



## **Grievance / Disciplinary Procedure**

### **Grievance**

Grievances are concerns, problems, or complaints that employees raise with their manager / employer.

I, as your employer, will always seek to resolve disciplinary and grievance issues in the workplace. Where this is not possible, we will consider using an independent third party to help resolve the problem. The third party need not come from outside the organisation, but could be an internal mediator, so long as they are not involved in the disciplinary or grievance issue. In some cases, an external mediator might be appropriate.

A written record of any disciplinary or grievances cases will be filed by the manager.

Employer/managers and employees will raise and deal with issues promptly and will not unreasonably delay meetings, decisions, or confirmation of those decisions.

### **Procedure**

- Employer/managers and employees should act consistently.
- Employer/managers will carry out any necessary investigations, to establish the facts of the case.
- Employer/managers will inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
- Employer/managers will allow employees to be accompanied at any formal disciplinary or grievance meeting.
- Employer/managers will allow an employee to appeal against any formal decision made.

### **Disciplinary Procedure**

- It is important to carry out necessary investigations of potential disciplinary matters without unreasonable delay to establish the facts of the case. In some cases, this will require the holding of an investigatory meeting with the employee before proceeding to any disciplinary hearing.
- In others, the investigatory stage will be the collation of evidence by the employer for use at any disciplinary hearing.
- In cases where a period of suspension with pay is considered necessary, this period will be as brief as possible, will be kept under review and it will be made clear that this suspension is not considered a disciplinary action.
- If it is decided that there is a disciplinary case to answer, the employee will be notified of this in writing. This notification will contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case at a disciplinary meeting. Copies of any written evidence, which may include any witness statements, will be included with the notification.

## **DISCIPLINARY PROCEDURE - (CONT)**

- The notification will also give details of the time and venue for the disciplinary meeting and advise the employee of their right to be accompanied at the meeting.

The meeting will be held without unreasonable delay whilst allowing the employee reasonable time to prepare their case.

At the meeting the Nursery Manager will explain the complaint against the employee and go through the evidence that has been gathered. The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses. Where an employer or employee intends to call relevant witnesses, they will give advance notice that they intend to do this.

Workers have a statutory right to be accompanied by a companion where the disciplinary meeting could result in:

- A formal warning being issued; or
- The taking of some other disciplinary action; or
- The confirmation of a warning or some other disciplinary action (appeal hearings).

The chosen companion may be 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 statutory right to be accompanied workers must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for workers to insist on being accompanied by a companion whose presence would not prejudice the hearing nor would it be reasonable for a worker to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site.

### **Deciding on appropriate action**

After the meeting we will decide whether disciplinary or any other actions are justified and inform the employee accordingly in writing.

Where misconduct is confirmed, or the employee is found to be performing unsatisfactorily we will give the employee a written warning. A further act of misconduct or failure to improve performance within a set period would normally result in a final written warning.

If an employee's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation.

A first or final written warning should set out the nature of the misconduct or poor performance and the change in behaviour or improvement in performance required (with timescale). The employee will be told how long the warning will remain current.

### **Deciding on appropriate action - (CONT)**

The employee will be informed of the consequences of further misconduct, or failure to improve performance, within the set period following a final warning. For instance, that it may result in dismissal or some other contractual penalty such as demotion or loss of seniority.

A decision to dismiss will only be taken by the Nursery Manager who has the authority to do so. The employee will be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence. But a fair disciplinary process will always be followed, before dismissing for gross misconduct unless the said employee walks out from her duties without permission that causes an overall effect on Health and Safety of the children and practice.

Disciplinary rules will give examples of acts which the employer regards as acts of gross misconduct. These may vary according to the nature of the organisation and what it does, but might include things such as theft or fraud, physical violence, gross negligence, or serious insubordination.

Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause the employer will decide on the evidence available.

### **Providing employees with an opportunity to appeal**

Where an employee feels that disciplinary action taken against them is wrong or unjust, they should appeal against the decision. Appeals will be heard without unreasonable delay and ideally at an agreed time and place. Employees should let the employer know the grounds for their appeal in writing.

The appeal will be dealt with impartially and wherever possible, by the employer who has not previously been involved in the case.

Workers have a statutory right to be accompanied at appeal hearings.

Employees will be informed in writing of the results of the appeal hearing as soon as possible.

### **Special Cases**

Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure will be followed. Depending on the circumstances, however, we will discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

If an employee is charged with or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration will be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer, work colleagues and customers.

**Allowing the employee to take the grievance further if not resolved**

Where an employee feels that their grievance has not been satisfactorily resolved they can appeal. They should let their employer know the grounds for their appeal without unreasonable delay and in writing.

Appeals will be heard without unreasonable delay and at a time and place which will be notified to the employee in advance.

The appeal will be dealt with impartially and wherever possible by the Employer who has not previously been involved in the case.

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

The outcome of the appeal will be communicated to the employee in writing without unreasonable delay.