



Little Ducklings Pre-School

## **Disciplinary, Grievance and Whistleblowing Procedure**

### **Disciplinary Procedure**

#### **Minor disagreements**

Minor disagreements among pre-school staff, or between staff and the committee, can usually be resolved at a staff meeting or informally by discussion.

#### **Disciplinary procedure**

When a dispute cannot be resolved, or when the committee is dissatisfied with the conduct or activities of an employee this becomes a disciplinary matter. Any disciplinary matter will normally be dealt with using the following procedure.

At every 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 s/he should be offered the opportunity to be accompanied by a colleague or union representative if s/he wishes. The disciplinary panel will consist of the pre-school chair and two nominated committee colleagues, who should ensure that confidentiality is maintained within the panel.

#### **Procedure**

Whilst these 3 steps apply to dismissal and action at the start of dismissal, it is good practice to follow these steps when dealing with all disciplinary issues. The procedure will consist of the following three steps.

##### *Step 1 – details of grounds for action and invitation to meeting*

The committee/owner must prepare a statement of the employee's alleged conduct or characteristics, or other circumstances, which have led to the contemplation of dismissing or taking disciplinary action against the employee.

The statement and date of the disciplinary meeting must be sent to the employee prior to the meeting.

The employee should be provided with a reasonable amount of time to consider their response to the statement.

##### *Step 2 – the disciplinary meeting*

A disciplinary meeting must take place before action is taken, (except where the disciplinary action in question consists of suspension). At the meeting, the panel should ensure that the circumstances of the complaint against the employee are discussed.

#### **Little Ducklings**

Holbein Close, Basingstoke, RG21 3EX.

☎ 01256 413794 [littleducklings@ymail.com](mailto:littleducklings@ymail.com)

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The committee must write to the employee to explain the conduct or capability which may result in dismissal or other disciplinary action.

The outcome of the disciplinary meeting must be confirmed in writing, to include the employee right of appeal against the decision.

### *Step 3 – appeal*

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 pre-school chair within five days of a disciplinary interview.

The employee will have the opportunity to appeal against any penalty issued at the disciplinary meeting. If the employee wishes to appeal then s/he should submit their appeal in writing within a set time period (5 days), of receiving the letter confirming the outcome of the disciplinary meeting, giving full details of their grounds of appeal.

### **Modified statutory procedure**

In very exceptional circumstance it may be necessary to dismiss an employee without holding a disciplinary meeting i.e. where instant dismissal is justified and necessary.

Such cases will be rare (because even in most cases of gross misconduct, investigation is usually justified coupled with suspension) and will normally only apply to cases of gross misconduct, where the conduct or breach of duty brings the organisation into disrepute.

In such circumstances the following procedure will apply:

#### *Step 1: statement of grounds for action*

The committee must set out in writing;

- the employee's alleged misconduct which has led to the dismissal
- what the basis was for thinking at the time of the dismissal that the employee was guilty of the alleged misconduct
- the employee's right to appeal against dismissal within a limited time period (five days).

This statement or a copy of it should be sent to the employee.

#### *Step 2: appeal*

If the employee does wish to appeal, s/he must inform the Committee in writing.

If the employee informs the Committee of his wish to appeal, the Committee must invite her/him to attend a meeting. The employee must take all reasonable steps to attend the meeting. After the appeal meeting, the Committee must inform the employee of their final decision.

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## Disciplinary penalties

The Committee can issue a range of penalties depending on the circumstances of the case. However, an employee should not be dismissed for a first offence unless it constitutes gross misconduct.

1. First formal 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:
    - ~ the nature of their failings;
    - ~ what action should be taken to correct the conduct or performance;
    - ~ that s/he will be given reasonable time to rectify matters;
    - ~ what training needs and / or support have been identified, with timescales for implementation;
    - ~ what mitigating circumstances have been taken into account in reaching the decision;
    - ~ that if s/he fails to improve then further action will be taken;
    - ~ that a record of the warning will be kept; and
    - ~ that s/he has a right to appeal against the decision.

### 2. Formal written warning

If the employee fails to correct his/her 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 his/her 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 and / or support have been
  - 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; and
  - f) explain that s/he has a right to appeal against the decision.

### 3. Final written warning

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If the employee fails to correct his/her conduct and further action is necessary, 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 and or support 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; and
  - f) explain that s/he 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; and
- 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 will be removed from the employee personal file.

#### **Suspension**

If the circumstances appear to potentially warrant dismissal or the circumstances of the case are considered to constitute gross misconduct, 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 time as possible.

#### **Hearing appeals**

The appeal hearing should be heard, if possible within 10 days of receipt of the appeal. Two or three committee members - not, if possible, those involved in the initial disciplinary procedures - will serve as an appeals committee.. If this is not possible, the appeal group may consist of the same people as the original panel, and they must make every effort to hear the appeal as impartially as possible. The employee may take a work colleague or trade union official to speak for her/him.

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- a) The employee will explain why s/he is dissatisfied and may be asked questions.
- b) The Chair will be asked to put his/her point of view and may be asked questions
- c) Witnesses may be heard and may be questioned by the appeals committee, the employee, manager and/or chair.
- d) The committee will consider the matter and make known its decision.

A written record of the meeting will be kept.

### **Time scales**

Each step and action under the disciplinary procedure must be taken without unreasonable delay. Consideration should be given to timings and locations of meetings to ensure that the employee and their representative are able to attend. For cases that result in dismissal two reasonable attempts by the Committee to arrange a meeting will normally be sufficient if they prove abortive because of the employee's non-attendance. If an employee is not able to attend the first disciplinary meeting arranged then s/he will be required to provide an alternative date to take place within 5 days of the original date given by the Committee.

### **Grievance Procedure**

If an employee is dissatisfied s/he must have the opportunity for prompt discussion with her/his immediate supervisor. For the Manager this would be the Committee Chair, for the Pre-School, After School Club or Office Manager this would be the Manager and all other staff should speak to their line manager. If the grievance persists, a management panel should be set up for the purpose of further discussion, at which the employee may, if s/he wishes, be accompanied by a work colleague or trade union representative.

The aim of the above procedure is to settle the grievance fairly and as near as possible to the point of origin. It is intended to be simple and rapid in operation. There must be a right of appeal to the full Committee. At this level also, the employee's work colleague or trade union official may be present.

Employees are entitled to be accompanied at all stages of the grievance procedure.

### **Standard statutory minimum procedure**

The Committee must ensure that the following statutory minimum procedure is always followed when grievances have been raised by employees. The procedure consists of the following three steps.

#### *Step 1: statement of grievance*

The employee must set out the grievance in writing, and the basis for it, and send the statement or a copy of it to the Committee

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### *Step 2: meeting*

The Committee must invite the employee to attend a meeting to discuss the grievance.

The meeting must not take place unless the employee has informed the Committee what the basis for the grievance is when s/he made the statement under step 1, and the Committee has had a reasonable opportunity to consider its response to that information.

The employee must take all reasonable steps to attend the meeting.

After the meeting, the Committee must inform the employee of its decision as to its response to the grievance in writing and notify her/him of the right to appeal against the decision if s/he is not satisfied with it. The employee should be notified of the decision within 5 days of the meeting. Any appeal must be submitted within 5 days of the date of the decision letter.

### *Step 3: appeal*

If the employee does wish to appeal, s/he must inform the Committee in writing. If the employee informs the Committee of her/his wish to appeal, the Committee must invite her/him to attend a further meeting.

The employee must take all reasonable steps to attend the meeting.

After the appeal meeting, the pre-school must inform the employee of its final decision.

### **Hearing the appeal**

The appeal hearing should be heard, if possible within 15 days of receipt of the appeal. Two or three committee members - not, if possible, those involved in the initial grievance meeting - will serve as an appeals committee. If this is not possible, the appeal group may consist of the same people as the previous panel, and they must make every effort to hear the appeal as impartially as possible.

A written record of the meeting will be kept.

### **Modified statutory procedure**

A modified procedure will apply in the following cases:

- i) the (former) employee is no longer employed by the Pre-School or After School Club;
- ii) the standard grievance procedure had not commenced or, if it had been commenced, had not been completed before the last day of the employee's employment; and

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- iii) the parties have agreed in writing, after the Committee became aware of the grievance, that the modified Grievance Procedure should apply in relation to that grievance.

In such circumstances the following procedure will apply:

#### *Step 1 – statement of grievance*

The employee must set out in writing the grievance and the basis for it, and send a copy of it to the Committee. If the employee wishes for the modified procedure to be followed after the employment has ended, then s/he must include this in their statement at step 1 of the process. The Committee can decide whether to accede to the employee's request to have the employer respond in writing or to insist that a meeting takes place in line with the standard grievance procedure.

#### *Step 2 – response*

The Committee must set out in writing its response in writing and send the statement or a copy of it to the former employee.

#### **Time scales**

Each step and action under the grievance procedure must be taken without unreasonable delay. Early meetings to resolve grievances will help to facilitate resolution of issues. Consideration should be given to timings and locations of meetings to ensure that the employee and their representative are able to attend. Two reasonable attempts by the Committee to arrange a meeting will normally be sufficient if they prove abortive because of the employee's non-attendance. If an employee is not able to attend the first grievance meeting arranged then s/he will be required to provide an alternative date to take place within 5 days of the original date given by the Committee. Failure to do so will normally result in the grievance processes being aborted.

#### **Whistleblowing**

##### **Definition:**

Whistleblowing is raising a concern about malpractice within an organisation.

##### **Protection:**

Little Ducklings is committed to delivering a high quality service, promoting accountability and maintaining public confidence.

This policy provides individuals in the workplace with protection from victimization or punishment when they raise a genuine concern about misconduct or malpractice in the setting. The policy is underpinned by the Public Interest Disclosure Act 1998, which encourages people to raise concerns about misconduct or malpractice in the workplace, in order to

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promote good governance and accountability in the public interest. The Act covers behaviour, which amounts to:

- A criminal offence
- Failure to comply with any legal obligation
- A miscarriage of justice
- Danger to health and safety of a individual and/or environment
- Deliberate concealment of information about any of the above.

It is not intended that this policy be a substitute for, or an alternative to the setting formal complaints procedure, but is designed to nurture a culture of openness and transparency within the setting, which makes it safe and acceptable for employees and volunteers to raise, in good faith, a concern they may have about misconduct or malpractice.

An employee or volunteer who, acting in good faith, wishes to raise a concern should normally report the matter to their line manager who will advise the employee or volunteer of the action that will be taken in response to the concerns expressed. Concerns should be investigated and resolved as quickly as possible.

If an employee or volunteer feels the matter cannot be discussed with their line manager, he/she should contact the Manager, Committee Chair, or ring OFSTED ( 0300 123 1231), for advice on what steps to follow, or LADO.

A disclosure in good faith to any of the above will be protected. Confidentiality will be maintained wherever possible and the employee or volunteer will not suffer any personal detriment as a result of raising any genuine concern about misconduct or malpractice within the setting.

*See also Whistleblowing Policy & Staff Behaviour Policy.*

Signed on behalf of Little Ducklings Pre-School: \_\_\_\_\_

Position: \_\_\_\_\_

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