

NOTTING HILL ACADEMY OF MUSIC

STAFF DISCIPLINARY POLICY AND PROCEDURE

Version	3.0
Effective date	August 2021
Date for review	August 2022
Policy owner	CEO/Principal
Reference points	https://www.esc.ac.uk/about-esc/policies-and-procedures , https://www.bruford.ac.uk/about/who-we-are/policies-and-procedures/ , ACAS Code of Practice Disciplinary and Grievance Procedures 2015
Audience/handling notes	Public
Dissemination and implementation plan	This Health and Safety Policy will be published on the NHAM website and student portal for reference by students, staff, and all other relevant stakeholders. Lecturers will receive training in how to apply this policy and its procedures. They will also be directed to where it is published. The Administration Manager will be responsible for the dissemination of the policy and procedures to academic staff; the Administration Manager will be responsible for the dissemination of the policy and procedures to support staff. Students will be informed by email that this information is available on the student portal and NHAM website.
Date approved	September 2021

1. Purpose of the policy and procedure

Disciplinary rules are important for the running of the Academy so that everyone understands what is expected of them and operates safely and lawfully. The Academy expects all of its staff to follow all of its rules, policies and procedures at all times. Disciplinary procedures are necessary so that employees who breach the rules of conduct expected by the Academy are treated reasonably, consistently and fairly in every case.

This policy and procedure has been updated in line with the 2015 ACAS Code of Practice on Disciplinary & Grievance Procedures to ensure that all Academy staff are treated fairly and with respect and dignity and that the Academy meets all its legal requirements.

2. Scope

The procedure in this document applies to all employees of the Academy whether those academic, support and facilities staff covered by payroll, consultants who invoice the academy for educational or facilities services, visiting or guest lecturers. It does not apply to self employed people or to individuals contracted by other companies or on secondment to the Academy who are covered by their own employer's procedures. It also links with the Academy's Staff Handbook and Code of Conduct.

Normal disciplinary standards apply to Trade Union representatives but no formal disciplinary action will be taken against a member of staff who is an accredited Trade Union representative until the circumstances of the case have been discussed with the local Chair of the Union concerned or with a permanent Trade Union official.

Any conduct which adversely affects the Academy, its employees, workers, students, visitors or agents, such as negligence, breaches of work rules or unsafe practices may lead to disciplinary action.

3. Procedure

What we expect from you:

- To comply with the Academy's rules, policies and procedures at all times.
- To carry out your job to the rules and standards expected of your role.
- To behave appropriately and in line with all the Academy's rules, policies and procedures with colleagues, students, customers, visitors to the Academy and the wider Academy at all times, understanding the impact of your behaviour on others.
- To maintain effective and professional work and study relationships with colleagues / fellow staff and students and treat all with dignity and respect.
- To clarify expectations, behaviours and rules with your line manager if you are unsure about them.
- To co-operate if you are asked to be involved with a disciplinary case.
- To co-operate with those dealing with a potential disciplinary case concerning you.
- To treat those dealing with a disciplinary case with courtesy and respect at all times.

What you can expect from the Academy:

- Consistent fair and reasonable treatment of disciplinary matters across the Academy.
- To act promptly when potential disciplinary matters come to light.
- To deal with minor breaches of discipline informally.
- To investigate the facts as may be appropriate before taking action under the formal parts of this procedure.
- To advise you in writing at all stages of the formal procedure of the nature of the complaint and give you the opportunity to state your case, present any evidence, witnesses and mitigating factors before a decision is reached.
- The right to be accompanied by a 'companion' (as defined by the ACAS Code of Practice) – an Academy work colleague or trade union representative - at each stage of the procedure except the informal stage.
- For the meeting to be rearranged (on one occasion) if you or your companion cannot attend a disciplinary hearing for a reason that was not reasonably foreseeable at the time the meeting was arranged.
- Not to dismiss you for a first breach of disciplinary rules except in the case of gross misconduct.
- To have the right of appeal against disciplinary penalties awarded.
- To be treated with courtesy and respect at all times throughout your case.
- To be given reasonable notice of any disciplinary hearing with hearings taking place at a reasonable time and location. All parties must take all reasonable steps to attend meetings punctually.
- To record all cases of disciplinary action taken under these procedures and to supply on request to you copies of any such records held which relate to you.

Managers have a responsibility to:

- Set an example to all staff through their own conduct and behaviour
- Reinforce clear standards for the conduct of all staff that they manage and provide appropriate feedback to their staff in respect of their conduct.
- Manage the conduct of their staff, adhering to this policy and procedure at all times.
- Seek professional advice as identified in this policy and procedure (e.g. throughout a case) and where they are unsure how to proceed.

4. The categories of conduct warranting disciplinary action

Offences under the Academy's disciplinary procedure fall into two categories:

- Misconduct
- Gross misconduct

5. What is misconduct?

Misconduct is a less serious breach of the Academy's rules which would not normally result in dismissal for a first offence. The severity and frequency of the breach will be taken into account when determining the level of warning. The following list, which is neither exhaustive nor exclusive, gives some of the offences the Academy deems to be misconduct:

- Failure to disclose any potential conflicts of interest in personal life or that of a close family member
- Failure to report any criminal conviction or police caution
- Unauthorised absences from work, which have no underlying chronic medical condition and are not disability related
- Minor breach of financial regulations
- Persistent minor breaches of Academy rules
- Repeated lateness or persistent time wasting
- Breaching any of the guidelines in the NHAM Staff Code of Conduct

6. What is gross misconduct?

Gross misconduct is a breach of Academy policies and disciplinary rules which is so serious that it amounts to fundamental breach of trust and confidence between you and the Academy.

You can be summarily dismissed for a first offence which is considered to constitute gross misconduct. If you are dismissed for gross misconduct, the dismissal is without notice or payment in lieu of notice.

The following are some of the offences the Academy considers to be gross misconduct. This list is not exhaustive or exclusive:

- Any form of assault or physical violence.
- Theft, deliberate malpractice, deception, cover up of deficiencies or falsification of documents or accounts.
- Serious breach of financial regulations.
- Bringing the Academy into serious disrepute.
- Deliberate unauthorised disclosures to a third party of any confidential information or intellectual property.
- Failure to comply with the law in all business activities.
- Submission of falsified claims for overtime, expenses, advances or allowances or other fraudulent acts.
- Falsely reporting or recording sick absence.
- Acts of discrimination, bullying, harassment or victimisation of employees, students or visitors to the campus which compromise that person's dignity.
- Downloading of inappropriate material from the internet as set out in the IT Acceptable Use Policy
- Serious breach of health and safety procedures.
- Deliberate plagiarism.
- Incapacity to work due to being under the influence of alcohol or illegal substances.
- Using or dealing in illegal substances on Academy premises.
- Wilful damage to property belonging to the Academy, its students, customers, visitors or fellow employees.
- Abuse of a position of trust.
- Serious insubordination.
- Abusive behaviour.
- Serious negligence.
- Continued absence without leave.

- Covert recording of staff, meetings etc – i.e. without express consent.
- Breaching guidelines within the Staff Code of Conduct where those constitute a serious issue, or a persistent breaching of minor issues.

7. Representation

You have the right to be accompanied at an investigatory interview and throughout the formal procedure (see sections 9 and 15 below) by a 'companion' as defined by the ACAS Code of Practice – namely a Academy work colleague or a trade union representative. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker. There is no right to be accompanied by a companion at meetings under the informal resolution procedure (see section 8 below) although you may seek advice on a confidential basis from a trade union representative before or after such a meeting. There may be exceptional situations where the manager and the employee all agree for a companion to be present.

8. Informal resolution procedure

For minor infringements of discipline, your line manager will make every effort to resolve the matter by informal discussions with you and may write to you confirming your discussions or may give you an informal verbal warning. With an informal verbal warning under this procedure, your manager will discuss the nature and circumstances of the misconduct and suggest a remedy and timeframe within which the misconduct should be rectified. No record of an informal verbal warning under this procedure will be kept on your personal file. Where this approach fails to resolve the issue, or repeated minor breaches of discipline occur, the formal disciplinary procedure will be implemented.

9. Formal procedure

9.1. Investigation

As soon as reasonably practicable after a suspected breach of disciplinary rules comes to light, your line manager or other appropriate person will instigate an impartial investigation. The purpose of the investigation is to gather facts. In cases of serious allegations of misconduct/gross misconduct the investigator will be appointed by the Academy Manager under guidance from the Registrar. You will be advised as soon as possible that an investigation is taking place and this will be confirmed to you in writing. You will normally be interviewed as part of the investigation, but there may be exceptional circumstances where the Academy will proceed directly to a formal disciplinary meeting. You have the right to be accompanied to a formal investigatory meeting by a companion as defined by this procedure (see section 7 above).

If, as part of an investigation, it is necessary for a member of staff to be interviewed by someone from another organisation (e.g. a regulatory body) that member of staff will have the right to be accompanied by a Trade Union representative or Academy employee, and a member of the Academy management will also be present.

The Academy may inform and / or involve the Police and / or any other relevant statutory bodies where required at the appropriate point of the formal Disciplinary Procedure.

9.2. Suspension

If considered appropriate you may be suspended from your duties while the investigation is undertaken although you will normally only be suspended if:

1. there is a significant health and safety or business risk or the potential for such risk and / or
2. your continued presence in the workplace may hinder an investigation taking place.

You may be suspended at the beginning or at any time during the investigation depending on the circumstances. If you are suspended it will be confirmed to you in writing. Suspension is a precautionary measure only, pending the outcome of disciplinary proceedings and is not a punishment in itself. When suspended your contract of employment will continue in full force and effect and you will be paid your normal basic pay rate and receive any usual benefits. You will not be allowed onto Academy premises while suspended without the prior consent of your line manager. When suspended you are required to be available to attend meetings and respond to requests under this procedure. You must continue to report sickness in the normal way as set out in the Staff Handbook and request annual or other leave as required under Academy rules.

9.3. Disciplinary meeting

Having established the facts, if there is reasonable belief that you have committed a disciplinary offence, you will be invited to a disciplinary meeting. The meeting will normally be chaired by your line manager unless personally involved in the incident or its investigation, in which case it should be the next most senior line manager. You have the right to be accompanied by a companion (as defined in section 7 above).

You will be sent a copy of the evidence to be considered at the meeting and will have the opportunity to state your case fully. You should also give copies of any papers or witness statements that you intend to rely on at the meeting at least 2 working days in advance of the meeting to the person dealing with the meeting.

You will be given at least 5 working days' notice to attend the meeting which you (and your companion) must make every effort to attend. The meeting will only be re-arranged if you provide a good reason why you are unable to attend, or your companion cannot make the arranged date.

If the meeting has to be rearranged, at least 2 working days notice of the rearranged date will be given. If you or your companion work on a rota / shift, these should be taken into account in re-arranging the meeting. You will be expected to attend the re-arranged meeting unless there are exceptional circumstances which mean that you are unable to be there in which case you must advise your manager in advance of the meeting. If you unreasonably fail to attend the rearranged meeting it will take place in your absence. If the re-arranged meeting is more than 5 working days from the date of the original meeting and your companion cannot make the re-arranged date, you must find a replacement.

At a meeting your companion is entitled to address the meeting, ask questions and confer privately with you. Your companion does not, however, have the right to answer questions on your behalf or address the meeting if you do not wish them to or prevent the employer from explaining their case.

The Registrar may be present to provide advice on proceedings as appropriate, in cases of misconduct. In cases of gross misconduct the Academy Manager should be present. A note taker will normally be present to take written notes of the meeting and you will receive a copy of the notes of the meeting. The covert recording of such meetings is forbidden and if undertaken will be considered as an act of gross misconduct (as would be any act of covert recording).

9.4. Adjourning the disciplinary meeting

Prior to making a decision the disciplinary meeting will be adjourned to consider all relevant information. The meeting may also be adjourned if necessary for the purpose of clarifying or gathering additional information. If new information is gathered or clarified you will be advised of the new information and given a reasonable time to consider it prior to the meeting being reconvened.

9.5. Confirmation of outcome

Following an adjournment and once the manager conducting the meeting is satisfied that all relevant information has been gathered and properly considered you will be advised of the decision and what, if any, disciplinary action is to be taken.

The decision and action will be confirmed to you in writing and you will receive a copy of the notes of the disciplinary hearing. If you consider that the notes do not properly reflect the discussion you have the right to propose amendments to the record within 5 working days. Where these are agreed, the record will be duly amended. If your proposed amendments are not agreed, your comments will be attached to the record. You will also be advised of your right to appeal against the decision.

10. Formal warnings

Depending on the severity and circumstances of the case, the Academy may apply at its discretion, either a First Written Warning or a Final Written Warning for misconduct offences. The Academy will take into account any active warnings that may apply to you at the time of the misconduct. The warning issued to you will state what the problem is, and if appropriate what is required to correct the problem and the time scale for achieving this. It will also confirm that further disciplinary action will follow if the problem is not satisfactorily rectified or there is further misconduct.

11. Dismissal

In cases where it is concluded that gross misconduct has taken place, the Academy may summarily dismiss you without notice or payment in lieu of notice.

In cases of repeated misconduct, the Academy may dismiss you with notice or payment in lieu of notice (unless it is concluded that this constitutes gross misconduct in which case you may be summarily dismissed – see 13.1 above).

The decision to dismiss will be taken at the level of Academy Manager or a nominated deputy, or a more senior officer. The Academy will confirm the decision to dismiss you in writing, after the dismissal, setting out the nature of the misconduct that led to the dismissal and the right to appeal from the decision.

12. Alternative sanctions to dismissal

Gross misconduct cases may not always result in dismissal. Depending on the circumstances of the case and any mitigating factors, the Academy may issue the following disciplinary penalties:

- Monetary payments by way of restitution for culpable loss or damage caused by you, and/or
- Final written warning.
- Other appropriate actions to prevent the repetition of the misconduct.

You have the right to appeal in accordance with clause 15 below a decision to impose any of the above sanctions.

13. What is an active warning and how long does it remain active?

Being under an active warning means that if you commit a further misconduct or gross misconduct offence, the Academy will take the current warning into account when deciding what action to take. Once the warning has expired it will not be taken into account for disciplinary purposes, but will remain on your personal file for 12 months when it will be removed.

The active warning periods are:

- First written warning 12 months
- Final written warning 12 months

14. Documentation

Following the completion of a disciplinary investigation, hearing or related issue all documents and letters relating to it will be stored confidentially within the Registry in line with all Data Protection Act requirements.

15. Appeals

You have a right of appeal against any formal action under the formal Disciplinary Procedure, save for a decision following an appeal hearing. The right of appeal must be exercised within 10 working days of receipt of the letter of confirmation of disciplinary action. The appeal, stating the grounds on which it is made, must be in writing addressed to the Academy Manager or Registrar.

An appeal against a first and final written warning will normally be heard by the Registrar (or their nominee who should be senior to the manager who made the decision being appealed, and who must have had no previous involvement in the case). Where there is no appropriate person from the Academy's Advisory Board may hear the appeal. The person hearing the appeal will be assisted by a member of staff who has had no previous involvement with the case.

An appeal against dismissal will be heard by a panel of two members chaired by a member of the Advisory Board. The Academy will aim for an appeal to be heard within four weeks of the appeal being lodged, unless otherwise agreed between the parties. The decision of the appropriate appeal body (communicated in writing to the employee) shall be final within the procedures of the Academy.

VERSION: 1.0

DATE: MARCH 2021

REVIEW: SEPTEMBER 2021