

# HUMAN RESOURCES & PERFORMANCE



## ANNEX 1

### DISCIPLINARY POLICY, PROCESS and GUIDANCE

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APPROVED AT ..... MEETING, ON .....DATE.....

## DISCIPLINARY POLICY

### **1 Policy**

- 1.1 The Peak District National Park Authority (PDNPA) requires certain standards of behaviour from its staff and these standards are communicated to employees in various ways (for example, Code of Conduct and employment policies and procedures). Where breaches occur, the PDNPA will take action to deal with unacceptable conduct/performance and support and encourage individuals to improve. Examples of unacceptable conduct are included in the guidance notes supporting this policy.

### **2 Scope**

- 2.1 The Disciplinary Policy applies to all PDNPA employees excluding those covered by Chief Officers' terms and conditions of employment.
- 2.2 No action will be taken under this policy against an elected trade union official until the local branch office has been notified.
- 2.3 An employee's direct line manager is the disciplining manager and must take advice from Human Resources & Performance (HR&P) before commencing the process.
- 2.4 HR&P will always attend disciplinary hearings where dismissal is a possibility, for example, at 3<sup>rd</sup> and Final Warning stages, or potential Gross Misconduct.

### **3 Process**

#### **3.1 Investigation**

- 3.1.1 Any allegation or complaint about an employee's conduct must be investigated as soon as reasonably possible before disciplinary action is taken. An investigation does not imply guilt but aims to establish the facts and determine whether there is a case to answer. A disciplinary situation for poor performance will normally follow an unsatisfactory conclusion to a Specific Improvement Plan.
- 3.1.2 The line manager will decide whether an independent investigator or an independent disciplining manager is required/appropriate.
- 3.1.3 Any allegation of suspected fraud, misappropriation of money, material or equipment, or any mismanagement of money or other assets should be referred to the Monitoring Officer or the Chief Finance Officer immediately, and before undertaking any investigation, so that advice can be taken from Internal Audit as appropriate.
- 3.1.4 Once an investigation is completed, one of the following will usually happen:
- (i) the allegation will be dismissed as unfounded with no further action taken;
  - (ii) the employee will be issued with an informal warning/management instruction; or

(iii) the employee will be required to attend a formal disciplinary hearing.

### 3.2 Suspension

3.2.1 Where an allegation is one of potential gross misconduct, consideration should be given to whether the individual should be transferred to other duties or suspended on full pay pending the outcome of the investigation and any subsequent disciplinary hearing. If an employee does not cooperate with the investigation, their pay may be stopped.

### 3.3 Informal warning/management instruction

3.3.1 An informal warning/management instruction may be given where the misconduct has been relatively minor and it is not considered necessary to proceed to a formal disciplinary hearing.

3.3.2 A written copy (letter or email) of the informal warning/management instruction should be put on the employee's personal file and will be taken into account should there be any further breach within 12 months.

### 3.4 Disciplinary Hearing

3.4.1 If it has been determined that there is a case to answer, a hearing should be arranged as soon as reasonably practicable after the investigation has been completed.

3.4.2 Individuals who will be relying on documents and witness statements at the hearing should provide copies of these in advance in order for them to be circulated to all parties including those hearing the case.

3.4.3 An employee has the right to be accompanied at any hearing by a trade union official or work colleague (i.e. not a relative, friend or solicitor etc).

3.4.4 The direct senior/line manager (advised by HR&P) will usually chair a disciplinary hearing. Both sides will have an opportunity to present their case and to call witnesses. The Chair will ensure the venue is appropriate and that all parties can fully take part (e.g. facilities for Braille, induction loop etc.). The hearing can be adjourned for reasonable breaks. Information disclosed in connection with any disciplinary proceedings will remain confidential to those parties present.

3.4.5 In exceptional circumstances a disciplinary hearing may be conducted in an employee's absence (for example, where reasonable attempts have been made to meet with the employee and the employee has not been available).

### 3.5 Outcome

3.5.1 The manager hearing the case will always adjourn the hearing to reflect on the information disclosed and decide the outcome, which can be one of the following:

- (i) on the balance of probabilities, the allegation has not been proven;
- (ii) to issue a management instruction;
- (iii) to issue a warning (first, second or third and final);
- (iv) to dismiss the individual; or
- (v) to apply some other sanction, e.g. a demotion.

- 3.5.2 When reaching a decision the manager hearing the case must pay due regard to:
- (i) the seriousness and nature of the offence,
  - (ii) the employee's record in the previous 12 months,
  - (iii) any equality and diversity considerations,
  - (iv) any mitigating circumstances,
  - (v) in some cases the nature of the job, and
  - (vi) advice from HR&P regarding decisions in similar cases (with a view to consistency), bearing in mind however that each case should be considered on its own merits.

3.5.3 A formal warning will always be given in writing and will clearly state the reason why it has been issued and the length of time it will be in place (usually 12 months). The letter will remain on file as part of the employment record but not taken into account in the event of future disciplinary actions after the expiry of the warning period.

3.5.4 An employee will not normally be dismissed for a first offence, except for gross misconduct.

### 3.6 Appeals

3.6.1 An employee does not have a right of appeal against an informal warning or a management instruction. However, an employee may choose to place a written response on file.

3.6.2 An employee may appeal against any formal disciplinary warning that has been issued or against a decision to dismiss.

3.6.3 An employee must lodge an appeal against a disciplinary warning with the Head of HR&P within 5 working days of the date of the letter setting out the disciplinary hearing decision. The Appeals Policy should be followed.

## **4. Manager responsibilities**

4.1 To ensure HR&P are informed of all issues/cases, for monitoring purposes.

4.2 To seek advice from HR&P before starting any investigation or disciplinary action.

4.3 To ensure they seek appropriate advice from before making a decision to suspend or transfer an employee.

4.4 To conduct the investigation in a fair and reasonable way, or to delegate the investigation to another competent individual.

4.5 To issue an informal warning or a management instruction where appropriate, following consultation with HR&P.

4.6 To prepare and present any case at a formal disciplinary hearing.

4.7 To ensure notes are taken of any meeting.

4.8 To decide the outcome, with advice from HR&P, and confirm same in writing.

- 4.9 To provide support and guidance after a (potential) disciplinary situation via a Specific Improvement Plan.
- 4.10 To manage with due regard to existing and/or potential equality and diversity considerations.
- 4.11 To maintain confidentiality of information.

## **5. HR&P responsibilities**

- 5.1 To give advice and guidance to managers and staff on how the policy works.
- 5.2 To organise hearings and send out letter (re allegations and date and time of hearing), in good time, and enclose evidence to be relied upon.
- 5.3 To give professional advice at hearings.
- 5.4 To monitor cases and provide management information.
- 5.5 To maintain confidentiality of information.

## **6. Employee responsibilities**

- 6.1 To cooperate with any suspension, transfer, investigation or disciplinary hearing.
- 6.2 To tell any witnesses they want to call of the need to submit a written statement and/or attend a disciplinary hearing.
- 6.3 To ensure documents are provided in a timely way.
- 6.4 To maintain confidentiality of information.

## **7. Relevant Legislation and Key PDNPA Policies**

Work and Families Act 2006  
Equality Act 2006  
Employment Rights Order 2006  
Employment Relations Act 2004  
Employment Act 2002  
Disability Discrimination Act 2005  
Age Discrimination Act 2006  
Data Protection Act 1998  
Trade Union and Labour Relations (Consolidation) Act 1992  
PDNPA Joint Performance and Achievement Review process  
PDNPA Appeals Policy  
PDNPA Comprehensive Equality Policy (particularly Equality in Employment)  
PDNPA employment policies

## DISCIPLINARY PROCESS

