

Version number:	Status:	Owner:	Approved By:	Date Approved:
1	Approved	Joanne Mulvhill-Allen	OCA Board	7 June 2022

Sexual Harassment & Misconduct Policy

Updated: New

Purpose

The Open college of Arts is committed to preventing and eliminating all forms of sexual harassment and misconduct. We do not tolerate sexual harassment and misconduct, violence or abuse. We aim to provide a learning and teaching environment in which all members of our community feel safe and respected. The College will listen to and take seriously all disclosures of sexual harassment and sexual misconduct.

Values

The Open College of the Arts (OCA) strategic vision is “to be at the forefront of student-led creative arts education through open, enhanced, & supported distance learning, for an evolving society”. OCA is a non-profit educational charity, whose purpose is to widen participation in arts education through open flexible distance and online learning.

OCA’s Open Learning Attributes translates our vision and values by outlining the underlying principles that inform approaches to learning, teaching, assessment, learning design, and wider academic related approaches. These are:

- Openness - being accessible, inclusive, adaptable, and flexible
- Engaging - creating active, enjoyable and meaningful educational experiences
- Empowering - widening access to arts education, building trust, sharing experiences, and being student-led
- Social - building learning communities, developing networks, and sharing our experiences
- Sustainable - building resilience, and integrating environmentally sound and sustainable creative practice
- Evolving - being relevant and responsive, and creating a positive social impact

Scope

We recognise the significant negative effects that experiencing sexual harassment and

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misconduct can have upon individuals and we will support them, as well as supporting those members of the OCA community (peers, personal tutors, etc.) to whom such experiences are disclosed.

We are committed to providing a supportive and confidential environment where students & staff members feel confident and empowered to disclose, will be listened to and understand the options available to them.

As an online and distance learning institution the majority of behaviours will manifest themselves in virtual, online, social media or other remote forms of communication. The medium does not mitigate the impact or excuse the behaviour.

Behaviours that the OCA regard as online misconduct include:

- Threats to cause harm (physical, emotional, reputational) to another person
- Identity-based harassment - posting offensive comments about someone's racial, sexual, gendered, religious identity and/or physical appearance
- Posting personal information about someone online without their consent
- Online impersonation (e.g. setting up online profiles in someone else's name)
- Sharing or creating private sexual materials (i.e. those made of an individual with the understanding that such material would not be shared) online or in digital spaces
- Sharing or creating public sexual materials (i.e. pornographic materials that are widely available via media outlets) online or in digital spaces with the intention to sexually harass and/or incite gender-based violence
- Online communication that employs forms of coercion to extort sexual favours from the victim
- Repeated unwanted and unsolicited contact with another person by email, text message, social media or in any online or digital space
- Indecent, disorderly, threatening, intimidating or offensive language, photos or other content, expressed electronically, including blogs and social networking websites
- Distribution or publication of any electronic publication including audio-visual material, social media post, blog or webpage, which is offensive, intimidating, threatening, indecent or illegal

More information on tackling online harassment and promoting online welfare can be found here

<https://www.universitiesuk.ac.uk/what-we-do/policy-and-research/publications/tackling-online-harassment-and-promoting>

We will support everyone in our community to challenge inappropriate behaviour where it

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is safe for them to do so. Sexual misconduct and violence can be experienced by any individual, regardless of sex, gender, sexual orientation, relationship status, age, disability, faith, ethnicity, nationality and economic status.

Women, members of the LGBTQIA+ community, and individuals with disabilities are disproportionately affected by experiences of sexual violence. We recognise that experiences of sexual harassment, misconduct and violence may also intersect with other forms of harassment and discrimination.

This policy covers all students and staff members of the Open College of the Arts.

Changes

New policy

Policies superseded by this document

Not applicable

Related policies and legislation

This policy references:

The [Equality Act 2010](#)

The Act prohibits three types of harassment. These are:

- harassment related to a 'relevant protected characteristic'*
- sexual harassment, and
- less favourable treatment of a student because they submit to or reject sexual harassment or harassment related to sex or gender reassignment.

*What are the protected characteristics?

There are nine 'protected characteristics'. These are:

- age
- disability
- gender reassignment**
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.

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**The Open College of the Arts policies, practices and procedures specifically extend to all gender identities including trans, non-binary and gender non-conforming people. Please see our [Gender Identity Policy](#).

Other relevant legislation

- [Data Protection Act 2018 \(UK\)](#)
- [Protection from Harassment Act \(1997\)](#)
- [The Gender Recognition Act 2004 \(UK\)](#)
- [Sex Discrimination \(Gender Reassignment\) Regulations \(Northern Ireland\) 1999](#)

Policy / procedure

Introduction

This policy was written with reference to the [Equality Act 2010](#), through a review of best practice within the HE sector and using resources from [Advance HE](#), [the Equality & Human Rights Commission](#) and [the Office for Students \(OfS\)](#). Information was also drawn from training provided by [Diversity & Ability](#), [PILAA](#) and [Curious Arts](#) for the OCA. Below is a list of important terminology and following are our aims and objectives for this policy.

1. Important terminology

1.1 Consent

- Consent is the agreement to participate in a sexual act where the individual has both the freedom and capacity to make that decision. Consent cannot be assumed on the basis of a previous sexual experience or previously given consent, and consent may be withdrawn at any time.
- Freedom to consent: For consent to be present, the individual has to freely engage in a sexual act. Consent is not present when submission by an unwilling participant results from the exploitation of power, or coercion or force, regardless of whether there is verbal or physical resistance.
- Coercion or Force includes any physical or emotional harm or threat of physical or emotional harm which would reasonably place an individual in fear of immediate or future harm, with the result that the individual feels compelled to engage in a sexual act.
- Capacity to consent: Free consent cannot be given if the individual does not have the capacity to give consent. Incapacitation may occur when an individual is asleep, unconscious, semi-conscious, or in a state of intermittent consciousness, or any other state of unawareness that a sexual act may be occurring. Incapacitation may also occur on account of a mental or

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developmental disability, or as the result of alcohol or drug use.

1.2. Complicity

Complicity is any act that knowingly helps, promotes, or encourages any form of Sexual Misconduct and Violence by another individual.

1.3. Disclosure

Disclosure means that an individual tells a member of the OCA community that they have experienced Sexual Misconduct (this is different from a formal Complaint).

1.4. Formal complaint

Submitting a formal Complaint to the OCA regarding an individual's experience of Sexual Misconduct is an instruction for the us to take appropriate action. The Complaint will allow the OCA to investigate the misconduct as set out in this Policy and the accompanying processes.

1.5. Online harassment

Online harassment can be defined as: 'the use of information and communication technologies by an individual or group to repeatedly cause harm to another person with relatively less power to defend themselves'. Online harassment is also known as : cyber aggression, cyberbullying, cyber-harassment, cyberhate, cyber victimisation and deviant online behaviour.

1.6. Report

A report is a written complaint made to the OCA by the Reporting Party, to be followed up with potential action against the Responding Party.

1.7. Reporting Party

Reporting Party is the person(s) who has been the subject of the alleged incident of Sexual Misconduct and Violence or other policy breach.

1.8. Responding Party

Responding Party is the person(s) whose behaviour it is alleged amounted to an incident of Sexual Misconduct and Violence or other policy breach.

1.9. Sexual Harassment

Sexual harassment includes a wide range of behaviours including but not limited to:

- sexual comments or jokes
- displaying sexually graphic pictures, posters or photos
- suggestive looks, staring or leering
- propositions and sexual advances
- making promises in return for sexual favours

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- sexual gestures
- intrusive questions about a person's private or sex life, and discussing your own sex life
- sexual posts or contact on social media
- spreading sexual rumours about a person
- sending sexually explicit emails or text messages
- unwelcome touching, hugging, massaging or kissing
- criminal behaviour, including sexual assault, stalking, grooming, indecent exposure and sending offensive communications o/hr policies/prevention of sexual harassment policy
- predatory behaviour
- Coercion

Sexual harassment can be a one-off event and does not need to be directed at a person. It can be witnessed or overheard. Sexual conduct that has been welcomed in the past can become unwanted.

1.10. Sexual misconduct

Sexual Misconduct covers a broad range of inappropriate and unwanted behaviours of a sexual nature. It covers all forms of sexual violence, including sex without consent, sexual abuse (including online and image-based abuse), non-consensual sexual touching, sexual harassment (unwanted behaviour of a sexual nature which violates your dignity; makes you feel intimidated, degraded or humiliated or creates a hostile or offensive environment), stalking, abusive or degrading remarks of a sexual nature, and a vast range of other behaviours.

Aims and objectives

This policy will apply to sexual misconduct which:

- Occurs on OCA's property and/or land;
- Occurs whilst a student is engaged in any OCA or Student Association related activity
- Occurs via electronic means including, but not limited to: internet, email, social media sites, chat rooms, text messages and instant messaging;
- Results in a legal or police investigation, charge or conviction of an offence;
- Raises questions about the student who in the view of the OCA poses a serious risk or disruption to the members of our community.

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2. What we commit to do

2.1. Support anyone in our student community who is subject to any form of sexual misconduct.

2.2. Ensure that reporters are responded to in a safe, supportive, trusting environment.

2.3 Prioritise their safety and wellbeing, whilst ensuring the dignity of all those involved in any investigations or disciplinary proceedings.

2.4. Listen to the voice of the reporting party when considering sanctions.

2.5. Listen to the voice of the responding party and provide information in a timely manner.

3. In addition to this, we will:

3.1. Support all staff and students so that they understand:

- What sexual misconduct is and that it is not tolerated.
- What consent is; and when consent is, and is not, given.
- Make clear how to disclose sexual misconduct, in person, online and anonymously, what options are available and the support that can be provided.
- Ensure that all relevant staff are informed of how to receive and signpost a disclosure of sexual misconduct in a sensitive way.
- Empower those who disclose an experience to choose which options are best for them and provide links to expert professional support,
- Set out all options and processes clearly and transparently. This includes the option to not make a formal complaint.
- Respect the sensitivity of disclosures of sexual misconduct and their consequences, and treat any disclosure confidentially, in line with our Data Protection Policy and our duty of care under safeguarding.
- Within Disciplinary Proceedings, ensure fairness to both Reporting and Responding parties.
- Ensure that all communications are sufficiently clear and detailed, and accurately reflect any decisions made.
- Learn from our experiences and regularly review this policy informed by data trends and with input from independent external experts to ensure it remains relevant.
- The OCA will implement anonymous disclosing mechanisms in order to

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understand the nature and extent of sexual harassment, sexual misconduct and sexual assault experienced by members of its community

- The OCA will ensure relevant staff members are trained to appropriately identify and to respond to disclosures of sexual harassment and sexual assault.

Victimisation of any individual making a complaint under this Policy will not be tolerated and will be dealt with under our [Code of Conduct policy](#). Sexual harassment constitutes serious misconduct and could result in dismissal (for staff members) or expulsion (for students).

4. Third-party or witness disclosures

4.1. Where the person disclosing is a third party who has not experienced the sexual misconduct, such as a person who has witnessed misconduct taking place or been informed of misconduct, the OCA will respect the right of the individual who experienced the incident to choose how to take forward a disclosure. A third-party disclosure will only become a report if the individual who experienced the incident wants action to be taken as part of the disclosure.

4.2. There may be certain circumstances where we are required to take appropriate action to prevent potential harm to individuals or the OCA, based on a risk assessment, which may include acting on information despite or without knowledge of the wishes of the individual(s) who experienced the incident. The Head of Student Services will act as the decision-maker as to whether to escalate a disclosure to a report, or a report to an investigation. The OCA will record if there is a decision from the Disclosing Party to withdraw their disclosure or a witness's disclosure.

Implementing the policy

The policy will be reviewed annually by the EDI Group consisting of student and staff representation who will consult with those with lived experience where appropriate and in a respectful manner. The policy will have overall approval by the Curriculum and Quality Committee (CQC) who will ensure relevance with current statutory requirements, and best practice in the field of Equality, Diversity and Inclusion.

As part of the review process of this policy, all subsidiary policies listed here will also be reviewed as part of this;

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- [Anti-bullying & Harassment Policy](#)
- [Complaints Policy](#)
- [Equality and Diversity Policy](#)
- [Data Protection and Confidentiality Policy](#)
- [Email and Communications Policy](#)
- [Gender Identity Policy](#)
- [Online Behaviour and Social Media Policy](#)
- [Criminal Convictions Policy](#)
- [Safeguarding Policy](#)

Support for the policy

Reporting Process

The College takes extremely seriously any reported cases whereby a student or staff at the college feels discriminated, harassed, bullied, or victimised. In any case whereby these charges are brought, the College will implement a full investigation of the incident(s) and resolve the situation quickly and sensitively. Where a person(s) are found to have breached this policy, either students or staff, formal disciplinary procedures will be followed, and where necessary reported to local authorities including the police.

If you, or someone you know, feels unsafe or uncomfortable about anything that has happened, we can help. We will listen to you, and ensure that you are able to make personal and informed decisions and feel supported from the outset.

Students wishing to report any incident can do so via the Colleges Complaints Procedures, details of which are in the Student Regulations.

Staff wishing to report any incident should, where possible, in the first instance talk to their line manager.

Staff and students can disclose anonymously via our safe space reporting space here.

Please note if you disclose anonymously we won't be able to contact you to offer any advice or support and reporting anonymously will not lead to formal action being taken. It does however alert us that something has happened and allows us to better understand the prevalence of issues within the OCA.

Members of the public can submit a complaint via email to enquiries@oca.ac.uk.

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Links to external websites

- <https://www.police.uk/advice/advice-and-information/sh/stalking-harassment/support-victims-harassment/>
- <https://www.victimsupport.org.uk/crime-info/types-crime/stalking-and-harassment/>
- <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/stalking/>
- https://www.report-it.org.uk/organisations_that_can_help