



Disciplinary and Grievance Procedure

Author: Michelle Hughes

Reviewed by: Leanne Moriarty

Date of Review: 21/06/2023

DISCIPLINARY PROCEDURES

Our 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.

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.

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.

Employees experiencing any sort of difficulty either personally or at work are encouraged to raise the matter with the manager 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 where possible and a further meeting will be arranged to review the situation within a reasonable time. If informal action does not bring about an improvement, or the misconduct or unsatisfactory performance is too serious to be classed as minor, the manager should provide employees with a clear signal of dissatisfaction by taking further action.

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. If deemed appropriate a further performance improvement plan will be actioned, again clearly stating the desired objectives and timeframe; if the objectives are not met within this agreed timescale then the employee will be committing Gross Misconduct.

GROSS MISCONDUCT Where gross misconduct is committed, such as verbal/physical abuse/bullying, Safeguarding or Child Protection failure, knowingly breaching individual job role, contract and/or the settings active policies and procedures and/or committing intentional damage to property/equipment. Please note this is NOT an exhaustive list and all may result in:

- Instant dismissal
- Contract of employment terminated
- Possible prosecution.

A decision to dismiss should only be taken the committee 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 period of notice and their right of appeal.

EXAMPLES OF GROSS MISCONDUCT INCLUDE

Theft • Fraud • Fighting, assault • safeguarding concerns • deliberate damage to property • Being under the influence of alcohol or illegal drugs • serious misuse of I.T./computer facilities • serious negligence causing loss, damage or injury • Threatening or bullying behaviour • dishonesty • Unauthorised disclosure of confidential information • any action likely to endanger seriously the health and safety of the employee or any other person; • Any action or behaviour which could seriously damage Brookside's reputation; • Serious acts of discrimination.

A meeting will take place to discuss with the employee, committee, and manager to respond to the accusation of the alleged gross misconduct. The employee will be informed of the date and reason/s for the termination of employment. The employee will be informed of their right to appeal and the appeal process. The employee will be informed of the arrangements for outstanding pay

STAGES OF DISCIPLINARY ACTION

STAGE ONE – RECORDED VERBAL WARNING

In the case of minor misconduct, an employee should be given a recorded verbal warning. In this case the manager should hold a discussion, gather some background on the issue and try to understand the facts. It will be made clear to the employee that this warning constitutes the first step of the disciplinary procedure and that failure to improve may lead to escalation of the procedure. A record of the warning will be given to the employee outlining the reasons for the warning. The employee will be informed that this warning will remain live in their personal file for a period of 6 months but will be disregarded for disciplinary purposes after this period. The employee will be informed of their right to appeal against this warning and the appeal procedure. A copy of the warning should also be given to the employee's representative where applicable, and a copy retained by Brookside preschool.

STAGE TWO - WRITTEN WARNING

Where there is a failure to improve or in cases of a more serious misconduct, a written warning will be issued. The employee will be informed that failure to improve may lead to escalation of the procedure and that this is the second stage of the disciplinary procedure. A record of the warning will be given to the employee outlining the reasons for the warning. The employee will be informed that this warning will remain live in their personal file for a period of 12 months but will be disregarded for disciplinary purposes after this period. The employee will be informed of the right to appeal and the appeal procedure. A copy of the warning should be given to the employee. The letter or supervision form should contain enough information for staff to be able to understand

both what it is they are alleged to have done wrong and the reasons why this is not acceptable. The Manager will issue the written statement to the employee.

If deemed appropriate a performance improvement plan will be actioned, clearly stating the desired objectives and timeframe; if the objectives are not met within this agreed timescale a written warning will be issued.

Employee Performance following the meeting: an employee who is found to be performing unsatisfactorily should be given a written note by the Manager setting out:

- The performance problem
- The improvement that is required
- The time scale for achieving this improvement
- A review date
- Any support the employer will provide to assist the employee.

STAGE THREE - FINAL WRITTEN WARNING

Where there is a failure to improve or change behaviour in the time scale 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 employee will also have their final performance improvement plan actioned, again clearly stating the desired objectives and timeframe; if the objectives are not met within this agreed timescale than the employee will be given a final written warning. 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 two years.

Clear expectations for performance and conduct should be set out. The employee will be informed that this warning will remain live in their personal file for a period of 12 months but will be disregarded for disciplinary purposes after this period. The employee will be informed of their right to appeal and the appeal procedure. A copy of the warning should also be given to the employee.

STAGE FOUR – DISMISSAL

If an employee's conduct or performance fails to improve the employee may be dismissed from Brookside or further misconduct takes place during the currency of a final written warning, whether or not involving a repetition of conduct which was the subject of the final written warning; or it is reasonably believed that an employee has committed an act of gross misconduct. 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 two years

a) The employee will be informed of the date and reason/s for the termination of employment.

b) The employee will be informed of their right to appeal and the appeal process.

d) The decision to dismiss and reasons for dismissal must be confirmed to the employee in writing. A decision to dismiss will normally be taken by the Committee. After you have received a written invitation to a disciplinary hearing and the disciplinary hearing has been held. If the Manager decides to dismiss you, he or she will state the reason, the date on which the dismissal takes effect and inform you of your right to appeal as soon as reasonably practicable after the end of the disciplinary meeting. These matters will be confirmed in writing.

DISCIPLINARY APPEAL PROCEDURE

All employees have the right to appeal against any formal disciplinary warning. The employee should state the reason(s) for the appeal in writing within 5 working days of receiving the disciplinary warning. The appeal will be heard by the committee and the manager. The Manager hearing the appeal must not have been involved with the previous disciplinary meeting. The appeal should be dealt with as promptly as possible, wherever possible within 5 working days of receiving the appeal. The employee should receive a minimum of one working days' notice of the date and time of the appeal meeting to enable the employee to gather his or her evidence for submission.

At the meeting, the employee will have the opportunity to discuss his/her appeal. The employee has the right to be accompanied at the appeal meeting. An adjournment may take place to consider the evidence submitted at the appeal. The meeting will reconvene, and the employee informed of the outcome of the appeal.

THE APPEAL OUTCOME MAY BE: Upheld and the disciplinary action withdrawn
Substituted for a lesser disciplinary action Rejected and the original action remains.
Where new evidence comes to light during an appeal, which was previously not disclosed and as a result the offence is now deemed to be of a more serious nature, the warning may be escalated to a warning which reflects the offence.

SPECIAL CIRCUMSTANCES: Certain circumstances may require special consideration when handling disciplinary matters. Although normal disciplinary standards should apply, the employee has the right to be accompanied in a disciplinary hearing by a full time official employed by a trade union or lay trade union official, who has been certified by their union as competent to accompany the employee.

CRIMINAL CHARGES OR CONVICTIONS OUTSIDE EMPLOYMENT

These should not be treated as automatic reasons for dismissal. Consideration should be given to whether the offence is one that makes employees unsuitable for their type of employment. In all cases it will be considered whether the conduct is sufficient to warrant disciplinary action. A final decision will be made by the Committee. Employees should not be dismissed solely because a charge is pending against them, or they are absent as a result of being remanded in custody.

GRIEVANCES WITHIN THE DISCIPLINARY PROCEDURE

If, during a disciplinary case, an employee raises a grievance about the behaviour of a manager handling the case, depending on the circumstances it may be appropriate to suspend the disciplinary procedure and the Committee take over procedures.

GRIEVANCE PROCEDURE

Brookside Preschool is aware that from time-to-time employees may have grievances in relation to their employment situation, which should be dealt with as objectively and quickly as possible. Staff are encouraged to contact their Line Manager in the first instance to try to resolve issues informally.

If the matter is not resolved on an informal basis, you may utilise the formal grievance procedure, which Brookside Preschool has established. This procedure ensures that any such complaints will be dealt with in a fair and consistent manner.

Stage 1

Grievances should be raised verbally by the employee or group of employees, with his or her immediate Line Manager. This should be done in confidence, giving full details and sufficient time to consider the facts of the case. The Line Manager will try and resolve the matter quickly.

Any decision or action proposed by the Line Manager will be set out in writing and a copy given to those in attendance. In any event, all grievances will be heard and if appropriate resolved within five (5) working days of the grievance being raised.

Should the Grievance concern the Line Manager, then the employee should begin the procedure at Stage 2.

Stage 2

Should the Line Manager be unable to resolve the grievance satisfactorily, the employee can refer the matter (in writing, stating the reasons for the Grievance and reasons the informal resolution was not satisfactory) to the Chair of Brookside Preschool Committee.

A meeting will be arranged, and an answer will be given within five (5) working days of the grievance being referred to stage 2. Should more time be needed, for example, to undertake additional investigation, we will inform you.

A summary of the meeting will be recorded, and copies will be issued to those in attendance. There will be two members of the Committee in attendance at the meeting: the Chair and one other member.

The employee has a statutory right to be accompanied by a companion at a grievance meeting which deals with a complaint about a duty owed by the employer to the worker. The chosen companion may be a friend or family member, a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker. To exercise the right to be accompanied a worker must first make a reasonable request. What is reasonable will depend on the circumstances of each individual case.

Stage 3

If the matter is still unresolved after the first two stages, an appeal may be requested so that the matter is referred to the next appropriate level of management which would be the whole of the Brookside Preschool Committee.

Workers have a statutory right to be accompanied at any such appeal hearing.

We aim to provide an answer in writing summarising the outcome within five (5) working days of receipt of the grievance.

The decision will be final.