

Precautionary Measures

Contents of this Appendix

Section of Appendix	Contents of Section	See Page No
1. Scope of Precautionary Measures	<ul style="list-style-type: none"> <li>• <i>Precautionary measures that may be taken</i></li> <li>• <i>Definitions</i></li> <li>• <i>Concerns regarding students from other Conservatoire Schools</i></li> <li>• <i>Delegation of Powers</i></li> <li>• <i>Emergency Imposition of precautionary measures by a deputy of the CEO</i></li> </ul>	1
2. Imposition of precautionary measures	<ul style="list-style-type: none"> <li>• <i>Procedure for imposition of precautionary measures</i></li> <li>• <i>Procedure for emergency imposition of precautionary measures by a deputy of the CEO</i></li> </ul>	5
3. Interview regarding precautionary measures		6
4. Written and Oral Representations	<ul style="list-style-type: none"> <li>• <i>Notification of legal implications</i></li> <li>• <i>The right to make representations</i></li> <li>• <i>Representations prior to CEO's decision</i></li> <li>• <i>Circumstances that prevent the opportunity for written representations</i></li> <li>• <i>CEO's response to written representations</i></li> <li>• <i>Written representations submitted after the given deadline</i></li> <li>• <i>Written representations submitted prior to the CEO's imposition of precautionary measures</i></li> </ul>	7
5. Expiry of an imposed period of precautionary measures		9
6. Appeals, Complaints and Completion of Procedures		10
7. Failure to comply with precautionary measures		10
8. Timescales		10
9. Confidentiality, information disclosure and record-keeping		11

**1 Scope of Precautionary Measures**

- 1.1 'Precautionary measures' refers to necessary emergency action that the Conservatoire may take under the Policy on Sexual Misconduct, Harassment and Related Behaviours ('the Policy'). Precautionary measures apply to students of the Conservatoire only. They do not apply to staff, who are subject to any necessary action under HR procedures.
- 1.2 Precautionary measures are to be applied to student cases where necessary as a means of taking emergency action where allegations come to light that are deemed by an officer of the Conservatoire to possibly breach the Conservatoire Policy on Sexual Misconduct, Harassment and Related Behaviours. They will not automatically apply to every case that falls under the Policy, and the decision to apply precautionary measures will be taken on a case by case basis.
- 1.3 Precautionary measures may be applied as necessary at any point or stage following receipt of a complaint/allegations of sexual misconduct, harassment or any related behaviours on the part of a student of the Conservatoire, regardless of whether formal procedures have been invoked.
- 1.4 Any imposition of precautionary measures under this Policy is without prejudice, and a decision to impose precautionary measures will not be taken into account in the event of any investigation into such alleged conduct or incidents. However, any written or oral representations made in response to the imposition of precautionary measures may as necessary be taken into account as part of any investigation under this or any other Conservatoire policy (please see **Section 4 of this Appendix** for further details).
- 1.5 As provided for in the CDD Articles of Association, the Chief Executive Officer (CEO) of the Conservatoire for Dance and Drama (the 'Conservatoire') shall have power to impose any precautionary measures or take any precautionary action as set out in Section 2.1 below on any student registered jointly with the Conservatoire and any Conservatoire School, on a programme of Higher Education, if the CEO considers that any such measures are necessary:
  - a) **To ensure that a full and proper investigation can be carried out** in relation to any matter that may constitute a breach of this Policy (whether under this Policy's procedures or under any other Conservatoire procedure, and/or where a matter is being handled by the Police);
  - b) **To protect any individual(s)** while any matter that may constitute a breach of this Policy is being dealt with under a Conservatoire procedure, or as part of a criminal process.
- 1.6 Precautionary measures apply where allegations are received of student behaviour that may constitute a breach of the Policy. It is somewhat similar to (but not the same as) the

Conservatoire's Emergency Powers of Exclusion and Suspension policy. Precautionary measures differ from that policy in the following ways:

- a) they are expressly designed to support the management of the types of allegations that fall under this policy and the sensitivity of these types of cases;
- b) the scope of the types of action that can be taken is broader than under the Emergency Powers;
- c) timeframes differ and are flexible where appropriate to accommodate the nature of the cases for which it will be used;
- d) the process may as necessary form part of Stage 1 of the procedures under this Policy (the Initial Support and Early Investigation Stage);
- e) there is some flexibility with the continued management of the precautionary measures which may be delegated by the CEO to a deputy (see 1.12 of this appendix);
- f) in accordance with the scope of this Policy, there are additional procedures to follow regarding the notification of legal implications to students who are subject to precautionary action or measures under this Policy (see Section 4 of this appendix).

***Precautionary measures that may be taken***

1.7 The precautionary measures that the CEO may impose under this stage of the procedures are any one or more of the following measures:

- a) imposing conditions on a student regarding contact with any particular person or individuals (including posting on social media, and contacting either directly or indirectly<sup>1</sup>);
- 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;
- c) imposing restrictions on a student's use of the School and/or Conservatoire facilities and/or premises, as the Conservatoire considers necessary;
- d) excluding a student from some or all of the School and/or Conservatoire facilities and/or premises;
- e) suspending a student, either in full or in part, from their studies.

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<sup>1</sup> Under this policy, 'indirect contact' means contact that does not directly contact a particular individual but contains a message, meaning or information intended for, or about, that individual.

***Definitions***

- 1.8 **Exclusion** means that certain restrictions are placed upon a student's access to the School or any parts of the School premises, and/or any related facilities, service(s) or functions that the student would normally have. The terms of the exclusion may include conditions, including no contact with a particular person or individuals.
- 1.9 **Suspension** means that attendance at, or access to, the School, and participation in any or all School activities (including external programme-related activities), is prohibited until the term of suspension is lifted. However, the suspension may be subject to qualification, such as exceptional permission to attend for the purpose of an assessment. The terms of the suspension may include conditions, including no contact with a particular person or individuals.
- 1.10 An officer of the Conservatoire may request, or make a recommendation, in consultation with the relevant School Principal, that the CEO imposes precautionary measures upon a student of their School, in accordance with sections 1.5 and 1.6 of this appendix.
- 1.11 Where the CEO imposes precautionary measures on a student this will be for a specified period of not longer than 21 days in the first instance (see section 2.2 'Timescales'). Following the imposition by the CEO of precautionary measures, the CEO will review the case before the specified period expires in order to determine whether any further precautionary measures (including a re-imposition of the original measures) should be imposed. The time period for any further precautionary measures will be proportionate to the necessity of the case and will not normally be for longer than three months except in exceptional circumstances.

***Concerns regarding students from other Conservatoire Schools***

- 1.12 Where a School has concerns about a student of another Conservatoire School, this should be reported to the CEO, who will determine (in consultation with the Principal of the student concerned) whether precautionary measures are necessary, for the reasons stated in Section 1.5 a) and b) of this appendix. Such requests and recommendations must be made in writing and submitted to the CEO at the earliest opportunity, following the procedure outlined in section 2 of this appendix and in accordance with the published timescales (see section 2 also).

***Delegation of Powers***

- 1.13 In the event that the CEO is unable, for any reason, to exercise their powers under this policy, the Chair of the Conservatoire Senate is expressly delegated by the CEO under this policy to act in lieu of the CEO.

***Emergency imposition of precautionary measures by a deputy of the CEO***

- 1.14 The CEO's powers for imposing precautionary measures may be carried out by a deputy, namely any Principal of a Conservatoire School, or the Conservatoire's Academic Registrar. A deputy may impose precautionary measures under this Policy for an **initial emergency period of 2 days**. Where a deputy carries out the CEO's powers to impose precautionary measures under the Policy, **the imposition of the powers shall be reported to the CEO within 24 hours of writing to the student**. The CEO (or their nominee) will review the decision and determine next steps. The CEO will also determine whether the matter can continue to be managed by the deputy, in which case subsequent reference to the CEO shall be taken as referring to the deputy. Please see Section 2 of this Appendix for the relevant procedure to follow in these circumstances.
- 1.15 The CEO may, at the request of the student and where the CEO is satisfied it is reasonable and appropriate to do so, permit a student who has had precautionary measures imposed, to sit any assessment, or agree such other academic arrangement with the student's School as the CEO thinks fit. Where a student under precautionary measures is permitted to sit an assessment, alternative arrangements to allow the assessment to be taken may as necessary and appropriate be put in place.

**2 Imposition of precautionary measures**

***Procedure for imposition of precautionary measures***

- 2.1 In response to receiving allegations of behaviour that may constitute a breach of this Policy, the School Principal, or an officer of the Conservatoire, in consultation with the relevant School Principal, may request that the CEO impose precautionary measures upon a student of their School. In order to do so, the following procedure should be followed:
1. A risk assessment should be completed (using Appendix F to the Policy);
  2. The officer should consult with the School Principal about who will make the request to the CEO;
  3. The School Principal (or nominee) should complete **Appendix C1 'Precautionary Measures Referral Form'** in order to make the request
  4. The request including the completed referral form (Appendix C1) should be forwarded to the CEO via email at [qualityoffice@cdd.ac.uk](mailto:qualityoffice@cdd.ac.uk).
- 2.2 As soon as is practicable after the CEO has determined that precautionary measures on a student should be imposed, the CEO will notify the student concerned in writing of the decision. This written notification will include:
- a) the **specific measure(s) to be taken** (or, which have been necessarily taken);
  - b) the **grounds** for imposing the precautionary measures;

- c) **Inclusion of the Guidance for Staff and Students on the Policy** on Sexual Misconduct, Harassment and Related Behaviours;
- d) **the start and end dates specifying the period** during which the precautionary measures apply('the period of imposition'), for an **initial maximum of 21 days** (and thereafter subject to review);
- e) **clarification that such measures do not constitute any penalty or sanction**, nor do they imply any finding of wrongdoing, nor any indication of any particular view of any complaint or allegation(s) allied to the necessity for using the precautionary measures;
- f) **confirmation that the CEO will undertake a review** of the matter shortly before the period of imposition expires.

***Procedure for emergency imposition of precautionary measures by a deputy of the CEO***

2.3 Where it is necessary for a deputy of the CEO to impose precautionary measures on behalf of the CEO, the deputy will follow the following steps:

1. Undertake a Risk Assessment (using Appendix F);
2. Notify the student in writing of the emergency imposition, in accordance with Section 4 of this appendix (see below), informing them that the emergency imposition will be reported to the CEO for review and a decision about precautionary measures, and that the CEO will subsequently contact the student;
3. Notify the CEO of the emergency imposition within 24 hours of writing to the student, and will make a request (including any relevant recommendations) using **Appendix C1 'Precautionary Measures Referral Form'** to the CEO for the imposition of precautionary measures in accordance with the provisions under Section 1 of this appendix.

**3 Interview regarding precautionary measures**

3.1 Where a student has precautionary measures imposed upon them under the Policy, the student may as necessary be invited to interview with the CEO (or the CEO's nominee), for one or more of the following reasons:

- a) to aid the CEO in assessing the level of risk, to assist in determining whether such precautionary measures may be lifted or whether the terms of the measures require adjustment;
- b) to provide the opportunity for the student to provide an initial response to concerns and allegations as part of the Early Investigation, should they wish to do so;

c) to provide the opportunity for the student to respond in person to concerns and allegations, should they wish to do so.

3.2 Where the student is invited to interview by the CEO, they will be notified in writing in accordance with the provisions of Sections 4 and 5 of this appendix and 9.4 of the Policy ('Written and Oral Representations: Notification of Legal Implications').

3.3 Where a student has had precautionary measures imposed as a result of action that has been reported to the Police, the procedures in Appendix D should be followed, and the CEO will not normally invite the student to interview.

#### **4 Written and Oral Representations**

4.1 Where a student is invited to interview or make any written/oral representations as part of the Precautionary Measures process, when or before being invited, they must:

- a) be given sufficient information to enable them to understand the reason(s) behind the precautionary measures, and the nature of the allegation(s) and/or complaint(s) against them;
- b) be notified that they do not have to say anything if they do not wish to;
- c) be advised that no adverse conclusions or inferences may be drawn from a failure on their part to attend an interview or otherwise participate in the investigation;
- d) be reminded that they are entitled to seek independent legal advice, and to be provided with sufficient notice<sup>2</sup> of an interview as may reasonably be required to secure such advice.

#### ***Notification of legal Implications***

4.2 Please read Section 10 of the Policy on Sexual Misconduct, Harassment and Related Behaviours and ensure that all students and staff members are given due notification of legal implications.

#### ***The right to make representations***

4.3 Any student upon whom precautionary measures are imposed has the right to make written representations for consideration, in accordance with the circumstances set out below.

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<sup>2</sup> 'Sufficient notice' will normally not be less than 7 calendar days, except in urgent circumstances. Where less than 7 calendar days' notice is given and the student requests a postponement of the interview in order to seek legal advice, this will in all circumstances be granted but may impact upon how soon the interview can be rescheduled. Care should be taken to work with the student to ascertain a reasonable extended timeframe that they require to seek legal advice.

- 4.4 Where a student is invited to make written and/or oral representations under this Policy, the student will be notified in writing in accordance with the provisions of Section 4 of this Appendix ('Notification of Legal Implications').

***Representations prior to CEO's decision***

- 4.5 Before a decision is made about whether or not to impose any precautionary measures on a student, or whether to extend a period of imposed precautionary measures, or whether to impose further or additional precautionary measures, the CEO shall normally give the student a reasonable opportunity to submit written representations.
- 4.6 Following the initial imposition of precautionary measures, the student will normally be offered the opportunity to submit written representations. A deadline for the submission of any written representations on the part of the student will be clearly indicated to the student. The CEO will determine a timeframe within which the student might reasonably be able to respond according to the circumstances of the case, taking account of any risks and/or sensitivities.

***Circumstances that prevent the opportunity for written representations***

- 4.7 Notwithstanding the above normal opportunity to provide written representations, the CEO shall not be obliged to provide such an opportunity where it is not possible or appropriate to do so, due to the urgent and/or sensitive nature of the matter (e.g. where to do so may have implications for a criminal matter). Where it is not possible or appropriate to do so at the time of imposing precautionary measures, the student will normally be provided with the opportunity to submit written representations at a subsequent time, circumstances permitting. Each case will be judged on its own merits and on an individual basis, and the CEO will be satisfied that the circumstances are appropriate for the student to submit written representations.

***CEO's response to written representations***

- 4.8 The CEO will normally consider the request, review the decision and provide a written response within 5 days of the date of receipt of the written request, except where exceptional circumstances (such as illness or unforeseen events) prevent the CEO from providing a written response within this timeframe.

***Written representations submitted after the given deadline***

- 4.9 Where a request from the student for the CEO to review their decision to impose precautionary measures is received beyond the deadline that has been provided to the student by the CEO, these will be considered at the discretion of the Principal, and the normal 5-day timeframe for the CEO to provide a response may not apply.
- 4.10 Where a student submits written representations for consideration by the CEO **prior to any additional or further precautionary measures being imposed**, the CEO will provide a



written response as soon as possible and normally within 5 days of receipt of the written request, except where exceptional circumstances (such as illness or unforeseen events) prevent the CEO from providing a written response within this timeframe.

***Written representations submitted by a student prior to the CEO's imposition of precautionary measures***

- 4.11 Where a student has been notified by a School of a forthcoming imposition of emergency precautionary measures and submits written representations for the CEO to consider **prior to the CEO's decision regarding the formal imposition of precautionary measures**, the CEO will provide a written response as soon as possible and normally within 5 days of receipt of the written request, except where exceptional circumstances (such as illness or unforeseen events) prevent the CEO from doing so within this timeframe.

**5 Expiry of an imposed period of precautionary measures**

- 5.1 On the expiry of an initial, or any subsequent, period for which precautionary measures have been imposed, or if the CEO receives evidence of failure on the part of a student to comply with the terms of the precautionary measures, the CEO will review the position to determine whether:
- a) there is any need to re-impose the precautionary measures, with the same terms;
  - b) there is any need to re-impose the precautionary measures, with adjusted/amended terms;
  - c) there is any need to impose different precautionary measures;
  - d) the imposition period can expire, with further follow-up action under this Policy, the Non-Academic Misconduct policy, or the Student Complaints Procedure;
  - e) the imposition period can expire with further follow-up action under an alternative Conservatoire procedure (eg Support through Studies);
  - f) the imposition period can expire with no further action to be taken.
- 5.2 The student who is subjected to the precautionary measures will be entitled to submit written representations and to be duly notified of the CEO's decision on each and every occasion that a fresh decision is made, including a decision that the imposition period should expire with no further action to be taken.
- 5.3 Considerations of written representations and reviews of exclusions or suspensions made under these emergency provisions will not involve a hearing. Representations made by students will not include submissions made in person, except where expressly invited to interview by the CEO, or where it would constitute a reasonable adjustment in accordance with the Equality Act 2010. The CEO, in consultation with the relevant School Principal, will assess whether it is necessary/appropriate to meet with an excluded or suspended student during any period of precautionary measures.

**6 Appeals, Complaints and Completion of Procedures**

- 6.1 A student who has had precautionary measures imposed upon them has the right to make written representations to the CEO in respect of measures taken. Where a student wishes to raise any issues of complaint regarding precautionary measures they have been subject to, these should be raised via written representations to the CEO in the first instance. Where the student is dissatisfied with the CEO's response to the issues of complaint, under the Rules<sup>3</sup> of the Scheme of the Office of the Independent Adjudicator (OIA) they may request a Completion of Procedures letter from the Conservatoire, in order to submit a complaint to the OIA.
- 6.2 To request a Completion of Procedures letter, the student should write to the Academic Registrar at the following address: [qualityoffice@cdd.ac.uk](mailto:qualityoffice@cdd.ac.uk).

**7 Failure to comply with precautionary measures**

- 7.1 Failure on the part of the student to comply with any terms of precautionary measures imposed by the CEO, their nominee or a deputy, may result in action under the [Non-Academic Misconduct policy](#) and procedures.

**8 Timescales**

- 8.1 Subject to the provisions set out in Section 4 below the CEO may impose precautionary measures under this policy as deemed necessary in accordance with section 1.6 of this Appendix, for **an initial specified period of up to 21 days and thereafter for successive specified periods of up to two months each.**
- 8.2 **Precautionary measures shall normally take immediate effect** as soon as the written notification confirming their imposition is communicated to the student upon whom they are imposed, except where the CEO determines alternative arrangements are appropriate.
- 8.3 Where a deputy of the CEO has imposed emergency precautionary action, they will notify the CEO of this **normally within 24 hours.**
- 8.4 The **student may submit written representations within 14 days of the date of the notification** of precautionary measures, in which case **the CEO will normally review and respond to the written representations within 5 working days of receipt.** Written representations received after the 14-day deadline may not necessarily be responded to within the 5 working day timescale.

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<sup>3</sup> <http://www.oiahe.org.uk/media/100294/oia-rules-july-2015.pdf>

8.5 Notwithstanding the specific circumstances and timelines laid out above for the consideration of written representations by a student in respect of precautionary measures, should a student upon whom such measures have been imposed experience a substantive change in circumstances, they have the right to make any additional/further written representations to the CEO at any time. In such instances, the CEO will normally consider the written representations and provide a written response within 5 days of receipt of the representations from the student, or as soon as possible thereafter.

8.6 Except where otherwise specified, all specified timescales referred to in this policy constitute calendar days.

**9 Confidentiality, information disclosure and record-keeping**

9.1 Where the CEO imposes precautionary measures under the Policy, the Principal of the School of the student shall be kept notified of the all precautionary measures action taken.

9.2 The Conservatoire will seek to do all within its power to limit the disclosure of information involving any case referred under these procedures, as is consistent with the Data Protection Act (2018) and the General Data Protection Regulations (2018). It is essential, however, that relevant parties are kept informed as and when necessary and are notified accordingly of any directives or sanctions arising from proceedings under these procedures, therefore the scope of disclosure will vary from case to case. Only those persons who in operating these procedures the Conservatoire deems necessary to be informed, and/or who are directly involved in the facilitation of support for the student, will be notified of any directives or proceedings arising or resulting from these procedures.

9.3 The above notwithstanding, a Complainant who has raised a complaint or allegations concerning sexual misconduct, harassment or related behaviour on the part of a student who has precautionary measures imposed upon them will not have the automatic right to the details of precautionary measures taken, as the rights and needs of the individual subject to precautionary measures must be balanced with the needs of safeguarding. However, as deemed necessary and appropriate in order to support the complainant, the complainant may be informed that precautionary measures have been taken and limited information may as strictly necessary be disclosed.

9.4 The Conservatoire and each of its Schools will seek to do all within their power to limit the disclosure of information involving any case where precautionary measures are imposed in response to complaints and allegations.

9.5 Generally, records regarding precautionary measures having been taken will be retained securely on a student's file for the duration of their programme of study, and will be kept for a minimum of 15 months. They will normally be kept no longer than 2 years after the

date the student has graduated, unless the student does not complete/withdraws from the programme whilst subject to precautionary measures under this Policy (see below).

- 9.6 Where the student does not complete and/or withdraws from the programme whilst subject to precautionary measures under this Policy, the documentary records relating to the precautionary measures will be securely retained on the student's file in accordance with the normal retention period for student files (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). A record that the student registered and attended the School for the period of registered attendance will be retained for record purposes.

#### **10 Monitoring and assurance**

- 10.1 Anonymised data relating to the fact that precautionary measures have been taken under this Policy will be retained by the School and Conservatoire for monitoring, review and quality assurance purposes.