



Royal College of Art

Postgraduate Art & Design

DISCIPLINARY POLICY

1.Introduction

- 1.1. The aim of this policy and procedure is to ensure consistent and fair treatment for all employees of the Royal College of Art ("the College"). It follows the Advisory, Conciliation & Arbitration Service (ACAS) Code of Practice and is designed to help and encourage staff to achieve and maintain appropriate standards of conduct.
- 1.2. The College reserves the right to implement the procedure at any stage as set out below taking into account the alleged misconduct of an employee. Employees will not ordinarily be dismissed for a first disciplinary offence.
- 1.3. This policy sets out the Colleges' approach to dealing with disciplinary matters. It does not form part of employees' contractual terms of employment and thus may be subject to change from time to time. Such changes will be made and notified following negotiation and consultation with a view to reaching agreement with the recognised trade unions except where changes are made to comply with new or amended legislation, in which case such consultation will not be required.

2. Principles

- 2.1. This policy and procedure is underpinned by the principles laid out in Statute 10 that staff of the College, whilst engaged in teaching, research or knowledge exchange, have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges.
- 2.2. At all formal stages of the procedure the employee will have the right to be accompanied by either a representative of a trade union, or a work colleague.

- 2.3. Where time limits are referred to in the course of this procedure they may, where reasonable, be varied by agreement between the employee and the College.
- 2.4. All employees will be treated in accordance with the College's policy on Equality and Diversity.
- 2.5. The Director of Human Resources has overall responsibility for ensuring the consistent application of this policy.
- 2.6. Audio and/or video recording of meetings is strictly prohibited unless with the express and written consent of all parties present.

3. Scope

- 3.1. This procedure applies to all employees (other than the Vice-Chancellor, where separate arrangements apply) who have completed their probationary period and have been confirmed in post. This procedure may also be applied, if necessary / appropriate, to Visiting lecturers and casual / fixed term employees / workers.
- 3.2. This procedure applies to all matters relating to conduct at work and to activities and behaviour outside work which are relevant to the operation, reputation or regulation of the College or the employee's role within the College.

4. Informal Stage

- 4.1. Where possible, the College will seek to resolve minor problems and concerns promptly through informal means rather than through formal disciplinary action.
- 4.2. In such instances, the manager will address area/s of concern in discussion with the employee, laying out expected standards of conduct and that formal disciplinary proceedings may commence if the unacceptable conduct is not addressed.
- 4.3. Employees do not have a statutory right to representation at the informal stage but only when proceedings move to a formal stage. Employees are encouraged to cooperate with the informal stage as a means of quickly resolving issues. The informal stage does not result in any formal disciplinary sanction. However, where an employee requests representation at the informal stage, this will not be unreasonably refused.

5. Formal stage

- 5.1.** If the matter is not resolved at the informal stage or if the alleged misconduct appears sufficiently serious, the manager may decide to instigate formal proceedings. The employee will be notified in writing accordingly.

6. Investigation

- 6.1.** Where concerns are not minor in nature, the manager (or, where appropriate, a different manager) will promptly and thoroughly investigate any matter that is reasonably suspected or believed to contravene any of the College's policies or rules or may otherwise be a disciplinary matter.
- 6.2.** Depending on the circumstances of the case, the employee may be invited to attend an investigatory interview. The employee will be informed at the outset that the interview is an investigatory interview and may be accompanied by a representative.
- 6.3.** A member of Human Resources may attend any investigatory interview.
- 6.4.** An investigation may be carried out by an external third party, at the discretion of the College. This will be facilitated by HR.
- 6.5.** An investigation report will be produced that will recommend whether sufficient evidence of misconduct exists to warrant a formal disciplinary hearing.

7. Suspension

- 7.1.** There may be instances where suspension with full contractual pay¹ is necessary while investigations are carried out. The College has the right to suspend with pay where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised before a disciplinary hearing, or if there is a potential risk to the business or other employees or third parties in allowing the employee to remain at work. Suspension is not, in itself, a form of disciplinary sanction. The period of suspension will be as short as possible, normally lasting no longer than fifteen working days. In exceptional circumstances where suspension exceeds this time limit or continues until the matter is fully resolved, the member of staff will be informed as to the reasons and the progress.
- 7.2.** The authority to suspend is obtained from the Director of Human Resources or their nominee.

¹ Contractual pay is that which would normally be paid. For VL or casual staff, if work cannot be undertaken due to a suspension, suspension will be without pay.

7.3. Any period of suspension will be kept as short as is reasonably practical.

8. Procedure

8.1. Where, upon completion of an investigation, there are reasonable grounds to believe that there is a disciplinary case to answer, the employee will be invited to attend a disciplinary hearing.

8.2. In the event of a disciplinary hearing taking place the organisation will:

- give the employee a minimum of five working days' notice of the hearing;
- advise the employee the purpose of the hearing and its possible consequences;
- explain the employee's right to be accompanied at the hearing;
- give the employee written details of the nature of alleged misconduct; and
- provide to the employee the investigation report and the names of any witnesses who may be called to give testimony.

8.3. The employee should advise the College at least two working days before the hearing of the names of any witnesses they wish to call and set out the relevance of their evidence, following which the College will consider if such a request is reasonable and / or attendance of witnesses is necessary in all the circumstances. If the employee wishes to call a witness. It is their responsibility to make arrangements directly with those witnesses to ensure their availability.

8.4. Where the employee is unable to attend a disciplinary hearing and / or provides a good reason for failing to attend, the time and/or date of the hearing will be rearranged to occur within the five working days of the first scheduled meeting.

8.5. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, the rearranged hearing will take place in the employee's absence.

8.6. The employee's companion may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

8.7. Where the chosen companion is unavailable on the day scheduled for the hearing, the employee may request that the hearing be rescheduled to an alternative time that is reasonable and within five working days of the scheduled date.

9. Role of companion

9.1 Employees attending any formal disciplinary / appeal meetings have a right to be accompanied by a companion. The representative must be either:

- a colleague who works for the College; or
- a trade union representative (local or full-time)

9.2 The College reserves the right to refuse to accept as a representative anyone who may reasonably be perceived to have a conflict of interest in the proceedings.

9.3 The College's representative (the chair) will permit the employee's companion to address the hearing do any or all of the following:

- present and sum up the employee's case/submission;
- respond on behalf of the employee to any views expressed at the meeting;
- confer with the employee during the meeting.

10. Confidentiality

- 10.1.** All those involved in the disciplinary process are bound by confidentiality and must not discuss the case with anyone other than the person investigating the allegations or the individual's representative and immediate family / close relatives as is reasonable and appropriate. Failure to abide by the limits of this requirement could result in disciplinary action against the employee concerned.

11. The disciplinary hearing

- 11.1.** A disciplinary hearing will normally be chaired by a senior manager in the employee's School or Department but who has not been involved in the investigation of the allegations. Where this is not possible a senior manager in another School or Department will be selected.
- 11.2.** If the chair of the hearing may have a potential conflict of interest due to active complaints against them by the employee, (for example, potentially harassment / bullying), the disciplinary hearing will normally be heard by a different senior manager of equivalent level or a more senior manager.
- 11.3.** The Chair may be accompanied by a member of Human Resources to act as advisor to the Chair.
- 11.4.** The employee will be entitled to be given a full explanation of the case against them and be informed of the content of any statements provided by witnesses. The employee will be permitted to set out their case and answer

any allegations. The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. The employee will also be given the opportunity to raise points about any information provided by witnesses.

11.5. The Chair may adjourn the disciplinary proceedings if it appears necessary or appropriate to do so (including for the purpose of gathering further information). The employee will be informed of the likely period of any adjournment.

11.6. As soon as possible after the conclusion of the disciplinary proceedings, the Chair will convey the decision to the employee and will also inform the employee what disciplinary action, if any, is to be taken. The decision will be confirmed in writing. The employee will be notified of the right of appeal under this procedure.

12. Disciplinary action

12.1. Where, following a disciplinary hearing, the College reasonably believes that the employee has committed a disciplinary offence, the following disciplinary action may be taken:

12.1.1. Recorded Oral Warning

Where a minor offence or offences have been committed, a recorded oral warning may be given. The warning will:

- set out the nature of the offence committed;
- inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
- specify that the period during which the warning will remain "live" is 6 months, after which the warning will automatically lapse; and
- state that the employee may appeal against the warning.

12.1.2. First Written Warning

Where either a more serious disciplinary offence has been committed or following a recorded oral warning that remains "live", a further minor offence or offences have been committed by an employee, the employee will receive a first written warning. The warning will:

- set out the nature of the offence committed;
- inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
- specify that the period during which the warning will remain "live" is 12 months, after which the warning will automatically lapse; and
- state that the employee may appeal against the warning.

12.1.3. Final Written Warning

Where a serious disciplinary offence has been committed, or where an employee commits further disciplinary offences after a first written warning has been issued and remains "live", a final written warning may be given. Such a warning will:

- set out the nature of the offence committed;
- inform the employee that further misconduct is likely to result in their dismissal;
- specify that the period during which the warning will remain "live" is 12 months, after such period the warning will automatically lapse; and
- state that the employee may appeal against the warning.

12.1.4. Dismissal

Where the employee has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning, the College may elect to dismiss with notice or payment in lieu of notice.

Where the College reasonably believes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed without notice.

Such action will be confirmed in writing to the employee setting out their right of appeal.

The decision to dismiss an employee will normally be made by a member of the Senior Management Team.

13. Expired warnings

- 13.1.** Written warnings will be disregarded (regarded as fully spent) after expiry of the relevant periods in paragraph 12 above, subject to satisfactory conduct and performance.
- 13.2.** Reference to any previous expired warnings in any subsequent disciplinary proceedings will not be used as a determining factor in deciding the outcome of the new proceedings.
- 13.3.** In exceptional cases, the chair / panel may issue a warning for a period of up to double that set out in 12.1.2 and 12.1.3. This will only generally apply in respect of serious breaches of College policy (e.g. equal opportunities, health and safety) and where dismissal is not warranted.

14. Appeal

14.1 Arrangements for appeals are set out in the College's appeals policy / procedure (see **Appendix 1** of this document).

15. Gross misconduct

15.1 Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the College. In the event that an employee commits an act of gross misconduct, the College will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice. Examples of potential gross misconduct are given in **Appendix 2**.

16. Related Policies and Procedures

16.1. Capability: Where poor performance is due to lack of capability, the College's capability procedure will apply. Capability is assessed by reference to an individual's skills; qualifications; aptitude; health; or any other physical or mental quality. Where poor performance is brought about by a failure to maintain adequate standards of behaviour, the disciplinary policy and procedure will apply.

16.1.1. There may be cases where it is difficult to distinguish at the outset between conduct and capability issues, therefore the College reserves the right to deal with matters under whichever procedure it deems appropriate, considering the circumstances and the information available at that time or as it emerges.

16.2. Grievance: If a member of staff raises a grievance during the disciplinary process, it may be appropriate to deal with both issues concurrently or deal with one before the other. The final decision about the process to be followed rests with the Director of Human Resources and the chair of the hearing.

16.3. Bullying/Harassment and Dignity at Work: Employees alleged to have bullied or harassed colleagues will be subject to the provisions contained within this Disciplinary Policy.

17. Criminal conduct

17.1. If an employee is charged with, or convicted of, a criminal offence not related to work, and which does not lead to imprisonment, this is not itself reason for disciplinary action. However, consideration will be given to the effect the charge or conviction has on the employee's suitability to do their job and their relationship with the College, colleagues, students, external partners and

other stakeholders. In such circumstances, or where the employee is imprisoned the facts of the case will be carefully considered by the Director of Human Resources in consultation with the relevant line manager before any disciplinary action is taken.

- 17.2.** Employees are obliged to inform the College of any such charges or convictions.

18. Miscellaneous

- 18.1.** If an employee who is an accredited representative of a trade union recognised by the organisation for collective bargaining purposes is suspected of having committed a disciplinary offence, the organisation will take no action under this procedure (with the exception of suspending the employee in a case of suspected or known gross misconduct) until the organisation has had a chance to discuss the matter, with the prior agreement of the employee, with a full-time official of that trade union.
- 18.2.** This procedure will be periodically reviewed. Any proposed amendment to it will be notified to employees in writing to the trade unions and as appropriate for agreement by the JNCC and Planning and Resourcing sub-Committee of Council. Minor factual, legal statutory or best practice guidance (e.g. ACAS) changes may be made automatically in order to ensure the policy remains up to date with primary legislation and guidance. These changes, once agreed or notified may be publicised by means of the College's intranet or via use of notice boards or via email.

Human Resources
1 November 2021

Appendix 1

The College's common appeal policy is available on the HR intranet.

Appendix 2

Royal College of Art

Disciplinary Rules and Gross Misconduct

Matters that the College views as amounting to disciplinary offences include (but are not limited to):

- persistent bad timekeeping;
- unauthorised absence;
- damage to College property;
- failure to observe College procedures;
- abusive behaviour;
- unreasonable refusal to follow an instruction issued by a manager;
- absences that are not genuine or not for the reason provided;
- data protection breaches and misuse of College information;
- smoking in non-designated areas of College premises.

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the College. In the event that an employee commits an act of gross misconduct, the College will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.

Matters that the College views as amounting to gross misconduct include (but are not limited to):

- theft or fraud;
- other offences of dishonesty;
- falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee;
- falsification of records including reports, accounts, expense claims or self-certification forms, whether or not for personal gain;
- data protection breaches, disclosure of College documents, commercially sensitive information and other confidential information to unauthorised third parties;
- indecency;
- physical violence or bullying;
- deliberate damage to or misuse of property;
- gross insubordination;
- the use or distribution of illegal drugs while at work;
- serious incapability at work brought on by alcohol or drugs;
- possession, custody or control of illegal drugs on College premises;
- serious breach of the College's rules, including, but not restricted to, health and safety rules and rules on computer use;

- gross negligence which causes unacceptable loss, damage or injury;
- conviction of a criminal offence that is relevant to the employee's employment;
- misuse or abuse of social media in and outside work;
- deliberately accessing pornographic, offensive or obscene material;
- conduct that brings the organisation's name into disrepute;
- unlawful discrimination or harassment;
- bribery offences under the Bribery Act 2010;
- vexatious or malicious behaviour;
- fraudulent absence from work;
- serious breach of confidence or trust, and
- serious discriminatory behaviour on the grounds of sex, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief (including no belief), sexual orientation, disability or age.

Other acts of misconduct may come within the general definition of gross misconduct.

Document History

Policy

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Approval

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