

## **Policy on Sexual Misconduct, Harassment and Related Behaviours**

### **National Centre for Circus Arts Policy on Sexual Misconduct, Harassment and Related Behaviours**

#### **Contents**

<b>Section of Policy</b>	<b>Contents of Section (and paragraph reference)</b>	<b>See Page No</b>
	<ul style="list-style-type: none"> <li>• <b>DEFINITIONS USED IN THIS POLICY</b></li> </ul>	<b>4</b>
	<ul style="list-style-type: none"> <li>• <b>SUMMARY OF PROCEDURES</b></li> </ul>	<b>5-6</b>
<b>1. Introduction</b>	<ul style="list-style-type: none"> <li>• <b>Other allied policies (1.11)</b></li> <li>• <b>Managing potential breaches of this Policy (1.12)</b></li> <li>• <b>Delegation (1.17)</b></li> <li>• <b>Procedural integrity and fairness (1.18)</b></li> <li>• <b>External Officers (1.19)</b></li> </ul>	<b>7</b>
<b>2. Definitions</b>	<ul style="list-style-type: none"> <li>• <b>Definitions of breaches of this Policy (2.1)</b></li> <li>• <b>Breaches of this Policy by students (2.3)</b></li> <li>• <b>Breaches of this Policy by staff (2.4)</b></li> <li>• <b>Responding to breaches of this policy (2.5)</b></li> <li>• <b>Examples of behaviours that would breach this Policy (sexual misconduct, harassment and related behaviours) (2.7)</b></li> <li>• <b>Definition of sexual misconduct under this Policy (2.9)</b></li> <li>• <b>Definition of harassment under this Policy (2.10)</b></li> <li>• <b>Definition of 'related behaviours' under this Policy (2.11)</b></li> <li>• <b>Definition of consent under this Policy (2.12)</b></li> </ul>	<b>11</b>
<b>3. Scope and Principles of this Policy and its procedures</b>	<ul style="list-style-type: none"> <li>• <b>Where this policy applies (3.1)</b></li> <li>• <b>Summary of who the procedures cover (3.4)</b></li> <li>• <b>Raising a complaint/allegations (3.7)</b></li> <li>• <b>Non-recent allegations (3.12)</b></li> <li>• <b>Anonymous allegations/allegations raised by third parties on behalf of a Complainant (3.21)</b></li> <li>• <b>Allegations raised by individuals who are not members of National Centre for Circus Arts(including non-recent allegations) (3.26)</b></li> </ul>	<b>15</b>
<b>4. General Principles</b>	<ul style="list-style-type: none"> <li>• <b>Management of cases under this Policy (4.5)</b></li> <li>• <b>Written and Oral Representations: Notification of Legal Implications (4.9)</b></li> <li>• <b>Timeframes (4.10)</b></li> <li>• <b>Issuing Outcomes (4.10)</b></li> </ul>	<b>19</b>
<b>5. Outcomes of cases</b>	<ul style="list-style-type: none"> <li>• <b>Outcomes of Stage 1 of these procedures (5.1)</b></li> <li>• <b>Informing Complainants (5.4)</b></li> <li>• <b>Informing Respondents (5.10)</b></li> </ul>	<b>22</b>
<b>6. Complaints under this Policy</b>	<ul style="list-style-type: none"> <li>• <b>Students (6.2)</b></li> <li>• <b>Complainants</b></li> </ul>	<b>24</b>

	<ul style="list-style-type: none"> <li>• <b>Respondents</b></li> <li>• <b>Appeals/Complaints regarding Precautionary Measures</b></li> <li>• <b>Complaints regarding Alternative Resolution</b></li> <li>• <b>Appeals/complaints regarding referral of a case to the Misconduct Panel</b></li> </ul>	
<b>7. Limitations</b>		<b>25</b>
<b>8. Right to choose action, or withdraw a complaint/allegations</b>		<b>26</b>
<b>9. Vexatious or malicious reporting</b>		<b>27</b>
<b>10. Data processing, confidentiality and record keeping</b>	<ul style="list-style-type: none"> <li>• <b>Case Management (10.1)</b></li> <li>• <b>Processing of Special Category Data and Criminal Records Data (10.4)</b></li> <li>• <b>Third party information (10.7)</b></li> <li>• <b>National Centre for Circus Arts Staff Data (10.8)</b></li> <li>• <b>Data processing, confidentiality and record keeping relating to Precautionary Measures (Appendix C) (10.9)</b></li> <li>• <b>Monitoring, Review and Assurance (10.10)</b></li> </ul>	<b>27</b>
<b>APPENDICES (PROCEDURES)</b>		
<b>Appendix A</b>	<ul style="list-style-type: none"> <li>• <b>Stage 1 – Initial Support and Early Investigation Stage</b></li> </ul>	
<b>Appendix B Appendix B1 Appendix B2</b>	<ul style="list-style-type: none"> <li>• <b>Stage 2 – Alternative Resolution</b> <ul style="list-style-type: none"> <li>○ <b>Stage 2 – Alternative Resolution by Agreement</b></li> <li>○ <b>Stage 2 – Alternative Resolution by Panel</b></li> </ul> </li> </ul>	
<b>Appendix C Appendix C1</b>	<ul style="list-style-type: none"> <li>• <b>Precautionary Measures</b> <ul style="list-style-type: none"> <li>○ <b>Precautionary Measures Referral Form</b></li> </ul> </li> </ul>	
<b>Appendix D</b>	<ul style="list-style-type: none"> <li>• <b>Procedures regarding complaints/allegations that have been reported to the Police</b></li> </ul>	
<b>Appendix E</b>	<ul style="list-style-type: none"> <li>• <b>Risk Assessment</b></li> </ul>	

This policy has been drafted in accordance with 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' 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/>

# National Centre for Circus Arts Policy on Sexual Misconduct, Harassment and Related Behaviours

## 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 National Centre for Circus Arts) who has brought a complaint or allegation regarding the behaviour of a student, staff member or individual external to the School 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 National Centre for Circus Arts) who is alleged to have breached this policy;
- c) **'Disclosure'**: where an individual discloses that they are a survivor of sexual/other violence, 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 'related 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 the School'**: member(s) of staff from National Centre for Circus Arts and/or External Officers, appointed by the Chief Executive 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 the School 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 the School who are engaged by the School 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) **'Initial Supporter'**: member(s) of staff from National Centre for Circus Arts who provides initial support to a potential Complainant.
- h) **'Early Investigation Officer'**: a member of National Centre for Circus Arts staff/External Officer, appointed by a member of Senior Management, who conducts the 'Early Investigation' at Stage 1 of the procedures, to determine next steps
- i) **'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 National Centre for Circus Arts to be the deciding factor in what action might be possible. Please see Section 3 of this Policy for a fuller description.
- j) **'Anonymous allegations'**: allegations that either do not identify the alleged Complainant and/or alleged Respondent)
- k) **'In writing'**: this includes email communications.

**Additional definitions, including breaches of this Policy, can be found in Section 2 of this Policy.**

## SUMMARY OF PROCEDURES

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

**Stage 1: Initial Support and Early Investigation Phase** – applies to anybody, even individuals who are not members of National Centre for Circus Arts. Appendix A sets out the Stage 1 procedures; the Stage 1 Report Form can be found as Appendix A1.

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

Please see below for a fuller summary, and the relevant appendices for full details.

### **Stage 1: Initial Support and Early Investigation Stage (Appendix A)**

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 Early Investigation Officer, or the Initial Supporter may continue managing the case and take on the role of Early Investigation Officer.

Whilst the Early 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 Early Investigation Officer. Stage 1 applies to all allegations raised; please see Appendix A for the applicable procedures.

### **Stage 2: Alternative Resolution (Appendix B), encompassing:**

- **Alternative Resolution by Agreement (Appendix B1), and**
- **Alternative Resolution by Panel (Appendix B2)**

**Stage 2 applies only to cases where both the Complainant and the Respondent are students.** It provides two different mechanisms by which an alternative resolution to a disciplinary 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 Early 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, neither of these alternative resolution processes will 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 National Centre for Circus Arts.** 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 National Centre for Circus Arts 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 National Centre for Circus Arts 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 the School 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 Early Investigation Officer together with the Initial Supporter or another appropriate officer of the School (e.g. School 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 Principal of the School (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.

# The National Centre for Circus Arts Policy on Sexual Misconduct, Harassment and Related Behaviours

## 1 Introduction

- 1.1 National Centre for Circus Arts (“the School” or “National Centre for Circus Arts”) seeks to maintain an environment which is safe and conducive for all members of the school, 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 the School’s published material, training and expectations covering Understanding Consent, Calling Out and Calling In, What To Do If You’ve Been Called Out, and our Inclusivity Policy and Protocols.
- 1.2 The National Centre for Circus Arts Policy on Sexual Misconduct, Harassment and Related Behaviours (the ‘Policy’) underpins and is founded upon the following principles and National Centre for Circus Arts’s commitment to:
  - **establishing a culture of mutual respect and support;**
  - **creating a safe environment in which the relationship of trust and confidence between the School and the members of its community is paramount and**
  - **ensuring a zero tolerance for sexual violence and misconduct, harassment and related behaviours.**
- 1.3 All members of National Centre for Circus Arts, 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 National Centre for Circus Arts is a Higher Education Provider registered with the Office for Students and is a subscriber to the Office of the Independent Adjudicator (OIA). This Policy and its procedures are drafted in accordance with the Principles enshrined in the OIA’s Good Practice Frameworks and with the expectations outlined in the Office for Students’ Statement of Expectations for Preventing and Addressing Sexual Misconduct and Harassment. In the event of any future sector requirements that fall within the scope of this Policy, the Policy will be reviewed accordingly.
- 1.5 This Policy shall apply to all students (individually and collectively to any group of students) registered for a course of study at National Centre for Circus Arts, irrespective of their mode or place of study. This Policy shall apply at all times during the student’s registration with the School and will not be restricted to conduct or other issues arising during term time or on the School premises, or in respect of the School itself or the School-related activities, including any professionally-related or other activities undertaken whilst a registered student.
- 1.6 This policy also applies to staff of National Centre for Circus Arts; 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 the relevant HR process as necessary.

- 1.7 National Centre for Circus Arts therefore expect all students and staff to read and be familiar with this Policy, and maintain good conduct at all times whilst on School premises, or engaged in any course-related activities, including in external environments and outside performances. Students must comply with instructions given by the School; failure to do so may result in action being taken against students under the School's Non-Academic Misconduct Policy. For staff, disciplinary action may be taken under the School's HR procedures. These rules apply during and outside term-time, throughout the whole of the student's registration at the School and a staff member's contract with the School. The School's jurisdiction under this policy and procedures is not limited to its own premises.
- 1.8 Under this Policy and in accordance with the School's ethos, all students and staff of National Centre for Circus Arts 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.
- 1.9 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, the School determines that other procedures should apply.
- 1.10 In the operation of the processes under this Policy, the School 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.
- 1.11 This Policy encompasses the following approach:
  - 1.11.1 It sets out expectations for behaviour that will allow all members of National Centre for Circus Arts, whether students or staff, to thrive;
  - 1.11.2 It provides clear delineation of what National Centre for Circus Arts 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 the School in its civil processes has no jurisdiction to form judgements on;
  - 1.11.3 It has an initial stage (see Appendix A: Stage 1 Initial Support and Early Investigation Stage) that provides a consistent yet flexible approach to supporting individuals, including where relevant, the reporting party and the party facing allegations, and the School in handling allegations/disclosures of sexual violence, harassment or related unacceptable behaviours;
  - 1.11.4 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.

### ***Other allied policies***

1.11 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)
- [Support Through Studies Policy](#) (for students)
- [Emergency Powers of Exclusion and Suspension](#) (for students)
- [Student Complaints Procedure](#)
- School Safeguarding Policy
- School HR procedures (including disciplinary and grievance procedures, for staff)

### ***Managing potential breaches of this policy***

1.12 Please see Section 2 – Definitions: “Definitions of breaches of this Policy” for how National Centre for Circus Arts defines breaches of this Policy.

1.13 All reports of unacceptable behaviour that falls within the scope of the definitions of sexual misconduct, harassment and related 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 Initial Support and Early Investigation Stage) 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.

1.14 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.

1.15 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 National Centre for Circus Arts.

1.16 However, behaviour which constitutes a breach of this Policy may also be deemed by the School to be possible misconduct, and where deemed appropriate by officers of the School (which includes, where applicable, External Officers<sup>1</sup> engaged by National Centre for Circus Arts to act on its behalf in the course of operating any of the School’s procedures), a case may be referred into the procedures under the Non-Academic Misconduct Policy<sup>2</sup> for students, or referred into HR processes for staff. Consequently, allegations raised may be dealt with under each policy as necessary. For

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<sup>1</sup> See ‘Procedural Integrity and Fairness’ and ‘External Officers’ further on in Section 1 of this Policy

<sup>2</sup> The Non-Academic Misconduct Policy can be found at: [ncca-school-non-academic-misconduct-policy-appx.pdf](https://nationalcircus.org.uk/ncca-school-non-academic-misconduct-policy-appx.pdf) ([nationalcircus.org.uk](https://nationalcircus.org.uk))

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***

- 1.17 Any reference in this Policy and procedures to an Officer of National Centre for Circus Arts (which includes staff from the School or External Officers appointed by the School to act on its behalf – see **‘Procedural Integrity and Fairness’** and **‘External Officers’** in section 1) 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, providing always 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 Chief Executive, such references include the Chief Executive’s nominee, nominated by the Chief Executive to act on their behalf in any matters which may fall within the scope of this policy, including matters which may constitute possible misconduct.

### ***Procedural integrity and fairness***

- 1.18 Integrity and fairness are at the heart of all the School’s policies and procedures. National Centre for Circus Arts has a number of close artistic and historical links with similar small specialist higher education providers of Circus and allied artistic disciplines. We recognise that there may be times where the involvement in our processes and procedures of one or more individuals who are located within a similar or cognate higher education context and who are fully independent of National Centre for Circus Arts, may be of substantial benefit to students, providing assurances against bias and prejudice, and giving independent oversight of our procedures and processes. This oversight also helps to ensure fairness and reasonableness, and maintain and enhance quality.

### ***External Officers***

- 1.19 In operating any of the processes or procedures under this Policy, National Centre for Circus Arts may therefore, as necessary, involve appropriate members of staff from one or more similar small specialist higher education providers of Circus and allied artistic disciplines, to support those processes, and/or for procedural advice and guidance. This means that such members of staff may as necessary fulfil a procedural role where normally the policy indicates this will be a member of School staff. For ease of reference, National Centre for Circus Arts terms such members of staff to be ‘External Officers’. No proceedings under this Policy shall therefore be invalidated by virtue of the involvement of an External Officer.
- 1.20 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 National Centre for Circus Arts, at the request of the Chief Executive or their nominee. No proceedings under this Policy shall therefore be invalidated by virtue of the involvement of an External Officer procured by National Centre for Circus Arts.

- 1.21 Where it has good cause<sup>3</sup> to do so, in accordance with the General Data Protection Regulations 2018 (GDPR) the School 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 student, it is at the Chief Executive'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 the School as:

**"A breach of, or damage to, the relationship of trust and confidence that exists between the individual and the School, 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 related behaviours are deemed by National Centre for Circus Arts to be a breach of this Policy. In this section, please see below for definitions of sexual misconduct, harassment and related behaviours, and for examples of behaviours that would breach this Policy. The list of examples is not exhaustive.

### *Breaches of this Policy by students*

- 2.3 Where a student of National Centre for Circus Arts 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 Early Investigation Officer. Where a student is alleged to have breached this policy, the Early Investigator (or, in exceptional cases, other senior officer of the School such as the Head of Academic Administration and Student Support) 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 Support Through Studies procedures).

### *Breaches of this Policy by staff*

- 2.4 A breach of this Policy by a staff member of National Centre for Circus Arts may constitute a disciplinary offence and may be referred into the relevant HR procedures of the School, as deemed appropriate by the Early Investigation Officer.

### *Responding to breaches of this policy*

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<sup>3</sup> 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 School misconduct procedures being able to be concluded.

- 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 the School (or External Officers acting on behalf of the School) will take account of the wishes of the Complainant in this regard. However, National Centre for Circus Arts 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 National Centre for Circus Arts 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 the School's duty of care must supersede the wishes of the Complainant. For example, National Centre for Circus Arts 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. In considering what adjustments may be required, the School 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 related 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) 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);
  - i) Coercive demands for favours (including sexual favours);
  - j) 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);

- k) 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);
- l) 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, offend or harm;
- m) Repeatedly engaging in unwanted interaction, including online/via social media (to note, multiple or repeated incidents may be deemed by the School to be more serious than a single act);
- n) 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;
- o) 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;
- p) Monitoring another person’s use of the internet, email or any other form of electronic communication;
- q) 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, National Centre for Circus Arts.

***Definition of sexual misconduct under this Policy***

2.9 Under this Policy, National Centre for Circus Arts 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 the School.”**

***Definition of harassment under this Policy***

2.10 Under this Policy, National Centre for Circus Arts defines **harassment** as:

**“Any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. 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.

Unlawful harassment may involve conduct of a sexual nature (sexual harassment), 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 ‘related behaviours’ under this Policy***

2.11 Under this Policy, National Centre for Circus Arts defines ‘related behaviours’ as:

**“Behaviours which do not specifically fall under the School’s definition of ‘sexual misconduct’ or ‘harassment’, but which are other unacceptable behaviours that may constitute a breach of the Policy on Sexual Misconduct, Harassment and Related Behaviours.”**

***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, National Centre for Circus Arts 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. 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 National Centre for Circus Arts) that the behaviour of one or more students constitutes a breach of this Policy and/or the Non-Academic Misconduct Policy, in respect of sexual misconduct, harassment and related behaviours.**
  
- b) **Allegations are received from any individual that the behaviour of a member (or members) of staff of the School 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 National Centre for Circus Arts constitutes a breach of this Policy.**

3.2 Any reported alleged behaviour, whether it may constitute possible misconduct, will normally be initially managed under the Stage 1 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 the National Centre for Circus Arts Policy on Sexual Misconduct, Harassment and Related 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 ‘Initial Support & Early Investigation Stage’** applies to all students and staff of National Centre for Circus Arts, and also to individuals who are external to the School. 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 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.

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 Chief Executive, of National Centre for Circus Arts is the subject of allegations that fall within the scope of this Policy, the matter will be referred to the Chair of the School'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 related behaviours in the following ways:

- Under this Policy, by:
  - approaching an officer of National Centre for Circus Arts and making a report/raising allegations verbally, or
  - by contacting them in writing (eg via email or TEAMS), or
  - by completing the Stage 1 Report Form (**Appendix A1**).
- under the Non-Academic Misconduct Policy, by reporting allegations to an officer of the School 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 the School or by submitting a formal Stage 2 complaint to the School using the Student Complaint form (the form can be found on TEAMS).

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. National Centre for Circus Arts 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 National Centre for Circus Arts recognises that incidents concerning sexual misconduct, harassment, and related 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 the School 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.
- 3.11 Raising a complaint/allegations under this Policy or another National Centre for Circus Arts policy does not prevent a Complainant from reporting the matter to the Police at any time (even where the School’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, the School 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 National Centre for Circus Arts’s internal procedures;
  - Subject to the judgement of the Early Investigation Officer, alleged incidents that occurred more than 6 months before the date they were reported may be deemed to be ‘non-recent’ (see below).
- 3.13 Generally, the Early 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 the School, 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 Early Investigation Officer to be ‘non-recent’ if the passage of time that has occurred reasonably prevents or inhibits National Centre for Circus Arts 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 the School from investigating whether there has been a potential breach of this Policy, if the School 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 The School will make all reasonable efforts to investigate allegations where the Early 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 the School 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 the School 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 a School (including where they may previously have been a member), the matter shall be referred to the Chief Executive of the School or their nominee, who shall undertake a risk assessment (using **Appendix E**) to determine together with one or more members of the School's Senior Management Team as deemed necessary by the National Centre for Circus Arts Chief Executive, next steps including:
- 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 National Centre for Circus Arts receives a disclosure of a non-recent allegation regarding the behaviour of a student or staff member of the School, or of an individual external to the School, and the officer and/or the Principal of the School are concerned that the matter may need to be reported to the Police in accordance with the School's duty of care, the matter may be referred to the National Centre for Circus Arts Chief Executive. Together with one or more members of the School's Senior Management Team (as deemed necessary by the Chief Executive), 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 the School).

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

- 3.21 National Centre for Circus Arts defines anonymous allegations as allegations that either do not identify the alleged Complainant and/or alleged Respondent.
- 3.22 National Centre for Circus Arts 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 the School, except where the School is satisfied that just cause and/or reasonable grounds exist that the allegations do not warrant consideration.
- 3.23 Because National Centre for Circus Arts 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 the School in what action may be taken.
- 3.24 The principles of natural justice and fairness govern all formal School procedures. Where a Complainant and/or a Respondent is either unidentified, or not clearly identified, in allegations received by the School, this may prevent a Respondent from being able to respond properly to such allegations and may prevent or inhibit National Centre for Circus Arts from meaningfully investigating them. The School will take such principles of natural justice and fairness into account when determining any action to be taken or not taken.

***Stage 1 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 Head of Academic Administration and Student Support will normally act as the Early Investigation Officer, although where necessary this may be another member of staff nominated by the Chief Executive. The Early Investigation Officer will complete a Stage 1 Report and the Head of Academic Administration and Student Support will file the Report in the School's records. In consultation with senior officers of the School as appropriate, the Early Investigation Officer will determine whether there are any matters arising from the allegations that the School 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 National Centre for Circus Arts (including non-recent allegations)***

- 3.26 Where allegations are received from any individual who is not a member of National Centre for Circus Arts that the behaviour of an individual who is also not a member of the School 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 National Centre for Circus Arts 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 over-arching 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 National Centre for Circus Arts 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 Early 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 National Centre for Circus Arts 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 the School 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 related behaviours on the part of an individual who is not a member of the School, 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 School 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 National Centre for Circus Arts 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 the School 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 the School and/or Chief Executive) as appropriate.

***Issuing Outcomes***

- 4.11 A written decision issued by an officer of National Centre for Circus Arts (including an External Officer acting on behalf of National Centre for Circus Arts) 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 the School and/or the matter may be referred for consideration under another procedure, following consultation with the Complainant and Respondent as deemed appropriate by National Centre for Circus Arts.
- 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 Early Investigation Officer determines the case might warrant referral under another procedure (e.g. Non-Academic Misconduct), the Early Investigation Officer has the discretion to make the decision they feel is most appropriate. However, in these circumstances, should they wish, the Early Investigation Officer may seek a review of the situation by the Head of Academic Administration and Student Support (or another member of the School'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 National Centre for Circus Arts procedures.
- 4.14 If an officer of National Centre for Circus Arts(including External Officers) carrying out any stage of this procedure and/or the Chief Executive 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'.

## **5 Outcomes of cases**

- 5.1 As a general principle, National Centre for Circus Arts will act within its legitimate power to ensure that all parties are kept informed appropriately of outcomes. However, the School 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 see also section 11 'Data Processing, Confidentiality and Record Keeping' for further information).
- 5.2 At any stage, there is an opportunity for National Centre for Circus Arts 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 National Centre for Circus Arts 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 Early 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 Early Investigation Officer's decision, and, as far as is practicable, the reason(s) for this decision. However, the information that the Early 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 Early 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 Early 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 Shift<sup>4</sup>, 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 National Centre for Circus Arts'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

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<sup>4</sup> <https://info.culture-shift.co.uk/get-data-sharing-guidance>

that the School is exercising its official authority in ensuring its responsibilities and duty of care to 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<sup>5</sup> 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 the School 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 the School 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 Early 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 Early 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:

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<sup>5</sup> <https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/prevent-and-address-harassment-and-sexual-misconduct/statement-of-expectations/>

- The Non-Academic Misconduct Policy
- The Emergency Powers of Exclusion and Suspension
- Support Through Studies Policy and Procedures

## 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. The Student Complaints Procedure can be located at [draft-ncca-student-complaints-procedure-sept-2022.pdf \(nationalcircus.org.uk\)](https://www.ncca-school-non-academic-misconduct-policy-appx.pdf). More information about complaints regarding the Stage 1 Procedure can be found in Appendix A to this Policy.

#### **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 either of the *Stage 2 Alternative Resolution processes* should follow the procedures outlined in 'Appendix B: Alternative Resolution Procedures'.

#### **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 Early 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 [ncca-school-non-academic-misconduct-policy-appx.pdf \(nationalcircus.org.uk\)](https://www.ncca-school-non-academic-misconduct-policy-appx.pdf) 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 the School's HR Manager 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 Registrar & Head of Compliance.

#### **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 Registrar & Head of Compliance.

## **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 National Centre for Circus Arts procedure (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 Processes (Appendix B) under this Policy are limited to addressing allegations of behaviour that breaches this and/or any other National Centre for Circus Arts policy in respect of alleged sexual misconduct, harassment and/or related behaviours, on the part of one or more students who are registered students of National Centre for Circus Arts. 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 National Centre for Circus Arts 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 the School 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 National Centre for Circus Arts (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 the School.

- 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 National Centre for Circus Arts 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.
- 8.3 As far as possible, officers of the School 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 the School 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 National Centre for Circus Arts, and action may proceed or continue to proceed without the engagement of the Complainant.
- 8.4 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 the School 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.
- 8.5 Where a Complainant has verbally indicated they wish to withdraw a complaint or allegations, the appointed officer of the School handling the case may determine that the procedure may temporarily be held in abeyance pending written confirmation.
- 8.6 Where a complaint/allegation is withdrawn by a Complainant the appointed officer of the School will determine the most appropriate course of action. This may include the following:
- a) No action or further action under this or any other National Centre for Circus Arts policy or procedure;
  - b) Termination of proceedings that have already commenced under this procedure or another National Centre for Circus Arts procedure;
  - c) No further action under this procedure, but referral of the matter into another National Centre for Circus Arts procedure;
  - d) The continuation of proceedings that have already commenced under this procedure, where it is most appropriate to do so.
- 8.7 Where a complaint/allegation is withdrawn by a Complainant but the appointed officer of the School 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 National Centre for Circus Arts takes reports of sexual violence, harassment and related 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 the School.

- 9.2 Where it comes to light that malicious allegations concerning students and/or staff of the School have been raised by individuals who are not members of the National Centre for Circus Arts community, the School will support the affected respondents in reporting matters to the Police, should they choose to do so.

## **10 Data processing, confidentiality and record keeping**

### ***Case Management***

- 10.1 National Centre for Circus Arts 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 the School and wishes the School 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, National Centre for Circus Arts 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 the School. 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 the School and its governing body. In accordance with the School'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 the School, 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 the School to process special category data and/or criminal records data. Please refer to the School'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 National Centre for Circus Arts will share, as necessary, information internally and with any External Officers engaged by the School (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 Head of Academic Administration and Student Support.

#### ***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 Early Investigation Officer will need to notify the third<sup>6</sup> party that their data is being processed, in accordance with Article 14 of the GDPR.

#### ***National Centre for Circus Arts Staff Data***

10.7 Information about National Centre for Circus Arts staff acting in their professional capacity may be disclosed at any stage in the procedures, including to an Alternative Resolution Panel, 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 ‘Precautionary Measures’.

#### ***Monitoring, Review and Assurance***

10.9 National Centre for Circus Arts will report to its Board of Governors on at least an annual basis regarding the use of this Policy. This means the School 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, the School will:

- Record and monitor disclosures of allegations that fall within the scope of this Policy;
- Monitor outcomes of cases;

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<sup>6</sup> <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’](#)

- Monitor outcomes arising from Stage 1
- Monitor outcomes arising from Stage 2 Alternative Resolution processes, including any recommendations by Alternative Resolution Panels
- 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 School Governing Body and any other relevant School 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.

**STAGE 1: Initial Support & Early Investigation Stage**

- Before operating this Stage of the procedures under the Policy on Sexual Misconduct, Harassment and Related Behaviours, please read ensure you have read section 'Breaches of the policy' in Section 1 of the Policy.

**1. A Stage 1 Initial Support Meeting and Early Investigation** under this Policy may be instigated in any of the following instances:

- a) **Allegations are received from any individual (including students, staff and non-members of the Conservatoire) that the behaviour of one or more students constitutes a breach of this Policy and/or the Non-Academic Misconduct Policy, in respect of sexual misconduct, harassment and related allegations;**
- b) **Allegations are received from any individual that the behaviour of a member (or members) of staff of their School constitutes a breach of this policy.** In such cases, the matter will be referred into the Stage One procedure (Initial Support Meeting & Early Investigation) of this Policy, but cannot progress to any of the procedures under this Policy beyond Stage One. The Early Investigation Officer will as appropriate and in consultation with the Complainant refer the matter to the relevant HR procedures of the School or Shared Services, as appropriate.
- c) **Allegations are received from any individual that the behaviour of an individual who is neither a member of the School nor of the wider Conservatoire constitutes a breach of this Policy in respect of Sexual Misconduct, Harassment and Related Behaviours (including non-recent allegations).** In such cases, the matter will be referred into the Stage One procedure (Initial Support Meeting & Early Investigation) of this Policy, but cannot progress to any of the procedures under this Policy beyond Stage One. The Early Investigation Officer will as appropriate and in consultation with the Complainant, will determine next steps with regard to any support requirements (including referral to/engagement with external services) and will determine whether there are any other measures<sup>1</sup> that should be taken.

**2. Important points to consider**

- This Stage involves an Initial Support Meeting which may be a separate meeting that forms part of an Early Investigation, or may in itself comprise and conclude the Early Investigation Stage.
- Stage 1 may identify the need for Precautionary Measures (see Appendix C) to be instigated.

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<sup>1</sup> Such measures may include, for example, whether the matter should be reported to the Police (with the consent of the Complainant), and whether the disclosure impacts upon the School's Duty of Care to its students.

- Stage 1 includes a procedure for handling non-recent allegations (see section 6, below).
- Where allegations have been reported to the Police, please consult Appendix D.

***Purposes of Stage 1:***

There are two purposes of Stage 1:

- a) **SUPPORT:** To provide immediate support, identify any additional/further support (including external support) needed by the Complainant, whether there is a need to instigate Precautionary Measures (or take any other emergency action), to explain the Conservatoire's Procedures under this policy (and where necessary allied procedures such as the Non-Academic Misconduct Procedure), to gather initial information and evidence, to explore potential options with the student and wherever possible, to agree next steps;
- b) **EARLY INVESTIGATION:** To instigate/undertake the initial investigation of a complaint or allegations raised, in order to determine next steps.

**3. STAGE 1 Procedure**

- 3.1 Upon receiving allegations/a complaint about behaviour or action that may fall under the scope of this policy, an Initial Support meeting should take place. This meeting may form part of, or conclude, the Early Investigation.
- 3.2 The person conducting the Initial Support meeting may also be the Early Investigation Officer appointed by a member of senior management in the relevant member School, or they may refer the matter to Shared Services where the Academic Registrar will determine an appropriate member of Conservatoire Staff to undertake the Early Investigation Officer role. The person receiving the complaint/disclosure of allegations shall determine whether the Complainant needs to be referred to another member of staff for the Early Investigation meeting.
- 3.3 Where, following an Initial Support meeting the Early Investigation Officer role is assigned to another member of staff, the Initial Supporter will forward any notes they made to the Early Investigation Officer. The Complainant's agreement will be sought before the notes are forwarded, and the notes will be shown to the Complainant ahead of being forwarded, so that they are aware of the content and can discuss this with the Early Investigation Officer. Where the Complainant does not agree that the notes can be forwarded, the matter will not normally be progressed unless the Initial Supporter considers that there may be a safeguarding issue which overrides the wishes of the Complainant.

- 3.4 The Early Investigation Officer will review the information thus far gathered, and will determine whether any investigative and/or supportive action for both the Complainant and Respondent is necessary before completing a Stage 1 Report. The Early Investigation Officer will assure themselves that they have sufficient information to reach this determination, and may seek further information/clarification as necessary in order to do so.
- 3.5 Following any initial investigations, the Early Investigation Officer will write a Stage 1 Report (a template for this is provided as Appendix A1) using the notes as necessary, and the report will be released to the Complainant and the Respondent. The notes from any individual meetings conducted with any party (including witnesses) by the Initial Supporter and/or Early Investigation Officer in respect of allegations/complaints made will not normally be released with the report. However, should a student case necessitate referral to a Misconduct Panel where the Respondent must consequently answer to allegations of misconduct, notes from meetings, redacted as appropriate, will form part of the evidence that the Panel must consider and therefore will normally need to be disclosed to all parties concerned (the Respondent, the Complainant and the Panel).
- 3.6 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 the Conservatoire 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. Officers of the Conservatoire will determine what constitutes a reasonable period of time, taking into account the circumstances of the Complainant and alleged Respondent, and any other relevant factors (such as holiday periods; whether a complaint has been made to the Police etc.).
- 3.7 The Early Investigation Officer may find it is necessary to meet with the Respondent in order to determine the most appropriate next steps towards closing the Early Investigation. It is at the discretion of the Early Investigation Officer, taking account of the wishes of the Complainant, as to whether this is necessary and appropriate.

**4. Written and oral representations; Notification of legal implications**

- 4.1 Please see Section 11 of the Policy for information about the need to provide notification of legal implications with regard to any admissions made, written representations submitted or notes produced by any individual under any of the processes under this Policy.

**5. Complaints against the Stage 1 Procedure**

***Complainants***

5.1 Complainants who wish to make a complaint against any aspect of the procedures under this Policy should use the Student Complaints Procedure. The Student Complaints Procedure can be located at <http://www.cdd.ac.uk/policies/student-related-policies/>.

5.2 However, Complainants cannot make a complaint about the Early Investigation Officer's decision on the basis that the decision differs from the wishes of the Complainant. For example, a Complainant cannot complain that the Early Investigation Officer determined that action should be taken when the preference of the Complainant was that no action be taken. Complaints made on the basis of disagreement with the Early Investigation Officer's decision will not be considered.

***Respondents***

5.3 Respondents who wish to raise a matter of complaint about procedural/administrative errors or issues, or the conduct of staff during the Stage 1 Procedure, may do so using the Student Complaints Procedure. The Student Complaints Procedure can be located at <http://www.cdd.ac.uk/policies/student-related-policies/>.

5.4 However, the following matters may not be raised under the Student Complaints Procedure by respondents:

5.4.1 Complaints about a decision to impose precautionary measures upon a respondent. These should be raised by making written representations to the CEO. (Please see Appendix C: Precautionary Measures for more detail);

5.4.2 Complaints about a decision to refer a case into either of the Alternative Resolution processes (see Appendix B1 'Alternative Resolution by Agreement' and Appendix B2 'Alternative Resolution by Panel'). Respondents have the opportunity to choose to engage with either Alternative Resolution process, and must be willing to participate. Where a Respondent is not willing to participate in either Alternative Resolution by Agreement or Alternative Resolution by Panel, the process will not take place;

5.4.3 Complaints about a decision to refer allegations concerning student behaviour for investigation under the Non-Academic Misconduct policy. The decision to refer allegations is based on the judgement of the Early Investigation Officer and constitutes one of the possible outcomes of Stage 1 under this Policy. Any student who is referred into the non-academic misconduct procedures will have the opportunity to make representations at relevant points in those procedures.

5.4.4 Complaints about a decision to report allegations which may constitute a possible criminal offence to the Police. No-one may prevent anyone else from reporting or

referring a matter to the police. Where the Complainant reports allegations to the Police, this is their right. Where the Conservatoire determines in accordance with its duty of care obligations that allegations which may constitute a possible criminal offence should be reported to the Police, this is subsequently a matter for the Police.

## Initial Support & Early Investigation Stage

### STAGE 1 REPORT FORM

- *This form should be used by officers of the Conservatoire as the formal record of an Initial Support and Early Investigation meeting under Stage 1 of the Policy on Sexual Misconduct, Harassment and Related Behaviours.*
- *This form may be completed as necessary by both the Initial Support and Early Investigation Officer, where these are different people.*
- *Both the Initial Supporter and the Early Investigation Officer may use this form as a means of creating a record from any meetings held under the Stage 1 procedure of the Policy.*
- *The Early Investigation Officer may continue with completing a Stage 1 form that has been initially completed by the Initial Supporter if they are the same person. Where the Early Investigation Officer is a different person from the Initial Supporter, they should normally complete a new Stage 1 form in full unless they are satisfied good reason exists not to do so.*
- *More than one form may be used to comprise the record of the Initial Support and Early Investigation stage (Stage 1 under the Policy).*
- *Complainants may also use this form to raise a complaint/allegations of a potential breach of the Policy.*
- *Please complete all sections of the form that are relevant.*
- *Please see the last page for the Stage 1 procedural flow chart.*

The Conservatoire's definition of **a breach of the Policy** is as follows:

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

The Conservatoire's definition of **sexual misconduct** is as follows:

**"unacceptable behaviour of a sexual nature that breaches or damages the relationship of trust and confidence that exists between the individual, and the School and Conservatoire."**

The Conservatoire's definition of **harassment** is as follows:

**"two or more occurrences of behaviour or action that causes alarm or distress, including putting people in fear of violence."**

The Conservatoire's definition of **'related allegations'** is as follows:

**"behaviours which do not specifically fall under the Conservatoire's definition of 'sexual misconduct' or 'harassment', but which are unacceptable behaviours that may constitute a breach of the Policy on Sexual Misconduct, Harassment and Related Behaviours."**

A list of types of behaviours that may breach the Policy is provided in Section 2 of the Policy.

# The Conservatoire Policy on Sexual Misconduct, Harassment and Related Behaviours

## APPENDIX A1

### SECTION A: Completion of the form

(Please indicate who has completed this form by ticking the relevant box)

I am an <b>officer of the Conservatoire</b> undertaking the Stage 1 <b>Early Investigation</b>	<input type="checkbox"/>	I am an <b>officer of the Conservatoire</b> undertaking the Stage 1 <b>Initial Support Meeting</b>	<input type="checkbox"/>	I am the <b>Complainant</b>	<input type="checkbox"/>
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I am a <b>person making a report as a third party</b> (If you tick this box, please complete the next box)	<input type="checkbox"/>	If you are making this report as a third party, please explain your relationship to the case and individuals concerned:	
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### SECTION B: Complainant Information

*If you are using this form to raise a complaint/allegations under the Policy on Sexual Misconduct, Harassment and Related Behaviours, please provide your details by completing Section B of this form.*

Title						
First Name(s)						
Known as						
Surname/Family Name						
Contact Email Address						
Contact Telephone Number						
Preferred method of contact (e.g. email/text/telephone call)						
Emergency Contact details (optional)						
Name and email address of a supporter, if it is wished that they be copied into correspondence						
Complainant Status (please tick relevant box)	Student	<input type="checkbox"/>	Staff member	<input type="checkbox"/>	Individual from outside Conservatoire	<input type="checkbox"/>

### SECTION C: Please complete if you are a student or staff member of the Conservatoire

Specify whether you are a member of a <b>School</b> or indicate whether you work in <b>Shared Services</b>	School	<input type="checkbox"/>	Shared Services	<input type="checkbox"/>
If you are a member of a Conservatoire School, please indicate which School it is here:				

**The Conservatoire Policy on Sexual Misconduct, Harassment and Related Behaviours**

**APPENDIX A1**

**SECTION D: Respondent details**

<i>Please complete the requested details of the person(s) you wish to report under the Policy on Sexual Misconduct, Harassment and Related Behaviours</i>				
<b>Name</b>				
<b>Status</b>	<b>Staff</b>	<input type="checkbox"/>	<b>Student</b>	<input type="checkbox"/>
<b>If you are reporting someone who is external to the Conservatoire, please indicate this here</b>	<b>Individual external to Conservatoire</b>			<input type="checkbox"/>
<b>Please indicate whether the person is a member of a <b>School</b>, or work in <b>Shared Services</b></b>	<b>School</b>	<input type="checkbox"/>	<b>Shared Services</b>	<input type="checkbox"/>
<b>Name of School (if relevant)</b>				
<b>If allegations of behaviour by a member of staff have been reported, please give their job title (if known)</b>				
<b>If the individual is external to the Conservatoire, please indicate this here</b>				

**SECTION E: Allegations** (please complete the boxes below and tick all that apply)

<b>Category of reported alleged breach of the policy</b>	
<b>BREACH OF POLICY:</b> “A breach of, or damage to, the relationship of trust and confidence that exists between the individual, and the School and Conservatoire, as a result of unacceptable behaviour that is of a sexual, harassing or related nature on the part of the individual.”	
<b>SEXUAL MISCONDUCT:</b> “unacceptable behaviour of a sexual nature that breaches or damages the relationship of trust and confidence that exists between the individual, and the School and Conservatoire.”	<input type="checkbox"/>
<b>HARASSMENT:</b> “two or more occurrences of behaviour or action that causes alarm or distress, including putting people in fear of violence.”	<input type="checkbox"/>
<b>OTHER RELATED BEHAVIOUR</b> (Where the alleged breach does not fall into one of the above categories, please give a summary of the related behaviour you are reporting)	<input type="checkbox"/>

***SECTION E: Details of Reported Allegations***

*Set out the details of the reported allegations here. Separate out incidents/allegations as far as you can. Include dates and factual details where possible. Indicate where information is being followed up or may need clarification.*

***SECTION F: Action so far***

*Include details of any action that has taken place up to the point of completing this report (for example, what support has been offered, details of any agreed period for consideration of next steps, where the matter has been reported to the Police, whether a risk assessment has been completed, whether precautionary measures have been requested/imposed etc.)*

***SECTION G: Individuals who are aware of the allegations***

*Please include details of any individuals who are aware of the allegations that have been reported (or that you are reporting here).*

**SECTION H: Desired/Agreed actions with the Complainant so far**

Use this section to indicate the following as relevant:

- any action that as a Complainant you would prefer to have taken;
- any action that as an officer of the Conservatoire you have agreed with the Complainant

**SECTION I: Any other relevant/pertinent information**

Use this section to provide details of any additional relevant/pertinent information that has not already been provided earlier on this form:

**THE FOLLOWING SECTIONS J-K ARE FOR COMPLETION BY THE COMPLAINANT ONLY IN THE EVENT THAT THEY ARE USING THIS FORM TO MAKE A REPORT.** If you are an officer of the Conservatoire completing this form, please go to **SECTION L** and complete the remaining sections of the form.

**SECTION J: Statement by the Complainant**

Please tick each box to indicate your agreement with each statement. If you do not tick boxes 1, 2 and 3, the Conservatoire may need to contact you to verify your agreement with these statements before any action can be taken in response to your report.

1	I confirm that the information I have given on this form is true, accurate and complete, to the best of my knowledge	<input type="checkbox"/>
2	I understand that the Conservatoire may need to process and/or handle personal information about me, which may include personal sensitive data, in order to properly and effectively deal with my report.	<input type="checkbox"/>
3	I understand that this report will be passed to an Officer of the Conservatoire as part of Stage 1 of the procedures under the Policy on Sexual Misconduct, Harassment and Related Behaviours.	<input type="checkbox"/>

**SECTION K: Agreement by the Complainant**

Please tick each box to indicate your agreement with each statement. You are under no obligation to tick any of these boxes and may tick or choose not to tick any/all of them. This section helps the Conservatoire to understand your wishes with regard to support.

1	I agree to officers of the Conservatoire informing a member of specialist support staff in the Conservatoire so that I can receive appropriate support.	<input type="checkbox"/>
2	I would prefer that a member of support staff in my School/office (as relevant) be contacted as a means of support for me	<input type="checkbox"/>
3	I would prefer that a member of staff who comes from somewhere other than my School/office be contacted as a means of support for me	<input type="checkbox"/>

Signature of Complainant: \_\_\_\_\_  
(typed signature accepted)  
Date: \_\_ (DD/MM/YYYY) \_\_

**THE FOLLOWING SECTIONS L-N ARE FOR COMPLETION BY THE INITIAL SUPPORTER / EARLY INVESTIGATION OFFICER ONLY.**

**SECTION L: Checklist**

Please complete the checklist below to indicate all actions which apply that have been completed as part of the Stage 1 Initial Support and Early Investigation Stage		
1	The Complainant has been referred to external support	<input type="checkbox"/>
2	The Complainant has been referred to internal support	<input type="checkbox"/>
3	Allegations have been reported to the Police	<input type="checkbox"/>
4	An interview has been held with the Respondent as part of the Stage 1 Early Investigation (where this is the case please complete Section M)	<input type="checkbox"/>
5	Precautionary measures have been recommended as part of the Initial Support/Early Investigation	<input type="checkbox"/>
6	Precautionary measures have been imposed by the CEO	<input type="checkbox"/>
7	Emergency precautionary measures have been imposed by a CEO deputy	<input type="checkbox"/>
8	The Respondent has been referred to external support	<input type="checkbox"/>
9	The Respondent has been referred to internal support	<input type="checkbox"/>
10	A defined period was agreed with the Complainant for them to consider next steps  Where this is the case, please provide the start and end date of the defined period: <b>START DATE:</b> DD/MM/YYYY <b>END DATE:</b> DD/MM/YYYY	<input type="checkbox"/>
11	The Complainant has confirmed their preference with regard to next steps at the time of completing this report	<input type="checkbox"/>
12	OTHER (please give details; more than one 'other' action may be listed here)	<input type="checkbox"/>
13	OTHER RELEVANT INFORMATION OF NOTE (e.g. where safeguarding staff have been alerted; where a deadline has been agreed)	

**SECTION M: OUTCOME OF INITIAL SUPPORT MEETING / EARLY INVESTIGATION**

Complete this section to outline what you in your role of Initial Supporter and/or Early Investigation Officer have determined should be the next steps (and thus the outcome of the Early Investigation).

**Please clearly indicate:**

- Where next steps have been agreed with the Complainant and what these are;
- Where you are recommending next steps that will then be discussed with the Complainant, and that the final outcome of this report will be subsequently completed;
- Any action that has been discussed and is under consideration by the Complainant or any other party;
- Any follow-up action that you need to undertake;
- Any other pertinent information regarding the outcome.

**SECTION N: Initial Sign-off of report by Initial Supporter / Early Investigation Officer**

This section should be signed by the Initial Supporter/Early Investigation Officer upon initial completion of the Report.

Where there is follow-up action or it is anticipated that additions will be made to the report (e.g. where an agreed period is in place for the Complainant to consider what next steps they would like to take), this section should be completed and then Sections O and P should be subsequently completed by the Early Investigation Officer.

The Early Investigation Officer may continue with completing a Stage 1 form that has been initially completed by the Initial Supporter if they are the same person. Where the Initial Supporter and Early Investigation Officer are the same person, they should sign the box below both as the Initial Supporter and Early Investigation Officer, for the avoidance of doubt in recordkeeping.

Where the Early Investigation Officer is a different person from the Initial Supporter, they should normally complete a new Stage 1 form in full, unless they are satisfied that good reason exists not to do so.

**Signature of Initial Supporter:**

(typed signature accepted)

\_\_\_\_\_

**Signature of Early Investigation Officer:**

(typed signature accepted)

\_\_\_\_\_

**Date:** (DD/MM/YYYY)

\_\_\_\_\_

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**THE FOLLOWING SECTIONS O-P ARE FOR COMPLETION BY THE EARLY INVESTIGATION OFFICER ONLY.**  
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**SECTION O: FINAL OUTCOME OF THE REPORT**

Complete this section to confirm the **final outcome** of the Early Investigation.

**Please clearly indicate:**

- Where next steps have been agreed with the Complainant and what these are;
- Any action/information that was previously awaiting confirmation;
- Any follow-up action that you/anyone else needs to undertake;
- Any other pertinent/relevant information regarding the outcome.

A) NEXT STEPS (list as many as required)	AGREED BY COMPLAINANT?	
1.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>B) ACTION/INFORMATION THAT IS NOW CONFIRMED</b>		
<b>C) FOLLOW-UP ACTION TO BE TAKEN</b>		
<b>D) ANY OTHER RELEVANT INFORMATION OF NOTE</b> (e.g. the reason why any action not agreed with the Complainant is being pursued as an outcome)		

**SECTION P: FINAL SIGN-OFF OF REPORT BY EARLY INVESTIGATION OFFICER**

This section should be signed by the Early Investigation Officer to signify that the final version of the Report has been completed.

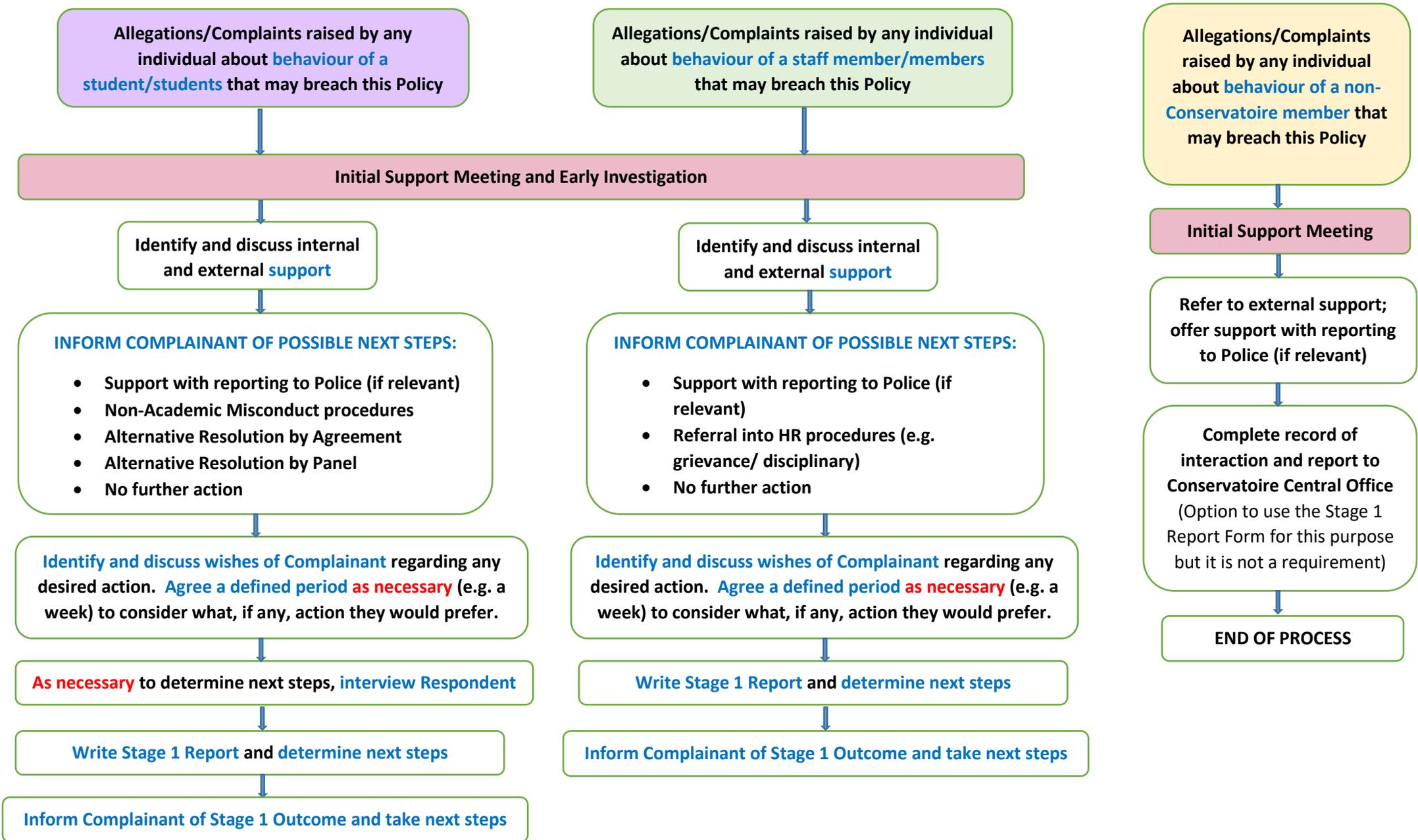
**Signature of Early Investigation Officer:** \_\_\_\_\_  
(typed signature accepted)

**Date:** (DD/MM/YYYY) \_\_\_\_\_

# The Conservatoire Policy on Sexual Misconduct, Harassment and Related Behaviours

## APPENDIX A1

### Initial Support Meeting and Early Investigation procedural flowchart



**STAGE 2  
ALTERNATIVE RESOLUTION PROCESSES**

**Overview**

1. The Stage 2 procedures under the Policy on Sexual Misconduct, Harassment and Related Behaviours, the 'Alternative Resolution' processes, apply only to cases involving both student complainants and student respondents.
2. There are two routes to Alternative Resolution that may be offered to a Complainant (at the discretion of the Early Investigation Officer):
  - **Alternative Resolution by Agreement**
  - **Alternative Resolution by Panel**
3. The Conservatoire recognises that cases involving allegations of behaviour that breach the Policy are frequently complex, and that Complainants will have differing needs, including whether or not they wish to take the matter further under formal misconduct procedures. This stage of the procedure may be offered to a Complainant where the appointed officer of the Conservatoire deems it appropriate (for very serious allegations it may not be appropriate to offer alternative resolution). Alternative resolution will not therefore automatically be offered in every case.
4. Alternative resolution by agreement provides an opportunity, should the Complainant wish, to have the complaint/allegations raised with the Respondent and a mutual agreement reached about future conduct, as an alternative means of finding a resolution to the matter without necessarily referring allegations under the Non-Academic Misconduct Policy.
5. Alternative resolution by Panel provides an opportunity, should the Complainant wish, to have the complaint/allegations explored with the Respondent, in an endeavour to reach a resolution to the matter without necessarily referring the allegations under the Non-Academic Misconduct Policy.
6. In the case of both Alternative Resolution by Agreement and Alternative Resolution by Panel, no findings will be made or formal judgement reached about what has taken place. The purpose of Alternative Resolution is to attempt to reach a position of resolution from which all parties can move forward.
7. At the discretion of the Early Investigation Officer, Alternative Resolution by Agreement and/or Alternative Resolution by Panel may be offered to a Complainant as a possible way forward. However, where the Respondent declines to participate in either Alternative Resolution by Agreement and/or Alternative Resolution by Panel, neither process shall take place, the Complainant shall be informed accordingly, and the Early Investigation process shall

**The Conservatoire Policy on  
Sexual Misconduct, Harassment and Related Behaviours**

**APPENDIX B: B1 & B2**

re-open to allow the Complainant to reconsider their options and preference with regard to next steps.

8. Where Alternative Resolution by Agreement has been attempted without success, Alternative Resolution by Panel may still be offered, at the discretion of the Early Investigation Officer.

**APPENDIX B1: Alternative Resolution by Agreement**

1. Alternative Resolution by Agreement offers an opportunity for the Complainant and Respondent to agree to conditions that will help both parties to move forward (e.g. a recognition on the part of the Respondent about their behaviour, with a commitment to behave differently in future; conditions that limit students' interaction with each other).

***Purposes of Alternative Resolution by Agreement***

2. This process offers an opportunity for all parties to move forward that removes the barrier for a Complainant of 'not wanting to get another student into trouble'.

***Alternative Resolution by Agreement Procedure***

***Agreement in Principle***

3. Following the Early Investigation, the Early Investigation Officer will determine whether Alternative Resolution by Agreement might be offered, in consultation with the Complainant about whether they might wish to proceed in this way. The Early Investigation Officer and Complainant shall form an 'agreement in principle' that Alternative Resolution by Agreement may be offered.
4. However, an agreement in principle that Alternative Resolution by Agreement **can** be offered does not guarantee that it **will** be offered; this will depend on the circumstances of the case, and is subject to the Respondent agreeing to this course of action. The Early Investigation Officer may as necessary meet with or correspond with the Respondent in order to determine whether it is appropriate to make the offer. The final decision as to whether it can be offered rests with the Early Investigation Officer. The Early Investigation Officer shall advise the Complainant of this before proceeding further.
5. With the agreement of the Complainant, the Early Investigation Officer will contact the Respondent to offer Alternative Resolution by Agreement. The Early Investigation Officer may request that the Respondent meets with them in order to explain this offer, or to ascertain whether it is appropriate to make this offer, or they may offer it by correspondence where they are satisfied it is appropriate to do so.
6. Where the Early Investigation Officer has an agreement in principle that Alternative Resolution by Agreement may be offered to the Respondent, they shall advise the Complainant that the agreement in principle cannot be confirmed as a way forward until they have contacted the Respondent, and where the Respondent agrees to this process.
7. Alternative Resolution by Agreement offers no findings about what has taken place, though both the Complainant and the Respondent may give an account or statement of what took place if they wish. Alternative Resolution by Agreement does not require both parties to meet, and may be coordinated by the Early Investigation Officer. Proposed conditions may be slightly amended in order to reach an agreement with both parties.

8. A record of the Agreement will be held in each party's individual School file as well as centrally, but is not formally recorded as a breach of this or any other policy on the part of a Respondent. However, were the Agreement to be breached, the case may be referred under the Non-Academic Misconduct procedures as a breach of this policy.
  
9. Where no resolution can be reached under this process, the Early Investigation Officer will determine next steps, which may include the following:
  - no further action;
  - referral into the Alternative Resolution by Panel;
  - or referral to the Non-Academic Misconduct Panel;
  - referral into another Conservatoire process as appropriate (e.g. Support Through Studies).

**APPENDIX B2: Alternative Resolution by Panel**

1. Alternative Resolution by Panel offers a structured formal alternative to pursuing allegations through a disciplinary process. It is intended to provide a coordinated and supportive forum with a negotiated but independent decisive lead in finding a way forward. This procedure may be used where the Early Investigation Officer determines, in consultation with the Complainant, that it is appropriate, in the following scenarios:
  - **where Alternative Resolution by Agreement is not appropriate, or possible** (e.g. in the event of two conflicting accounts which require an in-depth examination);
  - **where Alternative Resolution by Agreement has been attempted but has been unsuccessful**, and where the Early Investigation Officer is satisfied that it would be appropriate to subsequently offer Alternative Resolution by Panel;
  - **where the Complainant is reluctant for the Conservatoire to proceed with a Misconduct Panel hearing under the Non-Academic Misconduct policy yet would like affirmative action to be taken.** Reluctance on the part of a Complainant does not, however, preclude the matter from being referred to a Misconduct Panel, should the Early Investigation Officer deem this the most appropriate course of action, in which case Alternative Resolution by Panel will not be offered.
2. The Alternative Resolution by Panel procedure is conducted by a panel of staff of the Conservatoire with specific seniority and expertise (it includes some staff with student support and/or expertise in matters of sexual misconduct). For the avoidance of doubt, staff of the Conservatoire includes staff of the Conservatoire Schools and the central office of the Conservatoire.
3. It involves an exploration of the allegation(s) in an environment that is structured and supportive for all parties that is centred on finding a potential resolution, with the aim of providing education and resolution in order for all parties to move forward. In exploring the allegations, the focus of this process will be to endeavour to reach a future way forward that the Panel deems appropriate to which all parties can agree, and the conversation led by the Panel should be structured and non-judgemental, rather than confrontational.
4. Crucially, **the Panel will not make any judgements or findings about what may or may not have occurred**, though both the Complainant and the Respondent may give both a written statement and/or oral account of what took place if they wish. Rather, the Panel will facilitate a dialogue between parties and give each party an opportunity to explore the allegations, in an endeavour to reach a formal agreement between the parties about a future way forward. The Panel will determine the outcome of the process and may set any necessary conditions. Following the Panel process, the Chair of the Panel will write a report that confirms the outcome of the Alternative Resolution by Panel process.

5. Where through the process the Panel is unable to reach an agreement between the parties, the Panel will make a report that will include a recommendation about next steps. Please see sections 8-12 of this Appendix for the Alternative Resolution by Panel Procedure, and in particular, section 12 for further information regarding possible next steps.

***Terms of Reference of the Alternative Resolution Panel***

6. The Terms of Reference of the Panel are as follows:
- To lead and facilitate a dialogue between the Complainant and Respondent about the allegations in an endeavour to reach an agreement about a future way forward;
  - To provide a structured, calm, non-judgemental and supportive environment in which to do so;
  - To make no judgements or formal findings about what may or may not have occurred;
  - To set any conditions as necessary as part of an agreed way forward between the Complainant(s) and Respondent(s);
  - To make recommendations regarding next steps, in the event that the process is unsuccessful necessitating a different outcome other than an agreed way forward between the Complainant(s) and Respondent(s).

***Panel Membership***

7. The Alternative Resolution Panel will normally be comprised of the following:
- A Chair, nominated by the Conservatoire CEO<sup>1</sup>, who will be a senior member of staff from a School other than the School(s) of the individual students concerned;
  - Two members who may or may not be, as follows:
    - A member of staff of the Conservatoire with specialist student support expertise and/or expertise in matters of sexual misconduct;
    - A senior member of staff of the Conservatoire
8. The members of the Panel may, as necessary, be staff from other Schools of the Conservatoire and/or the central office of the Conservatoire.
9. The Early Investigation Officer will serve as the Secretary and adviser to the Panel.

***Alternative Resolution by Panel Procedure***

10. The Early Investigation Officer will discuss with the Complainant whether they wish to attend with someone for support, or send someone to represent them in the event they wish to proceed with this option but will find attending too difficult. The Complainant may attend the meeting accompanied by a member of staff from their School, or another School of the

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<sup>1</sup> Where the Conservatoire CEO is unavailable to nominate a Panel Chair, the Conservatoire Academic Registrar will nominate a Chair on behalf of the CEO.

Conservatoire, or the central office of the Conservatoire, a family member, or a friend for support (however the friend will not normally be permitted to be a student of the Conservatoire, unless expressly agreed by the CEO of the Conservatoire in consultation with the relevant School Principal(s)).

11. The Early Investigation Officer will contact the Respondent to request their attendance at the Panel meeting. The Respondent may attend the Panel meeting accompanied by a member of staff from their School, or another School of the Conservatoire, or Shared Services, a family member, or a friend for support (however the friend will not normally be permitted to be a student of the Conservatoire, unless expressly agreed by the CEO of the Conservatoire in consultation with the relevant School Principal(s)). The Respondent will normally be required to attend, unless circumstances exist taken that prohibit them from doing so. Non-attendance for valid reasons will not in itself be considered to be non-engagement with this procedure. Failure on the part of a Respondent to engage with this procedure may result in the case being referred under the Non-Academic Misconduct procedures to investigate the allegations as possible misconduct.
12. All parties (the Complainant, Respondent and the Panel) will be given the same documentation for consideration, which will constitute the following:
  - An agenda outlining the Panel membership, attendees and order of the meeting;
  - The Early Investigation Officer's report, which will normally include the notes from the Initial Support meeting;
  - Any written representations from the Complainant and Respondent, where the individual wishes to make a written submission for consideration in the process;
  - Any relevant accompanying/supporting documentation that any party wishes to submit.
13. The Panel will consider accounts from both the Complainant and Respondent (which it may do in the absence of either/both parties), and will lead and facilitate a conversation, in order to determine next steps. This process will be with **the aim of reaching a formal agreement about a future way forward for both parties, including setting any necessary conditions**. As with the Alternative Resolution by Agreement, the Panel does not have a disciplinary remit and therefore no findings about what has taken place will be made by the Panel.
14. Where the Complainant and/or Respondent are present, the Panel will deliberate in private in order to discuss and determine whether it is able to offer an alternative resolution to the Complainant and Respondent. The Panel's decision in this regard will normally be delivered verbally, where possible and appropriate.

***Absence of the Complainant/Respondent for the Panel process***

15. Where the Early Investigation Officer has determined that the Alternative Resolution by Panel process is appropriate, the Panel will normally proceed in all circumstances even where either or both the Complainant and Respondent are not present for the Panel process.
16. Where either or both the Complainant and Respondent are not present for the Panel process, the Panel may determine a recommended way forward which will be offered to both parties for agreement. The Panel will set a defined period that it deems appropriate of at least 2 working days or longer, within which the Complainant and/or Respondent can consider whether to accept the offer.
17. Confirmation in writing (via email or hard copy letter) must normally<sup>2</sup> be obtained from both the Complainant and Respondent before the Panel can determine that an alternative resolution outcome has been successfully reached.
18. The Panel process will be deemed to be concluded once the Panel has been able to determine whether an alternative resolution has been reached. This may be at the end of the Panel meeting (if the Panel determines at the end of the meeting that a resolution cannot be reached), or following a period of consideration of an offer of Alternative Resolution (see below).

***Panel offer of alternative resolution***

19. Where the Panel determines that an alternative resolution can in principle be reached between the Complainant(s) and Respondent(s), the Panel will make an offer of the proposed alternative resolution to both parties, which may include conditions set for one or both parties.
20. Where an alternative resolution has been offered, the offer will be confirmed in writing (which may be via email) to the Complainant(s) and Respondent(s) as soon as possible following the Panel meeting. The reasons for the offer will follow in the Panel Report by the Chair of the Panel (see 'Report of the Panel', below).

***Consideration period***

21. The Panel will designate an agreed consideration period of not less than 2 working days within which the Complaint(s) and Respondent(s) can consider the offer before deciding whether or not to agree to it (the Panel can determine a longer period of consideration should it deem it appropriate). The length of the consideration period is for the Panel to determine. Even where all parties indicate agreement to the offer in the Panel meeting,

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<sup>2</sup> Where verbal confirmation is received from a Complainant or Respondent to the Early Investigation Officer or Chair of the Panel that they accept an offer of alternative resolution, the Early Investigation Officer or Chair will confirm this in writing to the student and this will be taken as formal notification of acceptance of the offer.

there must be a consideration period before the Alternative Resolution process can be deemed concluded.

22. The outcome following the consideration period will be recorded by the Chair of the Panel in their report and will constitute the final outcome of the Alternative Resolution by Panel Process.
23. Where both the Complainant and Respondent agree to the offer, the Panel will determine that alternative resolution has been agreed, and will complete the Panel Report. The Final Report will confirm the agreement, and the Chair will sign the report.
24. Where an alternative resolution is reached and agreed, it will be effective from the date that the Panel Chair confirms the Report of the Panel.
25. Where either or both the Complainant and Respondent declines to agree, or fails to respond to the offer within the defined consideration period set by the Panel, the Panel will determine that alternative resolution has not been possible, and will complete the Panel Report, making any recommendations the Panel deems appropriate, with regard to possible next steps.
26. Where Alternative Resolution has been offered and the Complainant and/or Respondent have initially indicated they would be in favour of accepting the proposed offer, such indication is not binding and either party has the right to reach a different conclusion during the consideration period.
27. A failure on the part of either the Complainant and Respondent to respond to the offer within the defined consideration period will not in itself constitute non-academic misconduct. However, in the event that a non-response means the Early Investigation Officer deems the matter must be referred for investigation under the Non-Academic Misconduct procedures, such failure to respond may be taken into account by the Preliminary Enquiry Officer and/or the Misconduct Panel, when considering the case.
28. In the event that an alternative resolution cannot be reached, the Panel will refer the matter back to the Early Investigation Officer to determine next steps. The Chair of the Panel will forward the Report of the Panel to the Early Investigation Officer for consideration to assist with determining next steps.

***Report of the Panel***

29. Following the Panel process, the Chair of the Panel will write a report ('the Report of the Panel') that confirms the outcome of the Alternative Resolution by Panel process. This will be agreed by all Panel members, and a copy will be forwarded to the Early Investigation Officer for record purposes. Where an alternative resolution has been offered, the Chair of

the Panel shall wait until the consideration period has expired and the outcome of the Complainant(s) and Respondent(s) consideration is known before completing the report. Where it is clear by the culmination of the Panel meeting that Alternative Resolution is not possible or not appropriate, the Chair of the Panel shall record this in the report (see ‘Outcomes to be documented in the Panel report’, below).

30. The Panel’s report will be finalised and signed off by the Chair only once there is certainty that Alternative Resolution has either been successful, or has been unable to be reached (see the table below for the relevant outcomes for inclusion in the Panel Report).

31. Below is a table that the Panel Chair should use to assist in writing the Panel’s report.

<b>INFORMATION to be documented in the Panel report:</b>
<p>Following the Panel meeting, the Panel’s report will contain the following information:</p> <ul style="list-style-type: none"> <li>• the details of when and where the meeting was held and the length it lasted;</li> <li>• factual reporting on the representations made by both the Complainant and the Respondent</li> <li>• areas of enquiry led by the Panel</li> <li>• potential resolutions explored</li> <li>• proposed resolution(s) (where relevant)</li> <li>• any resolution(s) agreed in principle at the culmination of the Panel meeting (where relevant)</li> <li>• rationale(s) for any concrete resolutions proposed by the Panel (whether agreed in principle or not by the Complainant and Respondent at the end of the Panel meeting)</li> <li>• Confirmation of whether a potential resolution was able to be offered to both the Complainant and Respondent</li> <li>• Where an offer of an Alternative Resolution was made to the Complainant and Respondent, the length of the consideration period determined by the Panel;</li> <li>• Where relevant, the date(s) of receipt of confirmation of the acceptance of the offer by both parties;</li> <li>• Where relevant, confirmation of the final agreed Alternative Resolution, including any relevant timeframes (including the date from which the resolution is effective).</li> </ul>
<b>OUTCOMES to be documented in the Panel report:</b>
<ul style="list-style-type: none"> <li>• <b>That a potential resolution was able to be offered to both the Complainant and Respondent, and that following a period of consideration, both parties have agreed to this Resolution.</b> In this event, the Report must clearly articulate the exact confirmed Alternative Resolution that has been agreed by both parties.</li> </ul>

- **That a potential resolution was able to be offered to both the Complainant and Respondent, but one or both parties did not agree to the offer, and therefore alternative resolution has been unsuccessful;**
- **That in the course of the Panel process it became apparent that alternative resolution was not appropriate, stating the reason(s) for this** (e.g. the extent of the distress of the Complainant led the Panel to believe that alternative resolution was not in fact an appropriate course of action/the conduct of the Respondent/Complainant in the Panel process led the Panel to believe that it was not appropriate to offer alternative resolution);
- **That the Panel were unable to identify a potential resolution**, stating the reason(s) for this, and confirming that the case will be returned to the Early Investigation Officer to determine next steps.

**RECOMMENDATIONS that may be documented in the Panel report:**

The Panel's report may, if relevant and appropriate, also include a recommendation about next steps. The recommendation will be discretionary and may include one or more of the following:

- **imposition of conditions** (e.g. for both parties to avoid unnecessary contact, such as contact out of class time, or conditions regarding future behaviour);
- **a recommendation to the CEO for a new or continued imposition of emergency exclusion or suspension** (either under Precautionary Measures, or under Emergency Powers as deemed appropriate);
- **a referral for consideration of the case under the Non-Academic Misconduct Procedures** (the Panel may, if it wishes, make a recommendation for consideration about what it considers an appropriate penalty might be, in accordance with the published Table of Penalties in the Non-Academic Misconduct Policy. The Preliminary Enquiry Officer may take such a recommendation into account when conducting the Preliminary Enquiry, though in this instance it is for the Preliminary Enquiry Officer to determine an appropriate outcome);
- **a recommendation to the relevant School(s) Academic Board** (e.g. regarding internal processes, or the necessity for extension of support for a student);
- **a recommendation to the Conservatoire Senate and Conservatoire Executive Committee (as necessary) regarding areas for review of the Policy on Sexual Misconduct, Harassment and Related Behaviours.**

32. A copy of the Panel's report will be forwarded to all parties and the Early Investigation Officer. Both the Complainant and Respondent shall be given an opportunity to make any corrections or comments on the report. Where feasible, at the discretion of the Chair of the Panel, this opportunity may be given to the Complainant and Respondent before agreement is reached on a proposed Alternative Resolution.

***Outcome of Alternative Resolution by Panel***

33. When the Chair confirms the final version of the report, the decision of the Panel is the final say on the matter of alternative resolution. Should an agreed alternative resolution subsequently be unsuccessful, the Chair of the Panel, in consultation with the School Principal and the Early Investigation Officer, and/or another senior member of staff of the Conservatoire as necessary, will determine the next steps in the matter.

**Precautionary Measures Request to CEO**

**PRIVATE AND CONFIDENTIAL**

*To be completed by an Officer of the Conservatoire or School Principal*

**SECTION 1: Details of Requester**

<b>NAME and POSITION of Requester</b>		<b>CONSERVATOIRE SCHOOL</b>	
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**SECTION 2: Student details**

<b>Name of Student:</b>		<b>Student Number:</b>	
<b>Programme:</b>		<b>Year of Study:</b>	
<b>Student contact details</b> (postal address, both School and personal email addresses, and telephone no.)			
<b>Additional relevant information</b> (complete as necessary e.g. student is under 18 years old/case is considered high risk):			

**SECTION 3A: REQUEST TO CEO**

<p><b>I AM REQUESTING THE FOLLOWING PRECAUTIONARY MEASURES IN ACCORDANCE WITH SECTION 1.7 OF APPENDIX C TO THE POLICY 'PRECAUTIONARY MEASURES'</b></p> <p>(please tick all boxes that apply)</p>	<p><b>Conditions regarding contact</b></p> <p>a) imposing conditions on a student regarding contact with any particular person or individuals (including posting on social media)</p>	<input type="checkbox"/>
	<p><b>Conditions regarding use of facilities</b></p> <p>b) imposing conditions on a student in connection with their use of the School and/or Conservatoire facilities and/or premises, as the CEO considers necessary;</p>	<input type="checkbox"/>
	<p><b>Restrictions</b></p> <p>c) imposing restrictions on a student's use of the School and/or Conservatoire facilities and/or premises, as the Conservatoire considers necessary;</p>	<input type="checkbox"/>
	<p><b>Exclusion</b></p> <p>d) excluding a student from some or all of the School and/or Conservatoire facilities and/or premises;</p>	<input type="checkbox"/>
	<p><b>Suspension</b></p> <p>e) suspending a student, either in full or in part, from their studies.</p>	<input type="checkbox"/>

**SECTION 3B: Circumstances of the Request**

<b>SPECIFY WHETHER DELEGATED POWERS HAVE BEEN USED:</b>	I am making a direct request to the CEO	<input type="checkbox"/>	I have taken emergency action and am reporting	<input type="checkbox"/>
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(tick appropriate box)	TO TAKE ACTION		the use of DELEGATED POWERS	
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**SECTION 4A: DETAILS OF REQUEST**

Fill in this part of the referral form with only information that is strictly necessary	
<ul style="list-style-type: none"> <li>The date (and if relevant, time) from which you are requesting the precautionary measures should apply <b>OR, if you have used delegated powers</b></li> <li>The date (and if relevant, time) from which the precautionary measures apply, until further notice</li> </ul>	
<ul style="list-style-type: none"> <li>What action (if any) have you taken so far? (e.g. have you communicated with the student/other students/staff/third parties?)</li> </ul>	
<ul style="list-style-type: none"> <li>Details of whom the student should contact with any immediate queries (<i>normally the Principal of the School until CEO has contacted student to confirm details of the precautionary measures</i>). Where you decide this single point of contact should subsequently change after the CEO has contacted the student, you should immediately notify the CEO of this. The CEO will inform the student accordingly in their communication.</li> </ul>	

**SECTION 4B: REASON FOR REQUEST**

*This list is not exhaustive, and the CEO shall be satisfied that good and/or urgent cause exists to warrant the imposition of precautionary measures. Please note this list continues on the following page.*

TICK ALL RELEVANT BOXES THAT APPLY AND PROVIDE ANY NECESSARY ADDITIONAL DETAIL	
<ul style="list-style-type: none"> <li>Student is considered a danger to themselves or others</li> </ul>	
<ul style="list-style-type: none"> <li>Student might have seriously breached the Policy on Sexual Misconduct, Harassment and Related Behaviours</li> </ul>	
<ul style="list-style-type: none"> <li>Student has a criminal charge pending, or is the subject of police investigation</li> </ul>	
<ul style="list-style-type: none"> <li>A previously undisclosed relevant criminal conviction has come to light that would constitute a breach of the Policy on Sexual Misconduct, Harassment and Related Behaviours</li> </ul>	
<ul style="list-style-type: none"> <li>There is an identified need to protect the health and safety and/or property of the student and/or the School community</li> </ul>	
<ul style="list-style-type: none"> <li><b>Other/Additional reason</b> (please tick box on the right and provide details in box below)</li> </ul>	
<p><i>Where the reason is not covered in the list above, or there is an additional reason, please give a broad description in this box:</i></p>	

<p><b>Have you completed the Risk Assessment?</b> (You must complete a Risk Assessment – found in Appendix E to the Policy - in order to make the request for precautionary measures. Please submit your risk assessment with this referral form and tick the box to indicate you have completed it.)</p>	
<p><b>Additional details:</b> (Only include information that is strictly necessary e.g. you have received reports/allegations; specify the broad nature of the issue(s). This form may form part of the evidence that is disclosed to all relevant parties in the course of any investigation.)</p>	
<p><b>SPECIFIC REQUESTS/CONDITIONS:</b> (Ensure any specific requests/conditions you would like to request that the CEO puts in place are outlined here, for consideration by the CEO.)</p>	

**SECTION 5: DOCUMENTATION**

Complete as applicable; list the documentation you are submitting with this referral (there is no limit to the amount of documents you may include). Where there is relevant documentation pertaining to alleged misconduct/special category data, consult with Shared Services as to whether it is necessary to forward this. Examples of how to complete this section are given and highlighted in yellow.)

Name/Title of document	Description/relevant information
1. Risk Assessment	Risk assessment, completed [DATE] following incident/allegations
2. Letter to student from Principal	Letter dated XXX notifying use of delegated precautionary measures
3. Email from student XXX	Email received by School on [DATE] from XXX containing allegations that may constitute a breach of the Policy on Sexual Misconduct, Harassment and Related Behaviours, and necessitated the need for precautionary measures
4.	

**SECTION 6: DECLARATION**

<p>I am making this request for precautionary measures under the Policy on Sexual Misconduct, Harassment and Related Behaviours.</p> <p>I confirm that all of the information I have provided in this form, and have submitted with this form with regard to the request, is accurate at the time of completion.</p>
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**Conservatoire Policy on Sexual Misconduct,  
Harassment and Related Allegations**

**Appendix C1**

I agree that this form may be disclosed to relevant members of the School and the Conservatoire for Dance and Drama to the extent necessary for its consideration.

**SIGNATURE OF REQUESTER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**APPENDIX D: Procedures for complaints/allegations that have been reported to the Police**

1. These procedures cover complaints/allegations that fall within the scope of the Conservatoire Policy on Sexual Misconduct, Harassment and Related Allegations (the Policy) and have been reported to the Police.
2. Where events which are the subject of a complaint made and/or referred under this procedure are reported to the Police, special provisions will apply, and some or all action/proceedings under this procedure will normally be delayed until such time as the Police and/or courts have completed their investigations and proceedings, save for taking any necessary precautionary action. In this instance, where an officer of the Conservatoire has identified or identifies that a Respondent should be referred into the Non-Academic Misconduct procedures, no action under the Non-Academic Misconduct Policy will be undertaken until the criminal process is at an end.
3. Where action under this procedure has already begun, this will be placed in abeyance. It will be at the discretion of the Academic Registrar of the Conservatoire<sup>1</sup>, in consultation with the appointed officer of the Conservatoire conducting the relevant stage of the procedures and as necessary the relevant School Principal(s), to determine any necessary precautionary action.
4. Necessary precautionary action may, for example, include:
  - Taking action under the Precautionary Measures (see Appendix C to the Policy on Sexual Misconduct, Harassment and Related Allegations);
  - Taking action under the Conservatoire's Emergency Powers of Exclusion and Suspension;
  - Providing additional support to a Complainant/Respondent;
  - Completing risk assessments.

The above list of examples is not exhaustive; where there is necessary precautionary action not listed above that is identified by the Academic Registrar of the Conservatoire in consultation with an appointed officer of the Conservatoire as relevant, this shall not prevent the Academic Registrar from instigating such action provided it is reasonable and necessary in the circumstances.

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<sup>1</sup> Where the Academic Registrar is not available, this determination will be at the discretion of the CEO or the Principal of a Conservatoire School other than that of the Complainant and/or Respondent.

5. Where the complaint or allegations involve students from more than one Conservatoire School, and the events which are the subject of a complaint made and/or referred under this procedure have been reported to the Police, the Academic Registrar (or nominee), in consultation with the Principals of the School(s) concerned, shall determine one of the 4 outcomes outlined in Section 4 above.
6. In determining whether to commence or proceed with any action or process under this Policy, the Conservatoire and its Schools are not bound by the outcome of any police or criminal investigation or prosecution.
7. Where a current registered student obtains a criminal conviction, the matter will normally be immediately referred to the Convictions Consideration Panel for consideration under its procedures<sup>2</sup> under the Conservatoire's Criminal Records Policy, unless in the view of the School there is justifiable cause not to refer this matter immediately or to follow an alternative process (e.g. Emergency Powers of Exclusion and Suspension; Support through Studies policy). On conclusion of assessment by the Convictions Consideration Panel, the matter may as necessary and relevant be referred into the procedures under this Policy, or under the Non-Academic Misconduct Policy.
8. Where a student has been convicted of a criminal offence, or accepts a Police caution in relation to behaviour that falls within the scope of this policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place. The matter will be referred in the normal way under the Non-Academic Misconduct policy as an allegation of misconduct. However, depending on the circumstances of the case, in conducting the Non-Academic Misconduct Preliminary Enquiry, the Preliminary Enquiry Officer may determine (following any necessary consultation with the Complainant) whether the matter may be referred to be dealt with under the procedures of this Policy.
9. A further support meeting for the Complainant (and, as relevant and appropriate, the Respondent) will also be offered following the conclusion of a criminal investigation and/or judicial proceedings.
10. A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action, or an acquittal at a trial, in relation to a criminal matter that falls within the scope of this policy, does not preclude the Conservatoire or its Schools from taking any action under this policy or any other Conservatoire policy (e.g. the Non-Academic Misconduct policy), and does not mean that the Complainant has made a vexatious or malicious complaint.

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<sup>2</sup> See Criminal Records Policy and Procedures, that can be located at: <http://www.cdd.ac.uk/policies/student-related-policies/>



## RISK ASSESSMENT

### PRIVATE AND CONFIDENTIAL

*This form may be used by officers of the Conservatoire in conducting any of the procedures under the Policy on Sexual Misconduct, Harassment and Related Allegations, including to assist with determining whether Precautionary Measures may be necessary.*

*This form must be kept strictly confidential, as it may contain special category and/or criminal records data. It should only be shared on a strictly necessary basis.*

#### Student Details

<b>Student Name</b>	
<b>Student Number</b>	
<b>Conservatoire School</b>	
<b>Programme of Study</b>	
<b>Year of Study</b>	
<b>Date of risk assessment</b>	

*The following page contains the Risk Assessment Score System, where a score will be given for both 'likelihood' of the risk occurring, and how serious or extreme the impact of the risk would be, in the view of the assessors. The Overall Score is then calculated by multiplying the likelihood and impact score together for each 'element', to give an overall score for each element, and used to determine whether action is required.*

*In order that an objective assessment be made, it is recommended that two officers of the Conservatoire complete this form, and that one of the officers be a Conservatoire School Principal or senior member of staff from either the relevant School or the central Conservatoire office. Where the above is not possible, for example, due to time constraints or staff availability, this form may be completed by one individual but reviewed and signed off by an additional senior member of staff.*

*Staff should ensure that form is fully completed and that the dates that the risk assessment is both undertaken, and signed off, are both entered.*

## A) Risk Assessment Score System

Table 1

<b>Score</b>	<b>Likelihood</b> <i>This score indicates how likely the risk is to occur, in the view of the assessor(s).</i>	<b>Impact</b> <i>This score indicates, in the view of the assessor(s), how serious/extreme the impact would be.</i>
<b>1</b>	<b>Highly Unlikely</b>	<b>Negligible</b>
<b>2</b>	<b>Unlikely</b>	<b>Minor</b>
<b>3</b>	<b>Possible</b>	<b>Moderate</b>
<b>4</b>	<b>Likely/Probable</b>	<b>Major</b>
<b>5</b>	<b>Highly Likely</b>	<b>Extreme</b>

**Overall Score**

*This score is calculated by multiplying the likelihood and impact score together for each 'element', to give an overall score for each element.*

Table 2

<b>Score</b>	<b>Risk Category</b>
<b>1 – 8</b>	<b>LOW</b>
<b>9 – 15</b>	<b>MEDIUM</b>
<b>16 – 25</b>	<b>HIGH</b>

## B) Likelihood Score

<i>Element</i>		<i>Likelihood</i>				
		1	2	3	4	5
		Highly Unlikely	Unlikely	Possible	Likely / Probable	Highly Likely
1	Risk to self					
2	Risk to other students					
3	Risk to staff					
4	Risk to public / others					
5	Risk to successful completion of programme of study					
6	Risk to placement / external activity					
7	Risk to School and/or other CDD property					
8	Risk to School and/or CDD reputation					

## C) Impact Score

<i>Element</i>		<i>Impact</i>				
		1	2	3	4	5
		Negligible	Minor	Moderate	Major	Extreme
1	Risk to self					
2	Risk to other students					
3	Risk to staff					
4	Risk to public / others					
5	Risk to successful completion of programme of study					
6	Risk to placement / external activity					
7	Risk to School and/or other CDD property					
8	Risk to School and/or CDD reputation					

**D) Overall Risk Assessment**

<i>Element</i>	<i>Likelihood Score</i>	<i>Impact Score</i>	<i>Overall Score (Likelihood Score multiplied by Impact Score)</i>	<i>Comments</i>
1 Risk to self				
2 Risk to other students				
3 Risk to staff				
4 Risk to public / others				
5 Risk to successful completion of programme of study				
6 Risk to placement / external activity				
7 Risk to School and/or other CDD property				
8 Risk to School and/or CDD reputation				
<ul style="list-style-type: none"> <li>• <b>ACTION IS REQUIRED WHEN:</b> <ul style="list-style-type: none"> <li>○ There are <b>three or more MEDIUM RISK</b> categories indicated</li> <li>○ There is <b>one or more HIGH RISK</b> category indicated</li> </ul> </li> </ul> <p><i>(see section B, Table 2 for reference)</i></p>				

**Notes regarding overall risk / other risk(s) / pertinent information / additional comments**  
*(Please use this box to indicate whether the results of the risk assessment indicate that Precautionary Measures are necessary.*

**E) Completion of the Risk Assessment**

*(All members of staff who have completed, or assisted in completing the risk assessment (including reviewing for sign-off), should complete and sign the box below. Additional rows for entering this data can be added as necessary.)*

<b>Name(s) of person(s) who completed the risk assessment</b>	<b>Role / Job Title</b>	<b>Signed</b>	<b>Date</b>