

## **Royal Irish Academy**

# ***Policy in relation to Disclosure, Investigation and Prevention of Fraud, Corrupt Conduct and Inappropriate Behaviour***

**Royal Irish Academy**

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## **Policy in relation to Disclosure, Investigation and Prevention of Fraud, Corrupt Conduct and Inappropriate Behaviour ("the Policy")**

### **1. ROYAL IRISH ACADEMY ("the Academy")**

The Royal Irish Academy/Acadamh Ríoga na hEireann is an all-Ireland, independent, academic body that promotes study and excellence in the sciences, humanities and social sciences. It is the principal learned society in Ireland and its members are elected in recognition of their academic achievements. See [www.ria.ie](http://www.ria.ie).

### **2. OBJECTIVES OF THE POLICY**

- 2.1 The Academy recognises the importance of protecting the Academy, its reputation and its Employees from the consequences of fraudulent activity, corrupt conduct and inappropriate behaviour. Accordingly, the Academy expects the highest standards of ethical behaviour from all Academy Employees and Members. This document sets out the policy of the Academy for the avoidance of such activity and for its identification and management where it occurs. The Council of the Academy (the "Council") are committed to ensuring that the control systems in place are sufficiently robust to reduce the risk of fraud or corruption and that all Employees are clear about their responsibilities and the appropriate action to take in the event of discovering suspected fraudulent, corrupt or inappropriate activity.
- 2.2 The Academy further recognises the importance of having a Policy in relation to Disclosure, Investigation and Prevention of Fraud, Corrupt Conduct and Inappropriate Behaviour to encourage and facilitate disclosure of concerns over possible improper conduct in relation to irregularities in financial reporting, regulation and other matters. The Academy recognises that Employees, Stakeholders and Members of the Council of the Academy have an important role to play in achieving this goal. The procedure recognises the importance of identifying and reporting all concerns about serious unethical or illegal conduct through the appropriate internal channels.
- 2.3 The policy covers:
- Applicability
  - Definition of fraud, corrupt conduct, inappropriate behaviour and disclosure
  - Statement of Principles
  - Procedures for reducing the potential for fraudulent activity, corrupt conduct and inappropriate behaviour
  - Procedures for reporting and investigating suspected fraudulent activity, corrupt conduct and inappropriate behaviour and all disclosures made by Employees
- 2.4 The Policy provides protection to whistleblowers who make disclosures and establishes a system for the matters disclosed to be investigated and for appropriate remedial action to be taken.

### **3. APPLICABILITY**

3.1 The Policy applies to;

- All current and honorary members of the Academy elected pursuant to the By-laws of the Academy ("Academy Member(s)");
- All current and former members of the Council of the Academy elected pursuant to the By-laws of the Academy ("Council Member(s)");
- Staff of the Academy ("Employee(s)");
- Representatives of the Academy ("Representative(s)");
- Stakeholders;
- Sponsors;
- Any outside body or member of the public.

3.2 The policy relates to the Academy's funds, assets and reputation, both for the interests of the Academy and interest other than the Academy and is applicable to all Academy and Academy-controlled funds and assets including but not limited to research grants, awards (including medal awards, awards of membership and awards of honorary membership) and projects administered by the Academy.

3.3 Employees should ensure that they are familiar with all other Academy policies, procedures and regulations, which are an integral part of the Structures of the Academy for the prevention of fraud, corrupt conduct and inappropriate behaviour, including:

- (a) The Academy Grievance and Disciplinary Procedures
- (b) The Academy Policy on Bullying and Harassment
- (c) The Academy Staff Manual
- (d) The Academy Financial Policies and Procedures
- (e) The Academy IT Acceptable Use Policy
- (f) Members Handbook including the Charter and By-Laws of the Academy

3.4 These Policies may be amended or added to from time to time as determined by the Academy.

3.5 Employees and any other persons with management or supervisory responsibilities should ensure that all Employees in their unit are aware of the Academy policies and procedures and that these policies and procedures are adhered to at all times.

### **4. DEFINITIONS**

**In this Policy the following definitions apply:**

**4.1 The term "fraud" includes but is not limited to:**

4.1.1 Such acts of dishonesty as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment or misrepresentation of material facts, false pretence, false accounting and collusion in the foregoing. For the purposes of this Policy, the term "fraud" includes attempted fraud.

4.1.2 For practical purposes fraud may be defined as the use of deception to obtain an advantage or attempt to obtain an advantage, avoid an obligation or cause loss to another party.

#### 4.1.3 Fraudulent behaviour includes but is not limited to:

- (a) Knowingly or recklessly creating false or misleading reports;
- (b) Offering or accepting gifts or hospitality other than as permitted by Academy policy;
- (c) Claiming payment for goods not received or services not performed;
- (d) Claiming payment, time off in lieu or any other benefit for time not worked;
- (e) Submitting false or exaggerated claims for reimbursement of expenses;
- (f) Forging or altering documents;
- (g) Purchasing items for Non-Academy use with Academy funds;
- (h) Theft, misappropriation or unauthorised use of Academy property.

#### 4.2 Corrupt conduct includes but is not limited to:

- (a) Conduct of a person that adversely affects, or could adversely affect, either directly or indirectly, the honest performance by any person(s) of his/her duties on behalf of the Academy;
- (b) Conduct of any person that amounts to dishonest, inappropriate or unacceptable conduct;
- (c) Conduct of an Employee and Council Member of the Academy that amounts to a breach of a policy, procedure or regulation;
- (d) Conduct of any person that amounts to the misuse of information or material acquired in the course of the performance of his/her duties on behalf of the Academy;
- (e) A conspiracy or attempt to engage in conduct referred to in paragraphs (a) to (d) above.

#### 4.3 Inappropriate Behaviour includes but is not limited to:

- (a) Any illegal conduct related to the business of the Academy or likely to bring the Academy into disrepute;
- (b) Actions which are in breach of regulations, policies, procedures or codes of conduct of the Academy;
- (c) Conduct involving substantial risk to the reputation of the Academy;
- (d) Conduct involving substantial risk to financial or other assets of the Academy;
- (e) Action causing injury, loss or damage to the Academy or any of its employees;
- (f) Any corrupt conduct as set out but not limited to 4.2 above;
- (g) A material mismanagement of public resources;
- (h) Conduct involving substantial risk to public health or safety;
- (i) Conduct involving substantial risk to the environment;
- (j) Conduct involving substantial risk to financial processes and reporting.

#### 4.4 Disclosure

##### 4.4.1 Includes but is not limited to a disclosure where an individual believes, on reasonable grounds, that any person in the course of the performance of his/her duties on behalf of the Academy has engaged, is engaging in or proposes to engage in fraud, corrupt conduct or inappropriate behaviour.

In determining whether an individual has reasonable grounds, regard shall be had to the relationship between the individual and the subject of the allegation, the evidence available and the level of enquiries the individual made into the veracity of the information.

## **5. GENERAL PRINCIPLES**

### **5.1 Implementation of Complaints Procedure**

The Academy follows a complaints procedure which is implemented by:

- Encouraging Employees and Council Members to raise matters of concern internally in accordance with the disclosure procedure set out at 6.1 below, so that such complaints can be appropriately addressed.
- Investigating all cases of suspected fraud, corrupt conduct and inappropriate behaviour, and where appropriate and in accordance with the law, the Academy will report the suspected fraud, corrupt conduct or inappropriate behaviour to the Gardaí and/or other appropriate authorities for investigation;
- Any act of fraud, corrupt conduct and inappropriate behaviour, involving any person(s) acting in the course of his/her duties on behalf of the Academy, which is established upon investigation by the Academy or through acknowledgement by the person(s) concerned, shall result in the appropriate disciplinary and/or legal actions against such person(s) in accordance with the Academy's policies, procedures, regulations and relevant legislation and includes the possibility of termination of employment in the case of employees, restitution and/or the forwarding of information to the appropriate authorities for criminal prosecution as required by law;
- The Academy employs a range of actions to reduce the potential for fraudulent activity including defined levels of management, authority and responsibility, accounting, control and audit processes, and written policies and procedures;
- Applying the principles of natural justice in an investigation of any matter referred to under this procedure;
- Using its best endeavours to protect any person who raises an issue under this procedure against potential victimisation for the making of disclosures; and
- Taking all reasonable steps to ensure the confidentiality and support where appropriate of the person(s) raising the concern, the person(s) who is/are subject to a disclosure and any witnesses.

5.2 In the case of employees the procedure at 5.1 is in addition to the existing Grievance and Disciplinary Procedure in place in the Academy.

5.3 Allegations of bullying and/or harassment fall outside this procedure and will be handled through the Academy's Bullying and Harassment Policy.

## **6. REPORTING AND INVESTIGATION PROCEDURES**

### **6.1 Making a Disclosure**

Any person can make a disclosure alleging corrupt conduct or inappropriate behaviour by the Academy, Employee, Council Member or Academy Representative, Customer, Supplier or stakeholder to their immediate supervisor (in the case of an Employee) or an Authorised Person. Authorised Persons include all Heads of Department, the Executive Secretary, Council Members and Members of the Executive Committee. The identity and office of such persons may be changed or extinguished from time to time.

Employees, Council Members and any person performing duties on behalf of the Academy must report all cases of actual or suspected, fraud, corrupt conduct or inappropriate behaviour to their Head of Department or immediate superior and/or other Authorised Person, or in exceptional cases, as outlined below, the Treasurer or the Chair of the Audit Committee, without delay.

In making a report, the person making the allegation must take care to avoid making incorrect or false accusations or alerting suspected individuals. The good name and reputation of individuals the subject of suspicion of fraud, corrupt conduct or inappropriate behaviour is not undermined where an honest and reasonable report of suspicious circumstances is made in accordance with the procedures as set out in the Policy.

Anonymous reporting is discouraged but, where supported by evidence, may form the basis of an investigation. All persons reporting fraud, corrupt conduct or inappropriate behaviour are assured that all information will be dealt with in the strictest confidence and that their anonymity will be preserved as a matter of policy, unless such is incompatible with a full and fair investigation.

The matter will then be referred by the immediate supervisor or Authorised Person to the Executive Secretary, who has responsibility for handling such disclosures.

In circumstances where Employees or Council Members are unable to report the matter to their Head of Department or immediate superior, they should themselves report the matter to the Executive Secretary.

Where, in exceptional cases, the person making the allegation considers it inappropriate to refer the matter to the Executive Secretary, material allegations can be made to the Chair of the Audit Committee or Treasurer, who shall decide what action to take having regard to the particular circumstances.

## **6.2 Receiving and Assessing Disclosure**

The Executive Secretary, Treasurer or Chair of the Audit Committee will assess the disclosure to ensure that:

- It relates to conduct of any person acting in their official capacity/capacity as representative of the Academy;
- The alleged conduct concerns fraud, corrupt conduct or inappropriate behaviour;
- The person making a disclosure has reasonable grounds for believing the alleged conduct has occurred or is likely to occur.

## **6.3 Managing Disclosures**

Once a disclosure has been made the issue will be assessed to establish if the disclosure is being made in good faith. Frivolous and vexatious claims will not be considered.

Where the opinion is formed that the disclosure is being made in good faith, and that some prime facie evidence exists to support the claim (i.e. some kind of objective evidence, a witness statement, email record etc.), the person who made the disclosure will be informed of that opinion and the action that will be taken, where appropriate.

Where the opinion is formed that the disclosure is not being made in good faith he/she will notify the person who made the disclosure of that opinion and upon an investigation being undertaken, appropriate disciplinary action may be taken in accordance with the Academy's Grievance and Disciplinary Procedure.

Depending upon the nature of the alleged conduct, it may be necessary for the Academy to suspend the person who is the subject of the disclosure and/or notify the Gardaí (or other appropriate authorities) of the alleged conduct immediately. The Academy reserves the right to do so where appropriate but any such suspension/notification should not be viewed as an indication of the Academy's view as to the veracity of the allegations.

#### **6.4 Investigation**

Once the opinion is formed that prime facie evidence exists of fraud, corrupt conduct or inappropriate behavior:

- (i) Terms of reference will be drawn up by the Academy for an investigation into the allegations;
- (ii) An investigator/s will be appointed by the Academy to carry out the investigation; such an investigator may be appointed internally or externally.

The investigation process will be determined on a case-by-case basis depending on the circumstances of each individual case and may include external specialists, where appropriate.

As part of any investigation, it may be necessary to interview Employees. In such cases Employees will be informed of their right to representation.

The investigation will be conducted in accordance with the principles of natural justice. The person who is the subject of the disclosure is entitled to know the allegations made against him/ her and must be given the right to respond.

All parties to the matter will be heard and all submissions in so far as they relate to the matter will be considered.

All parties to the investigation will be given the opportunity to state his/her case in full and be represented or accompanied by a Representative at any meeting.

The identity of a person making a disclosure will, as far as is practicable, be kept confidential. Where disclosure of the identity of the person making the disclosure cannot be avoided, the investigator will advise such person of this disclosure and will discuss how the matter can best proceed. Where a party's anonymity cannot be preserved, information relating to the complaint will be dispensed purely on a 'need to know' basis, consistent with facilitating the full investigation of the complaint.

#### **6.5 Reporting and Managing Investigation Outcome**

Where the investigator concludes that the conduct disclosed has occurred, he/she will make the following recommendations:

- The steps that need to be taken by the Academy to prevent the conduct from continuing or occurring in the future;
- Any action that should be taken by the Academy to remedy or ameliorate any harm or loss arising from the conduct;

On receipt of the report, the Academy will:

- (a) As appropriate, refer the matter for investigation in accordance with the Academy's Grievance and Disciplinary Procedure and/or to the Gardaí or other appropriate authorities.
- (b) Quantify the loss incurred and where appropriate advise the Academy's insurers and take steps to recover the loss.
- (c) Define and implement controls and procedures to counter any possibility of a repeat of the conduct.
- (d) Report to the Executive Committee, Council and to the Audit Committee



- (e) If there is evidence of a criminal event the Academy will inform An Garda Síochána immediately in accordance with legislative requirements.
- (f) If there is evidence that another body, external to the Academy is affected, the Academy will inform that body.

In the case of an employee this action may include bringing disciplinary proceedings in accordance with the Academy's Grievance and Disciplinary Procedures against the person responsible for the conduct, and/ or referring the matter to an appropriate authority for further consideration. A decision on the appropriate action to be taken will be made, having regard to the seriousness of the incident, and may range from warnings, verbal and written, to dismissal in accordance with the Academy's Grievance and Disciplinary Procedure;

If invoking the Academy's Disciplinary Procedure is not considered to be appropriate, training, counselling, monitoring of the workplace and/or other actions may be considered by the Academy.

Where the investigation concludes that the disclosed conduct did not occur, the findings will be reported to the person who made the disclosure, the person who is the subject of the disclosure and any witnesses.

#### **6.6 Protection of Person making a Disclosure**

Where the investigator does not uphold a finding of fraud, corrupt conduct or inappropriate behavior no action will be taken against the person making the disclosure. However where it is determined that a claim may have been made maliciously or in bad faith, the person responsible for the making of a vexatious or misleading disclosure, where such person is an employee, may be disciplined in accordance with the Academy's Grievance and Disciplinary Procedure.

#### **6.7 Victimization**

Any victimisation of or retaliation against a person making a disclosure or any other party who participates in good faith in the disclosure procedure will be considered by the Academy as a breach of this Policy and appropriate action will be taken by the Academy.

Where the victimisation is being carried out by an Employee, the Academy's disciplinary procedure will be invoked.

Where the victimisation is being carried out by any other person appropriate action as determined by the Academy will be taken.

#### **6.8 Protection of the Person against whom a Disclosure has been made**

The Academy recognises that any person(s) against whom disclosures are made must also be supported during the handling and investigation of disclosures. The Academy will ensure fair procedures are followed at all times in investigating a complaint. The Academy will give its full support to a person who is the subject of a disclosure where the allegations contained in a disclosure are unsubstantiated.

#### **6.9 Confidentiality**

- The Academy will take all reasonable steps to ensure the confidentiality of the person who is the subject of the disclosure during the assessment and investigation process.

- Where the investigation does not substantiate the allegations disclosed; the fact that the investigation has been carried out, the results of the investigation and the identity of the person who is the subject of the disclosure will, as far as is practicable, remain confidential.
- A person making a disclosure is advised that it is in his/her own interest and the interest of the Academy to keep disclosures confidential by only discussing a disclosure with Authorised Persons within the Academy, an Investigator appointed by the Academy or a representative accompanying a party to investigation meetings.
- If a disclosure is investigated it is often necessary to interview Employees in the area where the suspected wrongdoing occurred. While every effort will be made to keep the matter confidential, the conduct of these interviews may result in persons becoming aware of the disclosure and the identity of parties to the investigation.
- The Executive Secretary in accordance with Data Protection legislation manages a confidential and secure filing system for all files in relation to disclosures under these procedures.

## **7. Implementing and Monitoring the Policy**

- All person(s) performing duties on behalf of the Academy have a duty to implement the provisions of this Policy.
- It is envisaged that these provisions will encourage person(s) to disclose issues of concern within the Academy.
- The procedure seeks to protect and provide support both to the person making the disclosure and the person against whom a disclosure has been made.
- The principles of natural justice will apply to any investigation of matters disclosed. All matters will be treated confidentially as far as is practicable.
- Any victimisation of a person making a disclosure will be treated seriously and appropriate action will be taken.

The Policy will be maintained under continuous review and will be amended in accordance with experience, recognised good practice and any relevant legislative changes.

### **Further Information**

For further information on this procedure please contact: The Executive Secretary or the HR Officer.