



# Harassment and Sexual Misconduct Policy (Higher Education)

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<b>Approving Body:</b> Executive Leadership Team	<b>ELT contact:</b> Interim Executive of Curriculum, Quality & Student Experience
<b>Date Approved:</b> July 2025	<b>Author:</b> Safeguarding Coordinator

\*This procedure may need to be reviewed before the review date stated, to reflect changes in government and other agencies' advice, guidance and legislation

## Revision Log

Date	Version No.	Brief detail of change
June 2025	1	New policy

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## **1. Introduction**

City College Plymouth (the 'College') is a leading provider of vocational, professional and technical training in the South West, that strives to provide a learning environment and organisational culture that impacts positively on the health, wellbeing and sustainability of our community, to enable all our students and staff to achieve their full potential.

The term 'College Community' includes all staff, governors, students, parents/carers, volunteers and visitors.

### **Our vision:**

- The learning destination of choice

### **Our core values:**

- Respect
- Ownership
- Integrity

## **2. Policy Statement**

For the purposes of this Policy, any individual either employed or engaged by City College Plymouth on a paid or unpaid basis to carry out work for the College under any type of employment contract.

This includes:

- students undertaking paid or unpaid work
- people designated as workers for the College including those engaged through agency work appointments.

A student is considered to be any individual registered to study on any programme of study at the College, including short courses and apprentices. Students may also be studying away from the College premises as part of their course.

People working on a voluntary basis at the College and those working as contractors, invoicers, guest speakers, carers, governors, invigilators and casual staff are also bound by the terms of this Policy as is any person engaged with, or representing, the College.

It will apply to sexual misconduct which:

- occurs on College property and/or land;
- occurs whilst a student is engaged in any college 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;

### 3. Definitions

#### Definitions taken from the 'Office for Students statement of expectations'

**a. 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:

- age
- disability
- gender reassignment
- race
- religion or belief
- sex
- sexual orientation

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

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; or religion or perceived religion; or sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity.

#### **b. Sexual misconduct**

**(Relates to all unwanted conduct of a sexual nature) This includes, but is 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).

Our definitions include harassment and sexual misconduct through any medium, including, for example, online.

#### 4. 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 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, regardless of whether there is verbal or physical resistance.

**Coercion or Force** includes any physical or emotional harm or threat of physical or emotional harm which would reasonably 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, semi-conscious, or in a state of intermittent consciousness, or any other state of unawareness that a sexual act may be occurring. Incapacitation may also occur on account of a mental or developmental disability, or as the result of alcohol or drug use.

**Alcohol and/or Drug Use:** Incapacitation arising from alcohol or drug consumption should be evaluated on the basis of how the alcohol/drugs have affected the individual; signs of incapacitation may include, but are not limited to, one or more of the following: slurred speech, unsteady gait, bloodshot eyes, dilated pupils, unusual behaviour, blacking out, a lack of full control over physical movements, a lack of awareness of circumstances or surroundings, and/or an inability to communicate effectively. Intoxication is never a defence for committing an act of Sexual Violence and 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, the safest approach is to not engage in a sexual act.

#### 5. College policies to deal with harassment and sexual misconduct

Allegations of harassment and/or sexual misconduct against a student will be dealt with under the **Student Behaviour Management Procedure**. Allegations against members of staff will be dealt with through the **Staff Anti-Bullying and Harassment Policy**. Allegations against visitors, who must be accompanied at all times when on-site, unless a current DBS has been obtained, will be dealt with through the **Safeguarding Children, Young People and Adults at Risk Policy and Procedure**. These policies outline the processes to be followed and the rights of the accused regarding representation and appeal. Appropriate support will also be given to the victim throughout these processes.

## **6. Confidentiality and data sharing**

The College recognises the importance of privacy for disclosures and formal complaints of cases of harassment and/or sexual misconduct and will only share information on a confidential, need-to know basis.

Confidentiality is not absolute secrecy. There may be circumstances where it is necessary or appropriate to share information either within the College or with external organisations/bodies, for example to:

- Allow a case to be appropriately considered and investigated;
- Ensure those who disclose an experience or are alleged to have committed misconduct receive appropriate academic and pastoral support;
- Safeguard members of the College community and fulfil the College's duty of care
- Discharge the College's duties or as required by law.

The outcome of an investigation, disciplinary hearing or appeal will be shared as appropriate, and this will include setting out the rationale for the decision.

All personal data is recorded and held in accordance with the Data Protection Act 2018 and cases of sexual misconduct will be retained in line with the College's Record Retention Schedule.

The College will retain anonymised data to understand patterns of behaviour and to inform a future policy.

## **7. Making a disclosure**

A disclosure is made when someone tells a member of college staff that they have experienced sexual misconduct. A disclosure can be made in person, online or via other means such as phone or email.

The person who has chosen to disclose does not need to provide the full details of their experience if they do not wish to. Although they will be advised of the options open to them, and supported to make a formal complaint if they choose to, they will not be pressured to make a formal complaint.

If the incident is historical, the person who has experienced it can still disclose it to the College and receive support. They can access Safeguarding, Counselling, Wellbeing Support and Pastoral

Disclosure does not create a formal complaint, and is not an instruction for the College to take action. The person who has disclosed will have the opportunity to be heard and to consider their options before proceeding with any further steps. No action will be taken immediately by the College unless there is a concern about immediate safety or if the College has a duty under safeguarding.

Where a person chooses to disclose anonymously no action will usually be taken on the basis of their disclosure. Anonymised data will help the College to understand patterns in behaviour and inform a future policy.

## **8. Next steps after disclosure**

After a disclosure there are several options available to the person who has disclosed their experience. They can choose the level and types of support that are right for them. After discussion with the Safeguarding Team, the person who has disclosed may choose to:

- a) Take no further action at this time: In this case advice will be provided regarding the preservation of evidence which may be needed if they subsequently decide to make a report to the Police or to submit a formal complaint to the College. They will also be informed of the ongoing support available to them via Safeguarding, Counselling, Wellbeing Support and Pastoral.
- b) Make a formal complaint to the College: If the person who has disclosed chooses this option they will be asked to confirm that they wish the College to proceed with a formal investigation. Support will be available from Safeguarding, Counselling, Wellbeing Support and Pastoral.
- c) Make a report to the Police: In this case no disciplinary action will normally be taken by the College whilst a Police investigation and legal proceedings are taking place. Support will however still be available from Safeguarding, Counselling, Wellbeing Support and Pastoral.

## **9. Police Investigation and Legal Proceedings**

If the person who has disclosed has made an independent report to the police they may still make a formal complaint to the College.

The College does not have the legal investigatory powers of the Police, and is not able to make a determination of criminal guilt. Any disciplinary action is undertaken as a breach of the College's Harassment and Sexual Harassment Policy and is not a substitute for a Police investigation or a criminal prosecution.

The fact that criminal proceedings have been instituted or have concluded does not preclude the College from taking its own disciplinary action, if it is thought fitting or necessary to do so. The fact that the Police are unable or unwilling to proceed does not preclude the College from taking its own disciplinary action.

A case which does not progress through legal channels, where a decision to take no further action has been made, and/or a 'not guilty' verdict has been returned, does not mean that the person has made a malicious or vexatious report. The fact that criminal proceedings have returned a 'not guilty' verdict does not preclude the College from taking its own disciplinary action.

If a student has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the College's Student Behaviour Management Procedure, then the College will accept this as conclusive evidence that the behaviour took place. It may not be necessary for a further full investigation to take place and the complaint will be deemed proven and proceed directly to a hearing.



## **10. Immediate threats to safety**

If after reviewing a disclosure, the DSL or Safeguarding Coordinator thinks that there may be an immediate threat to safety, they will refer the case for immediate action to a suitable member of the Executive Leadership Team.

If the ELT member decides that it is necessary to take precautionary action, they will use the Student Behaviour Management Procedure to restrict access to college facilities or suspend the accused student, pending a hearing or in the case of a member of staff, they will follow the staff Anti-Bullying and Harassment Policy.

If a suspension is issued, the person alleged to have committed the misconduct will be informed in writing and, wherever possible, in person. They will be told what they need to do in order to comply with the suspension of rights.

If no suspension is required, the person alleged to have committed the misconduct will not be informed of the disclosure unless the person who has disclosed chooses to submit a formal complaint to the College.

## **11. Making a formal complaint to the College**

The person who has experienced sexual misconduct may choose to make a formal complaint to the College under the Sexual Harassment and Misconduct Policy, and thereby seek a resolution via the College's Disciplinary Procedure. A formal complaint is different to disclosure; it is a document informing the College that something has happened and that the person who has made the complaint wishes the College to take action. The College **Talkback procedure** is followed.

## **Appendix 1**

### **Process for dealing with accusations of harassment and sexual misconduct against visitors**

1. Short term visitors to the site should always be accompanied by a member of staff. Visitors who engage with College students online should similarly always do so in the presence of a member of staff. If a visitor is likely to access the College over several occasions, or needs unaccompanied access, then they should be subject to the same checks as a staff member (e.g. DBS) as indicated in the safeguarding policy. In this case they may be allowed unaccompanied access to the site.
2. Accusations should be made in the same way as detailed above.
3. As far as practicable, an investigation will be undertaken as above (if the complainant wishes).
4. Outcomes can include the visitor being banned from the College's site, either temporarily or permanently, and reports being made to the visitor's employer, if relevant. City College Plymouth will support police investigations of visitor conduct on site.