

Policy name: Carer's Leave Policy

Approved: 25th November 2016

Revision 1 approved 10th March 2017

Revision 2 approved

Revision 3 approved by Trinity Academic Council 13th May 2020

1. Context

- 1.1 The Royal Irish Academy of Music, hereinafter referred to as RIAM or the Academy, considers the wellbeing of its staff to be of great importance and has adopted the provisions of the Carer's Leave Act, 2001 (the 'Act').

2. Purpose

- 2.1 This policy provides for the temporary absence on unpaid leave of staff for the purpose of the provision of full-time care and attention to a person requiring it (the 'care recipient'), while protecting their employment rights.

3. Benefits

- 3.1 Staff employment rights are protected.

4. Scope

- 4.1 All staff of RIAM are entitled to Carer's Leave subject to meeting specific criteria.
- 4.2 In the case of staff employed under a fixed-term contract of employment, any entitlement to leave or other benefits lasts only as long as the contract of employment lasts.
- 4.3 This policy does not discuss Carer's Leave for students. However, the Academy will endeavour to make reasonable accommodations for students who require time off during Academy courses as a result of duties as carers.

5. Principles

- 5.1 Members of staff while on Carer's Leave will be regarded as still being in employment and none of their rights relating to employment will be affected with the exception of remuneration, annual leave (after 13 weeks), public holidays (after 13 weeks), superannuation benefits or any obligation to pay contributions in, or in respect of, the employment. Absence from employment while on Carer's leave shall not be treated as part of any other leave to which the member of staff is entitled.
- 5.2 In advance of making an application to the Academy for Carer's Leave, approval must be received from the Department of Employment Affairs and Social Protection (the 'Department'). A Deciding Officer from the Department will be responsible for ascertaining the validity of a care recipient as a 'relevant person' within the scope of the Act (see 6.1.2 and 7.1 below).

6. Policy

- 6.1 Eligibility criteria for Carer's Leave ('Leave')

- 6.1.1 The member of staff has completed twelve months' continuous employment with the Academy.
- 6.1.2 The care recipient is considered to be a 'relevant' person. This will be so if he/she needs continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or needs continual supervision in order to prevent danger to themselves. A medical practitioner must certify the nature and extent of the care recipient's condition.
- 6.1.3. The member of staff will be providing full-time care and attention to the care recipient.
- 6.1.4. The member of staff will not be engaging in employment during the period with the exception of:
 - (i) Attending an educational or training course or taking up voluntary or community work for up to fifteen hours per week;
 - (ii) Engaging in limited self-employment in the home;
 - (iii) Engaging in employment outside the home for up to fifteen hours per week, which must be approved by the Department.
- 6.1.5 The member of staff has provided the Academy with a decision from a Deciding Officer of the Department (see 7.1.3 below).

6.2 Entitlements

- 6.2.1 The minimum period of Leave is 13 weeks and the maximum period is 104 weeks.
- 6.2.2 Leave may be taken as a continuous block of up to 104 weeks for each care recipient, or, by agreement with the Academy, shorter periods adding up to a maximum of 104 weeks. However, if the Leave is taken in this manner, there must be at least six weeks between the Leave periods, and the Academy may refuse to sanction periods shorter than thirteen weeks, but the reason for such refusal must be specified in writing.
- 6.2.3 The Act allows for the variation, postponement, and curtailment of the form in which Leave may be taken by agreement between the member of staff and the Academy.
- 6.2.4 The Act also provides that where the Leave has been varied, postponed or curtailed, it may be taken at another mutually agreed time.
- 6.2.5 Staff must inform the Academy as soon as is possible about any changes in the circumstances of their Leave.

6.3 Terms and Conditions of Employment while on (Carer's) Leave

- 6.3.1 Staff while on Leave will be regarded as still being in employment and none of their rights relating to employment shall be affected, with the exception of remuneration, annual leave, public holidays, superannuation benefits or any obligation to pay contributions in, or in respect of, the employment. Such absence will be reckonable for redundancy purposes.

- 6.3.2 Staff will accrue annual leave for the first thirteen weeks of absence from work on Leave for each relevant person. Staff will be entitled to public holidays that occur during the first thirteen weeks of absence from work on Leave for each care recipient.
- 6.3.3 Leave may not be treated as part of any other leave from employment including sick leave, adoptive leave, maternity leave, parental leave, annual leave or force majeure leave to which staff are entitled.
- 6.3.4 The Academy may suspend a period of probation while a member of staff is on Leave.

7. Procedures

7.1 Procedure for Application to the Department

- 7.1.1 Staff should apply at least six weeks in advance of the proposed commencement date of Carer's Leave to the Department.
- 7.1.2 The Department is responsible for ascertaining the validity of applications to be granted Carer's Leave.
- 7.1.3 An application form (CARB1 Form) and accompanying information leaflet (SW 49) may be obtained from the Department. As part of the application process, a registered Medical Practitioner will be asked to complete a form which will enable the Deciding Officer of the Department to assess the level of need of the care recipient.
- 7.1.4 Staff are required to provide the RIAM Secretary with a copy of the decision reached by the Deciding Officer as soon as they receive it.
- 7.1.5 In order to apply for the carer's benefit staff must also apply to the Department and fulfil the requirements for such benefit.
- 7.1.6 Qualifying for Carer's Leave does not automatically mean that an applicant will qualify for carer's benefit.
- 7.1.7 At the same time as making this application to the Department, staff who wish to be granted Carer's Leave should make application to the RIAM Secretary as provided for at 7.2 below.

7.2 Procedure for Application to the Academy

- 7.2.1 The application must normally be submitted at least six weeks in advance of the proposed commencement date of Carer's Leave. In exceptional circumstances, when it may not be possible to comply with this notice requirement, the applicant is required give as much notice as is reasonably practicable.
- 7.2.2 An applicant shall provide the RIAM Secretary with a copy of the decision reached by the Deciding Officer as soon as he/she receives it and any period of Leave so approved may not commence until this requirement has been fulfilled.
- 7.2.3 Once approval has been secured for the application, the RIAM Secretary will prepare a 'Confirmation Document' for the employee to sign at least two weeks prior to the proposed commencement of the Carer's Leave.

- 7.2.4 Copies of the signed confirmation documents will be held by the member of staff and the RIAM Secretary. All documents must be held by the RIAM Secretary on the individual's personnel record. (Employers are under obligation to keep records of Carer's Leave periods taken by their staff for up to eight years.)
- 7.2.5 The applicant may in writing revoke notice given before the date of the confirmation document.
- 7.2.6 Where Carer's Leave is revoked it may not then be taken on the date on the confirmation document.
- 7.2.7 In the case where an applicant would be entitled to Carer's Leave and takes leave purporting to be Carer's Leave without having taken account of relevant notice periods, the Academy may, at its discretion treat the leave as Carer's Leave.

7.3 Procedure for making Application for a Second Period of Leave

- 7.3.1 While on Carer's Leave a member of staff may apply to the Department for a second period of Leave if it will be to look after a second care recipient who resides with the first care recipient.
- 7.3.2 If this application is approved and the prospective second care recipient is deemed to be a 'relevant person' then the period of Leave granted for the first care recipient must finish no later than 104 weeks after it started.
- 7.3.3 The second period of Leave shall begin on the date that the Deciding Officer's final decision is made and must finish at the latest 104 weeks after it began. Thus, Leave periods may overlap, but the total amount of Leave period when taken together may not exceed 208 weeks.
- 7.3.4 In the case of an approved second period of Leave an applicant does not have to reapply to the Academy before it can begin.
- 7.3.5 The RIAM Secretary shall issue a second confirmation document on receipt of notification by the applicant of the Deciding Officer's decision.
- 7.3.6 If an applicant's Leave in respect to one care recipient has finished, they may not apply for leave to care for a second care recipient until six months after the end of his/her previous period of Leave.

7.4 Procedure for Returning to Work

- 7.4.1 At the end of the Carer's Leave the member of staff will be entitled to return to work with the same employer (or their successor) and to the same job.
- 7.4.2 If it is not possible for them to return to the same job, then a suitable alternative must be found where the type of job is similar and the terms and conditions are similar.
- 7.4.3 A member of staff who is on Carer's Leave shall give notice in writing to the RIAM Secretary of his/her intention of returning to work not less than four weeks before the date when he/she intends to do so.
- 7.4.4 However, Carer's Leave will terminate early in the following circumstances:

- (i) The period covered by the Carer's Leave as specified in the confirmation document elapses;
- (ii) By Agreement between the member of staff and the Academy;
- (iii) Assumption by another person or institution of full- time care of the care recipient;
- (iv) The death of the care recipient (following which the member of staff may take a further six weeks leave, or return to employment on the date of termination of the period specified in the confirmation document, whichever is the earliest).
- (v) In the case of staff employed under a fixed-term contract of employment, any entitlement to leave or other benefits lasts only as long as the contract of employment lasts.

7.5 Procedure when Abuse of Carer's Leave is Suspected

7.5.1 Abuse of leave occurs when:

- (i) the care recipient is not a 'relevant person' under the provisions of the Act;
- (ii) the member of staff fails to provide the care and attention for which the Leave has been granted;
- (iii) the member of staff is or has been engaged in employment or self-employment other than as prescribed at 6.1.4.

7.5.2 If the Academy believes that a member of staff is abusing leave (as outlined in above) it may notify the Minister for Employment Affairs and Social Protection (the 'Minister') of this opinion and of the grounds for it, and a Deciding Officer will make a decision based on the evidence.

7.5.3 The Leave shall terminate where a Deciding Officer or an Appeals Officer of the Department makes a decision that any of the above (7.5.1) is true.

7.5.4 The Deciding Officer shall inform the Academy and the member of staff of their decision as soon as possible.

7.5.5 Following this, if the Deciding Officer upholds the Academy's opinion, the Academy must notify the member of staff, in writing, specifying the date on which he/she is to return to his/her employment. Any outstanding Leave specified in the confirmation document shall be deemed not to be Carer's Leave.

7.5.6 The Academy must also give notice in writing to the Minister that the Leave has been terminated and specifying the date of resumption of employment by the member of staff.

7.5.7 If a member of staff has been found to be abusing his/her entitlement to Carer's Leave, he/she may become subject to the Academy's disciplinary procedures.

7.6 Records

As an employer, the Academy must keep a record of carer's leave taken by its employees, specifying the period of employment for each employee and the dates and times of the leave taken. These records must be retained for eight years. Notices, or copies of notices, required by this Act shall be kept for a period of three years.

8. Responsibility

8.1 The RIAM Secretary is responsible for overseeing this policy and its operational procedures.

9. Legislation and Regulation

9.1 [Carer's Leave Act, 2001](#).

9.2 [Qualifications and Quality Assurance \(Education and Training\) Act 2012](#).

9.3 [Standards and Guidelines for Quality Assurance in the European Higher Education Area \(2005\)](#).

10. Document Control

Approved by Board of Studies 25th November 2016.

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Next review: Academic year 2020/21.