

# Disciplinary Procedure

Kernow Positive Support

SPECIALISED HIV INFORMATION,  
SUPPORT, RESPITE & RETREAT

POLICY DOCUMENT 2013

Revised 2017



# **DISCIPLINARY PROCEDURES**

## *(Contracted Staff)*

### **1. PRACTICE**

1.1 These rules and procedures are designed to ensure fair treatment of staff and confidence as to the steps to be followed if an employee is in breach of contract, theft and serious misconduct, and a case whereby the employee seriously falls short of the standards expected by Kernow Positive Support (KPS).

1.2 The staff line-manager may informally discuss with an employee any concern as to his/her conduct or performance without recourse to disciplinary procedures.

1.3 No disciplinary penalty will be imposed without full investigation. The employee must be given reasonable written notice of a disciplinary meeting and the opportunity (*with the assistance of an advocate if he/she so wishes*) to state his/her case.

1.4 At each stage, the employee will be notified in writing of; (a) the nature of the complaint; (b) the action or improvement required; (c) the possible consequences of further misconduct or unsatisfactory performance; (d) the stage reached in the procedure; (e) the right of appeal.

1.5 The employee may within seven days after any disciplinary decision (*other than to dismiss, as to which see paragraph 3 below*) appeal to a committee of at least three Trustees, none of whom has been directly involved in investigating the case. The employee will be given at least seven days' notice of the appeal hearing and shall be entitled to the assistance of an advocate. Alternatively, the employee may, in acknowledging the warning, record in writing that he/she disagrees with it in whole or in part.

### **2. PROCEDURES**

#### *Definitions:*

#### **Stage 1: Verbal Warning**

Unsatisfactory performance/minor misconduct. A verbal warning issued by the staff line-manager and not placed on the employee's file.

#### **Stage 2: Written Warning**

Further complaint as to performance or conduct, or a more serious allegation of misconduct. Written warning issued by the Chair in agreement with the Board of Trustees, after investigation by him/her or his/her nominee, and in consultation with the staff line-manager and a copy placed on the employee's file.

### Stage 3: **Final written warning**

Further complaint as to performance or conduct or allegation of very serious misconduct, a repeat of which could lead to dismissal. The Board of Trustees to be informed in writing as soon as this stage is reached. Written warning after investigation as above. Copy to be placed on the employee's file.

### Stage 4: **Dismissal**

On further complaint about the employee's performance or conduct the Trustees should again be informed in writing of the matters alleged, having regard to paragraph 3.2 below. After investigation by a committee of three Trustees, dismissal may follow with or without notice depending on the severity of the offence and legal implications. The employee is to be informed of the reason(s) and advised of the right of appeal to the Trustees in accordance with the paragraph 3 below. Appeal must be requested in writing within 14 days of dismissal.

## **3. PROCEDURE FOR POSSIBLE DISMISSAL**

3.1 At stage 4, the Chair to the Board of the Trustees will consult with the line-manager before any notice of dismissal is given.

3.2 If a dismissed employee gives notice of appeal, he/she shall be given at least 10 days' written notice of an appeal meeting which shall be held within one month of the notice of appeal and shall include a majority of the Trustees including at least two who were not party to any decision to dismiss. The Chair to the Board of the Trustees should not chair the appeal meeting if he/she was also party to that decision.

3.3 The employee shall be entitled to be accompanied at the appeal meeting by an advocate and to call or question any witness for or against him/her. The line-manager may also attend.

3.4 The Trustees may confirm or withdraw the notice of dismissal and where appropriate apply some lesser penalty or warning.

3.5 The Trustees may, following a hearing as to gross misconduct, either dismiss the employee (*with or without notice*) or reinstate him/her and apply some lesser penalty or warning.

3.6 In all such cases, the decision, with clearly stated reasons, shall be confirmed in writing without delay. There shall be no further appeal.

*\*Contracted Staff is defined as any members of paid staff and any contracted persons such as; Therapists, Counsellors and Facilitators*

## **4. GROSS MISCONDUCT**

4.1 Gross misconduct is conduct so serious that it would justify summary dismissal. The following list gives examples but is not intended to be exhaustive:

- Dishonest, indecent, dangerous or violent behaviour, physical or mental ill-treatment of or improper relationship with a client/volunteer/staff member.
- Aggressive, abusive or grossly discourteous behaviour. Being on duty under the influence of drugs or alcohol.
- Neglect or refusal of duty or continued unauthorised absence.
- Unauthorized disclosure of confidential information concerning the affairs of KPS or its staff, volunteers, clients.
- Other serious failure to meet standards particularly expected in KPS in the field of HIV and AIDS-related diseases (*as to which the employee's attention has been drawn to the KPS Declaration of Trust, policies/guidelines and procedures which are available online or by request from KPS*).

## **5. LACK OF COMPETENCE**

Complaints of lack of competence should, following consultation between the Chair to the Board of Trustees, progress through stages 1-4 listed above, for it is not lack of competence demonstrated over a short period of time but failure to remedy it within a reasonable period of time which could provide grounds eventually for dismissal. At each stage, measures should be taken to assist the employee to improve his/her performance, directing the employee's attention to ways in which it is deficient, and, where possible, putting him/her under the direct supervision of someone competent and experienced. If, after a final written warning, the employee has still not improved sufficiently in performance, consideration should be given to offering suitable alternative (*but not necessarily equivalent*) employment before consideration is given to a proposal for dismissal.

## **6. SUSPENSION**

Where gross misconduct or neglect of duty is alleged, or the employee is the subject of police investigation, the line-manager shall have power to investigate and suspend the employee on full pay for as short a period as is reasonably practicable. In that event the line-manager will at once make a full report to the Chair to the Board of the Trustees who will report it to the Trustees in writing as soon as practicable with a copy to the employee. Disciplinary proceedings will continue under stage 4 above. Suspension shall not be seen as punishment.

## **7. MINOR MISCONDUCT**

Minor misconduct would include lack of punctuality and absenteeism without reasonable cause totalling not more than five days in any year, and would not lead to

dismissal for a first breach of discipline. Warnings will be given in accordance with the above stages.

## **DISCIPLINARY PROCEDURES**

### *(Volunteers)*

#### **1. PRACTICE**

1.1 These rules and procedures are designed to ensure fair treatment of volunteer and confidence as to the steps to be followed if a volunteer falls short of the standards expected by Kernow Positive Support (KPS).

1.2 The volunteer co-ordinator (*which expression shall include any person designated by the Trustees from time to time as line manager responsible for administrative volunteer matters*) may informally discuss with a volunteer any concern as to his/her conduct or performance without recourse to disciplinary procedures.

1.3 No disciplinary penalty will be imposed without full investigation. The volunteer must be given reasonable notice of a disciplinary meeting and the opportunity (*with the assistance of an advocate if he/she so wishes*) to state his/her case.

1.4 At each formal stage, the volunteer will be notified of; (a) the nature of the complaint; (b) the action or improvement required; (c) the possible consequences of further misconduct or unsatisfactory performance; (d) the stage reached in the procedure; (e) the right of appeal.

1.5 The volunteer may within seven days of any disciplinary decision (*other than to dismiss, as to which see paragraph 3 below*), appeal to a committee of at least three Trustees, none of whom has been directly involved in investigating that case. The volunteer will be given at least seven days' notice of the appeal hearing and shall be entitled to the assistance of an advocate. Alternatively, the volunteer may, in acknowledging the warning, record in writing that he/she disagrees with it in whole or in part.

## **2. PROCEDURE**

### **Stage 1: Verbal warning**

Minor misconduct: A verbal warning issued by the volunteer co-ordinator and not placed on the volunteer's file.

### **Stage 2: Written warning**

Further complaint as to performance or conduct, or a more serious allegation of misconduct: Written warning issued by the Chair to the Board of Trustees (*after investigation by him/her or his/her nominee and in consultation with the volunteer co-ordinator*). Copy to be placed on the volunteer's file.

### **3: Final written warning**

Further complaint as to performance or conduct or allegation of very serious misconduct, a repeat of which could lead to the termination of his/her volunteer services. The Board of Trustees to be informed in writing as soon as this stage is reached. Written warning after investigation as above. Copy to be placed on the volunteer's file.

### **Stage 4: Termination of his/her volunteer services**

On further complaint about the volunteer's performance or conduct the Trustees should again be informed in writing but without going into detail as to the matters alleged, having regard to paragraph 3.2 below. After investigation by a committee of three Trustees, termination of the volunteer's services may follow with or without notice depending on the severity of the offence. The volunteer is to be informed of the reasons and advised of the right of appeal to the Trustees in accordance with the paragraph 3 below. Appeal must be requested in writing within 14 days of termination of his/her services.

*Whereby a client is also a volunteer, any outcome will not bar the client from accessing service provision that KPS offers, although, in serious cases, access to formal drop-in facilities may be compromised. This will be treated sensitively, and any such decision will be at the discretion of the Board of Trustees.*

## **3. PROCEDURE FOR THE POSSIBLE TERMINATION OF HIS/HER VOLUNTEER SERVICES**

3.1 At stage 4, the Chair to the Board of the Trustees will consult with the volunteer co-ordinator before any notice of termination is given.

3.2 If a volunteer gives notice of appeal, he/she shall be given at least ten days' written notice of an appeal meeting which shall be held within one month of the notice of appeal and shall include a majority of the Trustees including at least two who were not party to any decision to terminate his/her volunteer services. The Chair to the Board of the Trustees should not chair the appeal meeting if he/she was also party to that decision.

3.3 The volunteer shall be entitled to be accompanied at the appeal meeting by an advocate and to call or question any witness for or against him/her. The volunteer co-ordinator may also attend.

3.4 The Trustees may confirm or withdraw the notice of termination and where appropriate apply some lesser penalty or warning and/or apology if appropriate.

3.5 The Trustees may, following a hearing as to gross misconduct, either terminate the volunteer's services (*with or without notice*) or reinstate him/her and apply some lesser penalty or warning and/or apology if appropriate.

3.6 In all such cases, the decision, with clearly stated reasons, shall be confirmed in writing without delay. There shall be no further appeal.

#### **4. GROSS MISCONDUCT**

4.1 Gross misconduct is conduct so serious that it would justify summary dismissal. The following list gives examples but is not intended to be exhaustive:

- Dishonest, indecent, dangerous or violent behaviour, physical or mental ill-treatment of or improper relationship with a client.
- Aggressive, abusive or grossly discourteous behaviour. Being on duty under the influence of drugs or alcohol.
- Unauthorised disclosure of confidential information concerning the affairs of KPS or its staff, volunteers and clients.
- Serious failure to meet standards particularly expected in KPS in the field of HIV and AIDS-related diseases (*as to which the volunteer's attention has been drawn to the KPS Declaration of Trust, policies/guidelines and procedures which are available online or by request from KPS*).

#### **5. SUSPENSION**

Where gross misconduct or neglect of duty is alleged, or the volunteer is the subject of Police investigation, the volunteer co-ordinator shall have power to investigate and suspend the volunteer for as short a period as is reasonably practicable. In that event the volunteer co-ordinator will at once make a full report to the senior member of staff and Chair to the Board of the Trustees who will report it to the Trustees in writing as soon as practicable with a copy to the volunteer. Disciplinary proceedings will continue under stage 4 above. Suspension shall not be seen as punishment.

This policy also includes the identification of risks posed to both clients and staff during lone working. KPS recognises that a significant proportion of the support provided will be through one to one contact in a variety of settings and the risks to clients, staff and volunteers need to be identified. Staff and volunteer training and induction procedures will highlight the potential risks to staff and volunteers, and the

risk to clients will be identified in the client handbook. As part of the overall service provision staff and volunteers are required to draw to the attention of prospective clients the relevant section of the client handbook which deals with these potential risks.

Information covering these potential risks and how staff, volunteers and clients deal with the possible risks which can arise from one to one working are contained in several policy documents including:

- KPS Risk Assessment
- KPS Lone Worker Policy
- KPS Whistleblowing Policy
- KPS Safeguarding Policy Children/Adults
- KPS Managing your Personal Safety
- KPS Harassment Policy
- KPS Ethics and Practices Policy
- KPS Conflict of Interest Policy
- KPS Confidentiality & Data Protection Policy
- KPS Complaints Policy
- KPS Health & Safety Policy

Plus the KPS Client Handbook, and the KPS Staff and Volunteer Handbook.

All KPS policies and procedures are reviewed annually; this DISCIPLINARY PROCEDURES POLICY has been reviewed and ratified by the KPS Board of Trustees commencing 1<sup>st</sup> March 2017 (*under 'policies' as shown in the KPS Annual Report and Accounts*).

***Ref: DPP2013/14.***