



# Disciplinary Procedure

---

## 1 Introduction

- 1.1 From time to time the Independent Society of Musicians (the 'ISM' or the 'Society') may receive complaints or information about the conduct of its members which necessitate further investigation. The Society's Disciplinary Procedure sets out the procedures to be followed in these circumstances.
- 1.2 Fairness to the member who is the subject of any complaint or concerns will always be important in applying these procedures. Where a concern is relatively minor in nature, it may be possible to resolve the matter informally. By contrast, where the concern relates to alleged conduct of a criminal nature, the Society will, in applying these procedures, take into account any police investigation including the member being arrested or charged. In normal circumstances, the ISM's legal expenses insurance scheme will cover the legal defence costs of ISM members who are covered by the scheme and who face criminal charges relating to their professional work.

## 2 Procedure for Handling Concerns about a Member

- 2.1 Concerns about the conduct of a member of the Society should be in writing and be addressed to the Chief Executive ("CE") or in the case of information raising child protection issues to the Designated Safeguarding Person ("DSP") who can be contacted on 020 7313 9315 or by emailing cp@ism.org. Concerns may also be raised by the CE about the conduct of a member.
- 2.2 Where any ISM member of staff receives information about the conduct of a member which could warrant disciplinary action they should report the matter to the CE or, in the case of information raising child protection issues, to the DSP.
- 2.3 Issues relating to client confidentiality in the context of legal advice will be carefully considered and if necessary referred to the Child Protection Committee and/or the relevant legal professional body for guidance.

## 3 Child Protection concerns

- 3.1 In a child protection matter the DSP shall refer the issue to the CE who will consider the matter and then if appropriate refer it to the Child Protection Committee for their immediate attention. If the CE is not available, the DSP will undertake the role of referring the matter to the Child Protection Committee. The Child Protection Committee will be made up of three Council Members appointed by the Council with relevant experience in child protection.

- 3.2 In matters relating to child protection the Child Protection Committee will also decide whether the matter should be referred to the Local Authority Designated Officer (LADO). If further information comes to light at a later stage which warrants a referral to the LADO the Child Protection Committee may direct the CE to make this referral.
- 3.3 In the event that a child protection concern is raised in relation to a member, the CE shall collate all available evidence and make a referral to the Child Protection Committee as soon as possible. The CE will advise the member that the matter is being referred and of the range of actions which the Child Protection Committee could take. In the referral the CE will make a recommendation to the Child Protection Committee as to what action if any the Committee should take against the member.
- 3.4 The recommendation set out in the referral by the CE to the Child Protection Committee will be to:-
- 3.4.1 take no further action (this might include informal advice or guidance to the member concerned about ways to avoid complaints/concerns in future); or
  - 3.4.2 suspend membership or suspend any privileges of membership if the member is being investigated by the police in relation to a child protection issue; or
  - 3.4.3 suspend membership, suspend any privileges of membership or terminate membership on the following grounds:
    - (a) the member concerned has been charged or convicted of a criminal offence which could bring the Society or the member into disrepute; or
    - (b) the member's conduct has brought or could bring the Society into disrepute; or
    - (c) circumstances have arisen whereby the suspension of membership, or the suspension of privileges of membership or termination of membership is necessary in order to prevent the reputation of the Society from being adversely affected; or
    - (d) the member's conduct is not in the best interests of the Society; or
    - (e) the member's conduct is undermining the functioning of the Society or the Council; or
    - (f) in the case of a corporate member the member has failed to uphold the values, objects or aims of the Society.

- 3.5 In the event that the recommendation is to terminate membership on any of the grounds set out at clauses 3.4.3(a) to 3.4.3(f) and the Child Protection Committee endorses that recommendation, the matter shall be referred to a Disciplinary Committee.
- 3.6 The Child Protection Committee may suspend membership or the privileges of membership on any of the grounds set out at 3.4.2 or 3.4.3.
- 3.7 In the case where the Child Protection Committee has suspended the membership of a member, the member has the right of appeal against this decision pursuant to Clause 6.
- 3.8 The member shall be advised by the CE of the action to be taken against them following referral to the Child Protection Committee or in the case of a recommendation to terminate membership, of the next stages in the disciplinary process.

#### **4 Non Child Protection Concerns**

- 4.1 The CE in non child protection matters shall decide whether concerns in relation to a member require further investigation.
- 4.2 In the event that a concern is raised which does not relate to a child protection matter, the CE shall collate all available evidence. The CE will prepare a written report summarizing the findings of the investigation and make a recommendation to:-
- 4.2.1 take no further action (this might include informal advice or guidance to the member concerned about ways to avoid complaints/concerns in future); or
  - 4.2.2 suspend membership, suspend any privileges of membership or terminate membership on the following grounds:
    - (a) the member concerned has been charged or convicted of a criminal offence which could bring the Society or the member into disrepute; or
    - (b) the member's conduct has brought or could bring the Society into disrepute; or
    - (c) the member has breached the provisions of the ISM's Dignity at Work Code of Practice; or
    - (d) circumstances have arisen whereby the suspension of membership, or the suspension of privileges of membership or termination of membership is necessary in order to prevent the reputation of the Society from being adversely affected; or

- (e) the member's conduct is not in the best interests of the Society; or
- (f) the member's conduct is undermining the functioning of the Society or the Council; or
- (g) in the case of a corporate member the member has failed to uphold the values, objects or aims of the Society.

## **5 Hearing before Disciplinary Committee**

- 5.1 Where a recommendation has been made under Clause 3.5 or 4.2.2 there will be a hearing before a Disciplinary Committee of the ISM. The members of the Disciplinary Committee should not be friends, relatives, or close professional associates of any complainant or the member concerned.
- 5.2 A committee of two Full Members of the Society together with a member of the Council shall make up the Disciplinary Committee. The Disciplinary Committee will be selected by the President from a panel of twelve Full Members of the Society who each have not less than five years membership of the Society ('the Panel') and have been appointed by Council to serve on the Panel from which the Disciplinary and Appeal Committees will be drawn. The President shall select a member of the Council to serve on the Disciplinary Committee who will chair the Disciplinary Committee.
- 5.3 The hearing should normally be held within 28 days of the Disciplinary Committee being appointed on a date agreed with the member concerned. The date of the hearing should normally be agreed at least 14 days in advance of the hearing taking place. Where all reasonable efforts to agree a suitable date with the member have failed, the Chair of the Disciplinary Committee may determine the date of the hearing, provided that the member is notified of the date at least 14 days before the hearing is due to take place.
- 5.4 A member of the ISM's staff team ('the Lawyer') shall act as Clerk to the Disciplinary Committee. The member concerned shall have the right to make written and/or oral representations at the hearing and the right to be accompanied by a friend or colleague (but not a barrister or solicitor). Any written documents on which the member wishes to rely shall be submitted to the Lawyer at least seven days before the date of the hearing.
- 5.5 Where the member fails to appear at the hearing, the Disciplinary Committee shall consider any explanation that the member offers for his/her non-attendance. The Disciplinary Committee may either:
  - 5.5.1 proceed with the hearing in the absence of the member; or
  - 5.5.2 adjourn the hearing to another date.

Only in the most exceptional circumstances would it be appropriate for a hearing to be adjourned more than once.

- 5.6 The CE will present the report and recommendations to the Disciplinary Committee. The CE may, with the permission of the Chair of the Disciplinary Committee, call witnesses to give evidence to the Committee. The member and/or his/her representative and the members of the Disciplinary Committee, shall have the right to put questions to any such witnesses.
- 5.7 The member may, with the permission of the Chair of the Disciplinary Committee, call witnesses to give evidence to the Committee. The CE and the members of the Disciplinary Committee shall have the right to put questions to any such witnesses.
- 5.8 The Disciplinary Committee has the power to take no action or take such action as it feels is appropriate and will normally give its decision in writing within seven days of the hearing. The member will receive a written record of the decision.
- 5.9 If the decision is taken to terminate the membership of a member this shall be done by way of a resolution of the Disciplinary Committee. A member whose membership is terminated shall not be eligible for re-admission to membership nor may he or she attend any meetings of the Society.

## **6 Appeal Hearing**

- 6.1 Where any of the sanctions set out at Clause 4.2.2 are imposed on the member by the Disciplinary Committee, or membership is suspended by the Child Protection Committee pursuant to Clause 3.4.2 or 3.4.3, the member will have the right to appeal to an Appeal Committee. The Appeal Committee will be made up of two members of the Panel and a member of Council. All members of the Appeal Committee will be selected by the President and the Council member shall chair the Appeal Committee. They shall not previously have been involved in the matter. The Lawyer shall act as Clerk to the Appeal Committee. The members of the Appeal Committee should not be friends, relatives, or close professional associates of either the complainant or the member concerned.
- 6.2 The member must notify the Lawyer in writing of his/her intention to appeal within 14 days of receiving written notification of the outcome of the Disciplinary Committee, setting out the grounds for his/her appeal in writing.
- 6.3 The hearing before the Appeal Committee shall normally take place within 28 days of the Appeal Committee being appointed on a date agreed with the member concerned. The date of the appeal hearing should normally be agreed at least 14 days in advance of the hearing taking place. Where all reasonable efforts to agree a suitable date with the member have failed, the Chair of the Appeal Committee may determine the date of the appeal hearing, provided that the member is notified of the date at least 14 days before the appeal hearing is due to take place.

6.4 The member concerned shall have the right to make written and/or oral representations at the appeal hearing and the right to be accompanied by a friend or representative (but not a barrister or solicitor). The member shall not normally be permitted to introduce new evidence at the appeal hearing which was not relied on at the disciplinary hearing unless the Appeal Committee is satisfied either:

6.4.1 that the evidence has come to light since the disciplinary hearing; or

6.4.2 that there is some other substantial reason why the member did not rely on the evidence at the disciplinary hearing.

6.5 Where the member fails to appear at the appeal hearing, the Appeal Committee shall consider any explanation that the member offers for his/her non-attendance. The Appeal Committee may either:

6.5.1 proceed with the appeal hearing in the absence of the member; or

6.5.2 adjourn the appeal hearing to another date.

Only in the most exceptional circumstances would it be appropriate for an appeal hearing to be adjourned more than once.

6.6 At the conclusion of the appeal hearing, the Appeal Committee has the power to uphold the decision of the Disciplinary Committee or reduce or increase the severity of the sanction originally imposed by the Disciplinary Committee. The Appeal Committee will give its decision in writing within seven days of the appeal hearing and shall provide a written record of the decision to the member.

6.7 The decision of the Appeal Committee will be final.

## **7 Immediate Suspension of Privileges by the Chief Executive**

7.1 The CE has the power to suspend any privileges of membership with immediate effect for a maximum of 30 days on the following grounds:

7.1.1 the member's conduct has brought or could bring the Society into disrepute; or

7.1.2 a failure to suspend any such privilege could potentially undermine the reputation of the Society; or

7.1.3 the member's conduct is not in the best interests of the Society; or

7.1.4 the member's conduct is undermining the functioning of the Society or the Council; or

7.1.5 the member has breached the provisions of the ISM's Dignity at Work Code of Practice; or

7.1.6 the Chief Executive has good and sufficient reason taking all relevant factors into account.

7.2 Where practicable the CE will consult with the President or (in cases raising child protection issues) the Child Protection Committee, before suspending any privileges of membership. Only in exceptional circumstances, will the Chief Executive suspend a member's entitlement to legal defence costs under the ISM's legal expenses insurance scheme.

7.3 Where the CE exercises the power to suspend privileges of membership, the CE shall prepare a report for the Child Protection Committee or the President as appropriate explaining the reasons for the decision to suspend the member's privileges provisionally and making recommendations as to any further action necessary.

## **8 Deemed Receipt of Written Communications**

8.1 Any written communication with a member required in accordance with these procedures shall be sent by first class inland post or a generally recognised international courier service (with relevant fees prepaid) to the address last notified to the Society. Any such communication shall be deemed to have been received if posted by first class inland post at the expiration of two working days (being any day on which banks are normally open for business in London other than a Saturday or Sunday) ('working day') after the envelope containing the same was delivered into the custody of the postal authorities, or if sent (with relevant fees prepaid) by a generally recognised international courier service, at the expiration of two working days after the envelope containing the same was delivered into the custody of the relevant international courier.

Updated September 2022