



# HARASSMENT, SEXUAL MISCONDUCT AND BULLYING POLICY

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CONTENTS

1. Introduction	3
2. Purpose	3
3. Context	3
4. Definitions of Harassment and Sexual Misconduct	3
5. Definition of Bullying and How to Identify It	4
6. Procedure	5
7. Confidentiality	6
8. Monitoring of Incidents	6
Appendix 1: Guidelines for students	7
Appendix 2: Examples of Unacceptable Behaviours/Conduct	8
Appendix 3: Guidelines for staff	9
Appendix 4: Anti-Bullying and Harassment Cause for Concern form	10

## 1. Introduction

- 1.1 Leeds Arts University strives to provide a caring, friendly, safe and supportive environment which is free from discrimination, values diversity and where students and staff are treated with respect and dignity. Harassment, sexual misconduct and bullying will not be tolerated, such behaviour is unacceptable, potentially discriminatory and may also be unlawful.
- 1.2 In the context of this policy the term complainant is used to describe the person who is raising a concern. The term respondent is used to describe the person(s) who the concern is being raised about.

## 2. Purpose

To provide a clear policy and a procedure that will be followed where issues are raised.

## 3. Context

- 3.1 Staff and students should challenge all forms of prejudice, promote equality and behave with tolerance, politeness and respect at all times to others.
- 3.2 All allegations of harassment, sexual misconduct and bullying will be taken seriously, investigated and dealt with sensitively and as promptly as circumstances permit. It is recognised that in most cases the most desirable resolution for the complainant is through effective informal action and resolution such as an intervention or mediation; however, in some cases a more formal procedure may be undertaken.
- 3.3 Whilst this policy is primarily aimed at where inappropriate behaviour takes place on Campus, the University will support students and intervene appropriately where the behaviours take place off Campus including (but not limited to) behaviours that occur when students have been socialising, interacting in shared accommodation or in cases of cyberbullying.
- 3.4 Whilst the University supports the complainants of all forms of harassment/sexual misconduct/bullying and will investigate all complaints, this is not a substitute for police investigation; and students are strongly advised to report potentially criminal acts appropriately and promptly and will be supported to do so where required.
- 3.5 Alongside this policy the University will educate and raise awareness of the issues of harassment, sexual misconduct and bullying. Following the principles of natural justice, the University will ensure that support is available from the Student Advice and Wellbeing Team to both complainants and respondents as part of our ongoing obligations to all students.

## 4. Definitions of Harassment and Sexual Misconduct

- 4.1 This policy uses the definitions of 'harassment and sexual misconduct' as set out in the Office for Students' (OfS) Statement of Expectations; and our definitions for the purposes of this policy are as follows:
  - 4.1.1 Harassment (as defined by Section 26 of the Equality Act 2010) includes unwanted behaviour or conduct 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:
    - i. age
    - ii. disability
    - iii. gender reassignment

- iv. race
- v. religion or belief
- vi. sex
- vii. sexual orientation

4.1.2 Under our definition, we understand harassment to include domestic violence and abuse (which can also involve control, coercion, threats), and stalking.

4.1.3 We would also consider harassment to include any incidents of physical violence towards another person(s) on the basis of a protected characteristic, and hate crimes, such as those criminal offences which are perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; religion or perceived religion; sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity. Examples of Harassment can be found in Appendix 2.

4.2 Sexual misconduct relates to all unwanted conduct of a sexual nature.

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

- **Sexual harassment** (as defined by Section 26 (2) of the Equality Act 2010)
- **Unwanted conduct** which creates an intimidating, hostile, degrading, humiliating or offensive environment (as defined by the Equality Act 2010)
- **Assault** (as defined by the Sexual Offences Act 2003)
- **Rape** (as defined by the Sexual Offences Act 2003)
- **Physical unwanted sexual advances** (as set out by the Equality and Human Rights Commission: [Sexual harassment and the law, 2017](#))
- **Intimidation**, or promising resources or benefits in return for sexual favours (as set out by the [Equality and Human Rights Commission: Sexual harassment and the law, 2017](#))
- **Distributing** private and personal explicit images or video footage of an individual without their consent (as defined by the Criminal Justice and Courts Act 2015)

4.3 Our definitions include harassment and sexual misconduct through any medium, including, for example, online and include unwanted sexting or pressure to sext.

## 5. Definition of Bullying and How to Identify It

5.1 Bullying is behaviour by an individual or a group that intentionally hurts another individual or group physically or emotionally. Although bullying has no definition in law, it can be characterised as offensive and unwanted behaviour which violates a person's dignity, or creates an intimidating, hostile, degrading, threatening or offensive environment or which humiliates or undermines an individual or group. It can take place in person, via text/messaging or online.

5.2 Bullying can be:

- Emotional;
- Physical;
- Racist and religious;
- Sexual, sexist and transphobic;
- Homophobic;
- Cyber;
- Disablist;
- Verbal.

- 5.3 Some students will disclose incidents to a member of staff; others may find this more difficult and instead may indicate by signs or behaviour that they are being bullied. Some possible signs and symptoms are:
- their course work suffering;
  - showing signs of distress;
  - becoming withdrawn, anxious or lacking in confidence;
  - unexplained bruises, scratches, cuts;
  - possessions going missing;
  - asking for money or begin stealing;
  - altered attendance patterns.

These signs and behaviours could indicate other problems, but bullying should be considered a possibility.

## 6. Procedure

- 6.1 The University will actively take reasonable steps to prevent sexual misconduct and all other forms of harassment and bullying. We will ensure that the complainant and respondent are supported fairly through any informal and formal processes. All students are encouraged to report incidents of harassment, sexual misconduct or bullying (or suspected cases) to either a member of their Course Team or a member of Student Advice and Wellbeing. Where the complainant wishes to resolve the matter through informal means the University will support this, either through Student Advice and Wellbeing or the course tutors as appropriate. In certain circumstances where both parties are willing to engage, mediation will be facilitated by the Student Advice and Wellbeing Team. Advice should be sought from the Head of Student Support or a HR Advisor before dealing with any matters informally.
- 6.2 In all cases, a Harassment, Sexual Misconduct and Bullying Cause for Concern Form should be completed and sent to the Head of Student Support and the HR Advisors.
- 6.3 In cases where an incident has arisen and a resolution achieved, the Student Advice and Wellbeing Team or the Course Team will document any agreed actions on the Harassment, Sexual Misconduct and Bullying Cause for Concern Form which should be retained and filed by Student Advice and Wellbeing so that access is also available to the Head of Student Support and the HR Advisors. A review period should be set to ensure all actions are completed, which is usually a period of 2 months.
- 6.4 ~~Where resolved informally, the Head of Student Support and the HR Advisor will advise whether the matter should proceed further and whether an investigation under the Student Disciplinary Procedure should take place. In some circumstances the advice may be that there are other avenues which should be pursued before a formal investigation commences.~~
- 6.5 Any formal investigation into harassment, sexual misconduct and bullying will be conducted under either the staff or student disciplinary procedures depending on who the respondent to the complaint is.
- 6.6 All investigations will be carried out confidentially by a trained independent investigator that will usually be a member of the University's Human Resources Team. Complainants will be advised of the investigative process by the investigator. A typical investigation would involve meeting and taking statements from both the complainant and the respondent (the person complained about) along with any witnesses to the incident, though other forms of evidence such as emails, texts or extracts from social media may be gathered. From this a report will be written recommending either a formal outcome (that the case go to a disciplinary hearing), informal action or that there is insufficient evidence to proceed.

- 6.7 If a matter goes to a formal hearing then the respondent will receive the investigation report and supporting documentation prior to the hearing to enable them to receive natural justice and consider their response. To allow this to occur, it is only in exceptional circumstances that anonymity can be guaranteed to complainants and anonymous statements used.
- 6.8 Any complainant will be kept notified of the progress of an investigation and its stages.
- 6.9 The University is developing systems to allow for anonymous reporting to also take place. Students will be able to raise issues through these systems, however, anonymous complainants should be aware that raising issues in this way will not allow for a formal investigation to take place, but will inform the University of potential patterns and trends.
- 6.10 For further information see Guidelines for Students at Appendix 1 and Guidelines for Staff at Appendix 3.

## **7. Confidentiality**

- 7.1 Any student or member of staff involved in the informal or formal procedures covered in this policy are expected to keep information confidential. This is to protect the confidentiality of the person making the complaint, as well as the reputation of the person being complained about. If it is felt that the safety of an individual(s) is at risk of serious harm, confidentiality in these circumstances may be overridden by a duty of care and legal obligations to disclose.
- 7.2 Where either the complainant or the respondent is under the age of 18 their parents will normally be notified of what is happening unless exceptional circumstances are determined to exist. At the reporting stage, names will be anonymised so that individuals are not identified.
- 7.3 Where a complaint is from a student against a student, both parties will be made aware of any measures which are put in place either during or after an investigation. This might include restrictions on being in the same areas on campus, or in some circumstances not being on campus on the same days where timetables permit. A complainant will be notified of the outcome of any formal investigation process, including what sanction has been imposed once any period for review has passed. In addition, a complainant will be notified of any actions that the University will be undertaking to help prevent such events being repeated such as additional training being delivered to the student population as a whole, or an individual student.
- 7.4 A similar arrangement will operate for where a staff member is the respondent to the complaint, but the student complainant will not be notified of the nature of any sanction that has been given against a staff member, just that a hearing has taken place and if a sanction has been given. This restriction is in line with employment law requirements.

## **8. Monitoring of Incidents**

Cases which have gone through the disciplinary procedure will be recorded on the student's ILP (FE) or student file (HE). Cases will be monitored by the Head of Student Support or their nominee, and by the Head of Human Resources where they proceed to formal disciplinary investigation. The Head of Student Support and the Head of Human Resources will report on incidents, using statistics, at the Equality, Diversity and Inclusion Committee on an annual basis and to the SMT on a bi-annual basis. The Head of HR will include a section on numbers and outcomes of cases in the annual HR report to the Board of Governors.

## **APPENDIX 1**

### **Guidelines for Students**

If you think that you have been subject to an incident, acts or behaviour that you are concerned about, you do not have to tolerate it. Action may be taken in a number of ways which include both informal and formal procedures. Attempts should be made to resolve any complaints rapidly and informally, wherever possible, as this can lead to the behaviour stopping and resolution for all concerned.

#### **Informal procedure**

- If you are concerned about a person's behaviour towards you, try to approach them directly explaining what they did or omitted to do that upset you and asking them not to do it again. Clearly explain what it was that upset you, what the consequence and impact is on you, and what you would like to happen in order to move forwards, giving as full details as possible to make it easier for them to understand why you are upset, offended or angry.
- If you need support to do this you can ask the Student Advice and Wellbeing Team or a member of the course team. Emphasise that you wish to resolve the situation informally; they will make every effort to do so. If they feel that they have to take more formal action, they will discuss this with you. However, if the behaviour persists, or if it is so serious that you feel it is not appropriate to use informal methods, then you should use the formal procedure to try and get the situation resolved.

#### **Formal procedure**

- The first step of the formal procedure is to tell a member of staff. If you are unsure who to tell, approach a member of your course team or a member of the Student Advice and Wellbeing Team. They will talk to you about the incident. You will be listened to sympathetically and your concerns taken seriously.
- If you feel that you have been subject to harassment, sexual misconduct or bullying keep notes, including dates and times and a description of the incident/behaviour and its impact on you. This can include changes to your work, study or home/social life as a result of it. The details of any witnesses to the incident(s) should also be included. Copies of relevant paper or electronic documents should also be kept.
- If there is a case to answer, and the matter cannot be managed informally, the next step will be through the use of the Student Disciplinary Procedure.
- At all stages in the above procedure you may bring a fellow student who is a friend, though to allow for an independent investigation, it is not usual practice to be accompanied at an investigation meeting, and where a support person is agreed, then this should not be anyone who would be an independent witness.
- Confidential counselling sessions are available for both complainants and respondents, to help individuals to move forward in a more positive and confident way. This will be provided by Student Welfare and you should contact them to arrange this.

## APPENDIX 2

### Examples of Unacceptable Behaviours/Conduct.

This appendix contains a non-exhaustive list of acts or behaviours that may constitute harassment or bullying.

#### Harassment

Examples of harassment can include:

- **Sexual** - can take the form of ridicule; sexually provocative remarks or jokes; offensive comments about dress or appearance; the display or distribution of sexually explicit material.
- **Racial** - directed at people on the basis of their race, colour, nationality (including citizenship), ethnic, or national origins. It may include jokes about, or gratuitous references to a person's colour, race, caste, religion or nationality. It can include offensive remarks about dress, culture, or customs which ridicule or undermine an individual, or foster hatred and/or prejudice towards individuals or particular groups or targeting a person based on their ethnicity. This also covers any form of antisemitic behaviour and the University has adopted the IHRA working definition of antisemitism.
- **Relating to Disability** - individuals being ignored, disparaged or ridiculed because of their disability. This can include inappropriate personal remarks, jokes or inappropriate reference to an individual's appearance/ disability/ perceived limitations.
- **Sexual Orientation** - remarks, jokes or offensive comments towards a person's sexual orientation, threats to disclose a person's sexual orientation to others, or offensive behaviour/abuse relating to HIV or AIDS status.
- **Relating to Gender Identity** or presentation including remarks, jokes, slurs or offensive comments, threats to disclose a person's intention to or steps towards undertaking a gender transition, refusal to identify a person undergoing a transition in correlation with their chosen gender identity, or offensive, inappropriate or invasive questions regarding a person's gender identity.
- **Age** includes derogatory comments, making remarks about a person's ability to learn, exclusion from social activities.

#### Bullying

Examples of being bullied can include:

- **Physical:** Including kicking, punching, hitting, spitting, biting, tripping someone up or damaging belongings or University work;
- **Threat of physical violence:** or an explicit or implied threat of violence or intimidating behaviour, being shouted at or verbal abuse;
- **Coercion:** threats or forcing someone to do what they do not want to do;
- **Emotional:** rejection or isolating tactics, staring or threatening looks, playing on fears or sensitivities, remarks about personal appearance. Unwarranted disparaging, ridiculing or mocking comments and remarks; being criticised in an inappropriate manner or belittled about one's work, personality, lifestyle or personal appearance;
- **Indirect:** telling lies and rumour spreading, talking behind a person's back, using chatrooms or websites or similar means to spread or invite hatred, being humiliated in front of peers or other people, deliberate exclusion of an individual from activities;
- **Prejudice-driven:** negative attitudes towards another group of people or person because they are seen as 'different'. This can become more severe over time and can lead to hate crime. It can be related to race, religion or culture, special educational needs or disabilities, appearance or health conditions, sexuality or gender, perceived sexual orientation and any so-called perceived differences.
- **Cyberbullying:** an aggressive and intentional act carried out by an individual or group, using electronic forms of communication including posts on social media.



**APPENDIX 3**

**Guidelines for Staff**

- All complaints about harassment, sexual misconduct and bullying should be taken seriously and treated sensitively. It is important to discuss possible/desirable outcomes with the complainant in the first instance and proceed as appropriate ensuring that the complainant feels safe and supported. Any action taken should be carried out with the complainant's permission.
- A **Cause for Concern** form should be completed as soon as possible and sent to the Head of Student Support and the HR Advisors who will look at what support should be provided and give advice on how the matter should proceed. In some circumstances the advice may be that there are other avenues which should be pursued before a formal investigation commences.
- Course Leaders should consider (with support from the Head of Student Support) tutor group sessions on harassment, sexual misconduct and bullying if appropriate to address concerns raised within courses.

**APPENDIX 4**

**Harassment, Sexual Misconduct and Bullying - Cause for Concern Form**

Please simply record the facts as reported to you, do not interpret what is seen or heard. This is the record of the concern raised and the actions that you have taken to resolve them, or why you believe the issue needs to be referred for formal action. Completed forms should be sent to the Head of Student Support and the HR Advisers:- [Katrina.Welsh@leeds-art.ac.uk](mailto:Katrina.Welsh@leeds-art.ac.uk) [HRAdvisers@leeds-art.ac.uk](mailto:HRAdvisers@leeds-art.ac.uk)

Student name: AGE:	ID Number	Course:
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Person Reporting Concern:
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Please specify details of concern

Date:	Location:	Time:
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Date reported:	Case review due (date plus 2 months):
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**Description of concern**

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Action taken by staff member	Delete as appropriate	Date
Discussed with student	Yes/no	
Advice sought	Yes/no	
Further Action Taken	Yes/no	

**Details of further action taken:**

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<b>Name:</b>	<b>Date:</b>
<b>Signed:</b>	

**Comments on actions taken**