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Disciplinary Policy and Procedure

When a disciplinary matter arises at Bradpole Preschool the preschool leader or a committee member will first establish the facts before recollections fade and where appropriate obtain statements from any available witnesses. Having investigated all the facts, the preschool leader or committee member will decide upon a course of action; either drop the matter, arrange informal counselling or arrange for the matter to be dealt with formally under the Disciplinary Procedure.

Minor cases of misconduct may best be dealt with by informal advice, coaching or counselling rather than through the formal Disciplinary Procedure. If it felt that formal disciplinary procedure is appropriate, there should be a disciplinary hearing at which the employee has the opportunity to state their case and to answer allegations being made. Whenever possible the hearing should be arranged in advance and the employee advised of their rights under the procedure, including the statutory right to be accompanied by a fellow employee or a companion. Prior to this stage, where matters remain informal, the employee is not entitled to the statutory right of accompaniment.

Formal Procedure

In all cases the employee must be informed in writing and by post of the allegations against him or her. This notification should be sufficiently detailed in order that the employee understands the nature of the alleged misconduct and why this is not acceptable. If the employee has difficulty reading, the preschool leader or committee member should explain the contents of the letter orally. The Pre-School leader or Committee member should:

- Invite the employee to a meeting to discuss the alleged misconduct, giving the employee reasonable opportunity to consider their response to the allegations
- Inform the employee of the right to be accompanied by a companion
- Give the employee copies of any documents which will be produced at the meeting

If the employee cannot attend the meeting they should inform the preschool leader/committee member in advance if possible. If the employee fails to attend a meeting due to unforeseeable circumstances, the meeting must be re-arranged. If the employee does not attend a meeting without good reason this may be treated as gross misconduct and a decision may be taken in the employee's absence. If the employee's companion cannot attend on the proposed date for the meeting, the employee may suggest another date, but it must be within 5 working days of the original date proposed by the preschool leader/committee member. This time limit may be extended by mutual agreement.

At the meeting, the preschool leader/ committee member should explain the allegations against the employee and go through the evidence that has been gathered the employee should then be given the opportunity to put forward their case and respond to the allegations. The employee should also be allowed to ask questions, present evidence, call witnesses and be given the opportunity to raise points about any information provided by witnesses.

Following the meeting the preschool leader/ committee member will inform the employee that either no disciplinary actions is justified or if disciplinary action is required, what form this will take. Before a decision is made, the preschool leader/ committee member should take account



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of the employee's disciplinary and general record, length of service, actions taken in any previous similar case, explanations given by the employee and whether the intended disciplinary action is reasonable under the circumstances. Depending upon the nature of the misconduct some formal disciplinary action may be taken as follows:

Written Warning

If the infringement is regarded as serious, the employee should be given a formal Written Warning. The Written Warning should give details of the complaint, the improvement or change in behaviour required; the timescale allowed for this, a review date and any support Bradpole Preschool will provide to assist the employee. The Warning should inform the employee that a Final Written Warning or ultimately dismissal may be considered if there is no sustained improvement or change. A copy of the Written Warning should be kept on the employee's personal file, and used as the basis of maintaining and reviewing performance over a specified period (normally six months) but should be disregarded for disciplinary purposes after a period of twelve months.

Final Written Warning

Where there is a failure to improve or change behaviour during the currency of a previous warning or whether there is a sufficiently serious infringement, the employee should normally be given a Final Written Warning, but only after they have been given a chance to present their case at a meeting as set out above. The Final Written Warning should give details of the grounds for the complaint, warning the employee that failure to improve or modify their behaviour may lead to dismissal (or if appropriate some other form of action short of dismissal) and refer to the right of appeal. The Final Written Warning should normally be disregarded for disciplinary purposes after a period of twelve months.

Dismissal or other Penalty

If the employee's conduct still fails to improve, the final step may be dismissal or if it is mutually agreed, some other penalty such as demotion, disciplinary transfer, or loss of seniority/pay. The decision to dismiss should only be taken by 2 Committee members who have the authority to do so and the employee should be informed as soon as reasonably practical of the reason for dismissal, the date on which the employment will end, the appropriate period of notice and the right to appeal. The decision to dismiss should be confirmed in writing.

Appeal Process

The employee has the opportunity to appeal against disciplinary decisions unless only a warning has been given. The employee may choose to raise an appeal on a number of grounds including perceived unfairness, severity of penalty, new evidence or if they believe the disciplinary procedure was not used correctly. An appeal should be dealt with as promptly as possible and any appeal should be lodged within five working days of the disciplinary action. Where reasonably practicable, the appeal will be dealt with by the Chairperson of the Committee. If the Chairperson is not available another 2 Committee members should hear the appeal the employee has a statutory right to be accompanied by a fellow employee or companion at an appeal hearing. The employee should be informed of the results of the appeal and the reasons for the decision as soon as possible and this should be confirmed in writing. This decision constitutes the final stage in the appeals process.



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Gross Misconduct

In cases of alleged gross misconduct, a disciplinary hearing will still normally be held in accordance with the above procedure and if proven, the sanction will usually be summary Dismissal (i.e. dismissal without notice). Allegations of gross misconduct still usually need to be investigated as part of the formal procedure. Acts which constitute gross misconduct are those which result in a fundamental breach of contractual terms. These might include, but are not limited to the following:

- Theft, fraud or deliberate falsification of records.
- Physical violence.
- Serious bullying harassment or discrimination.
- Deliberate and serious damage to property.
- Serious insubordination.
- Misuse of Bradpole Preschool's property or name.
- Bringing Bradpole Preschool into serious disrepute.
- Serious incapability whilst on duty due to alcohol or drugs.
- Serious negligence which causes or may cause loss, damage or injury.
- Serious infringement of health and safety rules.
- Breaches of confidentiality.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.

Records

Records of all disciplinary action should be kept confidential and retained in accordance with the Disciplinary Procedure and the Data Protection Act. The Disciplinary Procedure will be reviewed periodically in the light of any developments in the employment legislation or good employment practice.

This Disciplinary Procedure is a statutory procedure in accordance with the requirements of the Employment Act 2002 and the ACAS Code of practice on Disciplinary and Grievance Procedures (1st October 2004)

This policy was updated at a meeting of: The Committee of Bradpole Preschool

Held during the Autumn Term 2021

Date to be reviewed: Autumn Term 2022