

An Coimisiún le Rincí Gaelacha

Executive Overview

Due to the confidential and delicate issues that often surround the requirements for disciplinary action, it is the recommendation of the Board of Management that Disciplinary Procedures should be delegated from the main body of An Coimisiún.

The following units should be set up:

Investigatory Committee:	Coiste Faire (or delegated individuals)
Disciplinary Committee:	9 members (Quorum of 3)
Appeals Committee:	15 members (Quorum of 5)
Co-ordinator:	To facilitate the administration and logistic issues that may arise but take no part in any of the decision making processes.

Membership

- There will be a two year election for membership of Coiste Faire, Disciplinary and Appeals Committees. The Co-ordinator would also be elected at the same time.
- Only members of An Coimisiún may be considered
- Membership of the Disciplinary or Appeals Committee will not preclude membership of any other committee.
- The Co-ordinator and all members of the Coiste Faire, Disciplinary and Appeals Committee will be required to undertake suitable training to ensure Fairness, Transparency and Consistency in the Disciplinary Procedure. This training must take place before participation in any stage of the process.

Normal Procedure

- An initial complaint is received by the Coiste Faire
- The complaint is investigated and if determined that there is sufficient evidence to proceed, Coiste Faire will request that the Disciplinary Procedure is invoked.
- The Co-ordinator will review and appoint three members from the Disciplinary Committee.
- The Disciplinary Committee will appoint their own Chair who will make suitable arrangements to convene a hearing. The Co-ordinator will assist in any logistical requirements.
- A Disciplinary hearing is held. In attendance will be the three members from the Disciplinary Committee, the lead Investigation Officer (or delegated individual), the person against whom the complaint is made and any witnesses. The Investigations Officer (or delegated individual) and the person against whom the complaint is made may be accompanied by an Independent Advisor.
- If sanctions are imposed, the person against whom the complaint is made has the right of Appeal to the Appeals Committee.
- If an Appeal is required, the Co-ordinator will appoint five members from the Appeals Committee.
- The Appeals Committee will appoint their own Chair who will make suitable arrangements to convene a hearing. The Co-ordinator will assist in any logistical requirements.
- An Appeals hearing will be held. In attendance will be the five members from the Appeals Committee, a member of the Disciplinary Committee (normally the Chairman), the Appellant and any witnesses. The Disciplinary Chair (or delegated individual) and the Appellant may be accompanied by an Independent Advisor.
- If sanctions are upheld, either side can only make a further appeal to the Buancoiste but only where significant new evidence has subsequently come to light or there is an allegation of a serious breach in the disciplinary procedure.
- The Buancoiste can only sanction the case being referred back to a new Disciplinary hearing or reject the Appeal.
- There would be no further level of appeal possible.

Note

At any stage in the Disciplinary Procedure, an Independent Advisor will only be allowed to observe and offer advice to the person that they are accompanying. They will not be able to address the meeting directly.

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DISCIPLINE PROCEDURES

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DISCIPLINE PROCEDURES

1. Purpose and Scope

This procedure sets out how An Coimisiún le Rincí Gaelacha (An Coimisiún) manages breaches of Rules, Code of Conduct, Child Protection Policy and Social Media Policy. The scope of this procedure covers all registered TMRFs, TCRGs, ADCRGs and members of subsidiary bodies who do not fall in to the first three categories.

2 Fairness and Transparency

1. All individuals have a right to be accompanied by a colleague when they are required to attend any hearing in the disciplinary procedure. In terms of this procedure, this right is extended to allow the accompanying person to confer and offer advice to the person undergoing investigation or being disciplined. They are not permitted to address any meeting directly or answer any questions on behalf of the person being investigated or disciplined.
2. In certain instances, where it is considered that the circumstances relating to an incident/situation warrant special investigation prior to disciplinary action being considered, such investigations shall be carried out in accordance with the agreed procedures. An Coiste Faire would normally carry out such investigations.

3 Discipline Procedures

3.1 Informal

1. Cases of minor misconduct or unsatisfactory performance should initially be addressed informally. This can be through a quiet discussion with the individual on a one to one basis. Even so, the individual should be left in no doubt of what needs to be improved and by when. Brief notes should be kept of any agreed informal action for reference purposes. The Co-ordinator or delegated officer should conduct such processes.
2. In some discipline cases and only when appropriate, An Coimisiún should consider using mediation to help resolve the problem. Mediation is when an impartial third party, the mediator, helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. A member of An Coiste Faire would normally assume the role of Mediator. Where mediation fails, then the Mediator will take no further part in procedures.

3.2 Formal

1. Normally an investigation will take place after a complaint has been received, usually in written format, signed by the complainant. However, there may be instances where a written complaint is not possible. This may not necessarily prevent an investigation from taking place.
2. An investigation of a potential disciplinary matter should be carried out without unreasonable delay to establish the facts of the case and may or may not result in formal action being progressed. In some cases, this will require the holding of an investigatory meeting with the individual or the collation of evidence by the investigating officer for use at any disciplinary hearing.

3. The Co-ordinator shall have the necessary delegated powers to apply a precautionary suspension of the registration of any individual who is considered to be creating a situation whereby the individual is a personal danger to vulnerable individuals.
4. When an informal approach has not brought an improvement in the conduct or where the matter is too serious to be classed as minor, formal action should be taken following an appropriate investigation. Prior to any disciplinary action being taken (punitive or non-punitive), the individual shall be called to a properly convened disciplinary hearing and be given the opportunity to explain the circumstances.
5. The individual should be invited to the meeting by letter which should set out the allegations and the time and place of the meeting. An individual has the right to be accompanied at that meeting and should be advised accordingly. In cases where the incident is considered to be serious or where there has been repeated misconduct the letter should also state that this may result in removal of registration. The individual should be left in no doubt that, depending on the findings of the hearing, removal of registration could be one of the sanctions considered.

3.3 Appeals

Appeals against any decision may be made in writing to the Co-ordinator within 14 days of receipt of the formal notification of the findings of the committee and should contain the grounds for the appeal.

Appeals shall be dealt with as soon as possible and normally within 2 months after lodgement. The appeal will normally be a review of the findings and any disciplinary sanction imposed. However in certain circumstances it may require a re-hearing *depending* on the grounds of the appeal.

The Appeals Committee is authorised to uphold or reject such appeals or to order the varying of the disciplinary action taken.

3.4 Special circumstances

1. Any disciplinary action taken should be disregarded for disciplinary purposes after a specified period of satisfactory conduct as shown in paragraph 3.6 below. Warnings should cease to be 'live' following this period of satisfactory conduct. In exceptional circumstances, there may be occasions where an individual's conduct is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where a pattern emerges and/or there is evidence of repeat offences, the individual's disciplinary record should be borne in mind in deciding how long any subsequent warning should last.
2. If an individual is charged with, or convicted of a criminal offence, this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the individual's suitability within the organisation and their relationship with their peers and other people.

3.5 Disciplinary Procedure

1. Arrangements should be made to conduct the hearing at a place and location that is most suitable as determined by the Co-ordinator.
2. Where an individual raises a grievance during a disciplinary procedure, the disciplinary procedure may be temporarily suspended in order to deal with the

grievance. If the grievance and disciplinary issues are related, it may be appropriate to deal with both matters together.

3.6 Non Attendance

Where an individual is persistently unable or unwilling to attend a disciplinary meeting without good cause, the Chairman of the Disciplinary Committee should consider holding the meeting in their absence and make a decision on the evidence available. This course of action should be a last resort.

3.7 Possible outcomes of formal action (Note: these outcomes are not cumulative and it may be the case that a finding on a first complaint could result in “no action” or “expulsion”.)

Outcome	Punitive/Non punitive	Time Limit before expiry
No action	Non punitive	0
Improvement Advice	Non punitive	12 months
First Written Warning	Non punitive	12 months
Final Written Warning	Non punitive	24 months
Formal Counselling	Non punitive	n/a
Addiction Referral	Non punitive	n/a
Monetary Fines up to €1000	Punitive	24 months
Monetary Fines up to €5000	Punitive	48 months
Suspension of Registration up to 1 year	Punitive	36 months
Suspension of Registration up to 2 years	Punitive	60 months
Suspension of Membership of An Coimisiún for up to 3 years	Punitive	60 months
Expulsion	Punitive	Indefinite

3.8 Additional Outcomes

1. A member who has had any type of written sanction imposed on them by An Coimisiún le Rincí Gaelacha, immediately after the appeals system has been exhausted, must stand down from any position held in An Coimisiún or its subsidiary/affiliated bodies for a minimum of two years.
2. A member who has had any written sanction imposed on them by An Coimisiún le Rincí Gaelacha may not stand for any position within the organisation or any subsidiary bodies or affiliates for the duration of the written sanction, or for a minimum of two years, whichever is the longer.
3. An A.D.C.R.G. who has had any type of written sanction imposed on them by An Coimisiún le Rincí Gaelacha may not be allowed to adjudicate at any “major” event or at any regional Oireachtas for the duration of the sanction or for minimum of two years, whichever is the longer.
4. To ensure that justice is seen to be done, once written sanctions have been imposed and the appeals system exhausted, the name of the sanctioned member and the level and duration of the sanctions imposed will be made known at the next meeting of An Coimisiún le Rincí Gaelacha and forwarded to the organisation/subsidiary/affiliated body which that member represents (if any). No

other details will be released.

3.9 Non Punitive Action following from the application of Disciplinary procedures (non sequential)

1. **Improvement Advice**

Improvement Advice for unsatisfactory conduct can be given which will set out the problem, the improvement that is required and the timescales that will be followed. The timescales can include certain milestones that have to be achieved and the period of any review. The advice should also include details of the right of appeal. The individual will also be advised that it constitutes the first stage of the formal procedure and should also be advised that if there is no satisfactory improvement or change within the specified period then some other sanction may be considered. A brief record of the improvement advice will be kept for 12 months and then considered spent, subject to the individual achieving and sustaining satisfactory performance or levels of conduct.

2. **First Written Warning**

Where an individual's conduct does not meet acceptable standards, the appropriate Disciplinary Committee shall issue a first written warning to an individual. The warning will set out the nature of the misconduct and the change in behaviour required and the right of appeal. The individual should be left in no doubt about the reason and grounds for the warning. The letter should also advise that if there is no satisfactory improvement in conduct then a final written warning or some other punitive sanction may be considered. For the avoidance of doubt, this should be taken to mean further unacceptable conduct or commission of a similar act, or a subsequent but different offence. A record of the warning should be kept but it will be disregarded for disciplinary purposes after 12 months.

3. **Final Written Warning**

If the offence is sufficiently serious, or there is further misconduct or a failure to improve conduct during the current warning then a Final Written Warning may be given. The warning will set out the nature of the misconduct and the change in behaviour required and the right of appeal. The individual should be left in no doubt about the reason and grounds for the warning. The letter should also advise if there is no satisfactory improvement then this may lead to a fine, suspension or expulsion (or some other action short of expulsion). A record of the warning should be kept but it will be disregarded for disciplinary purposes after 24 months.

3.10 Punitive Action following from the application of Disciplinary procedures

If the disciplining committee considers that one of the following applies, they can take further disciplinary action:

- (a) that an individual, who has a current Final Warning should be fined, suspended or expelled or
- (b) that the gravity of an incident of misconduct warrants a monetary fine, suspension, or expulsion; then

and in these circumstances the procedures set out in 3.1.and 3.2. shall apply as appropriate.

1. As detailed in paragraph 3.3.1, each disciplinary warning should be disregarded for disciplinary purposes after a specified period of satisfactory conduct. A decision to

dismiss should therefore not be based on an expired warning but the fact that there is an expired warning may justify why the disciplinary committee does not apply a lesser sanction.

2. Individuals receiving punitive action must always be informed in writing of the reasons why their conduct has led to the punitive action, the reasons why they are considered culpable and their right of appeal.

3.11 **Gross Misconduct**

Gross misconduct is misconduct serious enough to undermine any future working relationship between An Coimisiún and the individual due to a breakdown of trust. Acts that constitute gross misconduct are those resulting in a serious breach of the Code of Conduct, the Child Protection Policy or the Social Media Policy and it will be for the disciplinary committee to make such a determination. Gross misconduct may therefore lead to summary expulsion without any prior warnings. Every allegation of gross misconduct requires to be investigated. The individual has the same rights to be heard as with any other disciplinary measures.

Gross misconduct could include the following – this list is not exhaustive.

- Theft, fraud and deliberate falsification of records or claims or theft from the organisation, peer or client
- Physical violence
- Serious bullying or harassment or abusive behaviour towards peers and/or the public or clients of An Coimisiún, including matters of a racial, disability or sexual nature. Refusal to comply with the Social Media Guidelines.
- Serious misuse of An Coimisiún property or name which may include deliberate and serious damage to property
- Unreasonable and persistent refusal to comply with An Coimisiún instructions
- False particulars given to secure qualifications with an Coimisiún
- Criminal convictions having a material bearing on the ability to remain registered with An Coimisiún
- Bringing An Coimisiún into serious disrepute
- Serious incapability whilst at class or in attendance at an event registered by An Coimisiún brought about by alcohol or drugs or other substances.
- Serious negligence, which causes or might cause unacceptable loss, damage or injury and may include neglect of duties or failure to obey critical instructions
- A serious breach of health and safety rules
- Serious breach of confidence
- Serious Breach of Code of Conduct
- Serious Breach of the Child Protection Policy

4 **Disciplinary Committee**

This should consist of three members with six alternates, elected at the AGM every two years. All would have to attend a training course

5. **Appeals Committee**

This should consist of five members with ten alternates, elected at the AGM every two years. All would have to attend a training course

6. **Record keeping**

1. Confidential records should be kept of the following and as per the time limits shown in paragraph 3.7. These should be held in a locked unit in the offices of An

Coimisiún le Rincí Gaelacha. Only the Co-ordinator and the Chairman of An Coimisiún should have access. The records may include:

- the complaint against the individual and the individual's defence
- findings made and actions taken and the reasons for the actions taken
- whether an appeal was lodged and its outcome
- any grievances raised during the disciplinary procedure
- minutes of formal meetings and any correspondence
- statements taken in the course of any investigation

2. Official minutes of any meeting in the Disciplinary Process must be made available to the Appellant on request within a reasonable timeframe.

7. Responsibilities

1. All individuals as outlined in 1.1 above are expected to make themselves familiar with any policy, rule or procedure which set the standard for conduct. In particular, it is recommended that they should refer to the Code of Conduct, the Child Protection Policy and the Social Media Policy.
2. The Co-ordinator has the responsibility to ensure that the Disciplinary Procedure is carried out correctly. They may delegate this responsibility to other senior officers as deemed necessary.

8. Related policies/procedures

Code of Conduct; Child Protection Policy; Social Media Policy

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Appendix 1

Procedure to be followed at a Disciplinary Hearing

1. There may be present at all times, the person against whom the complaint is made, the Coiste Faire representative and the members of the Disciplinary Committee. A person acting in an advisory capacity to the person against whom the complaint is made or to the Coiste Faire representative may also be allowed to be present at the hearing, provided such persons are made known to the Discipline Committee prior to the case commencing. As at any stage in the Disciplinary Procedure, an Independent Advisor will only be allowed to observe and offer advice to the person that they are accompanying. They will not be able to address the meeting directly. Witnesses (if required) shall only be present when they are called to be asked questions and following questioning, shall be asked to withdraw. They may be recalled for further clarification.
2. The Chair will set out the complaint as received, outline the procedure to be followed, the purpose of the hearing and the identities and roles of those present.
3. The Coiste Faire representative shall put forward their findings in the presence of the person against whom the complaint is made and their representative and call such witnesses as may be required.
4. The person against whom the complaint is made shall have the opportunity to ask questions of the Coiste Faire representative and any witness.
5. The members of the Disciplinary Committee shall also have the opportunity to ask questions of the Coiste Faire representative and any witnesses
6. The Coiste Faire representative shall have the opportunity to ask further questions of any witness, to make points of clarification arising from questions from the person against whom the complaint is made and members of the Disciplinary Committee.
7. The person against whom the complaint is made shall present their own case in the presence of the Coiste Faire representative and may call any witnesses required.
8. The Coiste Faire representative shall have the opportunity to ask questions of the person against whom the complaint is made and of any witnesses called by the person against whom the complaint is made.
9. The members of the Disciplinary Committee shall also have the opportunity to ask questions of the person against whom the complaint is made and any witnesses.
10. The person against whom the complaint is made shall have the opportunity to ask further questions of any witness, to make points of clarification arising from questions from the Coiste Faire representative and members of the Disciplinary Committee.
11. The Coiste Faire representative and the person against whom the complaint is made shall have the opportunity, if they wish, to sum up their case. No new material can be introduced at this stage.
12. The Coiste Faire representative, the person against whom the complaint is made and any representatives accompanying them will then withdraw.

13. The Disciplinary Committee shall then deliberate in private, only recalling if necessary, the Coiste Faire representative or the person against whom the complaint is made and any of the attending Independent Advisors to clarify points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding only one is concerned with the point that is giving rise to doubt.
14. If practicable, the Disciplinary Committee shall announce its decision to the Coiste Faire representative and the person against whom the complaint is made as soon as possible following its deliberation. In any event, the decision shall be confirmed in writing to all parties within 10 days.

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Appendix 2 Appeals Committee Procedure

Introduction

1. An Coimisiún's Discipline Procedure enables individuals to pursue an appeal for any findings or formal or informal sanctions imposed. The following procedures will apply to all registered TMRFs, TCRGs, ADCRGs and members of subsidiary bodies who do not fall in to the first three categories.
2. An appeal will normally be a review of the findings and any disciplinary sanction imposed. However in certain circumstances it may require a re-hearing ***depending*** on the grounds of the appeal.
3. The following procedure shall apply to the consideration of all appeals. Appeals should be lodged with the Co-ordinator for hearing by the Appeals Committee.
4. Where an individual appeals, such appeal should be given in writing and outline fully the reasons for appeal. Appeals will be considered only if they are lodged within 14 days of the individual receiving written notification of the disciplinary action. The onus is on the Appellant to ensure that the appeal has been lodged correctly.
5. The Appeals Committee comprises five elected Members and ten alternates. A minimum of five must attend on the day to form a quorum. One of those in attendance will be selected as Chairman.
6. Appeals shall be heard as soon as possible after lodgement. The Appellant shall be advised of the right to be accompanied at the hearing and to call any witnesses, if necessary.
7. Both parties will be given the opportunity to lodge a written submission, which must be with the Co-ordinator at least 10 working days before the appeal. In the appellant's case, the submission can be simply the original grounds lodged in respect of the appeal.
8. The appellant and representative shall be given notice in writing at least 7 days in advance unless otherwise mutually agreed, of the time and place of the appeal hearing. At that time details of the procedures at the appeal will be supplied to both parties along with copies of any written submissions received from either party.

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Procedure to be followed at a Disciplinary Appeal

1. An appeal hearing is normally a review of either the finding and/or sanctions imposed. There may be present at all times, the Appellant, the Disciplinary Committee's representative (the Respondent) and the members of the Appeals Committee. A person acting in an advisory capacity to the Appellant or to the Respondent may also be present at the hearing, provided such persons are made known to the Appeals Committee prior to the case commencing. Witnesses (if required) shall only be present when they are called to be asked questions and following questioning, shall be asked to withdraw. They may be recalled for further clarification. As at any stage in the Disciplinary Procedure, an Independent Advisor will only be allowed to observe and offer advice to the person that they are accompanying. They will not be able to address the meeting directly.
2. The Chair will set out the complaint as received, outline the procedure to be followed, the purpose of the hearing and the identities and roles of those present.
3. The Appellant shall put forward the basis of their appeal and may call such witnesses as may be required.
4. The Respondent shall have the opportunity to ask questions of the Appellant and of any witnesses.
5. The members of the Appeals Committee shall also have the opportunity to ask questions of the Appellant and of any witnesses.
6. The Appellant shall have the opportunity to ask further questions of any witnesses, to make points of clarification arising from questions from the Respondent and members of the Appeals Committee.
7. The Respondent shall present their own case and may call any witnesses required.
8. The Appellant shall have the opportunity to ask questions of the Respondent and of any witnesses.
9. The members of the Appeals Committee shall then have the opportunity to ask questions of the Respondent and any witnesses.
10. The Respondent shall have the opportunity to ask further questions of any witnesses, to make points of clarification arising from questions from the Respondent and members of the Appeals Committee.
11. Both the Appellant and the Respondent shall have the opportunity, if they wish, to sum up their case. No new material may be introduced at this point.
12. The Appellant, the Respondent and any representatives accompanying them will then withdraw.
13. The Appeals Committee shall then deliberate in private, only recalling if necessary, either the Appellant or the Respondent and any of the attending Independent Advisors to clarify points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding only one is concerned with the point that is giving rise to doubt.

14. If practicable, the Appeals Committee shall announce its decision to the Appellant and the Respondent following its deliberation. In any event, the decision shall be confirmed in writing to the Appellant and their representative within 10 days.
15. The Appeals Committee is authorised to uphold or reject appeals against disciplinary action or to order the varying of the disciplinary action taken. The form of the decision to be announced by the Committee shall be one of the following as appropriate:-
- that the grounds of the appeal have been substantiated and the appeal be upheld
 - that the grounds of the appeal have been substantiated in part and the appeal is upheld to the extent that.....
 - the grounds of the appeal have not been substantiated and the appeal is not upheld
16. Where the Committee decision is to vary the disciplinary action, the level and duration of the penalty shall be a matter for the sole determination of the Committee having due regard to the circumstances of the case.

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Appendix 3 Appeal to Buancoiste

1. If findings or sanctions are upheld, either party may, within 21 days of the date of notification of the findings of the Appeal committee, make a further appeal to An Buancoiste who will review the matter.
2. This will only be allowed where significant new evidence has subsequently come to light or where there is an allegation that there has been a serious breach of the disciplinary procedure.
3. The findings of the original disciplinary hearing and the appeal hearing will be provided to An Buancoiste
4. Either party may make further submissions to An Buancoiste but only in the presence of the other party and will be required to respond to any questions raised.
5. At the conclusion of the submissions An Buancoiste will consider the matter in private and will decide one of the following courses of action:-
 - refer the case to a new disciplinary hearing
 - reject the appeal
6. No further appeals will be permitted.