The Courtauld

SEXUAL MISCONDUCT POLICY

DEALING WITH STUDENT COMPLAINTS

Under Review for 2023-24

1. Purpose

The purpose of this policy is to make clear that the Courtauld has a zero tolerance approach to all forms of sexual harassment or sexual violence ("misconduct") against students or staff. We will support those affected, and ensure that any reported incidents are investigated and where appropriate, disciplinary procedures are initiated.

We are committed to ensuring that all of our staff and students feel safe and supported. All members of our community are expected to treat each other with dignity and respect.

This policy should be read in conjunction with The Courtauld Close Personal Relationships Policy.

2. Scope

This policy specifically relates to complaints of sexual misconduct made by a student against a student, member of staff or Governor. Complaints by staff members will be dealt with and investigated under the staff grievance procedures, and disciplinary procedures where initiated. Complaints against volunteers and other non- directly employed members of the Courtauld community will be investigated and dealt with appropriately depending on the nature of their relationship with The Courtauld.

Where a student is also an employee or has some employee responsibilities (e.g. student accommodation wardens or postgraduate research students who teach), then this policy shall also apply and action may be taken in relation to their responsibilities as a staff member.

This policy applies to allegations about incidents in the workplace and in any setting outside the workplace which involves individuals of The Courtauld community, including (and not exclusively), conduct at events and trips abroad or on social media.

3. Definitions

Sexual misconduct relates to <u>all unwanted conduct of a sexual nature</u>, including, but 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)13
- 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)15
- 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).

Further examples and definitions of sexual misconduct are set out in Appendix 1.

Line manager - In this policy may also mean Director, Dean & Deputy Director or Head of Department as applicable.

Consent

Consent is providing permission for something to happen or agreement to do something with a full understanding of the facts and without coercion. In cases of sexual activity, consent cannot be presumed but must be explicitly given, verbally or non-verbally. A person must have the capacity to consent; it cannot be deemed to have been given if it is provided under pressure or in situations where someone is not capable of providing it. For example, a person does not have the capacity to give consent if they are asleep or unconscious and capacity to consent may be inhibited by the influence of drugs or alcohol or the presence of a cognitive or learning difficulty, or mental health condition.

Consent can be withdrawn at any time.

4. General Principles

The policy and guidance contained in this Policy is not exhaustive and all in scope should use their judgement to extend the principles described above to cover any other circumstances.

All employees of The Courtauld are perceived as being in a position of authority over students of The Courtauld. All employees (and agency workers or contractor staff) in contact with students must be vigilant about their actions and aware of when these may be perceived by a student as potential sexual misconduct.

We recognise that sexual misconduct may intersect with other forms of harassment (for example racist, homophobic, transphobic or disability related harassment). We aim to ensure our reporting mechanisms are accessible and inclusive, and will work with specialist external advisors to provide more support where necessary.

At all stages in these procedures The Courtauld will maintain an open and transparent approach with the complainant with the provision of appropriate personal support throughout the process. This will include maintaining regular communication informing them of what process is being used to determine their complaint, an outline of the steps to be taken, a reasonable estimate of the timeline and, wherever possible, input and choices about the processed to be followed. Complainants will be kept up to date with progress (having regard for the particular circumstances of the case at each point in time), and will be notified of the final outcome.

5. Disclosing sexual misconduct, making a complaint and reporting options

Disclosure does not create a formal complaint, and is not an instruction for the Courtauld to take action. Students do not have to explicitly request that the matter is formally investigated at the time they report sexual misconduct The student will have the opportunity to be heard and to consider their options before proceeding with any further steps. No action will be taken immediately unless there is a concern about imminent threats to safety or if the Courtauld has a duty of care under safeguarding.

Students may choose to report allegations of sexual misconduct to the Courtauld, or to notify the Courtauld that they have reported (or plan to report) the matter to the police.

Students are encouraged to contact, via email, telephone or in person, the Student Wellbeing Manager or the Academic Registrar, so that they can discuss and consider their preferred course of action.

The Courtauld recognises that students may disclose an incident of sexual misconduct to any member of staff whom they trust. In all cases, students will be provided with information about the support and complaint procedures available.

There is no explicit deadline for lodging a complaint and The Courtauld will undertake investigations into non-recent cases of sexual misconduct as far as is practicable given the time that has elapsed since the incident/s.

Informal resolution

A student may request that their complaint is dealt with informally. The types of outcomes may include:

a) Oral and/ or written apologies
b) Attendance at awareness sessions
c) Participation in training or behavioural change programmes
d) No contact agreements
e) Facilitated mediation
f) Any other outcomes acceptable to the complainants and mutually agreed by the two parties

Informal resolution can only go ahead with the mutual agreement of both parties. The Academic Registrar with the support of HR will follow up to check that the informal resolution agreed has taken place, however they cannot enforce compliance.

Formal Complaints

Submitting a formal complaint to the University will be taken as a request for the Courtauld to investigate the misconduct allegation and take appropriate action. A formal complaint can be made from the outset or at any point after disclosure. Initially requesting informal resolution does not prevent a formal complaint being initiated later, and vice versa.

A decision to report to the police will lie with the reporting student; the Courtauld will support the student whatever their decision.

6. Responding to a disclosure of misconduct

Support for students will be coordinated by the Counselling Service within Student Academic Services (SAS) and will be tailored to the individual circumstances and needs of students. Examples of support include:

a) Access to advice and counselling services
b) Changes to accommodation
c) Support with accessing specialist external services e.g. Sexual Assault Referral Centres, Rape Crisis Centres or other agencies as necessary.
d) Providing information about the different reporting options, including reporting to the police, and The Courtauld's procedures for investigating Sexual Misconduct.

Where a complaint is made against a staff member, Human Resources and the Managing Director will be notified. Where the complaint is against a student or a member of academic staff, the Dean and Deputy Director will also be notified. This ensures that a member of the senior executive team is aware of all complaints for oversight purposes.

7. Investigations and precautionary measures

a) Informal resolution may be explored, with the agreement of the complainant.
b) Formal investigations will usually only be initiated with the agreement of the complainant, unless there are safeguarding issues. The aim is to complete the investigation as thoroughly and quickly as possible, having regard for the complexity of the complaint. Complainants and the responding party will be kept informed if there are likely to be any delays. Every effort will be made by to keep the matter confidential to those who are directly involved., however this does not place the complainant under any obligation to not discuss the issue with whomever they choose. for example, for emotional support.
c) Investigations will be conducted by an independent trained investigator**,** external to the Courtauld, with appropriate expertise and experience in this type of investigation and awareness of the particular issues of sexual misconduct within an education setting.
d) The reporting student will be asked to attend a meeting with the lead investigator during which the procedure will be explained and discussed, and the details of the allegations will be confirmed.
e) The accused party will be informed of the substance of the complaint against them and asked to attend a meeting during which the procedure will be explained and discussed, the details of the allegations will be confirmed and they will be invited to give a response.
f) Students can be accompanied to investigation meetings by a member of the Student Union committee, a friend or a person in a support role or any combination of such people.
g) The parties involved will be asked to submit any relevant information or evidence. Where needed, parties may be invited to attend subsequent follow-up meetings to clarify areas of uncertainty.
h) The lead investigator will produce a report outlining the findings of the investigation.
i) Any decisions on progressing to disciplinary action will be made by SAS, HR, the Dean and the MD (or delegated authorities) in light of the investigation report.

<u>Alleged criminal offences and complaints to the police</u>

The Courtauld will support the student in reporting sexual misconduct to the Police; however, the decision whether or not to make a report to the Police rests with the student concerned unless there are safeguarding issues which require the Courtauld to take action.

The Courtauld will follow any guidance provided from the police and other agencies regarding what further action and investigations may be taken once a formal complaint is made, to ensure it does not take any action that might compromise a potential criminal investigation.

Where a student or staff member accepts a police caution or has been convicted of a criminal offence in relation to behaviour that falls within the definition of sexual misconduct under this policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place. No further investigation shall be required and the Courtauld will initiate the relevant disciplinary procedures.

<u>Investigating where complainant wishes to remain anonymous / does not wish it to go further</u>

There may be times where more complex cases arise, e.g. anonymous complaints or multiple complaints. Where complainants do not wish to come forward, The Courtauld will need to balance

the interests of the principles of natural justice (i.e. the right to a fair hearing) with the constraints of investigating with limited details and facts, or a formal complaint having been made. Multiple complaints against the same individual may be investigated together where appropriate.

Precautionary measures

When an investigation is underway and without any presumption of guilt or the outcome of the investigation, the following steps may be initiated.

a) Preventing or reducing contact between the complainant and staff member
b) Temporary restrictions or proscribing of activities (e.g. the accused party not attending certain events)
c) Suspension of the student or staff member against whom allegations have been made.

The complainant will be consulted about the steps to be taken and Human Resources will be asked for advice regarding complaints against staff members.

8. Disciplinary action

Following an investigation into an allegation, the matter may be referred for action under the relevant staff disciplinary procedures or the student disciplinary procedures.

Potential outcomes include but are not limited to:

- Students - Temporary or permanent exclusions
- Staff - Disciplinary action, which may result in a warning or dismissal, including dismissal without notice in the case of gross misconduct.

Student and Academic Services (SAS) will be responsible for action against students and Human Resources would be responsible for advising and overseeing any disciplinary action against staff members arising as a result of this policy.

9. Notifying the complainant of the outcome of a complaint

The Courtauld subscribes to the independent scheme for the review of student complaints administered by the Office of the Independent Adjudicator for Higher Education (OIA).

As part of the obligations for members, The Courtauld will send complainants a letter called a "Completion of Procedures Letter" when the complaint has reached the end of internal processes and there are no further steps the student can take internally.

If the complaint or appeal is not upheld, The Courtauld will issue a Completion of Procedures Letter automatically. If the complaint or appeal is upheld or partly upheld, the student can ask for a Completion of Procedures Letter if they want one.

More information about Completion of Procedures Letters is available on the OIA website. Completion-of-procedures-letters

10. If the complainant remains dissatisfied with the outcome

If a student has exhausted The Courtauld's internal processes and received a Completion of Procedures letter (COP) they can apply to the Office of the Independent Adjudicator for Higher Education (OIA), for a review of their complaint, provided that the complaint is eligible under its Rules. Normally the final stage of the complaint needs to have completed before sending a complaint to the OIA.

More information about making a complaint to the OIA, what it can and cannot look at and what it can do to put things right is available on the OA website. https://www.oiahe.org.uk/students.

11. Recording of complaints and outcomes

Data on numbers of complaints received, and non-identifying outcomes of complaints per faculty/department (where possible) will be collated and reviewed annually by SAS, HR and senior management. Non-identifying data will be shared with the recognised trade unions and Student Union.

If any trends or areas of concern are identified (for example, systemic problems) appropriate action plans will be put in place to address these.

12. Evaluation and review of this policy

The Courtauld is committed to continuous improvement in its service provision and will monitor the effectiveness of this policy, through reviewing qualitative and quantitative data in connection with this policy.

Staff may provide confidential feedback to the Human Resources department at hr@courtauld.ac.uk.

Students may provide confidential feedback to the Academic Registrar, Student and Academic Services.

This policy may be updated or varied by The Courtauld, in consultation with the Trade Unions, as required.

Revision history

Version No	Author	Date	Key Changes	Notes
Final	Leanne Hansen, Interim Head of HR	03.11.2020	N/A	

Sexual Misconduct Policy **Appendix 1:**

The term 'Sexual Misconduct' is used to describe the range of unacceptable behaviour which is of a sexual nature and which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. and includes:

- Paying undue special attention to a particular student, which may be seen as grooming
- Non-verbal harassment such as looking someone up and down, displaying pictures of a sexual nature, sending emails containing sexual content, making sexual gestures or asking for sexual favours.
- Verbal harassment such as whistling, catcalling, sexual comments or sexual innuendo.
- Telling sexual jokes and stories
- Spreading rumours about a person's sex life.
- Touching of the other person including unwanted sexual advances; kissing; touching, hugging; stroking or patting of someone's clothes, body, hair; or pressing or rubbing up against someone, where the touching is of a sexual nature.
- Unwanted, repeated, obsessive and/or controlling behaviours that make someone distressed or scared, for example, following a person, watching or spying on them or forcing contact through any means, including social media.
- Recording and/or sharing intimate or sexualised images or recordings of another person without their consent or using the existence of such images to control, threaten or humiliate another person.
- Arranging or participating in events aimed at degrading or humiliating those who have experienced sexual violence, for example inappropriately themed social events or initiations.
- Sexually touching another person without their consent.
- Inappropriately showing sexual organs to another person.
- Engaging, or attempting to engage in a sexual act with another individual without their consent.

Sexual misconduct may be committed in person and also by letter, email, text, all other forms of electronic communications or by postings on social media sites. This list is neither exclusive nor exhaustive and other forms of behaviour may be regarded as sexual misconduct.