



Grievance & Disciplinary Procedure

To ensure disciplinary procedures are managed and compliant with the provisions of relevant legislation and workplace agreements.

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1.0 Purpose of this policy (aims and objectives)

- (1) This Code is designed to help Rushmore Business School (RBS) as an RBS, employees and their representatives to deal with disciplinary and grievance situations in the workplace.

Disciplinary situations include misconduct and/or poor performance.

Grievances are concerns, problems or complaints that employees raise with their RBS.

The Code does not apply to redundancy, dismissals or the non-renewal of fixed term contracts on their expiry.

- (2) Fairness and transparency are promoted by developing and using rules and procedures for handling disciplinary and grievance situations. These would be set down in writing, be specific and clear. Employees and, where appropriate, their representatives would be involved in the development of rules and procedures. It is also important to help employees and managers understand what the rules and procedures are, where they can be found and how they are to be used.
- (3) Where some form of formal action is needed, what action is reasonable or justified will depend on all the circumstances of the particular case. Employment tribunals will take the size and resources of an RBS into account when deciding on relevant cases and it may sometimes not be realistic for all RBSs to take all of the steps set out in this Code.
- (4) That said, whenever a disciplinary or grievance process is being followed it is important to deal with issues fairly. There are a number of elements to this:
 - RBS and employees would raise and deal with issues promptly and would not unreasonably delay meetings, decisions or confirmation of those decisions.
 - RBS and employees would act consistently.
 - RBS would carry out any necessary investigations, to establish the facts of the case.
 - RBS would inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.



- RBS would allow employees to be accompanied at any formal disciplinary or grievance meeting.
- RBS would allow an employee to appeal against any formal decision made.

5. This code is applicable to Full- Time employees, Part- Time employees and employees on probation

2.0 Natural Justice

The rules of natural justice are the minimum standards of fair decision-making imposed on persons or bodies acting in a judicial capacity. Where the relevant person or body is required to determine questions of law or fact in circumstances where its decisions will have a direct impact on the rights or legitimate expectations of the individuals concerned, an implied obligation to observe the principles of natural justice arises

This concept in theory, is based on human nature rather than culture or customs, so is applicable across all countries. These principles govern all judicial decisions and are applicable in our everyday management of human resource related issues.

When dealing with disciplinary matters, it is imperative the Human Resource Manager ensures that the principles of natural justice, provided below are consistently followed.

- Reasonable procedures are established to deal with matters in dispute and the procedures are consistently followed.
- The individual in question is given sufficient details of the alleged offense and enough time to enable him/her to prepare an adequate response.
- An individual is presumed innocent until proven guilty.
- The individual making the allegation doesn't conduct the enquiry nor is the final decision maker on action to be taken. An appeal to someone in higher authority is provided for.



- No decision would be taken until the hearing has been completed and all available information has been assessed.
- An accused generally has the right to face his/her accuser.
- The severity of any action taken would be consistent with the nature of the offence and can reasonably take into account any relevant previous record.
- There would be no discrimination in disciplinary penalties on the basis of age, race, sex or personality. There shall be equality before the law.
- An individual accused of a breach of discipline has the right to be heard in his/her own defence before disciplinary action is decided or taken.

The principles of natural justice are related to procedural fairness in the interest of protecting the rights of individuals. RBS consistently follows above to save from embarrassment of wrongful dismissal suits as well as, avoid industrial disputes and damage to their brand.

3.0 Grievance Procedure

1) A grievance in the employment context refers to a specific, formal notice of employee dissatisfaction expressed through an identified procedure. Grievances are concerns, problems or complaints that an employee has about some aspect of their work. For example, it could be about a work colleague or a manager, a decision, a policy, the application of a policy or a working relationship.

Issues that may cause grievances include:

- terms and conditions of employment;
- health and safety;
- personal relationships at work;
- bullying and harassment;
- new working practices;
- working environment;
- organisational change;
- Equal opportunities.

2) Grievance procedures are a means of dispute resolution that can be used by a company to address complaints by employees, suppliers, customers, and/or competitors.

Grievance procedures help RBS to deal with grievances fairly, consistently and without unreasonable delay. RBS is required by law to specify, through written statements of employment particulars, any procedure applicable to handling employee grievances. They must specify a person to whom employees can apply for the purpose of seeking redress of any grievance relating to their employment; and cover any further steps which follow from the making of such an application

3.1 Types of Grievances

3.1.1 Individual Grievances

Individual Grievances are filed by individual employees. Such cases can deal with issues related to the collective agreement, discipline and human rights, as well as other matters affecting the employee concerned.

Some individual grievances can be referred to an independent third party (an adjudicator) for a binding decision, others cannot. HEAD OF DEPARTMENT/HR DEPT. sets out which kinds of grievances can be brought before an adjudicator.

3.1.2 Group Grievances

Group grievances are used in situations where a group of employees in the same department or agency face the same problem. The problem must relate to the interpretation or application of the collective agreement.

To proceed with a grievance of this type, the department must obtain the consent of each of the employees concerned. All grievances of this type can be referred to adjudication.

3.1.3 Policy Grievance

Both the RBS and the employee can file policy grievances. Cases of this type must relate to an alleged violation of the collective agreement which affects the employees generally.

3.2 Dealing with Grievances in the Workplace

Employees would aim to resolve most grievances informally with their HEAD OF DEPARTMENT. This allows for problems to be resolved quickly, particularly where there might be a close personal relationship between a manager and an employee.

If it is not always possible to resolve grievances informally and circumstances, such as the serious nature of the grievance, may dictate that the formal grievance procedure is the way to proceed. Formal Grievance procedure will need the employee to raise it with his HEAD OF DEPARTMENT using formal grievance procedures.

A failure to follow the grievance procedure in those cases which a tribunal can hear may mean that the tribunal adjusts any award by a percentage of up to, or down by, 50 per cent to reflect that the provisions of this Code have not been reasonably followed. Examples of this may be where the RBS does not offer a meeting to discuss the grievance or the employee does not invoke an appeal.

Under the Disability Discrimination Act 1995 RBS is required to make reasonable adjustments throughout the grievance process. This may include assisting employees to formulate a written grievance if they are unable to do so because of a disability.

3.2.1 Letting the RBS know the nature of the grievance

If it is not possible to resolve a grievance informally employees will have to raise the matter formally, and without unreasonable delay, with his/ her HEAD OF DEPARTMENT. If the complaint is against his/her HEAD OF DEPARTMENT/ Manager the employee would be allowed to approach that person's manager or, if that is not reasonably practicable, another manager in the organisation. Where this is not possible, the manager would hear the grievance and deal with it as impartially as possible

The employee would raise the grievance in writing setting out the nature of the grievance and how it might be resolved. Setting out a grievance in writing might not be easy especially for those employees whose first language is not English or who have difficulty expressing themselves on paper. In these circumstances the employee would be encouraged to seek help for example from a work colleague, a trade union or other employee representative.

3.2.2 Holding a meeting with the employee to discuss the grievance

RBS would arrange for a formal meeting to be held without unreasonable delay after a grievance is received.

Workers have a statutory right to be accompanied at any such meeting.

RBSs, employees and their companions would take reasonable steps to attend the meeting.

Employees will be allowed to explain their grievance and how they think it would be resolved. Consideration will be given to adjourning the meeting for any further investigation that may be necessary.

3.2.3 Deciding on appropriate action

Following the meeting HRD/ HEAD OF DEPARTMENT will decide on what action, if any, to take. The decision, and a full explanation of how the decision was reached, will be communicated to the employee, in writing, without unreasonable delay. Where appropriate, the decision will set out what action the HEAD OF DEPARTMENT/ HR DEPT.intends to take to resolve the grievance. The employee will be informed that he/she can appeal if he/she feel that the grievance has not been satisfactorily resolved.

3.2.4 Appeals

If the employee feels that their grievance has not been satisfactorily resolved, then they will have the opportunity to appeal. An appeal will be made without unreasonable delay, advising HRD/HEAD OF DEPARTMENT in writing of their grounds of appeal.

RBS HRD/HEAD OF DEPARTMENT would hear the appeal without unreasonable delay and at a time and place which would be notified to the employee in advance.

The appeal will be dealt with impartially and wherever possible by a manager who has not previously been involved in the case.

Workers have a statutory right to be accompanied at any such appeal hearing. The outcome of the appeal would be communicated to the employee in writing without unreasonable delay.

3.3 Overlapping grievance and disciplinary issues

Where the employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. There may be situations where the HRD/ HEAD OF DEPARTMENT may find it more convenient to deal with both issues concurrently.

3.4 Collective grievances

The provisions of this Code do not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace representative. These grievances would be handled in accordance with any collective grievance process an organisation may have.

3.5 Keeping records

Written records will be kept in the interest of both RBS and employee during the grievance process for future reference.

Records will include:

- a copy of the written grievance;
- the RBS' response;
- action(s) taken;
- the reasons for action(s) taken;

- whether an appeal was lodged; and
- the outcome of any appeal.

Records will be treated as confidential and kept in accordance with the Data Protection Act 2015, which gives individuals the right to request and have access to certain personal data.

Relevant records will be given to the employee including any formal minutes that may have been taken. In certain circumstances, for example to protect a witness, the RBS might withhold some information.

4.0 A worker's statutory right to be accompanied

The right to be accompanied

- All employees have the right to be accompanied at a disciplinary or grievance hearing
- Employee must make a reasonable request to the RBS if they want to be accompanied
- Disciplinary hearings, for these purposes, include meetings where formal warnings or the confirmation of a warning or some other actions might be taken against the worker. Appeal hearings are also covered
- Grievance hearings for the purpose of the right of accompaniment are defined as meetings where an RBS deals with a worker's complaint about a duty owed to them by the RBS

The companion

- The companion can be a departmental colleague or from another department
- Nobody has to accept an invitation to act as a companion
- Departmental colleagues who are acting as companions can take paid time off to prepare for and to attend a hearing

Applying the right

- Agree a suitable date for a meeting with the worker and the companion

- The employee would tell the HEAD OF DEPARTMENT/HR DEPT.who the chosen companion is
- The companion can have a say at the hearing but cannot answer questions for the worker
- Employees will not be disadvantaged for exercising their right or acting as a companion

4.1 What is the right to be accompanied?

Employees have a statutory right to be accompanied by a Departmental colleague or another colleague from another department where they are required or invited by their HEAD OF DEPARTMENT/ HR to attend certain disciplinary or grievance hearings. They must make a reasonable request to their RBS to be accompanied. Further guidance on what a reasonable request is and who can accompany a worker can be required on directive of HRD/HEAD OF DEPARTMENT

4.2 What is a disciplinary hearing?

For the purposes of this right, disciplinary hearings are defined as meetings that could result in:

- A formal warning being issued to an employee, such as a warning that will be placed on the worker's record;
- The taking of some other action, such as suspension without pay, demotion or dismissal;
- Or the confirmation of a warning issued or some other action taken, such as an appeal hearing.

The statutory right of employees to be accompanied also applies to any disciplinary meetings held as part of the statutory dismissal and disciplinary procedures. This includes any meetings held after an employee has left employment.

Informal discussions or counselling sessions do not attract the right to be accompanied unless they could result in formal warnings or other disciplinary actions. Meetings to investigate an issue are not disciplinary hearings. If it becomes clear during the course of such a meeting that disciplinary action is called for, the meeting would be ended and a formal hearing arranged at which the worker will have the right to be accompanied.

4.3 What is a grievance hearing?

Employees have the right to be accompanied to a grievance hearing. For the purposes of this right, a grievance hearing is a meeting at which an RBS deals with a complaint about a legal duty owed by him/her to a worker, whether the duty arises from statute or common law and contractual commitments

For instance, a request for a pay rise is unlikely to fall within the definition, unless a right to an increase is specifically provided for in the contract or the request raises a statutory issue about equal pay. Equally, RBS is under no legal duty to provide their employees with car parking facilities, and a grievance about such facilities would carry no right to be accompanied at a hearing by a companion. However, if an employee was disabled and, because of his/her disability, needed parking facilities in order to attend work, he/she probably would be entitled to a companion at a grievance hearing. An issue might arise as to whether the RBS was meeting his/her obligations under the Disability Discrimination Act 1995.

4.4 What is a reasonable request?

Whether a request for a companion is reasonable will depend on the circumstances of the individual case and, ultimately, it is a matter for the courts and tribunals to decide. However, when workers are choosing a companion, they would bear in mind that it would not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest. It would not be reasonable for the employee to ask to be accompanied by a colleague from a geographically remote location when someone suitably qualified was available on site. The request to be accompanied does not have to be in writing.

4.5 The companion

The companion may be:

- a trade union official who is employed by a trade union; or
- a lay trade union official, as long as he/she has been reasonably certified in writing by his/her union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings. Certification may take the form of a card or letter;
- A fellow worker (i.e. another of the RBS' workers).

Some employees may, however, have additional contractual rights to be accompanied by persons other than those listed above, for instance a partner, spouse or legal representative. If employees are disabled, RBS would consider whether it might be reasonable to allow them to be accompanied because of their disability. Some employees may experience personal difficulties in raising and pursuing certain grievances because of, for example, their sexual orientation and may request to be accompanied by a companion from an organisation which has a special interest in assisting and supporting such workers. RBS would be sensitive to such workers' needs in all of these circumstances.

Employees may choose an official from any trade union to accompany them at a disciplinary or grievance hearing, regardless of whether the union is recognised or not. However, where a union is recognised in a workplace, it is good practice for employees to ask an official from that union to accompany them.

Trade union officials or fellow workers do not have to accept a request to accompany a worker, and they would not be pressurised to do so.

Trade unions would ensure that their officials are trained in the role of acting as an employee's companion. Even when a trade union official has experience of acting in the role, there may still be a need for periodic refresher training.

An employee who has agreed to accompany a colleague employed by RBS to a hearing is entitled to take a reasonable amount of paid time off to fulfil that responsibility. It is also good practice for RBS to agree reasonable time off to allow for the companion to familiarise him/herself with the case and confer with the worker before and after the hearing. A lay trade union official is permitted to take a reasonable amount of paid time off to accompany a worker at a hearing, as long as the worker is employed by RBS. In cases where a lay official

agrees to accompany a worker employed by another RBS, both time off and payment for this are matters for agreement between that lay official and his/her RBS.

Applying the right

Where possible, the RBS would allow a companion to have a say in the date and time of a hearing. If the companion cannot attend on a proposed date, the worker can suggest an alternative time and date so long as it is reasonable and it is not more than five working days after the original date.

In the same way that RBS would cater for a worker's disability at a disciplinary or grievance hearing, they would also provide for a companion's disability, for example, providing for wheelchair access if necessary.

Before the hearing takes place, the worker would tell the RBS whom they have chosen as a companion. In certain circumstances (for instance when the companion is an official of a non-recognised trade union) it can be helpful for the companion and RBS to make contact before the hearing.

The companion would be allowed to address the hearing in order to:

- Put the worker's case;
- Sum up the worker's case; respond on the worker's behalf to any view expressed at the hearing.

The companion can also confer with the worker during the hearing. It is good practice to allow the companion to participate as fully as possible in the hearing, including being given the opportunity to raise points about any information provided by witnesses. The companion has no right to answer questions on the worker's behalf or to address the hearing if the worker does not wish it. Additionally, a companion must not act in a manner which would prevent either RBS from explaining his/her case or any other person at the hearing from making his/her contribution to it.



Employees who's HEAD OF DEPARTMENT/HR fail to comply with a reasonable request to be accompanied may present a complaint to a tribunal. Workers may also complain to a tribunal if RBS fails to re-arrange a hearing to a reasonable date proposed by the worker when a companion cannot attend on the date originally proposed. The tribunal may order compensation of up to two weeks' pay.

RBSs would be careful not to disadvantage workers for using their right to be accompanied or for being companions, as this is against the law and could lead to a claim to a tribunal.

Counselling

HR initiatives only look at the organizational perspective, but the well-being of the workforce depends just as much on the individual's well-being. And stress, from home or from the routine of work affects not just the individual, but the workplace too.

Counselling is a process through which a person from the HR DEPT or the employee's HEAD OF DEPARTMENT helps by purposeful conversation in an understanding atmosphere. It will seek to establish a helping relationship in which the one counselled can express his/her thought and feeling in such a way as to clarify their own situation, come to terms with some new experience, see their difficulty more objectively, and so face their problem with less anxiety and tension. Its basic purpose is to assist the individual to make their own decision from among the choices available to them.

Counselling is also a discussion of an employee's problem that usually has an emotional content to it, in order to help the employee cope with the situation better. Counselling seeks to improve employee's mental health. People feel comfortable about themselves and about other people and are able to meet the demands of life when they are in good mental health.

What are the traits required when counselling?

The set of attitudes required when counselling:

- Respect i.e. High esteem for human dignity, recognition of a person's freedom & rights and faith in human potential to grow.
- Sincerity, authenticity.

- Understanding
- Non-judgmental approach towards the counselee.

The set of skills required for efficient counselling:

- Decency skills i.e. social etiquettes, warm manners
- Excellent communication skills which also include non-verbal communication and listening skills
- Objectivity
- Maintaining confidentiality
- Empathy

What are the objectives of Counselling?

According to Eisenberg & Delaney, the aims of Counselling are as follows:

1. Understanding self
2. Making impersonal decisions
3. Setting achievable goals which enhance growth
4. Planning in the present to bring about desired future
5. Effective solutions to personal and interpersonal problems.
6. Coping with difficult situations
7. Controlling self-defeating emotions
8. Acquiring effective transaction skills.
9. Acquiring 'positive self-regard' and a sense of optimism about one's own ability to satisfy one's basic needs.

When to counsel?

An employee will be counselled when he or she has personal problems that affect job performance. Some signs of a troubled employee include

- Sudden change of behaviour
- Preoccupation
- Irritability
- Increased accidents

- Increased fatigue
- Excessive drinking
- Reduced production
- Waste
- Difficulty in absorbing training

What's the process of counselling?

Types of counselling processes:

- (i) Sigmund Freud's Psychoanalytic Therapy
- (ii) Carl Roger's Client Centred Therapy
- (iii) Carkhuff Model of Personal Counselling
- (iv) Gestalt approach to counselling
- (v) Rational Emotive Behaviour Therapy by Albert Ellis.

The Counselling Process

Step 1.

Describe the changed behaviour. Let the employee know that the organization is concerned with work performance. The supervisor maintains work standards by being consistent in dealing with troubled employees. Explain in very specific terms what the employee needs to do in order to perform up to the organization's expectations. Don't moralize. Restrict the confrontation to job performance.

Step 2.

Get employee comments on the changed behaviour and the reason for it. Confine any negative comments to the employee's job performance. Don't diagnose; you are not an expert. Listen and protect confidentiality.

Step 3.

Agree on a solution. Emphasize confidentiality. Don't be swayed or misled by emotional please, sympathy tactics, or "hard-luck" stories. Explain that going for help does not exclude the employee from standard disciplinary procedures and that it does not open the door for special privileges.

Step 4.



Summarize and get a commitment to change. Seek commitment from the employee to meet work standards and to get help, if necessary, with the problem.

Step 5.

Follow up. Once the problem is resolved and a productive relationship is established, follow up is needed.

Performance issues

Non adherence to work instructions

Insubordination

Gross or serious misconduct

Gross or serious misconduct will be normally dealt with under the final stage- stage 4 or stage 5, depending on how many stages has been used use during the procedures.

There is no legal definition of “gross misconduct” but it would generally include

- Criminal acts
- Theft
- Intentional damage to property
- Assault
- Dereliction of duty
- Serious breach of health and safety procedure
- Fraudulent behaviour
- Falsification of records
- Abuse of company policies/procedures
- Abuse of trust
- Serious sexual harassment, harassment, bullying
- Serious breaches of internet/email policy
- Serious breaches of data protection policy
- Violent behaviour



This is not an exhaustive list and there may be other acts which could be considered to be serious misconduct within the context of Rushmore Business School.

3.1.2 Procedures

Informal counselling

The pre-disciplinary procedure informal counselling will be carried out to ensure the employee knows the standards expected, and will be carried out by Human Resource Department/ HEAD OF DEPARTMENT.

The employee will be

1. Told what needs improvement (e.g. timekeeping, attendance, conduct, work standards)
2. Given the opportunity to explain
3. Given an action plan to bring about the required improvement

Given a written note, signed by both supervisor/manager and employee, of the agreed action to be taken.

If this informal counselling does not bring about the required improvement the formal disciplinary procedure will be invoked.



Stage 1-Verbal warning

An employee will receive a verbal warning for a first transgression. Even though the RBS is “only” giving a verbal warning, it is still part of a formal disciplinary process and the principles of natural justice, fair procedures, and equity/fairness would apply at all times.

This involves a meeting with the employee at which the employee could bring a colleague or other representative. There is no right to bring a legal representative, unless the Director/ HR Dept. agrees.

At the meeting the employee will be advised of what the problem is and invited to respond and explain his actions.

There would be no rush to judgement by the RBS as the meeting is investigatory.

Following the meeting a confirmatory letter would be given to the employee. This letter confirms that the employee has been given a verbal/oral warning. It would also contain the improvements required of the employee in respect of the behaviour which led to the warning and the timeframe within which the improvement must be made.

The letter will also state that failure to improve will lead to the 2nd stage of the disciplinary procedure and ultimately dismissal.

It would also state the time period for which it will remain on the employee’s file, after which it will be removed. 3 months would be a reasonable period for this 1st verbal warning to stay on file, but it could remain for 6 months.



If an employee was suspended with pay pending an investigation it is vital that he knows how long the suspension is to last and the investigation must be held within a reasonable time frame. “Justice delayed is justice denied”.

Once this disciplinary procedure has started the RBS would assist the employee to improve conduct or performance, whichever was the source of the problem in the 1st place.

The RBS would record the details of this 3 months monitoring period and retraining or relocation would be considered, if possible and reasonable.

However, if the employee fails to improve or there is a repeat of the activity that caused the oral warning in the 1st place the RBS can then issue a first written warning.

Stage 2-First Written Warning

The 1st written warning will be issued within the period of time advised for monitoring after the verbal warning, provided there is no improvement in conduct or performance.

Before issuing it the employee will be invited to another meeting, told of the transgression, and given the opportunity to respond.

The written warning will then be issued and last for another 3 months. This warning will clearly set out the nature of the problem, suggest solutions such as retraining, and advise of the possible sanctions (including dismissal) if no improvement is observed within the 3 months.

HR Dept. / HEAD OF DEPARTMENT will again afford all reasonable assistance to the employee to help him improve conduct and/or performance. However HEAD OF DEPARTMENT/ HR Dept. will be mindful of duty of care to other employees also.



Stage 3-Second Written Warning

If the required improvement is not forthcoming within the 3 month period after the 1st written warning then a 2nd written warning will be issued. This is entirely a matter for HR Dept. / HEAD OF DEPARTMENT and it is common for HR Dept. and HEAD OF DEPARTMENT to only issue a 1st and final written warning.

This warning is done in a similar fashion to the other 2 warnings referred to above with a 6 months monitoring period to allow improvement.

Stage 4-Final Written Warning

If the required improvement is not happening then a final written warning would be issued with a 12 month monitoring period.

The letter confirming this warning will advise that if there is no improvement or if the bad behaviour/performance is repeated then dismissal will occur

This warning letter will be the final one prior to dismissal so it is important that it is well drafted as it will be scrutinised closely by the employee and probably his legal advisor.

This letter will only refer to the matters which have been the subject of the disciplinary procedure to date, no other matters which have never been put to the employee is to be included.

Stage 5- Dismissal or action short of dismissal

If there is no improvement after the final written warning then dismissal is the likely outcome. A meeting will be called and the employee and his representative invited.

The HR Dept. / HEAD OF DEPARTMENT will remind the employee of the behaviour/conduct that has led to this point, the repeated transgressions/failure to improve performance sufficiently, and that the dismissal is in accordance with the disciplinary procedure.

The employee would be given the opportunity to appeal within 14 days. He will also be given a letter confirming the dismissal and the right to appeal, the time period for appeal, and who to appeal to.

Serious/gross misconduct would be dealt with as follows:

1. Notify the employee of the allegation without delay

This involves, firstly, a preliminary gathering of the facts and, secondly, an invite to the employee to attend a meeting to lay the allegation. The employee would be told he can bring a work colleague or union representative to this meeting.

It is important that strict confidentiality is maintained as the employee is innocent until proven otherwise and is entitled to the protection of his good name. RBS does ensure that the process is respected.

2. Investigation

An investigation will be carried out and the employee may be suspended with pay pending the outcome of this investigation.

It would be carried out as quickly as possible by a party/parties with the necessary expertise, agreeable to HR Dept. / HEAD OF DEPARTMENT and employee, and in accordance with the terms of reference for the investigation. The terms of reference would set out

- the timescale of the investigation and
- The scope of the investigation that is, deciding whether or not the allegation has been upheld.

A written record of all meetings would be kept and confidentiality maintained.

The investigator would be able to interview any employee who may be able to assist the investigation.

The employee against whom the allegation has been made will be given copies of all written notes prior to and during the investigation, e.g. witness statements, details of the alleged misconduct, notes. The employee would also be allowed representation at any meetings during the investigation process.

Once the investigation has completed a written report setting out the investigator's decision, based on the balance of probabilities, will be given to senior management and the employee.

If the allegation has been upheld a further disciplinary meeting will be held with the employee.

3. Disciplinary hearing

The employee will be advised of the disciplinary meeting in writing and told.

- It is a formal disciplinary meeting under Stage 4 or 5 of the disciplinary procedure



- The purpose of the meeting is to hear representations on behalf of the employee and to decide whether a disciplinary sanction is appropriate
- The possible outcome of the hearing
- The right to be accompanied

Once representations have been made, and the hearing is not to look into the allegations again, the meeting will then be adjourned to allow the decision maker to decide what action, if any, is to be taken.

The meeting will be reconvened and the decision advised to the employee who will also be told of his right to appeal the decision.

Concluding Note

None of the above will apply to situations of gross misconduct which may lead to instant dismissal.

Also, more serious transgressions of conduct may lead to the procedure being started with a written warning or at a different point in the procedure.

The key point is that there is a procedure that is fair and transparent and both RBS and employee know where they stand.

Equally important is that other employees see the procedure as fair and equitable and that they will get fair procedures when there is a problem.

Termination of Agreement

Requirement to Issue a Notice of Termination

Under the old law, RBS who intended to terminate the employment of a worker who had reckoned a year or more continuous service with the RBS had defined time-frames during which the RBS had to notify a worker of his intention to terminate the worker's contract. The time-frame varied according to the number of years of service the worker reckoned with RBS.



The Act, however, has created a standard procedure that applies to all employees, irrespective of the time served with their employers / RBS. The governing provision in the Act is that any employer must give a worker 30 days' notice of his intention to terminate the contract of employment (see §37(4) of the Act), or within “any [longer] reasonable time” (see §37(3) of the Act). The notice period provided in the Act is subject, however, to any provision in the contract of employment. Notice may be in verbal or written form.

Payment in Lieu of Notice

The Act has maintained the rights under the old law by which an employer/ RBS is authorised to pay to the worker a sum that represents the remuneration that the worker would have been paid had s/he been in the employment of the RBS during the period that constitutes the “notice period” (see §37(5) of the Act).

Protection against Termination under Specific Circumstances

The Act sets out a number of instances which prevent termination of employment by reason of, for example, race, colour, caste, political opinion or sexual orientation, absence during maternity leave, absence through illness when accompanied by a medical certificate,

Membership to a trade union or because of a complaint filed against the employer/RBS. (See §38(1) of the Act for a full list of prohibited reasons for termination).

Rights of Worker under a Notice of Termination

An employer / RBS, having issued a worker with a notice of termination of employment must, on satisfactory proof of a request, authorise a worker reasonable time-off in order to seek further employment (see §39 of the Act).