

Policy name: Staff Capability Policy

Approved by Trinity Academic Council 13th May 2020

1. Context

- 1.1 'Capability' refers to an employee's skills, ability, aptitude and knowledge in relation to the job that they are employed to do. A lack of capability will in most cases lead to unsatisfactory job performance, which is likely to cause problems for the employee, and the institution. For this reason, the Royal Irish Academy of Music, hereinafter referred to as RIAM or the Academy, is committed to ensuring that capability issues are actively managed and that appropriate action is taken at the earliest opportunity.

2. Purpose

- 2.1 This policy and its associated procedures have been established to provide guidelines for line managers and employees in relation to the management of underperformance due to capability, and also to:
- (i) provide support to those employees who are underperforming due to a lack of capability;
 - (ii) ensure that employees are given every reasonable opportunity to improve their performance including appropriate and reasonable additional training or guidance to achieve a satisfactory standard;
 - (iii) ensure a fair and consistent approach to underperformance which applies to all employees;
 - (iv) maximise performance by addressing capability issues at the earliest opportunity;
 - (v) ensure the Academy meets its statutory responsibilities in relation to relevant employment legislation and to take account of best practice guidelines.
- 2.2 The Capability Procedure is used for situations concerning a genuine lack of capability, unlike the Disciplinary Procedure, which is used for situations where there is consistent carelessness or misconduct on the part of an employee. If at any stage a manager has reason to believe that any aspect of the underperformance relates to issues of conduct, the manager will invoke the Disciplinary Procedure.

3. Scope

- 3.1 This policy and its procedures apply to all Academy employees who have successfully completed their probation period and who are employed under a permanent or fixed term contract.

4. Benefits

- 4.1 This policy demonstrates the Academy's commitment to supporting and developing its staff to ensure that they are able to fulfil their roles and responsibilities to a high standard of competence.

5. Principles

- 5.1 The Academy is committed to ensuring that there is no unlawful discrimination and bias in the application of its procedures. Action taken under this procedure will therefore be monitored to ensure fairness.
- 5.2 Wherever possible, managers should seek to address individual or minor performance problems as they occur, and without the need to implement the Capability Procedure. This procedure is not intended to prevent the normal process of supervisory activity whereby line managers allocate work, monitor performance, highlight work well done and draw attention to poor performance.
- 5.3 Where problems are serious in implication, repetitive, and/or frequent, more structured support and assessment over a period of time is required, and the Capability Procedure will need to be invoked. Managers are responsible for ensuring that performance issues are addressed promptly and fairly. The Academy will ensure that managers are equipped with the skills and knowledge to manage capability issues appropriately.
- 5.4 This policy concentrates on performance and the reasons for under-achievement, which may include disability. Due regard will be given to the Employment Equality Acts 1998 to 2015 where these are applicable, for example, reasonable adjustments will be considered, such as special equipment or facilities to enable the employee to continue to perform their job.

6. Policy

6.1 Performance standards

- 6.1.1 Through the Academy's Staff Recruitment Policy, every effort is made to ensure that new employees have the appropriate skills and abilities, or a clear demonstrated potential to achieve these, for the role they are recruited to. When an employee starts a new role, they should be clearly informed of their responsibilities and the standard of work performance required.
- 6.1.2 Managers should set realistic and achievable standards consistent with the employee's contract and job description. They should ensure that members of staff know exactly what the standards mean in terms of quantity and quality of work and the time/costs associated with the expected outputs. Guidance on the setting and communication of standards will be given. This should be reinforced through appropriate induction and training, constructive and regular feedback, regular one to one meetings with the line manager.

6.2 Informal procedure

- 6.2.1 Where there is evidence that an employee is not performing to an acceptable level, the line manager should investigate the circumstances without delay and explore the reasons for the unsatisfactory performance. If, following this examination, the line manager considers that the individual's performance is deficient in some material respect, an informal discussion with the employee will be arranged. The line manager may choose to allow a trade union representative or work colleague to attend at the employee's request.

6.2.2 During such meeting the line manager will:

- (i) clearly state the nature of the problem and explain the implication for the operation of the Academy, for example the impact on service delivery;
- (ii) provide specific examples of instances where performance has fallen below the required standard or where tasks have not been completed on time or satisfactorily;
- (iii) seek to establish the cause of under performance by asking the employee for their explanation and whether there are any mitigating circumstances;
- (iv) restate what is expected in terms of job outputs and targets;
- (v) set a reasonable time frame within which improvement is expected and arrange a further meeting at the end of this time to review the situation. When establishing “reasonable timescales” for improvement, line managers must consider the complexity of the tasks involved in relation to the qualifications and experience of the individual.
- (vi) keep a record of the meeting and what has been agreed.

6.2.3 The content and outcome of this meeting will be confirmed by the line manager in writing to the individual, including the type of improvement required, any additional support or training that will be provided, any other agreed actions and the timescale for improvement and review. When discussing under-performance line managers must be specific about their concerns and must demonstrate evidence and/or give examples to support their assertions.

6.2.4 If the necessary improvement in performance is achieved within the set time-scale, the employee should be informed that no further action will be necessary and all copies of the documentation involved should be forwarded to Human Resources (HR) for retention on the employee’s personnel file for the following twelve months. At the end of this period they will be removed. If performance continues to be unsatisfactory the line manager should initiate the formal procedure set out below, in consultation with HR.

6.3 Formal procedure

6.3.1 Persons may be authorised by the RIAM Director to deal with capability issues under this procedure (the ‘authorised person’), based on the following principles:

- (i) A sufficiently senior line manager can deal with a capability issue, or can nominate a deputy as the manager authorised so to deal.
- (ii) Persons authorised to take action at each stage, including the appeal stage, must have no previous significant involvement in the case.
- (iii) A member of HR will be consulted and will advise on the appropriate authorised person at each stage, and attend the formal meetings arranged.

- (iv) Where circumstances prevent one or more steps being taken within a reasonable period (e.g. long-term ill-health of an authorised person), another suitable authorised person may be appointed to continue the procedure.

6.3.2 Stage 1 – Meeting with the Authorised Person

- (i) Employees will be given a minimum notice of five working days, in writing, of any formal capability review meeting, be advised of the reason for the meeting and of their right to be accompanied by a trade union representative or a work colleague. Where witnesses are to be called by the authorised person, or by the employee, prior notice of this should be given to all parties.
- (ii) The authorised person will reiterate the reason for the meeting. The employee will be reminded of the earlier informal discussion and the steps taken to support an improvement in their performance. The authorised person will explain their continued concerns and provide supporting evidence. The employee will be given the opportunity to respond and explain the reasons for their continued unsatisfactory performance.
- (iii) Consideration will be given to additional training and/or support that could reasonably be provided to enable them to meet the required standard of performance. A reasonable review period will be set within which an improvement is expected and a further meeting arranged at the end of this to review the situation.
- (iv) The outcome of the meeting detailing any action plan and timescale for review will be confirmed in writing to the employee normally within five working days of the meeting.

6.3.3 Stage 2 - Follow-Up Meeting with the Authorised Person

- (i) At the end of the Stage 1 review period, a second meeting will be reconvened to assess the employee's progress against the objectives set.
- (ii) The authorised person will review the history of the case, outlining the steps that have been taken to support the employee to achieve the required level of performance. The employee will be given a further opportunity to respond and explain the reasons for their unsatisfactory performance.
- (iii) The authorised person may decide that:
 - progress has been satisfactory; or
 - the employee has demonstrated reasonable progress in tackling the outcomes agreed and may allow further time for the employee to improve. A further review date will be set and a meeting convened; or
 - the employee has not demonstrated sufficient progress and a further meeting will be arranged in accordance with Stage 3 of this procedure.
- (iv) The outcome of the meeting detailing any action plan and timescale for review will be confirmed in writing to the employee within five working days of the meeting.

6.3.4 Stage 3 – Capability Hearing

- (i) If it is felt that insufficient progress has been made, a Capability Hearing will be convened. Employees will be given a minimum notice of five working days, in writing, of a meeting to discuss the options available and possible outcomes as set out in (iii) below. The employee will also be advised of their right to be accompanied by a trade union representative or a work colleague.
- (ii) An authorised person who is senior to the authorised person who carried out Stages 1 and 2 will hear the case. A member of HR will be present as adviser to the person hearing the appeal and to take notes. The authorised person for Stages 1 and 2 will review the history of the case, including the steps that have been taken to support the employee to achieve the required level of performance. The employee will have the opportunity to respond and provide any supporting evidence.
- (iii) The authorised person hearing the case may decide:
 - that the employee's performance is satisfactory; **or**
 - to allow further time for the employee to improve; **or**
 - on redeployment to a more suitable post where available, if necessary on a trial basis. Where an employee is transferred to a lower grade job, they will be transferred to the grade of that job with an adjusted salary. The employee should be given sufficient time, normally 10 working days, to consider the offer, and should be informed that a refusal will normally result in dismissal. The employee should provide a written response within the specified time period; **or**
 - that the employee's performance is unsatisfactory and that they should be dismissed on grounds of capability, with appropriate notice. If underperformance is having an adverse effect on the operation of the Academy, dismissal may take immediate effect and the employee will be paid in lieu of notice.
- (iv) The outcome of the meeting will be confirmed in writing to the employee normally within five working days of the Hearing. Where the employee is dismissed they will be informed of the date their employment will terminate and of their right of appeal.

6.4 Right of appeal

- 6.4.1 If an employee wishes to appeal against a decision taken under this procedure, the appeal must be made to HR, in writing, stating the grounds for appeal, within five working days of receiving written confirmation of the decision.
- 6.4.2 The appeal will be heard by an authorised person who has had no prior significant involvement in the case, with academic representation if appropriate to the case.
- 6.4.3 Where possible, the appeal hearing will be convened as soon as possible, normally within 10 working days of receipt of the appeal. A member of HR will be present as adviser to the person(s) hearing the appeal and to take notes.
- 6.4.4 An appeal hearing will not be a re-hearing of the case, but will rather be concerned with reviewing the application of the procedures, and whether, on the basis of the

evidence presented at the hearing, the decision was appropriate, and whether the sanction is proportionate to the employee's level of performance and capability. The appeal may consider any new material evidence not available at the original hearing and which is relevant to the decision. Records and notes of the original capability hearing will be made available to the person(s) hearing the appeal.

6.4.5 The employee will be informed of the arrangements for the hearing as soon as possible and of their right to be represented by a trade union representative or accompanied by a work colleague of their choice.

6.4.6 The appeal decision and the reasons for it will be confirmed in writing to the employee normally within five working days. The letter will identify that the decision is the final.

6.5 Capability records

Full records should always be taken of meetings with employees about job performance, whether they are formal or informal, as well as meeting outcomes. Records taken and produced during the capability management process will be held confidentially and in accordance with current Data Protection requirements.

7. Responsibility

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

8. Legislation and Regulation

8.1 [Unfair Dismissals Acts 1977 to 2015](#).

8.2 [Payment of Wages Act 1991](#).

8.3 [Industrial Relations Acts 1946](#) to [Industrial Relations Act 1990](#).

8.4 [Code of Practice on Grievance and Disciplinary Procedures under the Industrial Relations Act 1990](#).

8.5 [Code of Practice on Dispute Procedures, including procedures in essential services](#).

8.6 [Disability Act 2005](#).

9. Related Documents

9.1 Code of Business Conduct for Employees.

9.2 Dignity and Respect Policy.

9.3 Staff Grievance and Mediation Policy.

9.4 Staff Disciplinary Policy.

9.5 Complaints Policy.

9.6 Records Management and Retention Policy.

9.7 Data Protection Policy.

9.8 Employment of People with Disabilities Policy.

10. Document Control

Approved by Trinity Academic Council 13th May 2020.

Next review: Academic year 2020/21.