

**Grievance Policy**

**Introduction**

1. This policy sets out the Knapp Foundation's policy towards grievances. It is subject to review every three years or to reflect changes in legislation or in the light of experience.

**Legislative background**

2. The Employment Rights Act 1996, s.3 requires the Trustees to specify in an employee's written statement of employment particulars, a person to whom the employee can apply to seek redress of any grievance relating to their employment and the manner in which any such an application should be made. Although the grievance procedure does not need to be provided as part of the written statement, the document does need to be readily accessible to the employee. If the Board of Trustees fails to ensure this, they can incur a financial penalty if one of their employees brings a successful claim under the tribunal jurisdictions set out in Sch.5 of the Employment Act 2002. The employee may be awarded two or four weeks' pay: Employment Act 2002, s.38.

3. An employee may be able to establish constructive dismissal either if the Board of Trustees has no procedure or fails to deal with a grievance under the procedure. It is an implied term of the contract of employment that the Board of Trustees will give employees a reasonable opportunity to obtain redress of grievances.

4. A grievance procedure should be simple, set down in writing and rapid in operation. The procedure should provide that grievance proceedings and records should be kept confidential.

5. An employee has a statutory right to be accompanied by a representative at a grievance hearing. A grievance hearing is defined as one 'which concerns the performance of a duty by the Board of Trustees in relation to a worker' (Employment Relations Act 1999, s.13).

6. The manager dealing with an employee's grievance should respond in writing to the employee setting out the basis on which the grievance is accepted or rejected. It is important that there is not undue delay in responding and that the decision is full and reasoned.

7. It is an implied term of the employment contract that the Board of Trustees will give employees a reasonable opportunity to obtain redress of grievances. In W A

Goold (Pearmak) Ltd v McConnell [1995] IRLR 516, the EAT held that the failure of an employer to give employees a reasonable opportunity to obtain redress of grievances was a breach of the implied term of trust and confidence entitling the employee to resign and claim constructive dismissal.

8. The Trustees should ensure that careful notes are made of grievance hearings. Records of grievance hearings should be retained setting out the nature of the grievance raised, the Trustees' response, any action taken and the reasons for it. Unsuccessful grievances can be followed by an employee resigning and claiming constructive dismissal. It is therefore important for the Trustees to have written documentary evidence on how the grievance was handled. Records of grievance hearings should be kept confidential and retained in accordance with the Data Protection Act 1998.

9. The Trustees should check their grievance procedures to examine if they reflect or are consistent with the statutory grievance procedure. The Managing Trustee should always follow the requirements of the statutory procedure. Failure to do so could result in an award of compensation being increased by 50%. 10. Since 1 October 2004, all employers (and employees) have had a legal obligation to follow the statutory grievance procedure

### **Raising a Grievance Informally**

10. Any employee who has a grievance relating to their employment may raise the matter informally with their manager during the course of normal work. This is not part of the grievance procedure. Only if the matter is not resolved between them should the formal grievance procedure need to be used.

### **The Formal Grievance Procedure**

#### **Stage 1**

11. The employee should put their grievance in writing. The employee does not need to state that their complaint is a formal grievance; however it would be helpful if they would do so. Written formal grievances will be submitted to the Chairman.

#### **Stage 2**

12. Once a written grievance has been received by the Chairman, the Foundation has a responsibility to investigate the matter and to invite the employee to a formal grievance hearing. The employee may at this stage, if they wish, be accompanied by a colleague or agreed representative in accordance with the provisions of the Employment Relations Act 1999 when requesting that an issue be raised formally.

13. The Chairman is required to:

1. Record full details of the matter, or accept signed written details of the matter.

2. Provide an answer in writing to the employee with a copy to the representative, if any. Should the employee then wish to take the issue to the next stage of this procedure, the Chairman shall notify the designated member of the Trustees or representative of the Trustees without delay. Under the statutory standard grievance procedure, a grievance hearing must not take place unless the employee informs the Chairman of the basis of their grievance. Such a hearing must also not take place unless the Chairman has had a reasonable opportunity to consider their response to that information. The timing and location of the grievance meeting must be reasonable. Should an employee make a complaint with regards to an unacceptable working environment, the meeting would usually take place away from this environment. In most circumstances the meeting will take place during the employee's normal working hours.

### **Stage 3**

14. The Trustees' representative will arrange to meet the employee concerned and/or, at the latter's wish, their representative. At this meeting the employee may be accompanied as at Stage 1. Following the meeting, the Board of Trustees' representative is required to dispatch an answer, in writing, to the employee and, if applicable, to the representative. The decision of the Board of Trustees representative will be final.

### **Time Limits**

15. Under the Employment Relations Act 1999, if the employee's chosen companion is not available on the day of the meeting the employee may reasonably request that the meeting be held on another day within five working days of the selected date. The various steps of the procedure should be held within a reasonable time. For example, if a detailed investigation is required, the time will have to be extended. In the absence, for any reason, of the appropriate Trustees' representative, any other Officer of the Charity may be authorised to take the necessary action on their behalf. At the request of the employee, however, consideration may be deferred until the return of the appropriate Board of Trustees representative. It is important that grievances are dealt with as quickly as possible, and as close to the level of origin as possible.

Adopted by a meeting of the Trustees on 1st February 2023