

Sexual Harassment, Sexual Misconduct & Sexual Violence Policy

1. Context

1.1 Policy Statement

The Art Academy will not tolerate harassment or bullying in any form. All members of our community have the right to learn and work in an environment free from all forms of harassment including sexual misconduct and sexual violence.

Sexual harassment, 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 LGBTQ+ community and individuals with disabilities are disproportionately affected by experiences of sexual violence. Experiences of sexual misconduct and violence may also intersect with other forms of harassment and discrimination.

The Art Academy will take all disclosures of sexual misconduct seriously and take swift necessary action in response to allegations made against students, tutors, staff or models in line with the procedures in this document. Where necessary, the Academy will conduct confidential investigations into allegations of sexual misconduct. The nominated investigative officers have been trained appropriately to undertake such investigations.

All individuals are personally liable for their actions, which in some instances could lead to a criminal or civil action under the Protection from Harassment Act 1997, the Equality Act 2010 or other relevant legislation, such as the Crime and Disorder Act 1998.

1.2 Scope of policy

This policy applies to all members of the Academy's community and relates to sexual misconduct perpetrated by:

- A student against a student or a tutor, member of staff or model;
- A tutor, member of staff or model against a student or tutor, member of staff or model;
- A student, tutor, member of staff or model against a third party;
- A third party (visitor, contractor) against a student, tutor, member of staff or model.

It applies on Academy premises and to sexual misconduct that may take place off-site and out of hours, e.g. social events, trips or on social media.

Sexual misconduct can take place between anyone in our community, regardless of their role/standing and is not necessarily limited to behaviour within a hierarchical structure (e.g. senior staff towards junior staff, tutors towards students etc).

This policy does not cover incidents of non-sexual harassment, for which the Acadmey has a separate [Bullying & Harassment Policy](#)

1.3 Definitions

For the purposes of this policy, the following definitions apply:

Sexual misconduct a non-legal term used as an umbrella term to refer to and include different sexual offences. It can include Bullying, (Sexual) Harassment, Sexual Assault and Sexual Violence. Sexual misconduct also covers behaviours such as grooming, coercion, the promise of a reward for sexual access and sexual demands or threats. It often arises where there is an imbalance of power in a relationship and it violates the principle that the parties involved have given willing consent to the behaviours. It can be a one-off event. It can be witnessed or overhead. Sexual conduct that has been welcomed in the past can become unwanted.

By definition, some of the behaviours set out would necessitate physical contact or for the parties to be physically proximate. Many, however, may also manifest themselves in virtual, online, social media or other remote forms of communication. The medium does not mitigate the impact or excuse the behaviour.

Examples of sexual misconduct include, but are not limited to:

- sexually explicit remarks, innuendos or banter
- sexual insults, jokes, teasing or songs
- wolf whistling, cat calling or making other offensive sexual noises
- offensive comments about someone's dress, appearance or private life, including their sexuality or gender identity
- unwanted requests to engage in or discuss sexual activity
- targeted display or distribution of sexually explicit material (see 1.4 below)
- Stalking
- Spiking drinks, or intoxicating someone without their consent.

Harassment occurs when an individual is subjected to unwanted conduct which has the purpose (intentional) or effect (unintentional) of:

- Violating a person's dignity, or
- Creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Moreover, harassment is unlawful (under the Equalities Act) when it is on the grounds of sex, gender reassignment, race, ethnic or national origin, sexual orientation, age, religion/belief, or for a reason relating to a person's disability.

"Sexual assault" and "sexual harassment" are distinct from one another, although may frequently occur together.

Bullying, although not defined legally, is described as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

The following non-exhaustive list gives examples of behaviour that may also constitute harassment or bullying:

- offensive or inappropriate comments, body language, jokes, innuendos or gestures
- openly hostile, insulting, abusive or embarrassing comments or criticism
- persistently demeaning, ridiculing, excluding or isolating someone
- threats to disclose, or disclosing, private or personal information, including photographs
- comments, notes, publications or posts on social media that are derisory, disparaging, abusive, offensive or intimidating
- knowingly addressing or referring to someone using a pronoun (for example, he or she) with which an individual does not identify.

Interpersonal relationships between individuals can also be abusive without a sexual element to the behaviour. They may involve bullying or coercive behaviours which are used to maintain power or control. While this might include sexual abuse and/or bullying, it can also include emotional, financial or physical abuse, threats, isolation or intimidation.

Stalking is persistent and unwanted conduct of one or more kinds of behaviours described above. It can be physical or psychological and take place directly against a person, or by approaching a third party about a person. The more common examples of stalking are following a person home, following a person around, between or to/from campus, sending or leaving them unwanted and repeated messages, bullying them on social media or making intrusive or unwanted visits.

Sexual Violence is a non-legal term used as an umbrella term to refer to and include the different sexual offences. The World Health Organization's definition of "sexual violence" informs the basis of this policy as a universally applicable classification, as distinct from domestic UK law. This definition, therefore, captures any incidents of sexual violence against tutors, staff members and students occurring outside UK jurisdiction on international territory. According to the World Health Organization 'Sexual violence is defined as any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work'

Sexual Assault UK law defines "sexual assault" as: "A person commits sexual assault if they intentionally touch another person, the touching is sexual and the person does not consent". The maximum sentence is 10 years imprisonment.

Intimate Personal Relationship means a relationship that involves one or more of the following elements:

- Physical intimacy including isolated or repeated sexual activity; or
- Romantic or emotional intimacy*

**However, this definition should not prevent a member of staff engaging compassionately with a distressed student on a professional basis.*

Victim/Survivor - This policy uses victim/survivor in recognition that there is debate in the sector regarding appropriate terminology: the former has been criticised for reinforcing passivity and 'victim status', whilst the latter has been reproached for minimising the effects of violence. Ultimately, individual's responses differ from each other and over time. Victim/survivor is used here as an inclusive concept.

1.4 Freedom of Speech Principles

1.4.1 Art work

In a contemporary art school such as the Art Academy, students (and tutors) may choose to work with sexually explicit imagery. The Art Academy upholds the students' (and tutors') right to produce such work as a part of our commitment to freedom of speech and academic freedom.

Display of artwork that utilises explicit imagery does not necessarily constitute sexual misconduct because the work is deemed controversial or offensive. In such instances the Academy will need to satisfactorily conclude that the intentions of the artist comply with our [Freedom of Speech Code of Practice](#), the law (in particular the Equalities Act) and do not constitute sexual misconduct.

1.4.2 Teaching & Learning Resources and Delivery

Similarly, tutors may include sexually explicit materials within module resources. And statements may be made and views expressed by an individual as part of teaching, research or discussions about any subject matter which is connected with a session or module content.

Where these are a legitimate part of module or session content, this does not constitute misconduct. However, all members of the Academy's community are expected to treat each other with dignity and respect, and not intentionally cause offence to individuals, as per section 2 below.

2. Expected behaviour

Within this clause Staff, Tutors and Models and Contractors are collectively referred to as 'employees'

All members of the Art Academy community (students, tutors, staff, models and contractors) have a duty to familiarise themselves with this policy and to make every effort to ensure that sexual misconduct does not occur. Everyone is required to respect the age, beliefs, convictions and sexual orientation of others and not behave in ways which intentionally cause offence, or which in any way could be considered to be sexual misconduct. Every tutor, member of staff, model and all students have a responsibility to ensure colleagues, clients, students, and visitors are treated with dignity and respect.

People working on a voluntary basis at the Academy, visitors and those working as contractors are also bound by the terms of this Policy as is any person engaged with, or representing, the Academy.

Victimisation of any individual making a complaint under this Policy will not be tolerated and will be dealt with under the relevant Disciplinary Policy.

The Sexual Offences Act 2003 (Sections 16 to 21) prohibits sexual contact between a person and another person aged under 18 where such a relationship would be an abuse of a position of trust between the parties. This includes situations where the young person is attending an educational institution. See the Academy's [Safeguarding Policy](#)

2.1 Students

Sexual misconduct by a student towards a member of the Art Academy's community (tutor, member of staff, model, visitor, contractor and/or another student) will be considered under the Student Disciplinary Policy and may lead to expulsion from the Art Academy.

2.2 Employees

Sexual misconduct by an 'employee' towards a member of the Academy's community (tutor, member of staff, model, visitor, contractor and student) will be considered under the relevant Disciplinary Policy and may lead to expulsion or dismissal from the Art Academy.

2.3 Employee & Student relationships

The Art Academy believes that the professional relationship of trust and confidence that exists between students and 'employees' is a central and essential part of a student's educational development and pastoral care. Those who work for, or represent, the Academy must not abuse their position in any way. Given the inherent imbalance of power between many 'employees' and students, the Academy **DOES NOT PERMIT** intimate relationships between its 'employees' and its students*. Such relationships could compromise the trust and confidence that underpins the learning experience and may negatively impact on the student's educational development and pastoral care, and may in some circumstances constitute an abuse of power.

Should an 'employee' and student engage in an intimate personal relationship, the Academy requires immediate disclosure from the employee (via their line manager). Action will be considered under the relevant Disciplinary Policy and may lead to expulsion or dismissal from the Art Academy.

**except where an ongoing intimate personal relationship existed before the individual became an 'employee' or a student of the Art Academy. However, in such instances the Academy will require full disclosure at the point of application to review potential conflicts of interest.*

2.4 Employee & Employee relationships

An imbalance of power can also exist between 'employees' due to the positions they hold. Any abuse of the professional working relationship between employees is unacceptable and could be subject to disciplinary action.

It is recognised that, on occasion, a consensual relationship may also develop between two 'employees'. In such cases both 'employees' must follow the guidance in Staff/Tutor relationship in the Workplace Policy (except where both 'employees' are models, since no conflict of interest will arise).

3. Support for individuals experiencing sexual misconduct or violence

The Art Academy is committed to creating an environment where the disclosure of experiences of sexual misconduct or violence are met with sensitivity, understanding and an appropriate response that does not cause any further harm. Support is available day and night throughout the year to students, tutors and staff who disclose an experience of sexual misconduct or violence through an external counselling and wellbeing support service.

The Art Academy recognises that it will also need to provide support to alleged perpetrators of sexual misconduct and enable them to access appropriate support. The Academy recognises its responsibilities in terms of support and assistance for anyone who is alleged to have engaged in sexual misconduct, which may or may not constitute a criminal offence

Where a sexual offence has occurred within the Academy's community, each case will be reviewed to ascertain whether the Academy could have done anything to prevent the assault by way of safeguarding.

4 Formal procedure for reporting

4.1 Confidentiality

Ensuring confidentiality is a key principle in creating an environment and culture where those who have experienced sexual misconduct feel safe to make a disclosure. The Art Academy is committed to ensuring such an environment and culture exists and will ensure that all reasonable steps are taken to protect the privacy of those who disclose sexual misconduct.

All reports will be treated as confidential and information restricted to the parties involved in the allegations and the Art Academy's procedures. Confidentiality will be maintained, subject to any requirement to involve external agencies (e.g. social services, police or the ambulance service) in order to protect the individual making the disclosure, or another person who may be at risk.

The Art Academy will break confidentiality and share information if:

- that person is a child or young person under 18 who has experienced, or is at risk of, significant harm, or
- information is provided about a child or young person under 18 who has experienced, or is at risk of, significant harm, or
- that person is a vulnerable adult who has experienced, or is at risk of, significant harm, or,
- information is provided about a person who may be a vulnerable adult who has experienced, or is at risk of, significant harm, or,
- if it is believed that there is a risk to the public.

While the Art Academy commits to treat information it has received with appropriate sensitivity, there may be some circumstances where Academy personnel need to share certain information internally. This may be for a range of reasons that could include:

- preventing sexual violence or detection of a crime of sexual violence,
- ensuring appropriate information about support services is passed on,
- data collection (e.g., tracking incidents),
- protecting others.

Where information is shared internally, no information will be passed on that identifies the person who has disclosed sexual misconduct or been accused of committing a sexual offence without that individual's consent, unless the circumstances as outlined above pertain.

In the event that disciplinary procedures are invoked, any investigation report would be shared with the accused, in line with the principles of natural justice.

4.2 Reporting Options

Accepting that someone experiencing sexual harassment or violence may prefer not to report it, the Academy encourages any member of its community formally to report cases of sexual misconduct as soon reasonably practicable should they feel able to, whether they are the recipient of the behaviour or are witness to it as soon.

4.2.1 Students:

Any student reporting sexual misconduct, including witnessing such behaviour, should do so to the Director of Quality & Student Experience. The Director of Operations will be involved if the complaint is against a member of staff. Students may also disclose to their PAT or any other member of staff, as they decide, but must be made aware that such disclosures cannot remain confidential and that they must be reported to the Designated Safeguarding Officer as a minimum.

4.2.2 Tutors & models:

Any tutor or model reporting sexual misconduct, including witnessing such behaviour, should be made to the Director of Quality & Student Experience. The Director of Operations will be involved if the complaint is against a member of staff.

4.2.3 Staff:

Any report of sexual misconduct, including witnessing such behaviour, by a member of staff should be made to the Director of Operations. The Director of Quality & Student Experience will be involved if the complaint is against a tutor, model or student.

4.3 Option not to make a formal report/complaint

Importantly, it must be ensured that no pressure is put on the victim/survivor to take one course of action over another. Victims/Survivors have the right to determine what and how much they choose to disclose or report about their experience. Therefore, it is an important principle that in order to seek support, the victim/survivor will not be required or pressured to make a formal report or complaint. Where a potential crime has been committed, the Art Academy recognises that while some may choose to report to the police, there will also be people within the Academy's community

who choose not to report to the police, but may choose to disclose their abuse to a tutor or member of staff. Where reports involve sexual violence, it must be ensured that the victim/survivor understands the difference between a criminal investigation and the internal disciplinary investigation, and the differing processes for each.

In some cases the Art Academy may be required to take certain action without the victim/survivor's consent (see section 6.1). If this is necessary, individuals affected will be fully informed and supported at every step of any process.

4.4 Investigation & actions

Any investigations into allegations of sexual misconduct will be carried out by the Director of Programmes and/ or the Director of Operations as appropriate (depending upon to whom the report/ complaint relates). Where the report/complaint involves the above mentioned, an investigating officer will be nominated by the Principal. Where the report involves sexual violence, a suitably qualified external investigating officer may be appointed, ensuring that any future criminal proceedings will not be compromised.

The Art Academy will ensure that appropriate procedures are put in place to respond to anyone who is accused of committing sexual misconduct or a sexual offence. This will include imposing reasonable and proportionate precautionary measures on the student, tutor, model or staff member who is alleged to have committed a breach of discipline or a criminal offence at an early stage pending the outcome of criminal or disciplinary proceedings. It should be noted that these procedures do not constitute an assumption of guilt.

Where a sexual crime is reported to the police, the Art Academy will assist a criminal investigation wherever necessary and recognises that, save for taking any necessary precautionary action, the Academy should not undertake any disciplinary action against the accused until the criminal process is at an end and, therefore, internal investigations will cease. Any student or employee being investigated for a sexual crime will be suspended until the investigation is completed. Allegations of sexual misconduct will be dealt with through the Academy's disciplinary procedures and those who have been found to have committed sexual misconduct shall be subject to related sanctions and discipline up to and including expulsion and/or dismissal where appropriate.

4.5 Data & Review of Policy

The Art Academy will maintain annual statistics on disclosed and reported incidents of sexual misconduct within the Academy's community for the purposes of community education and any reporting that may be required as well as for the purpose of reviewing this policy and evaluating its effectiveness.

In line with the section 4.1 above, these data will not include any information that would identify anyone who has either disclosed sexual violence or been accused of committing a sexual offence.

Policies and documents that supplement and reference this document:

Equality and Diversity Policy
 Student Disciplinary Policy and Procedure
 Staff Handbook
 Tutor Handbook
 Model Handbook
 Bullying & Harassment Policy
 Freedom of Speech Code of Practice
 Safeguarding Policy

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