Royal Conservatoire of Scotland

# Student Alternative Resolution Disciplinary (SARD) Policy

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| Responsible RCS Officer/s | Student Community Conduct Officer<br>Deputy Registrar (Student Experience)<br>Head of ASS or their equivalent |
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# Student Alternative Resolution Disciplinary (SARD) Policy: Misconduct related to sexual, harassing, violent or discriminatory behaviour

This disciplinary policy is for apparent or alleged misconduct of a sexual, harassing, violent, or discriminatory nature by a currently registered student and should be read in conjunction with section H(3) of the *Regulations, Codes of Procedure and General Rules* (Student Non-Academic Misconduct: Student Disciplinary Procedure, hereafter referred to as H3).

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**Definitions used within this policy relevant to gross misconduct**

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| Breach of Trust (gross misconduct) | Gross misconduct can be defined as any act or omission on the part of a student (or students), which fundamentally breaches the contract with the RCS and is so grave that the mutual trust necessary between the student/s is potentially destroyed. |
| Sexual misconduct | Unacceptable behaviour of a sexual nature that breaches or damages the relationship of trust or confidence that exists between the individual and the RCS. |
| Harassment | Within the RCS Dignity at Work and Study Statement (p.8), harassment is defined as unwanted conduct which is offensive to the recipient. It refers to behaviour which is unsolicited, personally offensive, and socially unacceptable, or which fails to respect the rights of others.<br><br>Thus, 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 is harassment. Such conduct must happen more than once to constitute harassment. However, single incidents may still be considered a breach of professional standards and may still be pursued under the procedures outlined in H3. |
| Discriminatory behaviours | Discriminatory behaviour is characterized by conduct, underpinned by malicious intent, towards a social group that is directed at an individual of that group. |
| Cyber-bullying | Is any form of bullying, harassment (threatening and/or abusive), malicious communication that is carried out through the use of electronic media devices, such as computers, laptops, smartphones, tablets, or gaming consoles. |

# 1. INTRODUCTION

## Scope of this policy

1.1 As well as being an element of the Royal Conservatoire of Scotland's commitment to its Dignity at work and study statement, this policy clarifies existing RCS policy related to student disciplinary procedures, setting out the approach to be followed in the event that a reported incident may constitute a criminal offence. This policy relates to non-academic misconduct.

1.2 This policy outlines how the Royal Conservatoire of Scotland deals with these specific situations. It expands on the Rules and Regulations in section H of our *Regulations, Codes of Procedure and General Rules*. It outlines the additional considerations for the Conservatoire and reporting and reported parties involved in such cases.

1.3 This policy does not deal with student misconduct where the allegations have already been heard in court and where the criminal justice process has fully concluded. Where this is the case, RCS may still investigate allegations of misconduct that would usually sit under this policy where it deems a breach of professional standards has occurred following the usual procedures outlined in H3.

1.4 As such, this sub-policy covers allegations made against students with respect to:

- Harassment and sexual misconduct
- Incidents which may relate to discriminatory behaviours and may be in conflict with the Conservatoire's commitment to equalities
- Incidents falling within the remit of cyber-bullying
- Physical violence

Other forms of misconduct as set out in the Student Disciplinary Procedure (H3 section 3.13) where the Head of ASS or their equivalent or their equivalent has determined, as a consequence of **risk assessment**, that it is appropriate to apply this policy.

1.5 The Conservatoire recognises that incidents relating to sexual misconduct, and behaviours or a harassing, discriminatory, or violent nature are frequently nuanced and complex, and can be very sensitive for all parties concerned. Wherever possible and where it is deemed appropriate, this policy shall be used to handle such cases, as the provisions of these procedures are specifically designed to provide a flexible approach to managing and resolving such cases.

1.6 This approach is offered because, despite having disclosed to us, the discloser is faced with 4 options:

- Make a report to the police;
- Take some time to consider the options;
- Not report the matter to the police but request that the Conservatoire consider the case under its SARD regulations as set out here (thereby composing an alternative resolution process);
- Take no further action.

1.7 Raising a complaint/allegations under this policy or another Conservatoire policy does not prevent a Complainant from reporting the matter to the Police at any time (even where the Conservatoire's internal procedures have been concluded).

1.8 Should a Complainant decide not to make a police report, and instead requests that RCS consider the case under its SARD regulations as set out here, the Conservatoire **MUST** proceed in a way that is mindful of the potential for an internal investigation to impact a future police investigation should this be initiated at a later date.

1.9 Complainants should be aware that internal investigations have the potential to bias future police investigations. For example, by giving those involved a chance to 'rehearse' their evidence. This can be viewed negatively in a criminal justice process and may impact on conviction prospects.

1.10 Respondents should be aware that investigatory paperwork and reports are held on file and may be requested by the police at a later date. In such circumstances, RCS may be legally obliged to provide the police with relevant information and documentation. This has the potential to impact a criminal defence.

1.11 Where SARD is applied, it is important for all parties to understand the scope of the internal investigation and the key differences between a civil process, such as the Conservatoire's student misconduct procedures, and a criminal process (see Table 1).

**1.12 Table 1: Difference between a civil and criminal process**

| Area | Criminal Process | Civil Process |
|---|---|---|
| Scope of investigation | Investigates an allegation that a criminal offence has occurred. | Investigates an allegation that a breach of the student contract has occurred. |
| What can be determined as an outcome | A finding of guilt, or an acquittal following a criminal trial at court.<br><br>Can determine whether a crime has actually occurred. | An allegation of misconduct can be upheld, partially upheld, or not upheld following a Disciplinary Hearing by Panel.<br><br>This cannot determine whether a crime has occurred. |
| Burden of proof | Allegations must be proven beyond a reasonable doubt | Balance of probabilities – whether the alleged misconduct is more likely than not to have occurred |
| Sanctions | The highest sanction that can be applied is a prison sentence. | The range of sanctions that can be applied is included in H3 section 3.79 (e.g. warnings, personal development, apology, etc). The highest sanction that can be applied is expulsion. |

**1.13 What our application of SARD <u>DOES NOT</u> mean:**

Our application of SARD recognises that there can sometimes be an overlap between behaviours that breach RCS's own professional standards, and behaviours that <u>might</u> also be considered a crime. This means if a student finds themselves under a SARD investigation they should remember the following:

1. This process does not assume that a student with allegations against them is guilty nor does it imply that a decision has been made that the reported behaviour constitutes a criminal offence.
2. This process does not investigate a criminal offence, only the police are entitled to do that. What it attempts to ascertain is whether a breach of the RCS rules has happened, what the severity of that breach is, and what the effect on the contract between the RCS and the student is.

1.14 This policy applies to all RCS registered students and functions through the entirety of their studies both term time and non-term time.

1.15 This policy does not apply to students who have graduated from the RCS.

1.16 The RCS' jurisdiction under this policy is normally for incidents that occur on Conservatoire premises or using Conservatoire technology. However, when an incident clearly constitutes a continued risk to a student or students or the institution, the RCS retains the right to pursue actions under this policy that occurred outwith RCS premises.

1.17 If a student is subjected to a distressing incident outwith RCS premises and is unsure about whether that incident would fall within RCS' jurisdiction under this policy, we would encourage that student to disclose the incident to the Student Community Conduct Officer.

**Principles behind procedures outlined in this document**

1.18 Misconduct that might also fall within our regulations relating to sexual, harassing, discriminatory, or violent behaviour is often, by its nature, deeply humiliating or shaming for the person on the receiving end. However, individuals who are accused in such situation also have a right to be treated fairly whilst a process is underway. The Conservatoire will act reasonably in considering and handling complaints and allegations under this policy, having regard to the individual circumstances of any case. Every effort will be made to ensure that **all parties** are treated with **fairness** and **dignity**.

1.19 The **principles** behind this policy are described more fully below, but in summation are: to work from a position of sensitivity and duty of care; to maintain where possible confidentiality; to investigate the impact of an incident in terms of whether a breach of trust has occurred between the institution and the student accused; to understand the importance of consent; to safeguard students from harm, including risk of harm; to ensure disciplinary procedures are able to manage proportionality.

- **Sensitivity and duty of care:**
  To minimise the hurt and distress in a manner that respects the wishes of the complainant but protects the legal rights of the person against whom an allegation is made, providing an appropriate duty of care to both.

- **Confidentiality:**
  To minimise the potential for reputational and student cohort damage to both parties whilst an investigation is undertaken H3 sections 3.10.3 and 3.10.4 apply: So far as is reasonable, confidentiality will be maintained throughout all processes carried out in terms of this procedure. However, students should be aware that it may be necessary to disclose certain information so that the Conservatoire can fully investigate the circumstances of a disciplinary issue. Depending on the nature of the concern, external agencies and legal proceedings may be involved.

- **Breach of Trust:**
  RCS depends on being able to trust its students in order to function effectively. Misconduct that may constitute a crime breaches that trust. The key principle that is applied in these cases is not whether a crime occurred (only the police and the legal system can conclude that), but whether an incident or series of incidents

occurred that breach the RCS' trust in a student and whether such a breach is irreparable (see H3 section 3.10.5). This principle is of particular importance in those incidents which relate to conduct and behaviours requiring consent.

- **Consent is paramount:**

Consent is defined here 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. With respect to sexual misconduct, consent cannot be assumed on the basis of any previous sexual or other encounter (including in a previous or ongoing relationship), or previously given consent, or from the absence of complaint. Each new encounter requires a reconfirmation of consent. Consent may be given to one form of sexual or other activity but not to another. Consent may be withdrawn at any time during sexual or other activity and each time activity occurs.

Consent involves a person having the freedom and capacity to make a choice. This can be considered in two stages:

1. Whether a Complainant had the capacity (i.e. the age and understanding) to make a choice about whether to take part in the sexual activity at the time in question;
2. Whether they were in a position to make that choice freely and were not constrained in any way. The question of capacity to consent is particularly relevant when a complainant is intoxicated by alcohol or affected by drugs.

- **Safeguarding:**

The Children and Young People (Scotland) Act 2014 places a statutory duty on educational establishments to safeguard and promote the welfare of children and young people. A child is anyone under the age of 18. When a disclosure is made under this policy, RCS does not usually have the right to report the incident to the police without the explicit consent of the complainant.

However, we **may** need to report the incident to the police or relevant external agencies if any of the following apply:

1. The complainant and/or the person against whom the allegations have been made is under the age of 18.
2. The complainant and/or the person against whom the allegations have been made is affected by a physical or mental health condition that seriously limits their capacity.
3. There is deemed to be a severe ongoing risk to children and young people that cannot be reasonably contained by the precautionary measures set out in H3.

This is to effectively safeguard children and young people and to fulfil our statutory duty. The wishes of the complainant will be respected as far as possible, and the complainant will be informed of any intended action and the reasons for it. When the factors outlined above do not apply, RCS does not have the right to report an incident to the police without the explicit consent of the complainant. However, we may still act to safeguard students by imposing precautionary measures on the student against whom the allegations have been made (see 4.4). These measures exist to protect both child and adult learners and to ensure the dignity and care of all students at RCS.

- **Risk Assessment:**

When an investigation is initiated under this policy or when a disclosure is made that raises a safeguarding concern as outlined above, normally a risk assessment will be conducted by the Head of AAS or their equivalent. The risk assessment will

consider and attempt to mitigate potential risk to both the reporting and reported parties and the RCS community. This considers academic risks or needs, individual health and safety, psychological wellbeing, and pre-existing protective factors.

The outcome of a risk assessment might be that precautionary measures are needed. In rare cases, where there is deemed to be a serious and ongoing risk to children or young people that cannot be mitigated by the precautionary measures outlined in this policy, the outcome of a risk assessment may be that a police report is made.

- **Proportionality:**
  Additionally, this policy allows the disciplinary procedure to clarify when an incident which, as a single event, might result in suspension has become a pattern which is likely to require expulsion.

## Who should use this policy?

1.20 This policy should be applied by staff.

1.21 This policy can be engaged with by students who are concerned that they have experienced something which is covered by the policy.

1.22 This policy will be supplied to students against whom relevant allegations have been made.

1.23 Students with concerns about a student to whom this policy might apply should raise them with a member of staff or a representative of the Students' Union. **The responsibility for applying the SARD sits with staff.**

## 2. Gross misconduct related to potential sexual, harassing, discriminatory, or violent behaviours: Student Alternative Disciplinary Procedure (SARD)

2.1 An alternative resolution procedure allows the RCS to investigate and follow through with an appropriate disciplinary hearing in the event that misconduct of a potentially sexual, harassing, discriminatory, or violent nature has been alleged.

### Stage 1: Supporting at the point of disclosure

2.2 In the context of this policy, disclosure refers to a situation where a student tells another student or member of staff that something distressing has occurred that falls within the Conservatoire's definitions of misconduct as set out in H3 (section 3.13). In the context of this policy such a disclosure would normally be about unwanted sexual attention, discriminatory or harassing behaviour (including the misuse of social media in order to harass) , and/or violent behaviour.

2.3 In the event of a disclosure by a student of misconduct of this nature, it is important to encourage the discloser to report what happened. **The student should be encouraged and supported to make a report to the police**. RCS does not have the right to report the incident to the police without explicit consent of the complainant, nor does the complainant have to report the incident to the police (see 1.16 Safeguarding).

2.4 It is possible, however, that they will wish instead to pursue one of the following alternatives:

a. Take some time to consider the options;
b. Not report the matter to the police but request that the Conservatoire consider the case under its Disciplinary policy regulations as set out here and in H3 (thereby requesting a process be followed which, depending on the conclusion of the internal investigation, might lead to an **Disciplinary Hearing**);
c. Take no further action.

2.5 Where a student opts to apply 2.4b. the student should be encouraged to fill in the Appendix 1 Initial Support & Early Investigation Report document. Without this it is very difficult for the RCS to implement the appropriate procedure. This form can be filled in by the disclosing student using the hyperlink above, or it can be completed in person with the Head of ASS or their equivalent, the Deputy Registrar, the Student Community Conduct Officer, or a First Responder with either a friend or a member of programme staff present. Alternatively, the document can be downloaded from Appendix 1 at the end of this document, filled out, and emailed directly to complaint@rcs.ac.uk.

2.6 Where the disclosing student does not wish to go directly to the police but instead asks for this process to be used, the Head of ASS or their equivalent and Deputy Registrar will pass the disclosure onto the Student Community Conduct Officer for appropriate investigation and assess the need for immediate **precautionary measures** to be taken with respect to the student against whom an allegation is made.

### Stage 2: Investigating

2.7 Investigations will follow the relevant misconduct procedure outlined in H3.

2.8 Under an alternative disciplinary procedure, the investigator's role is not to determine whether or not a crime took place but rather whether evidence suggests that behaviour

below the standard required at the RCS occurred and whether the extent of the misconduct in that behaviour means an irreparable break down in trust between the RCS and the student in question.

2.9 Prior to any disciplinary hearing, a thorough investigation will occur, all investigatory evidence will be collated, and the Student Community Conduct Officer (or other designated officer) will be required to conclude in terms that, on the balance of probabilities, there is enough evidence to merit a disciplinary hearingneeds to occur.

### Stage 3: Disciplinary Hearing (including Hearing by Panel)

2.10 Hearings will follow the relevant misconduct procedure outlined in H3.

2.11 In cases which fall under this policy, where an investigation concludes or partially concludes that an allegation or allegations, on the balance of probabilities, merit the need for a disciplinary hearing (including by Panel), this will be arranged as per the procedure outlined in H3.

2.12 The Panel may invite the discloser and/or witnesses to appear remotely at the Disciplinary Hearing by Panel to further examine their evidence if this is considered necessary and appropriate. Disclosers and/or witnesses will not be required to directly converse with the student against whom the allegations have been made. The responding student will not be present in the room while the discloser and/or witnesses speak (see 1.16 Confidentiality) but may ask the Director / Panel for a verbal anonymous summary of the evidence they gave.

2.13 Should the responding student wish for the Director / Panel to consider any witnesses, they can request this following the procedures outlined in H3. Should the responding student wish to put any questions to the discloser or any other witness, they must direct those questions to the Director / Panel who will consider the relevance and appropriateness of the question. If the Director / Panel deems the question to be relevant and appropriate, they will then ask the question.

2.14 The Director / Panel will invite the reported student to respond to the allegations and the evidence provided via the investigation. Once this has taken place, the student against whom the allegations have been made will be asked to leave the room whilst the panel deliberates on the outcome and appropriate sanctions.

2.15 The panel will consider the student's points as well as all the evidence it has been provided with and from that establish what it believes is the most appropriate outcome, including where applicable any sanction or sanctions.

2.16 Where a student frustrates the process by deliberately failing to attend a disciplinary hearing, the hearing will continue in the student's absence and the Director / Panel will determine whether there is sufficient evidence to prove, on the balance of probabilities, that the alleged misconduct took place.

2.17 If, during the hearing and/or deliberation, the evidence that has been presented suggests to the Director / Panel that the Student Code of Conduct (A2) has been breached, but they are not satisfied that there is evidence of behaviours of a sexual, harassing, discriminatory, or violent nature, the Director / Panel may decide not to uphold the allegations under this policy, but to uphold or partially uphold the allegations under an alternative policy or level of misconduct instead.

2.18 In cases of gross misconduct, the panel needs to come to a simple majority to reach its outcome (ie 2 out of 3 of the panel's members must agree on the outcome and the sanction). In such cases, the panel will then inform the student of their judgement.

### Stage 4: Appealing

2.19 Students can appeal the outcome using the process set out in H4 Non-Academic Misconduct (Disciplinary) Code of Appeals. Their appeal goes through an Academic Board Appeals Committee composed of the following:

(a) the Director of a School/Academic Unit in which the Appellant is not a student and the Deputy Principal may replace the Director of a school/academic unit in which the appellant is not a student)
(b) a Head of Programme /Head of Department from that other School who has had no prior involvement in the case;
(c) an external representative of the Academic Board.

# 3. MISCONDUCT OF A SEXUAL, HARASSING, DISCRIMINATORY, OR VIOLENT NATURE

## Sexual misconduct

3.1 In the event of a disclosure by a student or group of students that they have experienced sexual misconduct from another student or students but do not wish to report the incident/s to the police, the disciplinary procedure outlined in this policy **should** be used.

3.2 For the purposes of this sub-policy, a non-exhaustive list of examples of unacceptable behaviour of a sexual, harassing, and related nature that would fall under the RCS definition of a breach of this policy is provided below:

- Engaging in, or attempting to engage in sexual contact without consent on or furth of RCS premises;
- Sharing private sexual materials of another person without consent, including online/via social media;
- Kissing without consent;
- Wilfully touching inappropriately through clothes without consent;
- Inappropriately showing sexual organs to another person;
- Making unwanted remarks or noises (e.g. wolf-whistling) of a sexual nature;
- Inappropriate remarks about a person's appearance or dress;
- Coercive demands for favours (including sexual favours);
- 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);
- 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);
- Repeatedly engaging in unwanted interaction, including online/via social media (note: multiple or repeated incidents of misconduct may be deemed by the Conservatoire to be more serious than a single act of misconduct);
- Any related behaviours perceived to be of a sexual nature which cause distress to others, and may reasonably fall within the broader definition of sexual misconduct

## Discriminatory behaviours

3.3 In the event of a disclosure by a student or group of students that they have experienced behaviour which breaches the Royal Conservatoires' commitment to equalities based anti-discrimination (such as anti-racism, disablism, LGBTQ and transphobia, religious intolerance, discriminatory behaviour on the grounds of age or variations in sex characteristics, and other protected characteristics covered in the Equalities 2010 Act), the disciplinary procedure outlined in this policy **should** be used.

3.4 What is defined as discriminatory behaviour is any misconduct perceived by any person to be motivated (wholly or partly) by malice or ill-will towards a person or social group (including a perceived social group) with a characteristic as defined above. A person does not need to identify with or be a member of the targeted social group to experience discriminatory behaviour. This is based on someone's beliefs

about a person's identity, even if those beliefs are incorrect.

3.5 Behaviour and/or material is not to be taken as misconduct solely on the basis that it involves:

- Discussion or criticism of matters relating to age, disability, sexual orientation, transgender identity, variations in sex characteristics
- Discussion or criticism relating to, or expressions of antipathy, dislike, ridicule or insult towards religion or beliefs.
- Attempting to convert someone from one religion or belief to another or urging someone to stop practicing a religion.

3.6 Thus, discussion or criticism of matters as described in 3.5 does not constitute discriminatory behaviour at the Conservatoire. Single, careless incidents which might occur out of situations in which 3.5 is represented can, however, be explored as serious misconduct as outlined in H3 (section 3.13).

## Cyber-bullying

3.12 Certain forms of social media posting can constitute cyber-bullying. Material, including images, that is threatening, harassing, discriminatory, obscene, indecent, defamatory, or hostile towards any individual or entity, or amounts to a misuse of private information or breach of confidence may constitute a breach of the Conservatoire's Social Media Policy or IT Acceptable Use Policy. In the event of a disclosure by a student or group of students that they have experienced cyber-harassment and/or misconduct from another student or students but do not wish to report the incident/s to the police, the disciplinary procedure outlined in this policy **should** be used.

3.13 The following examples illustrate the types of behaviour, displayed through social media communications, which the Conservatoire considers to be forms of cyber bullying:

- Intimidating or aggressive behaviour
- Offensive or threatening comments or content
- Posting private images of an individual without consent (including, but not limited to, private sexual images of an individual)
- Sharing unwanted images (including sexual images)
- Posting comments/photos etc. deliberately mocking an individual with the intent to harass or humiliate them
- Maliciously spreading rumours, lies or gossip
- Sending messages or posting comments with the intent to trick, force or pressure the receiver into doing something that they would not otherwise be comfortable doing (grooming)

Cyber bullying may also take place via other means of electronic communication such as email, text or instant messaging.

# 4. RIGHT TO CHOOSE ACTION/ OR WITHDRAW ALLEGATION

4.1 Where a Complainant expresses an initial preference for action not to be taken, they have the right to subsequently change their mind and request that action is taken. However, subject to the circumstances of the case and taking account of any risks or potential risks, the Conservatoire may determine in any circumstance that it is necessary to proceed or not to proceed under this or another procedure, even where the Complainant expresses a wish not to engage with such procedures.

4.2 Where a Complainant expresses, either initially or subsequently, that they do not wish to engage with the procedures under this Policy or another Conservatoire procedure, they are under no obligation to engage with any such procedures. The Complainant also has the right at any point in proceedings to change their mind about whether or not they prefer any action to be taken. As far as possible, officers of the Conservatoire will proceed in accordance with the wishes of the Complainant; however, there may be circumstances where a Complainant wishes no action to be taken but the Conservatoire has an obligation to pursue action (e.g. in the event of serious safeguarding concerns and/or risks that override the wishes of the Complainant). The decision therefore as to whether any action should be initially taken or should continue (if it has already commenced), rests with the Conservatoire, and action may proceed or continue to proceed without the engagement of the Complainant.

4.3 The Complainant may withdraw a complaint or allegations at any time whilst procedures have begun either under this Policy or another Policy, by notifying the appointed Officer of the Conservatoire who is operating the relevant stage of the procedure, in writing, of their decision. They do not have to provide any reason(s) for a decision to withdraw a complaint or allegations but must provide written confirmation of the decision before the procedure can be halted.

4.4 Where a Complainant has verbally indicated they wish to withdraw a complaint or allegations, the appointed Officer of the Conservatoire handling the case may determine that the procedure may temporarily be held in abeyance pending written confirmation.

4.5 Where a complaint/allegation is withdrawn by a Complainant the appointed Officer of the Conservatoire will determine the most appropriate course of action. This may include the following:

(a) No action or further action under this or any other Conservatoire policy;
(b) Termination of proceedings that have already commenced under this procedure or another Conservatoire procedure;
(c) No further action under this procedure, but referral of the matter into another Conservatoire procedure;
(d) The continuation of proceedings that have already commenced under this procedure, where it is most appropriate to do so.

4.6 Where a complaint/allegation is withdrawn by a Complainant but the appointed Officer of the Conservatoire determines that proceedings should continue, this does not preclude the matter subsequently being referred under another procedure where necessary.

## 5. LIMITATIONS OF THIS POLICY

5.1 The Conservatoire cannot implement this policy at the same time that a police investigation is underway. Thus, if the complainant decides to report the incident to the police whilst this procedure is underway, the procedure will be suspended until the police investigation has concluded. However, the Conservatoire may maintain any precautionary measures it has implemented under section 4 as relevant.

5.2 The Conservatoire does not have the legal investigatory powers of the Police and cannot make a determination on criminal guilt. An internal investigation will be limited to, and focused on, whether a breach of this policy has occurred. The internal procedures and investigations of the Conservatoire in operating this policy, or any other policy in relation to matters raised which fall within the scope of this policy, cannot therefore be regarded as a substitute for a Police investigation or a criminal prosecution.

5.3 A Complainant cannot bring a complaint or allegations under this procedure where the Complainant has previously made a complaint about the same event(s) that has been dealt with under another Conservatoire procedure.

5.4 This policy cannot be used to handle a complaint or allegations where an alternative procedure has already deemed the case to be concluded. This means where a criminal process has concluded, we will proceed to investigate under the procedures outlined in H3 (if so desired by a reporting party). Where an investigation into a matter has already concluded under H3, it cannot be subsequently investigated again under this policy.

This does <u>not</u> include where individuals involved in a case have engaged with an informal resolution or a mediation process in the first instance, and subsequently ask RCS to carry out an investigation at a later date.

5.5 The Conservatoire takes reports of sexual violence, harassment and related behaviours very seriously. However, it acknowledges the possibility of malicious reporting and any reports by students found to be vexatious and/or malicious will be considered as a breach of this policy and referred for consideration under the Conservatoire's disciplinary regulations as appropriate.

# 6. DIAGRAMMATIC SUMMARY OF THE PROCESS

## Stage 1: Supporting at Point of Disclosure

Disclosure from one student (the complainant) about another (the respondent)

If disclosure comes through **Complaints** channel, gets rerouted into this process within 24 hours (by Student Community Conduct Officer)

Early Investigation form completed by the claimant (with Student Community Conduct Officer where possible)

**Immediate precautionary measures imposed** on respondent if deemed necessary (risk assessed)

Support to report to the police offered

## Stage 2: Investigating

Investigation undertaken

**Investigatory prerogative:**
Has the respondent potentially acted in a way that constitutes an irreparable breach of trust between the respondent and the RCS?

All investigatory evidence collated

## Stage 3: Disciplinary Hearing (if indicated by the investigation)

Disciplinary hearing gross misconduct panel constituted

Student respondent invited to disciplinary hearing

Panel puts evidence before the student respondent, who then presents their position

Gross misconduct panel considers the evidence & establishes outcome and sanctions

Gross misconduct panel informs student respondent of outcome

Gross misconduct disciplinary hearing panel is formed of:

- Director of School of the respondent
- Another Director of CSMT not previously involved in the case
- Head of programme/ Head of department from the School in which the respondent is not a student
- A note-taker

## Stage 4: Appeals

Respondent submits an appeal to the Academic Board Appeals Committee

Head of ASS or their equivalent arranges Academic Board Appeals Committee

This committee is formed of:

- Director of CSMT not previously involved in the case
- A lay governor

Secretary

- A note taker (Assistant Registrar, Secretariat)

Academic Board Appeals Hearing

Second Appeal to the Board of Governors Appeal Board

This committee is formed of:

Principal

Head of ASS or their equivalent and

2 x lay governors

## 7. USEFUL RESOURCES:

1. **Rape Crisis Scotland** provide a national helpline and email support to anyone affected by sexual assault. The helpline operates between 6pm and Midnight on 08088 01 03 02. Glasgow & Clyde Rape Crisis can be contacted on 08088 00 00 14, Mon-Fri 11am – 2pm: https://www.rapecrisisscotland.org.uk/

2. Time sensitive **sexual health care**: https://archwayglasgow.scot/ Archway Glasgow is a SARCS (Sexual Assault Response Coordination Service)

3. Reporting to the **police**: https://www.scotland.police.uk/advice-and-information/rape-and-sexual-crime/

4. Reporting sex crimes to the **police** - what happens: https://www.scottishwomensrightscentre.org.uk/resources-guides/SWR-012-sexualcrime-03-ONLINE2.pdf

## **Appendix 1:** Sexual misconduct,andharassing, discriminatory and/or violent behaviours disclosure

### Initial support and Early Investigation: Disclosure report

**SECTION A: Completion of the form**

| | | |
|---|---|---|
| I am an **officer of the Conservatoire** undertaking the Stage 1 Early Investigation & support | | **Name & Position of the Recording Officer:** |
| I am a **student** wishing to disclose | | This form can be emailed directly to: Complaint@rcs.ac.uk or can be filled out digitally on this link – Report Form.<br><br>From there it is referred directly to the |

**SECTION B: Your Information** (Discloser's Information)

| | | | | | | |
|---|---|---|---|---|---|---|
| **Title** | | | | | | |
| **First Name(s)** | | | | | | |
| **Known as** | | | | | | |
| **Surname/Family Name** | | | | | | |
| **Contact Email Address** | | | | | | |
| **Contact Telephone Number** | | | | | | |
| **Preferred method of contact** (e.g. email/text/telephone call) | | | | | | |
| **Emergency Contact details** (optional) | | | | | | |
| **Name and email address of a supporter, if it is wished that they be copied into correspondence** | | | | | | |
| **Discloser (your) Status** (please tick relevant box) | **Student** | | **Staff member** | | **Individual from outside Conservatoire** | |

**SECTION C: Discloser's statement (reported allegations)**

| *Set out the details of the reported allegations here. Separate out incidents/allegations as far as you can. Include dates and factual details where possible. Indicate where information is being followed up or may need clarification.* |
| --- |
| (Expand this box as necessary)<br><br>**Date/s and time/s of incident/s**<br><br>**Location/s of incident/s**<br><br>**Details of incident/s** |

**SECTION D: Respondent details**

| *Please complete the requested details of the person(s) you wish to report* | |
|---|---|
| **Name** | |
| **Name of School (if relevant)** | |
| **Programme** | |
| **Year of study** | |

**SECTION E: Action so far**

| *Include details of any action that has taken place up to the point of completing this report (for example, what support has been offered, details of any agreed period for consideration of next steps, where the matter has been reported to the Police, whether a risk assessment has been completed, whether precautionary measures have been requested/imposed etc.)* |
|---|
| |

**SECTION F: Desired/Agreed actions with the Discloser**

| *Use this section to indicate the following as relevant:*<br>• *any action that you would prefer to have taken;*<br>• *any action that as an officer of the Conservatoire you have agreed with the Complainant* |
|---|
| |

**SECTION G: Any other relevant/pertinent information** (including: Individuals who are aware of the allegations)

| *Use this section to provide details of any additional relevant/pertinent information that has not already been provided earlier on this form:* |
|---|
| |

| |
|---|
| |

## Agreement by the Discloser

| *Please tick each box to indicate your agreement with each statement. You are under no obligation to tick any of these boxes and may tick or choose not to tick any/all of them. This section helps the Conservatoire to understand your wishes with regard to support.* | | |
|---|---|---|
| **1** | I agree to officers of the Conservatoire informing a member of counselling support staff in the Conservatoire so that I can receive appropriate support. | |
| **2** | I agree to officers of the Conservatoire instigating an internal disciplinary process | |
| **3** | I agree to officers of the Conservatoire arranging a meeting between myself and the police in order that I make a formal statement | |
| **4** | At this point, I would just like to have my disclosure recorded, but I would like more time to consider what I would like to happen next | |
| **Signature of Discloser:**<br><br>**Date:** (DD/MM/YYYY) | | |

This document will go forward as a record to the Student Community Conduct Officer in the event that internal disciplinary procedures are requested by the student making the disclosure. It may also be requested by the police in the event of a criminal investigation.