

**Policy name: Staff Disciplinary 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, recognises that disciplinary rules and procedures are necessary for the effective operation of the Academy by encouraging all employees to achieve and maintain satisfactory standards of conduct and behaviour. The Academy also recognises that disciplinary rules and procedures are a necessary part of ensuring that all individuals are treated fairly and consistently.
- 1.2 In this regard, the Academy will not discriminate on any unlawful grounds including, but not limited to, age, disability, gender-reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.

## 2. Purpose

- 2.1 This policy provides a formal process for resolving disciplinary matters. The need to take disciplinary action will arise where a staff member's behaviour and/or conduct falls below the standard required by the Academy.
- 2.2 This policy sets down the procedures to be followed when employee standards of conduct give rise to problems which cannot be resolved by advice and encouragement, training or increased support. The Academy is committed to the avoidance of formal disciplinary procedures wherever possible by addressing problems as soon as they arise. This procedure is intended to provide consistency in the treatment of all employees and, to ensure matters are dealt with promptly.

## 3. Scope

- 3.1 This policy applies to all categories of RIAM employees who are employed under a permanent or fixed term contract.
- 3.2 Issues of underperformance should be addressed in accordance with RIAM's Capability Policy on managing under-performance.

## 4. Benefits

- 4.1 This policy ensures that fair and effective procedures are in place when an incident requiring recourse to disciplinary measures occurs in the Academy.

## 5. Principles

- 5.1 Most issues of misconduct will be dealt with through the normal line management relationship (see 6.1 below). In many instances where an individual's conduct at work falls below the required standard, it will be appropriate to encourage improvement by the use of suitable advice, guidance and support before pursuing disciplinary action. The formal procedure

should only be used when management advice and guidance has failed to produce the required improvement or when the disciplinary matter is sufficiently serious. Advice and guidance on good practice should be sought from Human Resources (HR).

- 5.2 It is not possible to produce an exhaustive list of conduct that the Academy would consider constitutes 'misconduct' or 'gross misconduct', however Appendix A indicates conduct that is likely to result in disciplinary action.
- 5.3 Persons may be authorised by the RIAM Director to impose disciplinary action or hear appeals based on the following principles:
- (i) A sufficiently senior line manager can deal with all actions up to dismissal, or can nominate a deputy as the manager authorised so to deal.
  - (ii) Sufficiently senior line managers can deal with dismissal in conjunction with a person of similar or higher seniority.
  - (iii) Persons authorised to take action at each stage, including the appeal stage, must have no previous involvement in the case.
  - (iv) A member of HR will be consulted and will advise on the appropriate authorised person at each stage.
  - (v) 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.
  - (vi) An external nominee may be a Member of the Board of Governors, of the legal or HR profession, or of another relevant profession, with significant knowledge and/or experience of higher education.
- 5.4 Criminal charges outside of employment with the Academy will not be treated as an automatic reason for disciplinary action. In circumstances where the alleged offence is one which would render the employee unsuitable for the type of work they are required to undertake, or brings the Academy into disrepute, the employee may be suspended on full pay pending the outcome of the criminal action or the Academy's investigation, as appropriate. The Academy reserves the right to investigate an alleged or unproven criminal act under the disciplinary procedures separately from any criminal case being pursued or having been concluded. If a criminal conviction results in imprisonment, the Academy will be entitled to consider whether the contract of employment has been frustrated.

## 6. Informal procedure

### 6.1 Discussion

It is part of the normal supervisory process that managers bring to the attention of the employees the standards required and any failure to meet those standards. In cases of minor or isolated instances of misconduct, the line manager should, before considering formal disciplinary action, give consideration to and discuss with the employee:

- (i) whether there is a contributory problem that may be unrelated to work;
- (ii) what the desired standards of conduct are;

- (iii) whether there is any training or other type of support that can be provided to help improve conduct.

The purpose of the discussion is to ensure that the employee understands the nature of the concerns, expectations of improvements in conduct and, where appropriate, timescales and the nature of any support available. Where informal action does not bring about an improvement or where an act of misconduct is considered too serious to be classed as minor, formal action will be initiated.

## 6.2 Records

The line manager will make a record of the discussion which will be held on the employee's file for a period of up to a maximum of twelve months. The employee should also be given a copy for information. These records may be used in subsequent formal procedures if necessary.

## 7. Formal procedure

### 7.1 Right to be accompanied

7.1.1 Employees have the right to be accompanied by a companion for all formal disciplinary meetings, who can be either:

- (i) a trade union representative of their choice; or
- (ii) a fellow employee of their choice.

As a matter of good practice, in making their choice employees should bear in mind the practicalities of the arrangements. An employee should inform HR in advance of any meeting the name of their companion and whether they are a fellow worker or a trade union representative.

7.1.2 The companion may address the hearing, put forward and sum up the case, ask questions, respond on the employee's behalf to any view expressed and confer with the employee during the hearing, unless the employee has indicated that he/she does not want their companion to do so. The companion does not, however, have the right to answer questions on the employee's behalf.

7.1.3 All such arrangements must be made by the employee. There is no obligation on any person, whether he/she is or is not a trade union official, to accompany another employee.

7.1.4 Approval to release a work colleague should be obtained from the line manager so that appropriate cover can be obtained.

7.1.5 Within this procedure there is no provision for representation or accompaniment at a disciplinary hearing by any person external to the organisation, unless they are a Trade Union Representative.

### 7.2 Reporting a Need for Formal Action

Where it is alleged that an act(s) of misconduct has been committed, the line manager will report the need for formal action to the Head of Faculty/RIAM Secretary, and to HR. For the

purposes of this procedure the person who is authorised to take disciplinary action (see 5.3) will be referred to as the 'authorised person'

### 7.3 Potential Outcomes from the Initial Report

7.3.1 Before taking action the authorised person will determine whether there is a case to answer which should be considered at a disciplinary hearing. The authorised person may then decide to:

- (i) take no further action; or
- (ii) arrange counselling or some other form of support mechanism; or
- (iii) arrange for a full disciplinary investigation to be carried out as soon as is practicable to determine whether there is a need for a disciplinary hearing.

7.3.2 The extent of the investigation will be determined by the nature and complexity of the allegations and the information already available. In relatively straightforward cases the information already available may be sufficient in itself to enable the authorised person (in liaison with HR) to decide whether there is a case to answer. Alternatively the authorised person may appoint someone else to undertake an investigation. Prior to investigation, advice should be sought from HR in the first instance about who should undertake the investigation.

### 7.4 Disciplinary Investigation

7.4.1 In all cases, the facts must be established via an investigation prior to the commencement of formal disciplinary action. All investigations should be carried out in a timely manner as possible and include comments from the employee involved in the matter. Witnesses may be called to provide information to the investigation and such information will normally be made available to all parties in advance of any meeting to discuss the findings.

7.4.2 If, pursuant to 7.3.2 and following receipt of advice from HR, an Investigating Officer has been appointed, he/she will investigate the matter and produce a statement/report of their findings. It is not his/her role to prove the guilt of any party but to investigate if there is a case to answer. During the investigation, the Investigating Officer will receive support provided by a member of HR. The Investigating Officer will not subsequently act as the person authorised to take disciplinary action (see 5.3).

7.4.3 The Investigating Officer will conduct a full investigation ensuring that all the facts are available. The role of an investigator is to be fair and objective so that they can establish the essential facts of the matter. An investigator should do this by looking for evidence that supports the allegation and evidence that contradicts it. It should be made clear to the employee involved in an investigatory meeting that it is not a disciplinary hearing. No disciplinary action will be taken until a full investigation has been completed.

7.4.4 After considering the relevant statements, documentation and interviews the Investigating Officer will produce a statement/report stating all the facts, and a view on whether a disciplinary hearing is required. This will be submitted to and considered by the authorised person, and will form the basis on which the authorised person

confirms a decision on the need, or not, for a disciplinary hearing and, if necessary, suspension of the employee. If it is decided that a disciplinary hearing is required, this will take place as soon as is reasonably practicable.

## 7.5 Suspension

7.5.1 The authorised person may, after careful consideration, suspend the employee on full pay, after consultation with HR, pending the outcome of the investigation or disciplinary hearing. Circumstances where this may be appropriate include:

- (i) where time is needed to carry out the investigation and the circumstances are such that it is not appropriate for the employee to be at work whilst the investigation is carried out;
- (ii) where there has been an allegation of gross misconduct which, if proven may lead to dismissal;
- (iii) where it is considered that there is a potential health and safety risk;
- (iv) where it is considered that the reputation of the Academy may potentially be damaged if the employee remains at work.

7.5.2 The decision to suspend will be communicated in writing to the employee, with a clear statement of the reason(s) for the suspension. The employee should be informed that suspension is not considered a disciplinary action and does not involve any pre-judgement about the outcome of the investigation and subsequent disciplinary hearing. The employee must also be advised that whilst suspended they should not enter Academy premises unless invited to do so by the authorised person or other person(s) who will be specified in the letter confirming the suspension. The letter should, where practicable, be handed to the employee or where this is not possible, be sent by recorded delivery to the employee's home address.

7.5.3 Contact will be maintained with the employee throughout the period of suspension to keep him/her informed of the investigation. If suspended the employee will only be allowed to contact the Academy through a nominated person and must not contact other employees, clients and contacts of the Academy whilst on suspension. If suspended, the employee must be available to attend any fact finding interview called during the suspension period.

7.5.4 If the employee wishes to enter Academy premises he/she should contact the authorised person clearly stating the reasons why, and the authorised person will determine, in consultation with HR, whether or not it is reasonable to approve this, and under what conditions this may occur.

7.5.5 The period of suspension should be kept to a minimum and under review. An employee who has been suspended for three weeks or more may appeal in writing to the RIAM Director, who should investigate (or delegate the investigation to another senior manager) and respond in writing within five working days stating clearly the reason(s) the suspension is continuing, or lifting the suspension where it is no longer deemed to be appropriate.

7.5.6 Whilst on suspension an employee's contractual terms and conditions will continue to apply.

## 7.6 Disciplinary Hearing

### 7.6.1 General

Disciplinary Hearings are conducted by an authorised person(s) appointed according to the provisions of 5.3 above. The Investigating Officer will normally be in attendance to present the findings of the investigation, but will not be a party to the determination of the outcome of the Hearing.

### 7.6.2 Notification

The employee should be given a minimum of five working days written notice of the disciplinary hearing. The letter should be handed personally to the employee or sent to his/her home address by recorded delivery. The letter should include:

- (i) the time, date and place the hearing will take place;
- (ii) the alleged offence and reasons why this is not acceptable behaviour;
- (iii) the right to be represented or accompanied by a trade union representative or work colleague of his/her choice;
- (iv) who will be present at the hearing and their role;
- (v) copies of relevant documentation that the Investigating Officer will produce at the hearing to present the case against the employee (e.g. copies of witness statements, supporting work related documents etc.);
- (vi) that the outcome of the hearing may result in disciplinary action, up to and including dismissal

Where the Academy intends to call relevant witnesses to supplement any witness statements it will inform the employee in the notification letter. If the employee intends to call witnesses the names and status of any intended witnesses should be notified to the Academy as soon as possible and in any event at least 48 hours before the hearing.

### 7.6.3 Postponement

- (i) Where an employee's representative cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by the employer. The five day time limit may be extended by mutual agreement.
- (ii) Where either party fails to attend the hearing due to circumstances outside of their control which were unforeseeable at the time the meeting was arranged (e.g. illness) the Academy will arrange an alternative date. A decision may be taken in the employee's absence if he/she fails to attend the re-arranged meeting without good reason.

### 7.6.4 Conducting the disciplinary hearing

Appendix B provides guidelines for those involved in a disciplinary hearing.

### 7.6.5 Disciplinary hearing outcome

Before reaching a conclusion the authorised person should take account of the employee's disciplinary and general record; length of service; actions taken in any previous similar case; the explanation(s) given by the employee; and whether the intended disciplinary action is reasonable under the circumstances. A disciplinary hearing will conclude with one of the following outcomes:

- (i) no case to answer and therefore action under the disciplinary procedure will cease; or
- (ii) suspension (or to extend suspension where an employee is already suspended) pending further investigation; or
- (iii) issue of a formal warning in line with the guidelines below; or
- (iv) issue of a final written warning; or
- (v) dismissal or some other sanction.

## 7.7 Disciplinary Sanctions

There are three levels in the formal disciplinary procedure with various sanctions dependent upon the gravity of the case and/or the on-going nature of the misconduct. RIAM reserves the right to enter at any level of this procedure depending upon the gravity of the matter.

### (i) Level One - Formal Written Warning

This is usually given if there has been either a minor breach in conduct which remains unresolved by informal action, or a first more serious breach of discipline. A record of the warning/improvement note will be kept on file and used as the basis for monitoring and reviewing conduct over the specified period, but it will normally be disregarded for disciplinary purposes after 12 months, subject to achievement and sustainment of satisfactory conduct.

### (ii) Level Two - Final Written Warning

If the employee does not meet the required standard of conduct set out in level one or commits any other act of misconduct during the timescale of an existing warning, a further formal disciplinary hearing may be convened under level two of this procedure. In some circumstances, where an alleged misconduct is sufficiently serious, it may be appropriate to progress straight to level two of this procedure. A record of the written warning will be kept on file but it will normally be disregarded for disciplinary purposes after 12 months, subject to achievement and sustainment of satisfactory conduct.

### (iii) Level Three – Dismissal or some other sanction

If allegations are raised which are so serious as to constitute gross misconduct, such as those in Appendix A, it will be appropriate to consider taking formal action under level three of this procedure. It may also be appropriate to move to level three if an employee does not meet the required standard of conduct set out in the final written warning given under level two of this procedure, or commits any other act of misconduct during the timescale of an existing warning.

*Dismissal:* an employee should not be dismissed for a first disciplinary offence unless it is a case of gross misconduct. The employee will be served with, and paid the appropriate amount of notice.

*Other Sanction:* where dismissal is appropriate, but significant mitigating factors exist, one or more of the following may be substituted for dismissal, together with an appropriate final written warning:

- (i) demotion to a post at a lower grade, and an immediate corresponding reduction in salary and grade associated benefits;
- (ii) salary sanction within grade, e.g. to withhold an increment;
- (iii) transfer to another area;
- (iv) extension of the period of the final written warning up to two years.

*Summary Dismissal:* if, after investigation, it is confirmed that the employee has committed an offence that is considered an act of gross misconduct the normal consequence will be dismissal without notice or payment in lieu of notice.

### 7.8 Notification of Disciplinary / Dismissal Hearing Outcome

The outcome of the disciplinary/dismissal hearing will be confirmed in writing to the employee within five working days. The letter should, where practicable be handed to the employee or where this is not possible, sent by recorded delivery to the employee's home address.

- (i) First Formal Written Warning/Final Written Warning/Other Sanction

The notification will identify:

- (i) the nature of the misconduct/behaviour;
- (ii) the improvement/change in behaviour required;
- (iii) the disciplinary sanction given including the level and the length of time the warning will remain 'live';
- (iv) the consequences of any further failure to adhere to acceptable standards of conduct. In cases where a final written warning is given it should be made clear that further formal disciplinary action may result in dismissal;
- (v) the timescale for achieving the improvement and a review date;
- (vi) any support that will be provided to assist the employee;
- (vii) right of appeal.

- (ii) Dismissal/Summary Dismissal

The notification will identify:

- (i) reasons for the dismissal;
- (ii) the appropriate period of notice (not applicable to summary dismissal);
- (iii) payment of any outstanding leave entitlement;
- (iv) the date on which the employment contract will terminate;

- (v) right of appeal.

## 8. Right of appeal

### 8.1 Application

- 8.1.1 An employee has a right of appeal following the outcome of a disciplinary meeting.
- 8.1.2 An employee who wishes to make an appeal should submit their request in writing normally within five working days of issue of the disciplinary decision to the RIAM Secretary. The grounds for appeal must be for one (or more) of the following reasons:
  - (i) a failure to follow procedure had a material effect on the outcome, or the process was flawed in some significant way;
  - (ii) the decision was inappropriate given the evidence presented;
  - (iii) new evidence has come to light since the original hearing.

### 8.2 Appeal Hearing

- 8.2.1 Where possible the appeal hearing will be convened as soon as possible, normally within 10 working days of receipt of the appeal.
- 8.2.2 An appeal hearing will follow the same format as the disciplinary hearing. A more senior manager who has not had previous involvement in the case will hear an appeal against disciplinary action less than dismissal, and a panel of senior managers who have not had significant previous involvement in the case will hear an appeal against dismissal (see 5.3). Records and notes of the original disciplinary meeting will be made available to the person(s) hearing the appeal.
- 8.2.3 The employee will be informed of the arrangements for the hearing as soon as possible and of his/her right to be represented by a trade union representative or accompanied by a work colleague of his/her choice.

### 8.3 Appeal Hearing Outcome

- 8.3.1 An appeal hearing can conclude with one of the following outcomes:
  - (i) no case to answer, in which case all record of the disciplinary hearing and appeal will be disregarded;
  - (ii) to impose a lesser penalty;
  - (iii) to uphold the decision of the original hearing.
- 8.3.2 If an employee has appealed against a decision to dismiss and the result of the appeal is to impose a lesser penalty or that there is no case to answer, all of the employee's contractual pay for the period between the original hearing and the appeal will be paid at the earliest opportunity.
- 8.3.3 The appeal decision and the reasons for it will be confirmed in writing to the employee within five working days. The notification will identify that the decision is the final stage of the Academy's appeals procedure. The letter should, where practicable be handed

to the employee or where this is not possible, sent by recorded delivery to the employee's home address.

8.3.4 The decision of the Appeal Panel is final.

## 9. Disciplinary records

9.1 Records taken and produced during the disciplinary process will be held confidentially within the Human Resources Department in accordance with current Data Protection requirements. Copies of meeting records should be given to the employee including copies of any formal minutes that may have been taken. However, in certain circumstances (for example to protect a witness) the College may withhold some information.

## 10. Responsibility

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

## 11. Legislation and Regulation

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

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

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

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

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

## 12. Related Documents

12.1 Code of Business Conduct for Employees.

12.2 Dignity and Respect Policy.

12.3 Staff Capability Policy.

12.4 Staff Grievance and Mediation Policy.

12.5 Complaints Policy.

12.6 Records Management and Retention Policy.

12.7 Data Protection Policy.

## 13. Document Control

Approved by Board of Studies 25th November 2016.

Revision 1 approved by Board of Studies 10th March 2017.

Revision 2 approved.

Revision 3 approved by Trinity Academic Council 13th May 2020.

Next review: Academic year 2020/21.

## Appendix A

### Examples of misconduct and gross misconduct

Typical examples of misconduct include but are not limited to:

- Disruptive behaviour
- Unauthorised absence, or unacceptable attendance or punctuality
- Insubordination, a failure to follow a reasonable management instruction
- A failure to follow approved rules, regulations and procedures.
- Misuse of Academy facilities.
- Unauthorised use of telephone, email and internet system.
- Misuse of Academy, client or supplier's premises and/or property.
- Leaving the place of work without authority.
- Persistent absence or sickness.
- Taking extended/unauthorised breaks.
- Disrupting the course of business by receiving and making personal telephone calls.

Typical examples of gross misconduct include but are not limited to:

- A breach of the Academy's policy on relationships involving Academy staff and students.
- A breach of the Academy's policy on physical contact between Academy staff and students.
- Any other act or omission that repudiates the contract of employment and/or leads to loss of trust and confidence in an employee, and their ability to fulfil the duties for which they are employed.
- Abuse and/or wilful damage to Academy property.
- Physical or verbal assault on a fellow employee, student or visitor to the Academy.
- Violent, abusive or intimidatory conduct.
- A breach of Health and Safety regulations.
- Being unfit for duty because of the misuse/consumption of drugs or alcohol
- Distributing alcohol or illegal drugs at work.
- Conduct which might reasonably bring the name of the Academy into disrepute.
- Fraud or dishonesty.
- Falsification of Academy documents and records and other fraudulent behaviour.
- Theft of property belonging to the Academy, a fellow employee, student or visitor to the Academy.
- A breach of confidentiality.
- Unlawful discrimination, bullying or harassment including sexual harassment of a fellow employee, student or visitor to the Academy.
- Victimisation of a fellow employee, student or visitor to the Academy.
- Failure to adhere to the Academy's IT agreement or Social Media Policy.
- Serious negligence which causes unacceptable loss, damage or injury.
- Deliberate accessing of internet sites containing pornographic, offensive or obscene material.
- Serious instances of those examples listed above under "misconduct"

It is important to note that items listed under 'gross misconduct' may not warrant immediate dismissal. The decision to dismiss will be dependent on the circumstances of the case. Similarly, items listed under 'misconduct' may, dependent on the circumstances of the case, be considered serious enough to warrant dismissal.

### **Guidelines on the conduct of disciplinary/dismissal hearings**

The following guidelines provide an outline of the stages that should be followed when conducting a disciplinary hearing.

#### **1. Introductions**

The authorised person/Chair of the panel should introduce all parties.

A member of the Human Resources Division must be present during the hearing to give professional advice to the authorised person/Panel and may contribute where necessary.

#### **2. Purpose of the hearing**

The authorised person/Chair should advise those attending that the purpose of the hearing is to consider whether disciplinary action should be taken in accordance with the Academy's Disciplinary Policy and Procedure. The authorised person/Chair should outline to all parties the format that the hearing will take.

#### **3. Statement of Allegation**

The Investigating Officer should clearly state the allegations and be given an opportunity to present any evidence they have gathered that supports the allegations. Evidence presented may include:

- Appearance at the hearing of witnesses.
- Witness statements.
- Other written documentation/reports.
- Other forms of evidence deemed relevant to the case.

In cases where there is a dispute over the relevance of the evidence the authorised person/Chair's decision will be final.

#### **4. Witnesses**

Where a witness is called, the party who has called the witness will be given the opportunity to ask questions of the witness first, followed by the other party. The authorised person/Panel can ask questions of the witness at any time.

If more than one witness is being called, each witness should be called separately and not allowed to converse immediately before the hearing or afterwards until all evidence has been presented and considered.

#### **5. Right of Reply**

The employee should be given the opportunity to respond to the allegation(s) and present their case together with any evidence that they feel is relevant. They should be allowed to ask questions and given an opportunity to raise points about any information provided by witnesses. If the employee is being represented then the representative may speak on their behalf. The representative does not, however, have the right to answer questions on the employee's behalf. As part of their case the employee should identify any mitigating circumstances i.e. any special circumstances that should be taken into account.

### 6. Summing Up

Once both parties have presented their cases, each party should have the opportunity to sum up their case. The authorised person/Panel may ask questions of either party at any stage during the hearing.

### 7. Adjournment

Both parties and the Investigating Officer must withdraw from the hearing together to enable the authorised person/Panel to consider the evidence presented. If the authorised person/Panel requires any further information or clarification from one of the parties, both should be present when this information is sought.

### 8. Decision

If it is not possible to give a decision at the conclusion of the adjournment, both parties should be invited back into the hearing and informed, at that stage, that this is the case and advised of the likely date and time when a decision will be available. In these cases, the time when a decision is to be announced must give both parties every opportunity to attend.

### 9. Records

A note will be taken of all disciplinary hearings which will be typed as soon as possible after the hearing. The typed notes will always be made available to all parties following the hearing. The parties should raise any factual inaccuracies in the notes with the authorised person/Panel Chair within five working days of receipt.

[Note: In situations where a hearing is taking place and the authorised person/Panel considers the issue should be considered by a higher authority then the hearing should be reconvened to take place at the earliest convenient opportunity.]