



38. Disciplinary Procedure

At Little People at The Limes we follow our legal obligations as an employer at all times including dealing with any disciplinary matter in a fair and consistent manner. We have a policy and procedure that set out our process.

Legal obligations

Our legal obligations as an employer are detailed in the ACAS Code of Practice on disciplinary and grievance procedures. This code of practice was introduced on 6 April 2009. A full copy of the ACAS Code of Practice and the accompanying guidance can be obtained from the ACAS website www.acas.org.uk.

We note that a failure to follow the code does not, in itself, make an organisation liable to formal proceedings at an employment tribunal, but failure to follow the code may result in any compensation award payable to be increased by up to 25% or reduced by 25% if the employee does not comply.

Objectives and guiding principles

The objective of this procedure is to set out the standards of conduct expected of all staff and to provide a framework within which our managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

It is our policy to ensure that any disciplinary matter is dealt with fairly and consistently. We will take the necessary steps to establish the facts and to give employees the opportunity to respond before taking any formal action.

This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

The procedure applies to all employees regardless of length of service.

Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is a cause for concern. Where appropriate a note of any such

discussions may be held on your personnel file, but will be ignored for the purpose of future disciplinary issues.

Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (due to the serious nature of the allegation against you).

You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.

The procedure

Our aim is to deal with disciplinary matters sensitively and fairly. All employees must treat all information in connection with the disciplinary procedure and its investigation as confidential.

Where there has been a serious allegation of misconduct or gross misconduct and/or there are serious concerns regarding the employee's capability, we aim to establish the facts quickly and no disciplinary action will be taken until the matter has been fully investigated. You will be informed if a formal complaint is made against you, and if necessary you may be suspended on full pay pending the outcome of the investigation and disciplinary procedure.

Stage 1

- We will investigate any allegations/concerns quickly and thoroughly to establish whether a disciplinary hearing should be held
- The purpose of the investigation is to establish a balanced view of the facts relating to the allegations against you. The amount of investigation will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents
- Investigation interviews are solely for the purpose of fact finding and no decision on the disciplinary procedure will be taken until after the disciplinary hearing
- You are not normally allowed to bring a companion to an investigatory interview. However, we may allow you to bring a work colleague or trade union representative in exceptional circumstances and if you wish to be accompanied you should contact (*insert name*) to discuss the reasons for your request
- If the investigations lead us to reasonably believe there are grounds for disciplinary action, we will write to you outlining the allegations against



you, the basis of the allegations and the potential consequences. You will be invited to a disciplinary hearing to discuss the matter. You will be sent any copies of evidence which may be referred to in the hearing (e.g. witness statements, or a summary of the statements if the witness's identity is to remain confidential, and minutes of meetings).

Stage 2

- We will hold the disciplinary meeting to discuss the allegations. You will have the right to bring a companion to the meeting and a companion may be a work colleague or trade union representative. You must inform us prior to the meeting who your chosen companion is. If your companion is unreasonable, for example, there may be a conflict of interest, we may require you to choose someone else
- If you or your companion is unable to attend the meeting you should inform us immediately and we will arrange an alternative time and date. You must make every effort to attend the meeting and failure to do so without good cause may be treated as misconduct in itself
- If you persistently fail to reply to invitations, or persistently fail to attend the arranged hearing without good cause, it may be carried out in your absence and you will be notified of the decision in writing. You will retain the right to appeal
- During the meeting we will go through the allegations against you and the evidence that has been collated. You will be able to state your case and call relevant witnesses (provided you provide advance notice and we agree to their attendance) to support your case
- We may adjourn the disciplinary meeting if we need to carry out further investigations and you will be given reasonable opportunity to consider new information
- You will be notified of the decision in writing, usually within [*suggest seven*] working days of the hearing
- You will be given the opportunity to appeal the decision. If you wish to appeal, you should state your full grounds in writing and the letter should be sent to *the nursery owner* within 7 working days from the date the decision was communicated to you.

Stage 3

- The appeal meeting will be conducted impartially by a manager, where possible, who has not previously been involved in the case

- You will be able to bring a companion to the meeting and the companion may be a work colleague or trade union representative (as stated above)
- We may adjourn the appeal hearing if further investigations need to be carried out and you will be given reasonable opportunity to consider any new information before the hearing is reconvened
- We will inform you in writing of our final decision as soon as possible, usually within 7 working days of the appeal hearing.

There is no legal right to appeal beyond this stage.

Disciplinary penalties

In the first instance, where less serious offences are concerned, we are most likely to give the employee a verbal warning. This warning will be recorded and a copy maintained in the employee's personnel file with a time scale for improvement or to not re-offend.

[Note: the right to a verbal warning is not part of the ACAS code. Many employers use verbal warnings as a first stage but you may prefer to use a written warning as the first stage depending on the circumstances.]

If further action becomes necessary and there is already an active warning on your record, or the misconduct is sufficiently serious, we will give a written warning. This warning will be recorded and a copy maintained in the employee's personnel file for a specified period of time.

If the employee continues to fail to meet the required standards and there is already an active written warning on record, or the misconduct is sufficiently serious, we will issue a final written warning indicating that further behaviour of a similar nature within a specified time period could result in dismissal. This warning will be recorded and a copy maintained in the employee's personnel file for a specified period of time.

If the employee continues to fail to meet the required standards and there is already an active final warning on record, or the matter amounts to gross misconduct, we may authorise dismissal.

[The procedure may be implemented at any stage dependant on the offence and severity of the offence committed by the employee in each particular case.]



Levels of authority

Nursery Managers (including officer in charge) have the authority to suspend an employee pending investigation. Only the officer in charge and higher management has the authority to dismiss an employee.

Gross misconduct

In the case of gross misconduct, the nursery reserves the right to dismiss an employee without notice (or payment in lieu of notice) if, after investigation and a hearing, the management are satisfied that there is sufficient justification for so doing.

Duration of warnings

Under normal circumstances warnings will be valid for the following time periods, although these may vary according to the nature of the occurrence and may therefore be determined by mutual agreement at the time of issue:

- Verbal warning - six months
- First written warning - six months
- Final written warning - 12 months.

On expiry, warnings will be disregarded for future disciplinary purposes.

Alternatives to dismissal

In some cases we may, at our discretion, consider alternatives to dismissal. These may be authorised by (insert management grade) and will usually be accompanied by a final written warning. Examples include:

- Demotion
- Transfer to another department
- A period of suspension without pay
- Loss of seniority
- Loss of overtime
- Reduction in pay

Examples of gross misconduct

Examples of what would constitute a gross misconduct offence include:

- Failure to inform the employer of a disqualification, either personally or a person living in the same household as the registered provider, or a person employed in that household

- Theft or the unauthorised possession of property belonging to the nursery, its employees or customers
- Assault on any employee or persons associated with the nursery
- Breach of confidence i.e. the divulging of confidential information relating to the nursery, its employees or clients
- Dishonesty, including the use of any funds, expenses or allowances for any other purpose than that for which they have been delegated by the nursery
- Being under the influence of drugs or alcohol whilst on duty
- Serious or persistent breaches of safety rules
- Fraud including falsification of work records and expense claims
- Signing/clocking in or out for another employee
- Physical assault or abuse towards a child e.g. hitting a child in chastisement or harsh disciplinary actions
- Discrimination/harassment in any way against a person
- Persistent failure to follow nursery documentary systems and procedures.

Further behaviour that could constitute gross misconduct is not limited by the above list.

Examples of misconduct

Examples of what would constitute a misconduct offence include:

- Minor breaches of our policies [including the Sickness Absence Policy, Mobile Phone and Social Networking Policy, and Health and Safety Policy]
- Minor breaches of your contract
- Damage to, or unauthorised use of, our property
- Poor timekeeping
- Time wasting
- Unauthorised absence from work/unacceptable attendance levels
- Refusal to follow instructions
- Excessive use of our telephones for personal calls
- Excessive personal email or internet usage
- Obscene language or other offensive behaviour
- Negligence in the performance of your duties
- Smoking in no smoking areas.

N.B. Some of the misconduct offences above may, dependent on the circumstances and having followed a detailed investigation, also be classed as gross misconduct offences.



This policy was adopted on	Signed on behalf of the nursery	Date for review
<i>5th May 2015</i>		<i>5th May 2016</i>