



DISCIPLINARY PROCEDURE POLICY

PURPOSE AND SCOPE

This procedure is designed to help and encourage all employees of York Childcare (YC) to achieve and maintain standards of conduct, attendance and job performance. The procedure applies to all employees. The aim is to ensure consistent and fair treatment for all in the organisation.

PRINCIPLES

Informal action will be considered, where appropriate, to resolve problems.

No disciplinary action will be taken against an employee until the case has been fully investigated.

For formal action the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made at a disciplinary meeting. If deemed appropriate, the employee may be suspended (on full pay) whilst an investigation is held.

Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.

At all formal stages of the procedure the employee will have the right to be accompanied by a work colleague or trade union representative.

No employee will normally be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.

An employee will have the right to appeal against any disciplinary action.

The procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

Where possible each stage of the process will be conducted by different people but as YC is a small organisation this cannot be guaranteed.

THE FORMAL PROCEDURE

1. INVESTIGATION

An investigation will be conducted to establish the facts surrounding the situation which has caused concern. In most cases investigations will be conducted by the setting manager or another senior member of staff, who may be from a different setting. A note take may also be present if required.

Investigations will commence as soon as possible once a cause for concern is identified.

Staff may be asked to attend an investigative meeting with little or no notice and do not have a statutory right to be accompanied in meetings as part of the investigative process.

Notes will be taken during investigative interviews and meetings, where possible by an independent note-taker.

When all the facts have been gathered, the person leading the investigation will decide whether the matter will progress onto a Disciplinary Hearing or whether an alternative course of



action is required. The alternative course of action may be that no further action is taken or may be a recommendation for change (eg to a practice, policy, procedure or premises).

SUSPENSION

A member of staff may be suspended on full pay whilst an investigation is conducted.

If an employee is accused of an act of gross misconduct, they may be suspended from work on full pay, normally for no more than five working days, while the alleged offence is investigated.

2. DISCIPLINARY HEARING

An employee will receive a written invitation to attend a Disciplinary Hearing. The letter, which may be sent by email, will notify the employee of the date, time and location of the meeting, will confirm that the employee has the right to be accompanied by a work colleague or trade union representative and will ask the employee to confirm their intention to attend. Copies of any documentation to be used as evidence will be included with the letter.

The disciplinary hearing will be conducted by a senior manager who has had no previous knowledge of the situation to be investigated where possible, supported by an independent note-taker.

A letter notifying the employee of the outcomes will be issued within one working day of the disciplinary meeting.

3. OUTCOMES

FIRST WARNING

This will normally be either:

- **an improvement note for unsatisfactory performance** - if performance does not meet acceptable standards.

This will set out the performance problem, the improvement that is required, the timescale, any help that may be given and the right of appeal. The individual will be advised that it constitutes the first stage of the formal procedure. A record of the improvement note will be kept for 6 months, but will then be considered spent, subject to achieving and sustaining satisfactory performance.

Or

- **a first warning for misconduct** - if conduct does not meet acceptable standards.

This will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the warning will be kept, but it will be disregarded for disciplinary purposes after a specified period – usually 6 months.

FINAL WRITTEN WARNING



If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of a prior warning or improvement note, a final written warning may be given to the employee. This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal such as demotion) and will refer to the right of appeal. A copy of this written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months subject to achieving and sustaining satisfactory conduct or performance.

DISMISSAL

If there is still further misconduct or failure to improve performance, or the 'incident' is sufficiently serious, the final step in the procedure may be dismissal or some other action short of dismissal such as demotion or transfer. Dismissal decisions will usually be taken by a Manager, and the employee will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

If some sanction short of dismissal is imposed, the employee will be warned that dismissal could result if there is no satisfactory improvement, and will be advised of the right of appeal. A copy of the written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months subject to achievement and sustenance of satisfactory conduct or performance.

GROSS MISCONDUCT

If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

The following list is not exhaustive but provides some examples of offences which are normally regarded as gross misconduct:

- theft or fraud
- physical violence or bullying
- serious breaches of YC's policies and procedures
- deliberate and serious damage to property
- serious misuse of YC property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- failure to follow management instructions
- unlawful discrimination or harassment
- bringing YC into serious disrepute
- incapability at work brought on by alcohol or illegal drugs
- causing loss, damage or injury through serious negligence
- a serious breach of health and safety rules
- serious breach of safeguarding
- a serious breach of confidence / a serious breach of the implied term of mutual trust and confidence.



- serious breaches of any legislation and regulations relating to childcare
- Some Other Substantial Reason (SOSR)

4. APPEALS

An employee who wishes to appeal against a disciplinary decision must do so in writing within five working days to Head Office.

Two Trustees **or** one Trustee and a senior manager will hear the appeal and their decision is final.

At the appeal any disciplinary penalty imposed will be reviewed.

EXCEPTIONS

This policy does not apply to employees who are still in their agreed probationary period.