

 Kingston GP Chambers Kingston Training Hub Clinical Services Practice Support Services Kingston Education Centre	Disciplinary policy		Reviewed	Feb 23
			Revised	No
	Adopted	26/8/14	Next review	Feb 25

Disciplinary policy

This policy does not form part of any employee's contract of employment and we may amend it at any time

1. Introduction

The aim of the Disciplinary Procedure is to ensure consistent and fair treatment for all staff.

The main purpose of the procedure is to promote good performance and improvement in unsatisfactory conduct or standard of work.

It is important that employees are made aware of the standards of conduct expected of them and this should be made apparent through induction and the Appraisal process and day to day management/ supervision.

Where a problem clearly exists that relates to unsatisfactory conduct Kingston GP Chambers (KGPC) encourages informal discussions between members of staff and their manager, where appropriate. Such discussions are intended to be the basis for counselling under the informal stage of this procedure.

Where a problem clearly exists that relates to standard(s) of work the KGPC's Capability Procedure should be followed, unless the offence is serious enough to warrant immediate formal action.

The formal disciplinary procedure will be invoked if informal discussion(s) have failed to achieve the desired effect or when an offence is serious enough to warrant immediate formal action.

2. Purpose

This procedure is designed to:

- Help and encourage individuals to achieve and maintain standards conduct, attendance and job performance
- Emphasise and encourage improvements in individuals' performance or standard of work but also represent a means of imposing sanctions
- Provide for disciplinary matters to be dealt with quickly but thoroughly
- Ensure that all staff are treated fairly and consistently.

3. General Principles

At every stage in the procedure the employee will be advised of the nature of the allegation(s) being made against them and will be given the opportunity to state his/her case before any decision is made.

At all stages of the procedure the employee will have the right to be accompanied by a trade union representative, a work colleague or a friend, not acting in a legal capacity.

Employees are not entitled to be legally represented during KGPC's internal disciplinary procedure.

All staff will have the right of appeal against a verbal warning, a first written warning, a final warning and dismissal.

The Disciplinary Procedure is a system of warning stages, increasing in gravity from an oral warning to dismissal. The warnings can refer to repetition of the same or similar unsatisfactory conduct or unsatisfactory work performance or where an individual has failed to achieve the required improvement. KGPC reserves the right to commence proceedings at any point of this procedure.

4. Allegations of Misconduct

Definition of Misconduct

Misconduct is any infringement or breach of the KGPC's rules, regulations, policies or procedures, or, any failure to meet the required standards of behaviour, conduct, performance and attendance reasonably required of an individual including those set out in the KGPC's rules, regulations, policies or procedures

Definition of Gross misconduct

Gross misconduct is behaviour that is considered so serious, that KGPC is justified in no longer tolerating continued presence at work of a member of staff who commits such an offence.

Examples of acts or behaviours that will usually constitute gross misconduct are given in Appendix 1.

Where any misconduct is alleged or suspected, HR will undertake a preliminary assessment of the nature of a complaint or circumstances surrounding an incident in order to attempt to decide whether the allegations can be substantiated.

The possible outcomes of the preliminary assessment are as follows:

- Allegations are unsubstantiated and no further formal action will be taken
- Arrange for the matter to continue to be dealt with under the Disciplinary Procedure

5. Suspension

Suspension from duty is not, in itself, a disciplinary measure but may be appropriate when a serious allegation or complaint has been made against an employee and it is in the interests of KGPC, other staff and the employee, that the employee should be removed from their normal place of work whilst the incident is investigated further.

Suspension will be carried out by a Senior Manager. The employee will be seen in person and have the allegations put to them before a decision to suspend is confirmed.

Suspension will be on full pay as long as the employee complies with the terms of their suspension. The person suspending will confirm suspension in writing within 5 working days including the reasons for suspension and the allegations made against them. The employee will also receive a copy of the disciplinary procedure.

Suspension should not last for more than 21 days, in order for a full investigation to be carried out. The employee will be kept informed of progress from the person who carried out the suspension.

Conditions of continued payment during suspension will be that the employee must remain ready, willing and able to work, must be ready to cooperate in resolving any issues relating to their normal duties and must be available during their normal working hours to attend any meeting that may be convened as part of the investigatory process. Staff should not undertake any other paid work during their suspension. Any holidays that have been booked prior to suspension must be notified to the person who carried out the suspension immediately.

Whilst on suspension the employee must not enter the organisation's premises or make contact with other staff members or clients. Contact with the organisation may only be made to the person authorising the suspension. If access is requested for the purposes of preparing a defence, this will not be unreasonably refused, but will be carried out in the presence of the person authorising the suspension, or nominated deputy.

6. Investigation

Investigations into the incident or allegations made will be conducted in a thorough and timely manner. If there is undue delay the reasons for the delay will be fully explained to the individual.

One or two people will be appointed to lead the investigation, and will ensure all relevant evidence is obtained. Any individual called to an investigation interview will have the right to be accompanied by a trade union representative, colleague or friend, not acting in a legal capacity. Notes will be taken at the meeting and individuals will be asked to review the notes and sign as a statement, which they agree is a true record of the meeting and understand that the statement will form part of the management report.

The investigating person(s) will produce a management statement of case and associated documentation. A Senior Manager/Chief Operating Officer (COO) will then, after reviewing the report, decide if there is a case to answer. If appropriate, the matter will then proceed to a formal hearing. Where it is decided there is no case to answer, the employee must be informed accordingly, in writing.

At all stages of the formal procedure, the employee will be:

- given an account of the allegation(s)
- interviewed by an appropriate member of staff
- given an opportunity to state his/her case before a decision is made that disciplinary action may be appropriate

7. The Hearing

The Senior Manager/COO will stipulate a time, date and venue for the Hearing, at least 5 working days before the hearing. However, if the representative or work colleague is unavailable at this time for a reason that is regarded to be valid, the manager will postpone the Hearing.

This procedure will only be delayed in accordance with the Employment Rights Act 1999 and the ACAS Code of Practice on Disciplinary & Grievance Procedures April 2009, i.e. for 5 working days. Any extension to this period is at the sole discretion of the Organisation and will be confirmed in writing.

The employee will be provided with a copy of the investigation report and given copies of any written statements or documentary evidence that will be relied upon during the Hearing.

The employee will be informed of their right to be accompanied at the hearing by a friend, (not acting in a legal capacity), colleague or trade union representative.

The employee will be informed of the names and job titles of the members of the panel for the hearing.

In normal circumstances, the employee will be given the opportunity to call and question witnesses at the Hearing. The Organisation reserves the right to make exceptions to this where it is deemed not to be appropriate, e.g. where it involves members of the public, clients, etc. Information on any documentation, including witness statements which the individual intends to

present, must be submitted to the panel members at least 3 working days prior to the hearing.

No new or supplementary information should be tabled at the meeting. If this happens the hearing will need to be rescheduled to allow sufficient time to investigate and absorb the new information.

8. Format of the Disciplinary Hearing

One or two people will form the panel and will hear from both management and the employee. Any witnesses will be called and questioned by all parties. The panel will then adjourn to make their decision

9. The outcome/action take

The Chair's conclusions may be the following:

- that there is no case to answer and that therefore no action is taken
- that a one of the following has been decided:

Verbal Warning

Conduct or performance does not meet acceptable standards, the first formal stage of the Disciplinary Procedure may be invoked and a 'verbal warning' may be given.

The employee will be advised of the standards of conduct or performance required, the period allowed for improvement and the consequence of failure to reach or maintain acceptable standards (normally a first written warning).

The verbal warning will be confirmed in writing to the employee within 5 working days. The following information will be included:

- the breach of discipline
- the improvement required and the period allowed for improvement
- the duration of the warning (6 calendar months)
- the consequences of failing to improve to an acceptable standard

The verbal warning will remain in effect for a period of 6 months. The warning will be removed once this period has lapsed.

First Written Warning

If an offence is serious, or if a previously substantiated offence (or an offence of a similar nature) is repeated, the Disciplinary Procedure may be entered into at this stage, i.e. a 'first written warning', may be given.

The employee will be advised of the standards of conduct or performance required, the period allowed for improvement and the consequence of failure to reach or maintain acceptable standards (normally a final written warning).

The first written warning will be confirmed in writing to the employee within 5 working days. The following information will be included:

- the breach of discipline and any 'live' disciplinary action on the employee's personal file
- the improvement required and the period allowed for improvement
- the duration of the warning (12 calendar months)
- the consequences of failing to improve to an acceptable standard

The first written warning will remain in effect for a period of 12 months. The warning will be removed once this period has lapsed.

Final Written Warning

If an offence is considered to be sufficiently serious that it may warrant a final written warning, or if a previously substantiated offence persists, the Disciplinary Procedure may be entered into at this stage, i.e. a 'final written warning', may be given.

The employee will be advised of the standards of conduct or performance required, the period allowed for improvement and the consequence of failure to reach or maintain acceptable standards (normally dismissal).

The final written warning will be confirmed in writing to the staff member within 5 working days. The following information will be included:

- the breach of discipline and any 'live' disciplinary action on the employee's file
- the improvement required and the period allowed for improvement
- the duration of the warning (12 calendar months **or** 24 calendar months depending on the gravity of the case)
- the consequences of failing to improve to an acceptable standard, that dismissal may result

The final written warning will remain in effect for a period of 12 months **or** 24 months, as determined to be appropriate. The final written warning will be removed from the employee's personal file once this period has lapsed.

Dismissal with Notice

Dismissal may occur where the Disciplinary procedure has failed to bring about acceptable standards of conduct or performance from an employee or where the allegations are proved and are serious enough to warrant dismissal.

Confirmation of dismissal will be confirmed in writing to the staff member within 5 working days. The following information will be included:

- that dismissal has occurred and the reason(s) for this
- the breach of discipline and any 'live' disciplinary action on the employee's file
- the length of notice and whether the employee is to work the notice or be paid in lieu of notice

Dismissal without Notice (Summary Dismissal)

If it is alleged that a staff member may be guilty of an act of gross misconduct (**See examples attached**), it may be necessary dismiss without notice.

The dismissal will be confirmed in writing within 5 working days. The following information will be included:

- that summary dismissal has occurred and the reason(s) that led to a decision of gross misconduct having occurred

10. Right to Appeal

The employee has the right of appeal to a Director (who has not been involved with the Disciplinary), in writing, within 14 days of the date of the letter confirming the outcome of the hearing.

The decision of the chair at appeal hearing will be final and there will be no further provision for appeal.

Appendix 1

Gross Misconduct (THIS LIST IS NOT EXHAUSTIVE)

- Conduct or behaviour which endangers health or safety of other staff or the public.
- Committing any criminal act while on the Organisation's premises or at work such as stealing from the Organisation or another employee.
- Making untrue statements to the Organisation with intent to deceive or obtain advantage. This would include false statements on application forms or medical history or pre-employment medical forms; withholding information, statements containing false information about absence or absence relating to sickness; falsification of references.
- Unauthorised disclosure of confidential information.
- Neglect of duty such as :
 - being on duty under the influence of drugs or alcohol
 - wilful damage to the Organisation's property including deliberate misuse resulting in damage and misuse of anything provided in the interests of Health and Safety at work
 - refusal to obey an instruction or refusal to perform work which is neither illegal nor unsafe and which an employee might reasonably be expected to do.
- Assault on another employee except in self-defence.
- Committing any act on the Organisation's property which violates the commonly accepted standards of decency or morality.
- Harassment of or causing distress to another employee or visitor on the grounds of race, colour, nationality, sex, sexual preference, disability, age, etc.
- Unauthorised possession or administration of drugs.
- Imprisonment rendering it impossible to fulfil Contract of Employment.
- Offences committed outside of employment which have the effect of substantially breaking trust between the employer and employee.
- Drunkenness - in the case of persons being a danger to others or incapable of carrying out their duties, suspension may be without pay.
- Use of any social media (whether business or personal) that has a detrimental effect on the Company.
- A serious breach of confidence
- Bringing the Organisation into serious disrepute

