

LFA Policy 3.5

Sexual Misconduct

1. Policy Statement

London Film Academy (LFA) is committed to providing an environment in which all members of our community feel safe and are respected, and to preventing and eliminating all forms of sexual misconduct, including; sexual harassment, sexual violence and sexual abuse.

We acknowledge that incidents of Sexual Misconduct occur within our community and we are committed to promoting a culture where any incidents of Sexual Misconduct will not be tolerated and will be thoroughly addressed to ensure a safe work and study environment.

We recognise the significant negative effects that experiencing sexual misconduct can have upon individuals and we will support them, as well as supporting other members of the LFA community who have been affected by the experience.

We will provide a supportive and confidential environment where individuals feel confident and empowered to disclose, will be listened to and understand the options available to them.

We will support everyone in our community to challenge inappropriate behaviour where it is safe for them to do so.

As an academic institution, it is important (as well as a legal requirement) that we promote and preserve freedom of speech and academic freedom within the law. We strongly believe in the courteous exchange and debate of ideas, including lawful views that might be controversial or unpopular, which could be found to be offensive or contrary to personal views, beliefs, or values. Content in course materials, statements made, and views expressed by a person as part of teaching, research or discussions about any subject matter which relates to the content of the course is unlikely to constitute Sexual Misconduct or Harassment. For more information, see our Freedom of Speech Policy.

2. Purpose of the Policy

This policy outlines how we will:

- provide an environment in which all members of our community feel safe and are respected
- set out our expectations around the unacceptability of sexual misconduct
- support students who have experienced any form of sexual misconduct
- respond to disclosed incidents which breach this policy.

3. Definitions

Sexual misconduct covers a broad range of inappropriate and unwanted behaviours of a sexual nature. It covers all forms of sexual violence, including but not limited to; sex without consent, sexual abuse (including online and image-based abuse), non-consensual sexual touching, sexual harassment (unwanted behaviour of a sexual nature which violates your dignity; makes you feel intimidated, degraded or humiliated or creates a hostile or offensive environment), stalking, abusive or degrading remarks of a sexual nature.

Please refer to Appendix 1 for a full list of definitions used in this policy.

4. Scope of the Policy

This procedure covers all students of the LFA including, but not limited to, students with visiting student status, distance learners and those undertaking apprenticeships.

It applies to sexual misconduct which occurs when the reported party is a registered student and meets any of the following criteria:

- occurs on LFA property and/or land
- occurs away from LFA property
- occurs whilst a student is engaged in any LFA related activity (including placements and trips)
- occurs via electronic means including, but not limited to: internet, email, social media sites, chat rooms, text messages and instant messaging
- results in a legal or police investigation, charge or conviction of an offence
- raises questions about the professional suitability of students registered on either a course governed by professional regulations, or a course with a placement element
- poses a risk to LFA or members of its community and/or reputational damage.

[LFA Procedure 3.2 - Safeguarding and Prevent](#) will apply if the reporting person is under 18 or a vulnerable adult.

This policy should be read in conjunction with the LFA Student Code of Conduct and the LFA Student Disciplinary Procedure

The LFA reserves the right to re-direct formal complaints into alternative procedures, as it deems appropriate.

Some incidents of Sexual Misconduct may also constitute a criminal offence under English law. Such incidents may be addressed through criminal proceedings, internal disciplinary proceedings, or, in some cases, both criminal and internal proceedings. In the case of criminal proceedings, if these occur at the same time as LFA internal proceedings, LFA will normally pause its internal proceedings so as not to prejudice the criminal proceedings.

Students should be aware that in the case of criminal proceedings, any evidence obtained as part of an LFA investigation may become disclosable to the police.

5. Commitment

We will treat all members of our LFA community with dignity and respect at all times, and it is expected that all members of our community will share in this responsibility for creating and sustaining an environment which upholds the dignity of all.

We are committed to equality and diversity within our community and will work to sustain an equal and safe environment in which a culture of prevention of sexual misconduct will be promoted through appropriate and consistently applied education and training.

We will actively respond to all reports of sexual misconduct and, whilst recognising that some experiences may constitute a criminal offence, we will ensure that, in all cases, reports are carefully and thoughtfully addressed by relevant trained staff members through a process that is transparent and clearly communicated to the individuals involved.

We will support anyone in our student community who is subject to any form of sexual misconduct.

We will ensure that both the reporting party and the responding party are listened to and responded to in a safe, supportive, trusting environment.

We will prioritise the safety and wellbeing of the reporting party, whilst ensuring the dignity of all those involved in any investigations or disciplinary proceedings.

We will make clear how to disclose sexual misconduct, the options available and the support that can be provided. We will respect the right of the individual disclosing an experience to choose how to take forward a disclosure, including the decision not to make a formal report

We will make available a trained Safeguarding Officer to provide support for anyone impacted by sexual misconduct. We will collaborate with external agencies to work in the best interest of those impacted.

All LFA staff will have been informed of the policy and will be trained as appropriate to their roles. We will ensure that all staff are informed of how to receive and signpost a disclosure of sexual misconduct in a sensitive way.

Formal reports will be investigated by trained investigators or external agencies, contracted to conduct the investigation on behalf of the LFA.

All reports considered under the accompanying procedures will be assessed on the balance of probabilities in line with the disciplinary procedure.

All staff involved in the process will act with impartiality and discretion at all times.

We will learn from our experiences and regularly review this policy, informed by data trends and with input from independent external experts to ensure it remains relevant.

6. Confidentiality

In recognition of the sensitive nature of sexual misconduct, privacy will be maintained, wherever possible, throughout the disclosure, reporting and investigative processes.

Throughout all proceedings, the LFA will act in compliance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

The LFA will only share information internally and may share with the relevant validating partner, or externally to the LFA with the reporting party's express permission or in exceptional circumstances to;

- safeguard members of the LFA and validating partner community
- fulfil the LFA's duty of care to protect LFA Community members from harm or to prevent a crime from taking place
- discharge the LFA's duties or as required by law.

Any disclosure of information will be restricted to relevant information and conveyed only to those entitled to it for justifiable reasons.

The LFA will retain anonymised data to understand patterns of behaviour and to inform future support services, policy and procedures.

7. Support Available

There is a range of support services and resources available to LFA community members:

- LFA Safeguarding Lead - safeguarding@londonfilmacademy.com
- Togetherall - a safe, online community where people support each other anonymously to improve mental health and wellbeing <https://togetherall.com/en-gb/>
- Office For Students offer information on a number of organisations and charities that may be able to support <https://www.officeforstudents.org.uk/for-students/student-rights-and-welfare/harassment-hate-and-sexual-misconduct/>
- Support for victims of rape and sexual assault <https://www.met.police.uk/advice/advice-and-information/rsa/rape-and-sexual-assault/support-for-victims-of-rape-and-sexual-assault>
- LGBTQ+ London-based support organisations <https://www.chelwest.nhs.uk/about-us/organisation/our-way-of-working/equality-diversity/lgbt-support-organisations>

There is also wide range of support services and resources available to University of Derby Community members:

- Report & Support – available on UDo · Student Wellbeing: 01332 593000 or studentwellbeing@derby.ac.uk
- UoD Sexual Misconduct Liaison Officers: 01332 593000
- Union of Students Advice Service: 01332 591507 or advice@derbyunion.co.uk

8. Related Documentation

This policy should be read and used in conjunction with:

- [LFA Sexual Misconduct Procedure](#)
- [LFA Student Code of Conduct](#)
- [LFA Student Disciplinary Procedure](#)
- [LFA Safeguarding Policy](#)

Appendix 1 - Sexual Misconduct Definitions

i. Sexual Misconduct

As defined by the Officer for Students; sexual misconduct relates to all unwanted conduct of a sexual nature, including, but not limited to:

- a. Sexual harassment (as defined by Section 26 (2) of the *Equality Act 2010*)
- b. Unwanted conduct which creates an intimidating, hostile, degrading, humiliating or offensive environment (as defined by the *Equality Act 2010*)
- c. Assault (as defined by the *Sexual Offences Act 2003*)
- d. Rape (as defined by the *Sexual Offences Act 2003*)
- e. Physical unwanted sexual advances (as set out by the *Equality and Human Rights Commission: Sexual harassment and the law, 2017*)¹³
- f. 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
- g. 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*).

Types of Behaviour that could constitute Sexual Misconduct (not limited to):

- Engaging; or attempting to engage in a sexual act with another individual without consent
- Sexually touching another person without their consent
- Conduct of a sexual nature which creates, or could create an intimidating, hostile, degrading, humiliating, or offensive environments for others, including making unwanted remarks of a sexual nature, including via social media or other online forums
- Indecent exposure of sexual body parts for the purpose of causing humiliation, distress or intimidation
- Recording and/or sharing intimate images or recordings of another person without their consent

ii. Consent

Consent is the agreement to participate in a sexual act where the individual has both the freedom and capacity to make that decision. Consent cannot be assumed on the basis of a previous sexual experience or previously given consent, and consent may be withdrawn at any time.

Freedom to consent: for consent to be present, the individual has to freely and consciously engage in a sexual act. Consent is not present when submission by an unwilling participant results from the exploitation of power, or coercion or force or lacks mental capacity to consent regardless of whether there is verbal or physical resistance.

Coercion or force includes an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten, that place an individual in fear of immediate or future harm, with the result that the individual feels compelled to engage in a sexual act.

Capacity to consent: free consent cannot be given if the individual does not have the capacity to give consent. Incapacitation may occur when an individual is asleep, unconscious, or any other state of unawareness that a sexual act may be occurring. Incapacitation may also occur on account of an impairment of or a disturbance in the functioning of, the mind or brain (whether permanent or temporary), or as the result of alcohol or substance use.

Intoxication is never a defence for committing an act of sexual misconduct, or for failing to obtain consent.

If there is any doubt as to the level or extent of one's own or the other individual's incapacitation, do not engage in a sexual act.

iii. Disclosure

Disclosure means that an individual tells a member of the LFA or validating partner community, including the Union of Student or Student Council, that they have or experienced Sexual Misconduct (this is different from a formal complaint).

iv. Formal Sexual Misconduct Complaint

Submitting a formal complaint to the LFA regarding an individual's experience of sexual misconduct is an instruction for the LFA to take appropriate action. The complaint will allow the LFA to investigate the misconduct as set out in this policy and the accompanying processes.

Right to withdraw formal complaint: following submission of a formal complaint, the reporting student has the right to withdraw their complaint at any stage in the procedure. However, the LFA may have a duty to continue investigations and reserves the right to re-direct the complaint into the appropriate LFA or validating partner policies; such as (but not limited to); Safeguarding and the Student Disciplinary Procedure.

v. Safeguarding Officer

The LFA Safeguarding Officer provides pro-active support and advice service to any students who have experienced sexual misconduct.

vi. Reporting Party

The Reporting party is the person(s) who has made a formal complaint regarding an experience of sexual misconduct.

vii. Responding Party

Responding party is the person(s) named in a formal complaint who is alleged to have committed an act of sexual misconduct.

viii. Reporting Third Party

The Reporting Third Party is the person(s) who has made a formal complaint regarding an experience of sexual misconduct not relating to themselves.

ix. Vexatious Reporting

Vexatious reporting involves the creation of multiple or a pattern of unwarranted reports made under the Sexual Misconduct Policy. And/or failure to accept any reasonable decisions, by any party, arising from the application of the accompanying procedures to this policy.

x. Malicious Reporting

Malicious reporting occurs when an individual shares allegations of sexual misconduct they know to lack a basis in fact.

xi. Complicity

Complicity is any act that knowingly helps, promotes, or encourages any form of Sexual Misconduct

xii. Retaliation

Retaliation may constitute any words or actions, including intimidations, threats or coercion made in response to disclosures or reports made under the Sexual Misconduct policy, by individuals, including the Reporting and Responding party, including witnesses, friends or relatives.