

## Guidance on Hearings (General provisions and procedures)

### Hearings of the Misconduct Conduct Panel and Misconduct Appeals Panel

#### A) Hearing procedures – General Provisions

1. All relevant parties, including but not limited to the student, and a member of staff (known as the School representative) to respond to the misconduct case, or appeal, will be invited to attend, to ensure a fair and equal hearing.
2. All parties attending a hearing of either the Misconduct Panel or the Misconduct Appeals Panel (with the exception of the Panel in question) will enter and leave the hearing together. For each case proceeding to a hearing of a Misconduct Panel, the Preliminary Enquiry Officer will normally act as the School Representative in bringing the case. Where it is deemed appropriate by the Principal, an additional member of staff from the student's discipline may be called to attend the hearing, at the Panel Chair's discretion, to provide expert advice to the Panel on matters of professional conduct.
3. For each case proceeding to a hearing of a Misconduct Appeals Panel, where it is deemed necessary a member of School staff shall be identified by the Principal to attend the hearing to respond to the appeal presented by the student.
4. The Misconduct Panel, or Misconduct Appeals Panel, may request further evidence in writing or in person from either the student or staff of the School, where it is deemed necessary to reach a finding.
5. The Misconduct Panel, or Misconduct Appeals Panel may take advice from a member (or members) of staff with appropriate clinical expertise, or other persons with such expertise, about the interpretation of medical or other evidence supplied in support of an appeal.
6. The Panel may, at its discretion, at any time during the proceedings, order the room to be vacated, or may themselves retire to another room for private discussions. Only the Panel and the Panel Secretary to the hearing will be entitled to be present at such times.
7. The student, their representative (if applicable) and the School representative shall have the right to be present during the hearing, except during the Panel deliberations, and or in the event that the Panel determines it requires private discussions. Witnesses/accompanying supporters may be permitted to attend some or all of a hearing at the discretion of the Chair. All parties will normally be present at the hearing together, except during the respective Panel's private discussions or deliberations.

#### B) Hearings involving more than one student

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### ***Misconduct Panel Hearings***

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

### ***Misconduct Appeals Panel Hearings***

- 9 If an appeal concerns more than one student, the Secretary to the Misconduct Appeals Panel shall determine at the outset whether the appeals should be heard by a separate Appeals Panel for each student, by the same Appeals Panel for each student in separate hearings, or by a single panel and hearing for all the students. In the event of a single hearing for multiple students, the Secretary to the Misconduct Appeals Panel shall also determine any further variations to these procedures that shall be required to give a full and fair hearing to the case.

### **C) Adjournment of Hearings**

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

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### D) Proceedings of Panel Hearings, Representation and Accompaniment, Witnesses and Evidence

12 The Conservatoire is committed to ensuring its students are properly supported, and recognises that facing an allegation of misconduct, or an appeal against a decision of the Misconduct Panel, can be very stressful for a student. Provisions as follows are therefore made to support students throughout the misconduct processes at all stages:

- **Students have the right to be represented**
- **Students have the right to be accompanied**
- **Students have the right to call witnesses**

Where this guidance makes reference to “the Secretary of the Panel” or the “Chair of the Panel”, this would mean the Panel at that stage of the proceedings (i.e. the Misconduct Panel or the Misconduct Appeals Panel). For details of these provisions, please see below:

#### (a) **Representation:**

A student facing an allegation of misconduct may be represented at any point in the proceedings by another Conservatoire student member, or by a member of the Students’ Union<sup>1</sup> or, where the student is registered with a professional organisation, a member of their professional organisation. A relevant individual in the case of reasonable adjustments being made for a disabled student shall normally be permitted to be a representative or friend of a student. The student should provide the name of their representative to the Secretary of the Panel normally at least 48 hours in advance of the hearing. Where this timeframe cannot be met, reasons should be provided. The Chair of the Panel has the ultimate discretion to admit or refuse any representative.

#### (b) **Accompaniment:**

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

#### (c) **Witnesses:**

Both the student and the School may request any witnesses to attend either a hearing of the Misconduct Panel, and/or the Misconduct Appeals Panel. Both parties must inform the Chair of the Misconduct Panel or the Chair of the Misconduct Appeals Panel of the names of any witnesses

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<sup>1</sup> This may be relevant for BOVTS students whilst the School is validated by the University of the West of England (UWE), as they are members of UWE’s Student Union.

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

#### E) Misconduct Panel Hearing Procedure

13 When the Misconduct Panel is ready to commence the hearing, the following procedure will be followed:

- i. The Secretary will call the student (together with any representative or accompanying individual) to the hearing, at the same time as the School representative bringing the case.
- ii. The Chair will introduce the members of the Panel to all parties, and will ensure all parties attending the hearing introduce themselves.
- iii. The School representative will normally present the concerns with regard to the conduct of the student to the Misconduct Panel first, and call any witnesses; however it is at the discretion of the Chair of the Panel to invite parties to speak as they deem it appropriate.
- iv. The student facing the allegations of either misconduct and/or professional conduct concerns (or their representative) will be invited to reply to the allegations and may call witnesses. The student shall also be invited to present to the panel any mitigating circumstances which the student considers to be relevant to the case.
- v. The student and the School representative may ask questions of each other and of any witnesses called, but these must be addressed through the Chair, who has the discretion to allow or decline any such questions.
- vi. The Panel may ask questions of all those present at the hearing at any point during the proceedings. The Panel may call any witnesses relating to either the student or the School at any point during the hearing. Both the student and the School representative may call witnesses at any point during the hearing by making a request to the Chair of the Panel. Expert advisers may address any questions they have during proceedings to the Chair of the Panel.
- vii. At the conclusion of all presentations and questions, the student facing the charge(s) of misconduct and/or (or their representative) may address the Panel and make a closing statement. At their discretion, the Chair of the Panel may also make a closing statement.
- viii. The Panel will then declare the hearing closed, ask all parties to leave the hearing, and will enter into deliberations. The deliberations of the Panel are confidential, and will be held in private,

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with only the Secretary and the Panel present. The Panel will determine on the balance of probabilities its findings and decision(s).

- ix. A decision of the Misconduct Panel will be reached by a majority vote of the members of the Panel present at the hearing but will be announced as a decision of the Panel. The votes of the individual Panel members will be treated as confidential.
- x. A Misconduct Panel will endeavour to reach a decision and findings without adjournment. However, in the event that the Panel determines at any point during proceedings that it needs further information in order to reach a decision or for other good cause, it shall adjourn the case. For further details, see 'Adjournment' in this Appendix.
- xi. The decision and findings of the Panel, will be communicated in writing to the student in a Hearing Outcome letter, normally within 7 days of the date of the Hearing. Should the Chair deem it appropriate and with just cause, a verbal outcome may be delivered on the day of the Hearing to the student and School Representative. Should the Misconduct Panel determine that the charge(s) and/or concerns were not established, or without foundation, that decision will be communicated to all persons involved in the case, normally within 7 days of the date of the hearing.
- xii. The student has the right of appeal (under specific grounds) against a decision and/or findings of the Misconduct Panel.

#### **F) Misconduct Appeals Panel Hearing Procedure**

- 14 When the Misconduct Appeals Panel is ready to commence the hearing, the following procedure will be followed:
  - i. The Secretary will call the student (together with any representative or accompanying individual) to the hearing, at the same time as the School representative attending for the case.
  - ii. The Chair will introduce the members of the Panel to all parties, and will ensure all parties attending the hearing introduce themselves.
  - iii. The Chair will determine the order of the meeting. This may include inviting either the student or the School representative to speak first, as the Chair deems appropriate. It is at the discretion of the Chair for the Panel to invite parties to speak throughout the hearing as they deem it appropriate.
  - iv. The student and the School representative may ask questions throughout the course of the hearing, but these must be addressed through the Chair, who has the discretion to allow or decline any such questions.

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- v. The Panel may ask questions of all those present at the hearing at any point during the proceedings. The Panel may call any of both parties' witnesses at any point during the hearing.
- vi. Both the student and the School representative may call witnesses at any point during the hearing by making a request to the Chair of the Panel.
- vii. At the conclusion of all presentations and questions, the student (or their representative) may address the Panel and make a closing statement. At their discretion, the Chair of the Panel may also make a closing statement.
- viii. The Panel will then ask all parties to leave the hearing and will enter into deliberations. The deliberations of the Panel are confidential, and will be held in private, with only the Secretary and the Panel present. The Panel will determine on the balance of probabilities its findings and decision(s), in accordance with these procedures.
- ix. A decision of the Misconduct Appeals Panel will be reached by a majority vote of the members of the Panel present at the hearing but will be announced as a decision of the Panel. The votes of the individual Panel members will be treated as confidential.
- x. The Misconduct Appeals Panel will endeavour to reach a decision and findings without adjournment. However, in the event that the Panel determines it needs further information in order to reach a decision or for other good cause, it shall adjourn the case. For further details, see 'Adjournment' in this Appendix.
- xi. The student will be kept informed, and the Panel will reconvene to continue its deliberations, reach a decision and agree its findings, normally within 14 days of the original hearing date. Where feasible, the Panel may reconvene remotely (i.e. by electronic means).
- xii. The decision and findings of the Misconduct Appeals Panel will be communicated in writing to the student in an Appeal Hearing Outcome letter, normally within 7 days of the date of the hearing, or of the reconvened hearing. This letter will be forwarded to all relevant parties as deemed appropriate by the Chair. Should the Chair deem it appropriate and with just cause, a verbal outcome may be delivered on the day of the Hearing to the student and School Representative.
- xiii. The Misconduct Appeals Panel decision is **final**.