

Safeguarding and Welfare Requirement: Suitable People

Providers must ensure that people looking after children are suitable to fulfil the requirements of their roles.



Disciplinary Procedure

Policy Statement

This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. The company policies and this procedure apply to all employees. The aim is to ensure consistent and fair treatment for all in the organisation.

Introduction

- 1) It is necessary to have a minimum number of rules in the interests of the Nursery.
- 2) The rules set standards of performance and behaviour whilst the procedures are designed to help promote fairness and order in the treatment of individuals. It is our aim that the rules and procedures should emphasise and encourage improvement in the conduct of individuals, where they are failing to meet the required standards, and not be seen merely as a means of punishment. We reserve the right to amend these rules and procedures where appropriate.
- 3) Every effort will be made to ensure that any action taken under this procedure is fair, with you being given the opportunity to state your case and appeal against any decision that you consider to be unjust.
- 4) The following rules and procedures should ensure that:
 - a) the correct procedure is used when requiring you to attend a disciplinary hearing;
 - b) you are fully aware of the standards of performance, action and behaviour required of you;
 - c) disciplinary action, where necessary, is taken speedily and in a fair, uniform and consistent manner;
 - d) you will only be disciplined after careful investigation of the facts and the opportunity to present your side of the case. On some occasions temporary suspension on contractual pay may be necessary in order that an uninterrupted investigation can take place. This must not be regarded as disciplinary action or a penalty of any kind;
 - e) other than for an "off the record" informal reprimand, you have the right to be accompanied by a fellow employee at all stages of the formal disciplinary process;
 - f) you will not normally be dismissed for a first breach of discipline, except in the case of gross misconduct; and
 - g) if you are disciplined, you will receive an explanation of the penalty imposed and you will have the right to appeal against the finding and the penalty.

Disciplinary rules

It is not practicable to specify all disciplinary rules or offences that may result in disciplinary action, as they may vary depending on the nature of the work. In addition to the specific examples of unsatisfactory conduct, misconduct and gross misconduct shown in the employee handbook, a breach of other specific conditions, procedures, rules etc. that are contained within the employee handbook or that have otherwise been made known to you, will also result in this procedure being used to deal with such matters.

Rules covering unsatisfactory conduct and misconduct

(These are examples only and not an exhaustive list.)

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You will be liable to disciplinary action if you are found to have acted in any of the following ways:

- a) failure to abide by the general health and safety rules and procedures;
- b) smoking in designated non-smoking areas;
- c) persistent absenteeism and/or lateness;
- d) unsatisfactory standards or output of work;
- e) rudeness towards parents/guardians, members of the public or other employees, objectionable or insulting behaviour, harassment, bullying or bad language;
- f) failure to devote the whole of your time, attention and abilities to our business and its affairs during your normal working hours;
- g) unauthorised use of e-mail and internet;
- h) failure to carry out all reasonable instructions or follow our rules and procedures;
- i) unauthorised use or negligent damage or loss of our property;
- j) failure to report immediately any damage to property or premises caused by you;
- k) a breach of OFSTED regulations;
- l) (if you are an apprentice) failure to attend an examination or assessment; and
- m)(if you are an apprentice) failure to pass an examination or assessment.

Serious misconduct

- 1) Where one of the unsatisfactory conduct or misconduct rules has been broken and if, upon investigation, it is shown to be due to your extreme carelessness or has a serious or substantial effect upon our operation or reputation, you may be issued with a final written warning in the first instance.
- 2) You may receive a final written warning as the first course of action, if, in an alleged gross misconduct disciplinary matter, upon investigation, there is shown to be some level of mitigation resulting in it being treated as an offence just short of dismissal.

Rules covering gross misconduct

Occurrences of gross misconduct are very rare because the penalty is dismissal without notice and without any previous warning being issued. It is not possible to provide an exhaustive list of examples of gross misconduct. However, any behaviour or negligence resulting in a fundamental breach of contractual terms that irrevocably destroys the trust and confidence necessary to continue the employment relationship will constitute gross misconduct. Examples of offences that will normally be deemed as gross misconduct include serious instances of:

- a) theft or fraud;
- b) physical violence or bullying;
- c) deliberate damage to property;
- d) deliberate acts of unlawful discrimination or harassment;
- e) consumption of alcohol on the premises prior to and/or during hours of duty;
- f) possession, or being under the influence, of drugs* at work;
*For this purpose, the term 'drugs' is used to describe both illegal drugs and other psychoactive (mind-altering) substances which may or may not be illegal.
- g) a serious breach of OFSTED regulations; and
- h) breach of health and safety rules that endangers the lives of, or may cause serious injury to, employees or any other person.

(The above examples are illustrative and do not form an exhaustive list.)

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Disciplinary procedure

1) Disciplinary action taken against you will be based on the following procedure:

OFFENCE	FIRST OCCASION	SECOND OCCASION	THIRD OCCASION	FOURTH OCCASION
Unsatisfactory Conduct	Formal verbal warning	Written Warning	Final written warning	Dismissal
Misconduct	Written Warning	Final written Warning	Dismissal	
Serious misconduct	Final written warning	Dismissal		
Gross misconduct	Dismissal			

- 2) We retain discretion in respect of the disciplinary procedures to take account of your length of service and to vary the procedures accordingly. If you have a short amount of service you may not be in receipt of any warnings before dismissal.
- 3) If a disciplinary penalty is imposed it will be in line with the procedure outlined above, which may encompass a formal verbal warning, written warning, final written warning, or dismissal, and full details will be given to you.
- 4) In all cases warnings will be issued for misconduct, irrespective of the precise matters concerned, and any further breach of the rules in relation to similar or entirely independent matters of misconduct will be treated as further disciplinary matters and allow the continuation of the disciplinary process through to dismissal if the warnings are not heeded.

Disciplinary authority

The operation of the disciplinary procedure contained in the previous section is based on the following authority for the various levels of disciplinary action. However, the list does not prevent a higher level of seniority progressing any action at whatever stage of the disciplinary process.

	PERSON AUTHORISED TO TAKE DISCIPLINARY ACTION IN THE CASE OF:	
	MANAGER	OTHER EMPLOYEES
Formal verbal warning	Proprietor	Manager/Deputy Manager
Written warning	Proprietor	Manager/Deputy Manager
Final written warning	Proprietor	Manager/Deputy Manager
Dismissal	Proprietor	Manager/Deputy Manager

Period of warnings

- 1) Formal verbal warning
A formal verbal warning will normally be disregarded for disciplinary purposes after a six month period.
- 2) Written warning

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A written warning will normally be disregarded for disciplinary purposes after a six month period.

3) Final written warning

A final written warning will normally be disregarded for disciplinary purposes after a twelve month period.

General notes

- 1) If you are in a supervisory or Managerial position then demotion to a lower status at the appropriate rate may be considered as an alternative to dismissal except in cases of gross misconduct.
- 2) In exceptional circumstances, suspension from work without pay for up to five days as an alternative to dismissal (except dismissal for gross misconduct) may be considered by the person authorised to dismiss.
- 3) Gross misconduct offences will result in dismissal without notice.
- 4) You have the right to appeal against any disciplinary action.

Capability/Disciplinary Appeal Procedure

- 1) You have the right to lodge an appeal in respect of any capability/disciplinary action taken against you.
- 2) If you wish to exercise this right you should apply either verbally or in writing to the person indicated in your individual Statement of Main Terms of Employment.
- 3) An appeal against a formal warning or dismissal should give details of why the penalty imposed is too severe, inappropriate or unfair in the circumstances.
- 4) The appeal procedure will normally be conducted by a member of staff not previously connected with the process so that an independent decision into the severity and appropriateness of the action taken can be made.
- 5) If you are appealing on the grounds that you have not committed the offence then your appeal may take the form of a complete re-hearing and reappraisal of all matters so that the person who conducts the appeal can make an independent decision before deciding to grant or refuse the appeal.
- 6) You may be accompanied at any stage of the appeal hearing by a fellow employee of your choice. The result of the appeal will be made known to you in writing, normally within five working days after the hearing.

This policy was adopted by

Ladybirds Day Nursery

On

1/11/20

Date to be reviewed

1/11/21

Signed on behalf of the provider

Name of signatory

Janine Lissack

Role of signatory

Owner