

Disciplinary Policy

The Institute
of Contemporary
Music Performance

Version number	Date approved (including committee)	Reason for production/revision	Author	Proposed next review date
V6	June 2023 ExCo	Recommendations from EDI review	Head of HR	June 2026 and as required
V5.0	06/04/21 ExCo	Annual review	Head of HR	April 2024 and as required
V4.2	13/08/19 ExCo	Annual review	HR Manager	July 2020 and as required
Related policies				
- Grievance - Capability - Staff Handbook				
External Reference				
ACAS				

1. Policy

1.1. This policy is to be used in conjunction with the following related policies and procedures:

- Grievance
- Capability

2. Purpose

2.1. The Disciplinary Policy is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. It seeks to establish a clear course of action, in compliance with current legislation and Codes of Practice, which will ensure fair and consistent treatment of employees when disciplinary action becomes necessary. The Institute of Contemporary Music Performance (ICMP) believes that the majority of our employees accept the need for standards and do not find any difficulty in abiding by them. However, if any employees fail to achieve the required standards of work or conduct, disciplinary action will be taken in a fair, objective, consistent and reasonable manner.

2.2. The ICMP distinguishes between situations:

- of conduct where matters are within the employee's control in which case this disciplinary policy should be used (by way of example only matters may include time-keeping problems, behaviour, lack of application, attitude or negligent behaviour); and
- where the difficulties relate to more innate qualities which are beyond the employee's control in which case the capability policy should be used (by way of example ill health or incapability to perform the tasks required).

3. Scope

3.1. With the exception of probationary employees, all the ICMP's rules including this policy apply to all permanent and temporary employees working under a contract of service. The aim is to ensure consistent and fair treatment for all in the company.

4. Informal Procedure

4.1. The ICMP believes that maintenance of discipline and good working practices does not necessarily require the use of formal procedures on every occasion. Minor faults will be dealt with informally by the manager.

4.2. Counselling or informal warnings will normally be given unless the offence is repeated or serious enough to warrant immediate use of the formal procedure.

4.3. If the informal procedure does not accomplish the desired effect within an acceptable time scale, or if the offence warrants more serious action, then the formal disciplinary procedure will be used.

5. General Principles

5.1. The following principles will be taken into account in the application of this procedure:

- This procedure is compliant with the ACAS Code of Practice: Disciplinary and Grievance Procedures to be followed if an employee faces dismissal or certain kinds of disciplinary action falling short of dismissal.
- No disciplinary action will be taken against an employee at all until the case has been fully investigated and a disciplinary hearing has taken place. The

employee will be advised in writing of the nature of the complaint against them and the arrangements of the hearing.

- Each step and action of the procedures will be taken without unreasonable delay on the part of the company.
- The timing and location of meetings and hearings will be reasonable.
- Both the employer and any employee will be given the opportunity to explain their position in the meeting or hearing.
- Managers will take into account any mitigating circumstances when reaching decisions on appropriate disciplinary sanctions.
- When a disabled employee is involved in this procedure, the company and the employee will co-operate to consider which reasonable adjustments for the meeting will ensure the employee is not disadvantaged in any way.
- At every stage in the procedure the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.
- Audio/Visual recordings of the proceedings by the employee, their companion or managers are not acceptable at any stage of the disciplinary procedure and will not be admissible within this process, unless agreed as a reasonable adaptation, such as an aid to minute taking.
- Any grievance raised by an employee who is already subject to a disciplinary process (and which does not relate to it) will normally be heard on completion of the disciplinary procedure.
- In cases of poor performance, ICMP's capability policy and procedure will be used instead. Poor performance resulting from negligence, lack of application or attitudinal problems, for example, will be dealt with under the disciplinary procedure.

6. Suspension

6.1 When the manager believes that there is evidence to suggest that an employee has been guilty of serious misconduct or that, because of some other good and/or urgent cause, the continuing attendance of the employee at ICMP cannot be permitted, they may suspend the employee from duty pending the outcome of a formal disciplinary investigation.

6.2 The decision to suspend will be confirmed in writing to the employee immediately giving reasons for the suspension.

6.3 An employee who is suspended from duty shall, throughout the period of the suspension, continue to be entitled to their basic pay. They will continue to accrue annual leave entitlement during suspension.

6.4 Following suspension, a disciplinary hearing should normally be held within 28 days.

6.5 An employee who has been under suspension for 21 days or more without a disciplinary hearing being arranged, may appeal in writing to the Chief Executive against the suspension. Notice of such appeal shall be given in writing by the employee to the Head of Human Resources and the appeal shall be heard as soon as practicable by the Chief Executive, or their nominated representative. This right

does not apply to an employee under notice of dismissal following a disciplinary hearing.

6.6 A suspension against which an appeal by an employee is made shall continue to operate pending the determination of the appeal.

6.7 Where an appeal against suspension is made by an employee to the Chief Executive, the employee shall be given at least five working days' notice of the date, time and place fixed for the hearing, unless an earlier date has been mutually agreed.

6.8 At the hearing of an appeal against suspension, the employee may be accompanied by a colleague or trade union representative provided the person agrees to abide by the procedural rules and confidentiality.

6.9 Following the hearing of an appeal against suspension, the Chief Executive, or their representative, may either confirm or lift the suspension. The decision and reasons for the decision shall be confirmed by the Head of Human Resources in writing to the employee within five working days of the hearing of the appeal. This decision will have no bearing on the outcome of any subsequent disciplinary hearing but shall be final.

7. Investigation (Stage 1)

- 7.1 A Notice of Investigation (Appendix C) will be issued to employees who are alleged to have committed acts of misconduct or gross misconduct. The Notice of Investigation will provide details relating to what has been alleged. Once a Notice of Investigation has been issued, no formal disciplinary action will be taken against an employee until ICMP has investigated the circumstances of the matter complained of. The investigation will be undertaken by an appropriate manager (the Investigating Officer). All relevant employees, students and members of the public will be interviewed and notes made by the Investigating Officer.
- 7.2 The Investigating Officer will determine whether there is a case to answer and whether the matter should proceed to a disciplinary hearing. The issuing of a Notice of Investigation does not presume an assumption of guilt.
- 7.3 When an employee is asked to attend a meeting for the purpose of issuing a Notice of Investigation, they will be invited to find representation by a colleague or trade union representative provided the person agrees to abide by the procedural rules and confidentiality.
- 7.4 ICMP aims to conclude investigations within a period of six weeks. This length of time may increase with complex cases that require more detailed investigation.

8. Disciplinary hearings (Stage 2)

- 8.1 When ICMP holds a disciplinary hearing for any level of warning or at dismissal stage, the employee will be advised of the nature of the complaint against them at least ten working days before such hearing. At any disciplinary hearing, the employee will be given an opportunity to state their case and will have the right to be accompanied by a colleague or trade union representative provided the person agrees to abide by the procedural rules and confidentiality. If the employee fails,

without good reason, to attend a disciplinary hearing which ICMP has instructed them to attend, the hearing will take place, and a decision will be made, in their absence.

Appendix A sets out the procedure to be followed at a disciplinary hearing.

9. SANCTIONS (STAGE 3)

Following the Disciplinary hearing the employee will be informed of the outcome in writing. They will be informed of the sanction, how long this will remain on their personnel file and informed of their right to appeal against this decision.

No formal disciplinary penalty will be imposed without a disciplinary hearing. The written notice of the hearing will indicate the level of penalty applicable to the circumstances of the case. No employee will be dismissed for a first offence, other than in cases of gross misconduct, gross negligence or gross incompetence, when the penalty may be dismissal without notice or pay in lieu of notice. An employee will have the right of appeal against all warnings or dismissal. Hearing Officers reserve the right to include recommendations in their judgments such as the employee is provided with further training or demoted from their existing post.

9.1 Verbal Warning

If conduct or work performance does not meet acceptable standards, the employee will normally be given a formal verbal warning. The employee will be advised of the reason for the warning and that it is the first stage of the formal disciplinary procedure. A brief note of the verbal warning will be placed on the personal file. After 6 months, the warning will be 'spent' and the note thereof will be retained on the personal file, subject to the employee's conduct and work performance having been satisfactory throughout that period. A right of appeal exists against an oral warning.

9.2 Written Warnings

A written warning will be given to the employee if:

- (i) the employee commits a serious offence of misconduct or the standard of their work performance is seriously inadequate;
- (ii) the employee fails to comply with a formal verbal warning given under Stage 1; or
- (iii) despite having been given, under Stage 1, a formal verbal warning as the result of either misconduct or unsatisfactory work performance, the employee commits a further offence of misconduct or their work performance continues to be unsatisfactory.

This written warning will give details of the complaint against the employee, the improvement required and the time limit within which such improvement must be achieved. In the case of misconduct, the warning will state that, if the employee commits a further offence of misconduct during the period specified in the warning, action under Stage 3 will be considered. In the case of unsatisfactory work performance, the warning will advise the employee as to what steps they should take to improve and will state that,

unless such improvement is achieved within the period specified in the warning, action under Stage 3 will be considered. A copy of the written warning will be placed on the personal file.

The warning will be 'spent', and will be retained on the personal file, after 12 months, subject to the employee's conduct and work performance having been satisfactory throughout that period. A right of appeal exists against a written warning.

9.3 Final Warning

A final written warning will normally be given to the employee by the Hearing Officer, if:

- (i) the employee fails to comply with a first written warning given under Stage 2;
- (ii) despite having been given, under Stage 2, a first written warning as a result of either misconduct or unsatisfactory work performance, the employee commits a further offence of misconduct or their work performance continues to be unsatisfactory; or
- (iii) the employee's misconduct or unsatisfactory work performance, although not considered to be serious enough to justify summary dismissal is sufficiently serious to warrant only one written warning (in effect both the first and final written warning).

This final written warning will give details of the complaint, the improvement required and the time limit within which such improvement must be achieved. In the case of misconduct, the warning will state that, if the employee commits a further offence of misconduct during the time limit specified in the warning, their employment will be terminated.

In the case of unsatisfactory work performance, the warning will advise the employee as to what steps they should take to improve and state that, if such improvement is not achieved within the period specified in the warning, their employment will be terminated. A copy of the final written warning will be placed on the personal file relating to the employee.

The warning will be 'spent' and will be retained on the personal file, after 12 months except in exceptional circumstances when it could be 24 months, subject to the employee's conduct and work performance having been satisfactory throughout that period. A right of appeal exists against a final written warning.

9.4 Dismissal

The Chief Executive's designated representative may give notice of Dismissal to the employee, if:

- (i) the employee fails to comply with a final written warning given under Stage 3; or
- (ii) despite having been given, under Stage 3, a final written warning as the result of either misconduct or unsatisfactory work performance, the employee commits a further offence of misconduct or their work performance continues to be unsatisfactory

Prior to being given such notice of dismissal, there will be a disciplinary hearing before the Chief Executive's designated representative. The employee shall have the right to make representations (including oral and written representation, for which purpose they

may be accompanied by a colleague or trade union representative provided that the person agrees to abide by the procedural rules and confidentiality). The notice of dismissal will be in writing and will specify the reasons for consideration of dismissal, the date on which the employment will end should the hearing determine dismissal, and the right of appeal against the dismissal.

An employee who is accused of gross misconduct, gross negligence or gross incompetence may be suspended from work, in accordance with the provisions of Section 6 above, while ICMP investigates the alleged offence. The Chief Executive's designated representative may summarily dismiss the employee if, on completion of the investigation and a disciplinary hearing, it is established that the employee has been guilty of gross misconduct, gross negligence or gross incompetence. Such dismissal will be without notice or payment in lieu of notice and will be confirmed to the employee in writing, specifying the reasons for the dismissal and the right of appeal against it.

The following offences are examples of offences which are normally regarded as gross misconduct and grounds for summary dismissal:

- theft, fraud or any act of dishonesty
- making a knowingly false or malicious allegation against any person (e.g. of bullying, discrimination or harassment)
- Serious and deliberate damage to ICMP property.
- Deliberate falsification of registers, reports, accounts, expense claims, self-certification forms, or an application form.
- Bribery or corruption.
- Refusal to carry out duties or reasonable instructions given by a Manager.
- Refusal to comply with ICMP rules.
- Gross insolence.
- Serious negligence or incompetence which causes unacceptable loss, damage or injury.
- Incapability as a result of being intoxicated by reason of alcohol or illegal drugs.
- Violent, dangerous or intimidatory conduct to other employees or students.
- Serious violation of the ICMP's rules and procedures concerning health and safety at work.
- Bullying and harassment specifically intended to demean another employee or a student because of their ethnicity, race, age, sexual orientation, religious belief, gender re-assignment, gender identity or expression, disability, gender or perceived ethnicity, age, sexual orientation, religious belief, disability and/or gender.
- Gross incompetence.

- A criminal offence, which may (whether it is committed during or outside the employee's hours of work for ICMP) adversely affect ICMP's reputation, or the employee's suitability for the type of work they are employed by ICMP to perform.
- Unauthorised use of software, illegally copying software, gaining unauthorised access to a computer or a file on a computer, or committing any other breach of data security rules laid down by statute or ICMP. This includes (but is not limited to) sending offensive or inappropriate e-mails or accessing, downloading, viewing or distributing offensive, unsuitable, obscene or pornographic web-pages or material from the internet, interfering with anti-virus software;
- Use their own software on ICMP equipment without permission.
- Use social media in a way that breaches any of ICMP's policies.
- Engaging in private work on our premises and / or in working hours without express written permission.
- Absent without authorisation.
- A serious breach of trust or confidentiality.

The above are examples and are not exhaustive or exclusive.

9.5 Alternative Penalties

Disciplinary action may also include demotion or transfer to new duties whether or not at a lower grade.

In certain circumstances, an informal reprimand or warning may be more appropriate where only a minor infringement of the rules has taken place.

10. Appeals

An employee who wishes to appeal against a final written warning should inform the Head of Human Resources in writing, stating clearly the grounds, within seven working days of the date of the decision which forms the subject of the appeal. The Head of Human Resources will review the grounds of the appeal as stated in the letter. The appeal will be heard by a member of ExCo.

The senior manager will conduct an appeal hearing as soon as practicable after the notice to appeal has been received. At the hearing of the appeal, the employee will be given an opportunity to state their case and will be entitled to be accompanied by a colleague or trade union representative provided the person agrees to abide by the procedural rules and confidentiality. It may be necessary to adjourn the meeting to investigate matters further.

Appeals may be made on the following grounds only and the details of these grounds must be expressly stated in any appeal letter.

- the disciplinary procedure has not been followed;
- the employee contests the level of disciplinary action;
- new information has become available that is relevant.

At the appeal, the disciplinary penalty imposed will be reviewed but it cannot be increased. The decision of the appeal hearing officer will be notified to the employee in writing within five working days of the appeal hearing and will be final and binding.

Appendix B sets out the procedure to be followed at an appeal hearing.

11. ADVICE AND SUPPORT

- 11.1.** ICMP reserves the right to engage an independent third party at any stage of the disciplinary procedure.

12. Monitoring and Review

- 12.1.** Annual Monitoring of the Policy.

APPENDIX A

PROCEDURE FOR THE CONDUCT OF DISCIPLINARY HEARINGS

It is important that a disciplinary hearing is only held in cases where, following an investigation there is deemed to be a **case to answer**.

If it is concluded that there is a case to answer, there should be no assumption of guilt, until the hearing so determines. The investigation establishes the facts and these are presented to a hearing officer, whose role it is to determine whether there is reasonable belief as to guilt.

Disciplinary hearings will be conducted in all cases where any level of warning (oral, written or final) is being considered and for dismissals.

The Disciplinary Hearing will be chaired by an independent Senior Manager (Hearing Officer). The manager or other designated officer, as determined in the disciplinary procedure, is responsible for the administrative processes connected with the calling of the disciplinary hearing. That manager may wish to consult the Head of Human Resources or their representative prior to sending any correspondence.

Once it is determined that there is a case to answer, the following procedure will apply:

1. The employee must be informed, in writing, of the details of the case against them. They must be given at least 10 working days notice of the date, time, venue and their right to be accompanied by a colleague or trade union representative provided the person agrees to abide by the procedure's rules and confidentiality. The employee is responsible for arranging the attendance of their representative. A full set of documents to be produced at the hearing, together with a list of witnesses to be called must be provided.
2. At least five working days before the hearing, the employee must provide to the manager or their representative, a full set of documents they will be referring to, together with a list of witnesses. They should also state whether they will be accompanied and by whom.
3. At the disciplinary hearing, the Hearing Officer will be accompanied by an HR representative. It is the role of HR to ensure that the disciplinary hearing is conducted in accordance with the procedure by both sides, to take notes and to advise the hearing officer in determining action.
4. The Hearing Officer should undertake the introductions and ensure that all parties understand the procedure.
5. The officer who has conducted the investigation will normally be the Presenting Officer, who will open by presenting the case. They will present each piece of evidence and call each witness in support of that evidence. The employee or their representative has the right to cross-examine all witnesses once their evidence is complete. Each witness will leave the hearing, once their evidence and any cross-examination is complete.
6. The employee or their representative will then present their evidence and call their witnesses. The Presenting Officer will have the right to cross-examine the

witnesses once their evidence has been given. Each witness will leave the hearing, once their evidence and any cross-examination is complete.

7. The Hearing Officer or the representative from Human Resources may wish to ask questions of the witnesses.
8. Once each side has presented their case, each side will have the opportunity to sum-up. At this stage **no new evidence** can be introduced. The Presenting Officer will sum-up first.
9. It is good practice for the Hearing Officer to close proceedings by asking both parties whether they are content that they have had the opportunity to present everything that they wanted to present.
10. Once the summing-up is complete, all parties, with the exception of the Human Resources representative, will withdraw. The Hearing Officer will consider their decision. If at any stage during this consideration clarification is required, both sides must be recalled together.
11. The Hearing Officer must take due care and exercise reasonable judgement when reaching their decision. They must state when the result will be communicated and how. They must give due consideration to all facts presented. A decision should be reached as soon as possible, but not rushed. However, a delay of 24 hours or a weekend is the maximum time that should elapse.
12. The decision should be announced to both parties. The decision should be clear and unambiguous.
13. Within 5 working days of the hearing, a letter confirming the decision will be sent by the Hearing Officer to the employee. A copy will also be sent to Human Resources.
14. The letter should clearly advise the employee of their right of appeal and the timescale to appeal.
15. The notes of the hearing will be produced by the Human Resources representative within 15 working days of the hearing. A copy will be sent to the employee and a copy held on their personal file.

APPENDIX B

PROCEDURE FOR THE CONDUCT OF APPEALS

Introduction

It is important that the conduct of the appeal is centred around the stated grounds for the appeal as set out in the appeal form. The only grounds for appeal are as follows:-

- (a) The Disciplinary Procedure has not been followed;
- (b) The employee contests the level of disciplinary action;
- (c) New information has become available that is relevant;

An appeal is **not** a rehearing of the original disciplinary case and it will be a key role of the officer hearing the appeal to ensure that any attempt to re-hear the case is firmly dealt with. The Human Resources team will arrange all administrative processes connected with the appeal and all papers are to be exchanged via them.

Once an appeal has been registered and accepted as satisfying the permitted grounds, the following procedure will apply:

1. The employee must be given 10 working days' notice, in writing, of the date, time, venue of the appeal and advised of their right to be accompanied at the appeal by a person of their choice provided the person agrees to abide by the procedure's rules and confidentiality. They must arrange the attendance of their representative.
2. At least five days before the date of the appeal, a list of witnesses together with copies of all the papers to be produced in evidence at the appeal must be produced by the employee and sent to the Human Resources representative. The employee is responsible for arranging a copy for their representative.
3. At least five days before the date of the appeal, management will supply a copy of all documents they intend to produce as evidence, together with a list of witnesses to be called, to the employee. The employee is responsible for arranging a copy for their representative.
4. The appeal will be conducted by another appropriate senior manager. The officer conducting the appeal must **not** be the same officer that heard the original disciplinary hearing.
5. The Hearing Officer will be accompanied at the appeal by the Head of Human Resources or their representative. The Head of Human Resources has a role to ensure that all procedures at the appeal are correctly observed by both sides, to take a note of the appeal and to act as advisor to the Hearing Officer to assist in the determination of a course of action. They are also responsible for sending the letter of confirmation in respect of the decision reached and ensuring that a consistent approach is adopted in action taken.
6. The Hearing Officer should undertake the introductions and ensure that all parties understand the procedure to be followed. They can also make an opening statement in respect of the documentation, seeking clarification on the relevance of papers.
7. The employee pursuing the appeal will open by stating their case first. They **must** re-state the grounds on which their appeal is based. They may either lead on the case themselves or their representative can present the case. The employee or

representative will go through each piece of evidence and call any witnesses necessary. The officer will be allowed to cross-examine any of the witnesses called when they have completed their evidence. Each witness will leave the appeal, once their evidence and any cross-examination is complete.

8. The Hearing Officer and HR representative hearing the case may also wish to ask the witnesses questions.
9. Once the employee or their representative has completed their evidence, the Presenting Officer will present their evidence and call any witnesses. The employee or representative has the right to cross-examine any of the management side witnesses once their evidence is complete. The Hearing Officer and HR representative can also ask questions.

NB the Presenting Officer is normally the officer who heard the original disciplinary case and who reached the decision which is being challenged by the appeal.

10. Once the Presenting Officer has completed their evidence, each side has the opportunity to sum up. At this stage **no new evidence** can be introduced. The employee or their representative will go first.
11. Once the summing-up is complete, all parties, with the exception of the Head of Human Resources or their representative, will withdraw, to enable the Hearing Officer to reach a decision. If it becomes necessary to clarify any points made during the hearing, both parties must be recalled together.
12. In reaching a decision, the Hearing Officer must take due care and exercise reasonable judgement and take full consideration of the facts as presented. Whilst there is always a desire to reach a speedy conclusion, a delay of 24 hours or a weekend, is the maximum time that should elapse, before the decision is reached and announced to both parties. The date and method of communication of the decision will be made clear at the hearing.
13. Within five working days of the hearing, a letter confirming the decision will be sent by the Head of Human Resources to the employee.
14. The Head of Human Resources or their representative who attended the appeal is responsible for producing the notes of the appeal. This should be done within 15 working days of the appeal. A copy will be sent to the employee and another held on file.

There is no further right of Appeal.

APPENDIX C INSTITUTE OF CONTEMPORARY MUSIC PERFORMANCE

Notice of Investigation

Complete this form if you are the manager issuing the Notice of Investigation. Always consult Human Resources before you do so.

	Name of employee you are issuing the form to		Name of manager issuing the form	
	Department		Your Department (if different from the employee's)	
	Job title		Your job title	
	This section of the form tells the employee • what is alleged to have done • how serious you judge the matter to be When you complete the form, state: • what is alleged to have happened • times, places, date and other details • if the events were witnessed • which rules may have been broken • if you believe that the misconduct amounts to gross misconduct • If the employee has a current warning or reprimand on file. Severe reprimands are particularly important since the employee could be dismissed.	Sign and date the Notice of Investigation on the day you issue it. Keep a copy for yourself. When you issue the form, if possible meet with: • The employee • A person of their choice – work based colleague or TU rep So that you can hand it over in person. If this is not possible, send it by email.		
	THE COMPLAINT			
	Policies alleged to have been breached: (Please specify)			

	Misconduct / Gross Misconduct (delete as appropriate)			
	Manager's Signature		Date	