



Growing Hope |
Registered charity 1176358

Growing Hope, KXC, 237 Pentonville Road,
London, N1 9NG | 07496 528506
info@growinghope.org.uk

Disciplinary Policy & Procedure

Introduction

Growing Hope believes that Disciplinary rules and procedures are important in any workplace to set out the boundaries of acceptable conduct and to ensure fair and equitable treatment of staff who transgress these boundaries.

Growing Hope believes that fairness and transparency are promoted by developing robust policies and procedures and ensuring all staff understand the content and how to work within the processes.

It is important for staff and managers to see these policies and procedures not as a punitive tool, rather a structured mechanism to enable managers and staff to address shortfalls in conduct in a fair and equitable manner.

The purpose of this policy is not to restrict the rights of anyone, but rather to help people work together harmoniously according to the standards we have established for efficient and effective services for all our stakeholders.

Scope

This policy and its associated procedures will apply to all staff directly employed by Growing Hope and Growing Hope volunteers. This also includes trainees, secondees and staff on honorary contracts or on joint contracts with another employer.

Where there are issues with regards to professional practice Growing Hope has a duty to report these to the Health Care Professions Council or similar body.

Cases of misconduct perpetrated outside of work by staff may also be managed through this policy. The circumstances should be considered on their merits, the managers must give careful consideration as to whether an individual's role and/or the reputation of Growing Hope has been unduly affected as a result of the act of misconduct.

Definition

Conduct is defined as an individual's behaviour, therefore, misconduct is when behaviours are demonstrated that are not appropriate or unacceptable. This policy provides examples of what Growing Hope interprets as misconduct.

For the purposes of this policy and procedure misconduct is broken down into two distinct categories, misconduct and gross misconduct.

Misconduct constitutes behaviours that transgress acceptable boundaries and can be managed incrementally to address shortfalls (see disciplinary procedure)

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Gross misconduct constitutes behaviours that exceed acceptable boundaries and will be managed succinctly, potentially leading to an individual's dismissal (see disciplinary procedure).

Roles and Responsibilities

Growing Hope

- Growing Hope aims to ensure consistent and fair treatment for all members of staff.
- Growing Hope aims to have a skilled and knowledgeable workforce, who fully understands the behaviours expected of them, through regular appraisal and development opportunities.
- The CEO has delegated responsibility from the Trustee Board to ensure this Policy and associated Procedure is implemented and monitored ongoing. This includes
 - Providing advice and guidance to managers in the interpretation and application of this procedure as appropriate;
 - Providing advice to panels by attendance at formal disciplinary hearing
 - Providing access to training and coaching in the handling of disciplinary matters
 - Monitoring and reporting the issuing of disciplinary outcomes/actions to ensure consistency in relation to diversity issues.
 - Keeping the provisions within this policy in line with employment legislation.

Managers

Line manager's roles, responsibilities and accountabilities require them to:

- Be aware of Growing Hope's policies and procedures and how to use them to manage issues as they arise.
- Work within Growing Hope's policies and procedures ensuring fairness and consistency across their service.
- Ensure staff have an up-to-date job description, which reflects their roles and responsibilities.
- Ensure staff have their annual appraisal; following Growing Hope's development structure and setting objectives to ensure staff know what is expected of them.
- Where conduct issues start to emerge the manager must ensure that the individual is made aware at the earliest possible opportunity to allow them to correct their behaviour.

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- Ensure that conduct issues are managed effectively to ensure they do not affect family care or safety, staff morale and service delivery.

Staff

Staff have roles and responsibilities to:

- Familiarise themselves with Growing Hope's policies and procedures to ensure they understand Growing Hope's expectations.
- Ensure they have an up-to-date job description, which accurately reflects the role they have been employed to do.
- Ensure they have an annual appraisal with their line manager, which assesses performance against the Growing Hope's competencies for their role.
- Raise concerns as soon as possible, if they feel they are struggling in their role or within their team, seek support from their line manager.
- Raise concerns if they believe others behaviour is transgressing Growing Hope boundaries, especially if it may impact on family or staff wellbeing or safety.
- When issues are identified engage with their line manager to bring about a resolution as quickly as possible.

Policy Principles

- Growing Hope encourages managers and staff, wherever possible, to resolve conduct concerns as quickly and informally as possible.
- It is recognised that because conduct is related to behaviours, staff may feel that managers are criticising them personally. Wherever possible managers and staff are encouraged to use established guidance on what constitutes good conduct within Growing Hope. E.g. professional competency frameworks, as a basis for any discussion to establish a common understanding.
- Should managers pursue formal disciplinary action they will ensure that staff are kept fully informed of the allegations against them, the progress of the investigation and the processes to be followed.
- Dependant on the nature of the disciplinary issue Growing Hope may be obliged to inform professional bodies.
- If an individual chooses to resign from Growing Hope and refuses to engage during the Disciplinary process there may be occasions e.g. safeguarding concerns, where the case will continue and be heard in their absence. If the case is found against the former member of staff Growing Hope will be obliged to refer the case to the relevant professional body. We therefore encourage staff to maintain their engagement with the process wherever possible.

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- Wherever possible Growing Hope will attempt to preserve employment and consider redeployment opportunities.

Disciplinary Procedure

As already stated Growing Hope would encourage managers to resolve conduct issues informally wherever possible. There are times however when this is not possible and the following procedure provides a process to be followed if that is the case.

Overview

There are three stages to the disciplinary procedure:

Stage 1 - Informal Stage

Stage 2 - Formal Stage

Stage 3 - Appeal

Stage 1 - Informal Stage

The informal stage of this policy should be used to ensure that the manager and member of staff have established open and honest communication about the issues. Talking about the problem, before entering a formal process, can frequently bring about a speedy resolution.

- The informal stage should always involve a 1:1 meeting with a clear explanation of what is happening, reasons for the cause of concern and a written action plan agreed by the staff member and the manager. (This should be signed by both parties and kept by electronic copy in the staff member's file)
- The manager should recognise that staff may find this process stressful and put in place mechanisms to monitor their wellbeing e.g. conduct a stress assessment with the member of staff
- Whilst, at this informal stage, there is no right to representation for the member of staff, the line manager may wish to consider their involvement to facilitate an open and honest dialogue. This should not however be allowed to unnecessarily delay the informal process.
- The manager should make clear, to the member of staff, that the meeting is forming part of the Disciplinary process, provide them with a copy of this policy and procedure and talk through how the process works. The manager should explain that they will be given every opportunity to meet the required standards.
- The informal stage of this policy is not time-bound, whilst some instances of misconduct can be managed via a conversation or by establishing an

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action plan and monitoring, others will need to be progressed more quickly. The decision on how to progress should be taken following the informal discussion between the line manager and the member of staff.

- Care should be taken to identify whether concerns raised about a member of staff's behaviour are related to conduct or capability. If the concern is relate to capability the staff members performance should be measured according to the following steps:
 - An initial meeting discussing the need for performance management is undertaken with the Line Manager. This meeting will review the Growing Hope role descriptions within the Payscale and Leave policy to ascertain areas for improvement. Within this meeting the manager and staff member will come up with a plan of action to help the individual improve their performance within the following month.
 - The action plan may involve further training, shadowing and specific tasks to demonstrate improved performance.
 - A review meeting at 2 weeks will discuss how the staff member is doing with implementing the plan.
 - At 4 weeks the plan will be reviewed and the individual will either be removed from performance management or further actions will be put in place to help them get up to the required standard of performance.
 - This process can be repeated up to 4 times over a period of 6 months.
 - After 6 months if the staff member is still unable to demonstrate adequate performance at a consistent level they will automatically move to Stage 2 - the formal stage of the disciplinary procedure.

Stage 2 - Formal Stage

Criminal offences

Where a criminal offence is suspected the Police will be notified immediately.

- Where an individual is held in custody for a criminal offence, suspension either with or without pay will be considered by the CEO and board of trustees of Growing Hope (umbrella charity). The chair of trustees must be notified within 1 working day if this occurs.
- Staff members have a responsibility to inform their workplace if they have been remanded in custody as soon as reasonably possible.
- If staff are charged with a criminal offence they will be suspended without pay until a disciplinary hearing.
- Where an employee is in custody, the investigation and Disciplinary Hearing may be conducted in their absence. However, the employee will be given the opportunity to nominate a Trade Union Representative or fellow worker not acting in a legal capacity, to attend on their behalf.



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- Failure to declare criminal convictions under the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (Amendment) Order 1986, prior to commencement of employment, may lead to summary dismissal (i.e. without notice). Where a member of staff has failed to declare convictions prior to employment this may be regarded as a criminal matter.
- Criminal offences will automatically progress and employee to a formal disciplinary procedure.

Progressing to formal disciplinary procedure

- The decision to progress from an informal Disciplinary process into the formal Procedure will be made by the line manager. Once the decision has been made, the line manager will become the Commissioning Manager and seek an investigation into the issues of poor conduct. They will appoint an Investigating Officer, unconnected with the case (normally a trustee), to carry out an investigation in line with this procedure.
- In some cases the line manager may not be considered the most appropriate person to become the Commissioning Manager, in these circumstances a peer or more senior manager may take the role. Growing Hope Trustee advice should be sought.
- The Commissioning Manager will base their decision on how to proceed on the outcome and conclusions of the investigation.

Investigation

Unless there are compelling reasons not to do so (e.g. the investigation concerns allegations of fraud, corruption, safeguarding children etc), the manager will ensure that the individual is aware they are subject to an investigation under the disciplinary procedure.

Prior to any disciplinary action being taken an investigation into the circumstances and facts relating to the allegations will be undertaken. This will include:

- Interviews with witnesses, and the employee to whom the allegations relate
- Collection of signed statements
- Collection of relevant documentation/records

Where fraud, corruption or bribery against Growing Hope is suspected the police should be contacted.

If abuse of a child or vulnerable adult is suspected the Safeguarding policy must be followed.

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Wherever possible, an employee will normally be given five working days notice to attend an investigative meeting. This may be given verbally or in writing. It may also take place sooner by mutual agreement.

The investigation should be completed without undue delay. Where the investigation is expected to continue beyond a 28 day period the employee should be informed of the decision in writing by the Manager who commissioned the investigation.

The extension should be for a maximum period of four weeks at any one time and the employee should be informed of the reasons for the extension and any progress made.

Where it is believed that a serious breach of conduct has, or may be committed, e.g. in cases of theft or abuse of service users, Growing Hope reserves the right to install temporary directed surveillance equipment. This can only be authorised by the Chief Executive.

The use of direct covert surveillance equipment would need to be proportionate and appropriate. Care will be taken to protect the privacy and decency of employees and service users. Advice will also be sought from Action Fraud. Surveillance equipment will be removed at the earliest appropriate opportunity.

Upon completion of the investigation, the Investigating Officer, will give feedback to the Manager who commissioned the investigation. This manager, together with the local chair of trustees will consider the findings and decide, whether or not the case should proceed to a disciplinary hearing.

If the decision is to proceed to a disciplinary hearing, the Manager who commissioned the investigation will hear the case. He or she will inform the employee in writing of the decision to proceed to a disciplinary hearing within five working days. This formal letter must include the date and time of the meeting, a summary of the case including any statements given and any witnesses who are to attend the hearing.

Where the decision is not to proceed to a formal disciplinary hearing, the Manager who commissioned the investigation will meet the member of staff to give feedback. The nature of this feedback may be that the individual is completely exonerated, or that issues have come to light which require improvements, for example a development plan to address the areas of concern.

Hearings

- A Disciplinary hearing panel will consist of the commissioning manager who, prior to investigation will have had no previous connection with the case (where this is not possible a trustee will chair in their place). A HR representative of an appropriate seniority and/or experience will also be present (where there is not an employee available this will be a trustee).

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For Registrants (eg HCPC) a Lead Therapist of that profession must be invited to join the panel as a Professional Advisor. In certain circumstances a specialist/ technical expert may also sit on the panel to support the Chair. There should always be at least three individuals on the panel (trustees or staff members).

- The panel should be given five days to read through all the presenting evidence and a statement from the employee (if they wish to provide one).
- Both parties (Growing Hope and the employee) will have the opportunity to present their case to the Disciplinary Panel, prior to any decisions being made.
- The individual has the right to representation by a Trade Union Representative or work colleague (unrelated to the case or themselves).
- Formal hearings are essentially meetings between Growing Hope and the individual member of staff. Discussions should therefore be principally between Growing Hope and the individual; the role of the Trade Union representative or work colleague should be to support the individual by offering relevant supplementary information that adds value to the hearing and, if requested by the individual, present the initial case and sum up. Any questions put directly to the individual should be initially dealt with by them.
- Growing Hope will look to provide a maximum of two (2) alternative dates/times in the event of the individual and/or representative being unable to attend the first date set. If necessary the hearing will take place in the individual's absence on the second alternative date.
- The hearing should involve a review of the evidence on both sides and the opportunity to discuss the case.
- Following the hearing, members of the panel must weigh up the evidence after listening to both cases and then advise the chair of the panel.
- The chair will consider the panel's views and make the final decision as to what, if any, disciplinary action is warranted.
- Should it be felt necessary by the panel that further investigations are needed, then an adjournment may be called and provisions made for it to be resumed later. Either side may request a short adjournment at any stage and this will not be unreasonably refused.

Disciplinary Action

The decision on what disciplinary action is taken will relate to the circumstances of each individual case. It is possible to enter into any of the actions detailed below depending on the seriousness of the offence. Therefore, repetition of minor breaches of discipline may invoke a series of progressive warnings, or more serious cases could lead directly to a final written warning or dismissal.

Misconduct

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The term misconduct applies where an employee fails to comply with the rules and standards of conduct that apply throughout Growing Hope or within their particular work area. Managers have a responsibility to make these rules and standards clear to employees who, in turn, must ensure that they understand what is expected of them.

Examples of misconduct are set out below:

- Refusal to carry out a reasonable instruction given by an authorised person
- Contravention of health and safety legislation and procedures
- Failure to meet acceptable standards of conduct
- Repeated lateness/poor time keeping
- Unsatisfactory and unacceptable performance of duties

The above are intended as examples and are not an exhaustive list. Growing Hope may include other types of behaviour under the category of misconduct.

Gross Misconduct

The term gross misconduct applies where an employee's acts or omissions are of such a degree that they seriously interfere with the provision of service, affect the health and safety of service users or result in a serious breach of contractual relationship with Growing Hope.

Examples of gross misconduct are set out below:

- Wilful damage or theft of the property of Growing Hope, service users, carers, staff visitors, contractors or volunteers
- Bullying, harassment or discriminatory practices or actions of other employees, service users or the public
- Fraud, including attempts to defraud Growing Hope, its officers, the public, service users, relatives or visitors. This may also include where employment with Growing Hope has been obtained fraudulently. Fraudulent actions may lead to criminal proceedings being taken against the individual
- Violent or abusive behaviour, assault or attempted assault upon service users, other employees or visitors
- Ill treatment of patients
- Incapacity on duty including unfit for duty due to the effects of alcohol or non-prescribed drugs
- Corruption/bribery e.g. acceptance of money or goods in respect of favours or services rendered
- Failure to respond to previous warnings as to matters of misconduct and performance
- Persistent refusal to carry out reasonable instructions given by an authorised person

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- Breach of confidentiality
- Serious misuse of IT equipment and the Growing Hope email, internet and intranet systems
- Gross negligence
- Deliberate contravention of health and safety legislation and procedures
- Criminal offences outside of the workplace
- Bringing Growing Hope's name into serious disrepute

The above are intended as examples and is not an exhaustive list. The Trust may include other types of behaviour under the category of gross misconduct.

Disciplinary warnings

Formal verbal warning

A formal verbal warning may be issued in cases of minor offences. The employee should be informed in writing of the following within seven working days of the Disciplinary Hearing:

- The reason the warning has been given
- That the warning will remain on their record for a period of six months after which it will be removed and disregarded
- What improvement in behaviour and performance is expected, in what time period and how it will be assessed
- That failure to improve, or future breaches during the warning period may result in further disciplinary action
- The right to appeal against the decision

Written Warning

A written warning may be issued for more serious offences or repetition of minor offences. The employee should be informed of the following in writing within seven working days of the Disciplinary Hearing:

- The reason the warning has been given
- That the warning will remain on their record for a period of 12 months after which it will be removed and disregarded
- What improvement in behaviour and performance is expected, in what time period and how it will be assessed
- That failure to improve or future breaches during the warning period may result in further disciplinary action
- The right to appeal against the decision

Final Written Warning

A final written warning may be issued for repetition of less serious offences or if the misconduct is sufficiently serious to warrant more than a written warning but

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not serious enough to justify dismissal. The employee should be informed of the following in writing within seven working days of the Disciplinary Hearing:

- The reason the warning has been given
- That the warning will remain on their record for a period of 18 months after which it will be removed and disregarded
- What improvement in behaviour and performance is expected, in what time period and how it will be assessed
- That failure to improve or future breaches during the warning period may lead to dismissal
- The right to appeal against the decision

Dismissal

This is the most serious form of disciplinary action and as such will only be applicable to either issues of gross misconduct, where issues are so serious as to render continued employment unacceptable, or where there has been a repetition of less serious offences. The employee should be informed of the following in writing within seven working days of the Disciplinary Hearing:

- The reason for the decision
- The date the dismissal will take effect
- That summary dismissal (ie for gross misconduct) will take effect without notice or notice pay
- The right of appeal against the decision

Alternative Action Short of Dismissal

In exceptional cases the use of downgrading and/or transfer may be considered by the panel should they believe it could be an alternative to dismissal. Any downgrading and/or transfer will be subject to the agreement of the employee concerned. The Panel will ensure that any such proposals are realistic and practicable in the circumstances. Should the individual refuse (or not respond in the stated time period) the previously disciplinary sanction, based on the merits of the case, will be taken. Where agreement is reached with the individual to downgrade or transfer, this action will not be subject to appeal.

Referral to Professional Bodies and Independent Safeguarding Authority

Where there are concerns raised during the disciplinary process about the conduct or competence of a member of staff, the chair of the panel will discuss this with the appropriate Director (usually clinical director or CEO). The Director will then consider whether the matter should be referred to the individual's professional body. If it is decided that referral is appropriate, then the individual will be informed of this action before it takes place.



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Where a member of staff is removed from a regulated or controlled activity, or if they leave while under investigation for allegedly causing harm, or posing a risk of harm, Growing Hope is legally obliged to refer this information to the Independent Safeguarding Authority.

Stage 3 - Appeal

The member of staff has the right to appeal against decisions made at each of the formal stages.

Where the employee appeals against the decision of the manager to take disciplinary action, the Appeal Hearing Panel will review the evidence presented to the Disciplinary Hearing Panel. They will then consider whether or not a reasonable decision had been reached. Where necessary witnesses will be called to clarify evidence.

In an appeal hearing a more serious sanction cannot be given. However, in exceptional circumstances, if the panel feels the action taken is beyond the bands of reasonableness, the chair of the panel can then refer the case to a new panel, not previously involved with the case.

Appeals against Formal Verbal, First Written or Final Written Warnings

An employee's request to appeal against disciplinary action must state the grounds of the appeal. It must be made in writing to the next level of management within seven working days of the date of the letter confirming the decision of the Disciplinary Hearing.

The appeal will be heard by the next level of senior management (or trustees who are not aware of the case) normally within six weeks of the date that the letter of appeal was received. The Appeal Hearing Panel will consist of a Manager, a HR Representative and (where appropriate), a Professional Advisor none of whom will have previously been involved. If necessary this may involve three trustees.

The employee will normally be given a minimum of ten working days notice of the Appeal Hearing date.

Statements of case from both parties should be submitted to the Manager at least five working days prior to the Appeal Hearing. The cases will then be exchanged with copies provided for both parties and the Appeal Hearing Panel.

If upon receipt of the exchanged cases, either party believes that new evidence has been included, they may, if required, approach the Manager to request a postponement to allow time for the new evidence to be considered.

There is no further right of appeal under this procedure.

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Appeals against Dismissal

An appeal against dismissal must state the grounds of appeal and be made in writing to the CEO within seven working days of the date of the letter confirming the decision of the Disciplinary Hearing.

The appeal will normally be heard within six weeks of the date that the letter of appeal was received. The Appeal Hearing Panel will be a Sub Committee of the Trust Board consisting of three trustees. A Professional Advisor will also be a member of the panel, where appropriate. The secretary to the panel will be a Senior HR Representative.

The employee will normally be given at least 10 working days notice of the Appeal Hearing date.

Statements of case from both parties must be submitted to the CEO at least ten working days prior to the Appeal Hearing. The cases will then be exchanged with copies provided for both parties and the Appeal Hearing Panel. It is for the dismissing manager to decide which witnesses to call in support of the management case and for the member of staff, or their representative, to call witnesses in support of their case.

The panel may also decide that further witnesses need to be called in order to clarify the case before them.

If upon receipt of the exchanged case, either party believes that new evidence has been included, they may, if required approach the CEO to request a postponement to allow time for the new evidence to be considered.

The Sub Committee will either uphold the sanction, or dismiss it. If the Sub Committee regards the sanction as inappropriate (particularly where new evidence has been presented), then it may reduce the sanction. However, if the committee considers the need for further investigations, they have the discretion to refer the case back to the original, or a new investigative team/disciplinary panel for reconsideration.

Where an appeal against dismissal is upheld reinstatement of the employee will be from the date of dismissal and arrears of salary will be paid. The panel may reinstate with a lesser warning. The warning would then commence from the date of the panel's confirmation letter.

There is no further right of appeal under this procedure

Counter Claims

Should the member of staff submit grievance or bullying and harassment claims against the line manager during the informal or formal aspects of the disciplinary processes, the allegation will not stop the Disciplinary process.

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The allegations will be subject to a parallel investigation in-line with the appropriate policy and procedure. The outcome and conclusion of the investigation will also be dealt with in-line with the associated policies and procedures. If appropriate either party may use the outcome of that investigation as evidence during a disciplinary and/or appeal hearing.

This policy will be reviewed every 3 years.

This policy should be read alongside other Growing Hope policies.

Policy adopted: February 2020

Policy reviewed: June 2021