



## 11.02 Disciplinary Procedure

### General Principles

1. The main purpose of this disciplinary policy is to encourage improvement in individual conduct where necessary. The procedure sets out the action, which will be taken by us when our rules are breached. The aim is to ensure fair and consistent treatment for all.
2. Minor conduct issues can generally be resolved informally. If this fails to bring about the necessary improvement or, due to the particular circumstances (for example, due to the seriousness of the allegation), this is inappropriate, the formal disciplinary procedure will be implemented.
3. The disciplinary procedure may be implemented at any stage if the alleged misconduct warrants such action. We also reserve the right to depart from the precise requirements of the procedure where it is appropriate to do so.
4. We reserve the right to change the disciplinary procedure as necessary. Application of the procedure is at our discretion and is not a contractual entitlement.

### Suspension

5. You may be suspended from your duties whilst your case is being investigated or during any subsequent disciplinary procedure. Suspension will normally be on full pay. The suspension will be for no longer than necessary and we will confirm the arrangements to you in writing. Whilst suspended, you should not visit our premises or contact any of our staff, pupils or their families, unless you have been explicitly authorised to do so.
6. Suspension is not a disciplinary sanction and does not imply that any decision has been made about your case.

### Investigation

7. An investigation of the circumstances of each case will be made to establish the facts before deciding whether to proceed with a disciplinary hearing. This may involve reviewing any relevant documents, interviewing you and any witnesses and taking witness statements. You must cooperate fully and promptly in any investigation. The amount of investigation required will depend on the nature of the allegations and will vary from case to case.
8. You do not have the right to bring anyone with you to an investigative interview. However, we may allow you to do so if it helps you to overcome a difficulty caused by a disability or any difficulty in understanding English.

### Written Information

9. If, following investigation, we determine that there are grounds for disciplinary action; we will inform you of the allegations being made against you and the basis for those allegations. This will normally include:
  - a) A summary of relevant information gathered during the investigation;
  - b) Documents which will be used at the disciplinary hearing; and
  - c) Witness statements which will be used at the hearing, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.
10. You will have a reasonable opportunity to consider the information before the hearing.

### Disciplinary Hearing

11. We will give you written notice of the date, time and place of the disciplinary hearing, which will normally be held between 3 and 5 working days after you receive the written notice.

12. You must take all reasonable steps to attend the hearing. Failure to do so without good reason may be treated as misconduct in itself. If you or your companion cannot attend at the time specified you should inform us immediately and we will seek to agree an alternative time.

13. The purpose of the disciplinary hearing is to review the evidence and to enable you to respond to any allegations that have been made against you. Notes of the meeting may be taken. If you have a companion, he or she may make representations to us and ask questions, but cannot answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

14. The disciplinary hearing may be adjourned if we need to carry out any further investigations. You will be given a reasonable opportunity to consider, as appropriate, any new information obtained before the hearing is reconvened.

15. We will inform you in writing of our decision (including details of any misconduct that it considers you have committed and the disciplinary sanction to be applied) together with the reasons for its decision. We will usually try and notify you of our decision within one week. We will also inform you of your right of appeal.

### **Disciplinary sanctions**

16. We aim to treat all employees fairly and consistently. The sanctions which may be applied are set out below. The sanction applied will reflect the severity of the incident and/or your prior disciplinary record. Each case will, therefore, be assessed on its own merits. Depending on the seriousness of the matter any of the following stages may be omitted.

#### **Stage 1 - Written warning**

17. A written warning will often be the appropriate remedy for an isolated incident of misconduct, where you have no other active warnings on your disciplinary record.

18. The warning will set out the nature of the misconduct, the change in behaviour required and the likely consequences of further misconduct.

19. The warning will be placed on your personnel file and will usually remain active for 6 months from the date it is given (although we reserve the right to provide for a longer active period if it wishes in any particular case), after which time it will be disregarded in deciding the outcome of future disciplinary proceedings. Your conduct may be reviewed at the end of this period and if it has not improved sufficiently, we may decide to extend the active period.

#### **Stage 2 - Final written warning**

20. This is the most serious penalty short of dismissal. A final written warning will usually be given for misconduct where there is already an active written warning on your record or cases where there is no active written warning on file but we consider that the misconduct is sufficiently serious to warrant a final written warning.

21. The warning will set out the nature of the misconduct, the change in behaviour required and the likely consequences of further misconduct.

22. The warning will be placed on your personnel file and will usually remain active for 12 months from the date it is given (although we reserve the right to provide for a longer active period if it wishes in any particular case) or, if we decide that the matter is more serious, for a longer period. In exceptional circumstances verging on gross misconduct, a final written warning may state that it will remain active indefinitely. Your conduct may be reviewed at the end of this period and if it has not improved sufficiently we may decide to extend the active period. After the active period it will be disregarded in deciding the result of future disciplinary proceedings. You should understand the seriousness of the situation should you receive a final written warning.

### **Stage 3 – Dismissal**

23. We may decide to dismiss you in the following circumstances:

- a) Misconduct where there is an active written warning or final written warning on your record; or
- b) Gross misconduct regardless of whether you have received any previous warnings.

24. Gross misconduct will usually result in summary dismissal, which is dismissal without notice or payment in lieu of notice. In cases not involving gross misconduct, you may be given your full contractual notice period or payment in lieu of notice.

#### **Alternative sanctions short of dismissal**

25. In appropriate cases we may consider some other sanction short of dismissal, such as:

- a) Demotion;
- b) Transfer to another department or job;
- c) Period of suspension without pay;
- d) Loss of seniority;
- e) Reduction in pay;
- f) Loss of future pays increment;
- g) Loss of overtime.

26. These sanctions may be used in conjunction with a written warning or final written warning.

#### **Appeals**

27. You have the right to appeal if you feel you have been unfairly disciplined. If you wish to appeal you must inform the Pre-School Chairperson in writing setting out the grounds of your appeal within 7 days of the date on which you were informed of the decision.

28. If you do this, we will give you written notice of the date, time and place of the appeal hearing, which will normally take place within one week after you receive the written notice. In cases of dismissal, the appeal hearing will be heard as soon as possible.

29. If practicable a more senior manager not previously involved in the disciplinary procedure will hear the appeal.

30. An appeal will not suspend or defer the effect of the previous disciplinary decision, including any dismissal, which will remain fully effective unless overturned on appeal.

31. Following the appeal hearing, we may confirm the original decision or revoke it, or alternatively, we may substitute a different disciplinary sanction. We will inform you in writing of our final decision. We will usually do so within one week of the appeal hearing. There will be no further right of appeal.

32. If your appeal against dismissal is successful, you will be reinstated with no loss of continuity or pay.

#### **Gross misconduct**

33. Gross misconduct indicates an offence which is so severe that it completely removes our trust and confidence in you. A list of offences which may constitute gross misconduct are set out below. This list is not exclusive or exhaustive.

34. If you commit gross misconduct you will be summarily dismissed – that is without notice or pay in lieu of notice.

#### **Examples of gross misconduct**

- a) Theft

- b) Fraud and deliberate falsification of records
- c) Physical violence;
- d) Serious bullying or harassment
- e) Deliberate damage to property
- f) Serious insubordination
- g) Misuse of our property or name
- h) Bringing Stepping Stones Pre-School into serious disrepute
- i) Serious incapability at work brought on by alcohol, illegal drugs or other substances
- j) Serious negligence which causes or might cause unacceptable loss, damage or injury
- k) Serious infringement of health and safety rules
- l) Serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)
- m) Deliberately accessing internet sites containing pornographic, offensive or obscene material
- n) Unlawful discrimination
- o) Conviction of a criminal offence that in our opinion may affect our reputation or our relationships with our staff, pupils or the public, or otherwise affects your suitability to work for us
- p) Serious breach of your duties, or deliberate breach of your contract or our procedures
- q) Giving false information as to qualifications or entitlement to work (including immigration status)

### **Right to be accompanied**

35. At all stages of the disciplinary process you have the right to be accompanied at hearings by a trade union representative or co-worker. Your companion may speak on your behalf at any hearing but may not answer questions in your place. If you elect to be accompanied at a meeting, you should notify us in advance of the identity of your companion so that arrangements can be made to cover their duties where necessary. If your choice of companion is unreasonable, we may ask you to choose someone else. We may at our discretion allow you to bring a companion who is not a co-worker or trade union official (for example a member of your family) where this will help overcome a particular difficulty caused by a disability or where you have difficulty understanding English.

### **General**

36. Each step in the procedure will be taken without unreasonable delay and hearings will be held at reasonable times and locations.

37. We will keep records detailing the nature of any breach of disciplinary rules or unsatisfactory performance, your defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. We will keep these records confidential.

38. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter (including any appeal of any decision taken in relation to that disciplinary matter).

39. You are not permitted to make any electronic recordings of any investigative, disciplinary or appeal hearings.