

# Bullying, Sexual Assault and Harassment Policy

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# **Bullying, Sexual Assault and Harassment Policy**

## **BADA's Policy Statement**

Bullying, sexual assault and harassment can have a serious detrimental effect on the confidence, morale, performance and health of those affected. Ultimately, a student or member of faculty or staff who is found to have bullied, sexually assaulted or harassed may be suspended or end their education or employment at BADA altogether. BADA believes such a situation should never be allowed to arise and there is no doubt that everyone who works for it, regardless of their background and personal circumstances, should be treated with dignity, respect and fairness.

The purpose of this policy is to promote a culture where bullying and harassment are acknowledged to be unacceptable, are not tolerated and where allegations of such behaviour are dealt with fairly and in a timely fashion, without fear of victimisation.

All students and staff/faculty have a responsibility to treat colleagues and peers with dignity and respect. This means respecting the feelings, sensibilities, cultural, religious and ideological differences of others and considering how their behaviour is being perceived by others.

This policy covers harassment of students by another student, or by a member of BADA staff/faculty.

BADA is committed to:

- Creating and sustaining a working and learning environment which is free from discrimination, bullying, harassment or victimisation of any kind, mental or physical
- Dealing with any incidents of bullying, sexual assault, harassment or victimisation of or by students as swiftly as possible
- Promoting this policy to all students and staff / faculty
- Monitoring the implementation of this policy and reviewing it regularly.
- Upholding the responsibilities and duties set out in the Equality Act 2010

## **Bullying**

### **Definition of Bullying**

Bullying is described as behaviour by an individual or group usually repeated over time, that intentionally hurts another individual or group either physically or emotionally.

Bullying is the use of aggression with the intention of hurting another person. Bullying results in pain and distress to the victim.

## **Bullying can be:**

- *Emotional* - being unfriendly, excluding, tormenting (e.g. hiding books, threatening gestures)
- *Physical* - pushing, kicking, hitting, punching or any use of violence
- *Verbal* – name-calling, sarcasm, spreading rumours, teasing
- *Racist and religious bullying* – an incident which is perceived to be racist by the victim or any other person. This can be in the form of verbal abuse, name calling, racist jokes, offensive mimicry; physical threats or attacks; wearing of provocative badges or insignia; bringing racist leaflets, comics or magazines; inciting others to behave in a racist way; racist graffiti or other written insults, even against food, music, dress or customs; refusing to co-operate in work or play.
- *Sexual bullying* – this is generally characterised by abusive name calling; looks and comments about appearance, attractiveness, emerging puberty; inappropriate and uninvited touching; sexual innuendos and propositions; pornographic material, graffiti with sexual content.
- *Sexual and gender orientation* –this can be the use of derogatory language; looks and comments about sexual preference or gender identity or appearance; verbal abuse by name calling; offensive mimicry; mockery of a person's demeanour or way of speaking; graffiti; mockery of subject and career choice. It can occur irrespective of sexual and gender orientation.
- *Special Educational Needs (SEN) or disability* – individuals with special educational needs or disability are often at greater risk of bullying. It can be characterised by name calling; comments on appearance; comments with regard to perceived ability and achievement levels.
- *Cyber bullying* – this is on the increase and can involve people receiving threatening or disturbing messages from possibly anonymous perpetrators. Possible misuses of technology may include:

Mobile Phones: Unpleasant text messages

Taking and sharing humiliating images

Videoring other people being harassed

Chatrooms: Sending anonymous or threatening messages

Groups of people victimising individuals

Email: Sending unpleasant or threatening messages Forwarding unsuitable content including images

Accessing someone else's email

Social Networks: Posting unpleasant comments and images

Making private information public

Sexual Assault

### *Definition and description of sexual assault*

The term sexual assault refers to sexual contact or behavior that occurs without the explicit consent of the victim. Sexual assault is any kind of non-consensual sexual contact. Sexual assault includes:

- a sexual act in which a person is coerced, bullied or physically forced to engage in against their will and without their consent

- the non-consensual sexual touching of a person
- any form of sexual violence, including rape defined as forced vaginal, anal or oral penetration and drug facilitated sexual assault
- It is also groping or the torture of a person in a sexual manner

## **Sexual Consent**

Under BADA's policies, sexual activity requires affirmative consent, which is defined as positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent cannot be inferred from the absence of a "no". A clear "yes," verbal or otherwise, is necessary.

- Consent to some sexual acts does not constitute consent to others, nor does past consent to a given act constitute present or future consent. Consent must be ongoing throughout a sexual encounter and can be revoked at any time.
- Consent cannot be obtained by threat, coercion, or force. Agreement under such circumstances does not constitute consent. Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated due to alcohol, drugs, or some other condition. A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity. Engaging in sexual activity with a person whom you know - or reasonably should know - to be incapacitated constitutes sexual misconduct.
- Consent can be accurately gauged only through direct communication about the decision to engage in sexual activity. Presumptions based upon contextual factors (such as clothing, alcohol consumption, or dancing) are unwarranted, and should not be considered as evidence for consent.
- Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent. Talking with sexual partners about desires and limits may seem awkward, but it serves as the basis for positive sexual experiences shaped by mutual willingness and respect.

## **Harassment**

### *Definition of Harassment*

Harassment related to age, disability, gender reassignment, race, religion or belief, sex (including sexual harassment) and sexual orientation is unlawful. Harassment can be defined as: 'Unwanted conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.'

### *Forms of Harassment*

These examples are not intended to be exhaustive. They are, however, indicative of conduct that would be considered unacceptable at BADA.

All forms of harassment are explicitly prohibited under the Equality Act 2010.

### *Racial Harassment*

Unwanted conduct in respect of a person's race, including their ethnic or national origins, colour or nationality. It is usually, although not exclusively, directed at individuals from minority ethnic groups.

Specific manifestations of racial harassment may include racist jokes, 'banter' and language, the expression of racist views and stereotypes related to, the display of racist materials, or deliberately excluding or refusing to cooperate with someone because of their race.

Conduct that focuses upon a person's appearance, dress, culture or customs can also constitute racial harassment, as does behaviour that has the effect of fostering hatred and/or prejudice towards individuals of particular racial groups.

## Sexual Harassment

Sexual harassment is unwanted conduct by either sex that is sexual in nature. Conduct that would amount to sexual harassment includes:

- Physical contact, ranging from invasion of personal space
- Inappropriate touching or physical assault
- Intrusive questions and remarks about a person's private life
- Inappropriate remarks about a person's appearance or dress
- Sexually explicit language, jokes, verbal and physical innuendo
- Using demeaning, gender-specific terminology
- Display or circulation of sexually explicit materials
- Coercive demands for sexual favours (such as promotion or academic success depending on the response to the demand)
- Intrusion by pestering, spying or stalking
- Persistent, unwanted advances (e.g. inviting a colleague or friend out would not in itself amount to harassment. However, if it was indicated that the approach was unwelcome and the individual persisted in making such approaches, this is likely to be considered harassment by the recipient).

### *Harassment related to sex/gender*

... describes unwanted conduct that is directed at a person because they are male or female. For example, to deliberately exclude someone because they are the only man or woman in a team, group or class would be considered sex/gender harassment.

Harassment related to sex/gender is distinct from sexual harassment as, whilst the behaviour relates to a person's sex/gender, it is not sexual in nature.

### *Harassment related to disability*

... is unwanted conduct directed at a person because of their physical or mental disability. It may relate to the disability itself or the person's real or presumed capabilities. A person can also be harassed on the grounds of disability where they themselves are not disabled, for example, if they are the carer of a child with disabilities and suffer harassment on that basis.

Specific examples of disability-related harassment include individuals being ignored, disparaged or ridiculed, inappropriate personal remarks, unnecessarily intrusive and inappropriate questions about a person's condition or excessive and unnecessary references to a person's disability. At its extreme, it can manifest as refusal to work or study alongside someone with a disability.

### *Harassment related to religion or belief*

... is unwanted conduct directed at a person because of their religion or a comparable belief system. It can also occur because a person is presumed to be of a particular religion or belief, even if this is not the case, or because of a person's non-adherence to a religion or a belief system.

Harassment may take the form of insults or ridicule of a person's religion or belief. Such behaviour may focus upon a particular aspect of a religion or belief system, such as clothing, religious artefacts, beliefs and rituals or the expression of stereotyped perceptions and assumptions about aspects of a religion or belief system and its followers. It can also take the form of coercive pressure to convert or conform to a religion or belief system.

### *Harassment related to sexual orientation*

... is unwanted conduct directed at a person because of their actual or perceived sexual orientation. Harassment related to sexual orientation may go unreported because a person does not wish to disclose their sexuality.

It most frequently affects individuals who are gay, lesbian, bisexual or transexual, but can sometimes be directed at heterosexuals too.

Harassment related to sexual orientation may be specifically manifested as intrusive questions about a person's private life, homophobic comments, jokes and 'banter' about sexuality, gossip and speculation about a person's sexuality, refusal to work or study alongside someone because of their sexuality and actual physical assault.

'Outing' someone by, for example, the release of personal information, would also be considered harassment.

### *Harassment related to gender identity*

... is unwanted conduct directed at a person who is transgender or transsexual. This includes individuals who are undergoing, have undergone or plan to undergo gender reassignment to change their designated gender identity. Specific examples of such harassment include excluding a person, jokes and name-calling and refusing to acknowledge the person in their acquired gender.

### *Harassment related to age*

... is undesirable conduct related to a person's age. It can occur because of a person's real or perceived age and applies to the 'young' and 'old' alike. Specific examples of age-related harassment include jokes, name-calling and comments relating to a person's age or comments about their presumed abilities.

## **BADA's Procedures to prevent Bullying, Sexual Assault and Harassment**

### **Complaints**

BADA is unequivocally committed to preventing bullying, sexual assault and harassment. To this end the Academy has established a culture in which there is no place for bullying, sexual assault and harassment and where it is the responsibility of every member of the Academy to report any instances of bullying, sexual assault and harassment.

BADA aims to promote a common understanding of:

What constitutes bullying, sexual assault and harassment

A reporting procedure to be followed by anyone who is either a witness to or the victim of bullying, sexual assault or harassment

Appropriate intervention and support strategies once bullying, sexual assault or harassment have been reported

BADA demands that all allegations of and concerns about bullying, sexual assault or harassment should be taken seriously. They must be considered carefully and addressed speedily and, where possible, in complete confidence.

Any student or member of staff / faculty who feels that they are the subject of bullying, sexual assault or harassment, either by a fellow student, a member of staff / faculty or anyone else with whom they come into contact in the course of their period of study at BADA is encouraged to make a note of any incidents and to record the dates, times and the names of any witnesses, for future reference.

### *Complaints Procedures*

Any student or member of staff / faculty who considers themselves to have been the subject of bullying, sexual assault or harassment has the right to be listened to and to be given informed advice on how the matter may be resolved.

Procedures for dealing with complaints

In the event of a student or a member of faculty or staff wishing to complain formally about inappropriate behaviour of any kind in the classroom, the rehearsal room, offices or any other premises used by BADA, the student or faculty member should report the incident directly to the Dean as soon as possible. Members of staff should speak to the Managing Director.

Should the formal complaint be against the Dean, then the matter should be raised with the Managing Director. Should a formal complaint be made against the Managing Director, the matter should be raised with the Dean. Should a formal complaint be made against both the Dean and the Managing Director, the matter should be raised with the Board of Trustees' Safeguarding Lead.

Paper records will be kept of all conversations which will be governed by BADA's Confidentiality and Data Protection policies. If the complainant is evidently distressed by what has occurred, then they will be offered support through BADA's accredited counsellor in London or BADA's accredited Counselling Agency in Oxford depending on the location of the course. (Full details are available in the BADA office).

If the complaint is deemed to be in breach of the law and the complainant decides that they wish to report it to the police, then they will be given every assistance and full support by BADA in reporting the matter.

BADA will make every effort to arrive at an internal resolution of the complaint that is satisfactory to all concerned parties. If this proves to be impossible then the Dean or Managing Director will appoint an independent external individual with the appropriate skills to undertake a thorough investigation of the complaint and to report back to BADA recommending a next course of action. Both the complainant and the individual complained about will be invited to talk to the external individual and both are entitled to whatever form of representation/support they may choose – friend, family, union representative etc.

#### Procedures for dealing with complaints about Bullying and Harassment

Bullying and harassment may be dealt with in a number of ways. The student or member of staff in question may be able to speak or write directly to the individual(s) concerned and request that the offending behaviour stops immediately.

- If they achieve no success through such direct communication, a student may wish to talk to a member of staff / faculty in order to obtain another perspective on the situation and to ensure that someone else knows about it and can take action with them to ensure that the proscribed behaviour stops.
- It is hoped that the large majority of cases will be resolved by such informal procedures, which are described in more detail below. However, to make a formal complaint is the final option open to anyone who feels that they have been the victim of bullying or harassment.
- BADA has a duty of care to all students and staff / faculty and professional counselling will be available for anyone who either needs help or who requests it if bullying or harassment is alleged

#### The informal approach

Staff, Students and Faculty members concerned about bullying or harassment may initially wish simply to discuss the matter with a friend or fellow staff member / member of faculty / student. Alternatively, or subsequently, students or staff / faculty may wish to seek further advice and may approach the following:

The Dean of BADA, the Managing Director, the Programme Support & Student Welfare Officer.

Any person approached ('advisor' hereafter) by a student or member of staff / faculty who wishes to discuss the matter informally should:

- Find a quiet place to discuss the alleged issue confidentially and without interruption.
- Listen carefully to what they are being told and ensure that they understand the full facts as they are described by the student or member of staff / faculty.
- Keep a record of the conversation with the consent of the student or member of staff / faculty either during the meeting or afterwards.
- When they are sure they understand what has happened allegedly to the students or member of staff / faculty, and if they feel confident to do so, they may discuss the options open to the student or member of staff / faculty.
- Confidentiality is essential in dealing with cases of alleged bullying and alleged harassment as experience shows that it will be much more difficult to resolve informally if information about the matter should become common knowledge.

- Anyone approaching a member of staff / faculty or other individual for advice may wish to be accompanied by a friend. Again confidentiality is essential.
- However, as soon as any attempt is made to deal with the situation in a way that directly involves the individual who is accused, then that individual must be informed of the nature of the complaint. Thereafter, as far as possible, there should be an attempt to maintain confidentiality in respect of all parties while seeking a resolution to the issue.
- Once a context for the incident that caused concern and the facts have been established there are a number of informal options available to the advisor to facilitate resolution of the matter.
- For example, the person who has experienced harassment could be encouraged to talk to the alleged harasser on their own or with a member of BADA staff accompanying them. The purpose of the conversation would be to make the perpetrator aware of how their behaviour has been perceived and ask them to desist in future.
- Alternatively, the advisor could facilitate a meeting between both parties to give the complainant the opportunity to talk to the alleged bully or harasser and explain their view of the offending behaviour.
- As well as aiming to resolve matters informally, advisors should consider appropriate action to facilitate and support the restoration of working relationships between the two parties after the event.

The action outlined above will be appropriate in many cases and will often be sufficient to resolve the matter. If, however, this does not achieve satisfactory results, a student should issue a formal complaint.

#### *A formal complaint*

As indicated above, it is hoped that most cases of bullying and/or alleged harassment will be resolved by the informal procedures outlined above.

However, formal action may be considered where informal action proves ineffective, or where a student or member of staff feels that an informal approach is inappropriate.

A formal complaint must normally be registered in writing, as soon as possible after the incident concerned has occurred. It is, however, recognised that complaints of this nature may relate to cumulative actions that have taken place over a period of time.

A formal complaint of bullying and/or harassment should include the nature of the complaint, and where possible give the dates, times and places of specific incident(s). The names of any witness(es) to the incident(s) should also be included.

If a student's complaint concerns perceived harassment or bullying on the part of another BADA student or students the formal complaint should be addressed to the Dean, who will discuss the matter with the complainant and will consider what further action should be taken and/or whether the police should be informed.

If a student's complaint concerns perceived harassment or bullying on the part of a member or members of BADA staff or faculty the formal complaint should also be addressed to the Dean who will discuss the matter with the Managing Director and the complainant and will consider what further action should be taken under BADA's Disciplinary Policy and/or whether or not the police should be informed. Where the situation is more complex than outlined above, for example in cases of alleged group harassment involving both staff and students, the student's formal complaint should be addressed to both the Dean and Managing Director who will confer to decide how best to proceed.

### *The formal process*

The Dean and the Managing Director will appoint an external individual well versed in academic procedures and who is completely independent of BADA to lead the formal process. The external individual, sitting with the Dean and the Managing Director, and a member of Faculty or the Finance Director depending on whether the complaint is against a student or a member of staff / faculty, will chair a meeting to hear the details of the allegation and then an explanation of their alleged behaviour by the student(s) or member(s) of staff / faculty who have been accused.

Within no more than three days the external individual will provide a written report to the Dean and the Managing Director. The Dean and the Managing Director will then communicate the outcome of the process to all interested parties.

Should the original complainant or the accused feel unable to accept these findings then they have the right to a procedural appeal undertaken by an external scrutineer well versed in academic procedures and who is completely independent of BADA. The Dean and the Managing Director will keep an up-to-date list of such scrutineers.

The scrutineer will review the appeal and arrive at her, his or their own judgement within a week of the review. They will submit a written report to the Dean and the Managing Director and if required brief them on what steps should be taken to prevent a repetition of the issue including a review of BADA's current policies and procedures. The Dean and the Managing Director will then communicate the outcome of the review to all interested parties.

### *Frivolous or malicious complaints*

This procedure aims to promote fairness and consistency in dealing with reasonable complaints made in good faith. BADA intends to do its best to protect its students, staff or faculty from frivolous or malicious complaints or those made in bad faith.

However, appropriate disciplinary action may be taken when it can be demonstrated that a complaint is made frivolously or maliciously.

Some complaints may be impossible to uphold; for example, if the concern turns out to be the result of a misunderstanding or if it cannot be adequately substantiated. When this is the case, and where the complainant has not acted maliciously or in bad faith, it will not lead to disciplinary action being taken against the complainant.

## Procedures for dealing with complaints about Sexual Assault

It is essential that any BADA student or member of staff who believes that they have been sexually assaulted must be listened to sympathetically and supported in every way possible after what may have been a traumatic experience.

The Dean and/or the Managing Director should hear what details the victim and whoever has been privy to what may have happened feels able to divulge at this stage as soon as possible. It is the responsibility of the Faculty and all members of staff to report such incidents to the Dean and the Managing Director as soon as they become aware of what may have happened. In no circumstances should they attempt to resolve the issue themselves.

The alleged victim should also be offered professional support and BADA will keep a list of therapists and counsellors who can be called upon in such circumstances in London and Oxford. Their details are available in the BADA office.

At every stage a paper record should be made and kept of all conversations and communications with anyone involved in the alleged incident. Equally all information and /or decisions that are communicated verbally to any party involved must also be recorded in writing. Such records will be subject to BADA's policy on data protection.

If the alleged victim is willing to name the alleged assailant or assailants and asks that BADA should take action against them, the first responsibility of the Dean and the Managing Director is to hear what both parties have to report about the alleged incident.

In the event that the alleged assault is prohibited by law, then the Dean and the Managing Director should advise the student or member of staff / faculty that they can choose to report it to the police who will undertake their own formal investigation. In the event of such an investigation it may be necessary to suspend both the victim and the assailant from classes or their duties for the period of the official enquiry.

If, on the other hand, it seems possible that the outstanding issues raised by the alleged assault can be settled informally then the Dean and the Managing Director should endeavour to secure a resolution that satisfies all parties. This may take the form of a full apology that acknowledges the gravity of the offence, a decision to undertake professional counselling, a reworking of class schedules or work patterns in order to keep the principal parties separated from each other.

### *The formal process*

If an informal attempt to resolve the alleged assault either fails or the offence is deemed too serious for such a first procedure then the Dean and the Managing Director will appoint an external individual well versed in academic procedures and who is completely independent of BADA to lead the formal process. The external individual, sitting with the Dean and the Managing Director, and a member of Faculty or the Finance Director depending on whether the complaint is against a student or a member of staff / faculty, will chair a meeting to hear the details of the allegation and then an explanation of their alleged behaviour by the student(s) or member(s) of staff / faculty who have been accused.

Within no more than three days the external individual will provide a written report to the Dean and the Managing Director. The Dean and the Managing Director will then communicate the outcome of the process to all interested parties.

Should the original complainant or the accused feel unable to accept these findings then they have the right to a procedural appeal undertaken by an external scrutineer well versed in academic procedures and who is completely independent of BADA. The Dean and the Managing Director will keep an up-to-date list of such scrutineers.

The scrutineer will review the appeal and arrive at her, his or their own judgement within a week of the review. They will submit a written report to the Dean and the Managing Director and if required brief them on what steps should be taken to prevent a repetition of the issue including a review of BADA's current policies and procedures. The Dean and the Managing Director will then communicate the outcome of the review to all interested parties.

#### *Frivolous or malicious complaints*

This procedure aims to promote fairness and consistency in dealing with reasonable complaints made in good faith. BADA does, however, have a duty to protect its students, staff or faculty from frivolous or malicious complaints or those made in bad faith.

However, appropriate disciplinary action may be taken when it can be demonstrated that a complaint is made frivolously or maliciously.

Some complaints may be impossible to uphold; for example, if the concern turns out to be the result of a misunderstanding or if it cannot be adequately substantiated. When this is the case, and where the complainant has not acted maliciously or in bad faith, it will not lead to disciplinary action being taken against the complainant.