

Royal Welsh College of Music and Drama
Harassment and Sexual Misconduct Policy

Information and Version Control:

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Welsh Version: A Welsh language version of this document is available on the HUB.							
Status of this document: "Policy" The RWCMD defined term for a policy is a deliberate system of guidelines to guide decisions and achieve rational outcomes. A policy is a statement of intent and is implemented as a procedure or protocol. They are typically informed by how people would like to see the space defined. They are often aspirational in nature and do not typically have legal implications if they are not followed.							
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HARASSMENT AND SEXUAL MISCONDUCT POLICY

Statement of Intentions

1. The Harassment and Sexual Misconduct Policy relates to all incidents of harassment and sexual misconduct.
2. The College is committed to creating a welcoming, safe, respectful and inclusive environment where our students, colleagues and partners can collaborate, innovate and flourish in a positive, optimistic and mutually supportive environment that celebrates the arts and creativity. Any form of sexual misconduct, violence and/or harassment is never okay.
3. We recognise the harm and impact that sexual misconduct, harassment and violence causes, and the effect this may have on a student's studies at the College, regardless of gender.
4. The College will not tolerate incidents of this nature. We encourage you to disclose harassment, stalking, bullying, hate crime/incident and discrimination to us, so we can offer you advice and guidance about: the support available to you; our reporting options within and outside the College. Any report will be fairly and thoroughly addressed through this Policy and the associated Procedures.
5. The Policy specifically uses the term 'sexual misconduct' rather than legal terms like 'rape' or 'sexual assault', understanding that what is reported to College may also constitute a criminal offence. This does not reflect how seriously behaviour is taken but reinforces that College process assesses whether internal rules and expectations have been broken on balance of probabilities and cannot determine whether a crime has been committed.

Aims

6. The aims of this Policy and the associated Procedures and Guidance are to:
 - Ensure that all students and staff are aware of their responsibilities in relation to harassment and sexual misconduct.
 - Provide a fair, transparent and consistent approach for reporting, investigating and responding to allegations of harassment and sexual misconduct.
 - Ensure that information about sources of support is made available to anyone who experiences or is accused of harassment and sexual misconduct.
 - Provide effective, timely and appropriate responses and support to victims and survivors as far as is practicable in the context of the College community.

Definitions

7. Sexual misconduct and violence is an umbrella term that covers a broad range of unacceptable behaviours of a sexual nature and can occur online as well as in person. It may include, but is not limited to:

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- sexual harassment – any unwanted sexual behaviour towards another that makes them feel upset, scared, offended, or humiliated, or is meant to make them feel that way
 - sexual assault – any sexual act that a person did not consent to or is coerced or forced into against their will. It includes rape, and other sexual offences such as groping, kissing or child sexual abuse
 - cyber harassment or sextortion (blackmail related to intimate/sexual images)
 - engaging, or attempting to engage in sexual intercourse or a sexual act without consent
 - administering a substance in order to engage in sexual intercourse or a sexual act without consent
 - non-fatal strangulation for sexual gratification
 - taking intimate/indecent photographs of another person without their consent, for example upskirting
 - intimate image abuse, also known as revenge porn (sharing of intimate images without consent) including sharing, or threatening to share, private sexual materials of another person without consent and/or editing of images to make them sexually explicit
 - voyeurism
 - inappropriately showing sexual organs to another person
 - repeatedly following another person, in a way that may make them feel uncomfortable
 - making unwanted remarks of a sexual nature
 - coercion or bullying with sexual elements
 - child sex offences, including grooming
 - trafficking for sexual exploitation
 - sexual invitations and/or demands
 - sexual exploitation (abuse of a position of vulnerability, differential power, or trust for sexual purposes).
8. Harassment is unwanted behaviour from someone else. This includes repeated attempts to force unwanted communications and contact in a way which could be expected to cause distress or fear in any reasonable person. It can include, but is not limited to:
- unwanted phone calls, texts, social media activity, letters, emails, or visits
 - abuse (verbal or online)
 - physical gestures or facial expressions
 - sexual harassment
 - images and graffiti.
9. Stalking is a form of aggravated harassment which tends to be more extreme and personal than harassment. Stalking is a pattern of repeated, unwanted behaviour that causes someone to feel distressed or scared. Stalking isn't always violent, but it is a crime. If you are not sure if you are being stalked, the 'FOUR' acronym can help you – decide if the attention you are getting from someone is:
- FIXATED
 - OBSESSIVE
 - UNWANTED
 - REPETITIVE

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10. Domestic abuse and coercive or controlling behaviour includes incidents of controlling, coercive, threatening behaviour, violence or abuse between those who are, or have been, intimate partners or family members regardless of sexuality or gender. This can include but is not limited to psychological, physical, sexual, financial and/or emotional abuse. It does not matter whether the behaviour consists of a single incident or a course of conduct.

Confidentiality

11. Confidentiality will be maintained, where possible, in the application of this Policy, noting that:
 - Relevant staff will receive information that is necessary and proportionate to their role and involvement
 - Information of a sensitive nature may need to be shared with those involved in the case
 - Where a student is on a programme leading to professional registration there may be disclosure obligations on the College to the external body
 - The College may need to share information outside the institution if this is necessary to protect the involved parties, or others, from harm or prevent a crime taking place.
12. All parties must keep information that is disclosed to them as part of the process confidential. Any unauthorised disclosure of confidential information, including the recording, copying or distribution of video/audio recordings and paperwork associated with investigations and hearings, will be considered a disciplinary offence and will be addressed accordingly. The College will act in compliance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

Disclosure and Support for Reporting and Responding Students

13. A student may disclose an experience of sexual misconduct by a variety of means, including through the Report and Support system, to Student Support Services, or to any member of the College's staff. Disclosure will be received in the context of the [College Safeguarding Policy](#).
14. The College will try to minimise the number of times the Reporting Party has to disclose an incident of harassment and sexual misconduct.
15. A suitable member of the Student Support Team will be assigned to provide confidential support, advice and guidance to the Reporting Party. The team operates using trauma-informed approaches. This means recognising the signs of trauma, understanding how, what, where and when to ask questions and using techniques and strategies that reduces the possibility of re-traumatisation. They will also be able to help facilitate a referral to an external organisation, which provides specialist support for those affected by sexual misconduct.
16. A support person will be assigned to provide confidential support, advice and guidance to the Responding Student.

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17. The Reporting Party and the Responding Student are able to submit an application for extenuating circumstances, if they consider that the case has affected their academic studies. They do not need to provide details of the circumstances under which they are doing so; the Student Support Manager will provide a letter to support the application.

Reporting

18. Following disclosure, the Reporting Party will be provided with information and support (including the possibility of meeting with College's community police officer if that would be helpful) to help them consider their options, recognising that they may need time to reflect before making a decision. They are able to:
 - make a report to the police;
 - make a report to the College under this Policy;
 - make no report of the incident; and/or
 - receive advice on the support that is available to them, both within the College and at specialist services.
19. The Reporting Party will be signposted to a Sexual Assault Referral Centre (SARC/New Pathways), if appropriate. This will allow the Reporting Party to make an anonymous report and have evidence stored while they choose which option they wish to take. It will also allow the Reporting Party to be linked to an Independent Sexual Violence Advisor (ISVA) who can provide ongoing emotional support.
20. The Reporting Party's wishes will be taken into account in determining whether a report should be made to the police. However, a report may be made by the College against the wishes of the Reporting Party if disclosure of the information is necessary to protect the Reporting Party, or others, from harm or prevent a further crime taking place. The College will ensure that the matter is sensitively dealt with and that all affected individuals are appropriately supported. (Please also refer to the Policy and Procedures for Student Conduct section 5).
21. While a report to police may be made by the College, the Reporting Party is under no obligation to engage with a police investigation and reserves the right to change their mind at any time.
22. The decision on whether to report to the police will be made on the basis of risk assessment, with overall authority for the decision resting with the Director of Academic Administration and Student Experience. Risk Assessment will decide who will make the actual report to the police and the rationale for this will be documented.
23. Criminal investigations will take precedence over investigations conducted by the College. If a criminal investigation is underway the College will pause any investigation so that it does not compromise any criminal proceedings. The College will normally be limited to taking precautionary steps only.

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24. If the Reporting Party decides not to engage with a police investigation, they will still have the option of requesting that the matter is considered under this Policy and the associated Procedures. In these circumstances, the case will be dealt with as a potential breach of the Policy and Procedures Governing Student Conduct and not as a criminal offence. An initial case review meeting will be held prior to any formal action, including risk assessment, taking place.
25. The College may of its own volition, also decide to engage the Policy and Procedures Governing Student Conduct.
26. Where a Reporting Party has submitted a named report via Report and Support and confirmed this submission following a meeting with appropriate staff, that report may be used to instigate an investigation under this Procedure. Alternatively, the Reporting Party may complete an Allegation of Misconduct form. A reported incident cannot be investigated if the Reporting Party wishes to remain anonymous or does not wish the details of the allegation to be made known to the Responding Student. Anonymised reports will normally only be used for trend analysis.

Advice and Support for Staff

27. Staff who receive a disclosure about an incident of sexual misconduct/violence must immediately submit a report via the Report and Support system.
28. The College expects that staff who report, or are witness to, sexual misconduct, engage with the investigation process and any subsequent request to attend a hearing.
29. It is recognised that being witness to sexual misconduct and involvement in any subsequent process can be distressing. The College runs a Staff Support Scheme, details of which can be found on the Human Resources website. Staff may also access the College Counselling Service.

The Investigation Process

30. The investigation process will be as outlined in the Policy and Procedures Governing Student Conduct.
31. The investigative ability of the College is not the same as through criminal proceedings e.g. forensic analysis and medical examinations are not available to the College. The Policy and Procedures Governing Student Conduct requires the College to reach conclusions on the 'balance of probabilities' and not the criminal standard of 'beyond reasonable doubt'.
32. In certain circumstances, the College may decide to employ a specialist investigator external to the College.

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33. The Reporting Party will be given the option of having their recorded interview played at the hearing, should the case progress to this stage.
34. The Investigating Officer will determine whether they need to interview any witnesses identified by either the Reporting Party or the Responding Student. In order to do so, they will have to disclose to the witness details of the case under consideration. The parties involved will be required to maintain confidentiality.
35. The College will share with the Reporting Party relevant new evidence gathered during the course of an investigation to enable the Reporting Party to respond to that new evidence in advance of the Investigating Officer reaching their conclusions.
36. The College will share with the Responding Student relevant new evidence gathered during the course of an investigation to enable the Responding Student to respond to that new evidence in advance of the Investigation Officer reaching their conclusions.
37. Following completion of the investigation, the Investigating Officer's report will be presented to Director of Academic Administration and Student Experience. A decision will be taken as to whether there is a case to answer and, if so, whether the case should be referred to a College Disciplinary Committee.
38. College will clearly explain to the Reporting and Responding Party whether the allegation has been upheld (succinctly outlining the reasons for decision using straightforward language).

Disciplinary Committees

39. Disciplinary Committees will be constituted and managed as outlined in the Policy and Procedures Governing Student Conduct.

Attendance at the College Disciplinary Committee Hearing

40. For the purpose of this Policy and the associated Procedures, and where applicable, the Reporting Party is classed as a witness. The Reporting Party will be invited to attend the hearing. However, they are not required to attend and consequently are able to decline any such invitation. The College will respect the decision of the Reporting Party in relation to attendance at the hearing.

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41. Should the Reporting Party decide not to attend the hearing, the written evidence submitted by them will be classed as 'hearsay'. This is a legal term for evidence that is not tested by asking the person providing the evidence questions in person. Hearsay evidence could include any pre-recorded evidence or written evidence.
42. Hearsay evidence will be considered by the Committee to determine whether it should be included as part of the evidence base. If it is included, then the Committee must decide what weight or importance should be given to this evidence. Circumstances which could give rise to the Reporting Party's evidence being given less weight than the Responding Student's in person evidence include, by way of example, whether there are important and untested differences between the accounts given, and whether there has been an opportunity for the Responding Student to challenge the evidence relating to those differences. It is likely that hearsay evidence (if admissible) is likely to be given lower weight or importance.
43. The College may request members of staff and any other persons relevant to the case to attend the hearing as witnesses. The Reporting Party and the Responding Student will be informed of the names of any witnesses prior to the hearing.
44. The hearing may take place in person or via electronic means. Where a hearing is taking place in person, provision will be made for the Reporting Party to attend either in person or via electronic means, in a separate room.

Outcome

45. Details of penalty imposed (in line with the Student Misconduct Penalty Tariff) will be shared with the reporting party, subject to a case by case consultation with the Data Protection Officer.

Related Regulations and Procedures

- Policy and Procedures Governing Student Conduct
- Safeguarding Policy and Procedures
- Respectful Space Statements
- Extenuating Circumstances Regulations and Procedure
- Support to Study Regulations and Procedure
- Dignity at Work Policy

Guidelines for Application of Sanctions

DISCIPLINARY OFFENCE	EXAMPLES OF UNACCEPTABLE BEHAVIOUR	EXAMPLES OF SANCTIONS	RESPONSIBILITY FOR IMPOSING SANCTION
Sexual Misconduct	Engaging in sexual intercourse or a sexual act without consent <ul style="list-style-type: none"> • Attempting to engage in sexual intercourse or a sexual act without consent • Administering a substance in order to engage in sexual intercourse or a sexual act without consent • Non-fatal strangulations for sexual gratification • Taking intimate/indecent photographs of another person without their consent, for example upskirting • Sharing, or threatening to share, private sexual materials of another person without consent and/or editing of images to make them sexually explicit • Voyeurism • Inappropriately showing sexual organs to another person • Repeatedly following another person, in a way that may make them uncomfortable • Making unwanted remarks of a sexual nature • Coercion or bullying with sexual elements • Sexual invitations and/or demands • Child sex offences, including grooming • Trafficking for sexual exploitation • Sexual invitations and/or demands 	<ul style="list-style-type: none"> • Expulsion • Suspension/exclusion • Formal written warning 	College Disciplinary Committee
	<ul style="list-style-type: none"> • Threats to share sexual rumours or photos • Making unwanted remarks of a sexual nature • Sexual invitations and/or demands 	<ul style="list-style-type: none"> • Formal written warning 	Director of Academic Administration and Student Experience