



Early Learning and Childcare Centre

DISCIPLINE AND DISMISSAL POLICY

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

Responsive care and support

4.19 – I benefit from a culture of continuous improvement, with the organisation having robust and transparent quality assurance processes.

4.21 – If I have a concern or complaint, this will be discussed with me and acted on without negative consequences for me.

Wellbeing

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

Ferryfield is committed to providing the best possible service to its users and to do this need to have motivated and well trained staff who believe in Ferryfield's Aims. Occasionally standards fall below Ferryfield's high level of expectation and when this is observed the following procedure will be implemented.

The following policy has been written using the guidance from ACAS Codes of Practice – Disciplinary and Grievance procedures 2009. Matters which may be dealt with under this disciplinary and dismissal policy include but are not limited to the following reasons:

Misconduct, sub-standard performance, harassment or victimisation, misuse of company facilities (including computer facilities e.g. E-mail and Internet), poor timekeeping and/ or unauthorised absences.

Establishing Facts

- Investigations will be carried out where there is the potential for a disciplinary decision.
- The investigation may require a meeting with the employee or a gathering of evidence.
- Where practical Ferryfield will employ different people to carry out the investigation and the discipline meeting.
- An investigatory meeting does not automatically suggest the employee will be subjected to a disciplinary outcome.
- Employee's do not have a statutory right to be accompanied at an investigatory meeting.

Disciplinary Meetings

- If the investigation suggests there is a requirement for disciplinary action, Ferryfield will communicate this to the employee by writing.
 - This will include information regarding the alleged misconduct, the possible outcomes and may include copies of evidence should this be deemed appropriate. The time and venue will be communicated and the employee will be informed of their right to be accompanied to the meeting.
- The meeting will be held without undue delay, but will allow the employee at least 2 days to prepare their case.

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Scottish Charity Number SCO02153

- Employers and employees (and their companions) should make every effort to attend the meeting.
- At the meeting the employer will explain the complaint against the employee and go through the evidence that has been gathered.
- The employee will be allowed to set out their case and answer any allegations that have been made. The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.
- Where Ferryfield or the employee intends to call relevant witnesses, they should give advanced notice that they intend to do this.
- Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause Ferryfield will make a decision on the evidence available.

Accompanied at the Meeting

- Staff members are allowed to be accompanied at the disciplinary meeting.
 - The person can be a work colleague, a trade union representative or an official employed by a trade union. The request for a specific person to attend the meeting should be a reasonable one.
- The companion will be allowed to address the hearing to put and sum up the worker's case, respond on behalf of the worker to any views expressed at the meeting and confer with the worker during the hearing.
- The companion does not have the right to answer questions on the worker's behalf, address the hearing if the worker does not wish it or prevent the employer from explaining their case.

Outcome

- The outcome will be decided after the meeting and will be promptly communicated to the employee.
- Where misconduct is confirmed or the employee is found to be performing unsatisfactorily it is usual to give the employee a written warning.
- A further act of misconduct or failure to improve performance within a set period would normally result in a final written warning.
- If an employee's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning.
 - This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation.
- A first or final written warning will set out the nature of the misconduct or poor performance and the change in behaviour or improvement in performance required, including timescale.
- The employee will be told how long the warning will remain current.
- The employee will be informed of the consequences of further misconduct, or failure to improve performance, within the set period following a final warning.
 - For instance that it may result in dismissal or some other contractual penalty such as demotion or loss of seniority.
- A decision to dismiss can be made by the Manager, who may liaise with the Management Committee.
- The employee will be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

Gross misconduct

- Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence. But a fair disciplinary process will be followed, before dismissing for gross misconduct.

Examples of gross misconduct are, but are not limited to:

- theft
- fraud and/or deliberate falsification of records
- physical violence
- gross bullying or harassment
- deliberate damage to property
- gross insubordination
- misuse of the organisation's property or name
- bringing the employer into serious disrepute
- gross incapability whilst on duty brought on by alcohol or illegal drugs
- gross negligence which causes or might cause unacceptable loss, damage or injury
- gross negligence which could put the children at risk
- gross infringement of health and safety rules
- gross breach of confidence (subject to the Public Interest (Disclosure) Act 1998).

Right to Appeal

- Where an employee feels that disciplinary action taken against them is wrong or unjust they should appeal against the decision.
- Appeals will be heard without unreasonable delay and ideally at an agreed time and place.
- Employees should let Ferryfield know the grounds for their appeal in writing.
- The appeal should be dealt with impartially. Ferryfield will endeavour to appoint a person not previously involved with the case, although due to the size of the company this may not always be possible.
- Employees have a statutory right to be accompanied at appeal hearings.
- Employees will be informed in writing of the results of the appeal hearing as soon as possible.

Special Cases

- Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure will be followed.
- Depending on the circumstances however, Ferryfield will try to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.
- If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action.
 - Consideration will be given to what effect the charge or conviction has on the employee's suitability to do their job, the effect the conviction will have on their PVG record and the relationship with their employer, work colleagues and customers.

Adopted by the Committee

Date

August 2019

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