



Misconduct Policy

Introduction

1. The Royal College of Art ("RCA") is committed to the provision of a welcoming and safe environment for students, staff and visitors to the College. Students of the College are required to ensure that their conduct or activities do not prejudice the good order and discipline of the College, either in the premises owned or occupied by the College, or elsewhere.
2. The RCA commits to investigating all allegations of misconduct, either against, or made by its students in a way that is fair and transparent to all parties and is, as far as possible, independent. Where allegations of misconduct are upheld, sanctions shall be relevant and proportionate. All parties to allegations of misconduct shall be directed to appropriate, independent, sources of guidance and support throughout the process, such as the Student Support team, Students' Union, personal tutors or Human Resources department as appropriate. Cases will be dealt with in accordance with recognised principles of natural justice.
3. This Policy is intended to be applied when any formal action is required. The College supports students and staff who wish to take informal action to resolve any issue; students are encouraged to contact student-support@rca.ac.uk to have a confidential discussion to decide how best to proceed in the case of any misconduct. This Policy provides for two stages. These are:
 - (a) Stage One: Formal, detailed consideration of the case;
 - (b) Stage Two: Review of the decision made at Stage One and confirmation of the final decision of the College.

Scope of the Policy

4. This Policy applies for all students who are currently registered¹ to a programme offered by the RCA. This includes students on an approved leave of absence.
5. In particular, but without prejudice to the generality of paragraph 2 of this Policy, it shall be an offence for any student, by their conduct to:

¹ See the College's Academic Regulations for the definition of a registered student.

- willfully disrupt teaching, study, research, examinations or the administration of the College;
 - obstruct staff of the College or any other authorised representative of it in the performance of their duties;
 - damage or deface any property of, or in the custody of, the College;
 - willfully behave in a way that may cause harm to any student, member of staff or other employee, authorised representative of the College or authorised visitor to the College;
 - willfully disregard any measures put in place to ensure the health and safety of students, staff and visitors to the College.
6. In addition, students, staff and visitors to the College have the right to be treated in a respectful manner; the College does not tolerate any form of harassment, discrimination, bullying or victimisation by any members of its community. Students have the right for complaints against other members of the College community, including members of staff, to be treated sensitively, consistently and independently, with appropriate action taken by the College should allegations be upheld. Allegations by students of harassment or bullying against members of staff shall be dealt with in accordance with paragraphs 48 - 56.
7. The following shall (subject to the above) constitute misconduct on the part of any student:
- (a) Disruption of, or improper interference with, the academic, administrative, social or other activities of the College, whether on College premises or elsewhere;
 - (b) Obstruction of, or improper interference with the functions, duties or activities of any student, member of staff or other employee, authorised representative of the College or authorised visitor to the College;
 - (c) Violent, indecent, disorderly, threatening or offensive behaviour or language whilst on College premises or engaged in any College activity;
 - (d) Sexual violence, defined as any unwanted sexual act or activity, including but not limited to, rape, sexual assault and sexual harassment (see paragraph 13).
 - (e) Fraud, deceit, deception or dishonesty in relation to the College, or in relation to being a student of the College;
 - (f) Action likely to cause injury or impair the health or safety on College premises of any student, member of staff or other employee, authorised representative of the College or authorised visitor to the College, including willfully disregarding any measures put in place to ensure the health and safety of students, staff and visitors to the College;
 - (g) Bullying or harassment of any student, member of staff or other employee, authorised representative of the College or authorised visitor to the College, including bullying or harassment relating to protected characteristics (see paragraph 12);
 - (h) Damage to, or defacement of College property or the property of any student,

member of staff or other employee, authorised representative of the College or authorised visitor to the College caused intentionally or recklessly, or misappropriation of such property;

- (i) Misuse or unauthorised use of College premises or items of property, learning resources or materials, including computer misuse;
 - (j) Any other conduct which constitutes a criminal offence where that conduct takes place on College premises;
 - (k) Failure to comply with a previously imposed penalty under this Policy;
 - (l) Any other behaviour that could reasonably be characterised as misconduct.
8. A formal allegation of misconduct may be submitted by any currently registered student or member of staff of the College². Students or staff who have left the College may submit a formal allegation of misconduct provided they do so within 3 calendar months of the date that they left the College.
9. If a complaint (see the Policy on Student Complaints) and case of misconduct relating substantially to the same issue are submitted, then these will normally be addressed simultaneously via the same process. The Registrar shall have responsibility in such cases for deciding on the exact process, which shall be conducted in accordance with the principles of transparency, fairness and natural justice.
10. It is not normally possible for allegations against individuals to be investigated based on individual anonymous reporting alone. Subjects of any allegation (“the subject”) shall normally have the right to know who has made an allegation, and to see all evidence being considered as part of any investigation. The College’s anonymous reporting facility enables it to track trends and areas of the College to focus preventative action upon, but should not normally be used to invoke misconduct or disciplinary proceedings.
11. Where any of the officers referred to in this Policy work within the same organisational unit as the subject of a formal (Stage One) complaint, or are themselves subject of a complaint, then they shall be required to recuse themselves from any investigation or disciplinary panel; in such cases the Chief Operating Officer or Deputy Vice-Chancellor shall nominate an alternative officer to fulfil the functions outlined in this policy.

Bullying and Harassment

12. The College is committed to ensuring an environment for staff, students and visitors to the College whereby everyone is treated with respect. In particular, the

² Defined as any person on a contract of employment with the College.

College takes a zero-tolerance approach to bullying and harassment.

(a) Bullying is defined as offensive, intimidating, malicious or insulting behaviour and / or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end.

(b) Harassment is unwanted conduct that:

- Has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person or;
- Is reasonably considered by that person to have the effect of violating their dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for them, even if this effect was not intended by the person responsible for the conduct.

This includes, but is not limited to, conduct relating to relevant protected characteristics, which are sex, gender identity, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age.

13. Sexual harassment is defined as unwanted and unwelcome words, conduct or behaviour of a sexual nature that has a purpose or effect of creating an intimidating, embarrassing, hostile, degrading, humiliating or offensive environment for the recipient. Individuals may judge when they are experiencing words, conduct or behaviour as harassing or sexually harassing and are empowered to take all reasonable action to ensure that the harassment stops, including the invocation of this Policy. Intent to harass will not be considered as a defence by a disciplinary panel when considering whether sexual harassment has taken place.

Misconduct that is a Criminal Offence

14. Where the alleged misconduct would constitute an offence under the criminal or civil law if proved in a court of law, action under this Policy may continue but may, at the discretion of the Registrar, be deferred pending the outcome of any police investigation or prosecution.

Confidentiality and Record Keeping

15. Where an allegation of misconduct against a student is upheld or partially upheld then a record of the offence and sanction shall be kept on the student file. Details shall only be disclosed in accordance with the principles of the Data Protection Act (for example for the protection or detection of crime, or where disclosure is

demonstrably in the public interest).

16. Where an allegation of misconduct is rejected then no details of the allegation shall be kept on the student file, but kept securely in a separate Misconduct Allegations file held within the Registry. The record shall be kept for 12 months after the end of relationship between the College and the parties to the allegation (not including any relationship as an alumnus of the College – ie normally 12 months after graduation for a student and 12 months after any staff member has left the College).

Timescales

17. This Policy outlines timescales within which the RCA aims to work, for the proceedings described in paragraphs 22 - 55.
18. The RCA shall endeavour to respond to allegations of misconduct within the timescales outlined. On occasion it may be necessary to extend these deadlines; it is not possible to gauge, for all cases, how long an investigation into the issues may take, and on occasion there may be circumstances beyond the College's control that prevent the allegations being considered in accordance with the stated timescales. In such cases, revised deadlines will be communicated clearly to all parties.
19. If legal proceedings are initiated in connection with an allegation of misconduct, any procedures provided for under this Policy will be paused until legal proceedings have been completed.
20. There is an expectation that all parties involved in a misconduct case will act reasonably throughout the process. The College reserves the right to take appropriate action under its disciplinary provisions should any party to an allegation behave unreasonably.

Informal Resolution

21. Prompt and informal resolution should always be sought for minor infringements. Deans or heads of programme should, where possible, seek early resolution without recourse to the disciplinary procedure described below, ensuring that any outcomes from their consideration of the issue are completed within 20 working days of the issue coming to their attention.

An informal resolution will seek to rectify a problem that has arisen but will not be

intended to punish the student. Suitable informal resolution led by the student's Dean or Head of Programme may include:

- successful mediation between students, or students and staff;
- righting a wrong by paying for damage;
- apologising to those affected by inappropriate behaviour;
- agreement to certain standards of behaviour in the future;

Stage One: Formal Consideration

22. Students are advised to seek the support of the RCASU and/or Student Support, who can support students through the process or advise on sources of support.
23. Any formal allegation of misconduct against a student should be submitted in writing to the Registrar as soon as possible, and normally not more than 28 days after the alleged misconduct has taken place. Any allegation received concerning misconduct that took place more than 28 days ago will normally only be considered if the Registrar judges that there are good reasons for the delay in submitting the allegation.
24. On the basis of the information provided, the Registrar may decide that there is no case to answer or, if the Registrar has reason to believe that misconduct has been committed, they shall have the power to take no further action in the matter, to reprimand a subject, to deliver a warning, or to refer the case to a Disciplinary Committee.
25. In the event of the Registrar administering a reprimand or warning, they shall do so in writing, with a record retained on the student's file within the Registry. If the subject wishes to dispute the decision of the Registrar then they may request that the case be referred to a Disciplinary Committee.
26. In cases requiring immediate action in order to protect any student, member of staff or other employee, authorised representative of the College or authorised visitor to the College, the subject may be suspended temporarily under Ordinance 9 of the Charter, Statutes and Ordinances 2011 until such time as a Disciplinary Committee can be convened. Suspension shall involve a total prohibition on attendance at or access to the College and on any participation in College activities; but it may be subject to qualification, such as permission to attend for the purpose of an examination.

27. Where a student has, on more than one occasion, behaved in a manner that may jeopardise the health and / or safety of other students and staff, the Registrar, Director of Estates & Campus Operations or HSE Manager may impose restrictions on that student's physical attendance at the College until such time as a disciplinary panel can be convened (for example by prohibiting access to any or all RCA buildings). A disciplinary panel may decide to extend these restrictions in the event that a misconduct allegation is upheld.
28. Where a Disciplinary Committee is required, the Registrar shall convene a committee to hear the allegation. The committee shall consist of:
- (a) A Dean of School or Director of a Professional Service in the Chair;
 - (b) An Academic member of staff³ or professional services⁴ member of staff
 - (c) A member of Student Support
- No members of the committee shall be drawn from the School(s) with responsibility for delivering the programme to which the parties to any allegation are registered.
29. The Registrar will appoint a Secretary to the committee, normally chosen from staff of the Registry, Student Support, Vice Chancellor's Office or the Academic Development Office.
30. The Hearing will be convened no fewer than 10, and no more than 30, working days from receipt of the allegation. The subject shall be offered at least three different times for a Hearing, which shall be between 9.30 – 5.30, between Monday – Friday on days when the College is open, and shall take place on the College premises, although participants may engage via video conferencing methods at the discretion of the Chair. If the subject does not accept one of these times then the Hearing may proceed in the subject's absence.
31. The committee shall receive the allegation submitted to the Registrar. In addition, parties to the allegation shall be invited to submit additional documentation, for circulation to the panel and parties to the complaint no later than 5 working days before the date of the Hearing.
32. The subject and the person making the allegation shall normally be expected to attend the hearing to give evidence; either party may request that their evidence be

³ Defined as a member of RCA staff on an academic contract of one year or more in length.

⁴ Defined as a member of staff of the College on a professional services contract of one year or more

given in the absence of the other party (see paragraph 34). Any other persons may be asked to attend the Hearing to give evidence, at the discretion of the Chair.

33. The parties to any allegation may be accompanied by another student, member of staff or RCASU representative, but that person will only be permitted to speak on the party's behalf at the discretion of the Chair. The parties must notify the Secretary to the Hearing no later than 5 working days before the Hearing, of the identity of any person accompanying them to the Hearing.
34. Hearings may be held separately for the subject and complainant. Where separate hearings are convened, each party's evidence or statement(s) will be transcribed by the Secretary and made available to the other party, to comment upon.
35. Cross-examination by the parties is not permitted, but questions may be permitted through the Chair, at the Chair's discretion.
36. All parties shall be permitted to view all evidence considered by the committee.
37. The committee may either:
 - (a) Uphold the allegation
 - (b) Partially uphold the allegation
 - (c) Reject the allegation.
38. If the panel either upholds, or partially upholds the appeal then it may:
 - (a) Take no further action (the allegation of misconduct is upheld but no additional penalties are considered to be warranted);
 - (b) Require a formal apology to those affected by inappropriate behaviour;
 - (c) Issue a written warning⁵ and/or requirement to give a written undertaking as to future conduct;
 - (d) Require payment of a sum determined by the Director of Finance, not exceeding the cost thereof, for the repair of damage caused by, or the defrayal of other expenses arising from, the misconduct;
 - (e) Suspend the subject from the College or from premises owned or occupied by the College for a stated period under the terms set out in Ordinance 9 of the Charter, Statutes and Ordinances 2011;
 - (f) permanently exclude the subject from the College under the terms set out in Ordinance 9 of the Charter, Statutes and Ordinances 2011.

⁵ A written warning outlines the conduct that the panel has judged to be in contravention of this Policy, alongside a warning that repetition is likely to lead to a specific further penalty (normally exclusion from the College)

The Committee shall also have the power to impose combinations of the above penalties. The Disciplinary Committee may order that the measures agreed will be imposed immediately or that the imposition will be deferred. The conditions of any such deferment shall be clearly stated as part of the decision of the Committee.

39. The Committee may make recommendations following consideration of an allegation, even where the allegation is rejected. Recommendations shall be considered by the appropriate School or organisational unit, who shall submit their response to the Registrar. An annual report, detailing formal complaints, allegations and appeals received, outcomes, recommendations and responses shall be submitted to the Senior Management Team, Academic Standards Committee and Senate, with a summary report to the Council.
40. The Committee shall normally advise parties verbally of the outcome of their consideration on the day of the Hearing. A full, written, report of the Hearing will be drafted within 10 working days of the Hearing, and submitted to the parties to the complaint, who will be asked to check for factual accuracy. Any suggested amendments from the parties will be considered by the Chair, who will retain the right to reject these amendments; in such cases, an appendix to the report, detailing the proposed, rejected amendments. A final report will be submitted to all parties within 20 working days of the Hearing.
41. If, following receipt of the final report of the Hearing, the subject wishes to appeal the decision of the Committee, they may submit a request for a review of the decision to the Deputy Vice-Chancellor, in accordance with Stage Two of this Policy. Any decision to restrict access to the campus following Stage Two of this Policy shall remain in place unless and until it is overturned following an appeal.

Stage Two – Review

42. Subjects of an allegation who wish to submit a request to review a decision taken at Stage One of this Policy should submit their request in writing (via email) to the Registrar. The Registrar will arrange for the request to be reviewed by the Deputy Vice-Chancellor.
43. Any request for review at Stage Two must be made on one or more of the following grounds:
 - (a) That the provisions of this Policy were not correctly applied;
 - (b) That the decision of the Panel cannot be sustained given the evidence;
 - (c) That evidence has become available that could not reasonably have been presented to the Panel at the Stage One Hearing, and that may arguably have led to the Panel making a different decision;

And must be received by the Registrar within 20 days of issue of the final report of the Stage One Hearing.

44. It should be noted, in respect of the provision to review a decision on the basis that the decision of the Panel cannot reasonably be sustained, that a case must be made that the decision is manifestly unjust, rather than simply that the complainant disagrees with the outcome.
45. The Deputy Vice-Chancellor will consider the case made by the subject, and may seek additional evidence, either from the parties to the appeal or from any other source. The Deputy Vice-Chancellor will not normally interview parties to the complaint personally.
46. The Deputy Vice-Chancellor may either uphold or reject the request to review. If the request is upheld they may either:
 - (a) Refer the appeal back to the original Panel, with guidance, to be heard in accordance with Stage One of this Policy;
 - (b) Require the Registrar convene a new Panel to hear the complaint, to be heard in accordance with Stage One of this Policy;
47. The Deputy Vice-Chancellor's decision shall be the final decision on behalf of the RCA.

Allegations Against Members of Staff

48. Allegations by students of bullying or harassment against members of staff shall be dealt with under this Policy. Other allegations against staff members (including allegations of a failure to provide adequate teaching, facilities or other services) should be dealt with under the College's Complaints Policy.
49. Before submitting a formal allegation, students are encouraged in the first instance, if they feel able to do so, to talk directly and informally to the person who they believe is harassing them and explain clearly what aspect of the person's behaviour is unacceptable, or is causing offence, and request that it stop immediately. Alternatively, the student could ask their personal tutor, Head of Programme, Dean or a member of the Student Support team to make the initial approach on their behalf. There is no obligation on complainants to take informal steps to resolve matters in serious cases of harassment, including all allegations of sexual harassment, sexual violence or hate crime.
50. If the student feels unable to take this course of action, or if they have already approached the person to no avail, or if the harassment is of a very serious nature, they may elect to submit an allegation under this Policy.

51. In bringing a complaint of harassment/bullying, the student should write to the Registrar, stating:
- the name of the person whose behaviour they believe amounts to harassment or bullying;
 - the type of behaviour that is causing offence, together with specific examples if possible;
 - dates and times when incidents of harassment or bullying occurred, and where they occurred;
 - the names of any members of the College who may be prepared to act as witnesses to the behaviour or any similar instances of behaviour;
 - any action that the employee has already taken to try to deal with the harassment.

The Registrar shall review any allegation received from a student against a member of staff. Where, in the Registrar's judgement, a case is clearly made against a member of staff that meets the definition of harassment or bullying (see paragraph 12), then the allegation shall be referred to the College's Human Resource department in order that an investigation can be conducted.

52. The Human Resources department shall ensure that any complaint submitted under this Policy is dealt with in accordance with the College's Disciplinary Policy & Procedure. Where an investigation is required then the investigation shall be carried out in accordance with that Procedure.
53. Wherever possible, the College will try to ensure that the student complaining of harassment or bullying and the subject of the allegation are not required to work together while the complaint is under investigation.
54. The College regards all forms of harassment and bullying as serious misconduct, and any employee who is found to have harassed or bullied a student will be liable to disciplinary action up to and including summary dismissal.
55. If the complaint is not upheld, Student Support, the programme team and the Human Resources department will support the parties to the complaint, in making arrangements for them to continue or resume working and to help repair relationships. The College will consider making arrangements to avoid the parties to the complaint having to continue to work alongside each other, if either of them

do not wish to do this.

56. Students have a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld. However, making a complaint that the student knows to be untrue may lead to disciplinary action being taken.

Students with Disabilities

57. The College is committed to fulfilling its obligations under the 2010 Equalities Act. The College is committed to taking positive steps to ensuring that students with disabilities are treated no less favourably than other students within its processes. Reasonable adjustments shall be made throughout the processes to support students with disabilities. These may, for example, include permitting representatives to speak on behalf of students or extending timescales for submitting complaints. Any reasonable adjustment will be proportionate and relevant to the disability, and will be approved by the Registrar in accordance with the Equalities Act.

Conflicts of Interest

58. Throughout this Policy, wherever a specific officer is identified as having a responsibility for steps within the processes, that officer shall withdraw from the process where either they, or an individual that they have direct or indirect line management responsibility for, is a party to the complaint. In such circumstances, an alternative officer shall be nominated by the Registrar, or, where the Registrar is themselves identified as having a conflict of interest, the Deputy Vice-Chancellor.

Office of the Independent Adjudicator

59. The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. The RCA is a member of this scheme. Students who are unhappy with the outcome of any proceedings from this Policy may be able to ask the OIA to review the case. More information about making a complaint to the OIA, what it can and cannot look at, and what it can do is available from <https://www.oiahe.org.uk/students>.
60. Students normally need to have completed the Misconduct Policy processes before they can complain to the OIA. The RCA will issue a "Completion of Procedures" letter then the procedures are completed and there are no further steps that the student can take within the College's internal processes. More information about Completion of Procedures letters and when they should be issued is available from <https://www.oiahe.org.uk/providers/completion-of-procedures-letters>.

Amendments approved by the Chair of Senate on Senate's behalf
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