

Policy introduction

RJ Power recognises that continued business success depends on good working relationships and the effective performance and conduct of our workforce. The disciplinary, grievance and capability procedures set out in this statement detail the actions that will normally be taken when an employee's conduct falls below such standards or in such circumstances in which misunderstandings or grievances arise which cannot be resolved informally.

By implementing this policy, the organisation aims to correct poor attendance, performance, behaviour, misconduct to maintain excellent standards of working practices in the interests of the workforce and the service provided to clients.

This policy does not form part of employees' terms and conditions of employment and may be subject to change at the discretion of the management.

Principles of Disciplinary, Capability and Grievance Procedure

The principles are to:

- Help maintain a high standard of professional ethics, integrity, and work performance by having a framework to deal with misconduct and poor performance in a fair and consistent way,
- Act promptly and take informal action where appropriate,
- Fully investigate all cases before any decision is made,
- Inform people about the issue or nature of under-performance before any formal action is taken,
- Enable information to be presented in a formal meeting before a decision is made,
- Provide, where appropriate, written copies of evidence and witness statements in advance of a formal meeting and,
- Notify staff of their legal rights.

General Points

We will seek to resolve capability, disciplinary or grievance issues informally in the workplace. In most cases capability or disciplinary procedures will move from one stage to the next, i.e., from a first written warning to a final written warning and then dismissal. There may, however, be occasions where this will not be the case and the process may start at any stage, with the outcome being dismissal without notice, which is called summary dismissal.

These procedures apply to all employees, irrespective of job or grade and whether full-time, part-time or fixed-term.

Whilst it is our intention to follow these procedures where practicable, they do not form part of your contract of employment. If appropriate, the procedures relating to time limits may vary.

If you have a disability or medical condition affecting your performance, you should inform a Director. If necessary, reasonable adjustments can be made to the requirements of the job to aid performance.

Where a grievance is raised during the disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

For those with less than two years' service, we reserve the right to dismiss you without following the procedure below or having issued any previous warnings. We reserve the right to vary the disciplinary procedure to take into account your length of service or other circumstances. The Company may commence the capability or disciplinary procedure, depending on the circumstances, at any of the levels.

Informal Procedure

Minor concerns about your conduct or performance will normally be dealt with informally between you and your Line Manager, as part of day-to-day management and regular feedback.

You should address any concerns with your Line Manager immediately and you should subsequently check with your Line Manager they are satisfied that the problem has been remedied. Informal discussions may be held with a view to:

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- Clarifying the standards required,
- Identifying areas of concern,
- Establishing the likely causes of misconduct or poor performance and identifying training needs,
- Setting targets for improvement and,
- Agreeing a time-scale for review.

File notes will be made and retained on the file in the form of a Notice of Improvement, following an informal meeting as a reminder of the issues and actions agreed.

Mediation

At any stage of the disciplinary, capability or grievance procedures, as long as it is appropriate, mediation can be used to resolve the issue. Mediation is voluntary and an independent mediator helps two or more people reach an agreement. Examples of when mediation can be used include:

- Conflicts between people of the same grade or between a person and a director,
- Rebuilding relationships after a formal dispute has been resolved and,
- Addressing issues such as a relationship breakdown, personality clash or communication problem.

If mediation is agreed to, then the formal disciplinary, capability or grievance procedure will be put on hold.

Formal Procedure

The formal procedure is used for more serious cases of misconduct or under performance or where informal discussions, including those that have led to Notices of Improvement, have not resulted in the required improved performance. The Company may decide to deal with under-performance through one of two routes, disciplinary or capability.

Records

Records will be kept at each stage of the capability, disciplinary and grievance procedure including any initial informal discussion. You will have an opportunity to check the accuracy of the records, which will be treated as confidential and will be retained in accordance with the Data Protection Act 2018.

Right to be Accompanied

You may, if you wish, be accompanied at any formal meeting by a work colleague or an appropriate trade union official. Your companion may not be a legal professional or a family member. If possible, you must provide the name and status of your proposed companion before the meeting.

An "appropriate trade union official" means a full-time official employed by a trade union, or a lay official who has been reasonably certified in writing by his/her union as having experience of, or as having received training in, acting as a worker's companion at disciplinary or grievance hearings.

A companion may address the meeting in order to put your case, sum up your case or respond on your behalf to any view expressed at the meeting. He/she can also confer with you during the meeting. However, a companion has no right to answer questions on your behalf or to address the meeting if you do not wish it, or to prevent us from explaining our case.

Appeal

Appeals will only be considered if made in line with the procedure and within the time limits advised. You may appeal against the outcome of any stage of the formal disciplinary or capability procedure.

If you wish to appeal, you must provide a Director with a written request explaining the grounds of your appeal within 5 working days of the date you were informed of the decision in writing.

We will then invite you to attend an appeal meeting with a different Director or independent person, which you (and any companion) must take all reasonable steps to attend. We will give you a reasonable amount of written notice to attend this meeting. In cases of dismissal, the appeal will be held within four weeks of the date of receiving the letter.

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Wherever possible, your appeal will be heard by a different Director than the one involved in the disciplinary meeting or by an independent HR specialist or mediator.

If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light, we will provide you with details in writing. You will have a reasonable opportunity to consider this information before the hearing, depending on the grounds for your appeal.

After the appeal meeting, we may:

- Confirm the original decision,
- Revoke the original decision or,
- Substitute a different outcome.

The final decision will be confirmed to you in writing within ten days of the appeal hearing. There will be no further right of appeal. The date that any dismissal takes effect will not be delayed pending the outcome of an appeal. However, in the cases of dismissal, if the appeal is successful, the decision to dismiss you will be revoked with no loss of continuity of service or pay and benefits.

Capability or Disciplinary

If the issue relates to misconduct, then the disciplinary process will be followed. If the issue is under-performance, then either the capability or disciplinary process may be used.

The following gives a list of examples of issues which will usually result in the use of the formal disciplinary procedure:

- Unauthorised absence from work,
- Bad timekeeping and/or wasting time,
- Failure to follow reasonable instructions or rules,
- Some breaches of technical rules and procedures and,
- Disruptive behaviour.

Each case will be judged on its individual merits and mitigating circumstances will be considered where appropriate.

The capability process will be used when it is felt you are unable to or not capable of performing to the required standards in your role. For example, there may be a long-term health issue that means you are unable to perform in your role or you may lack, despite guidance and training, the skills and knowledge to fulfil the role to the required standard.

If you are absent from work because of health issues, the Company will seek medical advice and find the best way to work with you if a meeting is required. This may include holding the meeting at a convenient location, such as your home address.

Disciplinary

Prior to a Meeting

Investigation: an appropriate degree of investigation will have taken place before any disciplinary meeting is held which may include interviewing witnesses and checking the individual's records. The investigation will either be informal and conducted by a manager or formal and conducted by an appropriately qualified person.

Suspension: if necessary, at any point of the process the Company may suspend you from work on full basic salary and benefits while the investigation is completed. This is a purely precautionary action and would not affect the outcome or your future employment. Suspension is not formal action and will be for as short a period as possible, under constant review and would only be used after careful consideration.

If you are asked to attend a formal meeting, you will be given the following:

- A written invitation detailing the concerns,
- Any written documents that will be used in the meeting,

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- Copies of any investigation that may have taken place,
- The right to be accompanied by a companion,
- A minimum of three days' notice before a meeting takes place to allow you time to prepare for the meeting and to arrange a companion if you wish.

The Meeting

The meeting will be chaired by your Line Manager or Director with a note taker present. The chairperson will not have been involved in any formal investigation prior to the meeting.

The chairperson will explain the case and you will have the opportunity to respond.

The meeting can be adjourned at any time by you or the chairperson and will be reconvened at the earliest opportunity.

You are able to bring your own documents to the meeting if you feel this would help your case, including witness statements. If it is reasonably believed that witness statements would not be adequate, you are able to invite a witness to the disciplinary meeting, so that the witness can be questioned by both the Chair of the meeting and yourself. You should inform the chairperson in advance of the meeting if you wish to invite a witness to your hearing.

Company policy is that recording of any meetings is strictly prohibited. You will be asked at the beginning of a meeting to confirm you are not recording the conversation.

The timing and location will be arranged to be reasonable for all involved and at least three days in advance.

You should take all reasonable steps to attend the meeting. If your companion cannot attend, for a reason that was not reasonably foreseeable when the meeting was arranged, the meeting will be re-arranged. If the meeting has been postponed, please propose an alternative meeting date which is no more than five working days after the original date. If you do not attend this alternative meeting, it may result in the meeting being held without you.

The Manager/Director will be responsible for the final decision after holding an adjournment to consider all of the facts properly and take advice if necessary. The adjournment will be for as long as it takes to make an informed decision. If further investigation is needed prior to a decision being made, an adjournment may last for as long as it takes to conclude this investigation. However, the meeting will be concluded, and a decision communicated without undue delay.

After the Meeting

A decision will be taken as to whether the Company wishes to take action.

Before deciding on any action, the Company will take into account any previous sanctions or informal action on your record, the seriousness of the issue, actions taken in any previous similar case and the explanations given by you, including any mitigating circumstances.

Where formal action (apart from dismissal) is taken you will be advised in writing of:

- The issue and the improvement that is required,
- Timescale for achieving this improvement and a review date,
- The time the action will remain on record,
- Any measures, such as additional training or supervision which will be taken with a view to improving performance,
- What may happen if the improvement required is not achieved and,
- Your right of appeal.

Where formal action is dismissal, you will be advised in writing of:

- Reasons for dismissal,
- Your effective last day and details about your notice,

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- The reason why dismissal was considered to be appropriate and,
- The timescale for lodging an appeal and how it should be made.

Where it is decided that no action will be taken, you will be informed of this decision in writing.

Definitions

Misconduct

Misconduct would warrant a first written warning.

A non-exhaustive list of examples includes:

- Poor time-keeping,
- Absenteeism,
- Time wasting,
- Smoking in areas where it is prohibited to do so,
- Using materials or equipment for personal use,
- Failure to adhere to the Company's policies and procedures,
- Providing incorrect or unchecked advice to a client,
- Using a mobile phone in working hours.

Gross Misconduct

Examples of offences and failures to meet the Company's standards which may result in Summary Dismissal without notice or pay in lieu of notice (we reserve the right to inform the Police of any criminal offences).

A non-exhaustive list of examples of gross misconduct includes:

- Excessive and unauthorised use of Facebook, Twitter, Bebo, LinkedIn or other similar forms of social media during working hours,
- The misuse of IT or social media,
- Giving inaccurate or unauthorised advice which has resulted in a significant risk to the Company,
- Participation in any crime which relates to or affects ability to perform employment duties or participation in any criminal offence (excluding minor traffic offences) taking place on the Company's premises or during the course of employment,
- The aiding or abetting of such a criminal offence,
- The theft or attempted theft of property belonging to the Company, its employees, clients, or any other persons,
- Possession of, or being in the supply of any illegal drugs,
- Reporting for work when incapable through the effect of alcohol or illegal drugs,
- Causing deliberate damage to the Company's property (or property belonging to employees / clients / others),
- Grossly insulting or discourteous behaviour towards clients, colleagues, or management
- Fighting, disorderly, or violent conduct, threatening physical violence or indecent conduct or assault whilst on the Company's premises or client's premises,
- Any act of harassment, incitement, victimisation, or discrimination on the grounds of sex, race or nationality, ethnic origin, marital status, sexual orientation, health, disability, faith, or religion or similar,
- Deliberate falsification of records, including accounts, expenses, or other information of a financial or statistical nature (or gross negligence in compiling same),

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- Failure to disclose previous criminal convictions or material facts relating to previous employment, amounting to falsification of records,
- Grossly negligent behaviour endangering the health and safety of employees/ clients/others – or their respective properties,
- Serious contravention of policies and procedures,
- Divulgence to outside parties of confidential information regarding the affairs of the Company, its employees, management, or clients which could be damaging to our business,
- Breach or implied breach of any signed Non-Disclosure Agreement,
- Unauthorised media contact or the making of defamatory remarks to outside parties regarding the Company, its employees, and clients,
- The giving away of the Company's property without payment or at an unauthorised discount,
- Unauthorised access to a computer and / or associated peripherals including software,
- Breach of professional confidence or ethics,
- Fraudulent recording of time worked or expenses,
- Taking sick leave when you are fit enough to go to work and failing without good cause to submit a valid medical certificate,
- Any other act or omission which is or could be seriously detrimental to the good of the Company's business.

Capability

This is the recommended process when dealing with capability problems. We reserve the right to start the process at any stage dependent upon the nature and severity of the issue.

First Capability Meeting

Where performance is unsatisfactory, and informal steps have either failed to resolve the situation or are not appropriate, a first capability meeting will be held to look at the following:

- Setting out the required standard and where those standards are considered not to have been met,
- Establishing the likely causes of poor performance,
- Allowing you the opportunity to explain the poor performance and ask any relevant questions,
- Discussing measures, such as additional training or supervision, which may improve performance,
- Setting targets for improvement and,
- Setting a timescale for review.

Following the meeting, if we decide that it is appropriate to do so, we will give you a first written warning.

Company policy is that recording of any meetings is strictly prohibited. You will be asked at the beginning of a meeting to confirm you are not recording the conversation.

Your performance will be monitored and at the end of the review period we will write to inform you of the next step, as follows:

- If your Line Manager is satisfied with your performance, no further action will be taken,
- If your Line Manager is not satisfied, the matter may be progressed or,
- If your Line Manager thinks there has been a substantial but insufficient improvement, the review period may be extended.

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Second Capability Meeting

If your performance does not improve within the review period, or if there are further instances of poor performance while your first written warning is still active, we will hold a second capability hearing. Following the hearing, if we decide that it is appropriate to do so, we will give you a final written warning.

Dismissal or Redeployment

If your performance does not improve within the further review period set out in the final written warning, we will hold a further capability meeting. During this meeting we will discuss whether there is any practical alternative to dismissal, such as redeployment to any suitable job that is available at the same or lower grade. In exceptional cases a further review period will be set, and the final written warning extended.

Sanctions

There are three possible sanctions that you could be given following a disciplinary or capability meeting. They tend to be applied in order, but this will depend on the seriousness of the matter. If performance has been managed informally typically the first sanction that is applied is a written warning.

Written Warning: if you have not made sufficient improvement following informal performance management or there have been further issues, a written warning may be issued. You will be asked to sign a copy of the written warning, and this will be kept on your personal file for twelve months.

Final Written Warning: if the matter continues or the offence is more serious, you may be given a final written warning. If conduct or performance does not improve this could lead to dismissal. You will be asked to sign a copy of the final written warning, and this will be kept on your personal file for twelve months.

Dismissal, Demotion, Redeployment or Transfer: if your performance or conduct continues to be less than what is expected or in serious matters of gross misconduct, you may be dismissed. In exceptional circumstances the Company may demote you or transfer you to another business location / department, permanently or temporarily.

The length of the warning may be extended as a form of subsequent sanction.

Grievance Procedure

Standard Formal Procedure

Where informal action has not resolved your grievance, or where for any reason you do not feel it appropriate to raise the grievance with a Director (for example, if the grievance relates to his or her behaviour), then you may initiate the formal procedure.

Statement of grievance

You must provide your Line Manager with a written statement without unreasonable delay. This should set out the nature of your grievance and explain the basis for it. If your grievance relates to this person, you should provide your written statement to a Director.

Meeting

We will invite you to attend a meeting with your Line Manager/Director within 10 working days of receipt of the grievance, unless in all circumstance this is not reasonably practicable to discuss your grievance.

We will aim to agree the timing and location of the meeting with you (and any companion), allowing us a reasonable opportunity to consider our response to the information set out above. You (and any companion) must take all reasonable steps to attend the meeting.

At the meeting, you will have an opportunity to explain your grievance and inform us how you think it should be resolved. We may adjourn the meeting in order to make further investigation or obtain advice.

After the meeting, we will inform you of our decision in writing without unreasonable delay. We will notify you of your right to appeal against the decision if you are not satisfied with it.

Company policy is that recording of any meetings is strictly prohibited. You will be asked at the beginning of a meeting to confirm you are not recording the conversation.

This policy will be reviewed annually and revised as often as may be deemed appropriate by RJ Power and then communicated and explained to all employees and sub-contractors.

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