

# DISCIPLINARY POLICY AND PROCEDURE

## 1 Disciplinary Policy Statement

St Helen's Pre-School aims to operate an open and honest method of working with employees. Difficulties experienced by both employees and Management Committee (MC) members should be raised at the earliest opportunity, with the aim of reaching a resolution informally as a result of full and frank discussion. In order to carry out its function, the organisation is obliged to comply with statutory regulations and policies. It is the responsibility of the organisation to ensure that members of the MC and all employees adhere to these statutory provisions. Failure to comply with such procedures and any other breaches will be dealt with in accordance with the following disciplinary procedure.

## 2 Disciplinary Procedure

### Informal action:

Employees committing what are deemed to be minor breaches of discipline will normally be approached by their supervisor/ manager and spoken to informally about the matter. Employees experiencing any sort of difficulty, either personally or at work, are encouraged to raise the matter with their supervisor as the issues arise, and will be given the opportunity to do so at an informal meeting. It is hoped difficulties may be resolved informally wherever possible and a further meeting will be arranged to review the situation within a reasonable timeframe.

If informal action does not bring about an improvement, or the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor, employers should provide employees with a clear signal or their dissatisfaction by taking further action.

### Step 1: Written Statement/ Letter

The first step in any formal process is to let the employee know **in writing** what it is they are alleged to have done wrong. The letter or note should contain enough information for the individual to be able to understand both what it is they are alleged to have done wrong, and the reasons why it is not acceptable. The Chair of the Committee will issue the written statement/ letter to the employee. The employee should be invited to meet with the manager to discuss the problem.

### Step 2: Meeting and Discussion

Where possible, the timing and location of the meeting should be agreed with the employee. The length of time between the written notification and the meeting should be long enough to allow the employee to prepare, but not so long that memories fade. The employer should hold the meeting in a private location and ensure there will be no interruptions. **Remember the employee has the right to be accompanied at this meeting.**

At the meeting, the employer should explain the complaint against the employee and go through the evidence that has been gathered. The employee should be allowed to set out their case and answer any allegations that have been made. The employee should also be allowed to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses.

Following the meeting, the employer must decide whether disciplinary action is justified or not. Where it is decided that no action is justified, the employee should be informed. Where it is decided that disciplinary action is justified, the employer will need to consider what form this should take. Before making any decision, the employer should take account of the employee's disciplinary and general record, length of service, actions taken in any previous similar case, the explanations given by the employee and – most important of all – whether the intended disciplinary action is reasonable under the circumstances.

Following the meeting, an employee who is found to be performing unsatisfactorily should be given a written note setting out:

- The performance problem
- The improvement that is required;
- The timescale for achieving this improvement;
- A review date, and
- Any the support the employer will provide to assist the employee

The employee should be informed that the note represents the first stage of a formal procedure and that failure to improve could lead to a final written warning and, ultimately, dismissal. A copy of the note should be kept and used as the basis for monitoring and reviewing performance over a specified period (e.g.: six months).

### **Misconduct**

Where, following a disciplinary meeting, an employee is found guilty of misconduct the usual first step would be to give them a written warning setting out the nature of the misconduct and the change in behaviour required.

The employee should be informed that the warning is part of the formal disciplinary process and what the consequences will be of a failure to change behaviour. The consequences could be a final written warning and, ultimately, dismissal. The employee should also be informed that they may appeal against the decision. A record of the warning should be kept, but it should be disregarded for disciplinary purposes after a specified period (e.g.: six months).

### **Final Written Warning:**

Where there is a failure to improve or change behaviour in the timescale set at the misconduct stage, or where the offence is sufficiently serious, the employee should normally be issued with a final written warning – but only after they have been given the opportunity to present their case at a meeting. The final written warning should give details of, and grounds for the complaint. It should warn the employee that failure to improve or modify behaviour may lead to dismissal or some other penalty, and refer to the right of appeal. The final written warning should normally be disregarded for disciplinary purposes after a specified period (e.g. 12 months).

**Dismissal or Other Penalty:**

If the employee's conduct or performance still fails to improve, the final stage in the disciplinary process might be dismissal or (if the employee's contract allows or it is mutually agreed) some other penalty such as demotion, disciplinary transfer, loss of seniority/ pay. A decision to dismiss should only be taken by a manager who has the authority to do so. The employee should be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will terminate, the appropriate notice, and their right of appeal.

It is important for employers to bear in mind that before they dismiss an employee or impose a sanction such as demotion, loss of seniority or loss of pay, they must as a minimum have followed the statutory dismissal and disciplinary procedures. The standard statutory procedure to be used in almost all cases requires the employer to:

<b>Step 1</b>
Write to the employee notifying them of the allegations against them and the basis of the allegations, and invite them to a meeting to discuss the matter.
<b>Step 2</b>
Hold a meeting to discuss the allegations – at which the employee has the right to be accompanied – and notify the employee of the decision.
<b>Step 3</b>
If the employee wishes to appeal, hold an appeal meeting at which the employee has the right to be accompanied – and inform the employee of the final decision.

**Gross Misconduct:**

In cases of very serious breaches of discipline, it might be appropriate to summarily dismiss an employee. Such cases of gross misconduct may include:

- Breaches of the organisation's child protection policy
- Breaches of the Children Act 1989
- Serious breaches of health & safety
- Dishonesty
- Fraud
- Assault of a work colleague, MC member or user of the service
- Damage to the organisation's property
- Actions likely to bring the organisation into disrepute with its users or funders
- Breaches of the confidentiality policy

Please note this list is not exhaustive.

While the alleged gross misconduct is being investigated, the employee may be suspended, during which time he or she will be paid their normal pay rate. Any decision to dismiss will be taken by the employer only after a full investigation.

### **Step 3: Right of Appeal:**

If the employee wishes to appeal, this should be logged within five working days of the disciplinary decision. The employer must invite the employee to a further hearing to appeal against the employer's decision. The outcome (the final decision) must be communicated to the employee. Where possible, a more senior person should hear the appeal. Remember also that the employee has the right to be accompanied.

At this meeting:-

- Consider any new evidence
- Allow the employee to comment on any new evidence
- Do not be afraid to overturn a previous decision

Once the employee has been told the decision of the appeal, it must be put in writing.