault, should be reported by the individual (for example the victim or concerned bystander) to the Police. In such cases, OCA will apply an appropriate policy (such as the Student Code of Conduct) until the outcome of any criminal investigation is confirmed.
- 3.9. Any information presented to OCA will be treated with strict confidentiality and only discussed with staff on a need-to-know basis. Information stored on our

systems is of restricted use and availability. Information may be referred to the police or other emergency services as set out in paragraph 3.10. Details of investigations are retained on student records for the length of study plus one year as set out in OCA's [Data Protection and Confidentiality Policy](#). Where information that you provide references another person you will endeavour to gain their consent prior to sharing it. For information on data protection within this policy please refer to section 9 (data confidentiality and record keeping).

- 3.10. OCA may, in circumstances where there is an ongoing risk to OCA members and/or the wider community, refer cases directly to the emergency services even where this is in contradiction to an individual's wishes. This may involve providing any relevant data and/or information as requested by the police to assist them in their investigations, as permitted by the [Data Protection Act 2018](#). Where a case is referred to the police OCA internal investigations will be paused until an outcome from the police is received.
- 3.11. OCA takes seriously false accusations of harassment and/or sexual misconduct and if an individual brings a complaint that is found to be mischievous or malicious then appropriate action will be taken. This may include disciplinary proceedings.

4. How to Raise a Concern

- 4.1. As a student, if you feel you have been bullied and/or harassed you can raise a concern formally with OCA through the [Learner Support Helpdesk](#). If you are unable to submit a request through the helpdesk you can also email complaints@oca.ac.uk. Once received, the Complaints Management Team will review according to the appropriate process.
- 4.2. As a member of staff if you feel that you have been bullied and/or harassed you can raise a concern formally with OCA by emailing complaints@oca.ac.uk. Once received, cases will be reviewed by the Head of HR (People and Culture).
- 4.3. You can raise a concern about bullying and/or harassment that you witness or overhear happening to someone else in connection with OCA business or activities. If you raise a concern the team investigating may contact you for further information. If you raise a concern about bullying and/or harassment happening to someone else, we will seek the views of the person(s) affected. To raise a concern please contact complaints@oca.ac.uk.
- 4.4. If more than one person is experiencing harassment or bullying from the same source and they consider reporting an allegation as a group, each individual in the group should, where possible, report a concern on an individual basis. Responses and outcomes of allegations will be advised on an individual basis and not to a group.

5. Procedure

5.1. Informal Action

- 5.1.1. If you feel harassed and/or bullied, you are encouraged to take informal action to resolve the issue, wherever possible. Whenever

taking informal action it is strongly advised to retain records of incidents and/or copies of evidence including emails, etc, if the matter is escalated.

- 5.1.2. You can raise an issue informally by, for example:
 - 5.1.2.1. Raise the issue with the person(s) who has caused concern directly, explain the issue and why it is unwanted and/or offensive.
 - 5.1.2.2. As a student, discuss the issue with your tutor, Programme Leader, or a member of staff and ask them for support.
 - 5.1.2.3. As a member of staff, discuss with your line manager, or a member of the OCA senior leadership team for support.
 - 5.1.2.4. Write a letter or email to the person(s) who has caused concern to explain the issue and why it is unwanted and/or offensive.
- 5.1.3. It is not a requirement to raise a concern informally; you can raise a concern formally if you wish.
- 5.1.4. It may not be possible or feasible to raise an issue informally, or numerous attempts to discuss informally fail, in which case it is appropriate to raise a formal concern.

5.2. Formal Action

- 5.2.1. You can raise a concern formally through the [Learner Support Helpdesk](#). If you are unable to submit a request through the helpdesk you can email complaints@oca.ac.uk. Once received the Complaints Management Team will review according to the appropriate procedure.
- 5.2.2. Once received, the Complaints Management Team will confirm receipt within five working days. This is the start of the formal stage.
- 5.2.3. Your case will be reviewed by one of the team and a response to the concern provided within 30 working days. If for any reason the review of the case will take longer than 30 working days, a member of the team will be in touch to advise of new timescales for a response.
- 5.2.4. As part of the investigation the reviewing officer will review all of the information provided as evidence. They may contact you to request further information and/or evidence. The reviewer will also contact the person(s) about whom the concern is raised to request their account, information, and/or evidence.
- 5.2.5. If the concern raised is in relation to a student, and upon review there is evidence that bullying and/or harassment has occurred, the case will be reviewed in line with the [Student Code of Conduct](#), including sanctions as specified in section 11 of the code.
- 5.2.6. OCA may make temporary arrangements, for example, with allocations to tutors, tutorial groups, forum access, and other study activities as part of the process of investigating an allegation. Such arrangements may be made permanent, depending on the outcome of

an allegation and other considerations, including but not limited to welfare.

- 5.2.7. If the concern raised is in relation to a member of staff (including tutors), and upon review there is evidence that bullying and/or harassment has occurred, the case will be reviewed in line with the [Staff Disciplinary Policy](#) (Internal Only) by the Head of HR (People and Culture).
- 5.2.8. If on review there is insufficient evidence to determine that bullying and/or harassment has occurred, this will be explained to the appropriate parties in the response.

6. Appeals

- 6.1. If a decision is made that bullying and/or harassment has not occurred (see paragraph 5.2.8) you may request an administrative review of this decision in line with section 10 of the [Student Complaints and Non-Academic Appeals Policy](#). Appeals must be made within 28 days of the response as outlined in paragraph 6.1 of the policy.
- 6.2. If you are seeking to appeal a decision made through the [Student Code of Conduct](#) as outlined in paragraph 5.2.5, please refer to that policy for details on appeals.
- 6.3. If you are seeking to appeal a decision made through the [Staff Disciplinary Policy](#) (Internal Only) as outlined in paragraph 5.2.6, please refer to that policy for details on appeals.

7. Definitions

- 7.1. **Harassment or bullying** can take many forms, often involving the abuse of power or position and may be a single event, sporadic events or a continuing process. Both harassment and bullying refer to behaviours which, deliberately or otherwise, are hostile and/or offensive to the recipient or others and which unreasonably interfere with an individual's work, academic performance or social life. Harassment or bullying may involve apparently insignificant acts which cumulatively create an intimidating environment that undermines the integrity or dignity of the individual. Unacceptable behaviour ranges from violence and threats to ignoring people. In all cases, harassment and bullying are unwelcome and can make an individual feel uncomfortable, unsafe, frightened or embarrassed. The common link is that the behaviour is unwanted by the recipient or others, is unwarranted by the relationship and would be regarded as harassment or bullying by any reasonable person.
- 7.2. **Harassment and bullying** can be evoked through verbal or non-verbal expressions, physical activities, socially, in person, or online, including on social media. Where OCA does not monitor a social media site, OCA can only respond if a concern is reported through this policy.
- 7.3. The [Equality Act 2010](#) defines harassment as “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.”

- 7.4. The Act also bans three specific types of harassment; harassment relating to protected characteristics, sexual harassment, and treating an employee less favourably because s/he rejects sexual harassment related to gender reassignment or submits to it.
- 7.5. **Victimisation** is the mistreatment of a person or persons on the basis of a complaint made by such person or persons, or have assisted in the making of such a complaint.
- 7.6. Bullying is a complex phenomenon of unwanted offensive and malicious behaviour which undermines an individual or group through persistently negative attacks. There is typically an unpredictable and irrational abuse of power or position that can manifest itself in physical, verbal or non-verbal forms. There can often be an element of vindictiveness attached to bullying and the behaviour is calculated to undermine, patronise, humiliate, intimidate or demean the recipient.
- 7.7. **Harassment** is “unwanted conduct related to a relevant protected characteristic (age, disability, gender reassignment, race, religion or belief, sex, or sexual orientation) which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual¹”. Offensive behaviour that is not directed at an individual can still be classed as harassment by that individual and harassment due to perception, and/or through the association of a protected characteristic.
- 7.8. **Stalking** is a form of harassment may involve some or all of the following; monitoring an individual, either in person, in writing, online, or on the telephone; contacting, or attempting to contact another person, by any means; watching or spying on a person; loitering in a public place; interfering with any property in the possession of a person; publishing statements or material purporting to be about or to be from another person.
- 7.9. **Sexual Harassment** describes a range of behaviours of a sexual nature perpetrated (knowingly or unknowingly) against a victim. It includes unwanted attention of a sexual nature that degrades, ridicules or is intimidating. This may be physical, ranging from unwanted touching, groping or the invasion of personal space to sexual assault, rape or indecent exposure. Sexual harassment may also be verbal and may include unwanted personal comments or sexual slurs, belittling, suggestive, lewd or abusive remarks, explicit ‘jokes’ or innuendo, and compromising invitations, including demands for sexual favours. Examples of non-verbal sexual harassment include: suggestive looks, leering, explicit gestures, sending sexually explicit emails or the display of pornographic material. Sexual harassment may be perpetrated by anyone, towards anyone, regardless of gender or sexual orientation.
- 7.10. **Racial Harassment** is unwanted behaviour based on race, ethnic or national origin. It includes written or verbal threats or insults based on race, ethnicity or skin colour, abusive comments about racial origins, ridicule based on cultural grounds, derogatory name calling, racist jokes, damage to property, the display of offensive graffiti or insignia and incitement of others to commit any of the above.
- 7.11. **Religious or Belief Harassment** is unwanted behaviour based on religious beliefs or practices. This includes ridiculing items worn for religious reasons, denigrating cultural customs, dismissive treatment of requests for holidays for religious or cultural festivals, or derisory comments against an individual’s beliefs. It includes the incitement or persistent pressure through forms of

¹ Equality Act 2010, Section 26

evangelism and religious propaganda, and attempts to spread ideas on religion or recruiting to a particular group, where an individual or group has said or indicated non-interest. Regardless of an individual's cultural or religious beliefs about different lifestyle choices (e.g. pertaining to gender, sexuality, dress), such beliefs must not manifest themselves in breach of the OCA [Student Code of Conduct](#) or [Staff Handbook](#).

- 7.12. **Disability Harassment** is unwanted behaviour based on disability, impairment or additional need. Such behaviour may include comments that are patronising or objectionable to the recipient or which creates an intimidating, hostile or offensive environment for people with disabilities. Disability harassment includes inappropriate reference to disability, unwelcome discussion of the impact of disability, refusal to work with and exclusion of people with disabilities from social events or meetings.
- 7.13. **Sexual Orientation Harassment** is unwanted behaviour based on known or presumed sexual orientation. Such behaviour includes name calling, stereotyping, assault, verbal abuse, actual or threatened unwanted disclosure of sexuality, derogatory comments, excluding same-sex partners from social events or intrusive questioning about a person's domestic circumstances.
- 7.14. **Age Harassment** is unwanted behaviour based on a person's age which can include stereotyping, assault, inappropriate reference to age, unwelcome discussion on the age of an individual and making generalisations about a person's ability based on their age.
- 7.15. **Gender Identity, Transgender or Gender Reassignment Harassment** is treating a person less favourably than another person because they have either submitted to, or did not submit to, sex or gender reassignment. It is unwanted behaviour based on known or presumed gender identity. Such behaviour includes name calling, continually using the wrong pronoun instead of the preferred pronoun, stereotyping, assault, verbal abuse, actual or threatened unwanted disclosure of the person's previous gender, derogatory comments, excluding partners from social events or intrusive questioning about a person's personal, medical and social circumstances. The various examples of unwanted behaviours as outlined under 'Sexual Harassment' also apply.
- 7.16. **Third Party Harassment** is where a member of OCA is harassed by people who are not a member of OCA, either as a student or staff OCA recognises that students and staff deal with a variety of external organisations and bodies and that it is feasible that people may feel harassed by a third party during the course of their studies or work. OCA will not tolerate anyone being harassed by a third party and where such incidents are disclosed, will take appropriate action. Students and staff are encouraged to report any incidents of third party harassment to their Head of Department.
- 7.17. **Anti-semitism** 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.

8. Support

- 8.1. Should you need any help with this policy, you should contact our Learner Support team at learnersupport@oca.ac.uk for more information.

9. Data Confidentiality and Record Keeping

- 9.1. Reports of harassment or bullying are treated with confidentiality and shared on a need-to-know basis. This is to protect the confidentiality of the

individuals involved. If the safety of an individual(s) is at risk of serious harm, confidentiality in these circumstances may be overridden by legal obligations to disclose. Please see the [Data Protection and Confidentiality Policy](#) for details.

- 9.2. Cases reported to OCA are retained on a student's record for the duration of study. Please see our [Data Retention Schedule](#) for details.
- 9.3. Cases which are escalated to external agencies, such as the police or social services, are required to be retained for the duration of study plus seven years. Please see our [Data Retention Schedule](#) for details.
- 9.4. Where a case is considered at the formal stage by OCA and bullying and/or harassment is deemed to have occurred, these cases are then reviewed under the [Student Code of Conduct](#). As part of the [Student Code of Conduct](#), cases may be passed to The Open University at the Review Stage (section 8), and data may be passed to The Open University to facilitate this. Please refer to The Open University [Student Privacy Notice](#) for details.
- 9.5. Where it is not possible at the time to decide whether there is any substance to an allegation, a record of correspondence relating to the allegation, the action taken to review the allegation, and any statements taken will be kept.
- 9.6. Records for bullying and harassment investigations will be kept as evidence should further action be taken.

10. Linked and other relevant policies and legislation

- 10.1. This policy is subject to OCA's [Terms and Conditions](#).
- 10.2. This policy should be read in conjunction with OCA documentation including [Equality and Diversity Policy](#), [Safeguarding Policy](#), [Prevent Policy](#), [Wellbeing Policy](#), [Whistleblowing Policy](#), [Online Behaviour and Social Media Policy](#), [Student Code of Conduct](#), and [Staff Disciplinary Policy](#) (Internal Only).
- 10.3. This policy references the [Equality Act 2010](#) and [Protection from Harassment Act 1997](#).

11. Reviewing the policy

- 11.1. OCA will work to gather student feedback on the outline of the policy, its intentions, the administration of the policy, and a review of all these points in practice. These will then be fed into the next review point for the policy.
- 11.2. This policy will be reviewed annually. If you would like to raise any issues around this policy then you should contact learnersupport@oca.ac.uk, or if you are a student, you might also wish to raise these with the appropriate Student Association representative at sa@oca.ac.uk.

12. Policy Changes

- 12.1. Since the last version of this policy, the following changes have been made:
 - 12.1.1. Expansion of the purpose of the policy.
 - 12.1.2. Expansion of the scope of the policy to include visitors and contractors.
 - 12.1.3. Expansion of the general principles of the policy.
 - 12.1.4. Rewrite of how to raise concerns to reflect new practice

- 12.1.5. Rewrite of Investigation and Investigation Outcome (now called Procedure).
- 12.1.6. Inclusion of appeals.
- 12.1.7. Expansion of definitions.
- 12.1.8. Inclusion of data protection and confidentiality procedures.