

Policy document control box	
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1.04	20/9/2022	Executive Headteacher	Minor updates	Policy review to reflect the appropriate roles for Executive Headteacher/Centre Headteacher

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## **1. Purpose**

- 1.1. The purpose of this document is to set out the procedures to be followed when standards of conduct give rise to problems which cannot be resolved by advice and encouragement, training or increased support. RBNWL is committed to the avoidance of formal disciplinary procedures wherever possible by addressing problems as soon as they arise. This procedure is intended to provide consistency in the treatment of staff and, to ensure matters are dealt with promptly. RBNWL will take disciplinary action against staff members only in accordance with the provisions of this procedure.

## **2. Scope**

- 2.1. This policy and procedure applies to all RBNWL staff.

## **3. Policy statement**

- 3.1. The aim of the disciplinary process is to encourage improvement and to help staff reach and maintain the required standards of job performance, attendance and conduct. This procedure ensures consistent and fair treatment for all staff at RBNWL and sets out the action which will be taken when performance, attendance or conduct has fallen below the expected standard.
- 3.2. For newly appointed staff who are in their probationary period, RBNWL retains the discretion to vary the procedure accordingly in respect of formal warnings, up to and including termination for a first breach of conduct rules.
- 3.3. The disciplinary procedure is normally only used where other interventions have failed to produce the required improvement or when the conduct matter is sufficiently serious to require immediate formal action.

## **4. Principles**

- 4.1. Members of the Board of Trustees will be involved in all disciplinary cases.
- 4.2. Informal action is preferred where appropriate, to resolve issues and problems before they escalate.
- 4.3. No disciplinary action will be taken against you until the case has been fully investigated.
- 4.4. For formal action you will be advised of the nature of the complaint against you and will be given the opportunity to state your case before any decision is made at a disciplinary meeting.
- 4.5. You will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.

- 4.6. You will not be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissed without notice or payment in lieu of notice.
- 4.7. You will have the right to appeal against any disciplinary action.
- 4.8. The procedure may be implemented at any stage if the alleged misconduct warrants this.

## 5. The procedure

### 5.1. Investigation - establishing the facts

- At every stage the allegation will be thoroughly investigated by the appropriate manager who will listen to the case, interview witnesses (if any) and ascertain all the relevant facts. No person who has been involved in the event being investigated will be responsible for conducting the investigation wherever possible.
- Witnesses will be asked to sign a copy of documentation produced by the investigating officer as a result of their interview, stating that it is "a true and accurate record of the meeting". This applies to staff, students, or other witnesses.

### 5.2. Disciplinary hearing

- Following investigation you will be informed as to whether or not the matter will be referred to a formal disciplinary hearing. You will be given 5 working days' notice of a date and time for the disciplinary hearing, which you must make every effort to attend. You may be accompanied at the hearing by a work colleague of your choice or a trade union representative if you have one and it is your responsibility to arrange this.
- The Disciplinary Panel will consist of: three members of the Board of Trustees (one of whom will chair the panel), an HR advisor, and a note taker.
- You will be permitted to call witnesses to the hearing, at the discretion of the Chair of the Disciplinary Panel.
- Following the hearing you will be informed of the outcome, which may result in one of the following sanctions:

#### *Stage 1 - first warning*

- This will normally be either:
  - An improvement note for unsatisfactory performance if performance does not meet acceptable standards. This will set out the performance problem, the improvement that is required, the timescale, any help that may be given and the right of appeal. You will be advised that it constitutes the first stage of the formal procedure. A record of the improvement note will be kept for 6 months, but will then be considered spent and taken off file, subject to achieving and sustaining satisfactory performance.

Or

- A first warning for misconduct if conduct does not meet acceptable standards. This will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal. The warning will also inform you that a

final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the warning will be kept, but it will be disregarded for disciplinary purposes after 6 months.

#### *Stage 2 - final written warning*

- If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during an active prior warning, a final written warning may be given. This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. A copy of this written warning will be kept by the line manager but will be disregarded for disciplinary purposes after 12 months subject to achieving and sustaining satisfactory conduct or performance.

#### *Stage 3 - dismissal or action short of dismissal*

- If there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal or some other action short of dismissal. Dismissal decisions can only be taken by the appropriate senior manager, in conjunction with the trustee board, and you will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

## **6. Misconduct**

6.1. The following list (not exhaustive) provides some examples of misconduct:

- Persistent timekeeping issues/lateness
- Failure to improve quality of work in response to clear guidance, coaching and support from management
- Leaving the workplace without permission
- Misconduct in relationships with colleagues.

## **7. Gross misconduct**

7.1. The following list (not exhaustive) provides some examples of gross misconduct:

- Theft or fraud
- Physical violence or bullying
- Deliberate and serious damage to property
- Serious misuse of an organisation's property or name
- Deliberately accessing internet sites containing pornographic, offensive or obscene material
- Insubordination
- Unlawful discrimination or harassment
- Bringing the organisation into disrepute
- Serious incapability at work brought on by alcohol or illegal drugs
- Causing loss, damage or injury through negligence

- A serious breach of health and safety rules
  - A serious breach of safeguarding practice as detailed in the RBNWL Safeguarding Policy
  - A serious breach of confidence.
- 7.2. If you are accused of an act of gross misconduct, you may be suspended from work on full pay while the alleged offence is investigated. If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

## **8. Suspension**

- 8.1. Suspension is not a disciplinary sanction. The purpose of suspension is manifold and can be used when it is necessary to remove a member of staff from the workplace pending an investigation for example, to allow time for a 'cooling down period' for both parties, for their own or others' protection, to prevent them influencing or being influenced by others or to prevent possible interference with evidence.
- 8.2. If you are suspended from duty you will receive, within three days, written confirmation of:
- The reason for the suspension
  - The date and time from which the suspension will operate.
  - The timescale of the ongoing investigation.
  - The right of appeal to the immediate manager of the suspending manager should the suspension last more than 7 days.

## **9. Appealing a Formal Decision**

- 9.1. The staff member may appeal in writing, to the Chair of Trustees, setting out the grounds of their appeal, within 5 working days of receiving the written confirmation of the original decision. The staff member must detail how they consider the disciplinary procedure has not been correctly applied, and/or how the outcome was not reasonable or proportionate.
- 9.2. The appeal will normally be heard as soon as possible after receipt of the appeal letter, by an Appeal Panel of three Trustees, who have been independent of the previous disciplinary procedure, convened by the Chair of Trustees.
- 9.3. The Appeal Panel may have an HR adviser attend the meeting who may also be involved in its private deliberations. The HR adviser, who should not have had any previous involvement in dealing with the grievance, shall not have a vote in the decision of the Appeal Committee, but may be given the approval of the Appeal Panel to ask questions on its behalf.
- 9.4. The Appeal Panel will confirm its final decision in writing, as soon as reasonably possible after the appeal meeting. This is the end of the procedure and there is no further right of appeal.

## **10. Records management**

- 10.1. The Executive Headteacher is responsible for the safekeeping of this policy. This policy will be available for all staff on the staff drive.

## **11. Related legislation and documents**

### **11.1. External Documents**

- General Data Protection Regulation (GDPR May 2018)
- Employment Relations Act 1999
- Employment Act 2008

### **11.2. Internal Documents**

- Code of Conduct for all staff
- Anti-Bullying Policy
- Code of Conduct Policy
- Complaints Policy
- Whistleblowing Policy
- Sickness Absence Policy
- Grievance Policy