

# Harassment and Sexual Misconduct

## From August 2025

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## 1. Policy Summary

- 1.1. This policy sets out the steps that the OCA takes in dealing with harassment and sexual misconduct. This relates to the culture that we create, and the specific actions we take to address these issues including training, and measures. It also details the behaviours expected of students, staff, visitors, and contractors to OCA.
- 1.2. All OCA students, staff, visitors, and contractors are responsible for helping to ensure that individuals do not experience harassment or sexual harassment in any form. If, however, harassment & sexual misconduct does occur there are a number of actions individuals can take.

## 2. Scope

### 2.1. What does this policy cover?

- 2.1.1. All OCA students, tutors, and staff: It applies to everyone within the OCA community.
- 2.1.2. The purpose and general principles of EDI.
- 2.1.3. The principles for embedding EDI.
- 2.1.4. How to raise a concern.
- 2.1.5. The definitions of key terms.

### 2.2. What does this policy not cover?

- 2.2.1. Detailed disciplinary procedures and appeals processes which are outlined in their respective policies.

## 3. General Principles

- 3.1. It is the aim of OCA to provide a harassment and sexual misconduct policy that ensures all members of OCA understand their rights and responsibilities when engaging with other members of OCA.
- 3.2. We will support everyone in our community to challenge inappropriate behaviour where it 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.
- 3.3. 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.

- 3.4. The OCA is committed to preventing and eliminating all forms of harassment and sexual misconduct. We do not tolerate harassment and sexual 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 OCA will listen to and take seriously all disclosures of harassment and sexual misconduct.
- 3.5. OCA will maintain a training and guidance course relating to Embedding Safety at OCA: Harassment & Sexual Misconduct for staff and students.
- 3.6. OCA recognises that close personal relationships at work may exist and or develop between members of staff and/or students and external parties. A Personal Relationships at Work Policy & Procedure has been developed.
- 3.7. 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.
- 3.8. We recognise the significant negative effects that experiencing sexual harassment and 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.
- 3.9. 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 harmful beliefs.
- 3.10. OCA will listen to the voice of the reporting party when considering sanctions.
- 3.11. OCA will listen to the voice of the responding party and provide information in a timely manner.
- 3.12. Within Disciplinary Proceedings, ensure fairness to both Reporting and Responding parties.

- 3.13. 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, 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.
- 3.14. 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](#).
- 3.15. The OCA is fully committed to the principle and promotion of freedom of speech and expression. In addition to its statutory obligations, the [Freedom of Speech Code of Practice](#) sets out the expectations of conduct and self expression when involved with any aspect of learning, teaching and operation within The OCA.
- 3.16. OCA has a statutory duty to share information with other internal departments or external agencies, such as safeguarding or Prevent, if there is a reasonable perceived risk of immediate harm. See [section 6](#) regarding confidentiality and record-keeping.

#### 4. How to raise a concern

- 4.1. The OCA takes extremely seriously any reported cases whereby a student or staff feels discriminated, harassed, bullied, or victimised. As a student, 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](mailto:complaints@oca.ac.uk). Once received the Complaints Management Team will review and take action.
- 4.2. Staff wishing to report any incident should, where possible, in the first instance talk to their line manager. As a member of staff you can raise a concern formally with OCA by emailing [complaints@oca.ac.uk](mailto:complaints@oca.ac.uk). Once received, and if appropriate, cases will be reviewed by the Head of HR.
- 4.3. You can raise a concern pertaining to OCA activities about harassment and/or sexual misconduct that you witness or overhear happening to

someone else. If you raise a concern the team investigating may contact you for further information.

- 4.4. Staff and students can disclose anonymously via our safe space reporting space which is available within the EDI space on OCA Learn.
- 4.5. 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.
- 4.6. There is no deadline to reporting an allegation of harassment or sexual misconduct in accordance with this policy; however, reporting an incident as soon as possible after it has occurred is recommended.
- 4.7. 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 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 are a victim of sexual misconduct, you are encouraged to take informal action to resolve the issue, wherever possible.
- 5.1.2. Where possible, it is strongly advised to retain records of incidents and/or copies of evidence including emails etc if the matter is escalated.
- 5.1.3. You can raise an issue informally by, for example:
  - 5.1.3.1. Raise the issue with the person(s) who has caused concern directly, explain the issue and why it is unwanted and/or offensive.
  - 5.1.3.2. As a student, discuss the issue with your tutor, Programme Leader, or a member of staff and ask them for support.
  - 5.1.3.3. As a member of staff, where appropriate discuss with your line manager, or a member of the OCA senior leadership team for support.

- 5.1.3.4. 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.
- 5.1.4. It is not a requirement to raise a concern informally; you can raise a concern formally if you wish.
- 5.1.5. It may not be possible or feasible to raise an issue informally, or attempts to discuss informally are unsuccessful, 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 also email [complaints@oca.ac.uk](mailto:complaints@oca.ac.uk). Once received the Complaints Management Team will review and take action.
  - 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. If the concern raised is in relation to a member of staff (including tutors), and upon review there is evidence that harassment and/or sexual misconduct has occurred, the case will be

reviewed in line with the Staff Disciplinary Policy (Internal Only) by the Head of HR (People and Culture).

- 5.2.7. OCA may make temporary arrangements, for example, with allocations to tutor groups 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 welfare considerations.
- 5.2.8. If on review there is insufficient evidence to determine that harassment and/or sexual misconduct has occurred, this will be laid out to you in the response.
- 5.2.9. Cases of alleged serious criminal offences, such as physical or sexual assault, should be reported by the individual (for example, the victim or a 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.

## 6. Data Confidentiality and Record Keeping

- 6.1. Due to the sensitive nature, complaints of harassment and/or sexual misconduct will be investigated with particular care and will remain, where possible, confidential. The purpose of this provision is to protect the confidentiality of the person making the complaint and the reputation of the person being complained about until the matter has been resolved. If it is deemed that 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.
- 6.2. Cases reported to OCA are retained on a student's record for the duration of study. Please see our [Data Retention Schedule](#) for details.
- 6.3. Cases which are escalated to the emergency services, or social services are required to be retained for the duration of study plus seven years. Please see our [Data Retention Schedule](#) for details.
- 6.4. Where a case is considered at the formal stage by OCA and harassment and/or sexual misconduct is deemed to have occurred, these cases are then reviewed under the [Student Code of Conduct](#).
- 6.5. 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.

## 7. Appeals

- 7.1. If a decision is made that harassment and/or sexual misconduct 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.
- 7.2. 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.
- 7.3. 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.

## 8. False Complaints

- 8.1. The OCA takes false accusations of harassment and/or sexual misconduct seriously 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.

## 9. Glossary of terms

- 9.1. Harassment: 'harassment, including sexual harassment, includes unwanted behaviour or conduct [of a sexual nature] which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment because of, or connected to, one or more of the following protected characteristics: age; disability; gender reassignment; race; religion or belief; sex; and sexual orientation.'
- 9.2. Sexual harassment includes a wide range of behaviours including but not limited to:
  - 9.2.1. sexual comments or jokes
  - 9.2.2. displaying sexually graphic pictures, posters or photos
  - 9.2.3. suggestive looks, staring or leering
  - 9.2.4. propositions and sexual advances
  - 9.2.5. making promises in return for sexual favours
  - 9.2.6. sexual gestures
  - 9.2.7. intrusive questions about a person's private or sex life, and discussing your own sex life

- 9.2.8. sexual posts or contact on social media
  - 9.2.9. spreading sexual rumours about a person
  - 9.2.10. sending sexually explicit emails or text messages
  - 9.2.11. unwelcome touching, hugging, massaging or kissing
  - 9.2.12. criminal behaviour, including sexual assault, stalking, grooming, indecent exposure and sending offensive communications o/hr policies/prevention of sexual harassment policy
  - 9.2.13. predatory behaviour
  - 9.2.14. Coercion
  - 9.2.15. Sexual harassment can be a one-off event and does not need to be directed at a person. It can be witnessed or overhead. Sexual conduct that has been welcomed in the past can become unwanted.
- 9.3. Sexual misconduct: 'sexual misconduct' means any unwanted or attempted unwanted conduct of a sexual nature and includes but is not limited to:
- 9.3.1. sexual harassment as defined by section 26(2) of the Equality Act 2010;
  - 9.3.2. assault as defined by the Sexual Offences Act 2003;
  - 9.3.3. rape as defined by the Sexual Offences Act 2003.
- 9.4. 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.
- 9.4.1. 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.
  - 9.4.2. 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.
  - 9.4.3. 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 developmental disability, or as the result of alcohol or drug use.

- 9.5. Complicity: Complicity is any act that knowingly helps, promotes, or encourages any form of Sexual Misconduct and Violence by another individual.
- 9.6. 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).
- 9.7. Formal complaint: Submitting a formal Complaint to the OCA regarding an individual's experience of Sexual Misconduct is an instruction for the OCA to take appropriate action. The Complaint will allow the OCA to investigate the misconduct as set out in this Policy and the accompanying processes.
- 9.8. 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.
- 9.9. Other harmful behaviours not included in the above list may be considered as part of an allegation of harassment and/or sexual misconduct.

## 10. If you need support

- 10.1. Should you need any help or would like to raise any issues with this policy, you should contact our [edi@oca.ac.uk](mailto:edi@oca.ac.uk) for more information.
- 10.2. The 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 future reviews of the policy.
- 10.3. If you are a disabled student and you would like to receive this procedure in an alternative format please contact the OCA's Learner Support team



The Open College of the Arts



The Open University

- 10.4. If you live in Wales and require this policy in the Welsh language then please contact [enquiries@oca.ac.uk](mailto:enquiries@oca.ac.uk).

## 11. Linked and other policies and legislation

- 11.1. [This policy is subject to OCA's Terms and Conditions.](#)

### 11.2. OCA Policy:

- 11.2.1. [Complaints Policy](#)
- 11.2.2. [Criminal Convictions Policy](#)
- 11.2.3. [Code of Conduct Policy](#)
- 11.2.4. [Equity, Diversity and Inclusion Policy](#)
- 11.2.5. [Data Protection and Confidentiality Policy](#)
- 11.2.6. [Gender Identity Policy](#)
- 11.2.7. [Online Behaviour and Social Media Policy](#)
- 11.2.8. [Prevent Policy](#)
- 11.2.9. [Safeguarding Policy](#)
- 11.2.10. Staff Disciplinary Policy (Internal Only).
- 11.2.11. Whistleblowing Policy

### 11.3. Legislation

- 11.3.1. [Article 10 of the European Convention on Human Rights.](#)
- 11.3.2. [The Equality Act 2010](#)
- 11.3.3. [Data Protection Act 2018 \(UK\)](#)
- 11.3.4. [Protection from Harassment Act \(1997\)](#)
- 11.3.5. [The Gender Recognition Act 2004 \(UK\)](#)
- 11.3.6. [Section 43 of the Education \(No. 2\) Act 1986](#)
- 11.3.7. [Sex Discrimination \(Gender Reassignment\) Regulations \(Northern Ireland\) 1999](#)
- 11.3.8. [Sexual Offences Act 2003](#)

### 11.4. Links to external websites

- 11.4.1. [Support for victims of stalking and harassment | Police.uk](#)
- 11.4.2. [Stalking - Victim Support](#)
- 11.4.3. [I'm not sure if my relationship is healthy - Women's Aid](#)
- 11.4.4. [Organisations That Can Help - True Vision](#)

## 12. Changes since previous policy

- 12.1. Since the last version of this policy, the following changes have been made:

- 12.1.1. Reference to Equality, Diversity and Inclusion Policy changed to Equity, Diversity and Inclusion Policy.

- 12.1.2. Policy updated to utilise the latest OCA policy template.
- 12.1.3. Reviewing the policy responsibility changed from [learnersupport@oca.ac.uk](mailto:learnersupport@oca.ac.uk) to [edi@oca.ac.uk](mailto:edi@oca.ac.uk).
- 12.1.4. Addition of information regarding provision of training and guidance.
- 12.1.5. URLs updated to reflect linked titles.

### **13. Policies superseded by this document**

- 13.1. This policy is subject to the OCA's Terms and Conditions.