



## Emergency Powers of Exclusion and Suspension

<b>Policy owner:</b>	Conservatoire Quality Team
<b>Lead contact:</b>	Deputy Academic Registrar
<b>Audience:</b>	Students; staff
<b>Approving body:</b>	Senate
<b>Date approved:</b>	June 2019
<b>Policy Implementation date:</b>	From September 2019
<b>Supersedes:</b>	Emergency Powers of Exclusion and Suspension 2018
<b>Previous approved version(s) dates:</b>	September 2018
<b>Review cycle:</b>	3 years
<b>Next review due date:</b>	September 2022
<b>Related Statutes, Ordinances, General Regulations</b>	Validating Universities' Academic Regulations, Equality Act 2010; Data Protection Act 2018; General Data Protection Regulations 2018.
<b>Related Policies, Procedures and Guidance:</b>	Non-Academic Misconduct Policy; Terms and Conditions; Policy on Sexual Misconduct, Harassment and Related Behaviours; Support Through Studies; School Safeguarding Policies; Conservatoire and School Codes of Conduct/Behaviour.
<b>UK Quality Code reference:</b>	Quality Code Expectations for Quality; Advice and Guidance: Concerns, Complaints and Appeals; Enabling Student Achievement; Student Engagement
<b>OfS Conditions reference:</b>	Conditions B2, B3, C1, C2
<b>Equality and Diversity Considerations:</b>	Policy should be available in accessible format for all students.
<b>Date Equality and Diversity Assessment Completed:</b>	June 2019

### **Further information:**

The Emergency Powers of Exclusion and Suspension belong to the CEO of the Conservatoire for Dance and Drama. The decision to exclude or suspend a student under these powers ultimately rests with the CEO of the Conservatoire.

A decision to exclude or suspend a student under the Emergency Powers is without prejudice and is no indication of any finding of misconduct or academic failure. Schools will liaise closely with the Conservatoire CEO and his office in the conduct and exercise of these powers.



## Emergency Powers of Exclusion or Suspension of a Student September 2019

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## 1. Introduction

1.1 As provided for in the Conservatoire for Dance and Drama's Articles of Association, and with reasonable belief that there is good reason to do so, the Chief Executive Officer (CEO) of the Conservatoire for Dance and Drama (the 'Conservatoire') shall have the power to exclude or suspend any student from a School of the Conservatoire<sup>1</sup> for a limited period in an emergency situation.

1.2 Where a concern is raised relating to a student's wellbeing and/or conduct, whether on or off School or Conservatoire premises, which represents a potential or actual threat to the safety, security, health, wellbeing, good order, or reputation of the student, and/or of the School, the Conservatoire, its members, an external organisation or placement provider, or members of the public, a member of staff may make a recommendation to the CEO or the CEO's delegate that the student should be temporarily suspended and/or excluded. A list of examples of occasions where this might be the case is outlined below:

- Where a student is considered a danger to themselves or others
- A student who might have seriously breached the published School Student Code(s) of Conduct and/or Conservatoire Code of Conduct
- A student presenting with urgent critical 'support through studies' concerns (e.g. such that their health or other circumstance is preventing them from being fit to study)
- A student for whom a criminal charge is pending, or who is the subject of police investigation
- Where a previously undisclosed relevant criminal conviction comes to light
- A student who is the subject of an allegation of misconduct
- Where there is an identified need to protect the health and safety and/or property of the student and/or the School community

The above list is not exhaustive, and the CEO shall be satisfied that good and/or urgent cause exists to warrant the invoking of these emergency powers.

1.3 In operating any of the processes or procedures under this Policy, any Member School of the Conservatoire may as necessary involve members of staff from the central office of the Conservatoire to support those processes, and/or for procedural advice and guidance. This may mean that an officer of the Conservatoire from the central office may as necessary fulfil a procedural role where normally the policy indicates this will be a member of School staff.

1.4 The Conservatoire and its Member Schools hold procedural integrity and fairness at the heart of all our policies. In order to avoid any potential conflicts of interest (e.g. where procedural independence may be compromised), and/or where specific expertise is required, staff from the central office of the Conservatoire may also as necessary operate procedures on behalf of a Member School, at the request of the School Principal or their nominee. No proceedings

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<sup>1</sup> The Schools of the Conservatoire to which this Policy applies are: Bristol Old Vic Theatre School, Central School of Ballet, London Contemporary Dance School, National Centre for Circus Arts, Northern School of Contemporary Dance and Rambert School of Ballet and Contemporary Dance.

under this Policy shall therefore be invalidated by virtue of the involvement of an officer of the Conservatoire.

## **2. Definitions**

2.1 **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. An exclusion order made by the CEO under this policy may include an order restricting or prohibiting contact between the student and a particular individual or individuals.

2.2 **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. A suspension order made by the CEO under this policy may include an order restricting or prohibiting contact between the student and a particular individual or individuals.

## **3. Scope and Principles**

3.1 Suspension or exclusion under this procedure will not be used as a penalty. The power to suspend or exclude under this provision is to protect the student and/or members of the School community and their property in general, or a particular member or members (including protecting the School's reputation), and the power shall be used only where the CEO is of the opinion with reasonable belief that it is urgent and necessary to take such action.

3.2 Under this policy, the CEO may delegate their power to a Principal of any Conservatoire School, who shall then have the power to exclude or suspend any student from the School for an initial emergency period in an emergency situation.

3.3 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. In such an event, where a conflict of interest would prevent the Chair of Conservatoire Senate from exercising these powers, in consultation with the Conservatoire Academic Registrar the Chair of Conservatoire Senate shall nominate an alternative Principal of one of the Conservatoire Schools other than that of the student(s) concerned.

3.4 Where a student is excluded or suspended under this policy, a full report outlining the terms and any conditions of the exclusion or suspension shall be made at the earliest opportunity to the Principal of the student's School.

3.5 The procedures under this policy will be operated with due regard and referral as necessary to each Conservatoire School's Safeguarding Policy.

## **4. Policy**

- 4.1 It will be at the discretion of the CEO or their nominee to determine whether exclusion from specified activities or facilities or suspension is deemed to be appropriate for the circumstances. A risk assessment will be undertaken to assist with determining appropriate action.
- 4.2 All reasonable efforts will be made to facilitate the student's capacity to engage with their programme of study as far as possible during and/or following a period of exclusion or suspension, which may include referring the student to available support.
- 4.3 A student against whom a criminal charge is pending, or who is the subject of police investigation, may be suspended or excluded by the CEO pending a Misconduct Panel investigation, hearing and/or a trial. The CEO/CEO's nominee shall have the discretion to determine whether the nature of the alleged offence is such that the misconduct proceedings should be adjourned pending police and court proceedings. The student will be notified accordingly in writing, normally within 3 working days of any such decision.
- 4.4 Failure on the part of the student to comply with the terms of the suspension or exclusion may result in action under the Non-Academic Misconduct policy.

### ***Data protection and management***

- 4.5 In accordance with the Conservatoire's duties under the General Data Protection Regulations (2018), where the student does not complete and/or withdraws from the programme whilst excluded or suspended under this policy, the documentary records relating to the suspension or exclusion 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). Some deviation from this schedule can be expected for cases which, in the judgement of the School and/or Shared Services, are unique or complex and therefore require shorter or longer record retention periods. A record that the student registered and attended the School for the period of registered attendance will be retained for record purposes.
- 4.6 Anonymised data relating to the fact that the Principal has ordered an exclusion or suspension under these procedures will be retained by the School and the Conservatoire for monitoring, review and quality assurance purposes.
- 4.7 The Conservatoire will make its best endeavours to limit the disclosure of information as is consistent with conducting a fair investigation and in accordance with its obligations under the General Data Protection Regulations (2018) and the Data Protection Act (2018). However, if a student names another member of the Conservatoire as an issue of complaint in making representations to the CEO, then the person(s) named will normally have the right to know the complaint made against them in order to be able to reply to the complaint. If a student 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.

### ***Students who are under 18 years of age***

4.8 Some Conservatoire Schools have students on degree programmes who are under 18 years of age. In these circumstances, the Schools are not *\*in loco parentis\**, however 16 and 17 year-old students are legally defined as children, and therefore additional safeguarding considerations may apply where there is any change of circumstance for such students. Where action taken under this Policy involves a student who is under 18 years of age, the CEO and relevant School Principal will determine, in accordance with the School's safeguarding procedures, whether or not it is necessary to disclose the details of any action taken under this procedure to the parent/guardian/equivalent body of the student, or other relevant agency (e.g. the Police, Social Worker etc).

4.9 The legal principle that the 'welfare of the child' is paramount means that the considerations of confidentiality which might apply to other situations at a Conservatoire School should not be allowed to over-ride the right of children to be protected from harm. However, every effort will be made to ensure that confidentiality is maintained for all concerned when an allegation has been made and is being investigated. Confidential information may be shared with other agencies without consent where there are concerns of a child protection nature. Parental consent to referral should normally be sought unless to do so would put the child at risk of further harm.

4.10 In accordance with UK government guidance<sup>2</sup> on information sharing for safeguarding practitioners, the most important consideration is whether sharing information is likely to safeguard and protect a child. The principles below will apply when determining whether or not it is necessary to disclose details of any action taken under this Policy to a parent/guardian/equivalent body/other relevant agency of the student:

- **Necessary and Proportionate**
- **Relevant**
- **Adequate**
- **Accurate**
- **Timely**
- **Secure**
- **Record**

Please see Appendix 2<sup>3</sup> to the Emergency Powers for a full articulation of the above principles.

### ***Emergency Powers & Support Through Studies policy***

4.11 This procedure may also be used in conjunction with the Conservatoire Support Through Studies policy. Written reasons for a decision taken under this policy and procedure shall be

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<sup>2</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/419628/Information\\_sharing\\_advice\\_safeguarding\\_practitioners.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/419628/Information_sharing_advice_safeguarding_practitioners.pdf) (pp8-9)

<sup>3</sup>Appendix 2: 'Disclosure to Parents/Guardians/Equivalent Bodies/Other Agencies: Data Consideration Principles' can be found at <http://www.cdd.ac.uk/policies/student-related-policies/>

recorded and made available to the student, normally within 3 working days of the decision being made. Generally, such records will be retained securely on a student's file for the duration of their programme of study, and will be kept for no longer than 6 months after the date the student has graduated.

## **5. Procedure**

### ***Timelines***

- 5.1 Except where otherwise specified, all specified timescales referred to in this policy constitute calendar days.
- 5.2 Emergency exclusion or suspension will normally take place with immediate effect. The reasons for the decision to exclude or suspend shall be communicated to the student in writing by the CEO (or the student's School Principal, in the event a Principal needs to use the delegated emergency powers) at the point the suspension or exclusion is determined or as soon as possible thereafter, along with notification of the student's right to immediately submit any written representations for consideration by the CEO, and signposting to avenues of available support (including external support).
- 5.3 Where a Principal of a Conservatoire School uses these delegated emergency powers, they will report the use of the emergency powers to the CEO normally within 72 hours of instigating them, together with the reason for their use. The CEO will then review the Principal's decision and determine whether the exclusion or suspension should continue. At any point in the process, where it is deemed necessary the CEO may undertake (or request that the student's School Principal undertakes) a risk assessment<sup>4</sup> at any point in the process (including in the course of reviewing an imposed exclusion or suspension order), to assist with determining appropriate action.

### ***Review of an exclusion/suspension order***

- 5.4 The period of exclusion or suspension shall not exceed 28 calendar days in the first instance. All periods of exclusion and suspension will be subject to regular review as outlined below, and the excluded/suspended student will be notified in writing of the dates of forthcoming reviews, and corresponding outcomes.
- 5.5 A review of the case by the CEO/their nominee will take place within the initial 28 day period of exclusion or suspension. Following this review, the exclusion or suspension may be renewed every 28 days where the CEO has reasonable belief that the period of exclusion or suspension should be renewed. A review will take place before any further renewal of a period of exclusion or suspension may be authorised. The student will have the right to submit written representations for consideration with each review, and will be informed of this right at the time they receive notification of the exclusion/suspension order.

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<sup>4</sup> Appendix 4 (Risk Assessment) to the Support Through Studies Policy may be used for this purpose. This can be found at <http://www.cdd.ac.uk/policies/student-related-policies/>

5.6 In exceptional circumstances<sup>5</sup>, a longer period of exclusion or suspension may be set, not normally exceeding two months before the next review except where the CEO is satisfied that there is justifiable and reasonable cause.

***Emergency Permanent Exclusion by the CEO***

5.7 In exceptional emergency circumstances where the CEO deems that continued student status of an individual student poses too great a risk to the Conservatoire and its community, the CEO may take the decision to impose emergency permanent exclusion from the School and the Conservatoire upon a student. In such instances, the student will have the right to submit written representations for consideration within 28 days of notification of the emergency permanent exclusion. The CEO and the Principal of the student's School shall consider any written representations. Where no written representations are received within the 28 day deadline, the CEO will withdraw student status from the student and the student will no longer be a registered student of either the School or the Conservatoire.

5.8 Where a student submits written representations after their student status has been withdrawn, a Completion of Procedures letter will be issued by the Conservatoire (see section 5.15-5.16 'Completion of Procedures').

***Written representations***

5.9 The student may make written representations following any decision to renew/extend an exclusion or suspension. Additional written representations will be considered in the next review of the exclusion or suspension within 28 days of the continuation date.

5.10 Written representations from the student may be via email, normally using their School email address.

5.11 The CEO/CEO's nominee shall review any written representations from the student and respond in writing, normally within 7 days following receipt of the representations. For the purposes of completeness, the CEO reserves the right to consider additional written representations from the student alongside any original written submission that has already been considered.

5.12 Reviews will take account of any developments and/or representations made by the student or anyone else on the student's behalf, and may result in referral to another procedure (e.g. Support Through Studies; Non-Academic Misconduct).

5.13 If no written representations from the student are received, the CEO/CEO's nominee shall in any case review the initial exclusion or suspension within 28 days, and normally within each renewed 28 day period except in exceptional circumstances as outlined above (Section 14).

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<sup>5</sup> Exceptional circumstances may be, for example, where a student is placed on remand for a specified period.



5.14 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 it would constitute a reasonable adjustment in accordance with the Equality Act 2010. The CEO will assess whether it is necessary/appropriate to meet with an excluded or suspended student during the period of exclusion/suspension.

### ***Completion of Procedures***

5.15 Following a review by the CEO of written representations by a student, where an excluded or suspended student is dissatisfied with the CEO's decision to extend a period of exclusion or suspension following the initial period, under the Rules<sup>6</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.

5.16 Completion of Procedures letters issued by the Conservatoire in relation to powers exercised under this policy will be copied to the respective validating university<sup>7</sup> where required<sup>8</sup>. Any queries should be directed to [qualityoffice@cdd.ac.uk](mailto:qualityoffice@cdd.ac.uk).

## **6. Permitted Actions During Periods of Temporary Exclusion and Temporary Suspension**

6.1 Where a student is temporarily excluded or suspended, it is at the discretion of the CEO or their nominee as to whether any permission to enter the School premises be granted, taking account of the circumstances of the case and the specific purpose(s) of any such request to do so.

### ***EXCLUSION***

6.2 Unless also temporarily suspended or expressly prohibited by the Misconduct Panel and/or Misconduct Appeals Panel, a student who is temporarily **excluded** from all areas of the School (including exclusion from participating in external programme-related activities) is still normally permitted to:

- take such tests or assessments as are scheduled during that period (please see section 6.3 below);
- be provided with information about results/grades, re-sit questions, progression to the next level, module choice for the next level/academic year;
- be informed if they have reassessments;

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<sup>6</sup> <http://www.oiahe.org.uk/media/100294/oia-rules-july-2015.pdf>

<sup>7</sup> For BOVTS, the validating university is the University of the West of England; for Central School of Ballet, London Contemporary Dance School, National Centre for Circus Arts, Northern School of Contemporary Dance and Rambert School of Ballet & Contemporary Dance, the validating university is the University of Kent.

<sup>8</sup> Completion of Procedures (CoP) letters for BOVTS students will always be copied to the University of the West of England. For students on University of Kent-validated programmes, CoP letters will be copied to the University on a case by case basis.

- re-enrol;
- access and utilise their School computer account.

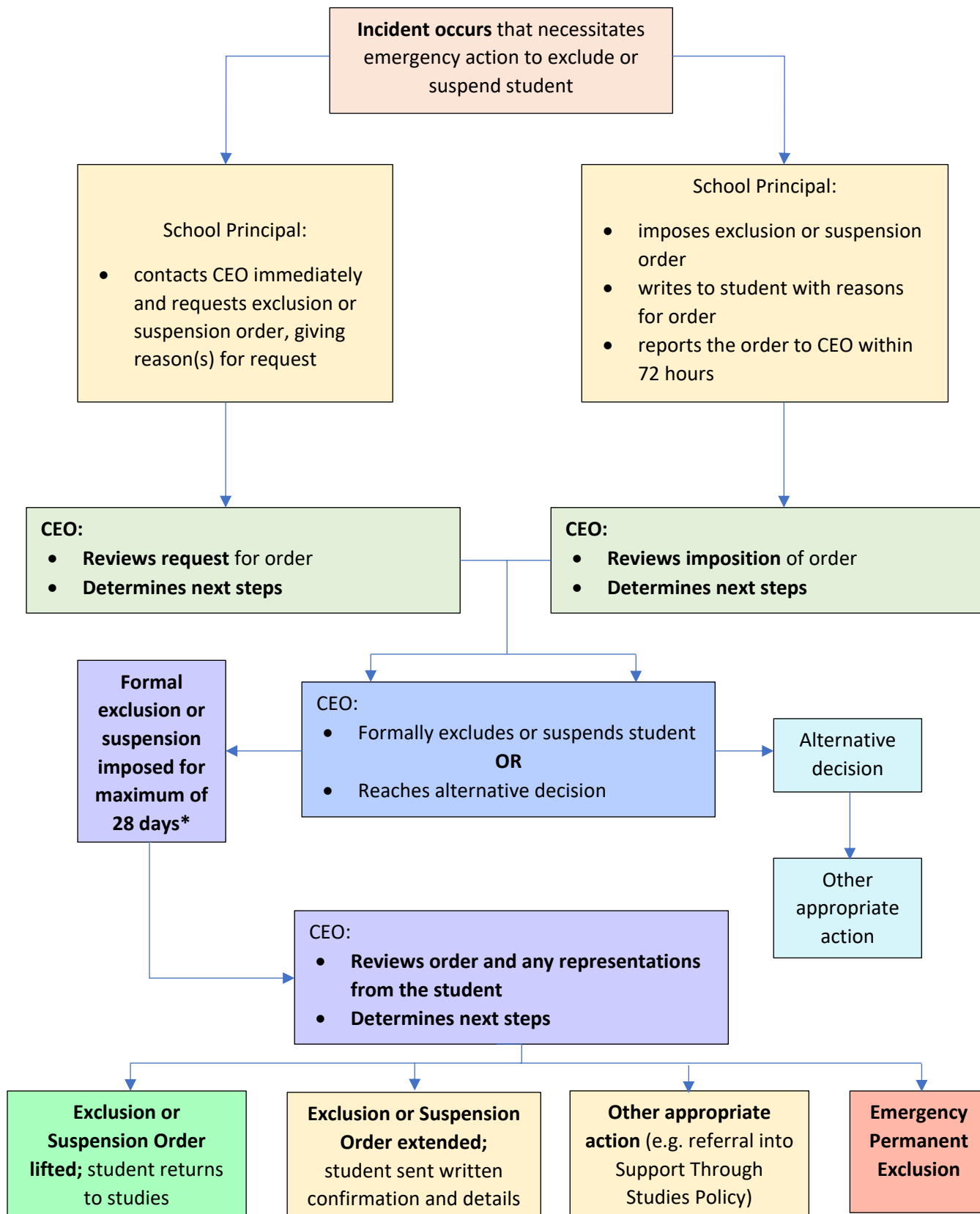
6.3 Notwithstanding the above, in the interests of safeguarding the physical and general wellbeing of students, in the case of practical assessments consideration will be given as to whether it is safe to permit a student who is or has been excluded or suspended under the emergency powers to sit such assessments. It may be considered unsafe or inappropriate for a student to sit a practical assessment if the School is not satisfied that the student has undertaken adequate preparatory classes/training for the assessment (e.g. if this would place them at significant risk of injury, disadvantage or failure). Consideration will be given as to whether alternative assessment or rescheduled assessment opportunities are viable; each case will be considered on its own merits and the viability of such opportunities will depend on the circumstances of the case. This principle applies to both students who have been excluded and those who have been suspended.

6.4 A student who is temporarily excluded from all areas of the School, should give the Principal at least 1 day's notice in writing that they wish to enter the premises of the School, to request permission from the Principal or their nominee. Permission to enter the School shall normally only be given for the purposes of seeking advice or support, or for the purpose of attending hearings or meetings connected with allegations against them under this or another regulation or procedure.

### ***SUSPENSION***

6.5 A student who is suspended by the CEO under these emergency provisions cannot enter the School premises, or the premises of any external provider delivering programme-related activity, without the exceptional prior written permission of the CEO or their nominee, and must give at least one working day's written notice to the School Principal of their request to do so for any reason, who will notify the CEO of the request. Permission will normally only be granted exceptionally, and for the purpose of attending hearings or meetings connected with allegations against them under this or another School/Conservatoire regulation or procedure.

## Appendix 1 Emergency Powers of Exclusion and Suspension Procedural Flowchart



\*In exceptional circumstances, a longer period of exclusion or suspension may be set, not normally exceeding 2 months before the next review except where the CEO is satisfied that there is justifiable and reasonable cause.

## **APPENDIX 2      Emergency Powers of Exclusion or Suspension of a Student**

### **Disclosure to Parents/Guardians/Equivalent Bodies/Other Agencies: Data Consideration Principles**

- **Necessary and Proportionate**

When taking decisions about what information to share, you should consider how much information you need to release. The Data Protection Act (2018) along with the General Data Protection Regulations (2018) require you to consider the impact of disclosing information on the information subject and any third parties. Any information shared must be proportionate to the need and level of risk.

- **Relevant**

Only information that is relevant to the purposes should be shared with those who need it. This allows others to do their job effectively and make sound decisions.

- **Adequate**

Information should be adequate for its purpose. Information should be of the right quality to ensure that it can be understood and relied upon.

- **Accurate**

Information should be accurate and up to date and should clearly distinguish between fact and opinion. If the information is historical then this should be explained.

- **Timely**

Information should be shared in a timely fashion to reduce the risk of harm. Timeliness is key in emergency situations and it may not be appropriate to seek consent for information sharing if it could cause delays and therefore harm to a child. Practitioners should ensure that sufficient information is shared, as well as consider the urgency with which to share it.

- **Secure**

Wherever possible, information should be shared in an appropriate, secure way. Practitioners must always follow their organisation's policy on security for handling personal information.

- **Record**

Information sharing decisions should be recorded whether or not the decision is taken to share. If the decision is to share, reasons should be cited including what information has been shared and with whom, in line with organisational procedures. If the decision is not to share, it is good practice to record the reasons for this decision and discuss them with the requester. In line with each organisation's own retention policy, the information should not be kept any longer than is necessary. In some circumstances this may be indefinitely, but if this is the case there should be a review process.