

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 the following policy and procedure that sets out our process.

Legal obligations

Our legal obligations as an employer are detailed in the ACAS Code of Practice on disciplinary and grievance procedures (2015). A full copy of the ACAS Code of Practice and the accompanying guidance can be obtained from the ACAS website <http://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 the employee and their 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 the employee's 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).

The employee will not normally be dismissed for a first act of misconduct, unless it is decided it amounts to gross misconduct or the employee has not yet completed their 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. The employee will be informed if a formal complaint is made against them and, if necessary, they may be suspended on full pay pending the outcome of the investigation and disciplinary procedure.

Stage 1: Investigation

- The nursery manager will investigate any allegations or 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 the employee. 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 the employee 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
- The employee is not normally allowed to bring a companion to an investigatory interview. However, we may allow them to bring a work colleague or trade union representative in exceptional circumstances. If the employee wishes to be accompanied, they should contact the nursery manager to discuss the reasons for their request
- If the investigations lead to reasonably believing there are grounds for disciplinary action, the nursery will write to the employee outlining the allegations against them, the basis of the allegations and the potential consequences following legal advice. The employee will be invited to a disciplinary hearing to discuss the matter. They 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).

Suspension

- If the nursery believes that the employee may be guilty of misconduct, which is considered (at the setting's absolute discretion) to be serious misconduct, where relationships have broken down, or where there are any grounds to consider that nursery property or responsibilities to other parties are at risk, or where it is considered in the setting's absolute discretion that the employee's continued presence at the setting's premises would hinder an investigation, the nursery is entitled to suspend the employee on full pay
- Any such suspension will normally last only as long as required to enable an investigation into the circumstances giving rise to such belief of serious misconduct to be carried out and any disciplinary hearing to be convened

- Any such period of suspension is not a punishment, nor considered as disciplinary action against the employee, nor does it imply that any decision has been taken about the employee's case.

Stage 2: Invite to disciplinary hearing

- The nursery will hold a disciplinary hearing to discuss the allegations. The employee will have the right to bring a companion to the meeting. A companion may be a work colleague or trade union representative. The employee must inform the nursery manager prior to the meeting who their chosen companion is. If their companion is unreasonable, for example, where there may be a conflict of interest, the nursery manager may require the employee to choose someone else

- If the employee or their companion is unable to attend the meeting the employee should inform the nursery manager immediately and an alternative time and date, where applicable, will be arranged. The employee must make every effort to attend the meeting and failure to do so without good cause may be treated as misconduct in itself.

Disciplinary hearing

- During the meeting the nursery manager or designated person leading the meeting will go through the allegations against the employee and the evidence that has been collated. The employee will be able to state their case and call relevant witnesses (provided the employee gives advance notice and we agree to their attendance) to support the case

- The nursery may adjourn the disciplinary meeting if further investigations need to be carried out and the employee will be given reasonable opportunity to consider new information

- The employee will be notified of the decision in writing, usually within **7** working days of the hearing

- If the employee persistently fails to reply to invitations, or persistently fails to attend the arranged hearing without good cause, it may be carried out in their absence and they will be notified of the decision in writing. The employee will retain the right to appeal.

Appeal

- The employee will be given the opportunity to appeal the decision. If they wish to appeal, the employee should state their full grounds in writing and the letter should be sent to **the manager** within **5** from the date the decision was communicated to them

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

- The employee 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)

- The nursery may adjourn the appeal hearing if further investigations need to be carried out and the employee will be given reasonable opportunity to consider any new information before the hearing is reconvened

- The nursery will inform the employee in writing of the final decision as soon as possible, usually within **5** 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, the nursery is 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.]

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

The employee will not normally be dismissed for a first act of misconduct, unless it is decided that it amounts to gross misconduct or the employee has not yet completed their probationary period.

First written warning

A first written warning may be authorised by **senior manager**. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.

Final written warning

A final written warning may be authorised by **manager**. It will usually be appropriate for:

- a. Misconduct where there is already an active written warning on the employee record
- b. Misconduct that is considered sufficiently serious to warrant a final written warning even though there are no active warnings on the employee record.

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