



049 Policy on Sexual Misconduct, Harassment & Unacceptable Behaviours

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This policy has been drafted in accordance with the requirements of the [OfS' Condition E6 – Harassment and Sexual Misconduct](#), the [UUK's Reports on Changing the Culture](#), the [UUK's Guidance for Higher Education Institutions on How to Handle Alleged Student Misconduct Which May Also Constitute a Criminal Offence](#), the [Office for Students' Condition E6](#), the [Office for Students' Statement of Expectations for Preventing and Addressing Harassment and Sexual Misconduct](#), and the [OIA's Good Practice Frameworks](#) for Handling Student Complaints and Academic Appeals, and for Disciplinary Procedures, and has been informed by good practice from across the higher education sector and beyond. [Resources and information from Rape Crisis England and Wales](#) have also informed the content of this Policy and its procedures. Additional resources can be located here:

<https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/prevent-and-address-harassment-and-sexual-misconduct/resources-for-higher-education-providers/>

'Definitions used in this Policy' can be found at the start of this Policy. Additional definitions, including breaches of this Policy, can be found in Section 2 of this Policy.

DEFINITIONS USED IN THIS POLICY

In this Policy and its procedures as outlined in the Appendices, the following definitions are used:

- a) **'Complainant'**: an individual (who may be a student, staff member or individual external to IFG) who has brought a complaint or allegation regarding the behaviour of a student, staff member or individual external to IFG against a student or staff member which allegedly breaches this Policy;
- b) **'Respondent'**: an individual (who may be a student, staff member or individual external to IFG) who is alleged to have breached this policy;
- c) **'Disclosure'**: where an individual discloses that they are a survivor of sexual/other violence and/or harassment, or of any of the examples of conduct listed in section 2 of this Policy, or incidents similar in nature or which might reasonably be deemed to be 'Unacceptable Behaviours' in accordance with this Policy;
- d) **'Days'**: all timescales referred to in this Policy constitute calendar days unless otherwise specified;
- e) **'Officer(s) of IFG'**: member(s) of staff from IFG and/or External Officers, appointed by IFG CEO as required, to investigate matters raised and/or carry out any particular stage of the procedures under this Policy or any subsequent procedures arising from a referral out of this Policy. Any reference in this Policy and procedures to an Officer of IFG includes a deputy appointed by that officer or role-holder to exercise the functions assigned to that officer under this Policy.
- f) **'External Officer(s)'**: individuals external to IFG who are engaged by IFG to investigate matters raised and/or carry out any particular stage of the procedures under this Policy or any subsequent procedures arising from a referral out of this Policy.
- g) **'Staff Member'**: means all permanent, temporary, freelance, guest and volunteer staff employed by IFG, regardless of whether they are employed in an educational, artistic or other capacity
- h) **'Initial Supporter'**: member(s) of staff from IFG who provides initial support to a potential Complainant.
- i) **'Disclosure Investigation Officer'**: a member of IFG staff/External Officer, appointed by the IFG Board or senior manager, who conducts the 'Early Investigation' at Stage 1 of the procedures, to determine next steps
- j) **'Non-recent allegations'**: allegations concerning events where the period of time between the alleged events occurring and the reporting of those events is deemed by IFG to be the deciding factor in what action might be possible. Please see Section 3 of this Policy for a fuller description.

- k) ‘Anonymous allegations’: allegations that either do not identify the alleged Complainant and/or alleged Respondent)
- l) ‘In writing’: this includes email communications.

COMMITMENT TO FAIR PROCESSES

IFG recognises that as a small institution, it can be sometimes difficult to investigate matters which might reasonably fall within the scope of, or constitute a breach of, this policy. Where appropriate and necessary, we will use external officers engaged by IFG to act on its behalf in the course of operating any of IFG’s procedures, to ensure that our processes are fair and conducted with due impartiality.

SUMMARY OF PROCEDURES

There are **two stages of procedures** under this Policy, as follows:

Stage 1: Disclosure Procedure (Appendix A) – applies to anybody, even individuals who are not members of IFG. Appendix A sets out the Stage 1 procedures; the Stage 1 Report Form can be found as **Appendix A1**.

Stage 1 should normally be used to handle allegations of behaviour that may constitute a breach of this Policy. It is applicable to staff and students. The Stage 1 Report Form (Appendix A1) assists with and records this procedure. This stage is used for providing support to a Complainant, identifying what they would like to happen and any additional support needs, beginning an investigation where relevant into allegations raised, and determining next steps.

These procedures are designed to be flexible and responsive to the needs and circumstances of each case. Therefore, the person in initial receipt of a disclosure or complaint about matters which fall within the scope of this Policy is the Initial Supporter. The Initial Supporter may refer the case to another member of staff who will act as the Disclosure Investigation Officer, or the Initial Supporter may continue managing the case and take on the role of Disclosure Investigation Officer.

Whilst the Disclosure Investigation Officer will take into account the needs and wishes of a Complainant, the decision as to appropriate next steps is at the full discretion of the Disclosure Investigation Officer. Stage 1 applies to all allegations raised; please see Appendix A for the applicable procedures.

Stage 2: Alternative Resolution (Appendix B) – applies only to cases where the Complainant(s) and Respondent(s) are both/all students. Appendix B sets out the Alternative Resolution procedures.

Stage 2 applies only to cases where both the Complainant and the Respondent are students. It provides a mechanism by which an alternative resolution to a disciplinary or complaint process may be attempted. It may not always be appropriate to offer or pursue alternative resolution, and the decision as to whether to do so rests with the Disclosure Investigation Officer, in consultation with the Complainant where it is appropriate to consider this course of action. Where a Complainant decides they do not wish to pursue any further action, the alternative resolution process will not be entered into.

In addition to the two stages of procedures under this Policy, there are two discretionary processes **applicable to students only** under this Policy that may apply (Precautionary Measures, and Procedures for Complaints/Allegations that have been reported to the Police), depending on the circumstances of a case:

Precautionary Measures (Appendix C)

Precautionary measures are applicable only to students of IFG. They do not apply to staff.

Precautionary action may be taken, in accordance with the procedure outlined in Appendix C 'Precautionary Measures', on one or more of the following bases:

- a) To ensure that a full and proper investigation can be carried out in relation to any matter concerning a possible breach of this Policy (either under a procedure of IFG and/or where a matter is being handled by the Police);
- b) To protect any individual(s) while any matter concerning a possible breach of this Policy is being dealt with under a IFG procedure, or as part of a criminal process.

The Precautionary Measures process may be applied where necessary to meet the above aims, where allegations are raised about a student that are deemed by an officer of IFG to fall within the scope of this Policy.

The Precautionary Measures are discretionary as they will not be relevant in every case, therefore the process will not automatically apply to every case that falls under the Policy. The Precautionary Measures will be applied as necessary for each case, and following a risk assessment by the Disclosure Investigation Officer together with the Initial Supporter or another appropriate officer of IFG (e.g. Institution Safeguarding Officer; student support staff member; a senior member of staff).

Risk Assessments should be carried out using Appendix E of this policy. Please refer to Appendix C to this Policy for the full procedures and information concerning Precautionary Measures.

To make a referral and/or to record a request for Precautionary Measures to be imposed by the CEO of IFG (or their nominee), Appendix C1 'Precautionary Measures Referral form' should be used.

Procedures for Complaints/Allegations that have been reported to the Police (Appendix D)

These procedures are applicable to students only. They do not apply to staff.

These procedures should be followed when one or more allegations have been reported to the Police.

IFG Policy on Sexual Misconduct, Harassment and Unacceptable Behaviours

1 Introduction

- 1.1 International Foundation Group (“IFG”) seeks to maintain an environment which is safe and conducive for all members of IFG, whether students or staff, and which supports the wellbeing of all such individuals, as well as fostering the professional development of all trainees. This endeavour is supported by IFG’s published material, training and expectations covering Understanding Consent, Bystander Intervention, and our Policy on Inclusion, Diversity and Equity.
- 1.2 This Policy on Sexual Misconduct, Harassment and Unacceptable Behaviours (the ‘Policy’) underpins and is founded upon the following principles and IFG’s commitment to:
 - **a trauma-informed approach to managing disclosures of harassment, sexual violence and other survivor experiences**
 - **creating a safe environment that has the relationship of trust and confidence between IFG and the members of its community at its heart**
 - **establishing a positive, healthy, inclusive culture where all are respected and supported regardless of status and background**
 - **ensuring a zero tolerance for sexual violence and misconduct, harassment and Unacceptable Behaviours**
- 1.3 All members of IFG, whether students or staff, have a responsibility to uphold these principles. Behaviours which undermine or damage these principles will be considered to constitute a breach of this Policy (see also **Section 1 ‘Managing potential breaches of this Policy’** and **Section 2 ‘Definitions’**).
- 1.4 For the avoidance of doubt, staff includes all individuals working for IFG or at any of our premises irrespective of their status, level or grade. It therefore includes all employees, managers, directors, officers, consultants, contractors, trainees, homeworkers, casual and agency staff, and volunteers. It also includes Governors of IFG. All are collectively referred to as ‘staff’ in this Policy.
- 1.5 This Policy encompasses the following approach:
 - 1.5.1 It sets out expectations for behaviour that will allow all members of IFG, whether students or staff, to thrive;
 - 1.5.2 It provides clear delineation of what IFG can reasonably investigate (eg what constitutes a breach of the policy, and whether there has been a possible breach of the policy) versus alleged criminal acts that IFG in its civil processes has no jurisdiction to form judgements on;
 - 1.5.3 It has an initial stage (see Appendix A: Stage 1 Disclosure Procedure) that provides a consistent yet flexible approach to supporting individuals, including where relevant, the reporting party and the party facing allegations, and IFG

in handling allegations/disclosures of sexual violence, harassment or related unacceptable behaviours;

1.5.4 It provides mechanisms for students that are designed as an alternative to pursuing allegations under the Non-Academic Misconduct policy, to specifically support student Complainants, provide the opportunity for an educational approach to resolving issues, and address student behaviours that are considered to be in breach of this policy. These procedures can be found in the appendices to this Policy.

1.5.5 It recognises and provides for the duty of care to all members of IFG's community and third parties, whilst acknowledging the variance in those obligations.

1.6 This Policy and its procedures are drafted in accordance with the Principles enshrined in the OIA's Good Practice Frameworks and with the expectations and requirements outlined in the Office for Students' Condition E6 Harassment and Sexual Misconduct. In the event of any future sector requirements that fall within the scope of this Policy, the Policy will be reviewed accordingly.

1.7 This Policy shall apply to all students (individually and collectively to any group of students) registered for a course of study at IFG, irrespective of their mode or place of study. This Policy shall apply at all times during the student's registration with IFG and will not be restricted to conduct or other issues arising during term time or on IFG premises, or in respect of IFG itself or IFG-related activities, including any professionally-related or other activities undertaken whilst a registered student.

1.8 This policy also applies to staff of IFG; allegations regarding behaviour on the part of staff that may be considered to constitute a potential breach of this Policy may be raised by any individual under these procedures, and referred to relevant applicable HR processes as necessary.

1.9 IFG therefore expects all students and staff to read and be familiar with this Policy, and maintain good conduct at all times whilst on institutional premises, or engaged in any course-related activities, including in external environments and outside performances.

1.10 **Students** must comply with instructions given by IFG including instructions arising from proceedings under this Policy; failure to do so may result in action being taken against students under IFG's Non-Academic Misconduct Policy. For **staff**, disciplinary action arising from any proceedings under this Policy may be taken under IFG's HR procedures. These rules apply during and outside term-time, throughout the whole of the student's

registration at IFG and a staff member's contract with IFG. IFG's jurisdiction under this policy and procedures is not limited to its own premises.

- 1.11 Under this Policy and in accordance with IFG's ethos, all students and staff of IFG are strongly encouraged to report to us any behaviour that has caused distress, either to them or to a third party, regardless of any doubts they may have about whether the behaviour may be a breach of this Policy. Reports will be dealt with under the Stage 1 procedures of this Policy.
- 1.12 Whilst students and staff have the option to raise an allegation/disclosure under this Policy or the Non-Academic Misconduct policy (or for staff, directly with senior management and/or HR), such matters will normally be dealt with under the Stage 1 procedures of this Policy in the first instance, though there may be cases where, at its discretion, IFG determines that other procedures should apply.
- 1.13 In the operation of the processes under this Policy, IFG will remain mindful of our legal obligations, including our duty of care and its obligations under the Equality Act 2010 which include amongst others, the duty to make reasonable adjustments.

Other allied policies

- 1.14 Below is a list of other policies which are allied with this policy; these may as required apply alongside this policy, supersede or instigate this policy:
 - Non-Academic Misconduct Policy (for students)
 - Student Support, Engagement & Attendance Policy *including Support Through Studies Framework* (for students)
 - Student Complaints Procedure (for students)
 - Prevent and Safeguarding Policy (for staff and students)
 - Personal Relationships Policy (for staff and students)
 - Freedom of Speech Policy (for staff and students)
 - Institution HR procedures (including Disciplinary Procedure, Grievance Procedure Policy, Safeguarding Policy, Staff Professional Code of Conduct, and Policy & Procedure on Public Interest Disclosure for staff)

Managing potential breaches of this policy

- 1.15 Please see Section 2 – Definitions: “Definitions of breaches of this Policy” for how IFG defines breaches of this Policy.
- 1.16 All reports of unacceptable behaviour that falls within the scope of the definitions of sexual misconduct, harassment and Unacceptable Behaviours as set out in Section 2 of this Policy,

will normally be deemed to be a potential breach of this Policy. They will therefore normally be dealt with under Stage 1 (see Appendix A: Stage 1 Disclosure Procedure) in order to determine next steps. This includes reported allegations of possible criminal behaviour/offences, even where the Complainant chooses not to report the matter to the Police.

- 1.17 The Stage 1 procedures under this Policy provide the formal process by which allegations of behaviour that is considered to be a potential breach of this policy (sexual misconduct, harassment and other related unacceptable behaviours), that cannot be dealt with informally, will normally be investigated and appropriate outcomes determined.
- 1.18 This Policy is designed to be flexible so that reported behaviour that falls within the scope of this Policy can be managed in a sensitive way, taking account of the needs and wishes of, where relevant, both the reporting party and the individual facing allegations, alongside the duty of care of IFG.
- 1.19 However, behaviour which constitutes a breach of this Policy may also be deemed by IFG to be possible misconduct, and where deemed appropriate by officers of IFG (which includes, where applicable, External Officers engaged by IFG to act on its behalf in the course of operating any of IFG's procedures), a case may be referred into the procedures under the Non-Academic Misconduct Policy for students, or referred into HR processes for staff. Consequently, allegations raised may be dealt with under each policy as necessary. For example, allegations concerning student behaviour may begin to be handled under this Policy or the Non-Academic Misconduct Policy, and subsequently be referred into the other.

Delegation, Procedural Integrity and Fairness

- 1.20 Any reference in this Policy and procedures to an Officer of IFG (which includes staff from IFG or External Officers appointed by IFG to act on its behalf or other named role includes a deputy appointed by that officer or role-holder to exercise the functions assigned to that officer under this procedure. That officer or role-holder may delegate their powers under this Policy and procedures to a nominee, always providing that any person to whom these powers may be delegated will be in a position to act and be seen to act impartially in respect of the particular case. Where reference is made under this Policy and procedures to the CEO of IFG, such references include the CEO's nominee, nominated by the CEO to act on their behalf in any matters which may fall within the scope of this policy, including matters which may constitute possible misconduct.

External Officers

- 1.21 In operating any of the processes or procedures under this Policy, IFG may therefore, as necessary, involve appropriate external contracted members of staff to support those

processes, and/or for procedural advice and guidance. This means that such members of external staff may as necessary fulfil a procedural role where normally the policy indicates this will be a member of Institution staff. For ease of reference, IFG terms such members of staff to be 'External Officers'.

- 1.22 In order to avoid any potential conflicts of interest (e.g where procedural independence may be compromised), and/or where specific expertise is required, External Officers as defined above may also as necessary operate procedures under this Policy on behalf of IFG, at the request of IFG CEO or their nominee. No proceedings under this Policy shall therefore be invalidated by virtue of the involvement of an External Officer procured by IFG.
- 1.23 Where it has good cause¹ to do so, in accordance with the General Data Protection Regulations 2018 (GDPR) IFG will disclose the outcomes of misconduct processes and/or information about students ascertained in the course of such processes to relevant parties, such as the police. There may also be circumstances in which disclosures may have to be made to other parties, such as placement providers and/or employers or sponsors. Other than the parties directly involved in any such processes, it is at IFG CEO's discretion as to who else needs to be informed about any matter relating to the process and outcomes, taking into consideration the confidentiality of all parties involved.

2 Definitions

Definitions of breaches of this Policy

- 2.1 A breach of this Policy is defined by IFG as:

"A breach of, or damage to, the relationship of trust and confidence that exists between the individual and IFG, as a result of unacceptable behaviour that is of a sexual, harassing, or other nature on the part of the individual."

- 2.2 Sexual misconduct, harassment and Unacceptable Behaviours are deemed by IFG to be a breach of this Policy. In this section, please see below for definitions of sexual misconduct, harassment and Unacceptable Behaviours, and for examples of behaviours that would breach this Policy. The list of examples is not exhaustive.

Breaches of this Policy by students

¹ Good cause would be, for example, where an outcome of a misconduct process might necessitate in referral of a matter to the police. This may not necessarily be at the end of all misconduct procedures, but might, for example, be the result of an allegation of misconduct which may constitute a criminal offence and which it is necessary to refer to the police ahead of any formal Institution misconduct procedures being able to be concluded.

2.3 Where a student of IFG engages in unacceptable behaviour of a sexual, harassing or related nature that breaches or damages the relationship of trust and confidence, this may be deemed a breach of this Policy. Such a breach may constitute misconduct, and students may therefore be referred into the Non-Academic Misconduct Policy as deemed appropriate by the Disclosure Investigation Officer. Where a student is alleged to have breached this policy, the Early Investigator (or, in exceptional cases, other senior officer of IFG such as the Director of Studies will determine whether or not the allegations need referring for investigation under the Non-Academic Misconduct policy, whether the Alternative Resolution Procedures (see **Appendix B**) under this policy may apply, or whether there is justification for a different approach (eg referral of a Respondent student into formal procedures under the IFG Support Through Studies Framework in the Student Support, Engagement & Attendance Policy).

Breaches of this Policy by staff

2.4 A breach of this Policy by a staff member of IFG may constitute a disciplinary offence and may be referred into the relevant HR procedures of IFG, as deemed appropriate by the Disclosure Investigation Officer.

Responding to breaches of this policy

2.5 In all instances when determining whether allegations should be referred into the Non-Academic Misconduct procedures (for students) or HR procedures (for staff), officers of IFG (or External Officers acting on behalf of IFG) will take account of the wishes of the Complainant in this regard. However, IFG must balance its duty of care to both the Complainant and the Respondent. Therefore, whilst the wishes of a Complainant will be taken into account and considered, when determining next steps officers of IFG must make the decision as to what is most appropriate, and this may not always be in accordance with the wishes of the Complainant.

2.6 Additionally, in some cases there may be circumstances where IFG's duty of care must supersede the wishes of the Complainant. For example, IFG may consider whether any adjustments need to be made to the Non-Academic Misconduct procedure to address any actual and/or perceived imbalances between the Complainant and an accused student Respondent. In considering what adjustments may be required, IFG may take into account the trauma that a reporting student may suffer when giving evidence and the need to uphold fundamental principles relating to a fair hearing for the accused student such as the right for the accused to hear the evidence against him/her and the right to "test" that evidence. For further explanation, please see 'Management of cases under this Policy' (in section 4) and also 'Outcomes of Stage 1 of these procedures' (in section 5) of this Policy.

Examples of behaviours that would breach this Policy (sexual misconduct, harassment and Unacceptable Behaviours)

2.7 For the purposes of this Policy, a non-exhaustive list of examples of unacceptable behaviour of a sexual, harassing and related nature that would fall under the above definition of a breach of this policy is provided below:

- a) Engaging in, or attempting to engage in sexual contact without consent;
- b) Sharing private sexual materials of another person without consent, including online/via social media;
- c) Kissing without consent;
- d) Wilfully touching inappropriately through clothes without consent;
- e) Inappropriately showing sexual organs to another person;
- f) Making unwanted remarks or noises (e.g. wolf-whistling) of a sexual nature;
- g) Inappropriate remarks about a person's appearance or dress;
- h) Unkind or intimidating comments or gestures, or insensitive jokes or pranks;
- i) Controlling and coercive behaviours (e.g. behaviours that cause someone serious alarm, distress and/or pressure, which then has a substantial adverse effect on their usual day-to-day activities; 'emotionally blackmailing' an individual to stay in an intimate/friendship relationship; controlling clothing, food, friendship or other personal choices of another individual);
- j) Coercive demands for favours (including sexual favours), including offers or suggestions of sexual or non-sexual favours in order to further a career, including the suggestion that a refusal may hinder a career;
- k) Treating someone less favourably because they have submitted or refused to submit to any behaviour in the past, or
- l) Gaslighting (i.e. manipulating someone by psychological means, or seeking to sow seeds of doubt in a targeted individual or in members of a targeted group, making them question their own memory, perception, and/or sanity, using persistent denial, misdirection, contradiction, and lying);
- m) Grooming behaviours (for example, but not limited to: isolating someone so they are dependent academically and emotionally; buying someone presents or repeatedly insisting on paying for them to create a power imbalance; exploitation of a position of authority or of a power imbalance by an individual for their own advantage by coercing, manipulating or deceiving another person);
- n) Either directly or indirectly targeting an individual or a group of people because of their ethnic origin, colour, race, nationality, religion, sex, gender, disability, or other presentation or perceived presentation in a way that is intended or – regardless of intent – likely to intimidate or harm;

- o) Restricting, or attempting to restrict, an individual's right to lawful freedom of expression (freedom of speech);
- p) Unwanted physical conduct, including touching, pinching, pushing, grabbing, brushing past someone, and more serious forms of physical or sexual assault;
- q) Repeatedly engaging in unwanted interaction, including online/via social media (to note, multiple or repeated incidents may be deemed by IFG to be more serious than a single act);
- r) Continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- s) Publishing any statement or other material without consent, whether online or in hard copy:
 - i. Purporting to originate from another person;
 - ii. Relating or purporting to relate to another person;
- t) Sending or displaying pornographic or other material that may reasonably be deemed offensive (including emails, text messages, video clips and images sent by mobile phone or any other device);
- u) Stalking another person, for example, following a person, watching or spying on them or forcing contact with the victim through any means, including social media;
- v) Monitoring another person's use of the internet, email or any other form of electronic communication;
- w) Interfering with the property of another person, including restricting their access to their own property.

2.8 The above list of definitions is not exhaustive. Any reported allegations concerning behaviour that does not fall into one or more of the above definitions, but which might reasonably fall within the broader definitions of sexual misconduct, harassment, or related unacceptable behaviours as outlined below, may be dealt with under this policy and/or the Non-Academic Misconduct Policy (and for staff, HR procedures), as deemed appropriate by officers of, or acting on behalf of, IFG.

Definition of sexual misconduct under this Policy

2.9 Under this Policy, IFG defines sexual misconduct as:

“Unacceptable behaviour of a sexual nature that breaches or damages the relationship of trust and confidence that exists between the individual and IFG.”

Definition of harassment under this Policy

2.10 Under this Policy, IFG defines **harassment** as:

“Any unwanted physical, verbal or non-verbal conduct, whether in person, online or elsewhere, that has the purpose and/or effect of violating a person's dignity or creating an alarming, distressing, intimidating, hostile, degrading and/or humiliating environment for them. A single incident can amount to harassment.”

Harassment may still occur even where there is no motive or intention on the part of an individual to harass another. It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

Harassment may involve conduct of a sexual nature (sexual harassment), and/or it may be related to a protected characteristic under the Equality Act 2010. However, harassment of any type is unacceptable even if it does not fall within any of these categories.

Definition of ‘unacceptable behaviours’ under this Policy

2.11 Under this Policy, IFG defines **‘Unacceptable Behaviours’** as:

“Behaviours which do not specifically fall under IFG’s definition of ‘sexual misconduct’ or ‘harassment’, but which are other unacceptable behaviours that may constitute a breach of this Policy.”

Definition of consent under this Policy

2.12 ‘Consent’ is defined as if a person agrees by choice, and has the freedom and capacity to make that choice. This can be considered in two stages:

- Whether an individual had the capacity (i.e. the age and understanding) to make a choice about whether to take part in the sexual activity at the time in question;
- Whether they were in a position to make that choice freely, and were not constrained in any way.

The crucial question is whether the individual agrees to the activity by choice. The question of capacity to consent is particularly relevant when an individual is intoxicated by alcohol or affected by drugs.

2.13 Under this Policy, IFG defines consent as:

“the agreement by choice to participate in an act (including, but not limited to, a sexual act) where the individual has both the freedom and capacity to make that decision.”

2.14 Consent cannot be assumed on the basis of any previous sexual or other encounter (including in a previous or ongoing relationship), or previously given consent, or from the absence of complaint. Each new encounter requires a reconfirmation of consent and there should be no prior assumption that just because someone has consented previously this means they are consenting presently. Consent may be given to one form of sexual or other activity but not to another. Consent may be withdrawn at any time during sexual or other activity and each time activity occurs.

3 Scope and principles of this Policy and its procedures

Where this policy applies

3.1 This policy applies where:

- a) Allegations are received from any individual (including students, staff and non-members of IFG) that the behaviour of one or more students constitutes a breach of this Policy and/or any other institutional policy, in respect of sexual misconduct, harassment and Unacceptable Behaviours.**
- b) Allegations are received from any individual that the behaviour of a member (or members) of staff of IFG constitutes a breach of this Policy.**
- c) Allegations are received from any individual that the behaviour of an individual who is not a member of IFG has occurred which falls within the scope of this Policy.**

- 3.2 Any reported alleged behaviour, whether it may constitute possible misconduct or not, will normally be initially managed under the Stage 1 Disclosure Procedure of this Policy, although there may be occasions where allegations/reports begin under another procedure and are subsequently referred into the Stage 1 Initial Support & Early Investigation procedure under this Policy.
- 3.3 A complaint that falls within the scope of IFG Policy on Sexual Misconduct, Harassment and Unacceptable Behaviours, may be dealt with under this Policy whether or not it has been reported to the Police. Where one or more allegations have been reported to the Police,

please see **Appendix D Procedures for Complaints/Allegations that have been reported to the Police**.

Summary of who the procedures cover

3.4 Please see below for a summary of who is covered under the procedures in this Policy:

- 3.4.1 **Appendix A: Disclosure Procedure** applies to all students and staff of IFG, and also to individuals who are external to IFG. The status of the individual raising a complaint/allegations will determine what potential action may be taken and, as applicable, any subsequent internal procedures or processes that may be followed.
- 3.4.2 **Appendix B: 'Alternative Resolution'** only applies to cases where the Complainant(s) and Respondent(s) are all students.
- 3.4.3 Supporting processes that may be used as necessary only where the Respondent is a student are included as **Appendices C 'Precautionary Measures'**, and **D 'Procedures for Complaints/Allegations that have been reported to the Police'**. Precautionary Measures may apply to Complainants as well as Respondents, for example in the application of 'no contact' conditions. Appendix C1 (Precautionary Measures Referral Form) can be used to refer cases where Precautionary Measures may be necessary.

- 3.5 Where any of the above circumstances arise, Stage 1 of the procedures should be instigated. Please see **Appendix A 'Stage 1: Initial Support and Early Investigation'** and **Appendix A1 'Stage 1 Report Form'**. A summary of the procedures under this Policy is provided at the beginning of this Policy.
- 3.6 Where the CEO of IFG is the subject of allegations that fall within the scope of this Policy, the matter will be referred to the Chair of IFG's Board of Governors.

Raising a complaint/allegations

- 3.7 A Complainant may choose whether to raise a complaint/make allegations regarding sexual misconduct, harassment or Unacceptable Behaviours in the following ways:
 - Under this Policy, by:
 - approaching an officer of IFG and making a report/raising allegations verbally, or
 - by contacting them in writing (eg via email or an online messaging channel), or

- by completing the Stage 1 Report Form (**Appendix A1**).
- under the Non-Academic Misconduct Policy, by reporting allegations to an officer of IFG for investigation under the Preliminary Enquiry procedure;
- under the Student Complaints Procedure (this applies to students only), by raising an informal complaint (Stage 1) to IFG or by submitting a formal Stage 2 complaint to IFG using the Student Complaint form (the form can be found at <https://www.intfoundationgroup.co.uk/ifg-policies-and-procedures/>).

3.8 Complaints/allegations raised under other policies and procedures that appear to breach this Policy will normally be referred into Stage 1 of the procedures under this Policy. IFG expects that this Policy and its procedures will normally be used at least in the first instance where the complaint or allegations relate to sexual misconduct, harassment or any other related unacceptable behaviours.

3.9 IFG recognises that incidents concerning sexual misconduct, harassment, and Unacceptable Behaviours are frequently nuanced and complex, and can be very sensitive for all parties concerned. Wherever possible and where it is deemed appropriate, this Policy and procedures shall be used to handle such cases, as the provisions of these procedures are specifically designed to provide a flexible approach to managing and resolving such cases. However, there may be instances when officers of IFG determine, either under these procedures, under the Student Complaints Procedure, or under the Non-Academic Misconduct Procedures, that serious cases might most appropriately be handled under the Non-Academic Misconduct Procedures for students, or HR Disciplinary Procedures for staff.

3.10 Where a case has been dealt with under Stage 1 of the procedures under this Policy and then referred into another internal procedure, the subsequent procedure will take precedence and Complainants will be kept informed of any outcomes as feasible and appropriate, in accordance with that procedure. Please see **Section 5 – Outcomes of Cases: ‘Informing Complainants’** for further information.

Raising a complaint/allegation under this Policy or another

3.11 IFG policy does not prevent a Complainant from reporting the matter to the Police at any time (even where IFG's internal procedures have been concluded). Please see **Appendix D: Procedures for Complaints/Allegations that have been reported to the Police** for related information. Should a Complainant wish to report allegations to the Police, IFG will support the Complainant to do this, regardless of their status.

Non-recent allegations

3.12 Under this Policy, the following definitions may be applied in determining whether allegations are deemed 'non-recent':

- Where the alleged incidents occurred a significant time ago;
- Where the alleged incidents occurred too long ago to enable the allegations to be investigated further under IFG's internal procedures;
- Subject to the judgement of the Disclosure Investigation Officer, alleged incidents that occurred more than 3 months before the date they were reported may be deemed to be 'non-recent' (see below).

3.13 Generally, the Disclosure Investigation Officer will determine whether alleged incidents that occurred more than 6 months before they were reported should be deemed to be 'non-recent', taking account of the relevant circumstances, including, but not limited to:

- the availability of supporting evidence;
- the timing of incidents within the academic year (e.g. whether there were any circumstances, such as Christmas/summer closure of IFG, that may have hindered or prevented an individual from raising the allegations earlier);
- whether the alleged incidents form part of a pattern of behaviour or sequence of events that means they warrant inclusion as part of an investigation;
- any other relevant circumstances pertaining to the case.

For example, alleged incidents that occurred more than 6 months ago may be deemed by the Disclosure Investigation Officer to be 'non-recent' if the passage of time that has occurred reasonably prevents or inhibits IFG from meaningfully investigating the matter further under any of its procedures.

3.14 Where an allegation is deemed to be non-recent, this does not prevent IFG from investigating whether there has been a potential breach of this Policy, if IFG is satisfied that sufficient evidence or other circumstances surrounding the allegation warrant further investigation.

3.15 Our duty of care means that where this Policy may not have been in place at the time of any non-recent allegations, we will seek to establish whether the non-recent allegations would constitute a potential breach of this Policy had it been in force at that time. Whilst we cannot reasonably determine that our Policy has been breached if it was not in force at the time applicable to non-recent allegations, nonetheless we can follow Stage 1 procedures under this Policy in all circumstances to determine accordingly whether or not there is any necessary action to be taken, and to ensure that reporting parties are provided with support.

3.16 IFG will make all reasonable efforts to investigate allegations where the Disclosure Investigation Officer judges that there are sufficient grounds to do so, as set out in (but not limited to) the list in 3.11 above.

3.17 Where an allegation is deemed to be non-recent, the reporting individual will be advised of their options and IFG will do everything it can to support the individual with these.

3.18 Where an allegation is deemed to be non-recent, this does not prevent the matter being reported to the Police where relevant, and IFG will support an individual to do so, should they wish.

3.19 Where a Complainant raises a non-recent allegation regarding the behaviour of an individual who is not a member of IFG (including where they may previously have been a member), the matter shall be referred to the CEO of IFG or their nominee, who shall undertake a risk assessment (using **Appendix E**) to determine together with one or more members of IFG's Senior Management Team as deemed necessary by IFG CEO, next steps include:

- the offer of a support meeting for the reporting individual and who should conduct this;
- referral to external support services for the reporting individual;
- whether the matter should be reported to the Police (taking account of the wishes of the reporting individual, and the relevant perceived risk).

3.20 **In exceptional circumstances**, where an officer of IFG receives a disclosure of a non-recent allegation regarding the behaviour of a student or staff member of IFG, or of an individual external to IFG, and the officer and/or the CEO of IFG are concerned that the matter may need to be reported to the Police in accordance with IFG's duty of care, the matter may be referred to IFG CEO. The CEO, together with one or more members of IFG's Senior Leadership Team (as deemed necessary by the CEO), will determine next steps including:

- whether a risk assessment is necessary
- the offer of a support meeting for the reporting individual and who should conduct this;
- referral to external support services for the reporting individual;
- whether the matter should be reported to the Police (taking account of the wishes of the reporting individual, and the relevant perceived risks to the individual and IFG).

Anonymous allegations / allegations raised by third parties on behalf of a Complainant

- 3.21 IFG defines anonymous allegations as allegations that either do not identify the alleged Complainant and/or alleged Respondent.
- 3.22 IFG recognises that Complainants may find it difficult to make a disclosure, and therefore complaints/allegations raised either anonymously, or by third parties on behalf of a Complainant, will normally receive consideration by IFG, except where IFG is satisfied that just cause and/or reasonable grounds exist that the allegations do not warrant consideration.
- 3.23 Because IFG seeks to support both Complainants and Respondents effectively, including seeking a resolution via the use of either the procedures under this Policy or those under the Non-Academic Misconduct policy, where allegations that name a Respondent are received but the Complainant is not identified, this may prohibit procedures from being transparent and fair, and thus may limit IFG in what action may be taken.
- 3.24 The principles of natural justice and fairness govern all formal Institution procedures. Where a Complainant and/or a Respondent is either unidentified, or not clearly identified, in allegations received by IFG, this may prevent a Respondent from being able to respond properly to such allegations and may prevent or inhibit IFG from meaningfully investigating them. IFG will take such principles of natural justice and fairness into account when determining any action to be taken or not taken.

Disclosure Procedure for consideration of anonymous allegations

- 3.25 Where anonymous allegations (i.e. allegations that either do not identify the alleged Complainant and/or alleged Respondent) are made, or where allegations are raised by third parties, the Director of Studies will normally act as the Disclosure Investigation Officer, although where necessary this may be another member of staff nominated by IFG Academic Director/CEO. The Disclosure Investigation Officer will complete a Disclosure Report and submit it to the Director of Studies who will file the Report in IFG's records. In consultation with senior officers of IFG as appropriate, the Disclosure Investigation Officer will determine whether there are any matters arising from the allegations that IFG should endeavour to follow up, though there may be limitations to possible actions that could be taken.

Allegations raised by individuals who are not members of IFG (including non-recent allegations)

- 3.26 Where allegations are received from any individual who is not a member of IFG that the behaviour of an individual who is also not a member of IFG may fall within the scope of this Policy (including non-recent allegations), a Stage 1 meeting will take place, the reporting individual will be referred to external support services and will be offered support with contacting the Police (should the Complainant wish). Please see earlier in **Section 3** of this Policy for further information regarding non-recent allegations.

4 General Principles

4.1 The following principles inform and underpin this Policy:

- Zero-tolerance for sexual misconduct, harassment and any other behaviours which may be deemed a breach of this Policy (see Section 2) and therefore fall within the scope of this Policy
- Supportive individually-focused flexibility
- Fairness
- Transparency
- Natural justice, and
- Dignity

4.2 IFG will act reasonably in considering and handling complaints and allegations under this Policy, having regard to the individual circumstances of any case, and the principles of fairness and natural justice. Every effort will be made to ensure that all parties are treated with fairness and dignity.

4.3 A complaint or allegations under this procedure may be brought by, or against, two or more individuals, where the complaint arises from the same event.

4.4 It is important that a Complainant never be made to feel that they are the problem for making a complaint/allegation/disclosure of an incident(s) that would fall within the scope of this policy, or made to feel ashamed for doing so.

Management of cases under this Policy

4.5 The overarching principles guiding the management of cases that fall within the scope of this policy are:

- individually-focused flexibility, fairness and transparency.

Where apparent breaches of this Policy may have occurred, consideration will be given to the extent of the breach and how far the relationship of trust and confidence may have, or has, been breached and damaged. Decisions about action that may/may not be taken under Stage 1 of this Policy will be made taking account of the above main guiding principles.

4.6 This Policy and its procedures are designed to be flexible enough to meet the sensitivities of cases that fall within its scope. For this reason, it is foreseen that not every case will result in further action under this or another institutional policy; it may be the case that following an Initial Support Meeting (Stage 1), it is determined that no further action be taken. Although as much care as possible will be taken to proceed in accordance with the

wishes of a Complainant following an initial disclosure, ultimately the Disclosure Investigation Officer will determine the next steps, including the most appropriate procedure to follow. For example, there may be occasions where a student case must be progressed to a formal Misconduct Panel hearing under the Non-Academic Misconduct Policy, regardless of the preference of a Complainant and/or the Respondent.

- 4.7 On receipt of a complaint or allegations that may fall within the scope of this Policy, it is for officers of IFG to determine what procedural action(s) should be taken, in consultation with the Complainant where appropriate. Where a Complainant raises a complaint or allegations which may fall within the scope of this procedure, they have the right to express their wishes about whether they want any action to be taken. In determining this, officers of IFG will normally afford a reasonable period of time to allow the Complainant to reach a decision about whether they are seeking any action to be taken (including the nature of any action), though the circumstances and any relative urgency of the case may affect the length of the period that can be offered.
- 4.8 Where a student raises a complaint or makes allegations of sexual misconduct, harassment or Unacceptable Behaviours on the part of an individual who is not a member of IFG, the matter will be referred into the Initial Support Meeting stage of this procedure to determine next steps and identify any necessary action, regardless of whether the Complainant wishes or has chosen to report any such matters to the Police.

Written and Oral Representations: Notification of Legal Implications

- 4.9 Any individual, including any student or staff member, who:

- a) is invited to submit written or oral representations in response to and/or regarding the imposition of precautionary measures or other action under this Policy, or
- b) is the subject of a complaint that may constitute a breach of this Policy,

will in all circumstances be warned that any admissions made, written representations submitted, or notes produced, by that individual, may be used as evidence in any subsequent criminal investigation or proceedings in a court of law, or in institution proceedings under this Policy and/or the Non-Academic Misconduct Policy/HR procedures (as applicable). For further information about the right to written representations under the procedures and processes of this Policy, please also see **Appendices A-D**.

Timeframes

- 4.10 Indicative timeframes are set out in the procedures under this Policy to assist IFG in managing cases brought under this Policy in a fair and consistent manner. However, in operating these procedures and having due regard to the circumstances and sensitivities of the case in question, an officer of IFG may vary at any stage the time limits set out in this

procedure, and will consult with the Complainant and the Respondent (and where necessary another officer of IFG and/or Institution CEO) as appropriate.

Issuing Outcomes

- 4.11 A written decision issued by an officer of IFG (including an External Officer acting on behalf of IFG) in accordance with this Policy and any of its procedures shall include the reasons for that decision. (See also Section 5 'Outcomes of cases').
- 4.12 The consideration of a complaint or allegations at any stage of the procedures under this Policy may be suspended by the respective investigating officer of IFG and/or the matter may be referred for consideration under another procedure. Where deemed appropriate by the investigating officer, the Complainant and Respondent may be consulted before such action is taken, or if not, they will be informed of the decision/action in a timely manner.
- 4.13 Where at any point the Complainant wishes to seek a resolution of the case under either process of Stage 2 'Alternative Resolution', but the Disclosure Investigation Officer determines the case might warrant referral under another procedure (e.g. Non-Academic Misconduct), the Disclosure Investigation Officer has the discretion to make the decision they feel is most appropriate. However, in these circumstances, should they wish, the Disclosure Investigation Officer may seek a review of the situation by the Director of Studies (or another member of IFG's Senior Management Team) who will consider whether further action should be taken under this Policy. The review will also include consideration of whether any matters should be referred under any other institutional procedures.
- 4.14 If an officer of IFG (including External Officers) carrying out any stage of this procedure and/or IFG CEO considers that precautionary action is necessary to protect any individual, or to enable a full and proper investigation of a complaint or allegations, the officer should follow the process outlined in Appendix C 'Precautionary Measures'.

Freedom of Speech and Academic Freedom

- 4.15 IFG is committed to upholding freedom of speech and academic freedom as set out in its Freedom of Speech Code of Practice. **This policy does not restrict the lawful expression of opinion, discussion, or criticism, provided such expression does not constitute discrimination, harassment, or other misconduct as defined by law or institutional policy.** "While individuals are encouraged to speak out about experiences of sexual misconduct or harassment, this must be done respectfully, lawfully, and with regard for due process.

4.16 In line with the Office for Students' expectations, IFG does not use non-disclosure agreements (NDAs) or confidentiality clauses in cases involving sexual misconduct, harassment, or other unacceptable behaviours to prevent individuals from speaking about their experiences. Any temporary restrictions (e.g. no-contact conditions) imposed during investigations are for safeguarding purposes and do not limit an individual's right to disclose or seek support.

5 Outcomes of cases

5.1 As a general principle, IFG will act within its legitimate power to ensure that all parties are kept informed appropriately of outcomes. However, IFG must balance its obligations to both the Complainant and Respondent, as well as its legal obligations regarding the processing of personal data, and duty of care, and thus it is envisaged that there may be limitations to the extent of information that can be divulged to parties in the course of operating the procedures under this Policy. (Please also see section 11 'Data Processing, Confidentiality and Record Keeping' for further information).

5.2 At any stage, there is an opportunity for IFG to take no further action if appropriate, for example, if there is insufficient evidence to support an allegation of misconduct. Even where it is determined that no formal action will be taken, consideration will be given to any potential remedial action and/or support needs, including any need for/feasibility of mediation, as appropriate to the circumstances of the case. Whilst such consideration will be given, the principles of individually-focused flexibility, fairness and transparency governing this policy and its procedures mean that any precedent set in one case will not automatically apply to another case, even where these appear similar in nature. Officers of or acting on behalf of IFG will ensure that decisions taken are supported by holistic consideration of all parties' circumstances and any possible viable resolutions.

Outcomes of Stage 1 of these procedures

5.3 As part of the Initial Support and Early Investigation Stage, the Complainant will have been consulted on what action (if any) they would prefer to be taken. As outlined earlier in this Policy, however, whilst every endeavour will be made to adhere to the wishes of the Complainant, the decision as to what (if any action) may be taken rests with the Disclosure Investigation Officer, acting in accordance with the principles outlined in Section 4 of this Policy.

Informing Complainants

5.4 All Complainants have the right to know the Disclosure Investigation Officer's decision, and, as far as is practicable, the reason(s) for this decision. However, the information that the Disclosure Investigation Officer can give regarding their reason(s) for the Stage 1

outcome must be in accordance with the lawful processing of personal data under the Data Protection Act 2018 and General Data Protection Regulation (EU) 2016/679 taking account of the rights of the Respondent as well as the Complainant, and therefore it may not be possible to divulge all the details of the reason(s) for the decision.

5.5 As a minimum expectation, at the conclusion of Stage 1 of these procedures, unless in the view of the Disclosure Investigation Officer there is good reason which prevents the release of any of the information listed below, the Complainant will normally be informed of the following:

- The decision of the Disclosure Investigation Officer i.e. the Stage 1 outcome, which will depend on the circumstances of each case and take account of the wishes of the Complainant as far as possible;
- Any action taken that directly impacts the Complainant (for example, if as part of the outcome the Respondent is not permitted to contact or approach the Complainant, the Complainant will be informed of this in order that any breach can be reported);
- Where it is proportionate and reasonable to release this information, whether any precautionary measures have been taken;
- Whether the matter has been referred into another internal procedure (e.g. for students, Non-Academic Misconduct procedures; for staff, HR Grievance procedures)

5.6 Where a case has been dealt with under Stage 1 of the procedures under this Policy and then referred into another internal procedure, the subsequent procedure will take precedence and Complainants will be kept informed in accordance with that procedure and the above principles set out in Section 5.5. The extent of information that may be disclosed to a Complainant will normally be limited to that which has or may foreseeably have an impact on them, including assisting understanding and finding resolution.

5.7 In accordance with sector guidance produced by Culture Shift², data protection legislation is not a barrier to disclosing outcomes in cases that fall within the scope of this Policy; rather, it provides a framework for disclosure. This Policy's principles of transparency, support and zero-tolerance for sexual misconduct, harassment and related other unacceptable behaviours means that we will update Complainants on the status of cases as they progress through processes both under this Policy and under others that cases are referred into, and will share final case outcomes, though the extent of information shared may be limited in accordance with the rights of Respondents.

5.8 IFG's identified lawful basis for the disclosure of information relating to case outcomes to Complainants is the 'public task' basis set out in GDPR Article 6 (1) (e), namely that IFG is exercising its official authority in ensuring its responsibilities and duty of care to

² <https://info.culture-shift.co.uk/get-data-sharing-guidance>

Complainants as a Higher Education Provider registered with the Office for Students to ensure we provide and maintain an environment which allows students and staff to feel safe, supported and secure, and in accordance with the expectations of the Office for Students regarding preventing and addressing harassment and sexual misconduct affecting students in higher education.

5.9 Where a case has been referred externally to the Police either directly by the Complainant or by IFG under its duty of care obligations, the Complainant will be kept informed of any information/developments in accordance with advice and instructions received from the Police.

Informing Respondents

5.10 Respondents will be given a fair opportunity to respond to any allegations raised against them, which will normally necessitate the disclosure of the identity of the Complainant. Where a Complainant does not consent to their identity being disclosed, this will normally limit what action IFG may be able to take, having due regard to the principles of fairness and natural justice that underpin this Policy.

5.11 The opportunity to respond to allegations may initially be under Stage 1 of this Policy. Where cases are referred to be subsequently managed under other policies (e.g. for students the Non-Academic Misconduct Policy; for staff, HR procedures), those procedures will take precedence and Respondents will be informed of their rights and opportunities to make representations in accordance with the procedures under those other policies.

5.12 As a minimum expectation, at the conclusion of Stage 1 of these procedures, unless in the view of the Disclosure Investigation Officer there is good reason which prevents the release of any of the information listed below, the Respondent will normally be informed of the following:

- The decision of the Disclosure Investigation Officer i.e. the Stage 1 outcome, which will depend on the circumstances of each case and take account of the wishes of the Complainant as far as possible;
- Any action taken that directly impacts the Respondent (for example, if as part of the outcome the Respondent is not permitted to contact or approach the Complainant, the Complainant will be informed of this in order that any breach can be reported);
- Whether the matter has been referred into another internal procedure (e.g. for students, Non-Academic Misconduct procedures; for staff, HR Grievance procedures).

- 5.13 Respondents will be informed about what information will be given to the Complainant in relation to any details of action taken, and the reason(s) for providing that information to the Complainant will be explained.
- 5.14 Respondents will be informed of their right to make representations in accordance with the Stage 1 and (where applicable) Stage 2/Stage 3 procedures either under this Policy or any other applicable IFG Policy (eg the Non-Academic Misconduct Policy).

6 Complaints under this Policy

- 6.1 For the right of complaint under this Policy, please see below:

STUDENTS

Complainants

- 6.2 Student Complainants who wish to make a complaint against any aspect of this procedure should use [the Student Complaints Procedure](#).

Respondents

- 6.3 There are different avenues of complaint for student Respondents, depending on the particular process against which they wish to raise a complaint or appeal. Please see below:

Appeals/Complaints regarding Precautionary Measures

- 6.3.1 Student Respondents who wish to appeal or complain about a decision relating to *Precautionary Measures* should follow the procedures outlined in 'Appendix C: Precautionary Measures Procedure'.

Complaints regarding Alternative Resolution

- 6.3.2 Student Respondents who wish to make a complaint about any aspect of Alternative Resolution processes should follow the procedures outlined in 'Appendix B: Alternative Resolution'.

Appeals/complaints regarding referral of a case to the Misconduct Panel

- 6.3.3 Student Respondents do not have the right of appeal or complaint against a referral of their case to the Misconduct Panel by the Disclosure Investigator or Alternative Resolution Panel, as no decision on the case has been reached at that point. Please see the Non-Academic Misconduct policy at HYPERLINK for details of the right to make representations and the right to appeal against a decision and/or findings of the Preliminary Enquiry Officer or Misconduct Panel.

STAFF

Complainants

6.4 Staff Complainants who wish to make a complaint against any aspect of the Stage 1 Initial Support and Early Investigation process should contact IFG's Academic Director/CEO for further information and guidance. None of the other procedures under this policy apply to staff and therefore there is no right of complaint for staff about these. Staff queries about Stage 2 or any of the other allied processes under this policy may be raised with the Academic Director/CEO.

Respondents

6.5 Staff respondents who wish to make a complaint against any aspect of the Stage 1 Initial Support and Early Investigation process (see Appendix A) should contact their HR department for further information and guidance. None of the other procedures under this policy (as outlined in Appendices B, C and D) apply to staff and therefore there is no right of complaint for staff about these. Staff queries about Stage 2 or any of the other allied processes under this policy may be raised with the Academic Director/CEO.

7 Limitations

7.1 A Complainant cannot bring a complaint or allegations under this procedure where the Complainant has previously made a complaint about the same event(s) that has been dealt with under another procedure of IFG (e.g. the Student Complaints Procedure; the Non-Academic Misconduct procedures).

7.2 This Policy cannot be used to handle a complaint or allegations where an alternative procedure (e.g. the Student Complaints Procedure or Non-Academic Misconduct procedures) has deemed the case to be concluded.

7.3 The Alternative Resolution Process (Appendix B) under this Policy are limited to addressing allegations of behaviour that breaches this and/or any other institutional policy in respect of alleged sexual misconduct, harassment and/or Unacceptable Behaviours, on the part of one or more students who are registered students of IFG. The Alternative Resolution procedures under this Policy cannot be used as a means of resolving allegations of behaviour on the part of a member of staff, which should be referred into and managed under relevant HR procedures as appropriate.

7.4 IFG does not have the legal investigatory powers of the Police, and cannot make a determination on criminal guilt. An internal investigation will be limited to, and focused on, whether a breach of this Policy, or possibly of an allied policy (e.g. the Non-Academic

Misconduct policy) has occurred. The internal procedures and investigations of IFG in operating this policy or the Non-Academic Misconduct policy, or any other policy in relation to matters raised which fall within the scope of this policy, cannot therefore be regarded as a substitute for a Police investigation or a criminal prosecution.

8 Right to choose action, or withdraw a complaint/allegations

- 8.1 Where a Complainant expresses an initial preference for action not to be taken, they have the right to subsequently change their mind and request that action is taken. However, subject to the circumstances of the case and taking account of any risks or potential risks, officers of IFG (including External Officers) may determine in any circumstance that it is necessary to proceed or not to proceed under this or another procedure, even where the Complainant expresses a wish not to engage with such procedures, or expresses a different preference to the decision(s) of an officer or officers of IFG.
- 8.2 Where a Complainant expresses, either initially or subsequently, that they do not wish to engage with the procedures under this Policy or another IFG procedure, they are under no obligation to engage with any such procedures. The Complainant also has the right at any point in proceedings to change their mind about whether or not they prefer any action to be taken. As far as possible, officers of IFG will proceed in accordance with the wishes of the Complainant; however, there may be circumstances where a Complainant wishes no action to be taken but IFG has an obligation to pursue action (e.g. in the event of serious safeguarding concerns and/or risks that must override the wishes of the Complainant). The decision therefore as to whether any action should be initially taken or should continue (if it has already commenced), rests with officers of IFG, and action may proceed or continue to proceed without the engagement of the Complainant.
- 8.3 The Complainant may withdraw a complaint or allegations at any time whilst procedures have begun either under this Policy or another Policy (e.g. the Non-Academic Misconduct Policy), by notifying the appointed officer of IFG who is operating the relevant stage of the procedure, in writing, of their decision. They do not have to provide any reason(s) for a decision to withdraw a complaint or allegations but must provide written confirmation of the decision before the procedure can be halted.
- 8.4 Where a Complainant has verbally indicated they wish to withdraw a complaint or allegations, the appointed officer handling the case may determine that the procedure may temporarily be held in abeyance pending written confirmation.
- 8.5 Where a complaint/allegation is withdrawn by a Complainant the appointed officer of IFG will determine the most appropriate course of action. This may include the following:

- a) No action or further action under this or any other institutional policy or procedure;
- b) Termination of proceedings that have already commenced under this procedure or another institutional procedure;
- c) No further action under this procedure, but referral of the matter into another institutional procedure;
- d) The continuation of proceedings that have already commenced under this procedure, where it is most appropriate to do so.

8.6 Where a complaint/allegation is withdrawn by a Complainant but the appointed officer of IFG determines that proceedings should continue, this does not preclude the matter subsequently being referred under another procedure where necessary.

9 Vexatious and/or Malicious reporting

9.1 IFG takes reports of sexual violence, harassment and Unacceptable Behaviours very seriously. However, it acknowledges the possibility of malicious reporting and any reports by students found to be vexatious and/or malicious will be considered as a breach of this policy and referred for consideration under the Non-Academic Misconduct Policy as appropriate. Any reports by staff found to be vexatious and/or malicious will be referred into HR grievance and/or disciplinary procedures, as deemed appropriate by IFG.

9.2 Where it comes to light that malicious allegations concerning students and/or staff of IFG have been raised by individuals who are not members of IFG community, IFG will support the affected Respondents in reporting matters to the Police, should they choose to do so, and will provide appropriate pastoral support.

10 Data processing, confidentiality and record keeping

Case Management

10.1 IFG will make its best efforts to limit the disclosure of information as is consistent with conducting a fair investigation and the implementation of any recommendations following investigation into any allegations or complaints made under this Policy, or that are referred into this Policy. However, if a student names another member of IFG and wishes IFG to take action, then the person(s) named will normally have the right to know the complaint made against them, including the name of the Complainant, in order to be able to reply to the complaint.

10.2 If a Complainant refuses to name a person who is relevant to their complaint, IFG may not be able to consider or investigate the case, or may only be able to consider or investigate it to a limited extent.

10.3 Once an individual has raised allegations or a complaint that falls within the scope of this Policy, records will be held confidentially and only strictly as necessary on the relevant student/staff files in IFG. Records may also be held confidentially and information shared as necessary, for the purposes of initial support with both casework and procedures, and monitoring by IFG and its governing body. In accordance with IFG's duties under the General Data Protection Regulation and the Data Protection Act 2018 and in keeping with OIA recommendations, records will normally be retained for a minimum of 15 months and for no longer than is reasonably necessary (i.e. no longer than 6 years after the final action on the student's case, at which point the individual student file will normally be destroyed). Some deviation from this schedule can be expected for cases which, in the judgement of IFG, are unique or complex and therefore require shorter or longer record retention periods.

Processing of Special Category Data and Criminal Records Data

10.4 In operating the processes and procedures under this policy, it may be necessary for IFG to process special category data and/or criminal records data. Please refer to IFG's Data Processing Statement for further details of:

- the lawful basis for processing special category data in accordance with the General Data Protection Regulations (2018), and
- the lawful basis in accordance with the General Data Protection Regulations (2018) and condition in accordance with Schedule 2 of the Data Protection Act (2018) for processing criminal records data.

10.5 IFG will share, as necessary, information internally and with any External Officers engaged by IFG (see **Section 1: 'Procedural Integrity and Fairness'** and '**External Officers**') regarding allegations or complaints made under this Policy which may include personal, 'special category' data and criminal records data, as part of the fair and proper management of action under this Policy, and to maintain and enhance standards and good practice. The term 'as necessary' means where it is necessary to share information regarding allegations/complaints raised, in order to investigate and resolve matters under this Policy. All such information will be treated confidentially, and will be disclosed only to those individuals who need to see such data for the purposes of undertaking an Early Investigation, determining or recommending a resolution (including under the Alternative Resolution procedures - see Appendix B), or deciding what other appropriate steps can be taken. In raising a formal complaint/allegations under this policy, individuals will be asked

to indicate that they consent to their data being shared appropriately. Any questions or concerns regarding this policy can be raised by contacting the Academic Director/CEO.

Third party information

10.6 Where an individual submits evidence in support of complaints or allegations raised that fall within the scope of this Policy, and that evidence constitutes third party personal information, the relevant Officer operating that process will need to notify the third party³ that their data is being processed, in accordance with Article 14 of the GDPR.

IFG Staff Data

10.7 Information about IFG staff acting in their professional capacity may be disclosed at any stage in the procedures, including during an alternative resolution process, or to the OIA, if it forms part of the information considered under the procedures. Given the scope of this Policy, this may include special category data, which will be redacted as far as possible during the course of the procedure.

Data processing, confidentiality and record keeping on Precautionary Measures

(Appendix C)

10.8 For additional information about how data relating to precautionary measures action is processed, please see Appendix C to this Policy 'Precautionary Measures'.

Monitoring, Review and Assurance

10.9 IFG will report to its Governing Body on at least an annual basis regarding the use of this Policy. This means IFG will share limited information with its Governing Body regarding allegations or complaints made under this Policy which may include personal and 'special category' data, as part of the monitoring and review of action under this Policy, in order to maintain and enhance standards and good practice.

10.10 With reference to this Policy, IFG will:

- Record and monitor disclosures of allegations that fall within the scope of this Policy;
- Monitor outcomes of cases;
- Monitor outcomes arising from the Disclosure Procedure
- Monitor outcomes arising from Alternative Resolution processes, including any recommendations arising from Alternative Resolution processes

³<http://www.privacy-regulation.eu/en/article-14-information-to-be-provided-where-personal-data-have-not-been-obtained-from-the-data-subject-GDPR.htm> See also the Information Commissioner's Office '[Right to be informed](#)'

- Review annually all cases, recommendations and outcomes arising from cases under this Policy, as part of its annual monitoring, review and quality assurance processes;
- Provide an annual report to the Governing Body and any other relevant Institution Committees or bodies that undertake quality assurance in this area;
- Report any relevant matters to the Governing Body as appropriate, for maintenance and enhancement of quality assurance.

For any queries about this Policy, please contact the Academic Director (CEO)