



## Policy on Sexual Misconduct, Harassment and Related Behaviours

<b>Policy owner:</b>	Conservatoire Quality Team
<b>Lead contact:</b>	Deputy Academic Registrar
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<b>Related Policies, Procedures and Guidance:</b>	Non-Academic Misconduct Policy, Terms and Conditions; Emergency Powers of Exclusion and Suspension; Student Complaints Procedure; CDD Inclusivity Policy and Protocols; School Staff Grievance policies and procedures; School Staff Dignity at Work policies; CDD and School Data Processing Statements
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<b>Date Equality and Diversity Assessment Completed:</b>	November 2019

### Further information:

This policy is part of the initiatives under the Conservatoire's Inclusive Cultures Strategy and should be read and understood as complementing the Conservatoire's Inclusivity Policy and Protocols. It is complemented and supported by the Conservatoire Code of Behaviour.



Conservatoire for Dance and Drama

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

### Contents

Section of Policy	Contents of Section (and paragraph reference)	See Page No
1. Introduction	<ul style="list-style-type: none"> <li>• Other allied policies (1.10)</li> <li>• Breaches of this Policy (1.11)</li> </ul>	6
2. Definitions	<ul style="list-style-type: none"> <li>• Definitions of breaches of this Policy (2.1)</li> <li>• Breaches of this Policy by students (2.3)</li> <li>• Breaches of this Policy by staff (2.4)</li> <li>• Responding to breaches of this policy (2.5)</li> <li>• Examples of behaviours that would breach this Policy (sexual misconduct, harassment and related behaviours) (2.7)</li> <li>• Definition of sexual misconduct under this Policy (2.9)</li> <li>• Definition of harassment under this Policy (2.10)</li> <li>• Definition of 'related behaviours' under this Policy (2.11)</li> <li>• Definition of consent under this Policy (2.12)</li> <li>• Other definitions used in this Policy (2.15)</li> </ul>	7
3. Summary of procedures	<ul style="list-style-type: none"> <li>• Stage 1 Initial Support and Early Investigation Stage (Appendix A and Appendix A1) (3.1)</li> <li>• Stage 2 Alternative Resolution (3.1):               <ul style="list-style-type: none"> <li>○ Alternative Resolution by Agreement (Appendix B1)</li> <li>○ Alternative Resolution by Panel (Appendix B2)</li> </ul> </li> <li>• Precautionary Measures (Appendix C) (3.2)</li> <li>• Procedures regarding complaints/allegations that have been reported to the Police (Appendix D) (3.2)</li> </ul>	11
4. Scope and Principles of this Policy and its procedures	<ul style="list-style-type: none"> <li>• Where this policy applies (4.2)</li> <li>• Summary of who the procedures cover (4.5)</li> <li>• Raising a complaint/allegations (4.6)</li> <li>• Non-recent allegations (4.10)</li> <li>• Anonymous allegations/allegations raised by third parties on behalf of a Complainant (4.16)</li> <li>• Allegations raised by individuals who are not members of the Conservatoire (including non-recent allegations) (4.18)</li> </ul>	12
5. General Principles	<ul style="list-style-type: none"> <li>• Delegation (5.4)</li> <li>• Management of cases under this Policy (5.5)</li> <li>• Timeframes (5.8)</li> </ul>	17
6. Outcomes of cases	<ul style="list-style-type: none"> <li>• Outcomes of Stage 1 of these procedures (6.3)</li> <li>• Informing Complainants (6.4)</li> <li>• Informing Respondents (6.8)</li> </ul>	18
7. Complaints under this Policy	<ul style="list-style-type: none"> <li>• Students (7.2)               <ul style="list-style-type: none"> <li>• <i>Complainants</i></li> </ul> </li> </ul>	21

	<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> <li>• <b>Staff (7.4)</b> <ul style="list-style-type: none"> <li>• <b>Complainants</b></li> <li>• <b>Respondents</b></li> </ul> </li> </ul>	
<b>8. Limitations</b>		<b>22</b>
<b>9. Right to choose action, or withdraw a complaint/allegations</b>		<b>22</b>
<b>10. Vexatious or malicious reporting</b>		<b>23</b>
<b>11. Data processing, confidentiality and record keeping</b>	<ul style="list-style-type: none"> <li>• <b>Case Management (11.1)</b></li> <li>• <b>Processing of Special Category Data and Criminal Records Data (11.3)</b></li> <li>• <b>Written and Oral Representations: Notification of Legal Implications (11.5)</b></li> <li>• <b>Third party information (11.6)</b></li> <li>• <b>Conservatoire Staff Data (11.7)</b></li> <li>• <b>Data processing, confidentiality and record keeping relating to Precautionary Measures (Appendix C) (11.8)</b></li> <li>• <b>Monitoring, Review and Assurance (11.9)</b></li> </ul>	<b>24</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 Guidance<sup>1</sup> for Higher Education Institutions on How to Handle Alleged Student Misconduct Which May Also Constitute a Criminal Offence, and the OIA’s Good Practice Frameworks for Handling Student Complaints and Academic Appeals<sup>2</sup>, and for Disciplinary Procedures<sup>3</sup>, and has been informed by good practice from across the sector. Resources and information<sup>4</sup> from Rape Crisis England and Wales have also informed the content of this Policy and its procedures.

<sup>1</sup> <https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Pages/guidance-for-higher-education-institutions.aspx>

<sup>2</sup> <http://www.oiahe.org.uk/media/96361/oia-good-practice-framework.pdf>

<sup>3</sup> <https://www.oiahe.org.uk/resources-and-publications/good-practice-framework/disciplinary-procedures/>

<sup>4</sup> <https://rapecrisis.org.uk/sexualviolenceoverview.php>

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

### **1 Introduction**

- 1.1 All Schools of the Conservatoire for Dance and Drama (the 'Conservatoire') seek 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 Conservatoire's Inclusive Cultures Strategy (the 'Strategy') <http://www.cdd.ac.uk/policies/conservatoire-strategy/>.
- 1.2 The Conservatoire Policy on Sexual Misconduct, Harassment and Related Behaviours (the 'Policy') underpins and is founded upon the principles outlined in the Strategy, which reflect the Conservatoire's commitment to establishing a culture of mutual respect and support, and to ensuring a zero tolerance for sexual violence and misconduct, harassment and related behaviours. All members of the Conservatoire, 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 1.8 'Breaches of this Policy' and Section 2 'Definitions').
- 1.3 This Policy shall apply to all students (individually and collectively to any group of students) registered for a programme of study at both the School and the Conservatoire, irrespective of their mode or place of study. This Policy shall apply at all times during the student's registration with the School and CDD 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 CDD-related activities.
- 1.4 Whilst it is non-contractual, this policy also applies to staff of the Schools and the central office of the Conservatoire; 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.
- 1.5 The Conservatoire and Member Schools 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 programme-related activities, including in external environments and outside performances. Students must comply with instructions given by the School and Conservatoire. These rules apply during and outside term-time, throughout the whole of the student's registration at the School and the Conservatoire. The School's jurisdiction under this policy and procedures is not limited to its own premises.

- 1.6 Under this Policy and in accordance with the Strategy, all students and staff of the Conservatoire are strongly encouraged to report any behaviour that has caused distress, regardless of any doubts they may have about whether the behaviour may be a breach of this Policy.
- 1.7 The following schools are member schools (the 'Member Schools' or 'Schools') of the Conservatoire which is a Higher Education Institution and subscriber to the Office of the Independent Adjudicator (OIA):
- Bristol Old Vic Theatre School
  - Central School of Ballet
  - London Contemporary Dance School
  - National Centre for Circus Arts
  - Northern School of Contemporary Dance
  - Rambert School of Ballet and Contemporary Dance
- 1.8 In the operation of the processes under this Policy, the Conservatoire and Schools will remain mindful of their 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.
- 1.9 This Policy encompasses the following approach:
- 1.9.1 It sets out expectations for behaviour that will allow all members of the Conservatoire to thrive;
- 1.9.2 It has an initial stage (see Appendix A: Stage 1 Initial Support and Early Investigation Stage) that provides a consistent approach to supporting individuals, including where relevant, the reporting student and the student facing allegations, and the Conservatoire in handling allegations/disclosures of sexual violence, harassment or related behaviours.
- 1.9.3 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 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. To note, students and staff have the option to raise the allegation/ disclosure under this Policy or the Non-Academic Misconduct policy; however, the Officers of the Conservatoire will ultimately decide if another Policy should be followed.

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

1.10 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)
- [Criminal Records Policy](#) (for students)
- [Student Complaints Procedure](#)
- Conservatoire School Safeguarding Policies<sup>5</sup>
- School HR procedures (including disciplinary and grievance procedures, for staff)<sup>6</sup>

### ***Breaches of this policy***

- 1.11 Reported behaviour that falls within the scope of the definition 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 and therefore dealt with under Stage 1 (see Appendix A: Stage 1 Initial Support and Early Investigation Stage) in order to determine next steps.
- 1.12 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 the Conservatoire.
- 1.13 However, behaviour which constitutes a breach of this Policy may also be deemed by the Conservatoire to be possible misconduct, and where deemed appropriate by officers of the Conservatoire, a case may be referred into the procedures under the Conservatoire Non-Academic Misconduct Policy<sup>7</sup> for students, or referred into HR processes for staff. Consequently, allegations raised may be dealt with under each policy as necessary. For example, allegations concerning student behaviour may begin to be handled under this Policy or the Non-Academic Misconduct Policy, and subsequently be referred into the other.
- 1.14 This Policy sets out the formal processes by which allegations of behaviour that is considered to be a potential breach of this policy (sexual misconduct, harassment and other related behaviours), that cannot be dealt with informally, will normally be investigated and appropriate outcomes determined. All reports of allegations which may fall within the scope of this Policy and its procedures (see Section 2 'Definitions') will normally be considered under Stage 1 (see Appendix A: Stage 1 Initial Support and Early Investigation Stage), including situations where the Complainant chooses not to report the matter to the Police.

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<sup>5</sup> These can be found on individual Member School websites.

<sup>6</sup> These can be found on individual Member School websites.

<sup>7</sup> The Non-Academic Misconduct Policy can be found at: <http://www.cdd.ac.uk/policies/student-related-policies/>

## 2 Definitions

### ***Definitions of breaches of this Policy***

2.1 A breach of this Policy is defined by the Conservatoire as:

**“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.”**

2.2 Sexual misconduct, harassment and related behaviours are deemed by the Conservatoire 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.

### ***Breaches of this Policy by students***

2.3 Where a student of the Conservatoire 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 officer of the Conservatoire such as the Principal of a School) will determine whether or not the allegations need referring for investigation under the Non-Academic Misconduct policy, or whether the Alternative Resolution Procedures (see **Appendix B**) under this policy may apply.

### ***Breaches of this Policy by staff***

2.4 A breach of this Policy by a staff member of either a Conservatoire School or the central office of the Conservatoire may constitute a disciplinary offence and may be referred into the relevant HR procedures of the School or the central office of the Conservatoire, as deemed appropriate by the Early Investigation Officer.

### ***Responding to breaches of this policy***

2.5 In all instances when determining whether allegations should be referred into the Non-Academic Misconduct procedures (for students) or HR procedures (for staff), officers of the Conservatoire will take account of the wishes of the Complainant in this regard. However, the Conservatoire 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 the Conservatoire 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 Conservatoire's duty of care must supersede the wishes of the Complainant. For example, the Conservatoire 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 Conservatoire 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 them and the right to "test" that evidence. For further explanation, please see 'Management of cases under this Policy' (in section 5) and also 'Outcomes of Stage 1 of these procedures' (in section 6) 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) Coercive demands for favours (including sexual favours);
- i) 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);
- j) Grooming behaviours (e.g. isolating someone so they are dependent academically and emotionally; buying someone presents or repeatedly insisting on paying for them to create a power imbalance)
- k) Repeatedly engaging in unwanted interaction, including online/via social media (to note, multiple or repeated incidents of misconduct may be deemed by the Conservatoire to be more serious than a single act of misconduct);
- l) 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;
- m) 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;
- n) Monitoring another person's use of the internet, email or any other form of electronic communication;
- o) Interfering with the property of another person.

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 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 the Conservatoire.

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

2.9 Under this Policy, the Conservatoire 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 and Conservatoire.”**

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

2.10 Under this Policy, the Conservatoire 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. Harassment 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, the Conservatoire defines **‘related behaviours’** as:

**“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.”**

### ***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 a Complainant 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 Complainant agrees to the activity by choice. The question of capacity to consent is particularly relevant when a complainant is intoxicated by alcohol or affected by drugs.

2.13 Under this Policy, the Conservatoire 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.

### ***Other definitions used in this Policy***

2.15 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 the Conservatoire) who has brought a complaint or allegation regarding the behaviour of a student, staff member or individual external to the Conservatoire against a student which allegedly breaches this Policy;
- b) 'Respondent': an individual (who may be a student, staff member or individual external to the Conservatoire) who is alleged to have breached this policy;
- c) 'Disclosure': where an individual discloses that they are a survivor of sexual violence, or of any of the examples of conduct listed in section 2 of this Policy, or incidents similar in nature;
- d) 'Days': all timescales referred to in this Policy constitute calendar days unless otherwise specified;
- e) 'Conservatoire': the Schools of the Conservatoire and the central office of the Conservatoire collectively;

- f) 'School': a School of the Conservatoire;
- g) 'Officer(s) of the Conservatoire': member(s) of staff from any of the Conservatoire Schools and/or the central office of the Conservatoire, appointed by the CEO of the Conservatoire or a School Principal as required, to investigate matters raised and/or carry out any particular stage of the procedures under this Policy. Any reference in this Policy and procedures to an Officer of the Conservatoire includes a deputy appointed by that officer or role-holder to exercise the functions assigned to that officer under this procedure.
- h) 'Initial Support Officer': member(s) of staff from any of the Conservatoire Schools and/or the central office of the Conservatoire appointed by a member of Senior Management in a Conservatoire School or by the Academic Registrar in the central office of the Conservatoire, who provides initial support to a potential Complainant.
- i) 'Early Investigation Officer': a member of Conservatoire staff, appointed by a member of Senior Management in a Conservatoire School or by the Academic Registrar in the central office of the Conservatoire, who conducts the 'Early Investigation' at Stage 1 of the procedures, to determine next steps
- j) 'Non-recent allegations': allegations concerning events where the period of time between the alleged events occurring and the reporting of those events is deemed by the Conservatoire to be the deciding factor in what action might be possible. Please see Section 4 of this Policy for a fuller description.
- k) 'In writing': this includes email communications.

### 3 Summary of procedures

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

#### **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. 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. 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.

- 3.2 In addition to the two stages of procedures under this Policy, there are two discretionary processes 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 the Conservatoire.** 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 the Conservatoire 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 Conservatoire 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 Conservatoire 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 another appropriate officer of the Conservatoire (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 for Precautionary Measures to be imposed by the Conservatoire CEO, 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. These procedures should be followed when one or more allegations have been reported to the Police.

## **4 Scope and principles of this policy and its procedures**

- 4.1 A complaint that falls within the scope of the Conservatoire 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.**

***Where this policy applies***

4.2 This policy applies where:

- 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 behaviours.
- 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.
- 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.

4.3 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 also provided in Section 4, below.

4.4 Where the CEO is the subject of allegations that fall within the scope of this Policy, the matter will be referred to the Chair of the Conservatoire’s Board of Governors.

***Summary of who the procedures cover***

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

- 4.5.1 **Appendix A ‘Initial Support & Early Investigation Stage’** applies to all students and staff of the Conservatoire, and also to individuals who are external to the Conservatoire. The status of the individual raising a complaint/allegations will determine what potential action may be taken.
- 4.5.2 **Appendix B: ‘Alternative Resolution’** only applies to cases where both the Complainant and Respondent are students.
- 4.5.3 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’**.

### ***Raising a complaint/allegations***

4.6 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 the Conservatoire and raising allegations verbally, by contacting them in writing, or by completing the Stage 1 Report Form (**Appendix A1**).
- under the Non-Academic Misconduct Policy, by reporting allegations to an officer of the Conservatoire 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 central office of the Conservatoire, using the Student Complaint form (the form can be found at <http://cdd.ac.uk/policies/student-related-policies/>).

4.7 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. The Conservatoire 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 related behaviours.

4.8 The Conservatoire 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 Conservatoire 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. 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.

4.9 Raising a complaint/allegations under this Policy or another Conservatoire policy does not prevent a Complainant from reporting the matter to the Police at any time (even where the Conservatoire's internal procedures have been concluded). Please see **Appendix D: Procedures for Complaints/Allegations that have been reported to the Police** for related information.

### ***Non-recent allegations***

4.10 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 the Conservatoire's internal procedures;
- Subject to the judgement of the Early Investigation Officer, alleged incidents that occurred more than 3 months before the date they were reported may be deemed to be 'non-recent' (see below).

4.11 Generally, the Early Investigation Officer will determine whether alleged incidents that occurred more than 3 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 summer closure, 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 3 months ago may be deemed by the Early Investigation Officer to be 'non-recent' if the passage of time that has occurred reasonably prevents the Conservatoire from investigating the matter further under any of its procedures.

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

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

4.14 Where a complainant raises a non-recent allegation regarding the behaviour of an individual who is not a member of a School nor of the wider Conservatoire (including where they may previously have been a member), the matter shall be referred to the CEO of the Conservatoire, who shall undertake a risk assessment (using **Appendix E**) to determine together with one or more Principals of the Conservatoire Schools as deemed necessary by the CEO, 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).

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

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

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

4.16 Because the Conservatoire 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, complaints/allegations raised either anonymously, or by third parties on behalf of a Complainant, will not normally be considered, except where the Conservatoire is satisfied that just cause and/or reasonable grounds exist to do so.

4.17 Where anonymous allegations (i.e. allegations that either do not identify the alleged Complainant and/or alleged Respondent) are made or allegations are raised by third parties, the Early Investigation Officer will complete a Stage 1 Report and refer the matter to the central office of the Conservatoire. In consultation with officers of the Conservatoire as appropriate, the Early Investigation Officer will determine whether there are any matters arising from the allegations that the Conservatoire 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 the Conservatoire (including non-recent allegations)***

4.18 Where allegations are received from any individual who is not a member of the Conservatoire that the behaviour of an individual who is neither a member of the School nor of the wider Conservatoire 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 4 of this Policy for further information regarding non-recent allegations.

## **5 General Principles**

- 5.1 The Conservatoire will act reasonably in considering and handling complaints and allegations under this Policy, having regard to the individual circumstances of any case. Every effort will be made to ensure that all parties are treated with fairness and dignity.
- 5.2 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.
- 5.3 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.

### ***Delegation***

- 5.4 Any reference in this Policy and procedures to an Officer of the Conservatoire (which includes officers from any of the Schools or Central office of the Conservatoire) 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 student case. Where reference is made under this Policy and procedures to the Principal of the School, such references include the Principal's nominee, nominated by the Principal to act on their behalf in matters of student misconduct, including matters which may fall within the scope of this policy.

### ***Management of cases under this Policy***

- 5.5 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 Conservatoire 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. 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.
- 5.6 On receipt of a complaint or allegations that may fall within the scope of this Policy, it is for officers of the Conservatoire 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 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.

- 5.7 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 Conservatoire, 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.

### ***Timeframes***

- 5.8 Indicative timeframes are set out in the procedures under this Policy to assist the Conservatoire 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 Conservatoire 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 Conservatoire and/or School Principal) as appropriate.
- 5.9 A written decision issued by an Officer of the Conservatoire in accordance with this Policy and procedures shall include the reasons for that decision.
- 5.10 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 Conservatoire and/or the matter may be referred for consideration under another procedure, following consultation with the Complainant and Respondent as deemed appropriate by the Conservatoire.
- 5.11 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 Conservatoire Academic Registrar (or nominee) will consider whether further action should be taken under this Policy. The Academic Registrar will also consider whether any matters should be referred under any other Conservatoire procedures.
- 5.12 If an Officer of the Conservatoire carrying out any stage of this procedure and/or the School Principal 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'.

## **6 Outcomes of cases**

- 6.1 As a general principle, the Conservatoire will act within its legitimate power to ensure that all parties are kept informed appropriately of outcomes. However, the Conservatoire 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).

- 6.2 At any stage, there is an opportunity for the Conservatoire to take no further action if appropriate, for example, if there is insufficient evidence to support an allegation of misconduct.

### ***Outcomes of Stage 1 of these procedures***

- 6.3 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 5.1.

### ***Informing Complainants***

- 6.4 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.
- 6.5 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)

- 6.6 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.
- 6.7 Where a case has been referred externally to the Police either directly by the Complainant or by the Conservatoire under its duty of care obligations, the Complainant will be kept informed in accordance with advice and instructions received from the Police.

### ***Informing Respondents***

- 6.8 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.
- 6.9 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.
- 6.10 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).
- 6.11 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.
- 6.12 Respondents will be informed of their right to make representations in accordance with the Stage 1 and (where applicable) Stage 2 procedures either under this Policy or:
- The Non-Academic Misconduct Policy
  - The Emergency Powers of Exclusion and Suspension

## **7 Complaints under this Policy**

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

### **STUDENTS**

#### ***Complainants***

7.2 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 <http://www.cdd.ac.uk/policies/student-related-policies/>

#### ***Respondents***

7.3 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***

7.3.1 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***

7.3.2 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***

7.3.3 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 <http://www.cdd.ac.uk/policies/student-related-policies/> 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***

7.4 Staff Complainants who wish to make a complaint against any aspect of the Stage 1 Initial Support and Early Investigation process should contact their HR department 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 Quality Team in the central office of the Conservatoire, by emailing [qualityoffice@cdd.ac.uk](mailto:qualityoffice@cdd.ac.uk).

### ***Respondents***

- 7.5 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 Quality Team in the central office of the Conservatoire, by emailing [qualityoffice@cdd.ac.uk](mailto:qualityoffice@cdd.ac.uk).

## **8 Limitations**

- 8.1 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 Conservatoire procedure (e.g. the Student Complaints Procedure; the Non-Academic Misconduct procedures).
- 8.2 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.
- 8.3 The Alternative Resolution Processes (Appendix B) under this Policy are limited to addressing allegations of behaviour that breaches this and/or any other Conservatoire 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 the Conservatoire. 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.
- 8.4 The Conservatoire 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<sup>8</sup>) has occurred. The internal procedures and investigations of the Conservatoire 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.

## **9 Right to choose action, or withdraw a complaint/allegations**

- 9.1 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 the Conservatoire 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.

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<sup>8</sup> <http://www.cdd.ac.uk/policies/student-related-policies/>

- 9.2 Where a Complainant expresses, either initially or subsequently, that they do not wish to engage with the procedures under this Policy or another Conservatoire procedure, they are under no obligation to engage with any such procedures. The Complainant also has the right at any point in proceedings to change their mind about whether or not they prefer any action to be taken. As far as possible, officers of the Conservatoire 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 Conservatoire has an obligation to pursue action (e.g. in the event of serious safeguarding concerns and/or risks that 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 the Conservatoire, and action may proceed or continue to proceed without the engagement of the Complainant.
- 9.3 The Complainant may withdraw a complaint or allegations at any time whilst procedures have begun either under this Policy or another Policy (e.g. the Non-Academic Misconduct Policy), by notifying the appointed Officer of the Conservatoire 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.
- 9.4 Where a Complainant has verbally indicated they wish to withdraw a complaint or allegations, the appointed Officer of the Conservatoire handling the case may determine that the procedure may temporarily be held in abeyance pending written confirmation.
- 9.5 Where a complaint/allegation is withdrawn by a Complainant the appointed Officer of the Conservatoire will determine the most appropriate course of action. This may include the following:
- a) No action or further action under this or any other Conservatoire policy;
  - b) Termination of proceedings that have already commenced under this procedure or another Conservatoire procedure;
  - c) No further action under this procedure, but referral of the matter into another Conservatoire procedure;
  - d) The continuation of proceedings that have already commenced under this procedure, where it is most appropriate to do so.
- 9.6 Where a complaint/allegation is withdrawn by a Complainant but the appointed Officer of the Conservatoire determines that proceedings should continue, this does not preclude the matter subsequently being referred under another procedure where necessary.

## **10 Vexatious and/or Malicious reporting**

- 10.1 The Conservatoire 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 Conservatoire Non-Academic Misconduct Policy as appropriate.

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

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

### ***Case Management***

- 11.1 The Conservatoire 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 Conservatoire and wishes the Conservatoire 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. If a Complainant refuses to name a person who is relevant to their complaint, the Conservatoire may not be able to consider or investigate the case, or may only be able to consider or investigate it to a limited extent.
- 11.2 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 files in the School. Records may also be held confidentially and as necessary in the central office of the Conservatoire, for the purposes of support with both casework and procedures. In accordance with the Conservatoire's duties under the General Data Protection Regulation and the Data Protection Act 2018 and in keeping with OIA recommendations, records will 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 be destroyed). Some deviation from this schedule can be expected for cases which, in the judgement of the School and/or the central office of the Conservatoire, are unique or complex and therefore require shorter or longer record retention periods.

### ***Processing of Special Category Data and Criminal Records Data***

- 11.3 In operating the processes and procedures under this policy, it may be necessary for the Conservatoire to process special category data and/or criminal records data. Please refer to the Conservatoire'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.

11.4 Schools of the Conservatoire will share, as necessary, information with the Conservatoire (including the central office of the Conservatoire and other members of Conservatoire Schools) 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 Conservatoire Quality Team via email at [qualityoffice@cdd.ac.uk](mailto:qualityoffice@cdd.ac.uk).

***Written and Oral Representations: Notification of Legal Implications***

11.5 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 Conservatoire 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**.

***Third party information***

11.6 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>9</sup> party that their data is being processed, in accordance with Article 14 of the GDPR.

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<sup>9</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](#)'

### ***Conservatoire Staff Data***

- 11.7 Information about Conservatoire staff (both of Schools and the central office of the Conservatoire) 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 relating to Precautionary Measures (Appendix C)***

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

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

- 11.9 Schools of the Conservatoire will report to the Conservatoire Senate on an annual basis, regarding the use of this Policy. This means the Schools will share limited information with the Conservatoire (including the central office of the Conservatoire and other members of Conservatoire Schools) 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.

- 11.10 With reference to this Policy, Schools should:

- Record and monitor disclosures of allegations that fall within the scope of this Policy;
- Monitor outcomes of cases;
- Monitor outcomes arising from Stage 1
- Monitor outcomes arising from Stage 2 Alternative Resolution processes, including any recommendations by Alternative Resolution Panels
- Report case outcomes to the Conservatoire's Quality Team, upon conclusion of a case (email [qualityoffice@cdd.ac.uk](mailto:qualityoffice@cdd.ac.uk))
- 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 Conservatoire Senate;
- Report any matters to the Conservatoire Senate as appropriate, for maintenance and enhancement of quality assurance.