

Guidance on Hearings (General provisions and procedures)

Hearings of the Misconduct Conduct Panel and Misconduct Appeals Panel

This guidance covers the following:

- A) Panel Hearing procedures – General Provisions
 - B) Hearings involving more than one student
 - Misconduct Panel Hearings
 - Misconduct Appeals Panel Hearings
 - C) Adjournment of Hearings
 - D) Proceedings of Panel Hearings, Written Representations/Statements, Representation and Accompaniment, Witnesses and Evidence
 - E) Misconduct Panel Hearing Procedure (operational details)
 - F) Misconduct Appeals Panel Hearing Procedure
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A) Panel Hearing procedures – General Provisions

1. All relevant parties, including but not limited to the student, and a member of staff (known as the School Representative) to respond to the misconduct case, or appeal, will be invited to attend, to ensure a fair and equal hearing.
2. All parties attending a hearing of either the Misconduct Panel or the Misconduct Appeals Panel (with the exception of the Panel in question and the Panel Secretary and Notetaker) will enter and leave the hearing together. For each case proceeding to a hearing of a Misconduct Panel, the Preliminary Enquiry Officer will normally act as the School Representative in bringing the case, although another member of School staff may bring the case if required. Where it is deemed appropriate by the Principal, an additional member of staff from the student's discipline may be called to attend the hearing, at the Panel Chair's discretion, to provide expert advice to the Panel on matters of professional conduct.
3. For each case proceeding to a hearing of a Misconduct Appeals Panel, where it is deemed necessary a member of School staff shall be identified by the Principal to attend the hearing to respond on behalf of the School to the appeal presented by the student. The School Principal may attend the Misconduct Appeals Panel Hearing in this capacity.
4. The Misconduct Panel, or Misconduct Appeals Panel, may request further evidence in writing or in person from either the student or staff of the School, where it is deemed necessary to reach a finding. Where further evidence is requested, the finding(s) and decision(s) of the Panel will normally be deferred and the Panel reconvened at the next available opportunity.

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5. The Misconduct Panel, or Misconduct Appeals Panel may take advice from a member (or members) of staff with appropriate clinical expertise, or other persons with such expertise, about the interpretation of medical or other evidence supplied in support of an appeal. This may take place during the course of the respective Panel Hearing, or may be sought before or after the Panel Hearing. In the event it is sought after the Hearing, the finding(s) and decision(s) of the Panel will normally be deferred and the Panel reconvened at the next available opportunity.
6. The Panel may, at its discretion, at any time during the proceedings, order the room to be vacated, or may themselves retire to another room for private discussions. Only the Panel and the Panel Secretary (plus Notetaker) will be entitled to be present at such times.
7. The student, their representative (if applicable) and the School representative shall have the right to be present during the hearing, except during the Panel deliberations, and or in the event that the Panel determines it requires private discussions. Witnesses/accompanying supporters may be permitted to attend some or all of a hearing at the discretion of the Chair. All parties will normally be present at the hearing together, except during the respective Panel's private discussions or deliberations.

B) Hearings involving more than one student

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8. If a case concerns more than one student, the Secretary to the Misconduct Panel shall determine at the outset whether each case should be heard by the same Panel in separate hearings, or by the Panel in a single hearing for all students. In the event of a single hearing for multiple students, the Secretary to the Misconduct Panel shall also determine any further variations to these procedures that shall be required to give a full and fair hearing to the case. The Secretary may as necessary consult with the Chair of the Panel on any variations to these procedures.

Misconduct Appeals Panel Hearings

9. If a matter of misconduct that is the subject of appeal concerns more than one student's appeal, the Secretary to the Misconduct Appeals Panel shall determine at the outset:
 - whether the appeals should be heard by a separate Appeals Panel for each student, or
 - by the same Appeals Panel for each student in separate hearings, or
 - by a single panel and hearing for all the students.

In the event of a single hearing for multiple students, the Secretary to the Misconduct Appeals Panel shall also determine any further variations to these procedures that shall be required to give a full and fair hearing to the case. The Secretary may as necessary consult with the Chair of the respective Misconduct Appeals Panel on any variations to these procedures.

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C) Adjournment of Hearings

10. Once a student has been served notice of a hearing of a Misconduct Panel, or of a Misconduct Appeals Panel under this policy and procedures, the Chair may, if he or she determines that there is good cause, postpone or adjourn a hearing, until a new date can be found.
11. Normally, the period of adjournment will not exceed 21 days, except in unavoidable circumstances. If a hearing is postponed or adjourned, the Panel Secretary shall notify all parties in writing of the date, time and place of recommencement of the hearing, giving notice of at least two working days. A reconvened hearing may proceed in the absence of the student if the Chair is satisfied that due notice has been served of the recommencement and there is good reason to do so.
12. A Misconduct Panel or Misconduct Appeals Panel will endeavour to reach a decision and findings without adjournment. However, in the event that the Panel determines at any point during proceedings that it needs further information in order to reach a decision or for other good cause, it shall adjourn the case. The student will be notified of the adjournment normally within 24 hours of the decision to adjourn, and the Secretary to the Panel will endeavour to collect the respective information the Panel considers it needs to reach a decision. The student will be kept informed, and the Panel will normally reconvene to continue its deliberations, reach a decision and agree its findings, within 10 working days of the original hearing date. Where feasible, the Panel may reconvene to continue deliberations remotely (i.e. by electronic means and where the Hearing part of the Panel process has been concluded).

D) Proceedings of Panel Hearings, Written Representations/statements, Representation and Accompaniment, Witnesses and Evidence

13. National Centre for Circus Arts is committed to ensuring its students are properly supported, and recognises that facing an allegation of misconduct, or an appeal against a decision of the Misconduct Panel, can be very stressful for a student. Provisions as follows are therefore made to support students throughout the misconduct processes at all stages:
 - **Students have the right to be represented**
 - **Students have the right to be accompanied**
 - **Students have the right to call witnesses**
 - **Students have the right**

Where this guidance makes reference to “the Secretary of the Panel” or the “Chair of the Panel”, this would mean the Panel at that stage of the proceedings (i.e. the Misconduct Panel or the Misconduct Appeals Panel).

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(a) **Written Statements/Representations:**

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Students must normally submit any written statements or other supporting documentary evidence (known as 'written representations') that they wish the Misconduct Panel to consider, at least 48 hours in advance of a Hearing of the Misconduct Panel. Where a student is unable, or does not want to attend a Hearing of the Misconduct Panel, they can also submit written representations in lieu of attending a Hearing, if they wish.

(b) ***Misconduct Appeals Panel Hearings***

The opportunity to make additional written representations or submit further additional documentary evidence to a Misconduct Appeals Panel will not normally be allowed, because the student's Misconduct Appeal submission will constitute the student's written representations and evidence for consideration. Only in exceptional circumstances and at the discretion of the Misconduct Appeals Panel Chair will further additional documentation or representations submitted subsequent to the Misconduct Appeal submission by the student, be allowed. If the student is not able, or does not want to attend a Hearing of the Misconduct Appeals Panel, an additional written statement in lieu of attendance will normally be allowed, at the discretion of the Panel Chair.

(c) **Representation:**

A student facing an allegation of misconduct may be represented at any point in the proceedings by a relevant individual, for example, where the student is registered with a professional organisation, they may be represented by a member of their professional organisation. A relevant individual, in the case of a student requiring reasonable adjustments, shall normally be permitted to be a representative or friend of a student. The student should provide the name of their representative to the Secretary of the Panel normally at least 48 hours in advance of the hearing. Where this timeframe cannot be met, reasons should be provided. The Chair of the Panel has the ultimate discretion to admit or refuse any representative, and will take into account the circumstances of the request, including whether due notice has been given in accordance with the procedures.

(d) **Accompaniment:**

Additionally, the student may also be accompanied by a family member or a friend (either from inside or outside the School) but as this does not constitute representation, that person will not be allowed to speak on the student's behalf. However, the Chair of the Panel will have the discretion to consider representations from the student for the friend or family member to make a statement in support of the student at the culmination of the hearing. The student should provide the name of their accompanying individual to the Secretary of the Panel normally at least 48 hours in advance of the hearing. Where this timeframe cannot be met, reasons should be provided.

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(e) **Witnesses:**

Both the student and the School may request any witnesses to attend either a hearing of the Misconduct Panel, and/or the Misconduct Appeals Panel. Both parties must inform the Chair of the Misconduct Panel or the Chair of the Misconduct Appeals Panel of the names of any witnesses they wish to call, normally at least 48 hours in advance of the hearing. The Chair of the Panel has the ultimate discretion to admit or refuse any witnesses. It is the student's responsibility to invite any witnesses they wish to attend, and it is the student's responsibility to ensure that witnesses can attend, and to provide them with any documentation. The hearing will not normally be adjourned due to the unavailability of a witness, and any decision to adjourn is the sole discretion of the Chair.

E) Misconduct Panel Hearing Procedure (operational details)

14. This section of this guidance should be read in conjunction with subsection 'Misconduct Panel Hearing Procedure' in Section 6 of the National Centre for Circus Arts Non-Academic Misconduct Policy and Procedures.
15. When the Misconduct Panel is ready to commence the hearing, the procedure set out below will be followed:
 - i. The Secretary will call the student (together with any representative or accompanying individual) to the hearing, at the same time as the School representative bringing the case, unless a reasonable adjustment is in place whereby not all parties are in attendance at the same time (eg in sensitive cases where the School has deemed that a Respondent and a Complainant should not be in attendance at the same time).
 - ii. The Chair will introduce the members of the Panel to all parties, and will ensure all parties attending the hearing introduce themselves.
 - iii. The School representative will normally present the concerns with regard to the conduct of the student to the Misconduct Panel first, and call any witnesses; however it is at the discretion of the Chair of the Panel to invite parties to speak as they deem it appropriate.
 - iv. The student facing the allegations of misconduct (or their representative) will be invited to reply to the allegations and may call witnesses. The student shall also be invited to present to the panel any mitigating circumstances which the student considers to be relevant to the case.
 - v. The student and the School representative may ask questions of each other and of any witnesses called, but these must be addressed through the Chair, who has the discretion to allow or decline any such questions.
 - vi. The Panel may ask questions of all those present at the hearing at any point during the proceedings. The Panel may call any witnesses relating to either the student or the

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School at any point during the hearing. Both the student and the School representative may call witnesses at any point during the hearing by making a request to the Chair of the Panel. Expert advisers may address any questions they have during proceedings to the Chair of the Panel.

- vii. Individuals accompanying the student for support will not normally be permitted to speak during the Hearing, but may at the discretion of the Chair be invited to make a statement in support of the student at the end of the Hearing.
- viii. At the conclusion of all presentations and questions, the student facing the allegation(s) of misconduct (and/or their representative) may address the Panel and make a closing statement. At their discretion, the Chair of the Panel may also make a closing statement.
- ix. The Chair will then confirm that the Hearing is at an end, and will clarify that in the event of a finding of misconduct by the Panel, the student will have the right of appeal against the Panel's decision(s) and/or findings, details of which will be provided in the Hearing Outcome Letter.
- x. The Chair will then declare the hearing closed, ask all parties to leave the hearing, and the Panel will enter into deliberations on the case of alleged misconduct. The deliberations of the Panel are confidential, and will be held in private, with only the Secretary and the Panel present. The Panel will determine on the balance of probabilities its findings and decision(s).
- xi. A decision of the Misconduct Panel, determined on the balance of probabilities, will be reached by a majority vote of the members of the Panel present at the hearing but will be announced as a decision of the Panel. The votes of the individual Panel members will be treated as confidential.
- xii. A Misconduct Panel will endeavour to reach a decision and findings without adjournment. However, in the event that the Panel determines at any point during proceedings that it needs further information in order to reach a decision or for other good cause, it shall adjourn the case. The Secretary to the Panel will endeavour to collect the respective information the Panel considers it needs to reach a decision. For further details on adjournments, see section C 'Adjournment of Hearings' in this Appendix.
- xiii. The student will be kept informed, and the Panel will reconvene to continue its deliberations, reach a decision and agree its findings, normally within 14 days of the original hearing date. The Panel may reconvene remotely (i.e. by electronic means).
- xiv. The decision and findings of the Misconduct Panel will be communicated in writing to the student in a Hearing Outcome letter, normally within 7 days of the date of the Hearing. Should the Chair deem it appropriate and with just cause, a verbal outcome may exceptionally be delivered on the day of the Hearing to the student and School

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Representative, immediately following the Panel's deliberations. The outcome of the Misconduct Panel may otherwise be informally communicated to the student, the National Centre for Circus Arts Principal, and relevant staff in the School prior to the Hearing Outcome Letter, if deemed appropriate by the Chair of the Misconduct Panel.

- xv. Where an outcome is communicated informally, this will not constitute formal notification of the Panel Outcome, and information shared may necessarily be limited or restricted. The formal outcome, including the full decisions and findings of the Panel, will be communicated in the Hearing Outcome Letter.
- xvi. Complex outcomes will not normally be shared informally with the student or other parties ahead of the Hearing Outcome Letter, to ensure there is clarity over the outcome.
- xvii. Should the Misconduct Panel determine that the charge(s) and/or concerns were not established, or without foundation, that decision will be communicated to all persons involved in the case, normally in writing within 7 days of the date of the hearing, but at the Chair's discretion, it may be informally communicated to the student and Principal of the School.
- xviii. The student has the right of appeal (under specific grounds) against a decision and/or findings of the Misconduct Panel. The student will be notified of their right of appeal in the Hearing Outcome Letter, and the Chair of the Panel may also notify them that in the event of a finding of misconduct, they will have the right of appeal against the finding(s) and/or decision(s) of the Misconduct Panel.

F) Misconduct Appeals Panel Hearing Procedure

- 16. This section of this guidance should be read in conjunction with subsection 'Misconduct Appeals Panel Hearing Procedure' in Section 8 of the National Centre for Circus Arts Non-Academic Misconduct Policy and Procedures.
- 17. When the Misconduct Appeals Panel is ready to commence the hearing, the following procedure will be followed:
 - i. The Secretary will call the student (together with any representative or accompanying individual) to the hearing, at the same time as the School representative attending for the case, unless any reasonable adjustment is required which would preclude this.
 - ii. The Chair will introduce the members of the Panel to all parties, and will ensure all parties attending the hearing introduce themselves.
 - iii. The Chair will determine the order of the Hearing. This may include inviting either the student or the School representative to speak first, as the Chair deems appropriate. The Chair will begin by setting out the case for the Misconduct Appeals Panel to consider. It

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is at the discretion of the Chair for the Panel to invite parties to speak throughout the hearing as they deem it appropriate. The Chair will satisfy themselves that both the student and the School representative are given fair and adequate opportunity to make any representations and to respond to questions.

- iv. The Panel will ask all questions during the hearing. Any questions that either the student or the School representative wish to ask of each other must be addressed through the Chair of the Panel. The Chair of the Panel will decide whether or not any such questions may be permitted.
- v. The Panel may ask questions of all those present at the hearing at any point during the proceedings. The Panel may call any of both parties' witnesses at any point during the hearing.
- vi. Both the student and the School representative may call witnesses at any point during the hearing by making a request to the Chair of the Panel. The Chair of the Panel has the discretion to accept or decline any witnesses called.
- vii. At the conclusion of all presentations and questions, the School representative will be asked if they have any final statement to make. The student (or their representative) will then be invited to address the Panel and make a closing statement. At their discretion, the Chair of the Panel may also make a closing statement.
- viii. The Chair of the Panel will then close the Hearing and ask all parties to leave, and will enter into deliberations. The deliberations of the Panel are confidential, and will be held in private, with only the Secretary and the Panel present. The Panel will determine on the balance of probabilities its findings and decision(s), in accordance with these procedures.
- ix. A decision of the Misconduct Appeals Panel will be reached by a majority vote of the members of the Panel present at the hearing but will be announced as a decision of the Panel. The votes of the individual Panel members will be treated as confidential.
- x. The Misconduct Appeals Panel will endeavour to reach a decision and findings without adjournment. However, in the event that the Panel determines it needs further information in order to reach a decision or for other good cause, it shall adjourn the case. The Secretary to the Panel will endeavour to collect the respective information the Panel considers it needs to reach a decision. For further details, see Section C 'Adjournment of Hearings', in this Appendix.
- xi. The student will be kept informed, and the Panel will reconvene to continue its deliberations, reach a decision and agree its findings, normally within 14 days of the original hearing date. The Panel may reconvene remotely (i.e. by electronic means).
- xii. The decision and findings of the Misconduct Appeals Panel will be communicated in writing to the student in an Appeal Hearing Outcome letter, normally within 7 days of the date of the hearing, or of the reconvened hearing. This letter will be forwarded to

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all relevant parties as deemed appropriate by the Chair. Should the Chair deem it appropriate and with just cause, a verbal outcome may be informally delivered to the student and School Representative ahead of the issue of the Appeal Hearing Outcome Letter.

- xiii. Complex outcomes will not normally be shared informally with the student or other parties ahead of the Hearing Outcome Letter, to ensure there is clarity over the outcome.
- xiv. The Misconduct Appeals Panel decision is **final**.