

Disciplinary Policy

Response Healthcare Solutions Ltd

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1. Introduction and Purpose

1.1 Policy Overview

This Disciplinary Policy sets out the framework and procedures that Response Healthcare Solutions Ltd ("RHS", "the Company") follows when dealing with employee misconduct, performance issues, and breaches of company policies. The policy is designed to ensure fair, transparent, and consistent disciplinary processes while maintaining full compliance with employment law, ACAS guidelines, and healthcare sector standards.

This policy applies to all employees, workers, contractors, and other personnel engaged by RHS.

1.2 Policy Objectives

The objectives of this disciplinary policy are to:

- Maintain high standards of conduct and performance
- Ensure fair and consistent treatment of all employees
- Provide employees with clear standards of expected behaviour
- Protect vulnerable persons (clients, patients, service users)
- Maintain safe working environment and safeguarding standards
- Give employees opportunity to improve conduct/performance before dismissal
- Comply with employment law and ACAS guidelines
- Provide clear procedures accessible to all employees
- Ensure impartial and transparent decision-making
- Protect RHS reputation and service quality

1.3 Legal Framework

This Policy is established to ensure compliance with:

- Employment Rights Act 1996 (right to fair dismissal)
- Equality Act 2010 (discrimination and protected characteristics)
- Trade Union and Labour Relations (Consolidation) Act 1992 (union representation)
- Data Protection Act 2018 (personal data in disciplinary matters)
- General Data Protection Regulation (UK GDPR)
- Health and Safety at Work etc. Act 1974 (safety compliance)
- Rehabilitation of Offenders Act 1974 (criminal convictions disclosure)
- Public Interest Disclosure Act 1998 (whistleblowing protection)
- ACAS Code of Practice on Disciplinary and Grievance Procedures (2015)
- Common Law of Contract (implied terms of trust and confidence)
- Human Rights Act 1998 - Article 8 (right to private life)
- Safeguarding Vulnerable Groups Act 2006 (safeguarding obligations)

- Care Inspectorate Standards and Guidance (Scotland)

1.4 ACAS Guidelines Compliance

This policy is developed in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures (2015). Key principles from ACAS guidance incorporated include:

- **Clarity:** Clear, accessible, and written procedures
- **Fairness:** Fair and consistent treatment of all employees
- **Transparency:** Open communication and transparency
- **Impartiality:** Independent decision-making
- **Proportionality:** Responses proportionate to conduct
- **Right to Representation:** Right to be accompanied
- **Right to Appeal:** Right to appeal decision
- **Timeliness:** Procedures completed without unreasonable delay
- **Investigation:** Proper investigation before disciplinary action
- **Documentation:** Clear records maintained

1.5 Scope of Application

This Policy applies to:

- All employees (permanent, temporary, fixed-term, casual)
- All workers (agency workers, consultants, contractors)
- All volunteers
- All Board members and governance roles
- All persons under supervision or management of RHS

The Policy applies to misconduct occurring:

- During working hours
- At RHS premises
- In work-related contexts (meetings, events, training)
- Off-site but work-related (client visits, conferences, events)
- Using RHS equipment or systems
- On social media (where work-related or bringing RHS into disrepute)
- Conduct affecting RHS reputation or service quality

2. Standards of Conduct and Behaviour

2.1 Expected Standards

All employees are expected to:

- Conduct themselves professionally and respectfully
- Comply with all RHS policies and procedures
- Follow all lawful instructions from management
- Maintain high standards of attendance and punctuality
- Maintain confidentiality of sensitive information
- Treat colleagues, clients, and service users with respect
- Comply with health and safety requirements
- Report safety concerns and incidents
- Maintain appropriate professional boundaries
- Contribute positively to team environment
- Not discriminate against colleagues or service users
- Maintain professional appearance and standards
- Use company resources responsibly

- Follow data protection and safeguarding procedures

2.2 Misconduct Categories

Minor Misconduct (typically results in informal action or written warnings):

- Poor timekeeping or attendance
- Failure to complete routine tasks properly
- Not following standard procedures
- Minor breach of dress code
- Using phone/social media excessively
- Minor confidentiality breach with no harm
- Failure to follow health and safety procedures (minor)
- Disrespectful communication (minor)
- Untidy work area

Serious Misconduct (typically results in first formal warning):

- Repeated minor misconduct despite warnings
- Significant breach of procedures
- Serious breach of confidentiality
- Dishonesty or deception (minor)
- Insubordination or refusal to follow reasonable instructions
- Verbal abuse or aggressive behaviour
- Working under influence of alcohol/drugs (non-serious)
- Sleeping at work
- Theft or loss of company property (minor)
- Serious attendance/punctuality issues

Gross Misconduct (typically results in dismissal without notice):

- Theft, fraud, or dishonesty
- Working under influence of drugs or alcohol
- Assault, violence, or threats
- Sexual harassment or assault
- Discrimination or harassment
- Gross insubordination
- Gross breach of confidentiality or data protection
- Serious safeguarding breach
- Serious breach of health and safety
- Deliberate damage to company property
- Serious misconduct bringing RHS into disrepute
- Unauthorized recording of private conversations
- Serious abuse of position of trust
- Breach of professional boundaries with clients/service users
- Serious breach of patient/client confidentiality

2.3 Disciplinary Sanction Hierarchy

RHS follows escalating disciplinary approach:

Level 1 - Informal Action:

- Verbal warning (informal)
- Discussion with manager
- Counselling and support
- Clarification of expectations
- Performance improvement discussion
- Opportunity to improve without formal record

Level 2 - Formal Action (First Stage):

- First Written Warning (typically for first formal misconduct)
- One-off serious misconduct
- Copies provided to employee and placed on personnel file
- Warning period: typically 6-12 months

Level 3 - Formal Action (Escalated):

- Final Written Warning (typically for escalation or repeated misconduct)
- Serious misconduct requiring stronger response
- Copies provided to employee and placed on personnel file
- Warning period: typically 12-24 months
- Clear notification of consequences (dismissal if conduct not improved)

Level 4 - Dismissal:

- Summary Dismissal (for gross misconduct - immediate dismissal without notice)
- Dismissal with Notice (after final written warning not heeded)
- Termination of contract and employment

Special Circumstances:

- Dismissal: Where conduct particularly serious or repeated escalation
- Demotion: In some cases (with employee consent and new contract)
- Suspension: Pending investigation (paid normally, unless serious circumstances)
- Exclusion: From specific duties pending investigation
- Redeployment: To different role (where misconduct related to role)

2.4 Factors Affecting Disciplinary Outcome

RHS considers the following factors when determining disciplinary response:

Mitigating Factors (may reduce sanction):

- First instance of misconduct
- Employee's length of service and conduct record
- Employee's willingness to improve
- Extenuating circumstances affecting employee
- Medical or personal issues contributing to conduct
- Employee's age (if young worker)
- Previous verbal warnings informally given
- Provocation from others
- Employee's cooperation during investigation
- Previous positive performance record
- Remorse and genuine apology
- Actions taken to prevent recurrence

Aggravating Factors (may increase sanction):

- Repeated misconduct despite previous warnings
- Deliberate breach of policy
- Abuse of position of responsibility
- Impact on vulnerable persons (clients, patients)
- Impact on team or service
- Breach of trust
- Premeditated misconduct
- Denying misconduct despite evidence

- Lack of remorse
 - Previous disciplinary history
 - Serious breach of safeguarding duties
 - Breach of data protection/confidentiality
 - Dishonesty during investigation
 - Encouraging others to breach policies
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3. Informal Procedures

3.1 Informal Action Principle

Before formal disciplinary procedures commence, RHS may take informal action for minor misconduct:

Purpose of Informal Action:

- Address minor issues promptly
- Provide opportunity to improve without formal record
- Support employee development
- Avoid unnecessary formality
- Build positive working relationships
- Prevent escalation

When Informal Action Used:

- First instance of minor misconduct
- Breach easily corrected
- No impact on vulnerable persons
- No safety risk
- Employee's record otherwise good
- Clear explanation of expectations needed

When Not Used:

- Serious or gross misconduct
- Repeated misconduct despite previous informal action
- Safeguarding concerns
- Safety violations
- Dishonesty or deception
- Breach of trust
- Impact on vulnerable persons

3.2 Informal Discussion Process

Discussion Meeting:

1. Manager meets with employee informally (not formal meeting)
2. Issue explained clearly and calmly
3. Employee's perspective sought and listened to
4. Expected standard of conduct explained
5. Support offered to help employee improve
6. Clear expectation set for future conduct
7. Follow-up meeting arranged (typically 2-4 weeks)
8. No formal disciplinary record created
9. No warning issued

Documentation:

- Informal discussions not formally recorded
- No notes placed on personnel file
- Brief note may be kept by manager for own reference
- No formal warning letter issued
- Employee not provided with written record

Follow-up:

- Manager checks in with employee after appropriate time
- Positive feedback provided if improvement shown
- Further informal discussion if no improvement
- Escalation to formal procedures if necessary

3.3 Informal Counselling and Support

Where misconduct relates to performance, health, or personal circumstances:

- One-to-one discussion with manager
- Supportive approach focusing on improvement
- Identification of barriers to performance
- Support mechanisms offered (training, mentoring, adjustments)
- Clear performance expectations set
- Regular check-ins arranged
- No formal disciplinary action taken
- Escalation to formal procedures if no improvement

4. Formal Disciplinary Procedures

4.1 Investigation Stage

Before formal disciplinary action taken, proper investigation conducted:

Investigation Decision:

- Manager informed of allegation/concern
- Initial assessment of seriousness
- Decision whether investigation needed
- Investigation scope determined
- Investigator appointed (typically HR or independent manager)

Investigation Purpose:

- Gather relevant facts and evidence
- Interview employee and witnesses
- Review documentation and records
- Assess seriousness of allegation
- Determine whether misconduct occurred
- Establish circumstances and context
- Identify any mitigating factors
- Prepare investigation report

Investigation Process:

1. **Planning:** Investigation scope, timescale, and method determined
2. **Evidence Gathering:** Documents, records, and systems reviewed
3. **Witness Interviews:** Witness statements taken (confidentially)
4. **Employee Interview:** Employee given full opportunity to respond

5. **Analysis:** All evidence reviewed and assessed
6. **Report:** Investigation findings documented

Investigation Timescale:

- Investigation commenced promptly (within 3-5 working days typically)
- Investigation completed within 15-20 working days (where possible)
- Delays communicated and explained to employee
- Employee kept informed of progress

Suspension During Investigation:

- Employee may be suspended pending investigation (in serious cases)
- Suspension typically paid
- Suspension period: typically up to 2-4 weeks
- Extended suspension requires clear justification
- Regular contact maintained with suspended employee
- Return to work discussed as soon as appropriate

Investigation Confidentiality:

- Investigation details kept confidential
- Only necessary people informed
- Witnesses' identities protected (where possible)
- Information not discussed with colleagues
- Findings shared only with those who need to know
- Investigation report not automatically shared with employee

4.2 Investigation Report

Investigation Report Contents:

- Terms of reference for investigation
- Witnesses interviewed and their statements
- Documents reviewed and findings
- Key facts established
- Disputed matters identified
- Assessment of evidence credibility
- Finding on whether misconduct occurred
- Circumstances and context
- Relevant policies and procedures
- Recommendations for action

Sharing Investigation Findings:

- Investigation report prepared for management review
- Employee provided with summary of findings
- Employee given access to key evidence
- Employee not automatically provided with full report
- Third parties' confidential information withheld
- Employee given opportunity to comment on findings

4.3 Formal Disciplinary Meeting

When Formal Meeting Held:

- After investigation completed (normally)
- When misconduct allegation to be addressed formally

- When first or subsequent written warning to be issued
- When dismissal being considered

Meeting Notification:

- Employee notified of disciplinary meeting in writing
- At least 5 working days' notice given (ACAS guideline)
- Meeting location, date, and time specified
- Purpose of meeting explained
- Statement of case provided (key allegations/concerns)
- Employee's right to be accompanied explained
- Documents to be discussed identified
- Employee advised to prepare response

Right to Be Accompanied:

- Employee has right to be accompanied by:
 - Trade union representative
 - Work colleague
 - Workplace representative
 - Family member (in some circumstances)
- Companion's role is to:
 - Support and represent employee
 - Ask questions and raise points
 - Respond to allegations on employee's behalf (if employee wishes)
 - Review notes and records
 - Not act as legal representative

Companion Entitlements:

- Reasonable time off work to attend meeting
- Companion briefing time (reasonable)
- Companion travel and accommodation costs (reasonable)
- Paid time off work for attendance
- No detriment to employee for having companion

Denial of Right to Accompany:

- Right to companion cannot be denied
- Employee entitled to rearrange meeting if companion unavailable
- RHS accommodation of dates shown reasonable
- Failure to allow companion may render dismissal unfair

4.4 Disciplinary Meeting Process

Meeting Conduct:

Opening (5-10 minutes):

- Formal explanation of purpose
- Confirmation of right to accompany
- Explanation of procedure
- Introductions of attendees
- Setting ground rules (confidentiality, respect)

Presenting Case (15-30 minutes):

- Manager presents allegations clearly
- Evidence against employee outlined

- Relevant policies/procedures referenced
- Impact of misconduct explained
- Employee given opportunity to listen and understand

Employee Response (15-30 minutes):

- Employee given full opportunity to respond
- Questions answered
- Mitigating circumstances explained
- Employee's account heard fully
- Companion may contribute
- Supporting evidence presented
- Explanation of circumstances given

Discussion (10-15 minutes):

- Questions clarified
- Inconsistencies explored
- Further evidence discussed
- Context considered
- Opportunities to correct misunderstandings

Concluding (5-10 minutes):

- Manager explains next steps
- Decision timescale given
- Appeal process explained
- Meeting adjourned for decision-making
- Employee told when outcome will be communicated

Meeting Standards:

- Meeting conducted professionally and respectfully
- Employee treated fairly and impartially
- Active listening demonstrated
- Employee's perspective genuinely considered
- No ambush or surprise allegations
- Interpreter provided if needed (language barrier)
- Accessible location for disabled employees
- Reasonable adjustments provided (breaks, support, etc.)
- Meeting tone calm and non-aggressive

4.5 Decision-Making

Decision Panel (where applicable):

- Decision maker(s) may include:
 - Investigating manager (if not decision maker)
 - Senior manager
 - HR representative
 - Independent panel member (in serious cases)
- Decision maker independent of investigation (where possible)
- Multiple decision-makers provide impartiality

Decision Considerations:

- All evidence reviewed carefully
- Credibility of evidence assessed
- Employee's account considered fully

- Mitigating factors weighed
- Relevant policies and guidance reviewed
- Proportionality assessed
- ACAS guidelines considered
- Precedent and consistency considered
- Safeguarding implications assessed
- Impact on vulnerable persons evaluated

Decision Factors:

- Was misconduct established on balance of probabilities?
- How serious is the misconduct?
- What is appropriate sanction?
- Are there mitigating factors?
- What disciplinary history does employee have?
- Are there any other relevant circumstances?
- Has fair procedure been followed?

Decision Timescale:

- Decision made promptly (typically within 5-10 working days)
- Employee not kept waiting unreasonably
- Delays explained and communicated
- Extension communicated in advance
- Employee informed when decision will be communicated

4.6 Disciplinary Outcome Communication

Outcome Letter:

Employee provided with written outcome letter including:

- Misconduct allegation(s) restated
- Evidence considered
- Employee's response recorded
- Finding on whether misconduct proved
- Reasoning for finding
- Policy/procedure breached identified
- Disciplinary sanction decided
- Duration of warning (if applicable)
- Expected standards going forward
- Support offered to employee
- Right to appeal explained
- Appeal timescale and process
- Copy for personnel file

Verbal Communication:

- Outcome discussed at disciplinary meeting (if possible)
- Written letter provided confirming decision
- Decision not announced until confirmed in writing
- Confidentiality maintained pending written confirmation

Timing of Notification:

- Written outcome provided promptly
- Typically within 5-10 working days of meeting
- Employee not left uncertain
- Delays minimized

4.7 Disciplinary Sanctions

Written Warning (First):

- Issued for first formal misconduct
- Written record placed on personnel file
- Employee given copy of warning letter
- Clear statement of unacceptable conduct
- Expectation that conduct will improve
- Consequences of further misconduct explained
- Support offered to employee
- Warning period typically 6-12 months
- At end of period, warning removed from active file (if conduct improved)

Written Warning (Final):

- Issued where misconduct repeated or particularly serious
- Clear notification this is final warning
- Written record placed on personnel file
- Employee given copy of warning letter
- Clear statement of unacceptable conduct
- Final opportunity to improve emphasized
- Explicit warning of dismissal if conduct not improved
- Support offered
- Warning period typically 12-24 months
- At end of period, warning removed from active file (if conduct improved)

Suspension from Duties:

- Temporary removal from specific duties
- Typically used for misconduct affecting specific role
- Paid suspension (unless gross misconduct)
- Alternative duties assigned where possible
- Duration specified (typically 1-4 weeks)
- Clear conditions for reinstatement
- Performance review after reinstatement

Demotion:

- Reduction in grade or responsibility
- Requires employee consent (unless serious misconduct)
- New contract agreed
- Salary adjustment (if applicable)
- Role changed (with employee agreement)
- Clear statement of expectations
- Support provided for transition

Dismissal with Notice:

- Used where final written warning not heeded
- Employee given notice period (contractual)
- Written dismissal letter provided
- Reasons for dismissal clearly stated
- Appeal rights explained
- Final pay and benefits information provided
- References discussed

Summary Dismissal:

- Used for gross misconduct
 - Dismissal without notice or payment in lieu
 - Misconduct serious enough to breach trust fundamentally
 - Written dismissal letter provided
 - Reasons for summary dismissal clearly stated
 - Appeal rights explained
 - Notice period requirement suspended
 - Final pay calculated (notice period not included)
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5. Performance Management

5.1 Distinction from Discipline

Performance Issues (managed separately from discipline):

- Inability to meet job performance standards
- Lack of competence or capability
- Need for additional training or support
- Health-related performance issues
- Capability to perform role
- Performance improvement needed

Misconduct (managed through discipline):

- Intentional breach of policy
- Deliberate poor conduct
- Failure to follow instructions
- Dishonesty or deception
- Attitude or behaviour issues
- Refusal to perform duties

Key Difference:

- Performance = employee cannot do the job (capability)
- Misconduct = employee will not do the job (conduct)

5.2 Performance Management Process

Performance Improvement Plan:

When employee's performance not meeting required standards:

1. **Discussion:** Manager meets with employee to discuss performance concerns
2. **Objectives:** Specific, measurable performance objectives set
3. **Support:** Training, mentoring, resources provided
4. **Timeline:** Clear improvement timescale set (typically 4-8 weeks)
5. **Monitoring:** Regular check-ins on progress (weekly/fortnightly)
6. **Review:** Formal review at end of improvement period
7. **Outcome:**
 - Performance improved → objectives met, process concludes
 - Performance not improved → may lead to capability procedures

Capability Procedures (if performance doesn't improve):

- Formal meeting to discuss continued poor performance

- Investigation into reasons
- Further support offered
- Extended improvement plan if appropriate
- Final review meeting
- Outcome: improvement, further support, or dismissal

Documentation:

- Performance discussions documented
- Objectives clearly recorded
- Support provided noted
- Progress monitored with records
- Formal review documented

6. Special Circumstances

6.1 Safeguarding and Vulnerable Persons

Expedited Procedures:

Where misconduct involves vulnerable persons:

- Investigation conducted urgently
- Immediate action taken if safety at risk
- Suspension considered to protect vulnerable persons
- Formal meeting held promptly
- Sanction communicated quickly
- Possible immediate dismissal without notice (gross misconduct)

Safeguarding Concerns:

- Any safeguarding concern reported to appropriate authority (Local Authority, Police)
- Cooperation with safeguarding investigation
- RHS investigation may be paused pending safeguarding outcome
- Disclosure to Disclosure and Barring Service (DBS) considered
- Professional body referral if healthcare professional
- Care Inspectorate notification if required

Vulnerable Persons Misconduct Examples:

- Physical abuse or violence
- Sexual abuse or inappropriate contact
- Emotional abuse or humiliation
- Neglect or failure to protect
- Breach of confidentiality causing harm
- Exploitation or financial abuse
- Any misconduct disproportionately affecting vulnerable person

6.2 Health and Safety Breaches

Serious Health and Safety Misconduct:

- Deliberate breach of health and safety procedures
- Creating health and safety risk
- Failure to report safety concerns
- Negligence causing harm or risk
- Non-compliance with safety instructions
- Safety equipment removal or disablement

Process:

- Investigation conducted urgently
- Health and Safety Officer involved
- Risk assessment conducted
- Interim measures taken (suspension, redeployment)
- Formal meeting held
- Sanction proportionate to risk created

6.3 Dishonesty and Fraud

Dishonesty or Fraud Misconduct:

- Theft or attempted theft
- Fraud or financial dishonesty
- Falsification of records or documents
- False expense claims
- Abuse of position for personal gain
- Misuse of company resources
- Deliberate deception

Process:

- Investigation conducted by appropriate party (possibly external)
- Evidence preserved and secured
- Police involvement considered (if criminal)
- Forensic checks where necessary
- Employee given full opportunity to respond
- Formal disciplinary meeting held
- Likely outcome: dismissal (unless very minor)

6.4 Data Protection and Confidentiality Breaches

Data Protection Misconduct:

- Unauthorized access to personal data
- Disclosure of confidential information
- Breach of GDPR obligations
- Failure to protect sensitive information
- Data destruction or loss
- Recording of confidential conversations
- Sharing of client/patient information

Process:

- Breach reported to Data Protection Officer
- Investigation conducted urgently
- Scope of breach assessed
- Risk to data subjects evaluated
- Notification requirements assessed
- Disciplinary investigation carried out
- Formal meeting held
- Sanction appropriate to breach severity

6.5 Discrimination or Harassment

Discrimination Misconduct:

- Direct discrimination based on protected characteristic
- Indirect discrimination through policies/practices
- Harassment based on protected characteristic
- Victimization for raising discrimination concern
- Sexual harassment or assault
- Creating hostile work environment

Process:

- Complaint received and recorded
- Urgent investigation conducted
- Victim supported (counselling, adjustments)
- Perpetrator interviewed
- Witnesses interviewed
- Evidence gathered thoroughly
- Possible disciplinary action
- Sanction likely to be serious (final warning or dismissal)
- Possible referral to police (if criminal harassment/assault)

6.6 Gross Misconduct Situations

Immediate Action:

- Employee may be suspended immediately (pending investigation)
- No prior investigation delay
- Suspension typically paid
- Investigation commenced urgently
- Meeting held within 1-2 weeks
- Dismissal likely outcome
- Appeal process explained

Gross Misconduct Examples:

- Assault or violence
- Sexual misconduct
- Theft or fraud
- Serious breach of confidentiality
- Working under influence of drugs/alcohol
- Serious breach of safeguarding duties
- Any conduct fundamentally breaching trust

7. Appeals Process

7.1 Right to Appeal

Appeal Right:

All employees have right to appeal against disciplinary decision:

- Written warning (first or final)
- Suspension
- Demotion
- Dismissal
- Any other disciplinary sanction

Appeal Exception:

- Informal action (verbal discussion) not subject to appeal
- No appeal of informal warning

7.2 Appeal Notification

Appeal Letter Requirements:

Employee lodges appeal by submitting written letter including:

- Statement that appeal is being lodged
- Appeal deadline met (typically within 10 working days)
- Grounds of appeal (basis for challenging decision)
- Specific reasons for appeal
- New evidence being submitted (if any)
- Request for appeal meeting date

Appeal Submission:

- Submitted to HR or senior manager (not original decision maker)
- In writing (email or letter)
- Signed by employee (if letter)
- Submitted within timescale (typically 10 working days)

7.3 Appeal Grounds

Valid Grounds for Appeal:

- Procedural unfairness (process not followed)
- Evidence not fairly considered
- Mitigating factors not properly weighed
- Sanction disproportionate to misconduct
- Inconsistent with disciplinary precedent
- New evidence available that wasn't at original hearing
- Bias or conflict of interest by decision maker
- Factual error in findings
- Misapplication of policy or procedure

Appeal Cannot Be:

- Re-hearing of entire case (unless new evidence)
- Opportunity to re-argue original case
- Challenge to manager's judgment alone
- Appeal against fair decision

7.4 Appeal Hearing

Appeal Meeting Notification:

- Written notification of appeal meeting date
- At least 5 working days' notice
- Meeting location, date, time specified
- Purpose and format explained
- Right to be accompanied confirmed
- Documents to be discussed identified

Appeal Hearing Process:

1. **Opening:** Purpose explained, attendees introduced

2. **Presentation:** Employee presents appeal grounds and reasons
3. **Questioning:** Appeal decision maker asks questions
4. **Response:** RHS presents response to appeal
5. **Discussion:** Issues clarified and explored
6. **Closing:** Next steps and timeline explained

Appeal Hearing Standards:

- Conducted by person independent of original decision
- Not the original decision maker
- Fair and impartial hearing given
- Employee fully heard and considered
- Right to be accompanied respected
- Professional and respectful tone maintained
- New evidence considered
- Original decision reviewed openly

7.5 Appeal Decision

Appeal Outcome:

Appeal decision maker may:

1. **Uphold Appeal:** Original decision overturned
 - Disciplinary sanction removed
 - Records expunged (where appropriate)
 - Employee reinstated to role (if dismissed)
 - Compensation may be offered
2. **Partially Allow Appeal:** Some aspect changed
 - Sanction reduced
 - Finding modified (but not completely overturned)
 - Some concerns upheld, others not
3. **Dismiss Appeal:** Original decision upheld
 - No change to sanction
 - Original decision stands
 - Reasons for dismissal explained

Appeal Decision Communication:

- Written decision letter provided
- Reasons for decision clearly explained
- Any changes to original sanction outlined
- Practical arrangements explained (if reinstatement)
- No further appeal available (final decision)
- Right to contact external body explained (if applicable)

Appeal Timescale:

- Appeal hearing held within 15-20 working days
- Decision communicated within 5-10 working days
- No unreasonable delay
- Delays communicated and explained
- Employee kept informed of progress

8. Special Employee Types

8.1 Employees with Disabilities

Reasonable Adjustments:

- Disciplinary procedures adapted for disabled employees
- Additional support provided (interpreter, reader, support person)
- Venue accessibility ensured
- Meeting length adjusted if needed
- Breaks provided
- Recording or notes adaptation if required
- Companion support without stigma

Health-Related Performance:

- Health issues managed through capability, not discipline (usually)
- Occupational health advice sought
- Reasonable adjustments considered before discipline
- Supportive approach taken
- Dismissal only where truly incapable

Disability-Related Misconduct:

- Consideration of whether disability contributed to misconduct
- Reasonable adjustments that might prevent recurrence
- Training or support offered
- Not used as excuse for serious misconduct
- Safeguarding concerns not overridden by disability

8.2 Young Workers (under 18)

Enhanced Protection:

- Additional safeguarding considerations
- Parent/guardian consultation considered
- Welfare assessed throughout
- Proportionate sanctions applied (consider age)
- Training and mentoring offered
- Opportunity for improvement provided
- Dismissal considered only as last resort

Misconduct Assessment:

- Age and maturity considered
- Life experience limited
- Susceptibility to pressure considered
- Understanding of consequences assessed
- Training needs identified
- Positive behaviour reinforcement used

8.3 Employees on Probation

Probation Period:

- Typically 3-6 months from employment start
- Reduced procedural protections under probation
- Easier to terminate if not suitable
- Still entitled to fair treatment
- ACAS guidelines still apply (though some flexibility)

Probation Dismissal:

- Can be dismissed during probation with less formality
- Dismissal not automatically unfair
- But dismissal must still be fair (not discriminatory)
- Reasonable notice normally given (unless breach of policy)
- Right to appeal still applies
- Reasons clearly communicated

8.4 Trade Union Members

Trade Union Rights:

- Employee has right to union representation
- Union official given access to employee
- Union representative can attend meetings
- Union representative can speak on employee's behalf
- Union consultation may be required (for serious matters)
- Time off work for union duties granted (reasonable)

Union Representation:

- Union representative may:
 - Attend disciplinary meetings
 - Ask questions and raise points
 - Review evidence and documents
 - Speak on employee's behalf
 - Support and represent employee
 - Union representative cannot:
 - Act as legal counsel
 - Exceed reasonable boundaries
 - Be unreasonable in demands
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9. Data Protection in Disciplinary Matters

9.1 Personal Data Processing

Legal Basis:

Disciplinary data processed under:

- **Contract:** Data necessary for employment contract performance
- **Legal Obligation:** Health and safety records, safeguarding records
- **Legitimate Interest:** Maintaining conduct standards, protecting vulnerable persons
- **Consent:** Where explicitly obtained for specific processing

9.2 Data Collected and Retention

Disciplinary Data:

- Allegation details and evidence
- Investigation notes and findings
- Witness statements
- Employee response and explanation
- Meeting notes and decision records
- Disciplinary letter and warning

- Appeal documentation
- Mitigating factors and circumstances

Data Retention:

- **First Written Warning:** Retained 6-12 months (removed if conduct improves)
- **Final Written Warning:** Retained 12-24 months (removed if conduct improves)
- **Investigation Records:** Retained 3-5 years (for legal claims risk)
- **Dismissal Records:** Retained 6-7 years (employment record retention)
- **Safeguarding-Related:** Retained per legal requirement (usually 7+ years)
- **Criminal Conduct:** Retained indefinitely (or until limitation period expires)

9.3 Confidentiality and Data Security

Confidentiality:

- Disciplinary information confidential
- Only disclosed to those with need-to-know
- Not discussed with colleagues
- Not disclosed publicly
- Witnesses' identities protected (where possible)
- Medical information (if any) kept separate and confidential
- Third parties' information withheld

Data Security:

- Investigation files stored securely (locked)
- Electronic records password protected
- Access restricted to HR and relevant managers
- Hard copies kept separately from personnel file (where possible)
- DBS information stored separately
- Medical information stored separately
- Regular security review

9.4 Data Subject Rights

Employee Rights:

- Right to Access: Employee can request copy of disciplinary records
- Right to Rectification: Inaccurate information corrected
- Right to Erasure: Data deleted after retention period
- Right to Restrict: Processing restricted if disputed
- Right to Data Portability: Data provided in portable format
- Right to Object: Processing objection considered

Exercising Rights:

- Formal request to Data Protection Officer
- Request responded to within 30 days
- Copies of records provided (with appropriate redactions)
- Witness confidentiality maintained
- Third party information withheld
- Reasons for any refusal explained

10. Appeals to External Bodies

10.1 Employment Tribunal

When to Contact Employment Tribunal:

Employee may contact Employment Tribunal if:

- Unfair dismissal claim (after 2 years service)
- Discrimination claim (any time)
- Breach of contract claim (within 3 months)
- Failure to follow ACAS guidelines concern
- Other employment law breach

Tribunal Process:

- Employee submits claim to tribunal within strict timescale
- ACAS early conciliation required (in most cases)
- Tribunal investigation of claim
- Hearing conducted (with legal representation if desired)
- Tribunal decision on claim

Tribunal Protection:

- Tribunal can order reinstatement or compensation
- Can award significant compensation
- Can declare dismissal unfair

10.2 ACAS Arbitration

ACAS Arbitration Alternative:

- Alternative to Employment Tribunal
- Available for unfair dismissal claims (with agreement)
- Conducted by ACAS arbitrator
- Less formal than tribunal
- Binding decision
- Can result in reinstatement or compensation

10.3 Information Commissioner's Office

Data Protection Complaints:

- Employee can complain to ICO if GDPR breach
- ICO investigates data protection concerns
- Can order remedial action
- Can award compensation (in some cases)

11. Specific Misconduct Issues

11.1 Attendance and Punctuality

Minor Issues:

- Occasional lateness (informal discussion)
- Brief absence without notice (informal discussion)
- Pattern of lateness (performance discussion)

Serious Issues:

- Frequent unjustified absences (formal procedures)
- Persistent lateness despite warnings (disciplinary)
- Long-term absence without contact (disciplinary)

Process:

- Discussion with employee on first instance
- Reason for absence explored
- Medical advice sought (if health-related)
- Improvement plan set
- Monitoring undertaken
- Formal procedures if no improvement
- Support offered (flexible working, occupational health)

11.2 Performance and Capability

Performance Management:

- Performance concern identified
- Discussion held with employee
- Objectives set
- Support and training provided
- Regular monitoring
- Review meeting
- Continuation or escalation determined

Capability Dismissal:

- After performance management unsuccessful
- Not misconduct (cannot use disciplinary)
- Separate capability procedures
- Final chance meeting
- Clear consequences explained
- Dismissal with notice (not summary)

11.3 Use of Alcohol and Drugs

Suspicion of Intoxication at Work:**1. Immediate Action:**

- Employee suspended from duty immediately
- Sent home (with transport if needed)
- Paid suspension
- Investigation commenced

2. Investigation:

- Blood/breath test if permitted and agreed
- Witness statements
- Circumstances investigated
- Medical examination considered
- Support services offered

3. Disciplinary Action:

- First instance: typically final written warning
- Repeat: likely dismissal
- Gross misconduct if serious risk/harm

Substance Misuse Support:

- Occupational health referral offered
- Counselling services available
- Addiction support programs recommended
- Consideration given to rehabilitation
- Reasonable adjustments for treatment

11.4 Social Media Misconduct

Social Media Conduct:

- Personal conduct on social media (not employer liable)
- Work-related conduct on social media (potential misconduct)
- Bringing RHS into disrepute on social media (misconduct)
- Disclosure of confidential RHS information (serious misconduct)
- Harassment of colleagues on social media (misconduct)
- Discriminatory posts about work (potential misconduct)

Process:

- Screenshot/evidence gathered
- Employee given opportunity to explain
- Context considered
- Proportionate action taken
- Privacy considerations balanced
- Employment contract terms reviewed (social media clauses)

11.5 Absence Without Leave

Absence Without Notification:

- First instance: Informal discussion
- Employee asked to explain absence
- Contact attempted multiple times
- Concern expressed about whereabouts/welfare
- Support offered
- Clear expectation set

Repeated Absence Without Leave:

- Formal disciplinary investigation
- Disciplinary meeting held
- Employee given opportunity to explain
- Pattern and impact assessed
- Likely outcome: final written warning
- Clear expectation of future attendance
- Termination for continued absence

11.6 Insubordination and Refusal to Work

Refusal to Follow Instructions:

- Manager instructs employee to undertake task
- Employee refuses without reasonable justification
- Impact and context assessed
- Immediate discussion held

- Employee asked to explain refusal

Justified Refusal:

- Safety risk identified
- Discriminatory instruction
- Unsafe working conditions
- Health and safety breach
- Outside contractual duties
- Reasonable justification provided

Unjustified Refusal:

- Formal disciplinary investigation
- Employee's perspective heard
- Disciplinary meeting held
- Outcome: written warning (typically)
- Clear expectation of compliance

Gross Insubordination:

- Serious refusal with defiance
- Aggressive or abusive manner
- Repeated refusal despite instruction
- Impact on operations/safety significant
- Likely outcome: final written warning or dismissal

12. Documentation and Record Keeping

12.1 Disciplinary File Records

Records to Maintain:

- Disciplinary policy copies
- Allegation details
- Investigation notes and witness statements
- Investigation report
- Meeting invitations and agendas
- Employee response statements
- Disciplinary decision letter
- Appeal documentation
- Evidence documents (screenshots, records, etc.)
- Correspondence and communications
- Meeting notes and attendee list

Record Standards:

- Accurate and factual
- Contemporaneous or promptly after event
- Clear and legible
- Objective and professional tone
- Free from bias or prejudice
- Comprehensive but not excessive
- Dated and signed (where appropriate)
- Well-organized and indexed

12.2 Personnel File Records

Records Placed on Personnel File:

- Formal warning letters (first and final written)
- Disciplinary dismissal letter (if applicable)
- Probation failure documentation (if applicable)
- Investigation summary (if appropriate to include)
- Appeal outcome letter
- Any relevant correspondence

Records NOT on Main Personnel File:

- Investigation report (detailed)
- Witness statements (confidentiality)
- Medical information (separate file)
- DBS information (separate file)
- Grievance records (separate)
- Emails and informal notes (unless very relevant)

12.3 Confidentiality of Records

Who Can Access Disciplinary Records:

- Employee (their own records)
- HR department
- Line manager (where relevant)
- Senior management (where relevant)
- Legal advisors (if legal issue)
- Court/tribunal (if legal proceedings)
- Employee's representative (with consent)

Who Cannot Access:

- Other employees
- Colleagues
- Clients or customers
- External parties (without consent/legal requirement)
- Trade press or media
- Social media

13. ACAS Guidelines Compliance

13.1 ACAS Code of Practice Principles

Clarity:

- Written procedures provided
- Policy made accessible
- Process explained clearly
- Employee understood throughout
- Questions answered

Fairness:

- Consistent treatment
- Fair assessment of evidence
- Mitigating factors considered
- Prejudice avoided
- Employee's perspective heard

Transparency:

- Reasons communicated openly
- Evidence shared appropriately
- Decision reasoning explained
- Next steps clear
- Appeal process transparent

Impartiality:

- Independent decision-makers
- No predetermined outcome
- Genuine consideration given
- Conflict of interest avoided
- Fair hearing given

Proportionality:

- Sanction matched to misconduct
- First time offence treated appropriately
- Aggravating factors weighted fairly
- Mitigating factors considered properly
- Escalation approach followed

13.2 ACAS Code of Practice Steps

Step 1 - Informal Procedure:

- Informal discussion
- Clarification of expectations
- Opportunity to improve
- Support offered
- No formal record (unless serious/repeated)

Step 2 - Formal Investigation:

- Proper investigation conducted
- Facts gathered thoroughly
- Employee given full opportunity to respond
- Mitigating factors identified

Step 3 - Formal Hearing:

- Formal meeting held
- Employee accompanied
- Case presented clearly
- Employee's response heard
- Decision made and communicated

Step 4 - Appeal:

- Appeal right explained
- Appeal process fair
- Appeal meeting held
- Independent review given
- Decision communicated

13.3 ACAS Code Compliance Checklist

RHS compliance with ACAS Code:

- Written procedures provided to employees
 - Informal discussion before formal action (where appropriate)
 - Proper investigation conducted
 - Facts established thoroughly
 - Employee given full opportunity to respond
 - Reasonable notice given for formal meetings
 - Right to be accompanied clearly explained
 - Formal meeting conducted fairly
 - Decision documented clearly
 - Reasons communicated openly
 - Appeal right explained
 - Appeal process fair and independent
 - Action prompt but not rushed
 - Consistency maintained with precedent
 - Proportionality demonstrated
-

14. Common Procedural Errors to Avoid

14.1 Procedural Pitfalls

Procedural Mistakes (can lead to unfair dismissal claims):

1. Lack of Investigation:

- Not investigating allegation properly
- Assuming misconduct without evidence
- Not gathering all relevant facts
- Not hearing employee's account

2. Inadequate Notice:

- Not giving sufficient notice of meeting
- Not explaining purpose clearly
- Not providing evidence in advance
- Ambushing employee with allegations

3. Failure to Accompany:

- Not allowing companion
- Not allowing union representative
- Not allowing reasonable delay for companion
- Penalizing employee for having companion

4. Bias or Conflict:

- Investigator also makes disciplinary decision
- Decision maker has conflict of interest
- Predetermined outcome evident
- Unfair hearing given

5. Disproportionate Sanction:

- Sanction not matching misconduct severity
- First serious misconduct resulting in dismissal (without warning)
- Sanction inconsistent with similar past cases
- Aggravating factors not properly considered

6. No Appeal:

- Not offering appeal right

- Appeal not properly conducted
- Appeal decision-maker biased
- Appeal not genuine re-hearing

7. Procedural Technicalities:

- Not providing written records of decision
- Not explaining appeal process
- Not observing notice periods
- Not keeping proper records

14.2 Fairness Principles

Fairness Requirements:

- Natural justice (right to be heard)
- Impartiality (fair decision-maker)
- Procedural fairness (fair process)
- Evidence fairness (fair evaluation)
- Proportionality (fair sanction)
- Consistency (same treatment)

15. Support and Resources

15.1 Support for Employees

Support Available:

- Occupational health services
- Employee counselling
- Union representation (if member)
- Workplace mediation
- Flexible working arrangements
- Disability support and adjustments
- Mental health support
- Training and development
- Career coaching
- Legal advice (external, employee's cost)

15.2 Resources

Internal Resources:

- Disciplinary Policy (this document)
- Relevant policies (Data Protection, Confidentiality, etc.)
- HR Contact details
- Employee handbook
- Induction materials
- Training materials

External Resources:

- ACAS (www.acas.org.uk)
- Citizens Advice Bureau
- Trades Union (if member)
- Employment Lawyer
- ICO (Data Protection)
- Safeguarding bodies

15.3 Wellbeing and Rehabilitation

During Disciplinary Process:

- Employee Assistance Program access
- Counselling services
- Occupational health support
- Health and safety accommodations
- Flexible working consideration
- Return-to-work support

Post-Disciplinary:

- Reintegration support (if suspended/excluded)
 - Team support (if reputation affected)
 - Career development
 - Training and development
 - Mentoring support
 - Regular check-ins
-

16. Policy Governance and Review

16.1 Policy Owner

HR Manager/Director: Responsible for policy maintenance, updates, and enforcement

Data Protection Officer: Advice on data protection compliance in disciplinary matters

Operations Manager: Implementation and consistency across organization

16.2 Review Schedule

This Policy is reviewed:

- Annually as standard
- Immediately upon legal or regulatory change
- Upon significant organizational change
- Following Employment Tribunal decision affecting RHS
- Upon ACAS guidance update
- Upon regulator feedback
- At least every 24 months regardless of circumstances

16.3 Version Control

Policy updates tracked and documented:

- Version number and date recorded
- Changes identified and communicated
- Previous versions archived (minimum 3 years)
- Staff notified of material changes
- Training updated accordingly

16.4 Approval

Policy approved by:

- HR Manager/Director
- Senior Management
- Data Protection Officer
- Board (if governance body)

16.5 Communication

Policy communicated to:

- All employees (at induction)
 - All managers (specifically trained)
 - All HR staff (fully trained)
 - All new starters (in induction pack)
 - All existing staff (updated annually)
 - Trade union representatives (where recognized)
 - Recruitment agencies/contractors (in agreements)
-

17. Training and Competence

17.1 Manager Training

Disciplinary Manager Training:

All managers involved in discipline receive training on:

- Disciplinary policy and procedures
- ACAS guidelines and best practice
- Investigation skills
- Interview and evidence gathering
- Unconscious bias and fairness
- Equality and discrimination law
- Data protection compliance
- Mental health and wellbeing
- Safeguarding and vulnerable persons
- Documentation and record keeping
- Appeals process
- Employment law overview

Training Records:

- Training attendance recorded
- Training content documented
- Competency assessed
- Refresher training provided annually
- New managers trained before involvement

17.2 HR Staff Training

Disciplinary HR Training:

HR staff receive comprehensive training on:

- Complete disciplinary policy
- ACAS Code of Practice
- Investigation procedures
- Interview techniques

- Evidence assessment
- Impartiality and fairness
- Vulnerable persons and safeguarding
- Data protection in discipline
- Appeal procedures
- Documentation standards
- Precedent consistency
- Legal risk management

17.3 Employee Training

Employee Information:

- Disciplinary policy in employee handbook
- Induction training on policy
- Summary of expectations
- Procedure overview
- Appeal process explained
- Resources and support outlined
- Regular reminders and updates

18. Monitoring and Quality Assurance

18.1 Disciplinary Monitoring

Monitoring Activities:

- Monthly: Disciplinary cases reviewed
- Quarterly: Process effectiveness assessed
- Annually: Comprehensive disciplinary audit
- On-demand: Following specific concern

Monitoring Focuses:

- Consistency of application
- Fairness of processes
- Timeliness of procedures
- ACAS guideline compliance
- Equality impact
- Data protection compliance
- Documentation quality
- Appeal outcomes

18.2 Quality Assurance

Quality Checks:

- Investigation thoroughness
- Meeting fairness
- Decision proportionality
- Documentation completeness
- Procedure compliance
- Safeguarding procedures followed
- Data protection standards met
- Support offered to employees

18.3 Case Review

Periodic Review:

- Random selection of closed cases
 - Full review of case file
 - Procedure compliance checked
 - Fairness assessment
 - Recommendation for improvements
 - Feedback to managers/HR
 - Training need identification
-

19. Glossary and Definitions

Accompanied: Employee has right to bring support person to meeting

Aggravating Factors: Circumstances making misconduct more serious

Appeal: Right to challenge disciplinary decision

Breach: Violation of policy, procedure, or standard

Companion: Person accompanying employee (colleague, union rep, etc.)

Gross Misconduct: Serious breach fundamentally breaking trust (grounds for dismissal)

Investigation: Fact-finding process before formal action

Mitigating Factors: Circumstances making misconduct less serious

Misconduct: Breach of conduct or policy

Performance: Ability to meet job standards (separate from misconduct)

Sanction: Penalty or consequence applied

Suspension: Temporary removal from duty (typically paid)

Tribunal: Employment Tribunal (external legal body hearing employment claims)

Warning: Formal record of unacceptable conduct

20. Document Control

- **Issue Date:** June 2025
- **Next Review:** June 2026
- **Classification:** Internal - Confidential
- **Document Owner:** HR Manager/Director

Approval Signatures:

- **HR Manager/Director:** _____ | Date: _____
 - **Data Protection Officer:** Mazher Khan | Date: 02/June/2025
 - **Operations Officer:** Falaknaz Khan and Sean Carter | Date: 02/June/2025
-

21. Key Contacts

For Disciplinary Matters:

- HR Manager: [Contact details]
- Data Protection Officer: Mazher Khan, maz.manager@responsehealthcare.co.uk, 07588444915

- Occupational Health: [Contact details]
- Employee Assistance Program: [Contact details]

External Support:

- ACAS: 0300 123 1100 | www.acas.org.uk
- Citizens Advice Bureau: www.citizensadvice.org.uk
- Safeguarding Contact: [Local Authority details]
- Employment Tribunal: www.justice.gov.uk/tribunals/employment

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