



# Disciplinary and Grievance Policy

*May 2016*

[www.peopleknowhow.org](http://www.peopleknowhow.org)

Version:	04
Date Approved:	May 2016
Scheduled Review Date:	May 2017

# Contents

1. Statement of Policy	3
2. Scope	3
3. Principles	3
4. Definitions	3
5. Disciplinary Procedure	4
6. Grievance Procedure	7
7. Recording Disciplinary Cases & Grievances	9
8. Monitoring & Review	9

# 1. Statement of Policy

People Know How is committed to providing fair and responsible treatment to its staff members, volunteers and service users. People Know How expects staff members to comply with all People Know How policies and procedures, represent the organisation, and maintain high standards in the work that they do. This Policy is intended to help People Know How and its staff members deal with disciplinary and grievance situations.

## 2. Scope

This Policy applies to all staff members. Volunteers should refer to People Know How's Volunteering Policy, which includes a problem-solving procedure applicable to situations involving volunteers.

This Policy does not apply to redundancy dismissals or the non-renewal of fixed-term contracts on their expiry.

## 3. Principles

People Know How seeks to actively promote fairness and transparency by developing and using clear procedures for handling disciplinary and grievance situations. These procedures are laid out within this Policy.

In situations where formal action is required, what action is reasonable or justified will depend on the circumstances of the particular case. To ensure that all action taken is as fair and transparent as possible, People Know How and its staff members should:

- ↓ Raise and deal with issues promptly and should not unreasonably delay meetings, decisions, or confirmation of decisions.
- ↓ Act consistently.
- ↓ Carry out any necessary investigations, to establish the facts of the case.
- ↓ Inform staff members of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
- ↓ Allow staff members to be accompanied at any formal disciplinary or grievance hearings.
- ↓ Allow staff members to appeal against any formal decisions made.

## 4. Definitions

### Disciplinary Cases

Disciplinary cases include misconduct and/or poor performance. Instances where staff members do not abide by People Know How's policies and procedures may be treated as misconduct.

### Grievances

Grievances are concerns, problems or complaints that a staff member raises with People Know How.

## 5. Disciplinary Procedure

People Know How values its staff members and does not expect disciplinary situations to arise. However, where disciplinary situations do arise, the following provides a procedure to deal with these in a fair, transparent, and consistent way.

### Informal Procedure

Where minor problems of performance or conduct are alleged, a staff member's Line Manager will hold an informal discussion with them to explore this and decide on an appropriate course of action. The kinds of things identified as minor problems could be:

- Poor timekeeping – such as being regularly late
- Poor conduct – such as inappropriate behaviour
- Poor performance – such as regular incompleteness of tasks or repeated mistakes

Line Managers will work with staff members to identify future expectations and inform them of future action to be taken if expectations are not met. Line Managers will then evaluate whether these expectations have been met.

If a Line Manager feels that expectations have not been met or that the allegations of misconduct or poor performance are more serious, then the following formal procedure should be followed.

### Formal Procedure

#### Investigation

It is important to carry out necessary investigations of potential disciplinary matters without unreasonable delay in order to establish the facts of the case. In some cases, this will require the holding of an investigatory meeting with the staff member before proceeding to a disciplinary hearing. In other cases, the investigatory stage will be the collation of evidence by the Line Manager – or another relevant member of staff – for use at a disciplinary hearing. In cases of misconduct, wherever practicable, a different staff member or Trustee should carry out the investigation and disciplinary hearing.

If there is an investigatory meeting, this should not by itself result in disciplinary action. Although there is no statutory right for an employee to be accompanied at a formal investigatory meeting, under this Policy staff members may choose to be accompanied.

In cases where a period of suspension with pay is considered necessary for investigation, this period will be as brief as possible, will be kept under review, and it will be made clear to all concerned that this suspension is not considered a disciplinary action.

#### Informing the Staff Member

If it is decided that there is a disciplinary case to answer, the staff member will be notified of this in writing. This notification should contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the staff member to prepare to answer the case at disciplinary hearing. Copies of any written evidence, which may include any witness statements, will be included with the notification.

The notification should also give details of the time and venue for the disciplinary hearing and advise the staff member of their right to be accompanied at the hearing.

### **Disciplinary Hearing**

The hearing should be held without unreasonable delay, whilst allowing the staff member reasonable time to prepare their case.

At the disciplinary hearing, the allegation – and any evidence collected – against the staff member should be clearly explained. The staff member should be allowed to set out their case and answer any allegations that have been made. The staff member should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should also be given an opportunity to raise points about any information provided by witnesses. Where a staff member intends to call relevant witnesses they should give advance notice that they intend to do this.

Workers have a statutory right to be accompanied by a companion where the disciplinary hearing could result in:

- A formal warning being issued.
- The taking of some other disciplinary action.
- The confirmation of a warning or some other disciplinary action.

The chosen companion may be a fellow staff member, a trade union representative, or an official employed by a trade union. A trade union representative not employed must be certified by their union as being competent to accompany a worker.

To exercise the statutory right to be accompanied, staff members must make a reasonable request. What is reasonable will depend on the circumstances of the individual case. However, it would not normally be reasonable for staff members to insist on being accompanied by a companion whose presence would prejudice the hearing, nor would it be reasonable for staff member to ask to be accompanied by a companion from a remote geographical location, if someone suitable and willing was available on site.

The companion should be allowed to address the hearing to put and sum up the staff member's case, respond on behalf of the staff member to any views expressed at the hearing, and confer with the staff member during the hearing. The companion does not, however, have the right to answer questions on the staff member's behalf, address the hearing if the staff member does not wish it, or prevent representatives of People Know How from explaining their case.

### **Action**

After the disciplinary hearing, a decision as to whether or not appropriate action – disciplinary or otherwise – is justified will be taken. People Know How will inform the staff member accordingly in writing.

Where misconduct is confirmed, or the staff member is found to be performing unsatisfactorily, the staff member will be given a written warning. A further act of misconduct or failure to improve performance within a set period would normally result in a final written warning.

If a staff member's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the staff member's actions have had, or are liable to have, a serious or harmful impact on the organisation.

A first or final written warning will set out the nature of the misconduct or poor performance and the change in behaviour or improvement in performance required, providing a clear timescale. The staff member will be informed of the consequences of further misconduct, or failure to improve performance, within the set period following a final warning, for instance that it may result in dismissal or some other contractual penalty such as demotion or loss of seniority.

A decision to dismiss should only be taken by a Line Manager or member of the Board of Trustees, or another individual who has the authority to do so. The staff member should be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

Some acts, termed gross misconduct, are so serious in themselves or have such consequences that they may call for dismissal without notice for a first offence. However, a fair dismissal process should always be followed before dismissing for gross misconduct.

Acts of gross misconduct include, but are not limited to:

- Theft, fraud, deliberate falsification of organisation documents
- Violent behaviour, fighting, assault on another person
- Deliberate damage to company property
- Breaching of confidentiality (as per the Confidentiality Policy)
- Harassment
- Being unfit for work through alcohol or illegal drugs
- Being found in possession of alcohol or illegal drugs whilst on the premises
- Gross negligence
- Gross insubordination

Where a staff member is persistently unable or unwilling to attend a disciplinary meeting without good cause, People Know How will make a decision on the evidence available.

## **Special Cases**

Where disciplinary action is being considered against a staff member who is a trade union representative, the normal disciplinary procedure should be followed. Depending on the circumstances, however, People Know How will endeavor to discuss the matter at an early stage with an official employed by the union, after obtaining the staff member's agreement.

If a staff member is charged with, or convicted of a criminal offence, this is not normally in itself reason for disciplinary action. Consideration will be given to what effect the charge or conviction has on the staff member's suitability to carry out their role and responsibilities, and their relationship with People Know How, other staff members and service users.

## Appeals

Where a staff member feels that disciplinary action taken against them is wrong or unjust, they should appeal against the decision. Appeals should be heard without unreasonable delay and ideally at an agreed time and place. Staff members should let People Know How know the grounds for their appeal in writing.

The appeal hearing should be dealt with impartially and wherever possible, by a member of the Board of Trustees who has not previously been involved in the case.

Workers have a statutory right to be accompanied at appeal hearings. Staff members will be informed in writing of the results of their appeal hearing as soon as possible. This decision will be final.

# 6. Grievance Procedure

The following procedures should be used by staff members to address any concern, problem or complaint they have with People Know How.

## Informal Procedure

Where staff members have minor concerns, problems or complaints, they should seek to hold an informal discussion with their Line Manager to discuss this and decide on an appropriate course of action.

If a staff member feels that their concerns have not been addressed or if their complaint is more serious, then the following formal procedure should be followed.

## Formal Procedure

If it not possible to resolve a grievance informally, staff members should raise the matter formally and without unreasonable delay with a member of the Board of Trustees who is not the subject of the grievance. This should be done in writing and should set out the nature of the grievance.

## Grievance Hearing

In response to any grievances raised by staff members, People Know How will arrange a formal hearing without unreasonable delay after the grievance is received.

At the hearing, staff members will be allowed to explain their grievance and how they think it should be resolved. Consideration should be given to adjourning the meeting for any investigation that may be necessary.

Workers have a statutory right to be accompanied by a companion at a grievance hearing dealing with a complaint about a duty owed by People Know How to the worker. This would apply if a staff member feels that People Know How is not honouring the terms of their employment contract, or is in breach of legislation.

The chosen companion may be a fellow staff member, a trade union representative, or an official employed by a trade union. A trade union representative not employed must be certified by their union as being competent to accompany a worker.

To exercise the statutory right to be accompanied, staff members must make a reasonable request. What is reasonable will depend on the circumstances of the individual case. However, it would not normally be reasonable for staff members to insist on being accompanied by a companion whose presence would prejudice the hearing, nor would it be reasonable for staff member to ask to be accompanied by a companion from a remote geographical location, if someone suitable and willing was available on site.

The companion should be allowed to address the hearing to put and sum up the staff member's case, respond on behalf of the staff member to any views expressed at the hearing, and confer with the staff member during the hearing. The companion does not, however, have the right to answer questions on the staff member's behalf, address the hearing if the staff member does not wish it, or prevent representatives of People Know How from explaining their case.

### **Action**

Following the grievance hearing, People Know How will decide on what action – if any – to take. Decisions will be communicated to the staff member in writing without unreasonable delay and, where appropriate, should set out what action People Know How intends to take to resolve the grievance. The staff member should be informed that they can appeal if they are not content with the action taken.

### **Appeals**

Where a staff member feels that their grievance has not been satisfactorily resolved, they should appeal. They should let People Know How know the grounds for their appeal without unreasonable delay and in writing.

Appeals will be heard without unreasonable delay and at a time and place that will be notified to the staff member in advance. The appeal will be dealt with impartially and wherever possible by a member of the Board of Trustees who has not previously been involved in the case.

Workers have a statutory right to be accompanied to appeal hearings. The outcome of the appeal should be communicated to the staff member in writing without reasonable delay. This decision will be final.

### **Overlapping Grievance and Disciplinary Cases**

Where a staff member raises a grievance during a 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.



## **7. Recording Disciplinary Cases & Grievances**

A record will be kept of all documents, correspondence and evidence, that is collected, sent or received by People Know How in relation to a disciplinary case or grievance. This information will be handled and stored in compliance with People Know How's Confidentiality Policy and Data Protection Policy.

## **8. Monitoring & Review**

The effectiveness of this Disciplinary and Grievance Policy will be reviewed annually and action taken as necessary.

This Policy will be reviewed in 2016.