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Disciplinary & capability policy and procedure

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1. Scope

This policy applies to all employees of the Royal Town Planning Institute who have successfully completed their probationary period. Guidance for dealing with underperforming colleagues during their probationary period is given in the managers' guidance on the intranet.

2. Purpose

RTPI believes that the interests of employees and the RTPI are best served by the formulation and implementation of clear and consistent employment policies and procedures. This document outlines the RTPI's approach to issues of misconduct, gross misconduct and poor performance. Having read this document you are welcome to contact any member of the Human Resources team to discuss any queries you may have in relation to Disciplinary matters. The aim of the disciplinary and capability process is to encourage good performance and to ensure that every employee is aware of the standards expected.

3. Policy

We all have the contractual obligation to perform responsibly and effectively at work and managers are responsible for maintaining discipline and setting standards of performance within the organisation. From time to time disciplinary or capability action may be necessary. This will be done with good cause, proper warning and with advice from Human Resources at every stage. In exceptional cases, however, the RTPI may summarily dismiss an employee who is guilty of gross misconduct.

The RTPI's disciplinary and capability procedure takes account of the ACAS Code of Practice and is designed to promote fairness and consistency in the treatment of all staff. It should not be simply viewed as a means of imposing sanctions but rather as a means of improving conduct or performance.

Confidentiality is to be maintained by all parties involved in the process, whether this is at the informal or the formal stage.

Appendix 1 provides examples which are normally regarded as misconduct or gross misconduct.

4. Informal Action

Cases of minor misconduct or unsatisfactory performance are usually best dealt with informally initially.

In these circumstances, the line manager will meet with the employee to explain their concerns, confirm the standards of performance or conduct expected, and find ways for the employee to improve and for the improvement to be sustained.

The meeting will normally be confirmed in a 'letter of expectation' to ensure the standards expected are clear and that the formal procedure may be invoked if the conduct is repeated or if there is insufficient improvement in performance.

The informal stage is not part of the formal disciplinary and capability procedure. Should it become clear during an informal meeting that the matter is more serious than anticipated, the meeting should be adjourned and the employee advised that the matter will be continued under the formal procedure.

5. PROCEDURE

5.1. Establishing the Facts

The RTPI is committed to ensuring that all alleged instances of misconduct, gross misconduct or poor performance are fully investigated before disciplinary action is considered. When a potential conduct concern is identified, if the line manager is not a witness, they will investigate the matter to establish the facts as soon as possible, with advice from the Human Resources Department.

Where the line manager witnessed a potential act of misconduct, Human Resources will identify an appropriately skilled manager to investigate. The manager will investigate to establish the facts as soon as possible. In some cases this may involve carrying out meetings with the employee concerned and third parties such as witnesses, colleagues and managers. In other cases, the investigatory stage will be the collation of evidence for use at a hearing. All meetings which take place during the investigation will be minuted and will have a HR professional present.

Where an employee is called to attend an investigatory meeting, it will be made clear that it is not a disciplinary or capability (ie where a colleague is under-performing) hearing, although the employee should be aware that depending on the outcome of the investigation, disciplinary action may result.

Where it is felt to be inappropriate for the individual to continue working whilst the investigation takes place there may be a period where the individual is asked to work from home (if office-based) or a period of suspension on full pay. Suspension is not a disciplinary action and does not imply guilt; however, it will only take place if there is good reason. We would normally only suspend someone prior to a disciplinary process where there is:

- a serious allegation of misconduct;
- In certain circumstances, it may be appropriate to suspend on grounds of ill-health. These circumstances are likely to be rare and HR would normally discuss the situation with the individual first.
- Further information about why suspension would be considered and possible alternatives to suspension is included in the managers' guidance on the intranet.

Having investigated all the facts, the manager will decide if they believe there is a case to answer.

Capability related to sickness is covered by the RTPI sickness policy.

In cases of capability related to performance the line manager will review the documentation relating to levels of performance and efforts to improve performance, including letter(s) of expectation before deciding if they believe there is a case to answer

5.2. Formal Procedure

The procedures for the dealing with misconduct, gross misconduct and capability are broadly similar. However, in cases of under-performance managers should issue a letter of expectation in the first

instance, explaining the improvement(s) that need to be made and a timeframe for doing so. This might include additional training, if appropriate.

- a) Where the investigation has concluded that there is a case to answer under the formal procedure or when there is a failure to improve following the informal procedure, the employee will be informed in writing of the full details of the allegations and asked to attend a disciplinary hearing. The employee will be informed at least 5 working days before the hearing is due to take place.
- b) Employees are encouraged to make every effort to attend a disciplinary or capability hearing and take the opportunity to answer the allegations that have been made. Non-attendance without good reason may result in a decision being made in the employee's absence, based on the evidence available.
- c) Copies of any written evidence that may be relied on in the hearing will be provided. This may include witness statements. Where it is felt appropriate, and only in exceptional circumstances, the identity of witnesses may be kept confidential. There is no guarantee of confidentiality.
- d) The employee will be advised of their right to be accompanied to the hearing by a trade union representative or work colleague. The colleague or trade union representative will be allowed to address the hearing to put and sum up the employee's case but does not have the right to answer questions on the employee's behalf or prevent the employee from presenting their case.
- e) At the hearing, the evidence collected during the investigation will be considered. The manager who conducted the investigation will be available, if required, to answer questions relating to the investigation. The employee will set out their case and answer any allegations. Both parties will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. Advance notice of three working days should be given if any party intends to call witnesses. It may not always be practicable for colleagues to attend and we do not wish to cause any unreasonable delay. Should this be the case, questions may be asked in advance, with HR advice and/or statements read out in the hearing.
- f) After the hearing, the manager hearing the case will consider all the information provided and any mitigation offered, take advice from Human Resources and decide whether or not disciplinary or any other action is justified. The employee will be informed of the outcome in writing within seven calendar days of the hearing.
- g) Where the allegation is upheld and a warning is to be issued, the written notification will include;
 - The nature of the misconduct or unsatisfactory performance
 - The disciplinary penalty and how long it will last
 - The consequences of failure to improve performance or any further misconduct
 - The timescale for lodging an appeal and how it should be made
 - If dismissal is the outcome, full reasons for the dismissal and the date on which their employment will terminate in accordance with the appropriate period of notice if applicable.

- h) If a warning is issued relating to performance, the line manager will agree a performance improvement plan and explore any appropriate ways in which the individual can be supported to achieve the required level of performance.

5.3. Formal Action

The following sanctions can be issued following a disciplinary hearing;

1. **Written Warning or Improvement Note**

To be issued for a first misconduct offence or unsatisfactory performance. A record of the warning (or improvement note for performance concerns) will be kept but disregarded for disciplinary purposes after six months.

2. **Final Written Warning**

To be issued if a first offence is considered sufficiently serious or where conduct or performance has failed to improve following a first written warning. A record of the warning will be kept but disregarded for disciplinary purposes after 12 months.

3. **Dismissal**

Dismissal may result if conduct or performance is still unsatisfactory following warnings, in cases of gross misconduct. In certain circumstances of ill-health, dismissal may also be an outcome. Normally, we would only consider ill-health dismissal when all other alternatives have been exhausted and after meetings with the employee where they have had the opportunity to fully discuss the situation. Please refer to the RTPI Sickness Policy Section 14 for further information.

In exceptional circumstances or where an employee's conduct or performance is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter, the employee's disciplinary record may be borne in mind when deciding how long any warning should last and the time limits above may be increased.

5.4. Gross Misconduct

If, on completion of the investigation and the full disciplinary procedure, the manager hearing the case concludes that gross misconduct (See Appendix 1 for examples of gross misconduct that could lead to summary dismissal) has occurred, the result will normally be summary dismissal, i.e. dismissal without notice or payment in lieu of notice.

6. Disciplinary Authority

The Human Resources department will assign appropriately skilled managers to investigate and hear disciplinary or capability hearings. No disciplinary warnings can be issued without approval from the Human Resources Department.

Decisions to dismiss must be approved by the Head of Human Resources and the Chief Executive Officer.

7. Appeal Procedure

All employees have the right of appeal against any formal disciplinary action. As far as is reasonably practicable the appeal will be with a more senior manager than the one who dealt with the original

formal process. If this is not possible, then another manager, who has not had any involvement with the matter will hear the appeal.

The appeal must be submitted in writing to the Human Resources Department within seven calendar days of receiving written notification of the outcome. The appeal letter should state on what grounds the appeal is raised, which could include the perceived unfairness of the judgement, the severity of the penalty or new evidence coming to light.

Without undue delay, the manager hearing the appeal will arrange to meet the employee. The employee may be accompanied by a Trade Union representative or a work colleague.

The appeal hearing manager will have the right to revoke, uphold or impose a different penalty and his/her decision will be final. The employee will be informed of the outcome of the appeal in writing within seven calendar days of the decision being made.

Should a decision to dismiss be overturned on appeal, any monies due will be backdated to the effective date of dismissal, as required by the Employment Rights Act, 1996.

8. Contacts

The main contact should be the line manager, however if employees require further information on the policy or process they should contact Human Resources.

9. Linked Policies

- Equality and Diversity
- Sickness Policy

All of the above policies are available on the staff intranet.

10. Monitoring and Review of the Policy

This policy will be reviewed and amended in line with legislation and will be subject to a formal review every three years by Human Resources.

Appendix 1

Disciplinary Rules

It is not practicable to specify all disciplinary rules or offences that may result in disciplinary action, as they may vary depending on the nature of the work. The following are guideline examples and do not form a prescriptive or exclusive list:

Examples of Unsatisfactory Conduct and Misconduct

- Failure to achieve acceptable work standards / unsatisfactory performance
- Neglect of work requirements *
- Poor attendance or timekeeping
- Unauthorised absence
- Failure to follow or acting dishonestly in respect of the RTPI or statutory policies and procedures.
- Acts of insubordination such as refusal to follow reasonable management instructions*
- Abuse of authority*
- Objectionable or insulting behaviour.
- Drunkenness, drug taking (other than those medically prescribed) or gambling on the premises or during work time*
- Commercial indiscretion eg disclosing commercially sensitive information for gain*
- Failure to devote a reasonable amount of your time, attention and abilities to RTPI affairs during your normal working hours
- Failure to report any criminal conviction or caution where it directly relates to your ability to carry out your role
- Data protection breaches and / or misuse of RTPI's information
- Accessing RTPI's networks and IT systems from unauthorised equipment
- Personal social media accounts must not refer to employment or any other connection with RTPI (see Social Media Policy for further information)
- Any posts on social media which are illegal or may bring the RTPI into disrepute
- Or any other behaviour which is generally considered to be unacceptable

Offences marked * may, depending on their seriousness, be treated as gross misconduct and treated as summary dismissal as described on the following page.

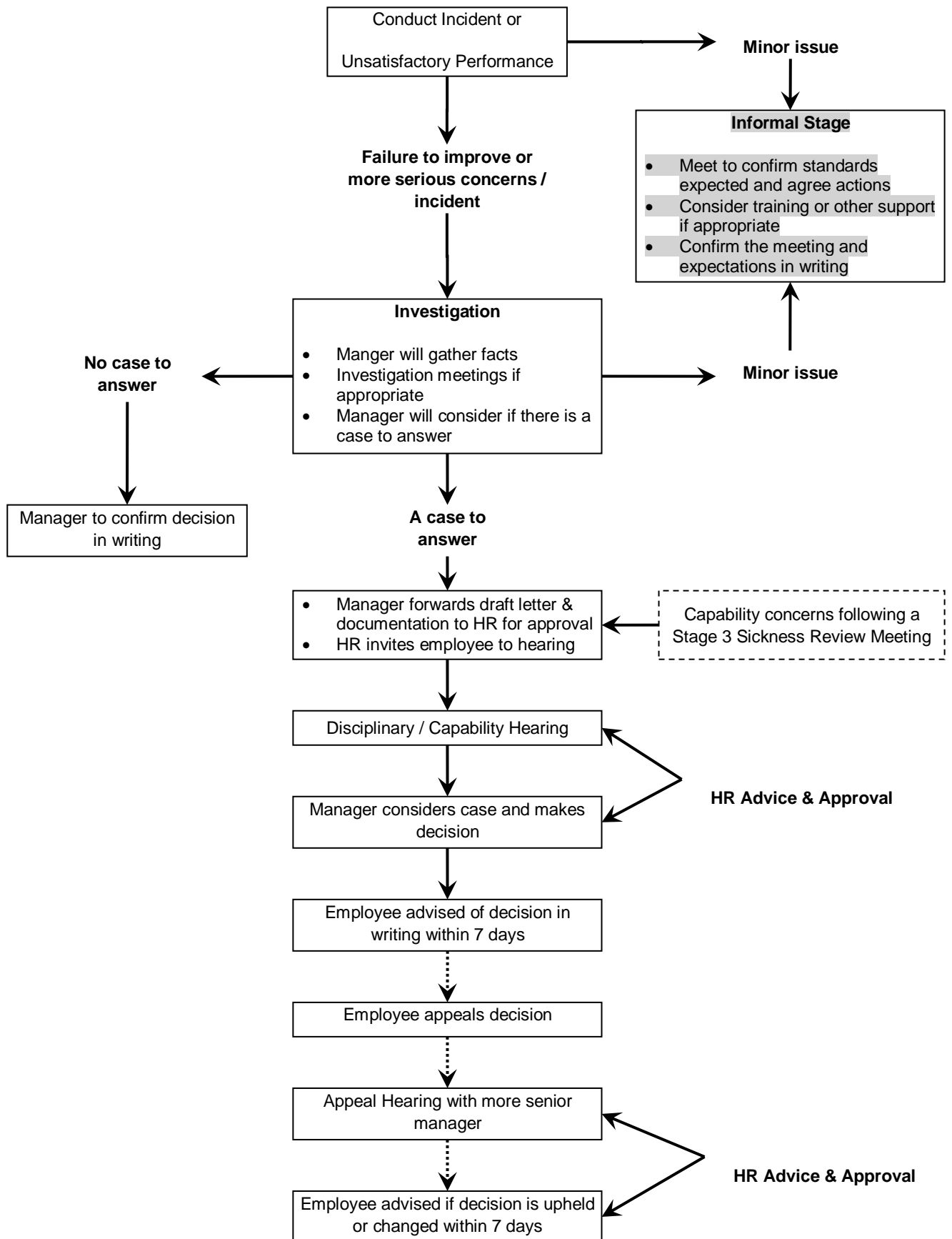
Examples of Gross Misconduct

The following behaviours, which may result in summary dismissal, subject to consideration of mitigating circumstances, include:

- Fraud, theft, unauthorised possession of RTPI property or bribery (giving or receiving)
- Other allegations of dishonesty
- Unauthorised absence
- Deliberate falsification of records (including timesheets or absence records in respect of yourself or other employees, accounts, expense claims, self-certification forms, whether or not any of these are for personal gain)
- Falsification of a qualification that is a stated requirement of the employee's employment or results in potential financial gain to the employee
- Serious breach of RTPI rules on email and internet usage
- Serious Data Protection breaches, disclosure of RTI documents, commercially confidential information and any other confidential information to unauthorised third parties
- Dangerous behaviour, fighting or physical assault or bullying
- Malicious damage to property belonging to the RTPI or its employees or misuse of property
- Intentionally or recklessly disregarding safety standards
- Gross insubordination
- The use or distribution of illegal drugs while at work and/or possession, custody or control of illegal drugs in any premise owned or used by RTPI
- Serious incapability brought on by alcohol
- Causing or attempting to cause damage to the reputation of the RTPI
- Serious breach of RTPI procedures, or any behaviour which is likely to bring the RTPI into disrepute or which is inconsistent with the duties of fidelity and loyalty owed by employees to the RTPI
- Serious breach of the RTPI's rules, including, but not restricted to, health and safety rules and rules on computer use
- Conviction of a criminal offence that is relevant to the employee's employment
- Acts of bullying, harassment or discrimination
- Serious breach of contract of employment

- Serious Misuse or abuse of social media in and outside of work
- Deliberately accessing pornographic, offensive or obscene material

Appendix 2. Disciplinary Procedure



Appendix 3. Suspension

Suspension is never an automatic approach when dealing with a disciplinary matter. Most disciplinary matters will not require suspension and colleagues will usually be able to continue performing their usual role at their usual place of work while the matter is investigated.

Suspension will usually only be considered if there is a serious allegation of misconduct and

- working relationships have severely broken down
- where it is necessary for the employee to be away from the workplace in order for a full investigation to take place
- the nature of the allegations suggest that there could be a potential risk to other employees, property or customers
- the employee is the subject of criminal proceedings that may affect whether they can do their job.

Alternatives to a suspension as part of a disciplinary procedure

Alternatives to suspension could include the individual temporarily:

- being moved to a different area of the workplace
- working from home

Only if all other options are not practical, may suspension become necessary.

Additional considerations when suspending as part of a disciplinary procedure

There should be no assumption of guilt associated with a suspension and suspension must not be used as a disciplinary sanction. However, a suspension can still have a damaging effect on the individual and their reputation.

Therefore, if a suspension is necessary, the suspension and the reason for it should be kept confidential, where possible. If it is necessary to explain the employee's absence, an employer should discuss with the employee how they would like it to be explained to colleagues and/or customers.

Other considerations could include whether it is necessary to:

- escort the employee from the workplace
- remove the employee's workplace pass and/or IT access
- ask the employee to not contact other employees during the investigation.

Suspension on medical grounds

An employer has a duty to ensure the health and safety of its employees.

In certain circumstances, a health professional may recommend that an individual worker is unfit to work, in which case we may have to suspend the individual until such time as they are fit to return to work. Normally, suspension on medical grounds would only happen where an employee, or, if

relevant, their unborn child, would be at risk if they were to attend work; or we could not ensure their safety in the workplace due to something that would be hazardous to them.

When a colleague is suspended, RTPi will appoint a Suspension Support Officer (who would be the line manager or another colleague, mutually agreed upon by both parties) to provide support to the colleague. A record of contact should be maintained and a copy sent to HR on a weekly basis. Where appropriate, colleagues who are suspended should be referred to Occupational Health. In all cases, colleagues should be reminded of the services offered by Health Assured. Colleagues who are suspended should, commensurate with their wishes and the circumstances of the investigation, receive regular contact from work colleagues. They should be given the opportunity to receive information of updates about things happening at work and other significant current issues.