

## **2.4 DISCIPLINARY POLICY AND PROCEDURE**

### **SCOPE**

All employees have a responsibility to ensure high standards of performance, conduct and behaviour during their employment with Keren's Nursery. The disciplinary policy and procedure is designed to ensure that any shortcomings or breaches are handled in a fair and equitable way, to improve performance, and to reduce the need for dismissals.

The disciplinary rules but not the full procedure will apply to probationary employees.

### **Principles**

- All issues of misconduct will be dealt with without unreasonable delay at all stages of the procedure.
- A full investigation will be carried out to establish the details of the alleged misconduct.
- The employee will be given an opportunity to make representations before any decisions/actions are taken.
- Notes will be taken of all meetings.
- The employee will be allowed to be accompanied to any formal meeting by a trade union representative or a work colleague. The companion can present and/or sum up the case, but cannot answer questions on behalf of the employee.
- Any disciplinary decision will be notified in writing to the employee giving details of the misconduct and the reason for the decision.
- There will be a right of appeal against any formal decision and the Appeal Chair in each case will be selected on their impartiality.
- All proceedings and documentation will be kept confidential.

### **Examples of misconduct may include:**

- Malicious or harmful gossip about children, their families, other staff.
- Unauthorised absence.
- Persistent poor attendance or time keeping.
- Failure to comply with the Nursery's rules, policies or procedures.
- Refusal to carry out a line manager's instructions.
- Inappropriate behaviour such as shouting at a child or other staff member.
- Harassment of any kind.

- Theft or damage to Nursery property.
- Being under the influence of non prescription drugs or alcohol.
- Unprofessional behaviour of any kind.

This list is not substantive.

## **PROCEDURE**

### **Stage 1**

If misconduct is suspected, the employee will receive a letter which will give details of the alleged misconduct and invites them to a meeting where they will have the opportunity to respond to the allegation(s). If necessary, the meeting will be adjourned and rescheduled so that an investigation can be carried out. After the meeting the employer will decide whether or not any action is justified, and may decide to give the employee an oral warning. The employee will be fully informed in writing and told what changes in behaviour will be expected of them in future. Should no further similar breach occur, the warning will be disregarded after six months' satisfactory service.

### **Stage 2**

If a further similar breach occurs, the employee will be invited to a meeting and given the opportunity to respond to the allegations. An investigation will take place if necessary. After the meeting the employer will decide whether or not any action is justified, and may decide to give the employee a first written warning. The employee will be fully informed in writing. Should no further similar breach occur, the warning will be disregarded after twelve months' satisfactory service.

### **Stage 3**

If a further similar breach occurs, the employee will be invited to a meeting to enable them to respond to the allegations. An investigation will take place if necessary. After the meeting the employer will decide whether or not any action is justified, and may decide to give the employee a final written warning. The employee will be fully informed in writing. Should no further similar breach occur, the warning will be disregarded after eighteen months' satisfactory service.

### **Stage 4**

If a further similar breach occurs, the employee will be invited to a meeting and dismissed. The employee will be informed of the reasons for their dismissal, the date on which their employment will end, their notice period and their right of appeal.

***At any stage of the above procedure the employer may decide it is appropriate to omit a stage in the procedure and move directly to a first or final written warning if the employee's misconduct is sufficiently serious, or to dismiss them for gross misconduct.***

### **Examples of gross misconduct**

- Theft.
- A charge of a criminal offence (excluding minor offences under the Road Traffic Acts).
- Significant damage to property.
- Serious breaches of any of the Nursery's rules, policies or procedures.
- Driving under the influence of alcohol or non prescription drugs.
- Physical assault – this includes any type of physical punishment to a child such as rough handling or humiliation.
- Serious breaches of confidentiality or health and safety.
- Gross negligence.
- Gross incompetence or incapability.
- Gross insubordination.
- Fraud for personal gain.
- Any action inside or outside the workplace which seriously prejudices the Nursery's image and standing with the public, clients, customers, statutory and regulatory bodies and any other third party, such that it might bring the Nursery into disrepute.
- Unprofessional conduct having a serious impact on the employer.

## Stage 1

As soon as an employee is expected of gross misconduct, they will be invited to attend a meeting and will be provided with details of the alleged gross misconduct in writing. The employee will be suspended on full pay immediately while a full investigation is carried out. This will also give the employee time to prepare their own response to the allegation(s).

The investigation will be carried out as soon as reasonably possible. After the investigation, the employer will write to the employee setting out the outcome of the investigation, the nature of the allegation(s), and the possible consequences and enclosing any relevant evidence. In the letter the employer will inform the employee of the date for a meeting to discuss the alleged gross misconduct and to hear the employee's representations before any decision is reached. The employee will be given at least 5 working days' notice to prepare their case.

If the decision is taken to dismiss, the employee should be invited to a further meeting and dismissed for gross misconduct without notice or pay in lieu of notice. The employer will write to the employee confirming the dismissal, setting out the leaving arrangements, and will provide a full reason for the decision.

The decision may be reached on the same day in which case the employee can be called back into the meeting. If, however, the decision cannot be reached without further investigation, the employee will be advised accordingly.

## **The appeal**

The employee has the right of appeal against any formal action against them. This must be done in writing setting out the grounds of their appeal within 10 working days of receiving the warning letter. The appeal will be heard as soon as possible thereafter, and the time, date and name of the Appeal Chair notified to the employee in advance.

Where the employee's chosen companion is unable to attend on the date initially set for the appeal they may request a postponement provided this is for no longer than 5 working days.

The outcome of the appeal will be notified to the employee in writing within 10 working days of the appeal meeting taking place. The decision of the Appeal Chair will be final.

Date to be reviewed January 2017	Approved and revised on 28/01/2016	Tina Bloch – Nursery Manager
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