

Disciplinary and Dismissal Process Policy

The organisation aims to ensure that there will be a fair and systematic approach to the implementation of standards of conduct affecting all grades of employee within the organisation. To this end the following procedure will apply. Please note that this procedure does not form part of employees' contracts of employment but sets out the process the organisation will normally follow unless there is a valid reason for doing otherwise.

Procedure

Investigation

Where necessary, concerns about misconduct or gross misconduct which may warrant disciplinary action will be subject to investigation to establish the facts of the matter before a decision about action is taken. An investigatory meeting with the employee will take place before proceeding to any disciplinary hearing. In other cases, the investigatory stage will be the collation of evidence by the employer for use at any disciplinary hearing. Some of this evidence may already have been presented to the member of staff through informal discussion.

In misconduct cases, where practicable, different people will carry out the investigation and disciplinary hearing.

If there is an investigatory meeting, this will not in itself result in any disciplinary action. Although there is no statutory right for an employee to be accompanied at a formal investigatory meeting, such a right may be allowed under an employer's own procedure.

In cases where a period of suspension with pay is considered necessary, this period will be as brief as possible, will be kept under review and it will be made clear that this suspension is not considered a disciplinary action.

Informal Discussion

1. Minor breaches of discipline, misconduct, poor time-keeping, etc may result in an informal discussion with the employee's immediate superior.
2. Although an informal warning will not form part of the formal disciplinary procedure, it will be recorded.
3. It is expected that in most cases an informal discussion will resolve most difficulties. Where an employee commits a more serious act of misconduct or fails to improve and maintain that improvement with regard to conduct, behaviour or job performance, the formal steps detailed below may be taken.

Formal Warnings

1. A disciplinary hearing conducted by (to be arranged) will be held. In good time before the hearing the employee will be advised in writing of the reason(s) for thinking that the employee is guilty of misconduct or unsatisfactory job performance, provided with any evidence such as copies of witness statements and informed of the right to be accompanied at the hearing by a work colleague of his or her choice, or a trade union official. A trade union official means a full-time official or a lay official certified by the union as having experience of, or having been trained in, acting as a companion at disciplinary hearings. It should be noted that neither spouse/partner nor solicitor are suitable companions.
2. At the disciplinary hearing, the employee will be invited to state his or her case and to answer the allegations against him or her. If, following the hearing, it is decided that disciplinary action should be implemented; the employee will be told of the decision and given a letter in confirmation of this within 5 days.
3. In the case of a first offence, or if further offences have occurred following an informal warning, the employee will, following a disciplinary hearing, be given a first written warning. The written warning will state that it constitutes the first formal stage of the company's disciplinary procedure and:-
 - the nature of the misconduct or poor performance
 - the change in behaviour or improvement in performance that is required
 - the time scale for change/improvement
 - how long the warning will remain current on the employee's file for disciplinary purposes
 - that the employee has the right to appeal against the warning
 - that any further misconduct of any kind, or a failure to improve performance to a satisfactory level, will result in a further disciplinary hearing and a final written warning which, if unheeded, may result in dismissal with notice.

In the case of a more serious offence, or if a further offence occurs within the currency of a first written warning, or if the employee has failed to improve his/her performance to a satisfactory degree within the agreed timescale, the employee may be given a final written warning. Written confirmation of the warning will be as above for a first written warning.

The final decision to dismiss can only be taken by the company director when satisfied with the facts of the case, the relevance of any mitigating factors and after interviewing the employee concerned.

Summary Dismissal

1. Employees may be summarily dismissed if it is established, after investigation and hearing the employee's version of the matter, that there has been an act of gross misconduct, major breach of duty or conduct that brings or might bring the organisation's name into disrepute.
2. Gross misconduct includes (but is not limited to):
 - serious acts of insubordination
 - serious breaches of health and safety rules
 - theft
 - fraud and deliberate falsification of records, unauthorised decision making
 - being under the influence of alcohol or drugs during working hours
 - serious negligence (even a single error where the actual or potential consequences are extremely serious), which causes, or is likely to cause, unacceptable loss, damage or injury
 - failure to meet the EYFS statutory framework and flagrant failure to follow the organisation's documentary procedures and regulations
 - breach of duty regarding non-disclosure of confidential information
 - deliberate or negligent damage to the organisation's property
 - disorderly or indecent conduct
 - fighting on the organisation's premises or threatening physical violence
 - acts of incitement or actual acts of discrimination or harassment on the grounds of sex, gender reassignment, marital status, civil partnership status, pregnancy, colour, race, nationality, national origins, ethnic origins, religion or belief, religious practices, sexual orientation, disability or age
 - misuse of the employer's computer system, including misuse of e-mail and Internet access. breach of the organisation's Internet social networking policy and procedure
 - accurately recording, completing and updating nursery records
 - offering or accepting bribes in an attempt to influence behaviour of third parties.

Suspension

1. The employee may, at the employer's discretion, be suspended with pay while the circumstances of any complaint or allegation are investigated.
2. In cases of potential gross misconduct, suspension with pay will be the norm.
3. Such suspension does not constitute a disciplinary sanction but is instigated in order to allow the organisation to investigate the conduct in question properly.

Appeal

1. The employee may appeal in writing to the company director against any disciplinary action within 7 days of receipt of the letter confirming the action taken. The employee must state the specific grounds for the appeal.
2. An appeal hearing will be held and, where possible, will be chaired by a manager who is senior to the disciplining manager and who was not involved in the earlier disciplinary proceedings or decision.
3. The employee will have the right to be accompanied at the appeal hearing by a work colleague of his/her choice or a trade union official. A trade union official means a full-time official or a lay official certified by the union as having experience of, or having been trained in, acting as a companion at disciplinary hearings. It should be noted that neither spouse/partner nor solicitor are suitable companions.
4. Following the hearing, the appeal decision will be confirmed in writing.
5. The decision at the end of the appeal is final.
6. The decision may include:
 - the original decision is upheld
 - the original decision is withdrawn
 - suspension without pay
 - demotion
5. re-instatement where the employee has been dismissed.