



## The Wye Nursery Policies and Procedures

### **DISCIPLINARY PROCEDURE**

***In the event of a serious safeguarding allegation against a member of staff the Local Authority Designated Officer (LADO) will be informed and advice for how to proceed sought from them (See managing allegations against a staff member or volunteer policy)***

***Further procedure will follow the advice given.***

In the event of general staff misconduct not relating to safeguarding or child protection issues the following will be observed.

#### **Principles**

- All employees shall be treated fairly and equally.
- At every stage the employee will be advised of the nature of the complaint and will be given the opportunity to state their case before a decision is made.
- At all stages the employee will have the right to be accompanied by a representative or work colleague of their choice.
- No disciplinary action will be taken against an employee until the case has been fully investigated.
- An employee will have the right to appeal to the committee against any penalty imposed.

#### **Procedure**

- The Manager should, wherever possible, use the informal procedure to effect improved performance or conduct.
- The Manager will speak to the employee about their performance and / or conduct. The employee should understand which aspects of their performance or conduct needs to be improved, the time scales of this and how it will be reviewed.
- Employees should have the opportunity to explain their poor performance and should be given the support to help them improve.
- It should be made clear that if there is no improvement in performance/conduct the next stage will be to instigate the formal procedure.



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### Formal Procedure

#### Stage 1 - First Warning

If conduct or performance fails to meet acceptable standards, or a written complaint is received from a parent, a formal disciplinary hearing with the Management will be held. The employee may be accompanied by a representative or work colleague and will be given the opportunity to raise questions, explain their performance / conduct, invite any witnesses, and produce any relevant documents. If following this, it is concluded that performance / conduct has not been satisfactory a First Stage Warning (Verbal Warning) will be issued.

The employee will have the right to appeal and may do so by writing to the Manager within 10 working days of receiving notification. A note of the First Stage Warning will be held on the employee's file for a maximum of 6 months after which it will be deemed to be expired and will be kept for recording purposes only. The warning letter to the employee should state that if improvements do not follow, further disciplinary action will take place.

#### Stage 2 - First Written Warning

Where the performance or conduct of an employee has not improved during the informal procedures, a First Stage Warning not heeded, or if the alleged offence is of a more serious nature, a formal disciplinary hearing with the Manager will be arranged. This will follow the same format as that described in the First Stage Warning. The employee may appeal against the decision in writing to the Manager or directors within 10 working days. The warning, if upheld, may remain on the employee's file for a maximum of 12 months after which it will have deemed to have expired. It should be made clear to the employee that improvements to their performance / conduct must be made if further disciplinary action is to be avoided.

#### Stage 3 - Final Written Warning

When conduct or performance remains unsatisfactory or if the alleged misconduct is sufficiently serious, a further disciplinary hearing with the Manager will be held. This will follow the same format as those set out above. If upheld, a final written warning will be issued. This will give the details of the alleged complaint and warn that if there is no subsequent improvement, dismissal procedures may follow. The employee may appeal in writing to the Manager within 10 working days of receiving notification of the outcome of the hearing. If upheld, a note will be held on the employee's personal file for a maximum of 2 years.

### Suspension from Duty

- In certain cases, such as when gross misconduct has been alleged, it may be necessary to suspend a member of staff pending an investigation. This in no way pre-judges the outcome of the investigation. The employee will be informed of the suspension at a formal meeting where they may be represented if they wish. A letter will be sent to the employee by the Manager within 24 hours of the meeting to confirm the suspension. Every effort will be made to investigate the alleged misconduct as quickly as possible.
- Examples of gross misconduct may include the following: theft, fraud, physical violence, deliberate damage to the employee's property or a serious act of insubordination. This is not an exhaustive list and there may be other incidents which are viewed as gross misconduct by the Manager.
- During the period of suspension, the employee will receive full pay, must not return to the workplace until they have permission to do so from the Manager. The employee should be available for interview during working hours throughout the period of the suspension.



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### Dismissal

- Where it alleged that the employee has committed an act of gross misconduct, or where a final written warning has not been heeded, it may be that the Manager considers that procedures to dismiss the employee should be instigated.
- If this is the case, a formal disciplinary hearing will be arranged. The panel will consist of 2 members of the Management team. The employee may be accompanied by a representative or work colleague of their choice. The employee and their representative will be given at least 5 working days' notice of this hearing and will be given enough information about the allegations for them to be able to prepare their response. During the hearing, the employee will have the opportunity to give their explanation, ask questions, call witnesses, and produce any relevant documents. Copies of all documents to which either party intend to refer to should be passed to the other party no later than 3 working days prior to the hearing.
- If following the hearing the Panel is satisfied that the allegations have been substantiated, they shall inform the employee of the decision to dismiss at the end of the hearing.
- The employee will be sent a letter to confirm the decision to dismiss and may appeal by writing to the Manager within 10 working days.

### Appeals against Dismissal

- The manager will acknowledge the receipt of the appeal and will arrange to hear the appeal within 30 working days.
- The appeal will be heard by a panel of 2 members of the Management who were not involved with the decision to dismiss.
- The employee and their representative will be given 5 working days' notice of the Appeal Hearing. During the meeting the employee will have the opportunity to give an explanation, ask questions, call witnesses, and produce any relevant documents.
- The Appeals Panel may decide to dismiss or allow the appeal. The employee will be informed of the decision at the end of the hearing and will receive written confirmation within 5 working days of the hearing.
- There is no further right of appeal under this procedure.
- An employee's employment will not be terminated until either the appeal has been heard or the employee does not wish to make an appeal.