

TRINITY LABAN

ACADEMIC QUALITY HANDBOOK

CHAPTER H.5 - HARASSMENT & SEXUAL MISCONDUCT POLICY

1 Statement on Harassment & Sexual Misconduct

- 1.1 Trinity Laban does not tolerate harassment or sexual misconduct and are committed to preventing and eliminating these types of behaviours in all their forms.
- 1.2 We expect all of our students, staff, & visitors to our campuses to be able to study, teach, and engage without fear of harassment or sexual misconduct. This means taking responsibility for our own behaviour and ensuring that we all contribute to a culture of respect and safety.
- 1.3 Committing an act of harassment or sexual misconduct which is covered by this policy, constitutes a breach of discipline and may also constitute a criminal offence. Allegations of harassment or sexual misconduct will be investigated under the Procedures for Responding to Disclosures and Formal Reports of Harassment & Sexual Misconduct.
- 1.4 We encourage all students, staff & visitors who feel they have been subject to harassment or sexual misconduct to seek support and guidance as soon as possible. This can help prevent unacceptable behaviours be repeated.

2 Who and what is covered by this policy

- 2.1 This policy covers all students (the definition of which includes sabbatical officers of the Trinity Laban Students' Union), staff and visitors at and to Trinity Laban.
- 2.2 It applies to harassment or sexual misconduct which:
 - Occurs on Trinity Laban campuses or Halls of Residence
 - Occurs while an individual is engaged in any Trinity Laban or Trinity Laban Students' Union related activity (such as work based learning placements; concerts, events etc.)
 - Occurs via electronic means including but not limited to Trinity Laban computer equipment; emails; communication software and private emails, messages, and social media sites
 - Results in a legal or police investigation, charge or conviction of an offence
 - Poses a serious risk or disruption to Trinity Laban or members of its community.
- 2.3 This policy also covers harassment or sexual misconduct which takes place in private or public places (including online) where the party reporting the allegation is a student, member of staff of Trinity Laban and the party responding to the allegations is also a student or a member of staff.

3 Harassment Definitions

Trinity Laban defines harassment in a number of ways.

- 3.1 **Harassment:** A person harasses another person if they engage in unwanted conduct related to a relevant protected characteristic and the conduct has the purpose or effect of violating that person's

dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

3.2 The relevant protected characteristics are

- a) age
- b) disability
- c) gender reassignment
- f) race
- g) religion or belief
- h) sex
- i) sexual orientation

3.3 **Bullying:** A person bullies another person if they engage in unwanted conduct and the conduct has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. Bullying is a type of harassment where the behaviour does not specifically relate to a relevant protected characteristic.

3.4 **Sexual Harassment:** A person harasses another person if they engage in unwanted conduct of a sexual nature and the conduct has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

3.5 **Unfavourable treatment after unwanted conduct:** A person harasses another person if they engage in unwanted conduct of a sexual nature or that is related to gender reassignment or sex and the conduct has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person and because of that person's rejection or submission to the conduct, the person who engaged in the unwanted conduct treats the other person less favourably than if they had not rejected or submitted to the conduct.

3.6 In deciding whether conduct referred to in 3.1 – 3.5 above has the effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person, each of the following must be taken into account

- a) the perception of the person in receipt of the conduct
- b) the other circumstances of the case, including the duty to have particular regard to the importance of freedom of speech
- c) whether it is reasonable for the conduct to have that effect.

3.7 **Harassment by Course of Conduct:** A person harasses another person if they pursue a course of conduct which amounts to harassment of another, and which they know or ought to know amounts to harassment of the other. In these circumstances, a 'course of conduct' must involve conduct on at least two occasions in relation to that person and conduct includes speech.

3.8 **Harassment by Course of Conduct (Multiple):** A person harasses another person if they pursue a course of conduct which involves harassment of two or more persons, and which they know or ought to know involves harassment of those persons, and by which they intend to persuade any person (whether or not one of those mentioned above) not to do something that they are entitled or required to do, or to do something that they are not under any obligation to do. In these circumstances a 'course of conduct' must involve conduct on at least one occasion in relation to each of those persons and conduct includes speech.

3.9 For the purposes of 3.7 – 3.8 above, the person whose course of conduct is in question ought to know that it amounts to or involves harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other. References to harassment of another include alarming that person or causing that person distress.

- 3.10 Neither 3.7 – 3.8 above may be found to amount to harassment if the course of conduct is shown to have been pursued for the purpose of preventing or detecting crime; under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment; or that in the particular circumstances the pursuit of the course of conduct was reasonable.
- 3.11 **Harassment involving others:** For the purposes of 3.7 – 3.8 above, a person's conduct on any occasion shall be taken, if aided, abetted, counselled or procured by another
- a) to be conduct on that occasion of the other (as well as the conduct of the person whose conduct it is), and
- b) to be conduct in relation to which the other's knowledge and purpose, and what they ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring.
- 3.12 For the purposes of all definitions set out above, references to conduct include online conduct.
- 3.13 Examples of actions which may potentially meet or contribute to meeting any of the definitions set out above could include:

Harassment & Bullying

- Abuse through e-mail or other electronic media
- Displaying offensive material
- Written abuse including graffiti and web sites
- Verbal or written comments of an offensive nature, spreading malicious rumours or insulting someone
- The use of obscene gestures
- Copying communications that are critical about someone to others who do not need to know
- Victimisation
- Unfair treatment
- Insulting, ridiculing or subjecting a person to any other detriment because they hold a particular protected characteristic or are perceived to hold one.
- Behaviour which is deliberately calculated to antagonise another person
- Criminal acts such as physical assaults on another

Sexual Harassment

- Sexual abuse through e-mail or other electronic media
- Spreading malicious rumours of a sexual nature
- Abusive or degrading remarks of a sexual nature
- Lewd, suggestive or over familiar behaviour including unwelcome sexual advances
- Staring and other intimidating behaviour
- Stalking
- Posting or sharing intimate photos or videos without consent
- Displaying or circulating sexually suggestive material or other offensive material
- Indecent exposure

This list is not exhaustive and is intended to act as a guide to illustrate types of unacceptable behaviours.

3.14 Freedom of Speech

- 3.14.1 Trinity Laban is bound by a duty to promote freedom of speech and maintains a separate Freedom of Speech Code of Practice. Trinity Laban will have particular regard to and place significant weight on the importance of freedom of speech within the law, academic freedom and tolerance for controversial views in an educational context.

3.14.2 In relation to complaints about harassment, there is a rebuttable presumption that:

- A. students being exposed to the content of higher education course materials, including but not limited to books, videos, sound recordings, and pictures is unlikely to amount to harassment.
- B. students being exposed to statements made and views expressed by a person as part of teaching, research or discussions about any subject matter which is connected with the content of a higher education course is unlikely to amount to harassment.

4. Sexual Misconduct Definitions

4.1 “Sexual misconduct’ means any unwanted or attempted unwanted conduct of a sexual nature and includes, but is not limited to

- a) sexual harassment

As defined in section 3.4 above.

- b) sexual assault

Sexual assault is when a person intentionally touches another person, the touching is sexual, the other does not consent and the person does not reasonably believe that the other consents.

- c) sexual assault by penetration

Sexual assault by penetration is when a person intentionally penetrates another person's vagina or anus with any part of the body other than a penis, or by using anything else, where the other does not consent and the person does not reasonably believe that the other consents.

- d) rape

Rape is when a person intentionally penetrates another's vagina, anus or mouth with a penis, where that other does not consent and the person does not reasonably believe that the other consents.

4.2 Conduct of a sexual nature is unwanted where the person has not consented to it and the other person engaging in the sexual activity does not reasonably believe that the other consents. Whether that person has a reasonable belief will be determined by reference to all the circumstances including the steps that person took to ascertain whether they had consent. If there is in any doubt as to whether there is consent in a situation, it is safer to not engage in the sexual activity.

4.3 A person consents to participate in a sexual act if they agree:

- 1) by their own choice and
- 2) they have the freedom and capacity to make that choice.

4.4 Freely given consent may be withdrawn at any time and withdrawing of consent must be respected.

4.5 A person will be taken not to have consented to conduct of a sexual nature if they are:

- 1. being coerced or forced through threats or application of physical or emotional harm.
- 2. being manipulated or tricked into engaging in sexual activity.
- 3. subject to the abuse or exploitation of power, including where the person feels that refusal to engage in sexual activity will disadvantage them in any way.
- 4. Asleep or unconscious.
- 5. Incapacitated due to the consumption (voluntarily or involuntarily) of alcohol or drugs.
- 6. Are too young to consent.
- 7. Have a physical or mental disability which impairs their capacity to choose.

This list is not exhaustive and there may be other circumstances where a person will be taken not to have consented.

5 Seeking Support & Guidance

- 5.1 If you are a student and feel you have been subject to harassment or sexual misconduct by another student, a member of staff, or a visitor, and would like to seek support or guidance you can:
- a) use the online Report + Support service by clicking <https://reportandsupport.trinitylaban.ac.uk/>
 - b) contact Student Services directly in person or via sse@trinitylaban.ac.uk
 - c) contact your Programme Leader
 - d) contact the Quality & Governance team in Registry, which handles student complaints, by emailing complaints@trinitylaban.ac.uk (please note that the Quality & Governance team can only offer guidance on procedures but will be able to signpost you to sources of support).

Students responding to allegations of harassment or sexual misconduct are also entitled to support and guidance and will be signposted appropriately when they are informed of the allegations.

- 5.2 If you are a member of staff who feels they have been subject to harassment or sexual misconduct by a student, member of staff or visitor and would like to seek support or guidance, you can:
- a) use the online Report + Support service by clicking here <https://reportandsupport.trinitylaban.ac.uk/>
 - b) contact your line manager
 - c) make use of TL's employee assistance programme, details of how to access can be found on the [Wellbeing page of the TL intranet](#)
 - d) If the person you are reporting is a member of staff or a visitor, you can seek guidance from the People & OD department and specifically the [People Services Advisor](#).
 - e) If the person you are reporting is a student and you wish to seek guidance you may contact the Quality & Governance team by emailing complaints@trinitylaban.ac.uk (please note that the complaints department can only offer guidance on procedures but will be able to signpost you to sources of support).

Members of staff responding to allegations of harassment or sexual misconduct are also entitled to support and guidance and will be signposted appropriately when they are informed of the allegations.

- 5.3 If you are a visitor who feels they have been subject to harassment or sexual misconduct by a student, member of staff or visitor, you can:
- a) Use the online Report + Support service by clicking here <https://reportandsupport.trinitylaban.ac.uk/>
 - b) You may contact the Quality & Governance Team by emailing complaints@trinitylaban.ac.uk (please note that the complaints department can only offer guidance on procedures but will be able to signpost you to sources of support).

Visitors responding to allegations of harassment or sexual misconduct may be entitled to support and guidance and will be signposted appropriately when they are informed of the allegations.

6 Options Available

- 6.1 There are a number of options available if you feel you have been the victim of harassment and/or sexual misconduct. These are:
- 6.1.1 **Make an anonymous disclosure via Report + Support:** Trinity Laban accepts anonymous disclosures of harassment or sexual misconduct via the Report + Support online tool. You can access this software here: <https://reportandsupport.trinitylaban.ac.uk/>.

Please note that where an anonymous disclosure is made, the person making it will not be able to be contacted. Instead, the disclosure will be recorded, used to understand patterns of behaviour, and to inform enhancements to policies and procedures.

- 6.1.2 **Make a disclosure in order to receive support and/or guidance:** You can use any of the options set out in section 5 of this policy to seek support and/or guidance.
- 6.1.3 **Make a disclosure but take no further action at this time:** in this case, advice will be provided regarding the preservation of evidence which may be needed if you subsequently decide to make a report to the police or submit a formal report to Trinity Laban. You will also be informed of support available to you.
- 6.1.4 **Make a disclosure for the purposes of undertaking informal resolution:** in this case, you will be provided with advice on the potential informal resolution options under the different procedures.
- 6.1.5 **Make a report to the Police:** Were a report to the police is made, no disciplinary action will be taken against the responding party during a police investigation and any subsequent legal proceedings. Precautionary action may take place on a risk assessed basis in accordance with the Trinity Laban Student Disciplinary Procedures and, where appropriate, the HR Grievance Policies. Reporting parties will also be informed of ongoing internal support available to them.
- 6.1.6 **Make a formal report to Trinity Laban:** Where you choose this option, you will be asked to confirm that you wish to proceed with a formal investigation under the relevant procedures. The relevant procedures are as follows:
 - a) **A student reporting another student:** Trinity Laban Student Disciplinary Procedures
 - b) **A student reporting a member of staff:** Trinity Laban Student Complaint Procedures
 - c) **A student reporting a visitor:** Trinity Laban Student Complaint Procedures
 - d) **A member of staff reporting a student:** Trinity Laban Student Disciplinary Procedures
 - e) **A member of staff reporting a member of staff:** Complaints/Grievance Procedure for Staff
 - f) **A member of staff reporting a visitor:** Complaints/Grievance Procedure for Staff
 - g) **A visitor reporting a student:** Trinity Laban Student Disciplinary Procedures
 - h) **A visitor reporting a member of staff:** Customer Complaints Procedure
 - i) **A visitor reporting another visitor:** Customer Complaints Procedure