



WHITELEY PRE SCHOOL

DISCIPLINARY PROCEDURE

1. INTRODUCTION

- 1.1 The disciplinary procedure applies to all members of staff, volunteers and committee members.
- 1.2 The procedure will be applied in accordance with the Articles of Government of the Corporation and in accordance with the Advisory, Conciliation and Arbitration Services Code of Practice.
- 1.3 The purpose of a disciplinary procedure is to:
 - i) ensure that acceptable standards of conduct at work are achieved and maintained,
 - ii) ensure consistent and fair treatment for all in relation to any disciplinary action taken in response to allegations that acceptable standards of conduct are not being achieved.
- 1.4 This procedure is supported by some guidance documents as reference.

2. GENERAL PRINCIPLES

- 2.1 Every effort will be made to avoid the use of disciplinary action where alternatives are appropriate. However, where the manager feels that an action or series of actions could be regarded as misconduct or not in accordance with the Pre-School's code of conduct they should seek advice from Management Committee.
- 2.2 An employee has the right to be present and accompanied and represented by a workplace colleague at any stage of the formal disciplinary procedure. To exercise this statutory right the request to be accompanied must be reasonable i.e. not someone whose presence might prejudice the hearing or someone from a remote geographical location where someone on site is available
- 2.3 A workplace colleague chosen to accompany an employee (or any other member of staff attending) at a disciplinary hearing will be permitted to take paid time off during working hours to attend the hearing.
- 2.4 At any stage of the disciplinary process an employee with a declared disability may make a request for additional support e.g. written documents in different fonts/languages or text. This will include in the case of those employees with a hearing impairment the attendance of an independent interpreter or use of a loop system at any meetings.
- 2.5 Any allegations against an employee will be made know to them as soon as is practicably possible (while initial enquiries may be made) and at the latest within 24 hours of suspension where an individual is suspended. However any response to the allegations will not be heard prior to the formal investigatory meeting/s.
- 2.6 In the interest of ensuring that disciplinary matters are resolved in a timely and consistent manner, time limits are given for appropriate stages in this procedure. If it is not practicable to adhere to these time limits, they may be amended, ideally by mutual agreement. Due regard will be given to the personal circumstances of all

parties involved in the procedure. In particular where an employee has a religious commitment this will be honored in accordance with legislation.

- 2.7 All reasonable steps will be taken to maintain confidentiality and written records of any disciplinary proceedings shall be kept and maintained by Human Resources Department in accordance with the Data Protection Act 1998.
- 2.8 Due to pressures on time and numbers of staff involved in the disciplinary process it is expected that employees will make all reasonable efforts to attend investigatory meetings and hearings and that reasonable explanation should be given where attendance is not possible. It should be noted that where staff are part-time although every effort will be made to hold such meetings during that persons normal working hours that this will not always be possible.
- 2.9 Managers will be expected to ensure that staff either who are being investigated or whom are witnesses in an investigation or at a hearing can be released from duties at the request of the investigating officers (except in exceptional circumstances) to ensure that investigations can be concluded within the prescribed timescales.

3. INVESTIGATIONS

- 3.1 Disciplinary action will not be taken against an employee until the Pre School has fully investigated the circumstances of the allegation and heard the employee's response. If appropriate, the Pre School Committee may suspend the employee (see paragraph 10) while the investigation is carried out. Investigating officers should always be independent to those parties involved and will have attended both Equality and Diversity and investigation training wherever practicable (where the latter has not been attended experience in conducting investigations will be used as criteria).

As far as is practicable all investigations will be conducted within 21 days. Where for good reason this cannot be achieved the investigating officers will set this out in writing to the employee setting an expected date of completion. It should be noted that investigations may be delayed during vacation periods and when waiting upon advice from external experts.

If it becomes apparent during the course of an investigation that there may be a safeguarding and child protection issue then this should be referred to the Pre School Safeguarding and child protection Officer who is named in the Safeguarding and child protection Procedure. It may be necessary that the case is dealt with under this procedure and not the disciplinary procedure in these circumstances.

4. PENALTY

- 4.1 No formal disciplinary penalty will be imposed without a disciplinary hearing. Other than in cases of gross misconduct when the penalty may be dismissal without notice or payment in lieu of notice, no employee will be dismissed for a first offence. An employee will have the right to appeal against any disciplinary warning imposed.

5. STAGES OF THE PROCEDURE

- 5.1 Normally, the procedure will be followed in the order of the stages set out in Section 7 below. However, offences of a serious nature may be brought into the procedure at any stage, if any earlier stage would not be severe enough or appropriate to deal with it. For example, there may be occasions when misconduct is considered not to be so serious as to justify dismissal, but serious enough to warrant only one written warning which will be both the first and final written warning. At every stage of the procedure the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.

6. THE PROCEDURE

Informal

- 6.1 Before taking formal disciplinary action, every effort will be made by the manager to resolve the matter by informal discussions with the employee, if appropriate.
- 6.2 Minor lapses from acceptable standards of conduct will usually be dealt with by the employee's immediate manager giving informal verbal warnings or reprimands, which will not be recorded on the HR file relating to the employee.
- 6.3 If, despite informal discussions (or if informal discussions are not appropriate) the employee's conduct does not meet acceptable standards, the following formal procedure should be used.

7. FORMAL DISCIPLINARY HEARINGS

- 7.1 If the Pre School decides to hold a disciplinary hearing following the recommendation of the investigating officers, the employee will be advised of the nature of the allegation/s against him or her giving a minimum of 5 working days notice of the hearing for Stage 1 and Stage 2. A minimum of 10 working days notice will be given at Stage 3, Stage 4 and for allegations of Gross Misconduct and for Appeal Hearings. Documentation to be used at the hearing should be exchanged by the employer and the employee at least 3 working days before the hearing at Stage 1 and Stage 2, and at least 5 days before the hearing for all other stages. New evidence/documentation should not be submitted at the appeal stage of any disciplinary process. However, if the employee can reasonably explain why this information was not available before that time and show that it is relevant the Chair of the Panel will have the right to allow its submission.
- 7.2 At any disciplinary hearing, the employee will be given an opportunity to state his or her case and will have the right to be accompanied and represented by the trade union representative or workplace colleague of his or her choice. As set out in 2.3 an employee may also require the presence of an interpreter.
- 7.3 If the employee fails, without good reason and or a minimum of 48 hours notice, to attend a disciplinary hearing which the Pre School has instructed him or her to attend, the hearing will take place and a decision will be made, in his or her absence.
- 7.4 If the chosen representative or an interpreter for the employee is unavailable on the date of the initial hearing, the employee may request to delay the date of that hearing once up to 10 working days to enable the chosen representative and or interpreter to attend. The location and timing of any alternative hearing should be convenient to both the employer and the employee.
- 7.5 The employees chosen representative should be allowed to address the hearing to sum up the employee's case respond on their behalf to any views expressed and confer with the employee. They will not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish them to or prevent the employee from explaining their case.

STAGE 1 - 1st WRITTEN WARNING

- 7.6 If following investigation the investigating officers believe that conduct does not meet acceptable standards the matter will be taken to a hearing conducted by the employees manager who will be supported by a member of the committee. The employee will normally be issued with a formal **1st written warning** by his or her immediate manager. The employee will be advised of the reason for the warning, that it is the first stage of the formal disciplinary procedure and that he or she has a right to appeal against it in accordance with Section 9 below. A copy of the warning

letter will be placed on the file relating to the employee. After 6 months the warning will be spent and the letter will be removed from the file subject to the employee's conduct having been satisfactory throughout that period. However, details regarding the issue and relating to the employee will remain on the file for a further 6 years and may be referred to or considered in respect of internal matters or in regard to future allegations or action e.g. disciplinary, dignity at work or capability issues in relation to the individual concerned.

STAGE 2 - 2nd WRITTEN WARNING

7.7 A **2nd Written Warning following investigation and a hearing (as set out at stage 1)** may be given to the employee by his or her immediate manager if:

- i) the employee commits a serious offence of misconduct or
- ii) The employee fails to comply with a 1st written warning and commits a further offence of misconduct. The **written warning** will give details of the allegation, the improvement required and the time limit within which such improvement must be achieved. In the case of misconduct, the warning will state that, if the employee commits a further offence of misconduct during the period specified in the warning, action under Stage 3 will be considered. The written warning will also advise the employee of the right of appeal in accordance with Section 9 below. A copy of the written warning will be placed on the Human Resource Department's file relating to the employee. The warning will be spent and will be removed from the Human Resources Department's file after 12 months, subject to the employee's conduct and work performance having been satisfactory throughout that period. However, details regarding the issue and relating to the employee will remain on the Human Resource Departments file for a further 6 years in line with Data Protection requirements and may be referred to or considered in respect of internal matters or in regard to future allegations or action e.g. Disciplinary, dignity at work or capability issues in relation to the individual concerned.

STAGE 3 - FINAL WRITTEN WARNING

7.8 A **final written warning following investigation and a hearing by the Management Committee** will normally be given to the employee by a member of the committee or the manager.

- i) the employee fails to comply with a written warning given under Stage 2;
- ii) despite having been given, under Stage 2, a written warning as the result of misconduct, the employee commits a further offence of misconduct;
- iii) Or the employee's misconduct, although not considered to be serious enough to justify summary dismissal, is sufficiently serious to warrant a final written warning.

The **final written warning** will give details of the allegation of misconduct, and will state that, if the employee commits a further offence of misconduct during the time limit specified in the warning, his or her employment may be terminated. The final written warning will also advise the employee of the right of appeal in accordance with Section 9 below. A copy of the final written warning will be placed on the Human Resource Department's file relating to the employee. The warning will be spent after 12 months (although in exceptional cases the Chair of the Panel may decide that the period may be longer), subject to the employee's work performance/conduct having been satisfactory throughout that period, and therefore not referred to in any external communications. However, details regarding the issue and relating to the employee will remain on the Human Resource Departments file for a further 6 years in line with Data Protection requirements and may be referred to or considered in respect of

internal matters or in regard to future allegations or action e.g. Disciplinary, dignity at work or capability issues in relation to the individual concerned.

STAGE 4 - DISMISSAL

- 7.9 Following investigation and a hearing a panel consisting of a Chair Person and Manager, having heard the evidence in the case may give notice of dismissal to the employee if:
- i) the employee fails to comply with a final written warning given under Stage 3;
 - ii) The employee despite having been given, under Stage 3, a final written warning as the result of misconduct, the employee commits a further offence of misconduct.
 - iii) The employee commits gross misconduct (See 8. below)
- 7.10 Prior to being given such notice of dismissal, the employee shall have the right to make representations in mitigation, for which purpose he or she may be accompanied and represented by the trade union representative, or workplace colleague. The Panel will then make a decision based on the evidence presented as to the penalty to be imposed.
- 7.11 The notice of dismissal will be in writing and will specify the reasons for dismissal, the date on which the employment will end and the right of appeal against the dismissal or the notice of dismissal in accordance with Section 9 below.

8. GROSS MISCONDUCT

An employee who is accused of gross misconduct may be suspended from work in accordance with the provisions of Section 11 below, whilst the Pre School investigates the alleged offence. The Dismissal Panel may summarily dismiss the employee if, on completion of the investigation and a disciplinary hearing in accordance with Section 7.10 above, it is established that the employee has been guilty of gross misconduct. Such dismissal may be without notice or payment in lieu of notice and will be confirmed to the employee in writing, specifying the reasons for the dismissal and the right of appeal against it in accordance with Section 9 below.

9. APPEALS

- 9.1 An employee who wishes to appeal against a formal disciplinary warning must inform the Chair of the Committee, in writing clearly stating the grounds for the appeal within 5 working (10 working days in the case of Dismissal) of the date of the letter notifying them of the decision.
- 7.3 The Appeal Panel will be convened to hear the Appeal within 10 working days after the notice of the Appeal has been received. The appeal panel will vary depending on the level of the disciplinary penalty. At the hearing the employee will be given the opportunity to state their case and will be entitled to be accompanied by a work place colleague. As set out in 2.3 an employee may also require the presence of an interpreter.
- 9.2 However, if the employee's representative or interpreter is unavailable on the date of the initial Appeal, the employee may delay the date of the Appeal once up to 10 days to enable the chosen representative to attend.
- 9.3 At the Appeal, the facts will be considered and the opinion of the Disciplinary Panel and their decision reviewed. The decision of the Appeal Panel will be notified to the employee in writing within 3 working days of the Appeal hearing and will be **final** and

binding. A penalty can be diminished but **not** increased. The letter setting out the decision will include a formal response to the grounds for the appeal.

- 9.4 There will be no right to appeal against any operational changes which may result from any disciplinary investigation or hearing.
- 9.6 If an employee raises a grievance during the disciplinary process the process may be temporarily suspended whilst the grievance is investigated if it can be done so within a reasonable period of time. If the grievance is directly related to the disciplinary issue then this may reasonably be considered concurrently. The Management committee will take a view on this and advise the employee and investigating officers/panels accordingly. It should be noted that the grievance procedure should not be used to appeal against disciplinary decisions and that this is the purpose of the appeal procedure.

10. SUSPENSION

- 10.1 Where there is an allegation of gross misconduct or because of some other good and urgent cause, the continuing attendance of the employee at the Pre School cannot be permitted, the employee may be suspended from duty pending a disciplinary investigation.
- 10.2 Suspension will be authorised by the chair of the committee and will only be imposed after careful consideration. **SUSPENSION IS NOT AN INDICATION OF GUILT BUT A MECHANISM TO PROTECT EMPLOYEES AND THE PRE SCHOOL.**
- 10.3 The employee will, at the time of the suspension or within 24 hours, receive a written statement confirming the reasons for the decision to suspend and outlining allegations.
- 10.4 Throughout the period of suspension from duty, the employee will continue to be entitled to full pay unless there is a specific provision in the contract to the contrary.
- 10.5 An employee who has been suspended for 4 weeks or more and has not been given a date for the Appeal hearing, will be entitled to appeal in writing to the Corporation. The Clerk to the Board will be required to convene a meeting of the Appeal Panel as soon is practicable.
- 10.6 A suspension against which an appeal by an employee is made shall continue to operate pending the determination of the appeal.
- 10.7 At the appeal hearing the employee may be accompanied and represented by the recognised trade union representative or workplace colleague of his or her choice.
- 10.8 Following the appeal hearing the panel may decide to confirm or lift the suspension. The decision of the Corporation shall be notified in writing to the individual within 3 working days of the hearing.

Policy adopted on: 09th July 2014

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Signed.....Chairperson

