



Grievance and Disciplinary Policy Guidance

- **Policy brief and purpose**

Wharf Chambers' Grievance and Disciplinary Policy and Guidance explains how Co-op workers, employees and members of the Club Collective can voice their complaints and resolve them constructively.

Many grievances and potential disciplinary situations can be resolved through an informal conversation, however where this has failed or is not appropriate then Wharf Chambers will follow the steps outlined in this policy in order to seek a resolution.

This policy document covers

- Grievances
- Disciplinary
- Appeals

This document explains the steps the Club Collective should take in managing a grievance or disciplinary procedure.

- **How we work**

Wharf Chambers is a workers' co-operative and members' club governed by a Club Collective. The Club Collective is a partnership of Co-op members and individuals elected from its membership to give oversight over the organisation.

Members of the Co-op (responsible for the day-to-day operations of the organisation) are automatically members of the Club Collective. The Club Collective provides support to the Co-op and has oversight over Wharf Chambers activities and strategic aims. The elected Club Collective members also have a responsibility to act in the interest of wider membership and the organisation.

Presently Wharf Chambers does not have an HR department or a worker with defined HR responsibilities. In the absence of the resources that would ordinarily structure and

facilitate a grievance or disciplinary process, Wharf Chambers' resources are its Co-op members and Club Collective members. The Co-op and Club Collective may also seek external facilitation resources in order to aid decision making and/ or provide mediation.

Note:

There may be individuals in Wharf Chambers' Co-op or elected Club Collective that have skills and experience in facilitating and resolving issues in a workplace. If these skills are absent in the the Co-op or the Club Collective it is necessary for Wharf Chambers to seek to develop or acquire these skills.

• Principles informing this policy

This policy is informed by Wharf Chambers' values and **Club Collective Conduct Policy** - it is also essential that these policies are upheld and undertaken with

- Consistency
- Fairness
- Proportionality
- And without bias

When managing a grievance or a disciplinary it is also important to consider if there is a precedence.

• Scope

This procedure should be used for all grievances arising from employment, except for issues relating to contractual terms of employment, and job description.

This policy applies to those who part of the Co-op and other employees of Wharf Chambers.

• Definitions

• What is a grievance?

A grievance is a complaint, problem or concern related to the workplace, job or co-worker relationships.

A grievance can relate to

- Workplace harassment
- Discrimination
- Health and safety
- Damaging changes to employment conditions

• What are disciplinary measures?

Disciplinary measures may be used in response to address a failure of workers to uphold the behaviours and values expected of them agreed in their contract and by the Workers' Conduct Policy.

A disciplinary procedure is followed to address an individual's behaviour. A disciplinary procedure may be used to reprimand but is not a means to punish an individual.

Disciplinary measures may involve

- Required improvement warning and/ or a written warning informing and specifying standard of behavior expected
- Requests for improvement in areas of work i.e punctuality, communication
- Issuing a timescale for improvements in work and/ or behaviour at work
- Dismissal

• Companion

When in meetings, staff involved in a grievance (either those making a grievance or those implicated in a grievance), and staff involved subject to a disciplinary hearing or measures have the right to be accompanied by another member of staff, a union representative or any other person who is agreed as mutually acceptable companion.

• Meetings

All meetings (grievance, disciplinary and appeals) will be held in private and the need for confidentiality must be respected at all stages.

• Stages of a Grievance procedure

• Informal stage

Staff should first attempt to resolve any grievance through discussion with other staff members directly. Staff may also raise issues in weekly Co-op meetings or monthly Club Collective meetings.

• Stage One - A formal grievance

How to raise a formal grievance

For a grievance that can't be resolved via informal discussion staff can make a written report to a Co-op member with HR responsibilities, or the Club Collective Chair or Secretary.

This written report will be dated and should include

- Details of the grievance
- Supporting information - including any evidence or witnesses

- Action you have taken to resolve it/ or why you are unable to take action to resolve it

How to respond to a formal grievance

The person in receipt of the written grievance report must respond within 3 days of receiving it and seek to arrange a meeting within two weeks to formally hear the grievance.

The person in receipt of the written report must convene a panel to hear the grievance. No one may sit as a panel member where there is a conflict of interest or who is likely to be called as a witness.

This panel must include

- The Chair or Secretary of the Club Collective
- The Co-op member with HR responsibilities (if available)
- A member of the Club Collective appointed to investigate the grievance

A person must also be appointed to take minutes of the grievance hearing.

Note: There must be at least one person from the elected Club Collective involved in this stage of the process.

Investigating a grievance

The person appointed to investigate the grievance must seek to establish the facts of the issue before the hearing.

This may involve

- Speaking to witnesses
- Speaking to the person putting forward the grievance for further clarification if needed
- Speaking to the person implicated in the grievance if appropriate

In cases of harassment or personal abuse/ assault, the panel must make appropriate arrangements to protect the personal safety of any witnesses. The panel will seek to make reasonable arrangements to ensure witnesses are able to give evidence in ways that are most comfortable with them.

• Hearing a formal grievance

The person in receipt of your written report will respond within 3 days of receiving it to arrange a meeting within two weeks to hear the grievance.

Who will be at hearing

Present at the this hearing will be

- members of the grievance hearing panel
- the staff member who has raised the grievance
- A person appointed to minute the grievance hearing

Where and when the hearing will be held

The date, time and venue of the meeting will be arranged by mutual agreement.

In the event of any of the participants in the grievance hearing being unable to attend at the mutually agreed time, the meeting may be postponed once to another time to suit all parties.

In the event of sickness of the person making the grievance, the meeting may be postponed for up to 4 weeks.

Companion at the meeting

When in meetings, staff involved in a grievance (either those making a grievance or those implicated in a grievance) have the right to be accompanied by another member of staff, a union representative or any other person who is agreed as mutually acceptable companion.

What will happen at a grievance hearing

The meeting is to discuss the grievance and to agree mutually acceptable resolution to the issue. Those hearing the grievance must establish the nature and extent of the grievance and attempt to find a mutually acceptable resolution to the issue.

The outcome of a grievance hearing may be decided in the meeting, or at a time after the meeting. The decision must be within 3 days of the meeting and communicated to all those involved.

Full Club Collective meeting to hear a grievance

One outcome of the grievance hearing may be a decision to take the grievance to be heard at full Club Collective meeting to find a mutually acceptable resolution.

This must be mutually agreed by participants of the grievance hearing. This will not be appropriate in cases where the person putting forward the grievance wishes it to remain private and confidential.

Keeping a record

Minutes of key points and actions from all meetings regarding the grievance will be taken during or immediately after the meeting, and shared with all in attendance to agree.

- **Appealing a decision**

How to appeal a decision

If the staff member bringing the grievance is dissatisfied with a response or decision at Stage 1, they may appeal in writing, giving the grounds for the appeal, to the Club Collective Chair within 2 weeks of receiving the response.

How to respond to an appeal

The Chair of the Club Collective will agree an Appeal Panel of 2 members of the elected Club Collective (not involved at Stage 1) which shall include the Chair.

Noone may sit as a panel member where there is a conflict of interest or who is likely to be called as a witness. The appeal panel will appoint a minute taker to take an appropriate record of the appeal.

If the Chair is unable to sit on the panel due to conflict of interest then they will be replaced by the Vice Chair.

Where and when the appeal hearing will be held

This panel shall hear the appeal within 2 weeks of receiving it. The date, time and venue of the meeting will be arranged by mutual agreement.

In the event of any of the participants in the grievance hearing being unable to attend at the mutually agreed time, the meeting may be postponed once to another time to suit all parties. In the event of sickness of the person making the appeal, the meeting may be postponed for up to 4 weeks.

Who will be at this appeal hearing

Present at the meeting will be

- The staff member who has made the appeal
- Members of the Appeal Panel
- A person appointed to minute the appeal hearing

The appeal panel will appoint a minute taker to take an appropriate record of the appeal. A copy will be distributed to all attendees.

What will happen at the appeal hearing

The Appeal panel will consider the argument put forward in the appeal and make a decision. The decision may be made at the meeting, or outside the meeting.

Following the appeal meeting, a decision in writing will be given within 2 weeks stating the decision of the appeal panel and the action, if any, it intends to take.

The decision of the Appeal Panel is final and no further appeal will be accepted.

Keeping a record

Minutes of key points and actions from all meetings regarding the appeal will be taken during or immediately after the meeting, and shared with all in attendance to agree accuracy.

• Stages of a disciplinary procedure

The normal expectation is for a disciplinary case to progress through the following levels. In cases where misconduct or unsatisfactory performance is considered to be serious then the procedure may begin at later stages.

The procedure should be fair, effective, and consistently applied.

• Informal stage

In cases of minor offences or where working standards fall short of expectation the individual concerned will be invited to discuss the situation informally with one member of the Co-op and one member of the elected Club Collective.

This would not be regarded as disciplinary action and would be seen as a process of constructive criticism.

A note should be taken to show that the discussion has taken place in order to assist assessment of whether the case should be referred to the next stage if the minor offences or faults continue.

• Formal disciplinary hearing

Where behaviours or offences are unable to be resolved informally, or are too serious to be resolved informally (eg in cases of alleged bullying), the staff member with a complaint against them will be invited to a formal disciplinary hearing.

Calling a disciplinary hearing

The Chair of the elected Club Collective will call a meeting to hear the disciplinary.

Chair of the Club Collective will inform the member of staff in writing the details of the allegations against them and supporting evidence.

The Chair will convene a panel for the meeting consisting of themselves and one other member of the elected Club Collective, and the Co-op member with HR responsibilities (if available). Noone may sit as a panel member where there is a conflict of interest or who has been or is likely to be called as a witness.

If the Chair is unable to sit on the panel due to conflict of interest then they will be replaced by the Vice Chair or Secretary.

The staff member will have no less than 7 days to prepare for the meeting, and given the opportunity to challenge allegations against them.

Who will be at the hearing?

Present at the meeting will be the

- staff member who has made implicated in the disciplinary hearing
- Members of the Disciplinary panel
- A person appointed to minute the disciplinary hearing

Investigating allegations before a hearing

The Chair of the elected Club Collective will ensure that investigation into the allegations are conducted before the disciplinary hearing. This may have already happened if a grievance was raised against the staff member. If this is not the case, then the Chair must appoint a member of the Co-op or elected Club Collective to investigate allegations.

In cases of harassment or personal abuse/ assault, the panel must make appropriate arrangements to protect the personal safety of any witnesses.

When and where will the hearing be held?

The date, time and venue of the meeting will be arranged by mutual agreement within 10 days.

In the event of any of the participants in the disciplinary hearing being unable to attend at the mutually agreed time, the meeting may be postponed once to another time to suit all parties.

In the event of sickness of the person with allegations against them, the meeting may be postponed for up to 4 weeks.

Companion at the hearing

The individual called to the disciplinary hearing has the right to be accompanied by another member of staff, a union representative or any other person who is agreed as mutually acceptable companion.

What will happen at a disciplinary hearing?

From this hearing a decision will be made by the panel on the necessary and proportionate course of action. Staff will be informed of their right to appeal decisions made.

The employee will be given the chance to defend or dispute allegations against them.

Keeping a record

Minutes of key points and actions from all meetings regarding the hearing will be taken and shared with all in attendance to agree.

• Disciplinary Measures

No disciplinary measures will be taken until the employee has been given the chance to defend or dispute allegations. Disciplinary measures must be the outcome of a disciplinary hearing.

There are three disciplinary measures that Wharf Chambers can choose to apply to an employee, each designed to cover varying degrees of seriousness to a case, and also to give proper sequence for persistent cases.

For guidance on how to respond to misconduct please see Appendix

- **Required improvement warning**

The outcome of the formal disciplinary hearing may be a Required Improvement for the individual.

How will the required improvement warning will be issued

The Required Improvement Warning will be sent by the Chair or Secretary of the elected Club Collective.

What the required improvement warning will contain

In this Required Improvement Warning the employee will be given

- reasons for the required improvement warning,
- what behaviours require improvement,
- what is expected of them and what support is available to them,
- a specified timescale in which to improve their behaviour or performance - no longer than 3 months
- their right to appeal this measure

The employee will be advised that the warning constitutes the first formal sanction of the disciplinary process and what the likely consequences are if the terms of the warning are not complied with.

Keeping a record

The Required Improvement warning will be recorded but usually disregarded after six months, subject to satisfactory conduct and performance.

- **Written warning**

The outcome of the formal disciplinary hearing may be a written warning.

How a written warning will be issued

The written warning will be sent by the Chair or Secretary of the elected Club Collective.

What the written warning will contain

In this Written warning the employee will be told

- reasons for the written warning,

- what behaviours require improvement,
- what is expected of them and what support is available to them,
- a specified timescale in which to improve their behaviour or performance - no longer than 3 months,
- their right to appeal this measure

They will be told that the warning is the second stage of the disciplinary procedure and what the likely consequences are if the terms of the warning are not complied with.

Keeping a record

The written warning will be recorded but usually disregarded after six months, subject to satisfactory conduct and performance.

- **Final written warning**

Where the case has already involved the written warning stage and insufficient improvement has been made, or where the case is of sufficient seriousness, a final warning will be given.

How a final written warning will be issued

The Final written warning will be sent by the Chair or Secretary of the elected Club Collective.

What the final written warning will contain

In this final written warning the employee will be told

- reasons for the final written warning,
- what behaviours require improvement,
- what is expected of them and what support is available to them,
- a specified timescale in which to improve their behaviour or performance - no longer than 3 months,
- their right to appeal this measure

They will be told that the warning is the third stage of the disciplinary procedure and what the likely consequences are if the terms of the warning are not complied with ie dismissal.

Right to appeal

The employee will be informed of their right of appeal. See below for appeal procedure.

Keeping a record

The final written warning will normally be removed after 12 months satisfactory conduct (unless a subsequent disciplinary hearing finds that there has been a further instance of misconduct of whatever nature within the 12 month period).

Although warnings will normally only remain on file for the relevant time period as stated above, exceptionally, there may be circumstances where misconduct is so serious that it cannot realistically be disregarded for future disciplinary purposes.

- **Dismissal**

If the employee does not meet the required standard set out in the Final Written Warning, or the case is serious enough to warrant the disciplinary process beginning at this stage then a Dismissal Panel must be convened and a meeting will be held to consider whether the individual should be dismissed.

Convening a Dismissal Panel

The elected Club Collective Chair will convene a Dismissal Panel. Noone may sit as a panel member if there is a conflict of interest.

Up to six people can sit on the panel, and it must include

- The Chair and Secretary of the elected Club Collective
- The Co-op member with HR responsibilities, or another member from the Co-op
- A member of the Club Collective appointed to investigate the grievance

There must be at least two people on the panel from the Co-op.

A person must also be appointed to take minutes of the meeting of the Dismissal Panel.

When and where will the hearing be held?

The date, time and venue of the meeting will be arranged by mutual agreement within 10 days of the acknowledgement of the need for a Dismissal panel.

In the event of any of the participants in the panel being unable to attend at the mutually agreed time, the meeting may be postponed once to another time to suit all parties.

In the event of sickness of the person with allegations against them, the meeting may be postponed for up to 4 weeks.

What will happen at the Dismissal panel meeting

The Dismissal Panel will consider the case against the employee and if a dismissal is a fair and proportionate response.

The employee will be given the chance to defend or dispute allegations against them ahead of a decision. This can be in person at the meeting, or in writing.

If at that meeting it is considered that action is reasonable and justified then a employee may be dismissed and cease to be an employee.

A decision must be made at this meeting.

Keeping a record

A person must also be appointed to take minutes of the meeting of the Dismissal Panel, minutes will be distributed to all in attendance at the meeting for agreement.

The dismissal will be recorded permanently in Wharf Chambers' records.

Issuing a dismissal

A dismissal will be issued in writing by the elected Chair of the Club Collective.

The dismissal will include

- reasons for the dismissal,
- their right to appeal this measure,
- Their notice period

The employee concerned will be given at least one week's notice, and offered either to work out that notice or receive one week's pay. If hours worked is irregular, an average will be taken from the previous 3 months' work.

• Appeals

How to make an appeal

An employee has the right of appeal to the Club Collective against any disciplinary action. An appeal must be made within 10 working days of the employee receiving notice of the disciplinary measure.

An appeal must be sent in writing to the Chair of the Club Collective stating grounds for appeal.

Responding to an appeal

All requests will be considered and will not be unreasonably withheld.

The Chair of the Club Collective will agree an Appeal Panel of 2 members of the elected Club Collective (not involved in the Disciplinary hearing) which shall include the Chair.

No one may sit as a panel member who is implicated in the complaint or who is likely to be called as a witness.

The appeal panel will appoint a minute taker to take an appropriate record of the appeal.

Prior to the appeal the panel has to decide if a rehearing (this would happen if there was a procedural flaw in the original hearing) or an appeal (for presentation of new evidence or appeals against the severity of the sanction) is required.

If the former applies, Wharf Chambers will once again follow the procedure for the disciplinary hearing as above.

If the hearing is an appeal, ensure all relevant documents and minutes are circulated to the appeal panel members, the employee and their representatives prior to the hearing.

When and where will the hearing take place?

This panel shall hear the appeal within 2 weeks of receiving it. The date, time and venue of the meeting will be arranged by mutual agreement.

In the event of any of the participants in the appeal hearing being unable to attend at the mutually agreed time, the meeting may be postponed once to another time to suit all parties. In the event of sickness of the person making the appeal, the meeting may be postponed for up to 4 weeks.

Who will be at this appeal hearing

Present at the appeal hearing will be the

- The staff member who has made the appeal
- Members of the Appeal Panel
- A member of the disciplinary panel responsible for imposing disciplinary measures
- A person appointed to minute the appeal hearing

The appeal panel will appoint a minute taker to take an appropriate record of the appeal. A copy will be distributed to all attendees.

What will happen at an appeal hearing?

The appeal panel will appoint a minute taker to take an appropriate record of the appeal. A copy will be distributed to all attendees.

Employees have the right to be accompanied by a person of their choice at all appeal hearings, but they must inform the person responsible for holding the appeal whom it is they have chosen in advance of the meeting.

The format for the appeal will be as follows:

- The employee or their representative presents their case including any new evidence to the appeal body.
- A member of the disciplinary panel or person responsible for imposing the disciplinary action or the Investigating Officer if appropriate will present their reasons for the decision at the disciplinary hearing to the appeal body.
- The employee may respond to this statement if they wish to.
- There should not normally be any need for either side to recall witnesses unless they have anything materially new to add. If witnesses are to be recalled or new witnesses called, their names must be supplied to the other side prior to the hearing.

The appeal panel can make the following decisions:

- To uphold the first decision against which the appeal is made.
- To uphold the appeal.
- To vary the sanction imposed by the disciplinary panel, e.g. to change a final warning to a written warning.
- In the case of dismissal, to uphold the appeal not to dismiss but to vary the sanction imposed.

The panel may not increase the sanction, e.g. from a final written warning to a dismissal.

If there is new evidence or a further incident warranting a more severe sanction, there should be another disciplinary hearing to address the matter separate to the appeal.

Informing the outcome of an appeal

The Chair of the Club Collective will inform the employee in writing the decision taken at the Appeal hearing, within 5 days.

The employee will be told

- The results of the appeal
- The reasons for the decision

Decisions of appeal panel are final and there is no further appeal.

Keeping a record

Minutes of key points and actions from all meetings regarding the appeal will be taken and shared with all in attendance to agree accuracy.

A record of the appeal will be kept for at least 12 months following the appeal.

I have read and understood the Grievance and Disciplinary Policy, and agree to uphold procedure outlined in this policy

Signed by
Dated

Drafted by	Anne-Marie Stewart
Date drafted	March 2018
Date agreed	March 2018

Appendix

Examples of misconduct and suggested stages to begin proceedings

REQUIRES IMPROVEMENT WARNING

Unsatisfactory work performance
Poor timekeeping
Unexplained occasional absence
Repeated or serious failure to follow instructions
Not abiding by agreements made at co-op meetings
Not abiding by the ethical and equality policies
Breach of Constitution

WRITTEN WARNING

Rudeness to someone whom the co-op is providing services

FINAL WRITTEN WARNING

Serious incapability at work brought on by alcohol or drugs not taken for medical purposes

DISMISSAL

Theft or fraud
Physical violence, bullying, harassment or victimisation
Deliberate and serious damage to co-op or client property
Serious misuse of the co-op's property or name
Unlawful discrimination or harassment
Bringing the co-op into serious disrepute
Causing loss, damage or injury through serious negligence
A serious breach of health and safety rules
A serious breach of confidence
Unwillingness to work by consensus/ take part in the running and decision-making of the co-op
Unwillingness to co-operate

From Radical Routes, 'How to set up a Workers Coop', Fourth Edition – Summer 2015