



## Staff disciplinary procedures

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### **Minor disagreements**

Minor disagreements among Nursery staff, or between staff and Management Committee, can usually be resolved at the regular staff management meeting or informally by discussion.

### **Disciplinary procedure**

A more serious situation arises when a dispute cannot be resolved, or when the Management Committee is dissatisfied with the conduct or activities of a member of staff.

Any disciplinary matter will normally be dealt with using the following procedure:

At every stage the member of staff should be given reasonable notice (5 days) that a disciplinary hearing is due to take place to give her/him the opportunity to prepare her/his case, and she/he should be offered the opportunity to be accompanied by a colleague or union representative if she/he wishes. The disciplinary panel in a Committee-run group should consist of the Nursery Chair and two nominated Committee colleagues, who should ensure that confidentiality is maintained within the panel.

### **Procedure**

Whilst these 3 steps apply to dismissal and action at the start of dismissal, it is good practice to follow these steps when dealing with all disciplinary issues. The procedure will consist of the following three steps.

#### *Step 1 – details of grounds for action and invitation to meeting*

The Management Committee must prepare a statement of the member of staff's alleged conduct or characteristics, or other circumstances, which have led to the contemplation of dismissing or taking disciplinary action against the member of staff.

The statement and date of the disciplinary meeting must be sent to the member of staff prior to the meeting.

The member of staff should be provided with a reasonable amount of time to consider his/her response to the statement.

#### *Step 2 – the disciplinary meeting*

A disciplinary meeting must take place before action is taken, (except where the Disciplinary action in question consists of suspension). At the meeting, the Management Committee should ensure that the circumstances of the complaint against the member of staff are discussed.

The Management Committee must write to the member of staff to explain the conduct or capability, which may result in dismissal or other disciplinary action.

The outcome of the disciplinary meeting must be confirmed in writing, to include the member of staff's right of appeal against the decision.

### *Step 3 – appeal*

At each stage of the disciplinary procedure, the member of staff must be told she/he has the right to appeal against any disciplinary action, and that the appeal must be made in writing to the Nursery owner or Chair within 5 days of a disciplinary interview.

The member of staff will have the opportunity to appeal against any penalty issued at the disciplinary meeting. If the member of staff wishes to appeal then she/he should submit the appeal in writing within a set time period (5 days) of receiving the letter confirming the outcome of the disciplinary meeting, giving full details of the grounds for appeal.

### **Modified statutory procedure**

In very exceptional circumstances it may be necessary to dismiss a member of staff without holding a disciplinary meeting i.e. where instant dismissal is justified and necessary. Such cases will be rare (because even in most cases of gross misconduct, investigation is usually justified, coupled with suspension) and will normally only apply to cases of gross misconduct, where the conduct or breach of duty brings the Nursery into disrepute.

In such circumstances the following procedure will apply:

#### *Step 1: statement of grounds for action*

The Management Committee must set out in writing the member of staff's alleged misconduct which has led to the dismissal, what the basis was for thinking at the time of the dismissal that the member of staff is guilty of the alleged misconduct, and the member of staff's right to appeal against dismissal within a limited time period (5 days). This statement or a copy of it should be sent to the member of staff.

#### *Step 2: appeal*

If the member of staff wishes to appeal, she/he must inform the Nursery in writing.

If the member of staff informs the Nursery of her/his wish to appeal, the Management Committee must invite her/him to attend a meeting. The member of staff must take all reasonable steps to attend the meeting. After the appeal meeting, the Management Committee must inform the member of staff of the final decision.

## **Disciplinary penalties**

The Nursery Management Committee can issue a range of penalties depending on the circumstances of the case. However, a member of staff should not be dismissed for a first offence unless it constitutes gross misconduct.

### *1. First formal warning*

- i) The member of staff will be interviewed by the disciplinary panel who will explain the complaint.
- ii) The member of staff will be given full opportunity to state her/his case.
- iii) After careful consideration by the disciplinary panel, and if the warning is considered to be appropriate, the member of staff needs to be told:
  - the nature of her/his failings;
  - what action should be taken to correct the conduct or performance;
  - that s/he will be given reasonable time to rectify matters;
  - what training needs and/or support have been identified, with timescales for implementation;
  - what mitigating circumstances have been taken into account in reaching the decision;
  - that if she/he fails to improve, then further action will be taken;
  - that a record of the warning will be kept; and
  - that she/he has a right to appeal against the decision.

### *2. Formal written warning*

If the member of staff fails to correct her/his conduct and further action is necessary, or if the original offence is considered too serious to warrant an initial oral warning:

- i) The member of staff will be interviewed by the disciplinary panel who will explain the complaint and give the member of staff an opportunity to state her/his case. (Reasonable time must be allowed for the member of staff to prepare her/his case).
- ii) If a further formal warning is considered to be appropriate, this will be explained to the member of staff and a letter confirming this decision will be sent to the member of staff.
- iii) The letter will:
  - contain a clear reprimand and the reasons for it;
  - explain what corrective action is required and what reasonable time is given for improvement;
  - state what training needs and/or support have been identified, with timescales for implementation;
  - make clear what mitigating circumstances have been taken into account in reaching the decision;
  - warn that failure to improve will result in further disciplinary action which could result in a final written warning and, if unheeded, ultimately to dismissal with appropriate notice; and
  - Explain that she/he has a right to appeal against the decision.

### *3. Final written warning*

If the member of staff fails to correct her/his conduct and further action is necessary, or if the original offence is considered too serious to warrant any initial warnings:

- i) The member of staff will be interviewed and given the opportunity to state her/his case. (Reasonable time must be allowed for the member of staff to prepare her/his case).
- ii) If a final warning is considered to be appropriate, this will be explained to the member of staff and a letter confirming this decision will be sent to the member of staff.
- iii) The letter will:
  - contain a clear reprimand and the reasons for it;
  - explain what corrective action is required and what reasonable time is given for improvement;
  - state what training needs and or support have been identified, with timescales for implementation;
  - make clear what mitigating circumstances have been taken into account in reaching the decision;
  - warn that failure to improve will result in further disciplinary action which could result in dismissal; and explain that she/he has a right to appeal against the decision.

### *4. Dismissal*

If the member of staff still fails to correct her/his conduct, then:

- i) The member of staff will be interviewed as before; and
- ii) If the decision is to dismiss, the member of staff will be given notice of dismissal, stating the reasons for dismissal and giving details of the right to appeal. If the progress is satisfactory within the time given to rectify matters, the record of warnings will be removed from the member of staff's personal file.

### **Suspension**

If the circumstances appear to potentially warrant dismissal or the circumstances of the case are considered to constitute gross misconduct, a member of staff may be suspended with pay while investigations are being made. These should consist of obtaining written statements from all witnesses to the disciplinary incident, and from the member of staff who is being disciplined. Obviously these investigations should be carried out within as short a time as possible.

### **Hearing appeals**

The appeal hearing should be heard, if possible within 10 days of receipt of the Appeal with two or three Committee members present - not, if possible, those involved in the initial disciplinary procedures - will serve as an Appeals Panel. If this is not possible, the Appeals Panel may consist of the same people as the original panel, and they must make every effort to hear the appeal as impartially as

possible. The member of staff may take a work colleague or trade union official to speak for her/him.

- The member of staff will explain why she/he is dissatisfied and may be asked questions.
- The Chair will be asked to put forward her/his point of view and may be asked questions.
- Witnesses may be heard and may be questioned by the Appeals Panel and by the member of staff and the Chair.
- The Panel will consider the matter and make known its decision.

A written record of the meeting will be kept.

### **Time scales**

Each step and action under the disciplinary procedure must be taken without unreasonable delay. Consideration should be given to timings and locations of meetings to ensure that the member of staff and her/his representative are able to attend. For cases that result in dismissal, two reasonable attempts by the Nursery to arrange a meeting will normally be sufficient if they prove abortive because of the member of staff's non-attendance. If a member of staff is not able to attend the first disciplinary meeting arranged then she/he will be required to provide an alternative date to take place within 5 days of the original date given by the Nursery.

### **Staff to Children Ratios**

The Nursery is conscious of the importance of maintaining adequate staff to child ratios, ensuring that children are cared for safely and given adequate attention and support. In all cases the minimum staffing ratio for children aged 2-3 will be 1:4. For children aged 3-7 the ratio will be 1:8. For children aged 8 and over, the Nursery will make every effort to maintain a ratio of staff to children of 1:8.

Staff working as apprentices can now be counted in ratios from the age of 16.

When graduates are working with children on a ratio 1:13 they must hold a 'suitable' Level 6 qualification. A qualified member of staff is expected to be working with the children for the vast majority of the time when the 1:13 ratio is applied.

The Management Committee will ensure that there are always at least two members of staff on duty on the premises at any given time.

The Management Committee will further ensure that suitable and sufficient contingency plans are in place to cover emergencies, unexpected staff absences, staff breaks, holidays and sickness.

### **Confidentiality**

Staff have a right to privacy, as do children and their parents/carers. Personal details should not be discussed except in exceptional circumstances. Staff will not talk about individual incidents or the behaviour of children in front of parents/carers and other children.

Under no circumstances should staff provide any information about children to any branch of the media. All media enquiries should be passed in the first instance to the Management Committee.

The Nursery believes that in order to protect the privacy of the children who attend our Nursery, no photograph or any other type of recording where an individual child can be recognised will be included on our website or any social media website associated with the Nursery without the permission of the child's parent/legal guardian.

The Nursery also request that the parents (or carers or other family members) of our children do not publish any photographs or any other recording onto any public website (including Facebook, Twitter etc.) where any other children attending the Nursery can be identified.

**Absences**

Staff should negotiate statutory annual leave with the Management Committee in all cases giving as much notice as possible.

If staff are unable to attend work due to illness or other medical condition, they must contact the Manager in the first instance prior to the start of the working day.

Staff should indicate why they are unable to attend work and when they expect to return.

On returning to work, staff should complete a self-certification form for any sickness absence.

A return to work interview will take place by the Manager.

For absences of longer than 7 days or days following Annual leave period a doctor's certificate must be submitted.

The Manager will keep records of all sick-leave, other absences and lateness.

Signed on behalf of the Management Committee:

..... Chairperson

This policy was updated by the Manager and staff and will be updated annually.  
Next due to be updated: September 2020

“Horspath Nursery is committed to safeguarding and promoting the welfare of children, families and staff at all times.”