



Policy reviewed on 20.03.2017

Disciplinary Procedure

Aim: to achieve a fair, effective and consistent method of dealing with disciplinary and performance matters.

When a dispute cannot be resolved, or when the manager is dissatisfied with the conduct or activities of an employee a more serious situation arises.

Any disciplinary matter will follow the following procedure:

At any stage the employee should be given reasonable notice (five days) that a disciplinary hearing is due to take place to give him/her the opportunity to prepare his/her case, and he/she should be offered the opportunity to be accompanied by a colleague or union representative if he/she wishes. The disciplinary panel will consist of both senior managers of the setting.

1. Oral warning

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

2. Formal written warning

If the employee fails to correct their conduct and further action is necessary, or if the original offence is considered too serious to warrant an initial oral warning

- i) The employee will be interviewed by the disciplinary panel who will explain the complaint and given the opportunity to state his/her case. (Reasonable time must be allowed for the employee to prepare their case).
- ii) If a further formal warning is considered to be appropriate, this will be explained to the employee and a letter confirming this decision will be sent to the employee.



- iii) The letter will:
 - a) Contain a clear reprimand and the reasons for it
 - b) Explain what corrective action is required and what reasonable time is given for improvement
 - c) State what training needs have been identified, with timescales for implementation
 - d) Make clear what mitigating circumstances have been taken into account in reaching the decision
 - e) 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
 - f) Explain that he/she has a right to appeal against the decision.

3. Final Written Warning

If the employee fails to correct their conduct and further action is required, or if the original offence is considered too serious to warrant any initial warnings

- i) The employee will be interviewed and given the opportunity to state his/her case. (Reasonable time must be allowed for the employee to prepare his/her case).
- ii) If a final warning is considered to be appropriate, this will be explained to the employee and a letter confirming this decision will be sent to the employee.
- iii) The letter will:
 - a) Contain a clear reprimand and the reasons for it
 - b) Explain what corrective action is required and what reasonable time is given for improvement
 - c) State what training needs have been identified, with timescales for implementation
 - d) Make clear what mitigating circumstances have been taken into account in reaching the decision
 - e) Warn that failure to improve will result in further disciplinary action which could result in dismissal
 - f) Explain that he/she has a right to appeal against the decision.

4. Dismissal

If the employee still fails to correct his / her conduct then

- i) the employee will be interviewed as before
- ii) if the decision is to dismiss, the employee 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 in the individuals file will be destroyed.



Suspension

If the circumstances appear to warrant instant dismissal, an employee 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 employee who is being disciplined. Obviously these investigations should be carried out within as short a timescale as possible.

Instant dismissal is possible only in circumstances of gross misconduct.

Examples of gross misconduct would be

- a) Fraud or theft
- b) Ill treatment of children
- c) Assault
- d) Malicious damage
- e) Gross carelessness which threatens the safety and health of others
- f) Being unfit through use of drugs and or alcohol.

Otherwise, an employee should not be dismissed without the appropriate warnings.

Appeals

At each stage of the disciplinary procedure the employee must be told s/he has the right to appeal against any disciplinary action, and that the appeal must be made in writing to the senior managers, Harriet Sharp and Paula Stone, within five days of a disciplinary interview. The appeal hearing should be heard, if possible within ten days of receipt of the appeal. If at all possible managers involved in earlier stages of the process should not be involved; the **Devon Early Years Childcare Services** development worker for the setting will be asked to hear the appeal. The employee may take a colleague or trade union representative to speak for him/her.

- a) The employee will explain why he/she is dissatisfied and may be asked questions
- b) The manager(s) will be asked to put forward her(their) point of view and may be asked questions
- c) Witnesses may be heard and may be questioned by the appeals panel and by the employee and the manager(s)
- d) The panel will consider the matter and make known its decision.

A written record of the meeting will be kept.

Signed: