



## Code of Conduct Policy - Procedure

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This policy reflects legislation and official guidance at the time it was last reviewed. Any changes in legislation will take precedence over anything printed in this policy. Where other policies are referred to they can be viewed at the Policy Library

## **1. Procedure**

The procedures should be read in conjunction with the Code of Conduct Policy and the RSN Staff handbook.

### **1.1 Informal Procedures**

Unacceptable behaviour will normally be dealt with between the manager or supervisor and employee in a no confrontational manner.

In most cases the most effective way of dealing with unacceptable behaviour is to speak directly with the person concerned as early as possible, making it clear to the individual that the behaviour is unacceptable and contravenes the Policy and Staff Handbook.

The behaviour should be identified as inappropriate, and the individual should be advised that the behaviour must cease.

If the informal procedure does not lead to a resolution or the complaint cannot be raised with the respondent, the matter should be escalated to the line manager.

Managers have an active role to play in resolving any issues that are raised under this policy and are they expected to take action if any incidents involving unacceptable behaviour are brought to their attention, seeking advice and support from HR as appropriate.

If the complainant's manager is the person against whom the complaint is being made, the complaint may be made to the next level of management.

The informal procedure is designed to try and resolve the matter swiftly and effectively with the minimum amount of distress to all parties. In this regard the following will occur:

- Discussion of the problem between the complainant and his/her line manager
- The manager will approach the respondent outlining the nature of the complaint and the impact on the complainant.
- Through a series of discussions, the manager will work to resolve the issue with the two parties and notes will be taken by the manager
- Following resolution, the manager will monitor and review the situation with both parties.
- If it is not possible to resolve the matter locally then the complainant or his/her manager, having informed the complainant, may bring the matter to the attention of the Director of Operations (Human Resources).
- The Director of Operations (Human Resources) or his/her nominee may, where appropriate and with the consent of the parties involved, seek to resolve the matter with the assistance of an objective designated third party.
- In certain cases, the Director, HR or his/her nominee may suggest that mediation should take place between the complainant and the person against

whom the complaint is made. Mediation is a voluntary, without prejudice and confidential facilitated process that is designed to resolve workplace difficulties.

## **2. FORMAL COMPLAINT & INVESTIGATION PROCEDURES**

If attempts to resolve the matter pursuant to the Informal Procedures have failed, or if the unacceptable behaviour has continued after the Informal Procedures were followed. The complainant should submit a formal complaint in accordance with the RSN's Procedures and as per the RSN Handbook the process will be:

### **2.1 Investigation**

If it is alleged that you have committed misconduct, an appropriate investigation will be carried out aimed at gathering all of the relevant evidence. You may be interviewed as part of this investigation and will have the opportunity to point the investigator towards any evidence that you feel is relevant. The right to be accompanied (see below) does not apply to any investigatory interview.

### **2.2 Suspension**

If an allegation of misconduct is made against you, then you may be suspended from your duties on full pay while the matter is being dealt with. The RSN will make every effort to ensure that any period of suspension is kept as short as possible. The purpose of a suspension is either to allow an unhindered investigation to take place, or to protect the interests of the RSN and its employees. During any period of suspension you may be instructed not to contact other members of staff except for the purposes of preparing for any disciplinary hearing, where specific arrangements will be made with you. This is not a disciplinary sanction and should not be seen as a predetermination of any disciplinary process.

### **2.3 Hearing**

Once the investigation has been carried out, the investigating officer will make a decision about whether there is sufficient evidence to warrant a disciplinary hearing. If there is, you will be informed of this and an appropriate date for the hearing will be arranged. This will take place within normal working hours wherever possible.

To ensure that you have adequate time to prepare for the hearing, the RSN will provide you in advance with a copy of all the written evidence that will be considered at the hearing. In exceptional cases the RSN may need to withhold the identities of certain witnesses or hold back sensitive items of evidence. This will only be done where it is considered necessary to protect individuals or the essential interests of the RSN and every effort will be made to ensure that you are given as much information as possible so that a fair hearing can be conducted.

You will be given sufficient notice of any hearing to allow you to prepare for it. While this will vary from case to case, the RSN will generally try to give at least two days' notice of any hearing and in complicated cases a longer period of notice may be given.

The purpose of the hearing will be to consider the evidence gathered during the investigation and to consider any representations made by you or on your behalf. The hearing will be conducted by an appropriate manager who, wherever possible, has not previously been involved in the case and who was not responsible for carrying out the investigation.

#### **2.4 The Right to be Accompanied**

Employees are entitled to be accompanied at any disciplinary hearing by a fellow employee or trade union official of their choice. The RSN will provide any chosen companion with appropriate paid time off to allow them to attend the hearing. It is, however, up to the employee in question to arrange for a companion to attend the hearing.

If your chosen companion cannot attend on the day scheduled for the hearing, then the RSN will agree a new date. This will usually be within 5 working days of the date originally scheduled. If your companion is not available within that timescale, then you may need to find someone else to take their place.

The companion's role is to advise you during the hearing and make representations on your behalf; it is not to answer questions for you. However, both you and your companion are required to cooperate in ensuring a fair and efficient hearing. The companion cannot answer questions on your behalf.

#### **2.5 Evidence**

The hearing will consider any evidence you choose to present. Should witnesses be prepared to appear on your behalf they will be permitted to do so provided that their evidence is relevant to the issues that need to be decided. The RSN will not compel or require any employee to appear as a witness on your behalf and in most circumstances, evidence arising from the investigation will be presented in written form. You will be entitled to challenge any of the evidence presented but will not be entitled to cross-examine witnesses.

#### **2.6 Disciplinary Action**

After considering all of the evidence, including any submissions made by you or on your behalf, the manager conducting the hearing will decide on the outcome. If misconduct is found to have taken place then the usual outcome will be a **written warning** which will be placed on your personnel file.

A warning will stay active for a period of 1 year, after which it will not be taken into account in any future disciplinary action.

If, however, a further instance of misconduct is found to have occurred (in accordance with this procedure) during the currency of a warning – or if any misconduct is considered to be serious enough to warrant it – then, subject to the formal process above being followed, you will be issued with a **final written warning**.

A **final written warning** will usually remain active for one year, but a longer period may be specified if the manager conducting the hearing feels that the circumstances warrant it.

An employee who is found to have committed further misconduct during a period covered by a final written warning will, following a hearing conducted in accordance with this procedure, generally be dismissed.

## **2.7 Dismissal**

An employee will not normally be dismissed under this procedure for a single instance of misconduct unless a final written warning is already in place. However, where gross misconduct is found to have occurred then dismissal without notice or payment in lieu will be the usual outcome.

Gross misconduct is misconduct that is so serious that it fundamentally undermines the relationship between employer and employee. If you are accused of gross misconduct this will be made clear when you are invited to a disciplinary hearing. A wide range of behaviours can amount to gross misconduct but the most common involve dishonesty, violent or aggressive behaviour, the wilful destruction of RSN property or a deliberate refusal to obey a reasonable instruction.

## **2.8 Appeal**

An employee may appeal against the outcome of a disciplinary hearing by doing so in writing within one week of being notified of the outcome. The person to whom an appeal should be directed will be detailed in the disciplinary outcome letter. An appeal hearing will be convened and conducted by an appropriate member of the senior management team.

The appeal will consider any grounds the employee chooses to put forward and they will have the same right to be accompanied as at a disciplinary hearing. The result of the appeal hearing will be final.

## **2.9 Employee Absence**

It is important that disciplinary issues are dealt with promptly. The RSN may therefore need to proceed with a disciplinary hearing even if the employee is absent due to ill health or simply does not attend. Before hearing the matter in an employee's absence, the RSN will attempt to arrange the hearing in such a way that the employee will be able to attend or to submit written representations to the hearing and/or to arrange for an appropriate representative to attend the hearing on their behalf.