

# LFA Procedure 3.5-a

## Sexual Misconduct

### 1. Introduction

London Film Academy (LFA) is committed to providing an environment in which all members of our community feel safe and are respected, and to preventing and eliminating all forms of sexual misconduct, including; sexual harassment, sexual violence and sexual abuse.

This procedure sets out how LFA will deal with incidents of Sexual Misconduct and against student members of the LFA community. The procedure is part of LFA's Sexual Misconduct Policy and should be read in conjunction with that Policy.

This procedure is designed to support the Reporting Party to disclose incidents of Sexual Misconduct to LFA, and to support them when they choose and assess the course of action that is most appropriate for them and also to support the Responding Party..

The **Reporting Party** is the person raising the report.

The **Responding Party** is the person who is 'alleged' of the Sexual Misconduct and therefore responding to the report.

### 2. Scope

This procedure applies to all alleged incidents of Sexual Misconduct and breaches between LFA's students.

If the Responding Party is a student, this procedure will apply, and the investigation will be managed by the Student Conduct team.

If the Responding Party is a member of staff or contractor of LFA, action will be taken by the People team in accordance with the relevant staff procedure.

This procedure does not cover incidents of non-sexual harassment. For disclosures/reports of non-sexual harassment the Student Code of Conduct and the Student Disciplinary Procedure will be used.

If a conflict arises between this procedure and any other procedures of LFA, then the Student Conduct team / Investigator will determine the sequence of procedures, or which procedure will be used. Consultation with other departments, such as the People team may be used to inform this decision.

The LFA reserves the right to re-direct formal complaints into alternative procedures, as it deems appropriate.

### 3. Police Investigations

Where a criminal investigation or judicial proceedings are ongoing or are likely to commence in respect of a disclosure, LFA can still receive a report of Sexual Misconduct. LFA will not normally commence an internal investigation or will suspend an ongoing investigation where criminal proceedings are ongoing.

In all instances LFA will undertake necessary precautionary action. Both parties will be kept up to date with the status of case when internal proceedings are suspended.

A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter or an acquittal at a trial does not preclude LFA from taking action under this procedure and does not mean the Reporting Party has made a vexatious or malicious report.

In all cases, LFA will advise the Reporting Party that it does not have the legal investigatory powers of the Police and cannot make a determination on criminal guilt. An internal investigation is focused exclusively on whether a breach of the LFA's Sexual Misconduct Policy has occurred. The internal process cannot therefore be regarded as a substitute for a Police investigation or criminal prosecution.

Where a student has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of LFA's Sexual Misconduct Policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place, and no further investigation shall be required by LFA.

The case will be referred by the LFA to a Formal Disciplinary Procedure.

### 4. Student Wellbeing Support

LFA recognises that the immediate priority upon disclosure of any experience of sexual misconduct, whether current or historic, is the safety and welfare of the Reporting Party.

Support resources are available to Students who disclose an incident regardless of their choice to make a report to LFA or Police. Support remains available irrespective of the outcome of an investigation.

The Reporting Party and Responding Party will each have a member of staff assigned to them to offer welfare and pastoral support. This support will be separate; one member of staff will not provide support to both parties. Staff in these roles are trained specifically to support either party during or after an investigation.

The Reporting Party and Responding Party may be signposted to the LFA's validating partner's, University of Derby's Union of Students' Advice Service to access free, impartial and confidential advice.

## 5. Monitoring

LFA will maintain a central record of incidents to effectively engage in prevention and response initiatives and will keep a record of anonymised Disclosures and Reports of Sexual Misconduct incidents involving students for trend monitoring purposes. LFA will ensure that the LFA Risk Sub-Committee, are regularly provided with anonymised data concerning the cases that are dealt with under this procedure to ensure that they have oversight of trends and prevalence.

## 6. Procedure following a Disclosure and/or Report.

Disclosure and Reporting are separate actions that the Reporting Party may choose to take.

### Disclosure

The process below will be initiated following receipt by LFA of a Disclosure of an incident of Sexual Misconduct. The Disclosure may be received in a variety of ways and may not necessarily be brought forward by the Reporting Party.

A Disclosure does not automatically result in a Report to LFA being made under the Sexual Misconduct Policy. LFA respects the right of the Reporting Party to choose how to take forward a disclosure.

To make a disclosure students should complete the Cause for Concern Form.

A disclosure can also be made to the LFA Student Wellbeing Manager who are contactable via [studentwellbeing@londonfilmacademy.com](mailto:studentwellbeing@londonfilmacademy.com).

The Student Wellbeing Manager will explain the reporting options along with information on resources for specialist support. The Reporting Party will be given the option and support to do one or more of the following:

1. report to the Police.
2. report to LFA under LFA's Sexual Misconduct Policy.
3. make no report of the incident; and/or
4. receive advice on the support that is available.

In the case of a disclosure about non-consensual sexual intercourse, the Student Wellbeing Manager will signpost the student to Sexual Assault Referral Centre (SARC), which will allow the Reporting Party to make an anonymous report and have evidence stored while they choose if they want to report to the Police. The Student Wellbeing Manager can make a referral to the SARC on behalf of the Reporting Party with their agreement.

Staff or individuals who receive a Disclosure that may amount to a breach of the Sexual Misconduct Policy must record the disclosure on the Cause for Concern Form as appropriate. They may, if the Reporting Party requests, omit the name of the Reporting Party and/or Responding Party.

### Third-party or witness disclosures

Where the person disclosing is a third party who has not experienced the sexual misconduct, such as a person who has witnessed misconduct taking place or been informed of misconduct, the LFA will respect the right of the individual who experienced the incident to choose how to take forward a disclosure. A third-party disclosure will only become a report if the individual who experienced the incident wants action to be taken as part of the disclosure.

There may be certain circumstances where LFA is required to take appropriate action to prevent potential harm to individuals or LFA, based on a risk assessment, which may include acting on information despite or without knowledge of the wishes of the individual(s) who experienced the incident. The Safeguarding Lead will act as the decision-maker as to whether to escalate a disclosure to a formal complaint, or a formal complaint to an investigation. The LFA will record if there is a decision from the Disclosing Party to withdraw their disclosure or a witness's disclosure.

### Anonymous Disclosures

Reporting Parties can make a disclosure anonymously, to inform LFA and/or to seek support. However, in the interests of ensuring a fair investigation, it is not normally possible for LFA to undertake an investigation into Sexual Misconduct on the basis of an anonymous Report. We may use anonymous reports to consider internal actions or interventions as appropriate.

### Historic Disclosures

Disclosures of historic experiences of Sexual Misconduct can be made via the Cause for Concern Form

Disclosures would be considered historic if the Responding Party is no longer an active student at the LFA.

If the Responding Party is no longer an active student, it may not be possible to take direct disciplinary actions against them. However, LFA will still take actions to:

- Gather information in relation to the formal report.
- Take steps to investigate the report. Due to the passage of time Reporting Parties should be aware that investigation may be challenging and access to evidence may be limited.
- Communicate with the Reporting Party any findings or outcomes.
- Address any identified security concerns or take appropriate internal actions to enhance LFA's prevention strategy
- If appropriate, liaise with the Police.
- Provide support to the Reporting Party
- Keep a record of the report on file in case of future enrolments.

### Reporting

The Reporting Party may choose to make a Report to LFA under the Sexual Misconduct Policy with the intention of LFA initiating the investigation process set out in this procedure.

To make a Report to LFA, the Reporting Party should submit a written statement of the allegation to the Student Conduct team ([studentconduct@londonfilmacademy.com](mailto:studentconduct@londonfilmacademy.com)) indicating the Responding Party and providing any relevant witnesses.

Reporting Parties can seek support to write their statement from Student Wellbeing Manager who are contactable via [studentwellbeing@londonfilmacademy.com](mailto:studentwellbeing@londonfilmacademy.com) or their designated support person.

## 7. Responding to a Report

Following the submission of a report of Sexual Misconduct, a Case Officer will be assigned. The Case Officer will be responsible for managing the relevant procedures relating to the case. Initially, the Case Officer will acknowledge to the Reporting Party the reports safe receipt.

The Reporting Party will be offered to attend an initial meeting with a Case Officer, via virtual meeting or in-person, during which the procedure for investigations will be explained and the details of the report will be confirmed. A note of the initial meeting will be sent to the Reporting Party who will be asked to confirm whether it is an accurate summary of the discussion and confirm whether they agree to participate in an investigation.

If the Reporting Party is unwilling for the Responding Party to be informed of the allegation against them, the investigation cannot proceed.

Following this meeting, as soon as possible or appropriate, summary details of the report will be shared with the Responding Party.

The Responding Party will be offered to attend an initial meeting with a Case Officer, via virtual meeting or in-person. During which the procedure for investigations will be explained and the details of the allegation against them will be confirmed. A note of the initial meeting will be made.

### Precautionary Action

Precautionary action may be used to manage potential risks identified to the Reporting /Responding party/ or both parties, whilst there is an ongoing investigation. Risks identified could include:

- the student's continued presence represents a threat to themselves or others.
- the suspected behaviour seriously breaches the regulations or infringes a Code of Conduct
- the suspected behaviour compromises the reputation of LFA.

Risks will be identified following a risk assessment based on the case information available at the time of the assessment. Risk assessments will be undertaken by the Student Conduct team and informed by other relevant departments as necessary.

Precautionary action may include:

- Imposing conditions on the Responding Party (for example, requiring the Responding Party not to contact certain witnesses or requiring the Responding Party to move accommodation or prohibiting the Responding Party from going to certain places within LFA at certain times of the day).
- An immediate temporary suspension from LFA and/or from any of its facilities
- Agreement of a behavioural contract
- A referral to any relevant safeguarding procedures/processes

Any temporary suspensions made will be processed in line with the Student Disciplinary procedure.

## 8. Investigating a Report Under this Procedure

LFA will allocate an Investigative Officer (investigator) to the Report. This may be 1 or 2 Investigators as appropriate, who have been trained in investigating Sexual Misconduct.

The Investigator/s will seek to gather evidence as to whether or not a breach of the LFA's Sexual Misconduct Policy and/or the Student Code of Conduct has occurred.

The Investigator is not responsible for making a decision in relation to any determination of sanctions. However, the Investigator will be responsible for all aspects of the investigation and will provide an investigation conclusion and recommendations for appropriate next steps. Recommendations will be considered by a senior member of staff, or nominee who is impartial, to determine the next appropriate stage to consider the alleged misconduct under the Student Disciplinary Procedure.

An investigation will be undertaken as quickly as reasonably possible, taking into account all parties. As each case and investigation is unique, it is not normally possible to specify generic timescales however, both the Reporting and Responding parties will be kept up to date with progress at each relevant stage.

All parties involved will be expected to maintain appropriate levels of confidentiality. The Reporting Party and Responding Party will be informed that they must not make any contact with each other during the course of the investigation unless otherwise instructed by the Investigator/s. Guidance on how to mitigate any potential contact may be provided to both parties through a mutual Behavioural Arrangement. Additional precautionary measures will be implemented as appropriate.

The Investigator/s will take appropriate measures to provide a safe, comfortable and supportive environment in which to discuss the Report with the Reporting Party, Responding Party and any witnesses during investigation meetings.

The Investigator/s may consult external parties to seek specialist advice as required while maintaining confidentiality.

The purpose of an investigation meeting is to provide each party with a full and fair opportunity to explain or present their version of events.

At least five working days' notice will be given ahead of any investigation meeting to allow students to arrange support and collate evidence, unless agreed otherwise. If it is the preference of the Reporting Party, Responding Party or witness to meet earlier than the standard five working days, they should let the Investigator know so that alternative arrangements can be made.

All students involved in the investigation process are entitled to bring someone with them for support. This person, referred to as a 'friend', should be a member of LFA (e.g. a member of staff or a fellow student) and/or a parent/guardian (if the student is under 18 years old).

The friend is there to provide moral support. Students are expected to speak on their own behalf; there is no automatic right for a friend to speak on a student's behalf and it is at LFA's discretion as to whether the accompanier is permitted to address the meeting.

LFA reserves the right not to engage with a third party if, in the view of LFA, they do not behave in a way that supports the student, the investigation or their conduct does not uphold the expectations defined within the Student Code of Conduct. In Investigation meetings, the Investigator reserves the right to pause or terminate any meetings in event that progress can no longer be reasonably achieved with the third-party present.

LFA does not normally permit legal representation in misconduct procedures.

All students meeting with the Investigator/s will be provided opportunities for breaks during the investigation meeting should they be required.

Both the Reporting Party and the Responding Party will be required to attend an investigation meeting with the Investigator/s.

The Reporting Party has the right to withdraw their report at any point during the procedure. If a Report is withdrawn, we will not normally be able to pursue the investigation. However, there may be instances where we decide to undertake preventative measures under our safeguarding responsibilities, LFA will assess this on a case-by-case basis.

Normally, the order of investigation meetings is that the first meeting will be held with the Reporting Party, followed by any witnesses identified by the Reporting Party. This will normally happen before meeting with the Responding Party; however, this is at the discretion of the Investigator, dependent on the individual case.

The Responding Party will receive written notification of the procedure being followed, a copy of the original report submitted, and any additional supporting documentation submitted by the Reporting Party ahead of the investigation meeting.

At least five working days' notice will be given for the meeting. Prior to meeting with Investigator/s, the Responding Party will be required to submit a written response in reply to the documentation provided at least two working days before their scheduled investigation meeting. Investigations can be arranged in under five working days with the agreement of all parties, however time will still be needed for the submission and consideration of a written response and documentation, so this may not always be possible.

The Responding Party will be given a full and fair opportunity to explain or present their version of events in response to the Report.

The Reporting Party and Responding Party may identify witnesses for the Investigator/s to contact.

Witnesses will be required to keep the details of the investigation confidential. Witnesses (in all cases) will be required to submit a written statement for the investigation and may be asked to attend an investigation meeting at the discretion of the Investigator/s. The witnesses' statements will be provided to the Reporting and Responding Parties.

The witnesses will not normally be provided with any investigation materials.

All students involved in the investigation process must submit any and all relevant evidence at the time of the investigation.

All evidence submitted will be shared with the Reporting Party, Responding Party, Investigator/s and Case Officer.

All investigation meetings may be recorded by LFA on Microsoft Teams, or other digital recording devices, such as a dictaphone. The recording is confidential and will provide a record of the interview and will be available to the Investigator/s and the interviewee only. Access to the recording will be granted to the interviewee on request. Recordings will be kept for the duration of the investigatory and (if appropriate) disciplinary procedure. Once the case is concluded and all internal opportunities for review and appeal have been exhausted the recording will be deleted.

Unauthorised recording, copying or distribution of recorded interviews will be considered a disciplinary offence under the Student Code of Conduct.

The Investigator/s may hold additional meetings or consult with additional parties as necessary to obtain relevant information and evidence.

Following completion of the investigation, the investigator will complete an investigation report to document their findings. On the balance of probabilities, the Investigator/s will determine whether the evidence available indicates a breach of the policy.

The Investigator/s can find:

- The evidence does not support a breach of the policy; therefore, no further action is required. In such an instance, the case will be dismissed, and no disciplinary action will be taken, but continued support will be offered to both parties.
- The evidence does indicate a breach of the policy and further disciplinary action is required. In such an instance, the Investigator/s will be required to follow appropriate further action under the Student Disciplinary procedure.

The investigator will provide an investigation report to the Reporting Party, the Responding Party explaining their decision, summarising their findings and considerations, which led them to reach their decision and outlining any recommendations or next steps.

## 9. Investigation Review

Upon receipt of the Investigation report, the Reporting or Responding Party may request an Investigation Review. The purpose of the Investigation Review is to ensure fair investigation, a request can be made on the following grounds:

- Evidence that the Investigation was not carried out in accordance with procedure.
- Evidence of mitigating circumstances that could not have reasonably reported at the time impacted their ability to participate in the investigation.
- Evidence that material information has become available that was not reasonably available at the time.

An Investigation review cannot be requested on the basis that Parties are not satisfied with the recommendations made.

An Investigation review request must be submitted to the Student Conduct team ([studentconduct@londonfilmacademy.com](mailto:studentconduct@londonfilmacademy.com)) no later than five working days post the receipt of the Investigation Report.

An Investigation Review request will be considered by the Student Conduct team Lead or nominee.

If an Investigation Review is not accepted the reasons for this will be made clear to the party requesting an Investigation Review.

If accepted, both parties will be made aware that an Investigation Review is being undertaken. The Investigation Review will be conducted by another Investigator who has had no prior involvement in the case.

The outcomes of an Investigation Review will be either:

- To proceed with the original findings and recommendations of the investigation
- To remit the case for further investigation or
- To add or amend recommendations based on the information and evidence available in the original investigation.



The outcome of the Investigation Review will be communicated to both parties. If an Investigation Review leads to a substantive change in the investigation findings and recommendations both parties will have the right to request an additional Investigation Review under the grounds listed above. This will be made clear to both parties when this is applicable.

## 10. Related policies, procedures, internal and external reference points

This procedure should be read and used in conjunction with:

- [LFA Sexual Misconduct Policy](#)
- [LFA Student Code of Conduct](#)
- [LFA Student Disciplinary Procedure](#)
- [LFA Safeguarding Policy](#)

## 11. Equality Analysis

This policy and associated guidance reflect the provisions of the Equality Act 2010. The policy will be kept under review.

## Appendix 1 - Indicative Sanctions

For investigations that result in action under the Student Disciplinary procedure the following is an indicative matrix showing the types of offences and the 'normal' range of sanctions which can be used in the case where the case is considered as a proven breach to the Sexual Misconduct Policy / Student Code of Conduct.

Offences such as:	Possible sanctions;
<ul style="list-style-type: none"> <li>• Sexual intercourse or engaging in a sexual act without consent</li> <li>• Attempting to engage in sexual intercourse or a sexual act without consent</li> <li>• Sexually inappropriate conduct towards a minor</li> <li>• Download, making and/or sharing indecent images of minors</li> <li>• Taking and/or sharing private sexual materials of another person without consent</li> <li>• Indecent exposure of sexual body parts for the purpose of causing humiliation, distress or intimidation</li> <li>• Retaliation/Victimisation of an individual in response to a report of Sexual Misconduct</li> <li>• Touching inappropriately, including through clothes without consent, using force, aggression or violence</li> <li>• Kissing without consent, using force, aggression or violence</li> </ul>	<ul style="list-style-type: none"> <li>• Expulsion</li> <li>• Suspension from: programme, services, facilities, activities</li> <li>• Formal warning</li> <li>• Restorative communication (apology)</li> <li>• Requirement to attend a specific course or programme</li> </ul>

Offences such as:	Possible sanctions;
<ul style="list-style-type: none"> <li>• Repeatedly following another person without good reason</li> <li>• Making unwanted remarks of a sexual nature</li> <li>• Touching inappropriately, including through clothes without consent - for example groping</li> <li>• Kissing without consent</li> </ul>	<ul style="list-style-type: none"> <li>• Formal warning</li> <li>• Advisory note</li> <li>• Restorative communication</li> <li>• Written apology</li> <li>• Conditions around behaviour</li> <li>• Requirement to attend a specific course or programme</li> </ul>

In all cases, decisions should be made on an individual basis, based on the facts established. There may be circumstances where indicative sanctions may not be deemed appropriate given the severity, for example, multiple or repeated allegations. Consideration could also be given to previous sanctions, such as if the Responding Party has had previous Formal Warnings for a similar offence.

Severity should be assessed on an individual basis and impact on the Reporting Party should be considered.

In all cases, justification for the sanction applied should be captured, including why lesser sanctions are not appropriate.