



**POLICY 064**  
**SEXUAL MISCONDUCT**

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## **Policy 63: SEXUAL MISCONDUCT**

### **1. PURPOSE**

1.1 This Policy outlines ACM's approach to providing a campus environment in which all members of our community feel safe from sexual misconduct.

1.2 This Policy sets out our expectations around the unacceptability of sexual misconduct.

1.3 This Policy makes clear the ways in which ACM supports students who have experienced any form of sexual misconduct.

### **2. POLICY DETAILS**

2.1 The Academy of Contemporary Music (ACM) is committed to safeguarding and promoting the welfare of all students, staff, visitors and guests and acknowledges its particular responsibilities to children, young people and adults at risk.

2.2 All staff within ACM have a responsibility to be involved in contributing to a culture in which safeguarding is embedded, discussed openly and risk proactively reduced. Every member of staff is DBS checked prior to commencing employment, and again every three years, and all staff members must complete training in the following areas:

- Safeguarding Young People
- Mental Health Awareness in Children & Young People
- An introduction to GDPR
- Health and Safety in Education Awareness
- The Prevent Duty
- First Aid Essentials

Members of the ACM safeguarding team also have further awareness and training regarding the following areas:

- Protecting Children from Child Sexual Exploitation
- Sexual Violence and Harrasment between Children and Young People
- Understanding and Working with people affected by Sexual Abuse

2.3 ACM takes a zero tolerance approach to sexual misconduct and will support anyone in the ACM community who is subject to any form of sexual misconduct, as per the details in the accompanying Sexual Misconduct Procedure.

2.4 ACM will ensure that reporting parties are responded to in a safe, supportive and trusting environment, as per the details in the accompanying Sexual Misconduct Procedure.

2.5 ACM will educate and support all staff and students to understand:

- what sexual misconduct is and that it is not tolerated;
- what consent is; *and*
- when consent is, and is not, given.

2.6 ACM will make clear how to disclose sexual misconduct, in person, online and anonymously, what options are available and the support that can be provided, via a clear and robust procedure.

2.7 ACM will ensure that all relevant staff are informed of how to receive and signpost a disclosure of sexual misconduct in a sensitive way. Empower those who disclose an experience to choose which options are best for them and provide access to expert professional support

2.8 ACM will set out all options and processes clearly and transparently. This includes the option to not make a formal complaint.

2.9 ACM will ensure that all relevant staff are provided with training to enable them to support and advise a student who has experienced sexual misconduct.

2.10 ACM will respect the sensitivity of disclosures of sexual misconduct and their consequences, and treat any disclosure confidentially, in line with our Data Protection Policy and the ACM's duty of care under safeguarding.

2.11 Within Disciplinary Proceedings, ACM will ensure fairness to both Reporting and Responding parties.

2.12 ACM will ensure that all communications are sufficiently clear and detailed, and accurately reflect any decisions made.

2.13 ACM 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.

### **3. POLICY SCOPE**

3.1 The policy applies to all members of the ACM community, including students at all levels and campuses, staff, applicants, associate members, visitors, contractors and volunteers.

3.2 This Policy applies to sexual misconduct which:

- occurs on ACM's property and/or land;
- occurs whilst a student is engaged in any ACM 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;
- in the view of ACM poses a serious risk or disruption to the institution or members of its community.

3.1 ACM recognises that sexual misconduct can be experienced by any individual, regardless of sex, gender, sexual orientation, relationship status, age, disability, faith, race, ethnicity, nationality or economic status.

3.2 Experiences of sexual misconduct may intersect with other forms of discrimination and harassment, for example in relation to sex, gender, sexual orientation, relationship status, age, disability, faith, ethnicity, nationality or economic status.

3.3 ACM has policies on Equality, Discrimination and Inclusion and does not tolerate any forms of bullying or harassment. ACM does not tolerate behaviour or attitudes supportive of sexual misconduct.

#### **4. RELATED POLICIES**

- Safeguarding Policies
- Safeguarding Procedures
- Staff Code of Conduct
- Student Charter
- Data Protection Policy
- Prevent Policy
- External Speaker and Events Policy
- Acceptable Use of IT and E-Safety Policy
- Social Media Policy
- Student Disciplinary Policies
- Student Complaints and Grievances Policy
- Equality & Diversity Policy
- Staff Recruitment Policy
- Health & Safety Policy
- Whistleblowing Policy
- Criminal Convictions Policy

#### **5. POLICY OWNER**

The responsibility for this Policy falls under the remit of the Safeguarding & Pastoral Services Manager, overseen by the Student Experience and Quality Committee. This role is supported under the Integrated Services Division.

The responsible committee will ensure the cyclical review of this Policy is carried out under ACM's Quality Assurance Framework.

## 6. DEFINITIONS

**Sexual Misconduct:** Sexual Misconduct covers a broad range of inappropriate and unwanted behaviours of a sexual nature. It covers all forms of sexual violence, including 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, and a vast range of other behaviours.

**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.

**Disclosure:** Disclosure means that an individual tells a member of the ACM community that they have experienced Sexual Misconduct (this is different from a formal Complaint).

**Formal Complaint:** Submitting a formal Complaint to ACM regarding an individual's experience of Sexual Misconduct is an instruction for ACM to take appropriate action. The

Complaint will allow ACM to investigate the misconduct as set out in this Policy and the accompanying processes.

**Reporting Party:** The Reporting Party is the person(s) who has made a formal Complaint regarding an experience of sexual misconduct.

**Responding Party:** The Responding Party is the person(s) named in a formal Complaint who is alleged to have committed an act of sexual misconduct.

**Safeguarding:** Safeguarding is the action that is taken to promote the welfare of all people and protect them from harm.

**Abuse:** any action that intentionally harms or injures another person

**DSL:** Designated Safeguarding Lead is the member of staff that coordinates all safeguarding concerns and oversees all referrals.

**DDSL:** Deputy Designated Safeguarding Lead is the member of staff who supports the DSL in maintaining the function of safeguarding throughout all campuses.

**LADO:** Local Authority Designated Officer

## 7. PROCEDURES

The details of the procedures relating to this Policy can be found in the accompanying procedure document.

## 8. EXHIBITS/APPENDICES/FORMS

This Policy has been written with reference to the following statutory guidance and legislation. For the avoidance of doubt, it should be noted that UK law carries ultimate authority:

- Keeping Children Safe in Education (DfE, 2021)
- Working Together to Safeguard Children (HM Government, 2018)
- What to do if you're worried a child is being abused (DfE, 2015)
- Child sexual exploitation; definition and guide for practitioners (DfE, 2017)
- Sexual violence and harassment between children in schools and colleges (DfE, 2018)
- The Children Act 2004 (with later amendments),
- Safeguarding Vulnerable Groups Act 2006,
- The Sexual Offences Act 2003,
- Guidance for English Higher Education Institutions (HEIs) (DIUS, 2007);

- Protection of Freedoms Act 2012;
- Children and Families Act 2014;
- Care Act 2014;
- Information sharing: advice for practitioners providing safeguarding services to children, young people, parents and carers (HM Government, July 2018)

## **9. SUPPORTING INFORMATION**

There are no further supporting documents to this Policy.

## **10. DOCUMENT HISTORY AND NEXT REVIEW**

Version: 1.0

Approved on: 10th December 2021

Approved by: Student Engagement and Quality Committee

Date of next review: August 2022