



Royal College of Art

Postgraduate Art & Design

Disciplinary Policy and Procedure (Non-academic staff)

1. Purpose and scope

- 1.1 The aim of this policy and procedure is to ensure consistent and fair treatment for all staff. It follows the Advisory, Conciliation & Arbitration Service (ACAS) Code of Practice ¹ and is designed to help and encourage staff to achieve and maintain appropriate standards of conduct, attendance and job performance, as required by the Royal College of Art (“the College”). It is important that all members of staff comply with these standards. This procedure outlines the action that will be taken if these standards are not met.
- 1.2 This procedure applies to all directly employed non-academic staff who have completed their probationary period and have been confirmed in post.
- 1.3 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 individual's job within the College.
- 1.4 The director of human resources has overall responsibility for ensuring the consistent application of this procedure.

2. Principles

- 2.1 The disciplinary process should be dealt with in a timely, sensitive and appropriately confidential manner. Managers should raise any issue of concern as soon as it is reasonably practicable and an investigation should normally begin within ten working days of the incident occurring, or of an issue being brought to a manager's attention. The investigation should normally be completed within fifteen days.
- 2.2 Disciplinary action will not normally be taken at any of the formal stages against a member of staff until an appropriate investigation has been carried out. An investigation may be carried out by a third party, at the discretion of the College.
- 2.3 The College will endeavour to deal with disciplinary matters without unnecessary delay and expects the member of staff to co-operate to achieve that aim.
- 2.4 Whilst every effort will be made to adhere to the time limits quoted in this procedure, circumstances may arise, particularly in relation to complex cases, where it is impractical to do so.
- 2.5 At all formal stages of the procedure the member of staff will have the right to be accompanied by either a trade union representative, or a College work colleague².

¹ ACAS Code of Practice 1 – Disciplinary and grievance procedure

² A work colleague is limited to a current employee of the College



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2.6 All members of staff will be treated in line with the College's equality and diversity policy.

3. Relationship with capability procedure

3.1 This disciplinary procedure primarily exists to manage effectively matters considered to be misconduct (see appendix I), whereas capability issues, such as matters relating to unsatisfactory performance, will normally be dealt with separately under the capability procedure. However, 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.

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 Through informal meetings, the member of staff will be expected to engage in discussions with their line manager in an attempt to establish the cause of concern. If there are shortcomings in performance or conduct, training and additional support will be considered, where appropriate, to enable the member of staff to meet the required standards. At this stage the manager should advise the member of staff what needs to be done, how their performance or conduct will be reviewed and over what period. The member of staff should be made aware of the implications of failing to reach the agreed standards.

It is useful for the line manager to confirm in writing what has been decided.

4.3 The line manager may feel that an informal (oral) warning would be appropriate. This being the case, the line manager should highlight the unacceptable standard of conduct and provide clear instructions on the improvements required within a prescribed timetable, setting clear objectives and any development/training needs. The member of staff should be made aware that failure to meet the required level of improvement could lead to formal disciplinary action. The informal warning will typically last 6 months. The line manager will confirm in writing what has been decided.

4.4 No formal disciplinary action is taken at this stage. Should it become clear during discussions that the matter is more serious and requires consideration under the formal procedure, the line manager should stop the meeting and contact a human resources manager for guidance on the next steps.

4.5 Mediation

Mediation can be used as a means of resolving a disciplinary or a potential disciplinary issue where it has put a strain on working relationships. If a member



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of staff wishes to explore the possibility of utilising mediation for this purpose, s/he should contact his/her line manager or a human resources manager.

5. Investigation

- 5.1 It is important to carry out an appropriate investigation of potential disciplinary matters without unreasonable delay in order to establish the facts. In most situations this will require holding an investigatory interview with the member of staff before deciding whether or not consideration under the formal stage of the disciplinary procedure is warranted.
- 5.2 In the interests of fairness, where possible, different people should carry out the investigation and disciplinary hearing. No disciplinary action will be taken until the matter is investigated and the member of staff has had an opportunity to respond to the allegations.
- 5.3 The investigation is normally carried out by the member of staff's line manager. In cases of misconduct it may be appropriate for the investigation to be carried out by an alternative member of senior staff, designated by the director of human resources. During the investigation, the investigating officer should not discuss the case with the member of staff being investigated except during the investigatory interview.
- 5.4 During the investigation it may be necessary for the investigating officer to interview other members of staff or witnesses who are able to provide information relevant to the investigation. It is important that the investigating officer keeps an open mind and looks for evidence which may support the member of staff's case as well as evidence against.
- 5.5 A human resources manager may attend any investigatory interview.
- 5.6 Statements taken during the investigation should be clear, concise, accurate and signed by the person being interviewed.
- 5.7 In safeguarding both the reputation of the person under investigation and the integrity of the investigation itself, it is important that those involved in the investigation process are bound by confidentiality and do not discuss the case with anyone other than the investigating officer or their trade union representative.
- 5.8 There is no statutory right to be accompanied to an investigatory meeting. However, the College encourages members of staff to be accompanied by a trade union representative or a College work colleague where possible.
- 5.9 The investigating officer will ascertain the facts and produce, if appropriate, a concise report that clarifies the issues under investigation and, if any, the procedures or standards that have been breached. The report will make a



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recommendation as to whether the matter requires consideration under the formal stage of the disciplinary procedure. In the absence of a report, a recommendation should still be made.

- 5.10 In some circumstances it may not be possible to interview a potential witness prior to the recommendation that the formal stages of this procedure are invoked. In these circumstances the witness may be interviewed prior to the disciplinary hearing to ascertain whether or not they have any useful additional information.

6. Suspension

- 6.1 There may be instances where suspension (with pay) is necessary while investigations are carried out. For example, in gross misconduct cases or where there are risks to a member of staff, students or to the College's reputation or property. In such cases, the College will decide if suspension is appropriate and will send written confirmation of the suspension details to the member of staff.
- 6.2 It should be made clear that suspension is a neutral act; it is not an assumption of guilt and is not considered a disciplinary sanction. Normally the aim of suspension is to ensure that individuals and members of staff are protected and/or to ensure that a fair investigation is carried out. 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. Suspension will be paid at the person's normal rate of pay.
- 6.3 The authority to suspend is obtained from the pro-rector (operations) or the director of human resources.

7. Formal stage

- 7.1 If the matter is not resolved through the informal stage, the line manager may proceed to the formal stage. In certain circumstances, depending on the severity of the allegations, it may be necessary for the matter to proceed directly to the formal stage following an investigation. Either way, the member of staff will be notified in writing the stage at which the matter is being dealt with.

8. Disciplinary Hearing Procedure

- 8.1 The member of staff will be written to inviting them to attend a disciplinary hearing at least five working days before the hearing. The letter will contain sufficient information about the alleged misconduct and its possible consequences to enable the member of staff to prepare to respond at the hearing. The letter will include details of the time of the disciplinary hearing, the venue, and will enclose a copy of this disciplinary policy and procedure together with copies of any written evidence, including witness statements. The member of staff will also be advised of their



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right to be accompanied to the hearing by a trade union representative or a colleague currently employed by the College.

- 8.2 During a formal hearing convened under this procedure, the person accompanying the member of staff may put forward and sum up the member of staff's case, question witnesses, respond on behalf of the member of staff and confer with the member of staff, but cannot answer questions on the member of staff's behalf.
- 8.3 Where the College or member of staff intends to call relevant witnesses, a day's advance notice shall be given on either side of their intention to do so.
- 8.4 At the disciplinary hearing, the chair, who will be appointed by the director of human resources, will introduce those present, explain how the meeting will be conducted and explain that the purpose of the meeting is to consider whether disciplinary action should be taken in accordance with the procedure.
- 8.5 In addition to the chair, parties normally in attendance at the hearing will be the person who conducted the investigation, any witnesses if appropriate and a member of human resources.
- 8.6 The investigating manager will state the complaint against the member of staff and clearly outline the case by referring to the evidence gathered during the investigation process.
- 8.7 The member of staff will have the opportunity to present their case, cite any mitigating circumstances and answer any allegations that have been made. The member of staff will be given reasonable opportunity to ask questions, present evidence and call any relevant witnesses.
- 8.8 The chair may ask questions of all relevant parties and any witnesses called.
- 8.9 Should new facts emerge at the hearing, the chair-person may deem it necessary to adjourn to have these investigated and reconvene the hearing when the investigation has been completed.
- 8.10 At the end of the hearing, the chair will summarise the main points of the discussion to allow both parties to be reminded of the nature of the complaint, the arguments and evidence put forward and to ensure nothing has been missed. The chair-person will check that the member of staff has nothing further to add.
- 8.11 Before reaching a decision, it may be necessary to adjourn the hearing, in order to allow time for reflection and proper consideration of the discussion that has taken place. This adjournment may also allow for any further checking of any matters raised, particularly if there is any dispute over facts.



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- 8.12 A written record of the hearing will be available to all parties, which is not normally a verbatim record. If there is any disagreement over this account, details will be added to the record. Electronic recording is not permitted.
- 8.13 Normally the decision will be communicated to the member of staff in writing with reasons within five working days with the member of staff's right of appeal outlined in the letter.

9. Appeals

- 9.1 If the member of staff wishes to appeal against the outcome of the disciplinary hearing, they should write to the director of human resources outlining their reason(s) within ten working days from the date of receipt of the letter in 8.13. The director of human resources will designate an appropriate senior member of staff to hear the appeal. The member of staff hearing the appeal should not have had any previous involvement in the case.
- 9.2 The member of staff will be invited to attend an appeal hearing giving a minimum of at least five working days' notice in advance of the hearing.
- 9.3 At the appeal hearing the member of staff will have the opportunity to outline:
- any new information that was not available at the time of the original hearing; and/or
 - any complaints of a failure in the original decision-making process e.g. a failure to follow procedures or a failure to provide a fair hearing.
- 9.4 The appeal hearing will be of a similar format as the disciplinary hearing without the attendance of witnesses. The chair of the disciplinary hearing will attend instead of the investigating officer, where appropriate.
- 9.5 Normally appeal decisions will be confirmed in writing, within five working days of the meeting, outlining the College's final response. The outcome of the appeal may:
- uphold the original decision and confirm the original outcome;
 - substantially confirm the original decision but substitute a new outcome; or
 - override the original decision.

10. Outcomes of the Disciplinary Procedure

10.1 Stage one – first written warning

The member of staff will be provided with the reason for the warning, in writing, and the change in behaviour required. If appropriate, the member of staff will be



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offered extra training and/or support. The member of staff will be given specific timescales for improvement and will be advised of the implications should the required standard of conduct not be achieved.

A record of the written warning will remain active on the member of staff's personal file for twelve months, after which time it will be considered expired.

10.2 **Stage two – final written warning**

A final written warning will be considered where: -

- a) a member of staff's conduct fails to improve having already been given a first written warning. Under these circumstances demotion may also be considered, dependent on the individual case; and/or
- b) a member of staff's actions (whilst falling short of serious breach justifying dismissal) are deemed by the College to be serious enough to warrant only one written warning. In cases of this nature, the College may issue a final written warning, without having previously issued a first written warning.

The member of staff will be provided with the reason for the final written warning and informed of the action required to reach a standard of conduct that is acceptable to the College. The member of staff will also be reminded that if the required standard is not achieved, or if there is further misconduct, then this could lead to dismissal. If appropriate, the member of staff will be offered extra training and/or support. The member of staff will be given specific timescales for improvement.

A record of the written warning will remain active on the member of staff's personal file for twelve months, after which time it will be considered expired.

10.3 **Stage three – dismissal**

Dismissal will be considered where: -

- a) a member of staff's conduct fails to improve having already been given a final written warning; and/or
- b) the circumstances of the case are considered an act of gross misconduct.

In all cases of dismissal, the notification will include:

- the reason(s) for dismissal;
- the date at which the employment is terminated;
- the right to appeal.

Dismissal with notice

Unless the member of staff is dismissed for gross misconduct, they will receive the appropriate period of notice or at the College's discretion, pay in lieu of notice, plus any outstanding holiday and any other allowances due up to the termination date.



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Dismissal without notice

If a member of staff is dismissed for gross misconduct they will be dismissed summarily, i.e. with immediate effect and with no entitlement to notice or pay in lieu of notice.

Decision to dismiss

Authority to dismiss lies with members of the senior management team (see appendix 2). Notification of the decision to dismiss should be communicated to the director of human resources.

11. Criminal charges or convictions

11.1 If an member of staff 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 member of staff'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 member of staff 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.

12. Repeat lapses in conduct

12.1 Where a pattern emerges of repeated lapses in conduct and/or there is evidence of abuse, the member of staff's disciplinary record will be taken into account in deciding how long any subsequent warning will last or if dismissal is warranted.

13. Failure to attend meetings

13.1 Where there are occasions when a member of staff is repeatedly unable or unwilling to attend a meeting, the College will consider the circumstances of each case and come to a reasonable decision on how to proceed. Where a member of staff continues to be unavailable to attend a meeting, the College may conclude that a decision will be made on the evidence available. Where this is to be the case, the member of staff will be informed.

14. Confidentiality

14.1 All parties involved in this procedure shall ensure that they maintain, as appropriate, the confidentiality of the process within and outside the College.

15. Trade unions

15.1 Where a trade union representative is the subject of disciplinary action beyond the informal stage, the appropriate regional trade union official will be informed.

16. Relationship to the grievance policy and procedure

16.1 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.



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The final decision about such matters rests with the director of human resources.

Human Resources

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Appendix 1

Relationship to capability procedure

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.

Misconduct

Examples of matters which the College recognises as disciplinary offences include, but are not limited to the following:

- persistent bad timekeeping;
- unauthorised absence;
- poor attendance;
- any damage to the College's property;
- failure to adhere to the College's policies or procedures;
- abusive behaviour;
- inappropriate use of social media;
- unreasonable refusal to follow an instruction issued by a manager;
- smoking in a non-designated smoking areas of the College's premises;

Gross misconduct

A list illustrating examples of offences which are regarded as gross misconduct include:

- theft;
- fraud;
- deliberate falsification of records;
- physical violence/assault;
- bullying and/or harassment;
- deliberate or serious damage to property;
- serious misuse of the College's name;
- accessing internet sites containing pornographic/offensive material for reasons unrelated to work purposes;
- serious failure of competence through alcohol or illegal drugs;
- serious negligence which causes unacceptable loss, damage or injury;
- serious act of insubordination, demonstrated by wilful refusal to carry out reasonable requirements of the post or management requests;
- serious infringement of health and safety rules;
- a breach of the Data Protection Act by knowingly or recklessly disclosing personal data;
- any bribery offences under the Bribery Act 2010;
- bringing the College into serious disrepute;
- conviction of any criminal offence which the College views as making the individual unfit to hold their post;



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- vexatious or malicious behaviour;
- fraudulent absence from work;
- serious breach of confidence or trust;
- 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;

This list is not exhaustive.



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Appendix 2

Authority to act for each stage of the disciplinary procedure

Postholder	Suspension	First written warning stage	Final written warning stage	Dismissal	Appeals
Directors	Pro-Rector/ Director of Human Resources	Pro-Rector	Pro-Rector	Pro- Rector	Rector
Heads of Department	Pro-Rector/ Director of Human Resources	Director	Director	Director/ Dean	Pro Rector
Senior managers above grade 10	Pro-Rector/ Director of Human Resources	Head of Department	Head of Department/ Director	Director/ Dean	Pro- Rector
Staff up to grade 10	Pro- Rector/ Director of Human Resources	Line Manager	Line manager/ Head of Department	Director/ Dean	Pro- Rector