

Name of policy / procedure:
Handbook section and code:
Status:
Approved by:
Review date:

Disciplinary Procedure
Employee Relations – ER05
Approved, in place
Board of Trustees, 11 Dec 2006
Dec 2008



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Richmond Borough Mind

Disciplinary Procedure

Purpose and scope

The aim of this procedure is to ensure consistent and fair treatment for all. It is designed to help and encourage all employees of Richmond Borough Mind (hereafter known as 'RB Mind') to achieve and maintain high standards of conduct, attendance and job performance.

Preliminaries

This procedure outlines a stage by stage process. On some occasions however, the seriousness of the employee's alleged misconduct may warrant missing out earlier stages and proceeding directly to the second or even third stage.

- the employee may be accompanied by a trade union representative or colleague to any formal part of this procedure, this includes suspension and investigative meetings; disciplinary hearings; appeals and reviews.
- RB Mind may ask that a trustee, manager or administrator be present to record proceedings.
- any formal discussion or warning will be recorded in writing by the manager and a copy given to the employee who should acknowledge receipt.
- at all stages, disciplinary action need not necessarily be for the same or similar offence to that contained in the previous warning.

Informal Procedure

- the manager will, wherever possible and before any formal procedures are implemented, ensure the employee is aware of the problem and will assist the employee in resolving the problem. A record of this process should be kept.

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Investigation

No disciplinary action will be taken against an employee until the case has been fully investigated. This may include an investigative meeting between the employee and employer, at which the employee has the right to be accompanied.

An investigative meeting is a tool to establish the facts. Following the meeting the manager will complete the investigation and decide whether the case should be considered in a formal hearing.

Suspension

Suspension is not a disciplinary action and shall be on full pay. Suspension will only take place where the allegation being investigated would, if substantiated, constitute gross misconduct or where it was considered in the best interest of all parties if the employee was not to remain at work.

Employees will be informed of their suspension at an interview with the Director or Chair of the organisation and transport to the employees home will be arranged. The Director or Chair will inform the employee in writing that they are to be suspended immediately; stating the nature of the alleged offence, the purpose of the suspension and its anticipated duration.

Suspension will normally be for a period of 28 days or less. However, in exceptional circumstances, the period may be extended. The employee will be informed of this in writing. In cases of alleged gross misconduct suspension may continue until the appeal process, if pursued, has been concluded.

Formal Procedure

If, after investigating all the facts, the manager decides that a formal hearing should be commenced, they will write to the employee notifying them of:

- the details of the allegation
- the details of the management case
- seven days notice of the date and venue of the disciplinary hearing
- the employee's statutory right to be accompanied
- who will be in attendance to take minutes
- who will Chair the panel
- who will reach a decision

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Where the employees chosen companion cannot attend on the date proposed the employee can offer an alternative time and date, so long as it is reasonable and falls before the end of the period of five working days, beginning with the first working day after the day proposed by the Chair. Notification that the employee cannot attend the hearing must be given at least two days prior to the date the hearing is due to commence.

Before the hearing the employee should notify the Chair of the identity of their chosen companion.

The Chair will either be the Director or a member of the Board of Trustees.

Protocol at Disciplinary hearings

Seven days in advance of the hearing, the Chair will circulate all relevant information which will be referred to as part of a disciplinary hearing. Relevant information must be handled in line with the RB Mind's confidentiality and data protection policies.

In addition, any evidence which the employee intends to rely upon during the hearing must be submitted to the Chair of the disciplinary hearing at least 24 hours prior to the hearing.

At the hearing the Chair will:

- introduce members of the hearing
- ensure that everyone has received the relevant papers
- ask the manager to present the allegation and the reasons behind it
- ask the employee to respond, with support from their chosen representative
- ask questions of the employee and the manager
- adjourn the hearing should any new information come to light which may warrant further investigation

Where possible, the employee will be informed of the outcome at the conclusion of the hearing. However, if this is not possible they will be informed, in writing, within 3 working days.

Companions

The employee's chosen companion can address the hearing but should not answer questions on the employee's behalf. Companions have an important role to play in supporting the employee and to this end should be allowed to ask questions and should, with the agreement of the Chair, be allowed to participate as fully as possible in the hearing.

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Disciplinary action

The following forms of action may be considered in a disciplinary hearing and only issued through this process:

- **Oral Warning**

If conduct or performance does not meet the acceptable standards the employee will be given a verbal warning. Examples of minor misconduct include (this is not an exhaustive list):

- Continued lateness or absenteeism
- Minor breaches of terms and conditions of employment
- Poor job performance

The employee will be made aware of the reasons for the verbal warning, the improvements that are expected, the set timescale for improvement and dates for review; and that it constitutes the first level of the disciplinary procedure and of their right to appeal.

A verbal warning will be recorded in the employees personnel file but will be disregarded for disciplinary purposes after 6 months.

- **Written Warning**

If performance is still unsatisfactory or the misconduct is a serious one, the employee will be given a written warning. More serious infringements can include (this is not an exhaustive list):

- Misuse of employers facilities e.g. internet and Email
- Negligence resulting in minor loss, damage or injury
- Violation of Health and Safety Regulations
- Failure to accept and follow instructions
- Insubordination
- Harassment or bullying
- Breach of confidentiality

The employee will be made aware of the reasons for the written warning, the improvement or change in behaviour required, the timescale allowed for this and the right to appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change.

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A record of the Written Warning will be recorded in the employees personnel file but will be disregarded for disciplinary purposes after 12 months.

- **Final Written Warning**

If the line manager is still not satisfied with the employee's progress, or if a further offence occurs, a Final Written Warning will be issued, stating the level of improvement required, the timescale allowed for this and the right to appeal.

The Final Written Warning will clearly state that subsequent lack of improvement will result in termination of employment.

A record of the Final Written Warning will be recorded in the employees personnel file but will be disregarded for disciplinary purposes after 12 months.

- **Dismissal**

If the line manager is still not satisfied with the employee's progress, or if a further offence occurs, a further hearing will be convened. Here, the line Manager and / or Director will present to a member of the Board of Trustees all the action taken so far, and the reasons why they consider that dismissal should now take place.

The member of the Board of Trustees hearing the case will decide whether to dismiss the employee.

The employee will be provided as soon as practically possible the reasons for dismissal, the date on which his / her employment will terminate and be advised of the right of appeal. Employees with one year's continuous service or more have the right, on request, to a written statement of particulars of reasons for dismissal.

Gross Misconduct

In exceptional cases of alleged gross misconduct, the above stages will not apply. Instead the employee will be suspended on full pay pending investigation by the Manager which may lead to dismissal.

Dismissal for Gross Misconduct will be without notice.

Gross misconduct may also result in the withholding of pay where loss of money is involved. Examples of gross misconduct include (this is not an exhaustive list):

- physical abuse of service users, workers, Management Committee members or anyone connected with RB Mind

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- theft from service users, workers or the organisation
- abuse of the sick pay scheme (e.g. claiming sick pay from RB Mind when not sick, or while working with another organisation or individual)
- defrauding the organisation or deliberate falsification of records or information
- dishonestly claiming payment for work not done
- willful damage of property
- serious negligence which puts people or property at risk
- serious breach of health and safety rules
- being unfit to carry out duties due to the influence of alcohol or illegal substance
- threatening behaviour
- serious insubordination
- carrying weapons on the premises
- unlawful discrimination / harassment / victimisation, or any serious breach of RB Mind's Equal Opportunities Policy
- A series of acts which individually do not constitute gross misconduct, but which together may be considered gross misconduct.

Appeals

All employees will have the right to make an appeal against any formal disciplinary warning.

For an Oral Warning, Written Warning or Final Written Warning the appeal will be heard by the Director. If the Director has been directly involved in the original disciplinary action the appeal will be heard by a member of the Board of Trustees.

For a Dismissal, the appeal will be to a panel of three Trustees members.

Pending the outcome of an appeal, the disciplinary procedure will continue as set down. Any final decisions to be taken resulting in dismissal will not be delayed pending an

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appeal, although the appeal may subsequently result in a recommendation to reverse the decision.

Appeals must be made in writing at RB Mind's registered office, stating the grounds for the appeal.

Appeals must be made within 21 calendar days of receipt of the letter confirming the result of the disciplinary decision. An appeal against dismissal must be made to the Chair of the Management Committee. Appeals will be held as quickly as is practicably possible.

Criminal offences

A criminal act committed by a member of staff during his / her employment with RB Mind and directed against RB Mind's property, staff, users or any other person directly connected with the functioning of the organisation, shall be considered gross misconduct and a fundamental breach of contract justifying summary dismissal.

A staff member who commits a criminal act which does not directly affect the staff members' relationship with the organisation but is of such a nature to make him / her unsuitable for this type of work or is likely to reflect on the organisation bringing it into disrepute, may be suspended from work whilst the employer establishes the facts and decides if the matter is serious enough to warrant starting the disciplinary procedure.