

Sexual Misconduct, Anti-Bullying and Harassment Policy

Document Summary

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1: Introduction

1.1 The City College is committed to providing a caring, friendly, and safe environment that is free from bullying and harassment, ensuring all students, staff and governors are treated and treat others with respect, consideration, courtesy, and dignity at all times.

1.2 The College recognises its legal duty to provide a safe environment for all College members. Bullying, harassment, and sexual misconduct are unlawful and will not be tolerated by the College.

1.3 Staff and students are responsible for ensuring the health and welfare of themselves and others by following the College's policies and procedures, including the Anti-bullying, Harassment and Sexual Misconduct Policy.

1.4 All reports about bullying, harassment and/ or sexual misconduct will be taken seriously, treated sensitively and in complete confidence.

1.5 All staff and new students are asked to complete Sexual Misconduct and Harassment training. This is also covered in induction so that all members of the College know the College Policy and how to report any issues.

2: Scope

2.1 This policy covers any bullying, harassment or sexual misconduct at The City College or any place that a member of the College (student, staff, or governors) is in attendance in connection with their studies, teaching, employment, or governance activities. It covers bullying, harassment or sexual misconduct by students, staff, governors, and third parties within the College's reasonable control, such as suppliers or visitors to the College's premises.

3: What is bullying?

3.1 Bullying is offensive, intimidating, malicious and/ or insulting behaviour involving abuse or misuse of power, which can make a person feel vulnerable, upset, undermined, intimidated, humiliated, denigrated and/ or threatened. Power does not always mean being in a position of authority. It can include both personal strength and the power to coerce through fear or intimidation or exploiting a position of authority or power to apply pressure on a student, which may result in them either doing, or refraining from doing, something they may not otherwise have done as well as resulting in something which can be within the scope of an intimate personal relationship.

3.2 Bullying can take the form of physical, verbal, and non-verbal conduct.

3.3 Examples of bullying include, but are not limited to:

- Physical or psychological threats or intimidation.
- Persistent or unwelcome contact.
- Overbearing and intimidating levels of supervision.
- Derogatory remarks about someone's academic or professional performance.
- Making threats about job stability or academic failure without foundation.
- Obstructing someone's progression by intentionally blocking promotion or training opportunities or threatening low grades.
- Spreading malicious rumours or insulting someone verbally or by behaviour.
- Unwelcome sexual advancements – touching, standing too close, the display of offensive materials, asking for sexual favours, making decisions based on sexual advances being accepted or rejected.
- Exclusion or victimisation (e.g., treating someone less favourably because they submit or reject sexual harassment or harassment related to gender reassignment).
- Outing or threatening to out a person based on sexuality and/or gender.
- Ridiculing or demeaning someone, or deliberately setting someone up to fail, such as setting arbitrary or unreasonable workloads or deadlines.

4: What is harassment?

- 4.1 Harassment is any unwanted conduct related to a “protected characteristic” (see section 4.3) that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. This conduct can be verbal or nonverbal, physical, or sexual. It may be a persistent or an isolated incident.
- 4.2 Harassment can also be verbal, having a negative impact on, or restricting freedom of speech within the law and/or academic freedom. If Higher Education Providers, such as The City College, are acting as service providers for members of the public, they may be liable for discrimination or harassment if hosting speakers or events open to the public. It should be noted that harassment provisions cannot be used to undermine academic freedom as the learning experience of students' means they will be exposed to course material, discussions or speaker's views which they find offensive but is unlikely to be considered as harassment under the Equality Act 2010 which defines Harassment as unwanted behaviour related to certain protected characteristics which violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. Views expressed

in teaching, debate or discussion, are unlikely to be seen as harassment, even if found offensive by some people, as Article 10 will protect them. Article 10 refers to freedom of expression, protecting an individual's right to hold their own opinions and express them freely without government interference, although this can be restricted if views are expressed that encourage racial or religious hatred, although any restriction must be 'proportionate' and Higher Education Providers need to consider harassment complaints due to offences possibly caused by discussions or speakers with the need for academic freedom. Freedom of expression can also be restricted to protect the wider interests of society, including matters of national security, to prevent crime.

In addition, Higher Education Providers have a Duty of Care to students, staff and visiting speakers. Free speech should not be protected at the expense of safety. For example, if there is a threat of violent protests and the provider is concerned that increased security will not negate the threat of possible physical harm.

Any complaint on Freedom of Speech should be taken seriously, and any outside speakers should be considered subject not only to this policy but also the Code of Practice, External Speaker and Prevent Policies, which are available on the College website for any interested party to read. Although any such complaint should initially be dealt with internally, if the complainant is not satisfied with the outcome they are able to go to the Office of the Independent Adjudicator (OIA) and the Office for Students (OfS) will be operating a new complaints scheme to consider free speech complaints about universities and colleges.

4.3 The Equality Act 2010 makes it specifically unlawful when unwanted conduct is related to any of the "protected characteristics" as outlined in the law, which has the same purpose or effect as detailed in section 4.1. The "protected characteristics" are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership status
- Pregnancy and maternity
- Race (including colour, nationality, ethnic and / or national origin)
- Religion or belief
- Sex
- Sexual orientation.

4.4 Harassment also includes victimisation, which is when someone is treated unfairly because they have made a complaint against discrimination that they suffered, or a complaint made on behalf of someone else. Individuals found to provide false evidence or make false allegations in bad faith will not be protected from victimisation under the Act.

4.5 Examples of harassment include, but are not limited to:

- Unwanted physical conduct or so-called “horseplay”, including touching, pinching, pushing, and grabbing.
- Threatening behaviour.
- Mocking, mimicking, or belittling a person.
- Ignoring or unreasonably keeping a person out of meetings or events.

5. What is Sexual Misconduct?

5.1 Sexual Misconduct is misconduct, or unwanted conduct, of a sexual nature. This can be in person and through social media, telephone, text, email, or letter. Such unwelcome sexual misconduct can create an environment that is intimidating or humiliating and can be verbal, non-verbal, or physical. This includes the use of a position of power to use coercion for inappropriate sexual behaviour, inappropriate language, or predatory behaviour. Anyone can be a victim of sexual misconduct, regardless of either their gender, or the gender of the person harassing them.

5.2 Sexual Misconduct can include the misuse of power and, as such, The City College is clear that it disapproves of and discourages intimate personal relationships between staff and students, in order to protect students from possible abuse of power, sexual misconduct, harassment or bullying. Should any staff member be found to be involved in an intimate personal relationship with a student or student(s) they will be subject to the disciplinary process of the College which could involve in dismissal. This does not include excluded relationships, involving ongoing intimate personal relationships that existed before the date this condition came into force, or which existed before a staff member became a member of staff in relation to the student with whom they are having an ongoing intimate relationship.

In order to avoid abuse of power relationships between staff and students, it is advised that gifts from students should only be tokens of appreciation (cards or

chocolates) and not expensive gifts (gift tokens of monetary value, etc.). Any such gift should be politely declined to avoid unfair treatment of students and attempts to influence academic judgement. Any such relationships or gifts must be disclosed to the college.

5.3 Examples of sexual misconduct include, but are not limited to:

- Attempting to engage in a sexual act with an individual without their consent or permission.
- Unwelcome physical contact or inappropriate touching, stroking, patting, pinching, hugging, kissing.
- Using threats, or rewards, in order to solicit sexual favours.
- Making inappropriate comments, or asking intimate questions concerning a colleague/student's appearance, private life.
- Making inappropriate sexual jokes, comments, making sexually suggestive gestures, or telling sexually explicit stories. Also, whistling, leering, or making unwanted sexual remarks.
- Sending sexually explicit messages or sexually explicit material by email, texts, or letters/memos.
- Recording, or sharing, intimate images or another person, without their consent.
- Continued attempts to engage in sexual/social activity with an individual, when it has been made clear this attention is unwelcome. Following, or attempting to be alone with, an individual, with no reason to do so.
- Inappropriate behaviour, such as showing sexual organs to another person.
- Coercive or controlling behaviour, including threatening behaviour or emotional abuse.
- Staff members having an intimate personal relationship with a student or students.

Even if sexual misconduct is not aimed at an individual, it can affect them if the behaviour of an individual creates an environment that is uncomfortable, threatening, embarrassing, or intimidating.

6: Freedom of Speech

Freedom of expression is a key part of higher education, allowing students to think critically, challenge and engage with different ideas. Protecting freedom of expression is a legal requirement for all higher education providers. In 2018, the Universities Minister worked with leaders in the higher education sector to develop new guidance on freedom of expression. This resulted in five core ideas:

1. Everyone has the right to free speech within the law.
2. Higher Education providers should always work to widen debate and challenge, never narrow it.
3. Any decision about speakers and events (see section 4.2) should seek to promote and protect the right to freedom of expression.
4. Peaceful protest is a protected form of expression; however, protest should not be allowed to shut down debate or infringe the rights of others.
5. Freedom of expression should not be abused for the purpose of unchallenged hatred or bigotry. Providers of higher education should always aim to encourage balanced and respectful debate.

Although freedom of expression for academic staff, visiting speakers and students should be protected, it can be limited to prevent crime, to protect national security, public safety, or to prevent unlawful discrimination and harassment. Please see the Freedom of Speech and Prevent Policies for further guidance.

7: Repercussions from persistent bullying, sexual misconduct and/or harassment on an individual

Persistent bullying, sexual misconduct, and/or harassment may have very serious consequences and can lead to:

- Low self-esteem
- Excessive shyness
- Eating disorders
- Poor academic achievement
- Isolation

- Threatened or attempted suicide
- Constant high levels of stress and anxiety
- Frequent illness such as viral infections
- Aches and pains in the joints and muscles
- Headaches and migraines
- Tiredness, exhaustion, constant fatigue
- Sleeplessness, nightmares, waking early
- Flashbacks and replays, obsessiveness
- Irritable bowel syndrome
- Skin problems such as eczema, psoriasis, athlete's foot, ulcers, shingles, urticarial
- Poor concentration, can't concentrate on anything for long
- Bad or intermittently functioning memory, forgetfulness, especially with trivial day to day things
- Sweating, trembling, shaking, palpitations, panic attacks
- Tearfulness, bursting into tears regularly and over trivial things
- Uncharacteristic irritability and angry outbursts
- Being constantly on edge
- Hypersensitivity, fragility, isolation, withdrawal, Reactive depression.

8. Do you feel bullied or harassed, or have you experienced sexual misconduct?

8.1 Bullying and harassment can be conducted face-to-face, via the telephone, in written communications, e-mail, text messages or through social media. It can be directly targeted at an individual or indirect by creating an offensive environment. Individuals or groups can be responsible for bullying and harassment.

8.2 Because bullying, sexual harassment and harassment can take many forms, it is not always easy to know if you are or have been subject to such conduct. If you feel unsure and wish to discuss potential bullying, sexual harassment or other forms of harassment, in confidence, you should:

- Meet with the Student Welfare Officer or a senior member of staff (students)
- Meet with a senior manager of your choice (staff and governors).

9: What to do if you are being bullied, harassed, or experiencing sexual misconduct

9.1 If you are being bullied or harassed or experiencing sexual misconduct, you can discuss your situation in confidence as identified in Section 8.2 above to obtain another

perspective or seek support and guidance on the options available to you. Your concerns will be handled sensitively and confidentially throughout this procedure.

9.2 Those being bullied, harassed, or experiencing sexual misconduct, are advised to keep notes of the details of the alleged incident(s) as soon after the event as possible. Details kept should be:

- Date(s), time(s) and place(s) of incident(s)
- Name of any witnesses
- What actually happened
- How it made them feel
- Any action taken e.g. reported to Student Welfare Officer or line manager
- Original copies of any correspondence received.

9.3 Where it is safe and/ or appropriate to do so and you feel able to, you should first attempt to resolve the issue directly, by making it clear to the individual responsible that their conduct is unacceptable, and that you consider it bullying and/ or harassment, or sexual misconduct, and you would like it to stop immediately.

9.4 If the bullying, sexual misconduct, and/ or harassment continues, or if you consider it not safe and/ or don't feel able to address the issue directly with the person responsible, you should:

- Meet with the Student Welfare Officer or a Senior Member of Staff (students) – if the Student Welfare officer is responsible for the conduct you should raise the issue with the Director or another Senior Member of Staff.
- Meet with your line manager (staff and governors) - if your line manager is responsible for the conduct you should raise the issue with their line manager.

Alternatively, if the person experiencing the bullying/harassment or sexual misconduct is unwilling to report the incident themselves, they can do so anonymously. Should an individual witness an act of bullying, harassment or sexual misconduct, they can report this, either in person to the Student Welfare Officer, or line manager, or anonymously. A box is available in Reception, where such reports can be made.

If an anonymous allegation of bullying/harassment or sexual misconduct is made, this will be investigated by the Student Welfare Officer and/or Director, who will set in motion the processes listed below. Should reports be found to be malicious (when an allegation is

made that is found to lack any basis in fact), this will be investigated, and the claimant may face discipline.

9.5 You are advised to set up the meetings as detailed in Section 8.2 above, where you can discuss the nature of the issue and agree, where appropriate, on an informal solution. The expectation at this stage is that the person you meet will listen to you, make discreet investigations as appropriate, and propose a way to resolve the issue fairly and promptly. This could include, for example, facilitating a meeting between you and the person responsible for the conduct, so you can explain how the conduct is unacceptable and/ or unwanted.

9.6 By this stage, the person whom the complaint has been made against will be notified of the complaint and who the complainant is. Although every effort will be taken to ensure that only those affected by the complaint will be informed, additional people may be notified when safety is a concern. This will be handled as appropriate to the specific circumstances at hand.

9.7 If all informal efforts to resolve the issue have been unsuccessful or, in extreme circumstances, where the issue warrants an immediate formal approach, the final option is to raise a formal complaint through the:

- Non-Academic Misconduct Procedure (students)
- Grievance Procedure (staff and governors).

9.8 Students can find the Non-Academic Misconduct Procedure on SharePoint ('Policies and Procedures' page) or the college website ('Policies, Procedures and Quality' page under the 'About Us' drop-down menu). Students are advised to report the matter using the Non-Academic Misconduct form, which is also available on SharePoint and the website (or the admin office if preferred). This should be to the Student Welfare Officer, Director, or Senior Member of Staff. The College aims to provide a response within twenty days from receipt of the matter being reported.

9.9 Staff and governors can find the Grievance Procedure in the Staff Handbook. Staff are advised to report the matter using the college grievance form, which should be submitted to your line manager or the line manager's manager

10. Protection and Support for all involved perspectives

10.1 Students, staff or governors who make complaints, who have had complaints made against them, or anyone who participates in good faith in any investigation (including external parties) can expect to be treated with respect throughout and must not suffer any form of retaliation and/ or victimisation as a result. Any person found to have retaliated against or victimised someone in this way will be subject to the appropriate disciplinary process.

11 Changes made to this policy from the previous version

Changes made to this policy which were not explicitly defined/mentioned in the previous version of this policy are outlined for transparency purposes:

Academic Freedom of Speech is covered in greater detail, including a listing of the five core ideas suggested by the Equality and Human Rights Commission (2019). It is clearly stated that protecting freedom of expression is a legal requirement for higher education providers. Also, the Duty of Care of Higher Education providers is also covered with regard to Freedom of Speech. In addition, the Office for Students (OfS) planned complaints scheme and the Office of the Independent Adjudicator (OIA) are mentioned if there is a complaint against free speech which is not dealt with internally to the complainant's satisfaction. Lastly, with regard to Freedom of Speech, the Code of Practice on Freedom of Speech is explicitly mentioned.

Abuse of Power and gifts from students is also covered. It is advised that staff should politely decline or discourage expensive gifts or gifts of monetary value. It is further outlined that staff need to disclose any such gifts.