

# The Courtauld

## Sexual Misconduct Policy

### Version control

<b>Month/year</b>	<b>Version</b>	<b>Notes</b>
November 2023	1	Full revision draft
February 2024	2	Incorporated audit recommendations

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## **1.0 About this policy**

- 1.1 This document forms part of a number of policies that set out the rights and responsibilities of The Courtauld Community and details procedures to be followed in a set of given circumstances.
- 1.2 We seek to ensure that our policies reflect good practice and are subject to review every three years. Changes in legislation will automatically trigger a review in negotiation and consultation with the unions.
- 1.3 All policies comply with current employment and equality legislation and will apply to all individuals from all backgrounds, i.e. gender, race, age, colour, creed, ethnicity, nationality, marital or civil partner status, sexuality, disability, religion, political belief, socio-economic status or trade union activity.
- 1.4 This policy should be read in conjunction with the [Close Personal Relationships Policy](#). A full list of associated policies are noted under [appendix a](#) of this policy and are referred to as and when appropriate.

## **2.0 Scope**

- 2.1 This policy specifically relates to complaints of sexual harassment or sexual violence (“misconduct”) made by or against an employee, student, agency worker, third party supplier, visitor, member of the public, volunteer or governor.
- 2.2 Where a student is also an employee or has some employee responsibilities (e.g. casual work such as student accommodation wardens, supporting events 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.
- 2.3 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.

## **3.0 Principles**

- 3.1 We have a zero tolerance approach to all forms of sexual harassment or sexual violence (“misconduct”). A full list of our definitions and examples are located in [appendix a](#).

- 3.2 We will support those affected, and ensure that any reported incidents are investigated and where appropriate, disciplinary procedures are initiated.
- 3.3 We are committed to ensuring that all of our students, employees, casual workers, agency workers, third party supplier, visitor, member of the public, volunteer or governors feel safe and supported. All members of our community are expected to treat each other with dignity and respect.

#### **4.0 Responsibilities**

- 4.1 We are committed to preventing incidents of sexual harassment or sexual violence (“misconduct”) and provide informed preventative training programmes regarding such behaviour.
- 4.2 All of the Courtauld community have a responsibility to ensure an environment where everyone is treated with equal respect and dignity. Each member of the Courtauld community is expected to contribute to preventing unacceptable behaviour by modelling positive behaviour for others, and raising any concerns.
- 4.3 Our community of employees, casual workers agency workers, third party suppliers, volunteers and governors, are in a position of trust. It is important that exemplary behaviour is demonstrated at all times. It must be remembered that actions can be misinterpreted by others, no matter how well intentioned. Due consideration should always be given as to what is an appropriate environment and what is appropriate conduct in relation to the activities which are being undertaken.

#### **5.0 Informal procedure**

- 5.1 A person affected by sexual misconduct under this policy may wish to resolve the behaviour informally. We encourage the person affected to speak with someone they feel comfortable to share their experience with. For ease we have provided some main contacts below.
  - 5.1.1 Employees are encouraged to speak to their line manager or supervisor; Head of People, a member of the HR team, or a trade union representative.
  - 5.1.2 Students are encouraged to speak to their Personal Tutor, Programme Convenor, Wellbeing Service, Academic Registrar or the Students’ Union.
  - 5.1.3 All other members of the Courtauld Community are encouraged to speak with the Head of People, Academic Registrar, or the Commercial and Visitor Experience Team Leader.

- 5.2 We recognise it is for the person affected to determine the preferred pathway for resolution, and that engaging in informal resolution is not a barrier to bringing a formal complaint at a later time. However, we may be obliged under our duty of care responsibilities to investigate the alleged behaviour.
- 5.3 If a member of the Courtauld community is informed that their behaviour has been construed as sexual harassment or sexual violence (“misconduct”), they should be prepared to listen patiently and calmly. Whilst it may be upsetting, they should allow the person to express their concerns, and if appropriate, try to reach common ground to remedy the situation and allow a positive working/learning relationship to be resumed. If the nature of the complaint is serious or inappropriate, the person should speak with the relevant point of contacts (as described under 5.2, 5.3, 5.4) to agree the next steps.

## **6.0 Formal procedure**

### **6.1 Students**

- 6.1.1 Students who feel they have experienced or witnessed sexual harassment or sexual violence (“misconduct”) by another student may make a formal report to the Academic Registrar or a member of their team.
- 6.1.2 Students who feel they have experienced or witnessed sexual harassment or sexual violence (“misconduct”) by an employee or other member of the Courtauld community may make a formal report to the Head of People or a member of their team.
- 6.1.3 The student may contact the Students’ Union or relevant contact as described under 5.3 who will support them through the formal reporting process.

### **6.2 Employees**

- 6.2.1 Employees who feel they have experienced or witnessed sexual harassment or sexual violence (“misconduct”) may make a formal report to the Head of People.
- 6.2.2 Employees may contact their Trade Union representative or relevant contact as described under 5.2 who will support them through the formal reporting process.
- 6.3 Students or members of staff who feel they have experienced or witnessed sexual misconduct by a third party or a member of the public should discuss this with their the relevant point of contacts as described under 5.2 and 5.3. . This may involve notifying third parties and notifying Security and/or the police when involving members of the public.

## 6.4 Third Parties, visitors or members of the public

6.4.1 Third parties, visitors or members of the public who feel they have experienced or witnessed sexual misconduct by an employee or student while at any Courtauld premises and/or events, may make a formal complaint directly to the Commercial and Visitor experience team via: [feedback@courtauld.ac.uk](mailto:feedback@courtauld.ac.uk), or the Head of People or a member of their team via: [hr@courtauld.ac.uk](mailto:hr@courtauld.ac.uk) .

6.5 Where the student, member of staff, visitor or member of the public who has experienced sexual misconduct is under the age of 18 or is deemed to be an “adult at risk”, there may be a safeguarding element involved, and the [Safeguarding Policy](#) should be referred to.

## **7.0 Investigation process**

7.1 Following receipt of your report we will manage a formal investigation in accordance to disciplinary procedures with an external Investigation Manager appointed by the Academic Registrar or Head of People.

7.2 We will consider what action may be appropriate to protect you and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the business and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.

7.3 For alleged academic employees, we will refer to the Academic staff annex extract from the Articles of Association of the Institute.

7.4 We will also seriously consider any request that you make for changes to your own work or study arrangements during the investigation.

7.5 It may be necessary to interview witnesses to any of the incidents mentioned in your complaint. If so, the importance of confidentiality will be emphasised to them.

7.6 Following completion of the investigation process the Investigation Manager will complete the investigation report, concluding whether there is a case to answer.

## **8.0 Outcome**

8.1 The Reporting Party will be told whether the investigation established that there was a case to answer and whether the Reported Party has been dismissed or expelled.

- 8.2 If the investigation found based on evidence collated that there was no case to answer or the Reported Party was not dismissed or expelled, information will be shared with the Reporting Party to minimise any adverse effects in accessing their work or study environment, where possible, but there may be limits to the information about the consequences to the Reported Party that can be shared with the Reporting Party.
- 8.3 Where the Reporting Party is told the outcome they will be asked to respect confidentiality with regards to the outcome.

## **9.0 Appeal**

### **9.1 Students**

- 9.1.1 If the investigation report concludes that there is no case to answer, the complainant has a [right to appeal](#).
- 9.1.2 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.
- 9.1.3 Normally the final stage of the complaint needs to have completed before sending a complaint to the OIA.

### **9.2 Staff**

- 9.2.1 If the investigation report concludes that there is no case to answer, the complainant has a right to appeal. For alleged academic employees, we will refer to the Academic staff annex extract from the Articles of Association of the Institute.

### **9.3 Third Parties, visitors or members of the public**

- 9.3.1 If you are not satisfied with the way your complaint has been handled you may wish to contact the Director of Commercial and Visitor Experience to submit your appeal.

## **10.0 Support for those involved**

### **10.1 Students**

- 10.1.1 Anyone found to have retaliated against, victimised someone or caused a detriment to someone in this way will be subject to investigation under our

[Student Code of Conduct Policy](#) following and in accordance with disciplinary procedures.

- 10.1.2 If you believe you have suffered any such treatment you should inform the Academic Registrar or the Wellbeing Manager.
- 10.1.3 We offer access to confidential counselling; the details are located at [wellbeing@courtauld.ac.uk](mailto:wellbeing@courtauld.ac.uk).

## 10.2 Staff

- 10.2.1 Anyone found to have retaliated against, victimised someone or caused a detriment to someone in this way will be subject to investigation under the Disciplinary Procedure (and in accordance with the Academic staff annex extract from the Articles of Association of the Institute for academic staff) following and in accordance with disciplinary procedures.
- 10.2.2 If you believe you have suffered any such treatment you should inform your line manager, HR or your union representative. If the matter is not remedied, you should raise it formally using our [Grievance Procedure](#) or this procedure if appropriate.
- 10.2.3 We offer access to confidential counselling; the details are located on the [HR intranet pages](#).

10.3 Employees or students who make complaints, who are responding to a complaint and/or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result.

## 10.4 Interim Measures

- 10.4.1 Following a report, or a disclosure that requires an investigation we may determine it necessary to introduce interim measures. An Interim Measures Panel (IMP) may assess support needs, consider how to protect the interests of all parties and members of our community who may be impacted by the case, and agree to next steps. This will be achieved through a robust risk assessment to consider the academic, welfare and support needs of the parties, and any interim measures necessary to ensure a fair and transparent investigation, where appropriate.
- 10.4.2 Any interim measures will be proportionate to the nature of the risk(s) being managed. Interim measures may include alternative working arrangements, provision of support, or a recommendation to partially or fully suspend an employee or student during this time and will be recommended by the panel in accordance with our policies and procedures.



- 10.4.3 The Chair of the panel will be the Academic Registrar or Head of People with a confidential note-taker present.
- 10.4.4 The composition of the panel will depend on the nature of the allegations and the parties involved e.g. between students; between a student and a staff member or between staff members. There will be three members, including the Chair, and will comprise of:
- A senior representative from the reported party's department
  - An independent senior academic and/or senior professional services manager from a trained pool (where the reported party is a staff member)
  - A Students Union sabbatical officer (where the reported party is a student)
- 10.4.5 The Chair of the panel will ensure that members have received appropriate training and that where possible, the panel is diverse and reflects any relevant protected characteristics.
- 10.4.6 The membership of the panel will be shared with the reporting party in advance of the meeting to ensure transparency and to manage any conflicts of interest.
- 10.4.7 The risk assessment and any interim measures that are put in place will be shared to both parties; and will be reviewed regularly by the IMP and amended as appropriate.
- 10.4.8 All information disclosed as part of this process will be treated confidentially and sensitively and in accordance with data protection legislation.

## **11.0 Confidentiality and record-keeping**

- 11.1 Confidentiality is an important part of the procedures provided under this policy. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis. Breach of confidentiality by any party will be referred to the relevant Disciplinary Procedure.
- 11.2 Information about a complaint by or about an employee may be placed in a secured location, along with a record of the outcome and of any notes or other documents compiled during the process. These will be processed in accordance with our [Data Protection Policy](#).

## **12.0 Police Investigations and Judicial Proceedings**

- 12.1 Where criminal investigations and/or judicial proceedings are ongoing, or are likely to commence in respect of a disclosure or report, we will usually continue its own investigation and any disciplinary action, subject to the circumstances of the case and police advice.
- 12.2 Where, following police advice or otherwise, we decide not to undertake our own investigation until the case has concluded, we reserve the right to review this decision and to initiate its own investigation and/or disciplinary action at a later stage in or on completion of the criminal investigation and/or judicial proceedings.
- 12.3 A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter, or an acquittal at a trial, does not preclude or negate the outcome of our investigation and/or disciplinary action. Where the trial has completely exonerated the subject of the complaint and it has been found that the Reporting Party has made a false, bad faith or misleading complaint, we may revisit any disciplinary sanction issued to the Reported Party and may consider disciplinary action against the Reporting Party.
- 12.4 An internal investigation is focused exclusively on whether a breach of the sexual misconduct policy and/or other applicable obligations or policies has occurred. The internal process may therefore be considering different issues from a Police investigation or criminal prosecution. This is why it may, depending on the circumstances, be possible to proceed with an internal investigation at the same time as a criminal process.
- 12.5 Where a student or staff member is convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of our sexual misconduct policy, they must declare this to us. The conviction/caution will be taken as conclusive evidence that the behaviour took place, and no further investigation shall be required by The Courtauld. Appropriate measures may be taken (if they have not already) under the respective [Student Disciplinary Procedure](#) and [Staff Disciplinary Procedure](#).

## Appendix a - definitions

1	<b>Abuse of power</b>	<ul style="list-style-type: none"> <li>•</li> <li>• It is about an individual controlling or threatening another individual.</li> <li>• Sexual harassment through the means of power abuse includes using power to try to influence the actions of another in a sexual context.</li> <li>• Unwanted behaviour from a person or group that is either intimidating, and an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone. Abuse of power may also occur in the context of a close personal or intimate relationship.</li> <li>• The behaviours may be expressed in person, in writing and/or by electronic means.</li> </ul>
2	<b>Zero tolerance</b>	<ul style="list-style-type: none"> <li>• No tolerance of any form of sexual misconduct within the community or against its members.</li> </ul>
3	<b>Consent</b>	<ul style="list-style-type: none"> <li>• Consent is agreeing by choice and having the freedom and capacity to make that choice. The person seeking consent should always take steps to ensure that consent is freely given, that it is informed and recognises that it can be withdrawn at any time.</li> <li>• Freedom to consent: a person is free to make a choice if nothing negative would happen to them if they said no. For example, a person may not feel free to make a choice if:             <ul style="list-style-type: none"> <li>○ they are being threatened with violence (by the perpetrator and/or by someone else);</li> <li>○ they are being threatened with humiliation;</li> <li>○ they believe that the continuation or assessment of their studies, or progression or advancement of their career, will be at risk if they refused; they are being blackmailed;</li> <li>○ there is a significant power imbalance and the party without power feels pressured to continue in the relationship against their will.</li> </ul> </li> </ul>
4	<b>Courtauld community</b>	<ul style="list-style-type: none"> <li>• An employee, student, agency worker, third party supplier, visitor, member of the public, volunteer or governor.</li> </ul>
5	<b>Disclosure</b>	<ul style="list-style-type: none"> <li>• Disclosure, for the purposes of this policy involves an individual choosing to tell anyone who is part of the Courtauld, about their experience of sexual misconduct.</li> <li>• Unlike Reporting, Disclosure does not automatically trigger an investigation or action but it would lead to support being offered.</li> </ul>
6	<b>Grooming</b>	<ul style="list-style-type: none"> <li>• Grooming can be defined as a gradual process that someone in a position of power uses to manipulate someone to do things they may not be comfortable with</li> </ul>

		<p>and to make them less likely to reject or report abusive behaviour.</p> <ul style="list-style-type: none"> <li>• Grooming will initially start as befriending someone and making them feel special and may result in sexual abuse and/or exploitation.</li> </ul>
<b>7</b>	<b>Harassment under the Equality Act 2010</b>	<ul style="list-style-type: none"> <li>• Harassment is unwanted conduct related to a relevant protected characteristic that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. The unwanted conduct can be physical, verbal or non-verbal.</li> </ul>
<b>8</b>	<b>Informal resolution</b>	<p>Informal resolution if appropriate can consist of:</p> <ul style="list-style-type: none"> <li>• Oral and/ or written apologies</li> <li>• Attendance at awareness sessions</li> <li>• Participation in training or behavioural change programmes</li> <li>• No contact agreements</li> <li>• Facilitated mediation</li> <li>• Any other outcomes acceptable to the complainants and mutually agreed by the two parties</li> </ul>
<b>9</b>	<b>Line manager</b>	<ul style="list-style-type: none"> <li>• Line manager in this policy may also mean Director, Dean &amp; Deputy Director or Head of Department as applicable.</li> </ul>
<b>10.</b>	<b>Protected Characteristics</b>	<p>Protected characteristics as per the <a href="#">Equality Act 2010</a>:</p> <ul style="list-style-type: none"> <li>• age</li> <li>• disability</li> <li>• gender reassignment</li> <li>• marriage and civil partnership</li> <li>• pregnancy and maternity</li> <li>• race</li> <li>• religion or belief</li> <li>• sex</li> <li>• sexual orientation.</li> </ul>
<b>11</b>	<b>Reporting</b>	<ul style="list-style-type: none"> <li>• Reporting is the sharing of information with a staff member of The Courtauld regarding an incident of sexual misconduct experienced by that individual for the purposes of initiating the investigation process set out in this Policy and the accompanying procedure (different from <i>Disclosure</i>).</li> </ul>
<b>12</b>	<b>Reported Party</b>	<ul style="list-style-type: none"> <li>• The Reported Party is the person(s) whose behaviour it is alleged amounted to an incident of sexual misconduct.</li> </ul>
<b>13</b>	<b>Reporting Party</b>	<ul style="list-style-type: none"> <li>• The Reporting Party is the person(s) who witnessed or is the subject of the alleged incident of sexual misconduct.</li> </ul>
<b>14</b>	<b>Sexual misconduct</b>	<ul style="list-style-type: none"> <li>• Sexual misconduct is a form of harassment and is unacceptable behaviour of a sexual nature through any medium, including online. It can include:</li> </ul>

		<ul style="list-style-type: none"> <li>○ sexual harassment;</li> <li>○ sexual violence including rape;</li> <li>○ intimate partner violence;</li> <li>○ sexual assault;</li> <li>○ grooming;</li> <li>○ coercion or bullying with sexual elements;</li> <li>○ sexual invitations and demands;</li> <li>○ sexual comments;</li> <li>○ sexual non-verbal communication;</li> <li>○ creation of atmospheres of discomfort;</li> <li>○ promised resources or advancement in exchange for sexual access.</li> </ul> <p>Please see below the list of examples for further information.</p>
<b>15</b>	<b>Stalking</b>	<ul style="list-style-type: none"> <li>• Following a person, watching or spying on them or forcing unwanted contact with the victim through any means, including social media. The effect of such behaviour is to curtail a victim's freedom, leaving them feeling that they constantly have to be careful. In many cases, the conduct might appear innocent (if it were to be taken in isolation), but when carried out repeatedly so as to amount to a course of conduct, it may then cause significant alarm, harassment or distress to the victim.</li> </ul>
<b>16</b>	<b>Victimisation</b>	<ul style="list-style-type: none"> <li>• Treating someone less favourably because they have made a claim or complaint of discrimination, or helped someone else to make a complaint (under the Equality Act), or made a disclosure (whistleblowing) under the Public Interest Disclosure Act 1998, or in either case the affected person is believed to have made or helped make, or is believed that they may make or help make, a complaint or disclosure.</li> </ul>

**Examples (but not limited to) of sexual misconduct:**

- 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.

### **Relevant legislation**

- 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).

### **Associated policies**

- [Bullying and Harassment Policy](#)
- [Disciplinary Policy](#)
  - [Professional services](#)
  - [Academic staff](#)
- [Grievance Policy](#)
  - [Professional services](#)
  - [Academic staff](#)
- [Close Relationships Policy](#)
- [The Courtauld Gallery Complaints Policy and Procedure](#)