

Sexual Misconduct, Harassment and Related Behaviours Policy Summary

1. Introduction

National Centre for Circus Arts (“the School” or “National Centre for Circus Arts”) seeks to maintain an environment which is safe and supportive for all members of the school, whether students, participants or staff. This endeavour is supported by the School’s published material, training and expectations covering Safe Touch, reporting processes, and our Inclusivity Policy and Protocols.

This Policy is designed to be flexible so that reported behaviour that falls within the scope of this Policy can be managed in a sensitive way, taking account of the needs and wishes of, where relevant, both the reporting party and the individual facing allegations, alongside the duty of care of National Centre for Circus Arts.

Under this Policy and in accordance with the School’s ethos, all students, participants and staff of the National Centre for Circus Arts are strongly encouraged to report to us any behaviour that has caused distress, either to them or to a third party, regardless of any doubts they may have about whether the behaviour may be a breach of this Policy.

The National Centre for Circus Arts Policy on Sexual Misconduct, Harassment and Related Behaviours underpins and is founded upon the following principles and National Centre for Circus Arts’s commitment to:

- **establishing a culture of mutual respect and support;**
- **creating a safe environment in which the relationship of trust and confidence between the School and the members of its community is paramount and;**
- **ensuring a zero tolerance for sexual violence and misconduct, harassment and related behaviours.**

All members of National Centre for Circus Arts, whether students or staff, have a responsibility to uphold these principles. Behaviours which undermine or damage these principles will be considered to constitute a breach of this Policy.

2. Who this policy applies to

This Policy shall apply to all students registered for a course at the National Centre for Circus Arts, irrespective of their mode or place of study and will apply to conduct or other issues arising, on or off the School premises, or in respect of the School itself or the School-related activities.

This policy also applies to staff. Allegations regarding behaviour on the part of staff that may be considered to constitute a potential breach of this Policy may be raised by any individual under any of the associated procedures and referred to the relevant HR process as necessary. Staff will be required, however, to read this policy alongside the Safe Touch and Personal Relationships Statement.

Student misconduct will be dealt with under the School's Non-Academic Misconduct Policy. For staff, disciplinary action may be taken under the School's HR procedures.

3. Where this policy applies

This policy applies where:

- Allegations are received from any individual (including students, staff and non-members of National Centre for Circus Arts) that the behaviour of one or more students constitutes a breach of this Policy and/or the Non-Academic Misconduct Policy, in respect of sexual misconduct, harassment and related behaviours.
- Allegations are received from any individual that the behaviour of a member (or members) of staff of the School constitutes a breach of this Policy.
- Allegations are received from any individual that the behaviour of an individual who is not a member of National Centre for Circus Arts constitutes a breach of this Policy.

A complaint that falls within the scope of the National Centre for Circus Arts Policy on Sexual Misconduct, Harassment and Related Behaviours, may be dealt with under this Policy whether or not it has been reported to the police.

Where the Chief Executive, of National Centre for Circus Arts is the subject of allegations that fall within the scope of this Policy, the matter will be referred to the Chair of the Board. For any other roles within the School that require investigation, the CEO or a nominated officer will oversee the process.

4. Definitions

A breach of this Policy is defined by the School as:

“Unacceptable behaviour that is of a sexual, harassing, or other nature on the part of the individual.”

Breaches of this Policy by students

Where a student is alleged to have breached this policy, the Early Investigator or, in exceptional cases, other senior officer of the School such as the Head of Degree, will determine whether or not the allegations need referring for investigation under the Non-Academic Misconduct policy or whether there is justification for a different approach e.g. referral of a respondent student into formal Support Through Studies procedures.

Breaches of this Policy by staff

A breach of this Policy by a staff member of National Centre for Circus Arts may constitute a disciplinary offence and may be referred into the relevant HR procedures of the School, as deemed appropriate by the Early Investigation Officer.

Responding to breaches of this policy

In all instances when determining whether allegations should be referred into the Non-Academic Misconduct procedures (for students) or HR procedures (for staff), officers of the School, or External Officers acting on behalf of the School will take account of the wishes of the Complainant in this regard. However, National Centre for Circus Arts must balance its duty of care to both the Complainant and the Respondent. Therefore, whilst the wishes of a Complainant will be taken into account and considered, when determining next steps officers of National Centre for Circus Arts must make the decision as to what is most appropriate, and this may not always be in accordance with the wishes of the Complainant.

Additionally, in some cases there may be circumstances where the School's duty of care must supersede the wishes of the Complainant.

5. Definitions and examples of behaviours that would breach this Policy

Sexual Misconduct - Unacceptable behaviour of a sexual nature.

Harassment (sexual or otherwise) - Any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment.

Related Behaviours - behaviours which do not specifically fall under the School's definition of 'sexual misconduct' or 'harassment', but which are other unacceptable behaviours that may constitute a breach of the Policy.

All three definitions above may include some of the examples below:

- Engaging in, or attempting to engage in sexual contact without consent;
- Sharing private sexual materials of another person without consent, including online/via social media;
- Kissing without consent;
- Wilfully touching inappropriately through clothes without consent;
- Inappropriately showing sexual organs to another person;
- Making unwanted remarks or noises (e.g. wolf-whistling) of a sexual nature;
- Inappropriate remarks about a person's appearance or dress;
- Controlling and coercive behaviours (e.g. behaviours that cause someone serious alarm, distress and/or pressure, which then has a substantial adverse effect on their usual day-to-day activities; 'emotionally blackmailing' an individual to stay in an intimate/friendship relationship; controlling clothing, food, friendship or other personal choices of another individual);
- Coercive demands for favours (including sexual favours);
- 'Gaslighting' (i.e. manipulating someone by psychological means, or seeking to sow seeds of doubt in a targeted individual or in members of a targeted group, making them question their own memory, perception, and/or sanity, using persistent denial, misdirection, contradiction, and lying);
- Grooming behaviours (for example, but not limited to: isolating someone so they are dependent academically and emotionally; buying someone presents or repeatedly insisting on paying for them to create a power imbalance; exploitation of a position of authority or of a power imbalance by an individual for their own advantage by coercing, manipulating or deceiving another person);
- Either directly or indirectly targeting an individual or a group of people because of their age, ethnic origin, colour, race, nationality, religion, sex, gender, disability, marital status, pregnancy, or other presentation in a way that is intended or – regardless of intent – likely to intimidate, offend or harm;

- Repeatedly engaging in unwanted interaction, including online/via social media (to note, multiple or repeated incidents may be deemed by the School to be more serious than a single act);
- Publishing any statement or other material without consent, whether online or in hard copy;
- Purporting to originate from another person;
- Relating or purporting to relate to another person;
- Stalking another person, for example, following a person, watching or spying on them or forcing contact with the victim through any means, including social media;
- Monitoring another person's use of the internet, email or any other form of electronic communication;
- Interfering with the property of another person, including restricting their access to their own property.

The above list of definitions is not exhaustive. Any reported allegations concerning behaviour that does not fall into one or more of the above definitions, but which might reasonably fall within the broader definitions of sexual misconduct, harassment, or related unacceptable behaviours as outlined below, may be considered.

6. Definition of consent under this Policy

'Consent' is defined as if [a person] agrees by choice and has the freedom and capacity to make that choice. This can be considered in two stages:

- Whether an individual had the capacity (i.e. the age and understanding) to make a choice about whether to take part in the sexual activity at the time in question;
- Whether they were in a position to make that choice freely and were not constrained in any way. This might include being threatened by violence, being worried about the contention or assessment of their studies or if there is a power imbalance

The crucial question is whether the individual agrees to the activity by choice. The question of capacity to consent is particularly relevant when an individual is intoxicated by alcohol or affected by drugs or subject to coercive or grooming behaviours.

Under this Policy, National Centre for Circus Arts defines consent as:

"The agreement by choice to participate in an act (including, but not limited to, a sexual act) where the individual has both the freedom and capacity to make that decision."

Consent cannot be assumed on the basis of any previous sexual or other encounter (including in a previous or ongoing relationship), or previously given consent, or from the absence of complaint. Each new encounter requires a reconfirmation of consent. Consent may be given to one form of sexual or other activity but not to another. **Consent may be withdrawn at any time during sexual or other activity and each time activity occurs.**

7. Reporting

A Complainant may choose whether to raise a disclosure or complaint/make allegations regarding sexual misconduct, harassment or related behaviours in the following ways:

- approaching an officer of National Centre for Circus Arts and making a report/raising allegations verbally, or
- by contacting them in writing (e.g. via email or TEAMS), or
- By completing the **named or anonymous reporting form** (for students this will be seen by the Chief Operating Officer (COO); for staff this will be reviewed by the Finance and HR Manager)

Students may also use the methods below:

- under the Non-Academic Misconduct Policy, by reporting allegations to an officer of the School for investigation under the Preliminary Enquiry procedure;
- under the Student Complaints Procedure by raising an informal complaint (Stage 1) to the School or by submitting a formal Stage 2 complaint to the School using the Student Complaint form (the form can be found on TEAMS).

In the context of bullying, harassment, and sexual misconduct, the terms disclosure and reporting have distinct meanings, particularly in workplaces, schools, or legal settings: Disclosure is where a victim or witness shares their experience of bullying, harassment, or sexual misconduct with someone, but without necessarily expecting formal action.

Disclosing does not automatically trigger further action or an investigation unless the recipient has a duty to report it (e.g. if there is a safeguarding requirement).

Reporting is a formal action taken to notify someone with authority about an incident, in order to trigger a process that may lead to an investigation, disciplinary action, or legal proceedings.

Complaints/allegations raised under other policies and procedures that appear to breach this Policy will normally be referred into Stage 1 of the procedures under this Policy.

Raising a complaint/allegations under this Policy or another National Centre for Circus Arts policy does not prevent a Complainant from reporting the matter to the police at any time (even where the School's internal procedures have been concluded).

If an incident is reported to the police, all investigation by the School will cease.

8. Non-recent allegations

Under this Policy, the following definitions may be applied in determining whether allegations are deemed 'non-recent':

- Where the alleged incidents occurred a significant time ago;
- Where the alleged incidents occurred too long ago (such as when any accused no longer works for the School) to enable the allegations to be investigated further under National Centre for Circus Arts's internal procedures;

Generally, the Early Investigation Officer will determine whether alleged incidents that occurred more than 6 months before they were reported should be deemed to be 'non-recent', taking account of the relevant circumstances, including, but not limited to:

- the availability of supporting evidence;
- the timing of incidents within the academic year (e.g. whether there were any circumstances, such as Christmas/summer closure of the School, that may have hindered or prevented an individual from raising the allegations earlier);
- whether the alleged incidents form part of a pattern of behaviour or sequence of events that means they warrant inclusion as part of an investigation;
- any other relevant circumstances pertaining to the case.

Where an allegation is deemed to be non-recent, this does not prevent the School from investigating whether there has been a potential breach of this Policy, if the School is satisfied that sufficient evidence or other circumstances surrounding the allegation warrant further investigation.

9. Anonymous allegations / allegations raised by third parties on behalf of a Complainant

National Centre for Circus Arts defines anonymous allegations as allegations that either do not identify the alleged Complainant and/or alleged Respondent and recognises that Complainants may find it difficult to make a disclosure, and therefore complaints/allegations raised either anonymously, or by third parties on behalf of a Complainant, will normally receive consideration by the School

Because National Centre for Circus Arts seeks to support both Complainants and Respondents effectively, including seeking a resolution via the use of either the procedures under this Policy or those under the Non-Academic Misconduct policy, where allegations that name a Respondent are received but the Complainant is not identified, this may prohibit procedures from being transparent and fair, and thus may limit the School in what action may be taken.

Where a Complainant and/or a Respondent is either unidentified, or not clearly identified, in allegations received by the School, this may prevent the School from meaningfully investigating them. The School will take such principles of natural justice and fairness into account when determining any action to be taken or not taken.

Where anonymous allegations are made, the Head of Degree will normally act as the Early Investigation Officer, although where necessary this may be another member of staff. A Stage 1 Report will be filed in the School's records and consideration will be given as to whether there are any matters arising from the allegations that the School should endeavour to follow up, though there may be limitations to possible actions that could be taken.

10. Matters for the police

Where events which are the subject of a complaint made are reported to the police, most actions and investigations by the School will normally be delayed until such time as the police and/or courts have completed their investigations and proceedings. In this instance, where an officer of the School has identified that an incident should be referred to the Non-Academic Misconduct procedures, no action under the Non-Academic Misconduct Policy will be undertaken until the criminal process is at an end.

Any decision by the police or Crown Prosecution Service to take no further action, or an acquittal at a trial, in relation to a criminal matter, does not preclude the School from taking any action under this or any other policy and does not mean that the Complainant has made a vexatious or malicious complaint

11. General Principles

The following principles inform and underpin this Policy:

- Zero-tolerance for sexual misconduct, harassment and any other behaviours which may be deemed a breach of this Policy
- Clear policy, information, and training to students about what is meant by sexual misconduct, including matters relating to consent.
- Supportive flexibility for all individuals involved
- Fairness
- Transparency
- Natural justice, and
- Dignity
- Timely investigations into alleged sexual misconduct cases
- Information about how a decision will be made arising from an investigation.
- Information about the disciplinary action that may be taken where a case is upheld.
- Criteria against which an upheld outcome can be appealed.
- Processes that comply with Data Protection and Confidentiality Policies

It is important that a Complainant never be made to feel that they are the problem for making a complaint/allegation/disclosure of an incident(s) that would fall within the scope of this policy or made to feel ashamed for doing so. They will also never be made to feel that raising a complaint would affect their time with the School, including this affecting their grades or for a member of staff, their progression and promotion through the organisation.

The School will try to consider the wishes of the Complainant; however, there may be circumstances where a Complainant wishes no action to be taken but the School has an obligation to pursue action (e.g. in the event of serious safeguarding concerns and/or risks that must override the complaint).

12. Initial Support and Early Investigation

Initial Support and Early Investigation will be used to handle allegations of behaviour that may constitute a breach of this Policy. It is applicable to staff and students. This stage is used for providing support to a Complainant, identifying what they would like to happen and any additional support needs, beginning an investigation where relevant into allegations raised, and determining next steps.

These procedures are designed to be flexible and responsive to the needs and circumstances of each case. Therefore, the person in initial receipt of a disclosure or complaint about matters which fall within the scope of this Policy is the Initial Supporter. The Initial Supporter may refer the case to another member of staff who will act as the Early Investigation Officer, or the Initial Supporter may continue managing the case and take on the role of Early Investigation Officer.

Whilst the Early Investigation Officer will consider the needs and wishes of a Complainant, the decision as to appropriate next steps is at the full discretion of the Early Investigation Officer. This may involve the incident being investigated under the Non-Academic Misconduct Policy or an HR grievance process. Alternatively it may be felt that there is no requirement to investigate further and the process will be concluded.

All reports will be acknowledged within three working days of receipt, and the conclusion of the Initial Support and Early Investigation phase will be conducted within 10 working days.

Details of the procedure for can be found in **Appendix A: Initial Support and Early Investigation**

13. Timeframes

Indicative timeframes for formal procedures related to Non-Academic Misconduct can be found in that policy. However, in operating these procedures and having due regard to the circumstances and sensitivities of the case in question, an officer of the School may vary at any stage the time limits set out in this procedure and will consult with the Complainant and the Respondent (and where necessary another officer of the School and/or CEO as appropriate).

14. Allied Policies

Below is a list of other policies which are allied with this policy; these may as required apply alongside this policy, supersede or instigate this policy:

- [Non-Academic Misconduct Policy](#) (for students)
- [Support Through Studies Policy](#) (for students)
- [Emergency Powers of Exclusion and Suspension](#) (for students)
- [Student Complaints Procedure](#)
- School Safeguarding Policy
- School HR procedures (including disciplinary and grievance procedures, for staff)

15. Support

The National Centre aims to provide support to all those wishing to report an incident or make a complaint, and this can be found through the Student Support Manager, a Guardian or through the Vivup assistance programme.

Support may also be provided to those who have been accused as a result of a complaint or report.

16. Confidentiality

Where it has good cause to do so, in accordance with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR), the School may disclose the outcomes of misconduct processes and/or information about students to relevant parties, such as the police.

There may also be circumstances in which disclosures may have to be made to other parties, such as placement providers and/or employers or sponsors. Other than the student, it is at the Chief Executive's discretion as to who else needs to be informed about any matter relating to the process and outcomes, taking into consideration the confidentiality of all parties involved and using discretion as to who else needs to be informed about any matter relating to the process and outcomes.