

Disciplinary Procedure for Rainbow Early Years Employees

Minor Disagreements

Minor disagreements among the Group staff, or between staff and committee, can usually be resolved at the regular staff management meeting or informally by discussion.

Disciplinary Procedure

A more serious situation arises when a dispute cannot be resolved, or when the committee is dissatisfied with the conduct or activities of an employee.

Any disciplinary matter will normally be dealt with using the following procedure.

At every stage the employee should be given reasonable notice (five days) that a disciplinary hearing is due to take place to give them the opportunity to prepare their case, and they should be offered the opportunity to be accompanied by a colleague or union representative if they wish. The disciplinary panel should consist of the Group Chair and two other nominated committee colleagues, who should ensure that confidentiality is maintained within the panel.

Procedure

Whilst these 3 steps apply to dismissal and action at the start of dismissal, it is good practice to follow these steps when dealing with all disciplinary issues. The procedure will consist of the following three steps.

Step 1 – details of grounds for action and invitation to meeting

The committee must prepare a statement of the employee's alleged conduct or characteristics, or other circumstances, which have led to the contemplation of dismissing or taking disciplinary action against the employee.

The statement and date of the disciplinary meeting must be sent to the employee prior to the meeting.

The employee should be provided with a reasonable amount of time to consider their response to the statement.

Step 2— the disciplinary meeting

A disciplinary meeting must take place before action is taken, (except where the disciplinary action in question consists of suspension). At the meeting, the committee should ensure that the circumstances of the complaint against the employee are discussed.

The committee must write to the employee to explain the conduct or capability which may result in dismissal or other disciplinary action.

The outcome of the disciplinary meeting must be confirmed in writing, to include the employee right of appeal against the decision.

Step 3 - appeal

At each stage of the disciplinary procedure the employee must be told they have the right to appeal against any disciplinary action, and that the appeal must be made in writing to the Group Chair within five days of a disciplinary interview.

The employee will have the opportunity to appeal against any penalty issued at the disciplinary meeting. If the employee wishes to appeal then they should submit their appeal in writing within a set time period (5 days), of receiving the letter confirming the outcome of the disciplinary meeting, giving full details of their grounds of appeal.

Modified statutory procedure

In very exceptional circumstance it may be necessary to dismiss an employee without holding a disciplinary meeting i.e. where instant dismissal is justified and necessary. Such cases will be rare (because even in most cases of gross misconduct, investigation is usually justified coupled with suspension) and will normally only apply to cases of gross misconduct, where the conduct or breach of duty brings the organisation into disrepute.

In such circumstances the following procedure will apply:

Step I: statement of grounds for action

The committee must set out in writing the employee's alleged misconduct which has led to the dismissal, what the basis was for thinking at the time of the dismissal that the employee was guilty of the alleged misconduct, and the employee's right to appeal against dismissal within a limited time period (five days). This statement or a copy of it should be sent to the employee.

Step 2: appeal

If the employee does wish to appeal, they must inform the Group in writing.

If the employee informs the Group of their wish to appeal, the committee must invite them to attend a meeting. The employee must take all reasonable steps to attend the meeting. After the appeal meeting, the committee must inform the employee of their final decision.

Disciplinary penalties

The Group's committee can issue a range of penalties depending on the circumstances of the case. However, an employee should not be dismissed for a first offence unless it constitutes gross misconduct.

1) First formal warning

- i. The employee will be interviewed by the disciplinary panel who will explain the complaint.
- ii. The employee will be given full opportunity to state their case.
- iii. After careful consideration by the disciplinary panel, and if the warning is considered to be appropriate, the employee needs to be told:

- The nature of their failings;
- What action should be taken to correct the conduct or performance;
- that they will be given reasonable time to rectify matters;
- what training needs and / or support have been identified, with timescales for implementation;
- what mitigating circumstances have been taken into account in reaching the decision;
- that if they fail to improve then further action will be taken;
- that a record of the warning will be kept; and
- that they have a right to appeal against the decision

2) Formal written warning

If the employee fails to correct their conduct and further action is necessary, or the original offence is considered too serious to warrant an initial oral warning.

- i. The employee will be interviewed by the disciplinary panel, who will explain the complaint and give the employee the opportunity to state their case. (Reasonable time must be allowed for the employee to prepare their case).
- ii. If a further formal warning is considered to be appropriate, this will be explained to the employee and a letter confirming this decision will be sent to the employee.
- iii. The letter will:
 - a. contain a clear reprimand and the reasons for it;
 - b. explain what corrective action is required and what reasonable time is given for improvement;
 - c. state what training needs and / or support have been identified, with timescales for implementation;
 - d. make clear what mitigating circumstances have been taken into account in reaching the decision;
 - e. warn that failure to improve will result in further disciplinary action which could result in a final written warning and, if unheeded, ultimately to dismissal with appropriate notice; and
 - f. explain that they have a right to appeal against the decision.

3) Final written warning

If the employee fails to correct their conduct and further action is necessary, or if the original offence is considered too serious to warrant any initial warnings.

- i. The employee will be interviewed and given the opportunity to state their case. (Reasonable time must be allowed for the employee to prepare their case).
- ii. If a final warning is considered to be appropriate, this will be explained to the employee and a letter confirming this decision will be sent to the employee
- iii. The letter will:
 - a) contain a clear reprimand and the reasons for it;
 - b) explain what corrective action is required and what reasonable time is given for improvement
 - c) state what training needs and or support have been identified, with timescales for implementation;
 - d) make clear what mitigating circumstances have been taken into account in reaching the decision;
 - e) warn that failure to improve will result in further disciplinary action which could result in dismissal; and

f) explain that they have a right to appeal against the decision.

4) Dismissal

If the employee still fails to correct their conduct, then:

- i. the employee will be interviewed as before; and
- ii. if the decision is to dismiss, the employee will be given notice of dismissal stating the reasons for dismissal and giving details of the right to appeal.

If the progress is satisfactory within the time given to rectify matters, the record warnings will be removed from the employee personal file.

Suspension

If the circumstances appear to potentially warrant dismissal or the circumstances of the case are considered to constitute gross misconduct, an employee may be suspended with pay while investigations are being made. These should consist of obtaining written statements from all witnesses to the disciplinary incident, and from the employee who is being disciplined. Obviously these investigations should be carried out within as short a time as possible.

Hearing appeals

The appeal hearing should be heard, if possible within 10 days of receipt of the appeal. Two or three committee members - not, if possible, those involved in the initial disciplinary procedures - will serve as an appeal committee. If this is not possible, the appeal group may consist of the same people as the original panel, and they must make every effort to hear the appeal as impartially as possible. The employee may take a work colleague or trade union official to speak for them.

- a) The employee will explain why they are dissatisfied and may be asked questions.
- b) The Manager or Chair will be asked to put their point of view and may be asked question.
- c) Witnesses may be heard and may be questioned by the appeal committee and by the employee and the Manager or Chair.
- d) The committee will consider the matter and make known its decision.

A written record of the meeting will be kept.

Time scales

Each step and action under the disciplinary procedure must be taken without unreasonable delay. Consideration should be given to timings and locations meetings to ensure that the employee and their representative are able to attend. For cases that result in dismissal two reasonable attempts by the Group to arrange meeting will normally be sufficient if they prove abortive because of the employee's non-attendance. If an employee is not able to attend the first disciplinary meeting arranged then they will be required to provide an alternative date to take place within 5 days of the original date given by the Group.

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