Harassment and Sexual Misconduct Policy

1. Purpose of this Policy

a) To outline BIRD's commitment to respond to incidents of sexual misconduct and harassment within the Conservatoire's community.

b) Provide an environment in which all members of our community feel safe and are respected.

c) To raise awareness of harassment and sexual misconduct in order to promote an inclusive culture to enable issues to be tackled appropriately if they occur.

d) Set out our expectations around the unacceptability of harassment and sexual misconduct.

e) Support students who have experienced or witnessed harassment and sexual misconduct.

f) Respond to disclosed incidents which breach this policy.

2. Policy Scope

This policy applies to behaviour and conduct by students and staff regardless of when and where it may have taken place when it is considered to be harassment and or sexual misconduct to any other member of the Conservatoire community. There may be occasions where BIRD and the University of Greenwich will together consider how best respond to disclosures to ensure that appropriate support is available, and investigative processes are put in place as necessary.

The policy does not seek to preclude individuals from seeking recourse through criminal or civil proceedings.

3. Freedom of Speech Statement

Students may be exposed to course material, statements and views as part of their learning experience that they find offensive or unacceptable. The content of higher education course materials including but not limited to books, videos, sound recordings, and pictures, as well as lawful statements or views expressed as part of teaching, research, or discussions about the content of a higher education course are likely to be protected by academic freedom and are unlikely to breach this policy. (OfS Condition E6. Para E6.11(j.ii))

4. The Freedom of Speech Complaints Scheme

To learn more about how to complain to the OfS about restrictions on their lawful free speech at BIRD, please refer to the Freedom of Speech Complaints Scheme.

5. Roles and Responsibilities

BIRD is dedicated to preventing and addressing incidents of harassment and/or sexual misconduct. This commitment will be upheld through educational training, as well as the effective implementation and operation of this policy and related procedures. BIRD is responsible for providing training to staff involved in specialist roles such as Sexual Violence Liaison Officer, Counsellors, and Learning and Wellbeing Officer. This includes Staff who are required to undertake investigations of harassment and/or sexual misconduct.

All members of the BIRD community are expected to contribute to a safe, welcoming, and inclusive environment where everyone is treated with respect and dignity. Both staff and students should help prevent unacceptable behaviours by being self-aware, modelling positive behaviour, and raising concerns about negative behaviours.

Those in positions of responsibility have a duty to implement this policy fairly and investigate concerns promptly and effectively.

6. Definitions

BIRD adopts the definitions provided by the OfS in this policy.

6.1. Harassment

Harassment is unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating and individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment as defined in the Equality Act 2010.

BIRD has extended this definition to include harassment of one student by another student, including and not limited to by association or perception. It is noted that harassment can occur online as well as in person.

6.2. Sexual Misconduct

Sexual Misconduct means any unwanted or attempted unwanted conduct of a sexual nature and includes, but is not limited to:

a) Sexual harassment
b) Sexual assault
c) Rape

(OFS Condition E6, Para E6.11 (s))

6.3. Intimate Personal Relationship

Means a relationship that involves one or more of the following elements:

a) physical intimacy including isolated or repeated sexual activity;
b) or romantic or emotional intimacy.

(OFS Condition E6, Para E6.11(m))

6.4. Incidents

Includes but is not limited to, circumstances where allegations or complaints are made to BIRD about harassment and/or sexual misconduct, and BIRD could reasonably be considered to have grounds for suspecting that harassment and/or sexual misconduct has taken place or is taking place. (OFS Condition E6, Para E.611 (k))

6.5. Abuse of Power

Refers to a situation where a relevant staff member exploits a position of power in relation to a student so as to apply pressure in a way which:

a) may result in the student doing something, or refraining from doing something, that they may not have otherwise done; and
b) that action or inaction could reasonably result in something that falls within the scope of an intimate personal relationship. (OFS Condition E6, para E6.11(a))

6.6. Freedom of Speech

Refers to the freedom to hold opinions and to receive and impart information and ideas without interference. It encompasses freedom of expression (which includes written material, images and other published, social media or broadcast material). Amongst other things, it includes the right to express political views, artistic expression, hold, promote or criticise religious or social views, promote minority radical or dissenting views, and commercial expression when it relates to a matter of public debate or concern.

6.7. Academic Freedom

In relation to academic staff at a registered higher education provider, means their freedom within the law—

(a) to question and test received wisdom, and

(b) to put forward new ideas and controversial or unpopular opinions,

without placing themselves at risk of being adversely affected in any of the ways described in subsection (7). (Higher Education (Freedom of Speech Act) 2023 s A1(6))

7. Examples of Harassment and Sexual Misconduct

Harassment and sexual misconduct are unacceptable behaviours and, if they occur, disciplinary action may follow, up to including expulsion or dismissal. For the purposes of this policy, a non-exhaustive list of examples of unacceptable behaviours is provided below:

a) Engaging in, or attempting to engage in sexual contact without consent
b) Sharing private sexual materials of another person without consent, including online and or via social media
c) Touching someone without their consent, including kissing, grabbing, stoking, groping, pinching
d) Making unwanted remarks or noises of a sexual nature
e) Inappropriate remarks about a person's appearance or dress
f) Making offensive jokes or derogatory or stereotypical remarks, or mocking, mimicking or belittling a person's protected characteristic(s)
g) Grooming behaviour
h) Repeatedly engaging in unwanted interaction, including online and/or social media
i) Racist behaviour

For the purposes of this policy, the following terminology is used:

a) "The Reporting Party" is the person(s) who has been the subject of or witness to the alleged incident of sexual misconduct.

b) "The Reported Party" is the person(s) whose behaviour it is alleged amounted to harassment or sexual misconduct.

8. Related Policies

- Student Disciplinary Policy
- Staff Disciplinary Policy and Procedure
- Equality and Diversity Policy
- Safeguarding Policy
- Online Safety Policy
- Touch Policy
- Student Code of Conduct
- Academic Freedom and Freedom of Speech (and Expression) Policy
- Data Protection Policy
- Appeals Procedure

9. Steps to Protect Students

Staff members are prohibited from having intimate personal relationships with students. BIRD will take appropriate action under the Disciplinary Procedure where a staff member has breached this prohibition. Such action may result in dismissal.

Where BIRD considers it necessary to protect the wellbeing of the reporting party, other members of the BIRD community, or the reported party, it may take precautionary action pending the outcome of an investigation or disciplinary process, in accordance with the precautionary action provisions in Section 7 of the Student Disciplinary Policy. Precautionary action is not a disciplinary sanction and does not imply that a finding of misconduct has been made,

BIRD will deliver induction training to all new students on harassment, sexual misconduct, sexual consent, bystander training and how to access the comprehensive source of information on harassment and sexual misconduct.

BIRD will draw the comprehensive source of information on harassment and sexual misconduct to the attention of all staff and students via email at least annually.

BIRD will collect and monitor data on the following and will use the data to assess the effectiveness of the steps it is taking to protect students:

a) the number and types of incidents reported (including allegations, complaints, suspected behaviour and formal findings) in relation to harassment and sexual misconduct;
b) how many reports lead to an investigation and the outcomes from incidents and investigations.

BIRD will not ask students to sign non-disclosure agreements in relation to reported incidents of harassment or sexual misconduct.

9.1. Training for Staff

Staff involved in specialist roles such as Sexual Violence Liaison Officer, Counsellors, Learning and Wellbeing Officer receive specialist training appropriate and relevant to their roles. This includes Staff who are required to undertake investigations of harassment and/or sexual misconduct. Staff will be trained on how to listen to disclosures using a trauma informed approach, the principles of consent, and how to explain BIRD policy/procedure to students.

9.2. Training for Students

Students will receive training on what harassment and sexual misconduct is, how to report it, the support available to them, what consent is, and how to be a bystander. Additionally, students will be encouraged to complete the University of Greenwich's Healthy Sex and Relationships Moodle course through the University of Greenwich Student Training Portal, covering consent, rape culture, and healthy relationship habits.

10. Reporting Incidents of Harassment or Sexual Misconduct

10.1. How to Report

Students who have experienced, or those who have witnessed (including staff), incidents of harassment or sexual misconduct are encouraged to make a disclosure to BIRD.

Reports can be made through:

- Email to reportandsupport@birdcollege.co.uk
- In person or by letter to the Learning and Wellbeing Officer or Dean of Students.
- Report Anonymously: Report+Support Form

Please note that anonymous reports are accepted, but it may impact BIRD's ability to investigate and act on a report where BIRD cannot speak to the individual reporting the incident.

Where an incident of harassment or sexual misconduct is reported to BIRD regarding the actions of a third-party outside the Conservatoire (e.g. a landlord, local business or local resident), BIRD will still support the student and may take further action as appropriate.

10.2. Acknowledgement of Report

Reports made using the Report + Support tool will be received by the Dean of Students or another staff member of the Student Wellbeing Team. They will contact the reporting party to acknowledge receipt and to advise of next steps within 2 days of receiving the report.

In the case of sexual misconduct, the SVLO will contact the reporting party to offer support and to explain the options available.

11. Criminal Matters

Where an incident of sexual misconduct falling within the scope of this policy is reported to the police, BIRD will liaise with the police as necessary to support its investigation. BIRD will not take any action that may prejudice or otherwise interfere with the criminal investigation process in any

way. BIRD may defer the conclusion of its own investigation until the criminal process is at an end.

12. The Investigation and Disciplinary Process

Both reporting and responding to reports are important aspects of addressing harassment and sexual misconduct within BIRD.

Formal reports from students alleging harassment and/or sexual misconduct by a member of staff will be investigated by Human Resources under the Staff Disciplinary Policy and Procedure.

Formal reports from students alleging harassment and/or sexual misconduct by another student will be investigated under the Student Disciplinary Policy. For further information regarding the Disciplinary process please refer to sections 8 to 12 of the Student Disciplinary Policy.

Formal reports from students alleging harassment and/or sexual misconduct by a third party cannot be investigated by BIRD. The reporting party will be supported by BIRD and signposted to external support.

13. Appeals

The reported party has the right to appeal a Disciplinary Panel decision, including the finding of breach and/or the sanction imposed. The reporting party does not have the same right of appeal, but may submit a Reconsideration Request, a narrower mechanism limited to new evidence or evidence the Panel did not properly consider.

A witness who is not themselves a party to the case cannot appeal the outcome or submit a Reconsideration Request but may raise concerns about how the matter was handled through the Student Complaints Policy.

Appeals and Reconsideration Requests are dealt with under the Appeals Procedure, which sets out the grounds, process and time limits for each. This policy does not duplicate that mechanism; it confirms only that the rights exist.

Please refer to the Appeals Procedure for further information.

14. Handling Information/Confidentiality

BIRD is committed to responding to disclosures of harassment and sexual misconduct with care, sensitivity and confidentiality. All procedures will be conducted in accordance with the Conservatoire's Data Protection Policy and safeguarding responsibilities, ensuring the privacy and dignity of everyone involved. In exceptional circumstances, such as when there is a risk to individual or community safety, or to prevent a potential crime, BIRD may share information with other agencies or to share information internally.

15. Available Support

Students who disclose incidents of harassment or sexual misconduct will be provided with appropriate support. Depending on the individual circumstances, BIRD will provide counselling support, and academic support in relation to decisions about attendance, assessments, accommodation, continuation, suspension or cessation of study.

Individuals who have disclosed having experienced harassment and/or sexual misconduct have the right to determine what and how much they choose to share about their experience. BIRD will not pressurise an individual to make a formal complaint if they do not wish to do so.

In exceptional cases, BIRD may be required to take certain actions without the Reporting Party consent, for example when there are safeguarding concerns involving the individual or a third party. If this is necessary, BIRD will inform and support the individual, unless it is not possible, reasonable or practical for BIRD to do so.

BIRD is also committed to providing support to any individual against whom an allegation of harassment and/or sexual misconduct is made. The Reported Party will be provided with a named staff member who they can contact for support, or a SVLO if the allegation is of sexual harassment and/or sexual misconduct.

Support for students affected by any of the issues in this policy is available from:

Counselling Service

Confidential one-to-one counselling is available from our Counselling Service. Students can refer themselves to this service by completing a Self-Referral form, or they can be referred by a member of staff of the Wellbeing Team.

counselling@birdcollege.co.uk

Wellbeing Service

Information, guidance, and support are available to students. The first point of contact is the Learning and Wellbeing Officers and Personal Tutors.

wellbeing@birdcollege.co.uk

Sexual Violence Liaison Officers

SVLOs are members of staff who have received specialist training and can provide sensitive, professional support to students who have experienced sexual assault and sexual violence.

reportandsupport@birdcollege.co.uk

16. External Support Services

Rape Crisis: provides specialist support and services to women and girls who have been subject to rape, sexual violence, or sexual abuse at any time

Male Survivors Partnership: Collaboration of agencies who work with male survivors of sexual violence

Galop: Support LGBT+ people who have experienced abuse or violence

The Havens (SARC): Sexual Assault Referral Centre

Support Line: Stalking and harassment helpline

Please refer to BIRD's Report + Support webpage for further information.

17. Document Control

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Notes:	The Harassment and Sexual Misconduct Policy needed to be reviewed following approval of the new Student Disciplinary Policy. The following changes were made: • Stripped out the duplicated investigation section and added cross-references to sections 8–12 of the Student Disciplinary Policy. • Included a precautionary action reference (Student Disciplinary Policy, section 7) in section 9 of the Harassment and Sexual Misconduct Policy. • Updated the related policies list to cite the new/revised policies. • Fixed the appeal rights wording to match the new version of the Appeals Procedure. The Harassment and Sexual Misconduct Policy will need to be reviewed again once the OIA publishes the final version of a new section of the Good Practice Framework: Handling reports of harassment and sexual misconduct.		