

Guide to the Conservatoire Policy on Sexual Misconduct, Harassment and Related Behaviours

This document is the Guide to the Conservatoire Policy on Sexual Misconduct, Harassment and Related Behaviours.

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OVERVIEW OF THE POLICY AND PROCEDURES

The Conservatoire Policy on Sexual Misconduct, Harassment and Related Behaviours is intended to set out clear expectations for staff and students of the Conservatoire regarding acceptable behaviour, and to provide procedures and processes for managing allegations where behaviour falls below the expected standard. Behaviour that falls below the expected standard will constitute a breach of this Policy.

The Policy has **2 main stages of procedures**, which can be found in the appendices to the policy:

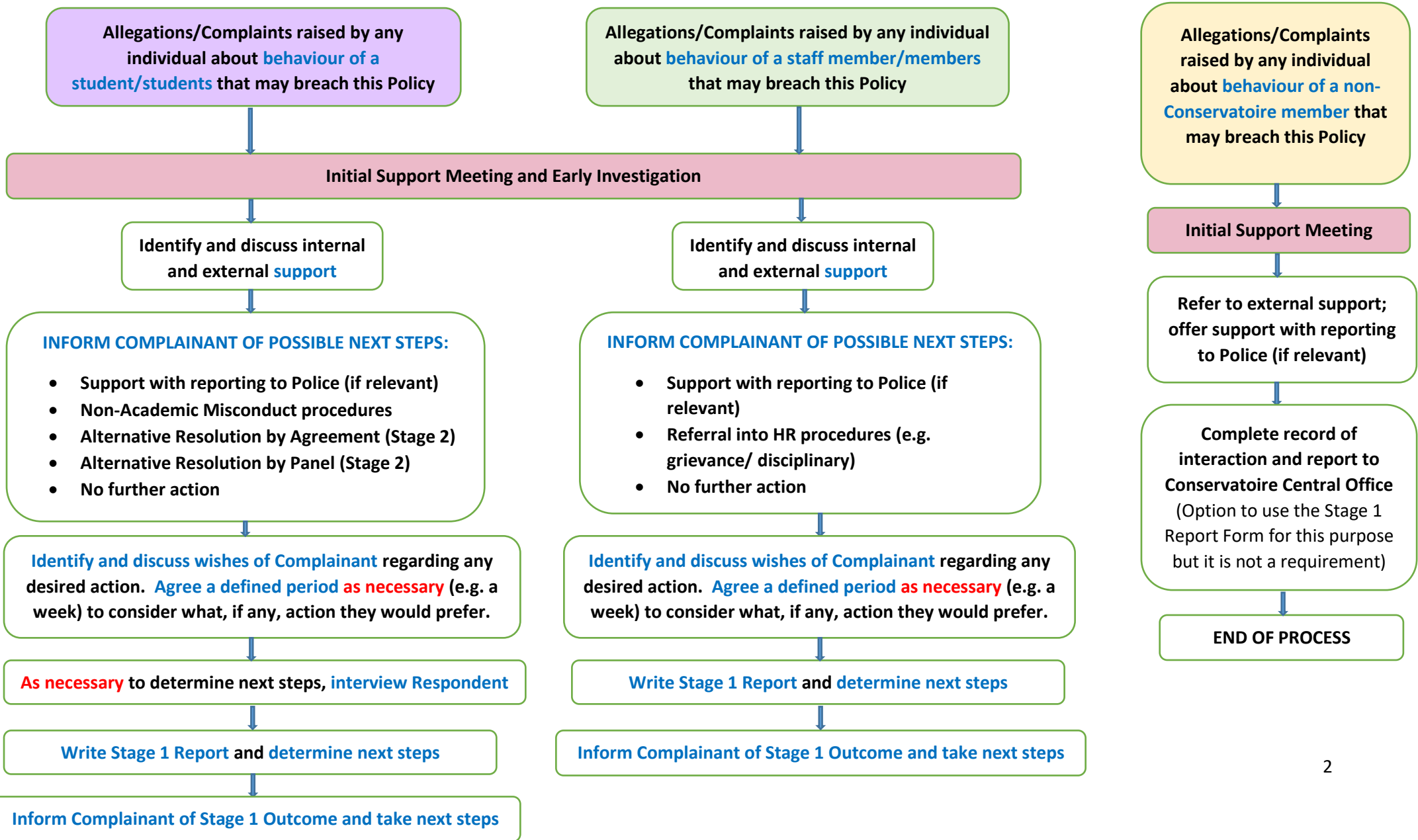
- **Stage 1: Initial Support Meeting and Early Investigation (Appendix A)**
Stage 1 covers not only staff and students of the Conservatoire, but helps the Conservatoire to deal with allegations raised by, or about, any individual, even those who are external to the Conservatoire. The Stage 1 procedures are carried out by the Early Investigation Officer.
- **Stage 2: Alternative Resolution (Appendix B)**
Stage 2 is **only available to use in cases where both the Complainant** (the person who raises allegations) **and the Respondent** (the person whose behaviour is the subject of allegations) **are both students**.

Alternative Resolution is a way of resolving matters and allowing both a Complainant and Respondent to move forward. The decision as to whether or not Alternative Resolution is appropriate rests with the Early Investigation Officer. It will not always be appropriate to attempt Alternative Resolution, particularly in cases of serious allegations.

There are two possible routes of Alternative Resolution: Alternative Resolution by Agreement, and Alternative Resolution by Panel. Depending on the case, either, both or neither processes may be attempted. Details about the differences in these processes can be found in this guide.

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STAGE 1 Initial Support Meeting and Early Investigation procedural flowchart



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GUIDE TO THE POLICY

1) Understanding the Policy

This guidance is for students of the Conservatoire. However, staff of the Conservatoire may also find it helpful for reference.

The Conservatoire Policy on Sexual Misconduct, Harassment and Related Behaviours ('the Policy') sits under the Conservatoire's 'Inclusive Cultures Strategy'. The Strategy is designed to promote, nurture and embed positive and inclusive behaviours to engender and maintain cultures within the Conservatoire in which all members of the Conservatoire community can flourish, thrive and feel safe.

At the same time, the Conservatoire recognises the need for stringent and robust procedures and processes to tackle cultures that foster violence, discrimination and harassment (such as, for example, 'lad culture'), and to address the behaviours that can arise from such cultures.

The Policy is designed to make the Conservatoire's expectations clear regarding the behaviours of its staff and students, and to provide procedures and processes for managing allegations where behaviour falls below the expected standard. Behaviour that falls below the expected standard will constitute a breach of this Policy.

For this reason, the Policy is allied to the Conservatoire's Non-Academic Misconduct Policy¹, and it has a two-fold approach:

1. It sets out the Conservatoire's expectations for behaviour that we believe will allow all members of the Conservatoire to thrive;
2. It provides mechanisms that are designed as an alternative to pursuing a disciplinary process, to specifically support Complainants and address behaviours that are considered to be in breach of this policy. These procedures can be found in the appendices to this Policy.

This policy sits alongside the Conservatoire's Non-Academic Misconduct Policy. However, the Conservatoire recognises that behaviours that would breach this Policy often result in cases that are very sensitive and stressful for those involved, and sometimes can be as a result of a lack of knowledge or understanding. In light of this, the Policy provides the opportunity for an alternative to pursuing allegations through the Non-Academic Misconduct procedures where appropriate. Where it is deemed appropriate by officers of the Conservatoire, the Alternative Resolution procedures under the Policy on Sexual Misconduct, Harassment and Related Behaviours may be used in lieu of the Conservatoire's Non-Academic Misconduct Policy. Please see Section 8 of this Guide for more information about the Alternative Resolution procedures.

¹ <http://cdd.ac.uk/policies/student-related-policies/>

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The definitions of behaviours that would breach the policy are listed in the policy, but please note that it is impossible to expressly include every 'term' and definition that might cover such behaviours, particularly when society is itself constantly adjusting its understanding of 'acceptable behaviours'. If you come across a term or definition in the policy that you do not understand, please contact a member of student support staff in your School, or a member of the Quality Team in the Conservatoire. The Quality Team can be contacted on qualityoffice@cdd.ac.uk.

2) Who are the 'Complainant' and 'Respondent'?

The Complainant is the person who has raised a complaint/allegations of someone else's unacceptable behaviour of a sexual, harassment or related nature. This is generally referred to in the Policy as 'a disclosure'. The Respondent is the person about whom allegations have been made.

3) Who are the 'officers of the Conservatoire'?

'Officer(s) of the Conservatoire' means a member or members of staff from any of the Conservatoire Schools and/or Shared Services, 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.

4) Who does the Policy cover?

The Policy covers all members of the Conservatoire community, including students, School staff (including temporary staff), and staff from Shared Services. This means that under the Policy, action may be taken if a member of the Conservatoire community breaches the Policy.

As well as the Conservatoire community, under this Policy any individual, including people external to the Conservatoire, can bring a complaint or raise allegations about any behaviour on the part of any individual (including non-members of the Conservatoire) that might fall under this Policy (e.g. sexual violence, harassment or related behaviours).

Stage 1 ('Initial Support and Early Investigation') of the procedures under this Policy can be used to handle a complaint/allegations from any individual, however what happens afterwards will depend on the status of both the Complainant and the Respondent (i.e. whether they are a student or a member of staff of the Conservatoire, or external to the institution). Stage 1 gives the Conservatoire a structure within which to support a Complainant, no matter what the circumstances.

5) What is a 'disclosure'?

A disclosure is the term generally used in the Policy to refer to a complaint/allegations made by a Complainant. It is called a 'disclosure' because the Complainant 'discloses' information that is often hard to talk about.

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6) When does the Policy apply?

The policy applies in the following circumstances:

- 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.**

In such cases, the matter will be referred into the Stage 1 procedure (Initial Support Meeting & Early Investigation) to determine next steps and consider whether any of the alternative resolution procedures under this Policy (see **Appendix B** to the Policy) may be appropriate. Precautionary measures (see **Appendix C**) and the Procedures for Complaints and Allegations Reported to the Police (see **Appendix D**) may apply where it is necessary – the decision to apply them will be made on a case by case basis by officers of the Conservatoire.

- b) Allegations are received from any individual that the behaviour of a member (or members) of staff of their School constitutes a breach of this policy in respect of sexual misconduct, harassment and related Behaviours.**

In such cases, the matter will be referred into the Stage 1 procedure (Initial Support Meeting & Early Investigation) of this Policy, but cannot progress to any of the alternative resolution procedures under this Policy beyond Stage One. The Early Investigation Officer will as appropriate and in consultation with the Complainant refer the matter to the relevant HR procedures of the School or Shared Services, as appropriate.

- c) Allegations are received from any individual that the behaviour of an individual who is neither a member of the School nor of the wider Conservatoire constitutes a breach of this Policy in respect of Sexual Misconduct, Harassment and Related Behaviours (including non-recent allegations).**

In such cases, the matter will be referred into the Stage 1 procedure (Initial Support Meeting & Early Investigation) of this Policy, but cannot progress to any of the procedures under this Policy beyond Stage One. The Early Investigator will as appropriate and in consultation with the Complainant, will determine next steps with regard to any support requirements (including referral to/engagement with external services) and will determine whether there are any other measures² that should be taken.

Where any of the above circumstances described in a), b) or c) arise, Stage 1 of the procedures under the Policy should be instigated. Please see Appendix A 'Stage 1: Initial Support and Early Investigation' and Appendix A1 'Stage 1 Report Form' for the procedures and relevant documentation.

² Such measures may include, for example, whether the matter should be reported to the Police (with the consent of the Complainant), and whether the disclosure impacts upon the School's Duty of Care to its students.

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7) Breaches of the Policy

Definitions of behaviour that would constitute a breach of this Policy

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.”

This definition applies to both students and staff of the Conservatoire. Such ‘unacceptable behaviour’ may broadly be defined as sexual misconduct, harassment and related behaviours. These types of behaviours will normally be deemed to breach the Policy.

Examples of sexual misconduct, harassment and related behaviours

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;
- 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.

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Please note that there may also be other behaviours not given as examples above which also fall into the category of unacceptable behaviour of a sexual, harassment or related nature. Any reported allegations of behaviour not given as an example above but that might reasonably be deemed to be unacceptable behaviour of a sexual, harassment or related nature, may be dealt with wholly under this Policy. Alternatively, they may initially be dealt with under the Stage 1 procedure of this Policy and then referred into another procedure (e.g. for students, the Non-Academic Misconduct Policy, or for staff, HR procedures).

Additional definitions

In order for the Conservatoire to fulfil our aim of providing clarity about unacceptable behaviours, the Policy also includes the following definitions:

- Under this Policy, the Conservatoire defines **sexual misconduct** as,
“unacceptable behaviour of a sexual nature that breaches the relationship of trust and confidence that exists between the student, and the School and Conservatoire.”

 - 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.”

 - 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.”
- For further information, please see Section 2 of the Policy, where an explanation of some of the terms used in the Policy is also provided.

8) Non-Recent allegations

It can be the case that sometimes people experience an assault, harassment or other types of behaviour as outlined in Section 6, and that they do not tell anyone about it for quite a while or a very long time. There can be many reasons why someone may not feel able to disclose such matters for a significant time afterwards, including coping behaviours such as repression³,

³ “Repression involves placing uncomfortable thoughts in relatively inaccessible areas of the subconscious mind. Thus when things occur that we are unable to cope with now, we push them away, either planning to deal with them at another time or hoping that they will fade away on their own accord.”

<http://changingminds.org/explanations/behaviors/coping/repression.htm>, accessed 08/01/2019.

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and it is always okay for someone to wait until they feel ready to talk about it before making a disclosure.

Under this policy, anyone (including people who are not members of the Conservatoire) can report about non-recent allegations, and the Conservatoire would encourage them to do so, in order to be able to provide support. However, it can be the case that the passage of time limits the possible actions that may be taken. If you raise a non-recent allegation under this policy, the Early Investigation Officer will take you through the potential options that are open to you. Further information on non-recent allegations can be found in the Policy.

9) Anonymous allegations

If the Conservatoire receives anonymous allegations (this means allegations that do not identify the person making the allegations), the Early Investigation Officer will complete a Stage 1 Report form, and then refer the matter to Shared Services, however such allegations will not normally be considered further. This is because the Conservatoire seeks to support both Complainants and Respondents effectively, apply an impartial and non-judgemental approach, and be fair to all parties in the handling of allegations. Exceptionally, however, the Conservatoire may consider such allegations if is satisfied that the information received means there is a need to do so.

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Other Information About The Policy / Frequently Asked Questions

What happens at the Stage 1 Initial Support & Early Investigation meeting?

- When an Initial Support Meeting takes place, there might only be one meeting with the Complainant, or a further meeting might be needed. The Early Investigation Officer should talk through the Complainant's options with them, and wherever possible, will ask them if they would like time to consider their options and what (if any) next steps they might want to take.
- However, it may often be the case that more than one meeting will take place under Stage 1, depending on the circumstances of the case and how much information the Early Investigation Officer needs in order to make a decision about the next steps that should be taken.
- Depending on the circumstances of the case and also what the possible options a Complainant might wish to consider/explore, the Early Investigation Officer may also speak to the Respondent as part of the Stage 1 Early Investigation process. They may then come back to the Complainant to discuss possible next steps with them.
- For further information on Stage 1, please see Appendix A to the policy which explains the procedure at this Stage. There are also two flowcharts setting out the procedures under the Policy on Sexual Misconduct, Harassment and Related Behaviours.

Can I report something that happened to me a while ago, or a long time ago?

- Yes. You can report anything you wish to that falls within the scope of this Policy i.e. you can report allegations or details of something that's happened to you where another person's behaviour might be sexual misconduct, harassment, or related unacceptable behaviours. See Section 6 of this guidance 'Breaches of the Policy' for examples of the types of behaviours that would fall within the scope of the Policy.
- The Policy is designed to help support any individual report incidents that have happened, no matter when. However, if the incident is 'non-recent', this may limit the possibilities of whether the Conservatoire can take any action beyond supporting a Complainant. Even where incidents are non-recent, we would encourage anyone who feels they would like to report those incidents to do so, as it can help the Conservatoire to foster an inclusive and respectful environment, and to provide the best level of support it can even where it might not be possible to take any direct action to address allegations.

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I had a Stage 1 Initial Support Meeting and made an agreement about next steps with the Early Investigation Officer, but I've changed my mind. What should I do?

- You should always feel you can go and talk to the Early Investigation Officer. Alternatively, you may approach another member of staff if you would like them to support you in talking to the Early Investigation Officer. It is really important that the Officer understands your wishes correctly, so you will need to talk to them yourself but you are very welcome to be accompanied and supported in doing this.
- If you have expressed an initial preference for action not to be taken, you have the right to subsequently change your mind and request that action be taken. However, the decision as to whether action may be taken rests with the Early Investigation Officer.
- Depending on the circumstances of what you have agreed and how far matters may have progressed under another procedure, you may not always be able to change the agreed course of action. However, as a Complainant you have the right to withdraw from being involved in any procedures.

What happens if I report something under this Policy but I don't want any action to be taken?

- As far as possible, the Conservatoire will endeavour to ensure that your wishes can be followed. If you report something under this Policy and inform the Early Investigation Officer that you do not wish any action to be taken, the Officer will do everything they can to act in accordance with your wishes. However, the Early Investigation Officer will still need to assess the level of risk to you and to other members of the Conservatoire and wider community. There may be exceptional circumstances where regardless of your preferences, the Conservatoire is obliged to take action because of its duty of care to both you and/or other members of its community (and, possibly people outside the Conservatoire).

What happens if I report something under this Policy and agree that I do/don't want any action to be taken, but then later change my mind?

- If you agree with the Early Investigation Officer on a course of action, or that no action will be taken, but then later change your mind, you have the right at any point in proceedings to change your mind about this and you can inform the Early Investigation Officer that you have decided you would prefer action to be taken. In such circumstances, the Early Investigation Officer will look at and discuss with you what your options may now be. As far as possible, the Conservatoire will do its best to act in accordance with your wishes, though there may be times when this is not possible. The final decision as to what action is most appropriate rests with the Early Investigation Officer.

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What happens if I report something under this Policy and agree that I don't want any action to be taken, but the Early Investigation Officer decides that action must be taken?

- Whilst every effort will be made to act in accordance with your wishes as far as is appropriate, the Early Investigation Officer will make final decision as to whether any action will be taken, including whether it is necessary to do so even if this is not your preference. If you first inform the Early Investigation Officer that you do not want any action to be taken but the Early Investigation Officer determines that it is necessary to take action even though this is not your preference, you will be advised that this is the Stage 1 outcome. At that point, you may choose to participate (if applicable) in any procedures, but are under no obligation to do so. Should you be offered the opportunity to participate in proceedings but you choose not to participate, those proceedings will carry on without you.

Why have I not been offered the option of pursuing a Stage 2 Alternative Resolution by Agreement or Stage 2 Alternative Resolution by Panel?

- The Stage 2 procedures will not always be appropriate, particularly if you have raised very serious allegations. The Early Investigation Officer will consider what options are appropriate and will explore these with you. Where the Early Investigation Officer determines that the nature of the allegations means it is not appropriate to follow either of the Stage 2 Alternative Resolution procedures, they should inform you of this.

Do I have to participate in any procedures if action is taken?

- At Stage 1 of the procedures under this Policy, as a Complainant you may only have one Initial Support & Early Investigation Meeting and agree with the Early Investigation Officer that you do not want a further meeting. Your participation may end at this point. In this instance, the Early Investigation Officer will still complete their Stage 1 report, and they may determine that it is necessary for some action to be taken. You will be informed of the Stage 1 outcome, and advised about what would be needed of you should you choose to participate in any resulting procedures, so that you can be as informed as possible when deciding your preferences about any next steps. **As far as possible the Early Investigation Officer will take account of what a Complainant wants to happen, but they will have to make a decision about the most appropriate course of action, which may not always be your preference.**
- In order to follow either or both of the Stage 2 Alternative Resolution procedures under this Policy, both Complainants and Respondents will need to fully engage and participate with these processes. As either a Complainant or a Respondent, you can discuss how this will work with the Early Investigation Officer before agreeing to any such action, however, and you are under no obligation to agree to these procedures. If either the Complainant or Respondent does not agree, neither of the Stage 2 procedures will be followed.

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What happens if the case gets referred into the Non-Academic Misconduct procedures?

- If the allegations are referred into the Non-Academic Misconduct procedures, whether you are a Complainant or Respondent, you will be encouraged to participate in these procedures and the extent to which you do so will be your choice. Please see below for further information.
- If a case is referred into the Non-Academic Misconduct procedures, a Preliminary Enquiry (an initial review and investigation by the Conservatoire) will be undertaken to ascertain whether there may be a case of minor or major misconduct on the part of the Respondent. The Early Investigation Officer's report will be forwarded to the Preliminary Enquiry Officer (the person responsible for ascertaining whether there may be a case of possible major misconduct, of minor misconduct, or no case to answer) with a recommendation, and the Preliminary Enquiry Officer may contact both the Complainant and Respondent with any clarifying queries as part of this stage of the procedures.
- If the Preliminary Enquiry Officer determines that there is a case of minor misconduct on the part of the Respondent, they will determine an appropriate penalty, and write to the Respondent to inform them of this. If the Preliminary Enquiry Officer determines that there is a case of possible major misconduct, they will refer the case to the Non-Academic Misconduct Panel. Only the Non-Academic Misconduct Panel can determine whether major misconduct has occurred on the part of a student.
- Whilst the procedure for a Non-Academic Misconduct Panel normally has all parties in the hearing at the same time so that both the person making the allegations and the person facing the allegations are both present for everything that is said and have the right of reply to anything raised in the hearing. However, if as a Complainant you are uncomfortable with this you may request that the Chair of the Panel considers whether you can attend the Panel separately from the Respondent. If the Chair of the Panel agrees to this request, you would attend the hearing first in order that the Panel can ask you any questions it has about the documentary evidence before it, and it will mean that you will not hear the direct response of the Respondent to the allegations, nor have the right of reply to anything the Respondent says to the Panel. It is the decision of the Chair of the Non-Academic Misconduct Panel as to whether they feel it is appropriate to grant this request.
- Though the Conservatoire strongly encourages all parties to attend a Non-Academic Misconduct Panel hearing, if, either as a Complainant or as a Respondent you would prefer not to attend a Non-Academic Misconduct Panel hearing, you are not obliged to do so, and the Conservatoire will proceed on the basis of the documentary evidence which will be produced from the Complainant's and Respondent's meeting(s) with the

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Early Investigation Officer, plus any other supporting evidence (including any statements either party has made to any other officer of the Conservatoire).

- For further information about the Non-Academic Misconduct procedures, please see the Student Guide to the Non-Academic Misconduct Policy, which can be found on the Conservatoire's website at the following link: <http://www.cdd.ac.uk/policies/student-related-policies/>

Why have I only been offered a Stage 2 Alternative Resolution by Panel option, but not a Stage 2 Alternative Resolution by Agreement?

- The Stage 2 Alternative Resolution by Agreement is a relatively informal procedure that will not be appropriate in all cases. Where the Early Investigation Officer is of the view that alternative resolution might be possible but that the Alternative Resolution by Agreement is not appropriate they may discuss the option of Alternative Resolution by Panel with you but not Alternative Resolution by Agreement. A possible reason for this may be, for example, that Alternative Resolution by Agreement is too informal to address the seriousness of the allegations, but the Early Investigation Officer is satisfied that the opportunity should be given to endeavour to resolve the matter via Alternative Resolution by Panel, rather than referring it directly into the Non-Academic Misconduct procedures. In this instance, should Alternative Resolution by Panel be declined by the Complainant and/or by the Respondent, the Early Investigation Officer will discuss with the Complainant what other possible action might take place. However, the decision as to what happens next is for the Early Investigation Officer to make.

I have agreed with the Early Investigation Officer that I would like to try a Stage 2 Alternative Resolution by Agreement/Alternative Resolution by Panel, but the Respondent does not agree to this course of action. Can we still try it?

- No. Both of the Stage 2 Alternative Resolution procedures (Alternative Resolution by Agreement and Alternative Resolution by Panel) require both the Complainant and Respondent to agree to this course of action before it can be followed.
- Where you have agreed to try a Stage 2 Alternative Resolution by Agreement with the Early Investigation Officer but the Respondent does not agree to this, the Early Investigation Officer will review the case and decide whether it is now appropriate to offer you the option of considering the Alternative Resolution by Panel procedure.
- Where you as a Complainant have agreed to try a Stage 2 Alternative Resolution by Panel with the Early Investigation Officer but the Respondent does not agree to this, the Early Investigation Officer will hold a further discussion with you about what the options for possible action might now be, and will determine the outcome of the Stage 1

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process. As far as possible, the Early Investigation Officer will endeavour to act in accordance with your wishes, but they may determine there is a need to refer the matter into another procedure even if you would prefer for this not to happen.

What happens if I report something under this Policy and I agree on action but then afterwards decide I don't want any action to be taken?

- When meeting with you, the Early Investigation Officer should discuss the possible next steps that are available, and offer you the opportunity to think for a few days about what you would like to do, so you don't have to decide immediately. It is important that you take the time to decide what you would like to do, and that you access support if you are unsure about what next steps or action you may wish to take.
- If you agree on action with the Early Investigation Officer or another officer of the Conservatoire, and begin proceedings but then subsequently change your mind about what has been agreed, you have the right to withdraw from the relevant procedures. In this case the Early Investigation Officer will need to determine whether the procedures should continue, though you have withdrawn, and will inform you as to the next steps and about your right to be kept informed of any action that has been taken or any outcomes. Please see Section 6 of the Policy 'Outcomes of Cases' for further information.
- If you choose to withdraw from the relevant procedures before these have been instigated, the Early Investigation Officer will need to consider the case carefully and determine next steps. Your decision as a Complainant to withdraw from any agreed action will be taken into careful consideration, however it may be the case that the Early Investigation Officer determines that it is most appropriate to proceed with the previously agreed action, or determines that some alternative action needs to be taken. The Conservatoire will do everything it can to act in accordance with the wishes of a Complainant, but must balance such wishes along with its duty of care to all parties.