



Procedures

DISCIPLINARY AND APPEALS PROCEDURE

Hatch Warren Under Fives and Kempshott Under Fives Preschool, will hereafter be referred to as the “Preschool”

THE CATEGORIES FOR DISCIPLINARY ACTION

Disciplinary action will fall into 3 categories:-

- 1) Disciplinary action due to misconduct
- 2) Disciplinary action due to lack of capability
- 3) Disciplinary action due to gross misconduct

Misconduct

This is where an employee's behaviour falls outside of what is acceptable e.g. persistent lateness, failure to complete accident reports.

Capability

This is where an employee is not capable of fulfilling their contractual obligations e.g. the employee is unable to perform to the required standard following all necessary training or the employee is repeatedly absent due to sickness.

Gross Misconduct

This is where an employee commits an act which is deemed to be so serious that their continued employment would be detrimental to the preschool.

THE GUIDING PRINCIPLES FOR TAKING DISCIPLINARY ACTION

Misconduct

The guiding principle of the disciplinary procedure is that it should be seen as a means of correcting unwanted behaviour, not as a means of punishing the staff.

Capability

The guiding principle of the disciplinary procedure for capability is that disciplinary action is seen as a last resort and that before action is taken the Preschool Manager, alongside the Management Committee, will take steps to support and coach the staff.

Gross Misconduct

In certain circumstances, if the behaviour/ action of a member of staff is deemed serious enough it can result in instant dismissal, following a thorough investigation. Examples of such

behaviour would be: theft, hitting a child, gross neglect of health & safety, bullying a child. This list is not exhaustive and would remain at the discretion of the Management Committee.

THE STAGES OF THE DISCIPLINARY PROCEDURE ARE AS FOLLOWS:

- 1) Verbal Warning – Live for 8 weeks
- 2) First Written Warning – Live for 13 weeks
- 3) Final Written Warning – Live for 26 weeks
- 4) Dismissal

Warnings for Misconduct

In the case of misconduct the warnings will follow the stages detailed above e.g. if a member of staff received a verbal warning and commits the same offence again, if their verbal warning is still live they will receive a first written warning etc. In certain cases, if the behaviour/ action is serious enough the first stage(s) of the process may be by-passed e.g. swearing at a parent. After investigation this may be deemed serious enough to issue a First/Final written warning.

Warnings for Capability

Where a member of staff is not capable of doing their job, the first stage will be to coach the member of staff, providing the relevant training and or support. Where this does not resolve their capability, each stage of the disciplinary procedure will be followed, no stages will be by-passed.

Warnings for Gross Misconduct

In cases of gross misconduct the first stages will be by-passed and the employee will be dismissed, following a thorough investigation, with no paid notice period.

HOW TO CONDUCT A DISCIPLINARY HEARING

Prior to issuing a disciplinary, a full investigation must be carried out. This involves speaking to any witnesses/ staff or parents who may be involved in the situation.

The investigation should be completed by 2 nominated members of the Management Committee. This should not include the Chair Person except where the possible outcome is dismissal. The first committee member would carry out the investigation and the second should take notes at the meeting. The member of staff has the right to be accompanied to the meeting by a fellow work colleague / a trade union representative or a representative from the PLA – the Preschool Development Worker. They should be informed of this right prior to the investigation starting.

Having completed the investigation the committee members should ask the member of staff involved to leave the room so they can discuss the appropriate action to take. If the decision is to take disciplinary action the member of staff should be called back into the room & informed of the level of disciplinary action. They must be sure that the employee understands how to rectify the situation for the future and finally inform the employee that they have the right to appeal against the warning. The employee must be given written confirmation of the warning.

When the possible outcome is dismissal

Where the possible outcome is dismissal, the investigation should be completed by 2 nominated members of the Management Committee who then hand their findings over to the Chair who is the only person who can make the decision to dismiss. Following the investigation and prior to dismissal the employee must be sent a letter (appendix 1) explaining the format the disciplinary meeting will take, this is a requirement in law. In cases of potential gross

misconduct e.g. bullying of a child, the member of staff will be instantly suspended on full pay until all allegations are proved or disproved (see Child Protection Policy for further details).

At all levels of disciplinary the member of staff has the right to appeal. The appeal should be made in writing addressed to the Management Committee Chair Person and must be lodged within 7 calendar days of the disciplinary being given.

Appeals against a warning

When an appeal has been lodged, the Chair Person must hear it within 7 calendar days due to the stress it can cause to all concerned. The Chair Person is not involved in the original investigation & disciplinary so they can be unbiased in an appeal.

The Chair Person should review the notes from the original investigation & interview with the two nominated committee members. A copy of the notes should also be given to the person appealing. The Chair Person should arrange a time and date for the hearing and arrange for a note taker to be present. (The note taker should be a committee member who has not previously been involved). At this meeting the employee is entitled to a representative - fellow work colleague / a trade union representative or a representative from the PLA – the Preschool Development Worker. .

At the appeal hearing the member of staff must explain why they believe the disciplinary action to be unfair. The Management Committee Chair Person should ask enough questions to give them a full understanding of the situation and speak to any witnesses or parents where necessary. Following the investigation by the Chair Person they should take some time to reflect on the information they have heard before taking a decision. This should be a maximum of 24 hours.

Reaching a decision at appeal

The Chair Person has 2 options at appeal:-

- 1) Uphold the original decision
- 2) Overturn the warning

If the decision is to overturn the warning it will be for one of the reasons below:-

- 1) The warning given was too harsh
- 2) A fair hearing was not given
- 3) The disciplinary procedure was not followed
- 4) New information has come to light
- 5) The warning given is inconsistent with warnings given for a similar offence in previous cases.

Keeping records

All notes taken and copies of letters sent to employees must be kept in the employees' personal file.

This Procedure was updated by the Personnel Committee on:

Signed on behalf of the Personnel Committee for the preschool :