



Codes of Practice Disciplinary and Grievance Procedure

Date reviewed: 11.09.2022

Disciplinary Procedure

Introduction

This procedure is designed to encourage all employees to achieve high standards of conduct and work performance and aims to provide a fair, effective, and consistent method of dealing with disciplinary matters.

Key Principles

- Employees are expected to know the standard of conduct or work performance expected of them.
- Employees will be provided with management statement of the case prior to any disciplinary meeting and will be allowed to respond to any alleged fault or failing at the meeting.
- At a disciplinary meeting and appeal, an employee is entitled to be accompanied by a recognised trade union representative or work colleague employed by the setting. Other external representatives may not accompany an employee.
- For minor or isolated infringements of rules or expected behaviour, the Chairperson and Practice Manager should give employees informal advice, coaching and counselling as part of their supervisory duties.
- Where an employee's conduct or performance fails to improve, because of advice, coaching or counselling, or where the offence is more serious, then the disciplinary procedure will be applied.
- A prompt and thorough investigation into the concerns will take place prior to a disciplinary meeting taking place. The employee will be informed that an investigation is taking place as soon as possible. The setting reserves the right to dispense with an investigation interview with the employee (suspected of contravening policies or rules), and to proceed directly to a formal disciplinary meeting.
- The employee must take all reasonable steps to attend the disciplinary meeting and any appeal.
- Except in cases of gross misconduct, no employee will be dismissed for a first offence.

Categories of gross misconduct

Gross misconduct is a category which can include:

- Theft, fraud and deliberate falsification of records, expenses, qualifications, and other offences of dishonesty
- Physical violence
- Serious bullying or harassment
- Deliberate damage to property
- Conviction of a criminal offence relevant to the employee's role
- Gross negligence
- Serious insubordination
- Misuse of the settings property or name
- Misuse of electronic communication which defames individuals or brings the organisation into disrepute
- Bringing the organisation into serious disrepute
- Serious incapability whilst on duty brought on by alcohol or illegal drugs
- Serious negligence which causes or might cause unacceptable loss, damage, or injury
- Serious infringement of health and safety rules
- Serious failure to comply with policies and procedures and legal requirements that safeguard children
- Serious breach of the early years settings and statutory policies

- Serious breach of confidentiality (subject to the Public Interest (Disclosure) Act 1998)
- Defaming or badmouthing the setting on social networking sites
- Serious breaches of the Data Protection Act
- Bribery or corruption

This provides the main categories of gross misconduct but is not an exhaustive list.

Steps prior to deciding to take disciplinary action

When an incident of misconduct or negligence or poor performance is alleged to have occurred, the Chairperson/ Practice Manager must establish the facts to decide whether there is a need for a disciplinary meeting.

Where appropriate/possible, signed written statements should be obtained as quickly as possible from the individual(s) concerned and should include where possible, dates, times, details of those present and the issues of concerns.

Procedure

At the earliest opportunity, the Chairperson/ Practice Manager must inform the employee that an allegation/incident has occurred and that an investigation is to take place.

Following an appropriate investigation, the Chairperson/Practice Manager must prepare a written statement of the employee's alleged conduct or characteristics, or of the circumstances which have led to the contemplation of taking disciplinary action.

The Chairperson/ Practice Manager must send the statement and any witness statements to the employee including any evidence that will be relied upon at the meeting and invite her/him to attend a disciplinary meeting to discuss the matter. The employee should also be informed of their right to be accompanied at the meeting. Employees should be given an appropriate amount of notice of the meeting to prepare their response and to contact any witnesses that she/he wishes to call to the meeting to give evidence.

A disciplinary meeting must take place before any disciplinary action is taken, (except where the action in question consists of suspension pending a disciplinary meeting). At the disciplinary meeting, the Chairperson or Practice Manager (investigation officer) should ensure that the circumstances of the complaint against the employee are fully discussed, and that the employee is provided with an opportunity to respond to the management case. The Chairperson/Practice Manager will then decide whether to issue a disciplinary penalty. The outcome of the disciplinary meeting must be confirmed in writing within 10 working days, including the right of appeal and the name of the person to whom any appeal letter should be addressed.

Where practical the investigating officer(s) will normally not sit on the disciplinary panel.

Where practical the panel should consist of a minimum of two people not previously involved in the case.

Appeal

Any employee who feels they have been disciplined unfairly may appeal in writing to the person named in the disciplinary letter. All appeals must be submitted in writing, clearly setting out the grounds for appeal, within 7 working days of the date of the disciplinary meeting letter.

Normally an appeal meeting will be arranged with the employee together with the Chairperson and Practice Manager, for example, the owner, who issued the disciplinary penalty, within 15 working days of the employee's request.

A letter detailing the outcome of the appeal should be issued within 10 working days of the appeal meeting.

Disciplinary penalties

The Chairperson/Practice Manager should not issue any disciplinary penalties without a formal meeting.

There are five disciplinary penalties, which may result from misconduct:

- Formal verbal warning (first formal warning)
- Written warning
- Final written warning
- Dismissal with notice

- Summary dismissal (dismissal without notice on the grounds of gross misconduct)

The gravity of the offence will determine which disciplinary penalty is issued. All disciplinary penalties must be confirmed in writing.

Formal verbal warning

Minor breaches of organisational discipline, misconduct or timekeeping, or failure to meet performance criteria, may result in a formal verbal warning given by the Chairperson/Practice Manager. The Chairperson/Practice Manager may give this at a disciplinary meeting with the employee. This warning should be confirmed in writing. If the warning relates to unsatisfactory performance, then it should set out:

- The performance required
- The improvement required
- The timescale for improvement
- Any review dates
- Any support that can be offered to assist the employee to improve their performance

If the warning relates to conduct, then the nature of the misconduct and the change in behaviour required should be set out in the warning letter.

The employee may be accompanied at the meeting by a work colleague or a recognised trade union representative.

The warning will be placed on the employee's personnel file. After a period of three months, if no further disciplinary action has been found necessary and the minor breach has been resolved, the warning will expire.

Written warnings

If the infringement is regarded as more serious, or the employee's work or conduct are considered unsatisfactory after they have received a formal verbal warning and after a period has elapsed in which the employee has had time to remedy their work or conduct, a disciplinary meeting will be conducted with the Chairperson/Practice Manager will be held.

The employee will be informed of the nature of the complaint and such evidence as may exist and will be given an opportunity to respond. The employee will be told of the decision and given a letter of confirmation within 10 working days of the disciplinary meeting. The written confirmation will state:

- The date of the disciplinary meeting and those present.
- The penalty imposed.
- Details of the misconduct, poor performance or poor time keeping that has occasioned a warning and the performance required or the change in behaviour required.
- The timescales of the performance improvement, where appropriate.
- Details of necessary action to remedy the situation, any period of review, extra training, or supervision etc or the possibility for redeployment/demotion.
- That any further misconduct etc. will result in a further disciplinary meeting and will normally result in a confirmed final warning, which if unheeded will result in dismissal with appropriate notice.
- That there is a right to appeal.

After a period of six months, if no further disciplinary action has been found necessary and the minor breach has been resolved, the warning will expire.

Final written warning

If the employee's work or conduct fails to improve, or where the infringement is sufficiently serious, the Chairperson/Practice Manager will follow the same procedure as for issuing a written warning. If proven, a final warning, which will be in writing, will be given to the employee warning that any further misconduct will result in dismissal with appropriate notice.

After a period of 12 months, if no further disciplinary action has been found necessary and the breach has been resolved, the warning will expire.

Gross misconduct

Employees dismissed with notice will be paid for this notice period. An employee may be dismissed without notice if there has been an act of gross misconduct, or a major breach of duty or conduct that brings the organisation into disrepute. The employee will be suspended with pay while the circumstances of the alleged gross misconduct are investigated.

A dismissal must be confirmed in writing within 10 working days of the date of the disciplinary interview. As well as covering points in the 'Written Warnings' section above, the letter should also include details of outstanding money owed to the employee, how and when it will be paid and the final date of employment.

In certain cases, where a member of staff is dismissed from the organisation or internally disciplined because of misconduct relating to a child, we inform the Disclosure and Barring Service, and other relevant agencies and follow the Local Safeguarding Children Board guidelines.

Suspension

Suspension should be used in circumstances where the Chairperson or Practice Manager needs to investigate prior to a hearing where it is felt that the impact of not suspending the employee during the period would likely to be more detrimental than suspending them.

Cases that involve potential gross misconduct will usually result in suspension, particularly when relationships have broken down or where the setting's property or responsibilities to other parties are involved, or where the employee's presence may prejudice the inquiry.

Suspension should be kept brief and reviewed to ensure that it is not unnecessarily protracted.

When a member of staff is suspended because of alleged misconduct relating to a child, we inform Ofsted, social services and we may also in contact the Police and contact other relevant agencies.

Timescales

Employees are required to take all reasonable steps to attend the hearings. However, should, for a reasonable unforeseen reason, either the employee, the Chairperson, the Practice Manager, or the companies unable to attend the meeting, it must be rearranged.

Should an employee's companion be unable to attend then the employee should make contact within 5 days of the date of the letter to arrange an alternative date that falls within 10 days of the original date provided. Time limits may be extended by mutual agreement.

Grievance Procedure

Introduction

The following procedure should be followed to settle all grievances concerning any employee(s) of Hanslope Pre-school.

Principles

The key objective of the procedure is to allow grievances to be settled quickly, fairly and at the lowest possible level within Hanslope Pre-school whilst allowing employees the opportunity to appeal to a higher level if necessary.

The procedure covers all employed staff in Hanslope Pre-school who have a grievance.

It covers all matters which may become a source of grievance, excluding:

- Those concerned with disciplinary action unless the disciplinary action amounts to discrimination or the action was not taken on the grounds of the employees conduct or capability.
- Decisions on strategic business issues, which are taken by the Pre-school Committee, but not excluding the operational impact of those decisions.

Employees are encouraged to raise concerns verbally with their Practice Manager or Chairperson prior to raising a formal grievance.

Employees are entitled to be accompanied at a grievance meeting and appeal, by a trade union representative or by a work colleague.

Procedure

Hanslope Pre-School's policy is to encourage free interchange and communication between managers and the staff they manage. This ensures that questions and problems can be aired and resolved quickly and that grievances are settled informally.

Informal Procedure

If an employee has a complaint about their individual circumstances at work, then they are entitled to raise a grievance. Employees are expected to discuss ordinary day-to-day issues informally with their Practice Manager through supervision meetings or, if necessary, request a separate meeting. Where this is not possible employees should raise their concerns verbally with the Chairperson prior to raising a formal grievance.

If, after seeking to resolve concerns informally, employees are not satisfied, then they should write to the Chairperson explaining their grievance.

Formal Procedure

Employees must provide in writing the nature of the alleged grievance and send the written complaint to the Practice Manager/ Chairperson.

Where the grievance is against the manager the matter should be raised with a more senior manager, i.e., normally the manager's manager e.g., the Pre-school Chairperson.

Normally within 5 working days of receiving a grievance, the manager will write to the employee, inviting them to attend a meeting where the alleged grievance can be discussed.

The meeting should be scheduled to take place as soon as reasonably possible and normally at least 48 hours' notice of this meeting should be provided to the employee.

Employees are required to take all reasonable steps to attend the meeting. However, should, for a reasonably unforeseen reason, either the employee, their companions, or the Practice Manager be unable to attend the meeting, it must be rearranged.

Should an employee's companion be unable to attend then the employee should make contact within 5 days of the date of the letter to arrange an alternative date that falls within 10 days of the original date provided. These limits may be extended by mutual agreement.

At the meeting, the employee must inform the Practice Manager hearing the grievance what the basis of the complaint is.

After the final meeting, the Practice Manager hearing the grievance must write to the employee informing them about any decision and offering the right to appeal. This letter should be sent within 10 working days of the grievance meeting and should include the details of how to appeal.

Should the employee consider that the grievance has not been satisfactorily resolved, and then they must set out their grounds of appeal in writing within 7 working days of receipt of the decision letter, confirming that they wish to appeal against the decision or failure to decide.

Within 5 working days of receiving an appeal letter, the employee should be written to, to invite her/him to attend an appeal hearing where the alleged grievance can be discussed. The appeal meeting should be scheduled to take place as soon as reasonably possible.

Employees are required to take reasonable steps to attend the appeal hearing. However, should, for any reasonable unforeseen reason, either the employee, the Practice Manager or the employee's companions be unable to attend the meeting, it must be rearranged.

Should an employee's companion be unable to attend then the employee should make contact within 5 working days of the date of the letter to arrange an alternative date that falls within 10 days of the original date provided. These time limits may be extended by mutual agreement.

After the appeal meeting, the appeal hearing manager must write to the employee informing them of the employer's final decision. This letter should be sent within 10 working days of the appeal hearing.

This is the final stage of the procedure.

This policy was reviewed by Hanslope Pre-school on 11th September 2022

Date to be reviewed: 11th September 2023

Signed on behalf of Hanslope Pre-school

...B.Mudaliar.....

By Brittany Mudaliar

Chairperson on 23rd September 2022

N.B. Hanslope Pre-school Committee will contact LAWCALL through the insurers for guidance before taking any action involving employees e.g., making material changes to terms and conditions of employment, Disciplinary procedures or dismissal, as failure to do so is likely to jeopardise the group's legal expenses and Insurance cover.