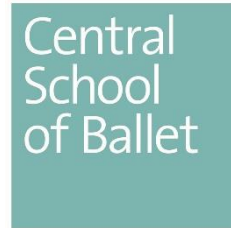


**Policy on Sexual Misconduct,  
Harassment and Related Behaviours**



**STAGE 2: Alternative Resolution Processes**

**Overview**

1. The Stage 2 procedures under the [Policy on Sexual Misconduct, Harassment and Related Behaviours](#), the 'Alternative Resolution' processes, apply only to cases involving both student complainants and student respondents.
2. There are two routes to Alternative Resolution that may be offered to a Complainant (at the discretion of the Early Investigation Officer):
  - **Alternative Resolution by Agreement**
  - **Alternative Resolution by Panel**
3. The School recognises that cases involving allegations of behaviour that breach the Policy are frequently complex, and that Complainants will have differing needs, including whether or not they wish to take the matter further under formal misconduct procedures. This stage of the procedure may be offered to a Complainant where the appointed officer of the School deems it appropriate (for very serious allegations it may not be appropriate to offer alternative resolution). Alternative resolution will not therefore automatically be offered in every case.
4. Alternative resolution by agreement provides an opportunity, should the Complainant wish, to have the complaint/allegations raised with the Respondent and a mutual agreement reached about future conduct, as an alternative means of finding a resolution to the matter without necessarily referring allegations under the [Non-Academic Misconduct Policy](#).
5. Alternative resolution by Panel provides an opportunity, should the Complainant wish, to have the complaint/allegations explored with the Respondent, in an endeavour to reach a resolution to the matter without necessarily referring the allegations under the [Non-Academic Misconduct Policy](#).
6. In the case of both Alternative Resolution by Agreement and Alternative Resolution by Panel, no findings will be made or formal judgement reached about what has taken place. The purpose of Alternative Resolution is to attempt to reach a position of resolution from which all parties can move forward.
7. At the discretion of the Early Investigation Officer, Alternative Resolution by Agreement and/or Alternative Resolution by Panel may be offered to a Complainant as a possible way forward. However, where the Respondent declines to participate in either Alternative Resolution by Agreement and/or Alternative Resolution by Panel, neither process shall take place, the Complainant shall be informed accordingly, and the Early Investigation process shall re-open to allow the Complainant to reconsider their options and preference with regard to next steps.
8. Where Alternative Resolution by Agreement has been attempted without success, Alternative Resolution by Panel may still be offered, at the discretion of the Early Investigation Officer.

**APPENDIX B1: Alternative Resolution by Agreement**

1. Alternative Resolution by Agreement offers an opportunity for the Complainant and Respondent to agree to conditions that will help both parties to move forward (e.g. a recognition on the part of the Respondent about their behaviour, with a commitment to behave differently in future; conditions that limit students' interaction with each other).

***Purposes of Alternative Resolution by Agreement***

2. This process offers an opportunity for all parties to move forward that removes the barrier for a Complainant of 'not wanting to get another student into trouble'.

***Alternative Resolution by Agreement Procedure***

***Agreement in Principle***

3. Following the Early Investigation, the Early Investigation Officer will determine whether Alternative Resolution by Agreement might be offered, in consultation with the Complainant about whether they might wish to proceed in this way. The Early Investigation Officer and Complainant shall form an 'agreement in principle' that Alternative Resolution by Agreement may be offered.
4. However, an agreement in principle that Alternative Resolution by Agreement **can** be offered does not guarantee that it **will** be offered; this will depend on the circumstances of the case, and is subject to the Respondent agreeing to this course of action. The Early Investigation Officer may as necessary meet with or correspond with the Respondent in order to determine whether it is appropriate to make the offer. The final decision as to whether it can be offered rests with the Early Investigation Officer. The Early Investigation Officer shall advise the Complainant of this before proceeding further.
5. With the agreement of the Complainant, the Early Investigation Officer will contact the Respondent to offer Alternative Resolution by Agreement. The Early Investigation Officer may request that the Respondent meets with them in order to explain this offer, or to ascertain whether it is appropriate to make this offer, or they may offer it by correspondence where they are satisfied it is appropriate to do so.
6. Where the Early Investigation Officer has an agreement in principle that Alternative Resolution by Agreement may be offered to the Respondent, they shall advise the Complainant that the agreement in principle cannot be confirmed as a way forward until they have contacted the Respondent, and where the Respondent agrees to this process.
7. Alternative Resolution by Agreement offers no findings about what has taken place, though both the Complainant and the Respondent may give an account or statement of what took place if they wish. Alternative Resolution by Agreement does not require both parties to meet, and may be coordinated by the Early Investigation Officer. Proposed conditions may be slightly amended in order to reach an agreement with both parties.
8. A record of the Agreement will be held in each party's individual School file, but is not formally recorded as a breach of this or any other policy on the part of a Respondent. However, were the Agreement to be breached, the case may be referred under the Non-Academic Misconduct procedures as a breach of this policy.

9. Where no resolution can be reached under this process, the Early Investigation Officer will determine next steps, which may include the following:
- no further action;
  - referral into the Alternative Resolution by Panel;
  - or referral to the Non-Academic Misconduct Panel;
  - referral into another school process as appropriate (e.g. Support Through Studies).

**APPENDIX B2: Alternative Resolution by Panel**

1. Alternative Resolution by Panel offers a structured formal alternative to pursuing allegations through a disciplinary process. It is intended to provide a coordinated and supportive forum with a negotiated but independent decisive lead in finding a way forward. This procedure may be used where the Early Investigation Officer determines, in consultation with the Complainant, that it is appropriate, in the following scenarios:
  - **where Alternative Resolution by Agreement is not appropriate, or possible** (e.g. in the event of two conflicting accounts which require an in-depth examination);
  - **where Alternative Resolution by Agreement has been attempted but has been unsuccessful**, and where the Early Investigation Officer is satisfied that it would be appropriate to subsequently offer Alternative Resolution by Panel;
  - **where the Complainant is reluctant for the School to proceed with a Misconduct Panel hearing under the [Non-Academic Misconduct policy](#) yet would like affirmative action to be taken.** Reluctance on the part of a Complainant does not, however, preclude the matter from being referred to a Misconduct Panel, should the Early Investigation Officer deem this the most appropriate course of action, in which case Alternative Resolution by Panel will not be offered.
2. The Alternative Resolution by Panel procedure is conducted by a panel of staff of the School with specific seniority and expertise (it includes some staff with student support and/or expertise in matters of sexual misconduct).
3. It involves an exploration of the allegation(s) in an environment that is structured and supportive for all parties that is centred on finding a potential resolution, with the aim of providing education and resolution in order for all parties to move forward. In exploring the allegations, the focus of this process will be to endeavour to reach a future way forward that the Panel deems appropriate to which all parties can agree, and the conversation led by the Panel should be structured and non-judgemental, rather than confrontational.
4. Crucially, **the Panel will not make any judgements or findings about what may or may not have occurred**, though both the Complainant and the Respondent may give both a written statement and/or oral account of what took place if they wish. Rather, the Panel will facilitate a dialogue between parties and give each party an opportunity to explore the allegations, in an endeavour to reach a formal agreement between the parties about a future way forward. The Panel will determine the outcome of the process and may set any necessary conditions. Following the Panel process, the Chair of the Panel will write a report that confirms the outcome of the Alternative Resolution by Panel process.
5. Where through the process the Panel is unable to reach an agreement between the parties, the Panel will make a report that will include a recommendation about next steps. Please see sections 8-12 of this Appendix for the Alternative Resolution by Panel Procedure, and in particular, section 12 for further information regarding possible next steps.

***Terms of Reference of the Alternative Resolution Panel***

6. The Terms of Reference of the Panel are as follows:

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- To lead and facilitate a dialogue between the Complainant and Respondent about the allegations in an endeavour to reach an agreement about a future way forward;
- To provide a structured, calm, non-judgemental and supportive environment in which to do so;
- To make no judgements or formal findings about what may or may not have occurred;
- To set any conditions as necessary as part of an agreed way forward between the Complainant(s) and Respondent(s);
- To make recommendations regarding next steps, in the event that the process is unsuccessful necessitating a different outcome other than an agreed way forward between the Complainant(s) and Respondent(s).

### ***Panel Membership***

7. The Alternative Resolution Panel will normally be comprised of the following:

- A Chair, nominated by the Executive Director, who will be a senior member of staff;
- Two members staff who may or may not be, as follows:
  - A member of staff with specialist student support expertise and/or expertise in matters of Safeguarding;
  - A senior member of staff

8. The Early Investigation Officer will serve as the Secretary and adviser to the Panel.

9. In certain circumstances, the School may involve External Officers as members of the Panel in the interests of procedural integrity and fairness.

### ***Procedural integrity and the involvement of External Officers***

10. Integrity and fairness are at the heart of all the School's policies and procedures. We recognise that there may be times where the involvement in our procedures of members of staff from other higher education providers, may be of benefit to students. This can facilitate independent oversight; providing assurances against bias and prejudice and ensure procedural fairness.

11. In operating any of the processes or procedures under this Policy, the School may as necessary, involve appropriate members of staff from other higher education providers, to support those processes, and/or for procedural advice and guidance. Such members of staff may as necessary, fulfil a procedural role where normally the policy indicates this will be a member of the School staff. For ease of reference, the School terms such members of staff from other higher education providers to be 'External Officers'.

12. In order to avoid any potential conflicts of interest (e.g. where procedural independence may be compromised), and/or where specific expertise is required, External Officers as defined above may also as necessary operate procedures under this Policy on behalf of the School, at the request of the Executive Director or their nominee. No proceedings under this Policy shall therefore be invalidated by virtue of the involvement of an External Officer procured by the School.

### ***Alternative Resolution by Panel Procedure***

13. The Early Investigation Officer will discuss with the Complainant whether they wish to attend with someone for support, or send someone to represent them in the event they wish to

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proceed with this option but will find attending too difficult. The Complainant may attend the meeting accompanied by a member of staff, a family member, or a friend for support (however the friend will not normally be permitted to be a student of the School, unless expressly agreed by the Executive Director).

14. The Early Investigation Officer will contact the Respondent to request their attendance at the Panel meeting. The Respondent may attend the Panel meeting accompanied by a member of staff, a family member, or a friend for support (however the friend will not normally be permitted to be a student of the School, unless expressly agreed by the Executive Director). The Respondent will normally be required to attend, unless circumstances exist taken that prohibit them from doing so. Non-attendance for valid reasons will not in itself be considered to be non-engagement with this procedure. Failure on the part of a Respondent to engage with this procedure may result in the case being referred under the Non-Academic Misconduct procedures to investigate the allegations as possible misconduct.
15. All parties (the Complainant, Respondent and the Panel) will be given the same documentation for consideration, which will constitute the following:
  - An agenda outlining the Panel membership, attendees and order of the meeting;
  - The Early Investigation Officer's report, which will normally include the notes from the Initial Support meeting;
  - Any written representations from the Complainant and Respondent, where the individual wishes to make a written submission for consideration in the process;
  - Any relevant accompanying/supporting documentation that any party wishes to submit.
16. The Panel will consider accounts from both the Complainant and Respondent (which it may do in the absence of either/both parties), and will lead and facilitate a conversation, in order to determine next steps. This process will be with **the aim of reaching a formal agreement about a future way forward for both parties, including setting any necessary conditions**. As with the Alternative Resolution by Agreement, the Panel does not have a disciplinary remit and therefore no findings about what has taken place will be made by the Panel.
17. Where the Complainant and/or Respondent are present, the Panel will deliberate in private in order to discuss and determine whether it is able to offer an alternative resolution to the Complainant and Respondent. The Panel's decision in this regard will normally be delivered verbally, where possible and appropriate.

### ***Absence of the Complainant/Respondent for the Panel process***

18. Where the Early Investigation Officer has determined that the Alternative Resolution by Panel process is appropriate, the Panel will normally proceed in all circumstances even where either or both the Complainant and Respondent are not present for the Panel process.
19. Where either or both the Complainant and Respondent are not present for the Panel process, the Panel may determine a recommended way forward which will be offered to both parties for agreement. The Panel will set a defined period that it deems appropriate of at least 2

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working days or longer, within which the Complainant and/or Respondent can consider whether to accept the offer.

20. Confirmation in writing (via email or hard copy letter) must normally<sup>1</sup> be obtained from both the Complainant and Respondent before the Panel can determine that an alternative resolution outcome has been successfully reached.
21. The Panel process will be deemed to be concluded once the Panel has been able to determine whether an alternative resolution has been reached. This may be at the end of the Panel meeting (if the Panel determines at the end of the meeting that a resolution cannot be reached), or following a period of consideration of an offer of Alternative Resolution (see below).

### ***Panel offer of alternative resolution***

22. Where the Panel determines that an alternative resolution can in principle be reached between the Complainant(s) and Respondent(s), the Panel will make an offer of the proposed alternative resolution to both parties, which may include conditions set for one or both parties.
23. Where an alternative resolution has been offered, the offer will be confirmed in writing (which may be via email) to the Complainant(s) and Respondent(s) as soon as possible following the Panel meeting. The reasons for the offer will follow in the Panel Report by the Chair of the Panel (see 'Report of the Panel', below).

### ***Consideration period***

24. The Panel will designate an agreed consideration period of not less than 2 working days within which the Complainant(s) and Respondent(s) can consider the offer before deciding whether or not to agree to it (the Panel can determine a longer period of consideration should it deem it appropriate). The length of the consideration period is for the Panel to determine. Even where all parties indicate agreement to the offer in the Panel meeting, there must be a consideration period before the Alternative Resolution process can be deemed concluded.
25. The outcome following the consideration period will be recorded by the Chair of the Panel in their report and will constitute the final outcome of the Alternative Resolution by Panel Process.
26. Where both the Complainant and Respondent agree to the offer, the Panel will determine that alternative resolution has been agreed, and will complete the Panel Report. The Final Report will confirm the agreement, and the Chair will sign the report.
27. Where an alternative resolution is reached and agreed, it will be effective from the date that the Panel Chair confirms the Report of the Panel.
28. Where either or both the Complainant and Respondent declines to agree, or fails to respond to the offer within the defined consideration period set by the Panel, the Panel will determine that alternative resolution has not been possible, and will complete the Panel Report, making any recommendations the Panel deems appropriate, with regard to possible next steps.

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<sup>1</sup> Where verbal confirmation is received from a Complainant or Respondent to the Early Investigation Officer or Chair of the Panel that they accept an offer of alternative resolution, the Early Investigation Officer or Chair will confirm this in writing to the student and this will be taken as formal notification of acceptance of the offer.

29. Where Alternative Resolution has been offered and the Complainant and/or Respondent have initially indicated they would be in favour of accepting the proposed offer, such indication is not binding and either party has the right to reach a different conclusion during the consideration period.
30. A failure on the part of either the Complainant and Respondent to respond to the offer within the defined consideration period will not in itself constitute non-academic misconduct. However, in the event that a non-response means the Early Investigation Officer deems the matter must be referred for investigation under the Non-Academic Misconduct procedures, such failure to respond may be taken into account by the Preliminary Enquiry Officer and/or the Misconduct Panel, when considering the case.
31. In the event that an alternative resolution cannot be reached, the Panel will refer the matter back to the Early Investigation Officer to determine next steps. The Chair of the Panel will forward the Report of the Panel to the Early Investigation Officer for consideration to assist with determining next steps.

***Report of the Panel***

32. Following the Panel process, the Chair of the Panel will write a report ('the Report of the Panel') that confirms the outcome of the Alternative Resolution by Panel process. This will be agreed by all Panel members, and a copy will be forwarded to the Early Investigation Officer for record purposes. Where an alternative resolution has been offered, the Chair of the Panel shall wait until the consideration period has expired and the outcome of the Complainant(s) and Respondent(s) consideration is known before completing the report. Where it is clear by the culmination of the Panel meeting that Alternative Resolution is not possible or not appropriate, the Chair of the Panel shall record this in the report (see 'Outcomes to be documented in the Panel report', below).
33. The Panel's report will be finalised and signed off by the Chair only once there is certainty that Alternative Resolution has either been successful, or has been unable to be reached (see the table below for the relevant outcomes for inclusion in the Panel Report).
34. Below is a table that the Panel Chair should use to assist in writing the Panel's report.

<b>INFORMATION to be documented in the Panel report:</b>
Following the Panel meeting, the Panel's report will contain the following information: <ul style="list-style-type: none"><li>• the details of when and where the meeting was held and the length it lasted;</li><li>• factual reporting on the representations made by both the Complainant and the Respondent</li><li>• areas of enquiry led by the Panel</li><li>• potential resolutions explored</li><li>• proposed resolution(s) (where relevant)</li><li>• any resolution(s) agreed in principle at the culmination of the Panel meeting (where relevant)</li><li>• rationale(s) for any concrete resolutions proposed by the Panel (whether agreed in principle or not by the Complainant and Respondent at the end of the Panel meeting)</li><li>• Confirmation of whether a potential resolution was able to be offered to both the Complainant and Respondent</li></ul>



- Where an offer of an Alternative Resolution was made to the Complainant and Respondent, the length of the consideration period determined by the Panel;
- Where relevant, the date(s) of receipt of confirmation of the acceptance of the offer by both parties;
- Where relevant, confirmation of the final agreed Alternative Resolution, including any relevant timeframes (including the date from which the resolution is effective).

**OUTCOMES to be documented in the Panel report:**

- **That a potential resolution was able to be offered to both the Complainant and Respondent, and that following a period of consideration, both parties have agreed to this Resolution.** In this event, the Report must clearly articulate the exact confirmed Alternative Resolution that has been agreed by both parties.
- **That a potential resolution was able to be offered to both the Complainant and Respondent, but one or both parties did not agree to the offer, and therefore alternative resolution has been unsuccessful;**
- **That in the course of the Panel process it became apparent that alternative resolution was not appropriate, stating the reason(s) for this** (e.g. the extent of the distress of the Complainant led the Panel to believe that alternative resolution was not in fact an appropriate course of action/the conduct of the Respondent/Complainant in the Panel process led the Panel to believe that it was not appropriate to offer alternative resolution);
- **That the Panel were unable to identify a potential resolution,** stating the reason(s) for this, and confirming that the case will be returned to the Early Investigation Officer to determine next steps.

**RECOMMENDATIONS that may be documented in the Panel report:**

The Panel's report may, if relevant and appropriate, also include a recommendation about next steps. The recommendation will be discretionary and may include one or more of the following:

- **imposition of conditions** (e.g. for both parties to avoid unnecessary contact, such as contact out of class time, or conditions regarding future behaviour);
- **a recommendation to the Executive Director for a new or continued imposition of emergency exclusion or suspension** (either under Precautionary Measures, or under Emergency Powers as deemed appropriate);
- **a referral for consideration of the case under the Non-Academic Misconduct Procedures** (the Panel may, if it wishes, make a recommendation for consideration about what it considers an appropriate penalty might be, in accordance with the published Table of Penalties in the [Non-Academic Misconduct Policy](#). The Preliminary Enquiry Officer may take such a recommendation into account when conducting the Preliminary Enquiry, though in this instance it is for the Preliminary Enquiry Officer to determine an appropriate outcome);
- **a recommendation to the Academic Board** (e.g. regarding internal processes, or the necessity for extension of support for a student);
- **a recommendation to the Quality Team and Executive Management Team (as necessary) regarding areas for review of the Policy on Sexual Misconduct, Harassment and Related Behaviours.**

35. A copy of the Panel's report will be forwarded to all parties and the Early Investigation Officer. Both the Complainant and Respondent shall be given an opportunity to make any corrections or comments on the report. Where feasible, at the discretion of the Chair of the Panel, this opportunity may be given to the Complainant and Respondent before agreement is reached on a proposed Alternative Resolution.

***Outcome of Alternative Resolution by Panel***

36. When the Chair confirms the final version of the report, the decision of the Panel is the final say on the matter of alternative resolution. Should an agreed alternative resolution subsequently be unsuccessful, the Chair of the Panel, in consultation with the School Principal and the Early Investigation Officer, and/or another senior member of staff of the School as necessary, will determine the next steps in the matter.