



## **DISCIPLINARY PROCEDURES**

### **Introduction**

At My Sunshine Day Nursery & Pre-School we have developed our disciplinary procedures in order to provide clear and transparent structures for dealing with difficulties which may arise as part of the working relationship and to ensure that such difficulties are dealt with in a fair and equitable manner.

We would hope to informally resolve potential disciplinary issues. However, where an issue cannot be resolved informally, then there is often no option other than to follow a formal process. This policy sets out the basic requirements of fairness that will be applicable in most cases.

We regard disciplinary action as a corrective measure to foster an improvement in the conduct or attitude of the employee concerned and not as a punishment. Disciplinary procedures are necessary to let all of our employees know what is expected of them in terms of standards of performance or conduct (and the likely consequences of continued failure to meet these standards) and to enable management and employees to determine suitable goals and timescales for improvement in an individual's performance or conduct. The following procedures do not form part of your contract of employment.

### **The Process**

There will normally be a full investigation of the facts before a decision to take any disciplinary action is invoked. Dependent upon the circumstances, we may hold an independent investigation meeting to determine if a formal disciplinary hearing is necessary. At all stages of the process, we will ensure that matters are kept confidential and expect you to do the same.

If we feel that it is necessary to take disciplinary action, we will notify you in writing of our concerns. Where relevant, we will supply you with details of any evidence we will be using in the disciplinary hearing. You will be given a reasonable amount of notice to attend the meeting and to arrange for another member of staff or a Trade Union Official to accompany you.

If we regard an offence as potential Gross Misconduct, we may suspend you on your normal contractual pay for the duration of the process. This period will be kept as short as is reasonably practical to investigate the matter, hold any necessary disciplinary hearing and consider the outcome.



At the meeting, we will outline our concerns and you will be given ample opportunity to explain your version of the situation and also to bring any supporting evidence to our attention. You may also ask witnesses to deliver their version of events to support you if you so wish. We will listen to what you say and will consider all points you put forward before reaching a decision on whether any disciplinary sanction is to be imposed. No decision will be made regarding any disciplinary action before we have had time to consider the discussion and any evidence produced at the meeting.

### **Outcome of the Meeting/s**

After the meeting has concluded we will take time to consider all the evidence, and we will take one of the options listed below:

#### **1. No Action**

If we feel that there is no case to answer, or there is insufficient evidence to support any action, or if we feel that you were genuinely unclear about what was expected from you and you agree to take remedial action, we may decide it is appropriate to take no further action.

#### **2. Warning**

If we feel that you have not presented a valid reason or supporting evidence for the misconduct, we will issue you with a formal warning. Dependent upon the circumstances, this could either be a formal verbal warning, a written warning, or a final written warning.

Except for cases of Gross Misconduct or a short period of service, we will not normally proceed to dismissal for a first offence.

#### **3. Dismissal**

If you are in receipt of prior warnings, we may decide to terminate your employment with us, giving you your contractual notice. If your misconduct is determined to be Gross Misconduct, then you will be summarily dismissed, (without any notice or pay in lieu of notice), irrelevant of whether or not you have had any previous warnings.

#### **4. Demotion**

If you are in a supervisory or managerial position, we may decide to demote you, except in the case of Gross Misconduct.

### **Notification of Outcome of the Disciplinary Meeting**

We will notify you, in writing, as soon as we have considered the evidence and have reached a decision. The timescale will depend upon the complexity of the situation



however, this will normally be no more than 7 calendar days after the meeting has taken place, unless there is good reason why this cannot be so. The letter will outline our reasons for the decision made and, where disciplinary action is taken, the level or nature of the sanction imposed. It will also name the person to whom you should address an appeal to should you wish to do so.

**Right to be Accompanied**

You have the right to be accompanied by a fellow employee of your choice, or by a Trade Union Official at all stages of the formal disciplinary procedures and at any subsequent appeal meetings.

It is your responsibility to arrange for the appropriate person of your choice to be informed of the matter and the dates of the hearing/s. If you wish a member of staff to accompany you, then either yourself or the person concerned, should notify us as early as possible, so that we can ensure that they can be released from their duties at the appropriate times.

We wholeheartedly support the right to be accompanied and any person who agrees to accompany a member of staff at any disciplinary or appeal hearing, will not be subject to any form of detriment as a result of doing so.

**Record-Keeping**

We will take notes of all meetings held and these, along with any supporting evidence used in the investigation and meetings will be held on your personnel file. Details of any disciplinary action taken will also be kept.

**Administration of Disciplinary Warnings**

Warnings will normally be issued in line with the following guidelines, however this is not prescriptive. When deciding the level of action to be taken, we will take account of any mitigating factors, including your length of service and may vary the process or the administration of warnings accordingly. Dependent upon your length of service, you may be dismissed without any previous warnings.

Other than in cases of Gross Misconduct, we may choose to demote you or suspend you for up to five working days without pay as an alternative to dismissal.

OFFENCE	1 <sup>st</sup> OCCASSION	2 <sup>nd</sup> OCCASSION	3 <sup>rd</sup> OCCASSION	4 <sup>th</sup> OCCASSION
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<b>UNSATISFACTORY CONDUCT</b>	Formal Verbal Warning	Written Warning	Final Written Warning	Dismissal
<b>MISCONDUCT</b>	Written Warning	Final Written Warning	Dismissal	
<b>SERIOUS MISCONDUCT</b>	Final Written Warning	Dismissal		
<b>GROSS MISCONDUCT</b>	Dismissal			

### Examples of Unsatisfactory Conduct and Misconduct

- Failure to comply with our health and safety rules;
- Gambling;
- Smoking outside of designated areas and/or outside of your authorised break times;
- Unacceptable levels of absenteeism or lateness;
- Failure to follow our absence reporting procedures;
- Unsatisfactory work performance;
- Failure to carry out reasonable management instructions;
- Failure to comply with nursery rules, procedures and guidelines;
- Use of objectionable or insulting language or behaviour;
- Failure to report any damage to our property or premises caused by you or witnessed by you;
- Breach of our email and internet policy, including excessive personal use;
- Deliberate misuse or neglect of nursery property or vandalism;
- Excessive use of the Nursery's telephone for personal calls;
- Negligence in the performance of your duties;
- Leaving your place of work without prior authorisation;
- Failing to wear your uniform

### Serious Misconduct

Dependent upon the circumstances, any of the above examples could be deemed to be Serious Misconduct and as such, if a disciplinary sanction is imposed this could be a final written warning even though no other warnings have been given.

- Theft or fraud;
- Physical violence or bullying;
- Threatening behaviour or language;
- Being under the influence of alcohol;



- Attending work under the influence of illegal drugs, or being in possession or supplying illegal drugs whilst at work or during working hours;
- Any action, or breach of health and safety rules which does, or could be expected to, endanger the health or safety of yourself or any other person;
- Acceptance or administration of gifts or hospitality etc without prior permission from the Nursery;
- Bribing or attempting to bribe another individual, or personally taking or knowingly allowing another person to take a bribe;
- Any act or omission which could cause the reputation or integrity of the Nursery to be compromised or bring the Nursery into disrepute;
- Discriminatory behaviour;
- Deliberate fraudulent or false claims of bullying, harassment or victimisation;
- Accessing internet sites or downloading information from such sites, which contains offensive, illegal, obscene or pornographic material;
- Knowingly perpetrating or taking part in acts of Discrimination or Harassment;
- Providing false information re your right to work in the UK;
- Deliberate and serious damage to property;
- Causing loss, damage or injury through serious negligence;
- Bringing the Nursery into serious disrepute;
- Working in direct competition;
- Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure; and
- Serious misuse of the Nursery's information technology systems (including misuse of developed or licensed software, use of unauthorised software).

**NB:** the above lists are neither exhaustive nor prescriptive in the level of disciplinary sanction which may be imposed. You may be disciplined for any other reason which is considered misconduct or unsatisfactory conduct.

When considering the level of disciplinary action to be taken against individuals, we will take into account both the severity of the offence, the impact on the Nursery or other individuals and any mitigating circumstances.

Therefore, the above categories are guidelines only and a higher or lower level of disciplinary action may be imposed, dependent upon the circumstances.

### **Validity Period of Warnings**

We will keep a record of warnings issued and appeal details in your personnel file. Whilst such information will normally be kept in your personnel file permanently, it



will normally be disregarded for further disciplinary purposes in line with the following:

Verbal warning Written warning Final warning

– after a period of 3 months – after a period of 6 months – after a period of 12 months

**Authority to Take Disciplinary Action**

The following persons are authorised to take disciplinary action. This does not restrict another member of staff, or other appropriate nominated person to take such action.

**DISCIPLINARY SANCTION**

<b>DISCIPLINARY ACTION</b>	<b>Person authorised to take disciplinary action in the case of: ALL STAFF</b>
Formal Verbal Warning	MANAGER
Written Warning	MANAGER
Final Written Warning	MANAGER
Dismissal	MANAGER
Demotion	MANAGER

**Appeal Process**

If you feel you have been treated unfairly in the disciplinary process, or that the sanction imposed was too heavy or unfairly administered, you have the right of appeal.

You should write to the person detailed in the outcome letter, within 7 calendar days of the date of the letter, outlining the grounds for your appeal.

We will then arrange to hear your appeal, normally no more than 14 calendar days after receipt of your letter of appeal.



Because of the size of our organisation it may be necessary that the person who chaired your original hearing to then hear your appeal hearing. Subsequently, it is important that within your written appeal you clearly state your reasons why you feel that the penalty imposed was too severe or why you believe the original decision was unfair.

We will notify you in writing of the decision, normally within 14 calendar days of the hearing.

**Short Service**

We reserve the right to take into consideration your length of service. If you have short service, you may not be in receipt of any warnings prior to dismissal.

<b>This Policy was adopted on</b>	<b>Signed on behalf of My Sunshine Day Nursery by Harriet Ballardie (Nursery Manager)</b>	<b>Date Policy was Disseminated to Staff</b>	<b>Date for next Policy review</b>
1 March 2018		1 March 2018	1 January 2019