

Smallville Nursery Disciplinary Policy 2022

Revised March 2023

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Disciplinary Procedure

Smallville Nursery requires rules and procedures to be complied with to ensure a good relationship between employees and the managers. It is hoped that there will be no need to use the disciplinary procedure. However, should such action be deemed necessary, the procedure laid down below should allow all relevant issues to be dealt with reasonably.

Employees will only be disciplined or dismissed after the Manager has confirmed the decision to take disciplinary action with the Management Committee. An attempt should first be made to resolve the problem informally.

Where a **letter of complaint** is given, you are entitled to 7 days notice of any disciplinary hearing. You will have the right to attend the hearing and to reply to the complaint.

The statutory procedure, which is set out in full in schedule 2 of the Employment Act 2002, can be summarised as follows:

The following stages apply:

Step 1

The employee will be notified in writing of the alleged complaint – in terms of performance or conduct; and the basis for the allegations will be set out; the employee will be invited to a meeting to discuss the matter.

Step 2

A meeting will be held to discuss the basis of the complaint – the employee has the right to be accompanied by a work colleague or union representative. An investigation will be carried out and the employee will be advised of the decision and the right to appeal. Step 3

An appeal meeting will be held (if the employee wishes to appeal) at which the employee has the right to be accompanied (as above) – the employee will be advised of the final decision.

Unless the complaint is dismissed Smallville Nursery will give you written notice as detailed above.

Verbal Warning

- The employee will be interviewed by the manager and given an opportunity to explain their case.
- The employee will be given advice and help if possible and, if a disciplinary warning is deemed to be necessary, a **verbal warning** will be given and a record of this will be kept on the individual's personal file and will not be considered 'spent' until twelve months have elapsed.
- This warning will detail the reason, the expected improvements, and the time scales within which the improvement should occur and the names of the persons present during the meeting.
- The manager will report any verbal warnings to the nursery owners.

First Written Warning

- The employee will be interviewed by the manager and given an opportunity to explain their case. The manager will have discussed their intended course of action with the nursery owner before proceeding.
- If a disciplinary warning is deemed to be necessary, a first **written warning** will be given and a record of this will be kept on the individual's personal file and will not be considered spent until twelve months have elapsed.
- This warning will detail the reason, the expected improvements, and the time scale within which the improvements should occur and the names of the persons present during the meeting.

Final Written Warning

- The employee will be interviewed by the manager concerned and given an opportunity to explain their case. The manager will have discussed their intended course of action with the nursery owner before proceeding.

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- If a disciplinary warning is deemed to be necessary, a **final written warning** will be given and a record of this will be kept on the individual's personal file and will not be considered 'spent' until twelve months have elapsed.
- This warning will detail the reason, expected improvements, the time scales within which the improvements should occur and the names of the persons present during the meeting.
- The warning will also confirm that further breaches of discipline may lead to termination of employment.

Dismissal

- Any proposal for dismissal will be initially considered and approved by the nursery owner.
- The manager accompanied by the owner will interview the employee and give them the opportunity to explain their case and respond to any charges made.
- If the proposal to dismiss is endorsed, the nursery owner will serve notice of termination of employment on the employee.
- In cases of gross misconduct, employees may be summarily dismissed without notice and without issuing warnings as detailed above. (See Gross Misconduct)
- Smallville Nursery reserve the right to use or omit any steps in the procedure should it consider it appropriate and also reserves the right to have a flexible yet fair standard of disciplining employees if required.
- All employees have the right to be represented by a fellow employee or union representative at any disciplinary/dismissal meeting.

Safeguarding Children

Where an allegation of child abuse is made against a member of staff that causes concern, or that they have behaved in a way that has harmed a child, or may have harmed a child, possibly committed a criminal offense against or related to a child, or behaved towards a child or children in a way that indicates she/he is unsuitable to work with children, we will:

- Cooperate fully with any enquiry.
- Detailed records will be taken.
- The setting disciplinary procedure will be followed where necessary.
- Ofsted will be informed.

Smallville Nursery will need to contact the Local Authority Designated Officer for managing allegations through the Local Safeguarding Children's Board. Suspension will not be an automatic response to an allegation, but we will need to consider the seriousness and plausibility of the allegation, the risk of harm to children and the possibility of tampering with evidence, as well as the interests of the person concerned and the setting.

If the allegation is of a serious nature then the nursery owner will decide if the employee should be suspended on pay, whilst investigations are being made.

Staff must record medical conditions on the health form. If practitioners are taking medication which may affect their ability to care for the children, those practitioners should seek medical advice and must declare this on the medication form. If this is not declared it is a disciplinary offence. They should only work directly with children if medical advice confirms that the medication is unlikely to impair their ability to look after children properly.

It is an offence not to disclose any convictions, cautions, court orders, reprimands and warnings which may affect their suitability to work with children (whether received before or during their employment at Smallville Nursery)

Gross Misconduct

Is an instance where an employee carries out or fails to carry out an action that is so serious as to justify summary dismissal. Summary dismissal means the employee will not receive notice or any payment in lieu of notice. The following list provides examples of Gross misconduct but is by no means exhaustive.

- Stealing/Dishonesty,
- Falsification of a qualification that is a requirement of the employee's employment conditions or which results in financial gain to the employee.

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- Falsification of records, reports, accounts, expenses.
- Sexual misconduct/indecent behaviour at work Physical assault/fighting
- Deliberate damage or misuse of the nursery's property
- Serious damage to the nursery's property
- Drunkenness or being under the influence of illegal drugs whilst at work
- Failure to disclose medication being taken which may affect their ability to care for the children or to store medication safely (see staff medication policy)
- Possession or control of illegal drugs on Smallville Nursery premises.
- Serious breach of Health and Safety
- Serious Breach of Confidentiality Gross Negligence
- Conviction of a criminal offence that is relevant to the employee's employment Conduct that brings the nursery's name into disrepute
- Discrimination, harassment, abuse or bullying of a fellow worker

You may appeal against disciplinary action taken against you by applying within 5 working days in accordance with the Appeal Procedure.

Appeal Procedure

If you disagree with disciplinary action taken against you then you have the right to appeal. This must be made in writing within 5 working days to the nursery manager.

A formal meeting will be held within 10 working days in receipt of the appeal.

You have the right to be accompanied by a colleague or trade union representative at an appeal hearing.

The outcome of the appeal will be communicated in writing as soon as possible after the hearing and the decision will be final.

Criminal Conduct outside work

Criminal charges or convictions for offences committed outside working hours which include dishonesty or violence may result in disciplinary proceedings being taken against the employee up to and including summary dismissal for Gross Misconduct.

Criminal charges or convictions for any other type of offence may result in disciplinary proceedings being taken against the employee if in the managements opinion the conviction is such as to affect or likely to affect the suitability of the employee for the position in which they are employed, or likely to damage the reputation of Smallville Nursery.

Grievance Procedure

The following procedure applies should a member of staff/management have a grievance with a colleague. There is no definition for a grievance and only an individual can determine whether or not they feel aggrieved. All Staff have a right of appeal if they think they have been unfairly treated.

Staff with a grievance should first inform the nursery manager, if that person is not the subject of the grievance, or the next higher level. If the grievance is not satisfactorily dealt with at the first formal stage, staff should raise a formal appeal against the outcome of the first stage by putting their grievance in writing to the nursery owner.

Smallville Nursery encourages in the first instance to try and resolve the problem informally with the person with whom you have the grievance. If the issue cannot be resolved informally, staff should raise a formal grievance with the manager (not involved in the grievance).

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The following stages apply:

Stage One:

If the matter is not resolved informally, the matter should be raised in writing with the nursery manager. (If the grievance is with the manager you should refer to stage two of the grievance procedure)

The manager will deal with your grievance as quickly as possible and normally you should expect to receive a verbal and written response within 7 days.

Stage Two:

If the matter is not resolved at stage one or the grievance is about the manager, the matter should be raised in writing with the nursery owner. You should expect to receive a written and verbal response within 7 days.

Stage Three:

If the matter has not been resolved at stage two you have the right to raise the matter with the nursery owner in writing that this is your intention and formally request that your grievance is brought to the attention of the management. A meeting will then take place within 28 days of receiving your written request. The grievance will be considered along with any supporting documentation submitted and any other relevant information/evidence brought to the attention of the Chair during the course of stage one and two.

You will be given the opportunity to present your grievance at this meeting and you have the right to be supported at the meeting by a work colleague or union representative, although you will not be able to remain during any deliberations that may take place following your presentation. You should expect to receive a written response within 7 days.

Complaints

Any member of staff who believes that they have been adversely affected by unfair discrimination or harassment should raise the issue via the Grievance Procedure.

Staff will not be victimised or bullied for making a complaint and any occurrence of alleged victimisation will be treated very seriously.

The management team deal with all complaints promptly and sensitively.