



Early Learning and Childcare Centre

## **ADVERSE WEATHER** **(appropriate for other emergency closures)**

The Care Inspectorate's Health and Social Care Standards inform the standard of practice expected of Ferryfield's staff, when following this policy they are adhering to:

### **Standard 2: I am fully involved in all decisions about my care**

#### Be included

2.9 – I receive and understand information and advice in a format or language that is right for me.

2.13 – If a decision is taken against my wishes, I am supported to understand why.

### **Standard 3: I have confidence in the people who support and care for me.**

#### Responsive care and support

3.15 – My needs are met by the right number of people.

### **Standard 4: I have confidence in the organisation providing my care and support**

#### Responsive care and support

4.14 – My care and support is provided in a planned and safe way, including if there is an emergency or unexpected event.

#### Wellbeing

4.23 – I use a service and organisation that are well led and managed.

This policy has been written to inform staff and service users the procedures that will be implemented in the event the service cannot open for any reason.

### **Closure of schools or care facilities and employee rights**

If schools or care facilities are closed due to the weather, employees who do not have alternative childcare options may be in the position that, while they could get into work despite the weather, it is necessary for them to spend the day looking after their children. Such circumstances will almost certainly fall within the dependant leave regime under s.57 (A) of the Employment Rights Act 1996, which includes the employee's right to take a reasonable amount of time off: because of the unexpected disruption or termination of arrangements for the care of a dependant; or to deal with an incident that occurs unexpectedly in a period during which an educational establishment is responsible for the employee's child.

- Time off in these circumstances is unpaid (unless the employer chooses to pay employees) and should last only for as long as necessary to deal with the immediate situation.

- If a closure is scheduled to last a week or more, Ferryfield will, reasonably, expect the employee to make some alternative arrangements within that time to permit them to return to work.
- Employees must tell their employer as soon as reasonably practicable why they are away and how long they expect the absence to last.
- The employee is not obliged to provide the employer with evidence that the school or care facility is closed as a prior condition to it allowing the leave (though this evidence may be available on the website of the school or local authority).
- If the employer suspects that the employee has procured the time off through a misrepresentation it can implement its disciplinary process, at which stage it would be appropriate to seek evidence of the closure.

If prior agreement is made with the Manager the employee can work from home, the right to time off for dependants does not come into play and the employee will be paid.

Dependant leave absences are designed to be both short and unpaid but the reasonableness of the length of absence depends on the individual employee's personal circumstances to a substantial extent.

### **Health and safety issues**

Employers have a general duty under s.2 of the Health and Safety at Work etc Act 1974 to ensure so far as is reasonably practicable, the health, safety and welfare of their employees at work and failure in this duty can result in criminal sanctions. There are also general duties on employees and there is also an implied term in every contract of employment that the employer will take reasonable steps to protect the health and safety of its workers in the workplace.

Severe weather may have a number of implications, for example Ferryfield employees sometimes are expected to work outside and so may be unable to perform their usual duties.

- Health may also be at greater risk if employees work in the open air and Ferryfield will ensure that it complies with its health and safety obligations with regard to providing a safe system of work, for example by carrying out risk assessments and ensuring that employees have suitable clothing and adequate rest breaks. A risk assessment gives employers an opportunity to identify those things in the workplace that could cause harm to their employees, or others who use or have access to the workplace, so that they can weigh up whether they have taken sufficient precautions or need to do more to prevent harm.
- Ferryfield will not encourage their employees to travel in dangerous weather, either during working hours or when travelling to and from work.

### **Temperature at Work**

Regulation 7 of the Workplace (Health, Safety and Welfare) Regulations 1992 (SI 1992/3004) states that during working hours, the temperature in all workplaces inside buildings shall be reasonable, however, **the Regulations do not provide a minimum workplace temperature.** Whether or not a temperature is reasonable will

depend on factors such as the nature of the workplace and the type of work that is being carried out and how long the temperature is expected to remain at that level. The Health and Safety Executive provides guidance on the Regulations, which recommends:

- a minimum temperature of 16°C for workplaces where the activity is mainly sedentary, such as offices.
- For workplaces where much of the work involves physical effort, the minimum recommended temperature is 13°C.

### **Paying Staff Wages**

This policy is based on the principle that in accordance with an employee's contract of employment they are required to attend for duty in order to receive payment unless the building where they work is closed.

- Where the building has been closed, for example by the landlord, and the employee is ready, willing and able to work, they are then entitled to payment of salary.
- However, when travel disruptions occur, there is no legal right for staff to be paid by an employer for travel delays. It is the responsibility of the employee to get to work. If the employee does not come to work, the employer is under no obligation to pay them.
- If the closure has been anticipated and the employee has taken work home with them and on return to work can show the amount of work undertaken, the employee will be paid. The work undertaken must be equivalent to a full day's work in order to secure a full days pay.
- Any person who is unable to come into work and does not have work to do at home, can contact their manager who may be able to allocate work that can be undertaken at home, thus enabling them to be paid.

Home working is not available for anything other than a one-off basis, as this would require the employer to provide, amongst other things, health and safety checks, insurance and security.

### **Absence or lateness**

If an employee does not turn up for work, or turns up late, because of adverse weather or other disruptions to transport, the employer is entitled to treat the absence in the same way as any other unauthorised absence and the employee will not get paid, in law employees must be ready and willing to perform their duties and therefore if they are absent from work without authorisation they are not entitled to be paid.

- The employer will investigate the employee's reasons for non-attendance before stopping their pay.
- The employers will collect objective proof of the transport disruption and consider the success of other staff in getting in from the same area.
- All employees will be treated consistently and not discriminated against for any reason.

**Refunding fees because of non-provision of a service**

Emergency closures will only be made as a last resort however, in adverse weather conditions Police Scotland’s advice will be followed, safety is always paramount and many staff live outside Cupar.

**We will do our best to ensure parents have as much notice as possible.**

- Following a closure, parents have 4 weeks in which to request back the Ferryfield fees they have paid that cover the period of closure, should they wish to do so.

Adopted by the Committee .....

Date .....

August 2019