

The Teddy Bears Inn sets out a clear and defined code of practice for disciplinary procedure. It is the nurseries aim to encourage improvement in individual conduct. The management will always aim to use this policy alongside 'Discipline and grievances at work: The Acas guide' which can be found online-[www.acas.org.uk](http://www.acas.org.uk). This procedure sets out the action, which will be taken when disciplinary rules are breached.

### **Legal obligations**

Our legal obligations as an employer are detailed in the ACAS Code of Practice on disciplinary and grievance procedures. This code of practice was introduced on 6 April 2009. A full copy of the ACAS Code of Practice and the accompanying guidance can be obtained from the ACAS website [www.acas.org.uk](http://www.acas.org.uk).

We note that a failure to follow the code does not, in itself, make an organisation liable to formal proceedings at an employment tribunal, but failure to follow the code may result in any compensation award payable to be increased by up to 25% or reduced by 25% if the employee does not comply.

### **Objectives and guiding principles**

The objective of this procedure is to set out the standards of conduct expected of all staff and to provide a framework within which our managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

It is our policy to ensure that any disciplinary matter is dealt with fairly and consistently. We will take the necessary steps to establish the facts and to give employees the opportunity to respond before taking any formal action.

This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

The procedure applies to all employees regardless of length of service.

Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is a cause for concern. Where appropriate a note of any such discussions may be held on your personnel file, but will be ignored for the purpose of future disciplinary issues.

Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (due to the serious nature of the allegation against you).

You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.

The procedure is designed to establish the facts quickly and to deal consistently with

disciplinary issues. No disciplinary action will be taken until the matter has been fully investigated. The list below (the list is not exhaustive) sets out the certain areas of discipline.

- gross misconduct
- timekeeping
- absence
- holidays
- confidentiality
- health and safety
- standards of work
- child protection
- personal appearance
- working with parents
- respect
- use of company facilities
- discrimination

At every stage you will have the opportunity to state your case and be accompanied, if you wish, at the hearings by another member of management or by a fellow employee.

You have the right to appeal against any disciplinary penalty.

### **The procedure**

Our aim is to deal with disciplinary matters sensitively and fairly. All employees must treat all information in connection with the disciplinary procedure and its investigation as confidential.

Where there has been a serious allegation of misconduct or gross misconduct and/or there are serious concerns regarding the employee's capability, we aim to establish the facts quickly and no disciplinary action will be taken until the matter has been fully investigated. You will be informed if a formal complaint is made against you, and if necessary you may be suspended on full pay pending the outcome of the investigation and disciplinary procedure.

### **Stage 1**

- We will investigate any allegations/concerns quickly and thoroughly to establish whether a disciplinary hearing should be held
- The purpose of the investigation is to establish a balanced view of the facts relating to the allegations against you. The amount of investigation will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents
- Investigation interviews are solely for the purpose of fact finding and no decision on the disciplinary procedure will be taken until after the disciplinary hearing
- You are not normally allowed to bring a companion to an investigatory interview. However, we may allow you to bring a work colleague or trade union representative in exceptional circumstances and if you wish to be accompanied you should contact **Bryn Williams** to discuss the reasons for your request

- If the investigations lead us to reasonably believe there are grounds for disciplinary action, we will write to you outlining the allegations against you, the basis of the allegations and the potential consequences. You will be invited to a disciplinary hearing to discuss the matter. You will be sent any copies of evidence which may be referred to in the hearing (e.g. witness statements, or a summary of the statements if the witness's identity is to remain confidential, and minutes of meetings).

## **Stage 2**

- We will hold the disciplinary meeting to discuss the allegations. You will have the right to bring a companion to the meeting and a companion may be a work colleague or trade union representative. You must inform us prior to the meeting who your chosen companion is. If your companion is unreasonable, for example, there may be a conflict of interest, we may require you to choose someone else
- If you or your companion is unable to attend the meeting you should inform us immediately and we will arrange an alternative time and date. You must make every effort to attend the meeting and failure to do so without good cause may be treated as misconduct in itself
- If you persistently fail to reply to invitations, or persistently fail to attend the arranged hearing without good cause, it may be carried out in your absence and you will be notified of the decision in writing. You will retain the right to appeal
- During the meeting we will go through the allegations against you and the evidence that has been collated. You will be able to state your case and call relevant witnesses (provided you provide advance notice and we agree to their attendance) to support your case
- We may adjourn the disciplinary meeting if we need to carry out further investigations and you will be given reasonable opportunity to consider new information
- You will be notified of the decision in writing, usually within seven working days of the hearing
- You will be given the opportunity to appeal the decision. If you wish to appeal, you should state your full grounds in writing and the letter should be sent to **Bryn Williams** within seven working days from the date the decision was communicated to you.

## **Stage 3**

- The appeal meeting will be conducted impartially by a more senior manager, where possible, who has not previously been involved in the case
- You will be able to bring a companion to the meeting and the companion may be a work colleague or trade union representative (as stated above)
- We may adjourn the appeal hearing if further investigations need to be carried out and you will be given reasonable opportunity to consider any new information before the hearing is reconvened
- We will inform you in writing of our final decision as soon as possible, usually within seven working days of the appeal hearing.

There is no legal right to appeal beyond this stage.

### **Disciplinary penalties**

In the first instance, where less serious offences are concerned, we are most likely to give the employee a verbal warning. This warning will be recorded and a copy maintained in the employee's personnel file with a time scale for improvement or to not re-offend.

If further action becomes necessary and there is already an active warning on your record, or the misconduct is sufficiently serious, we will give a written warning. This warning will be recorded and a copy maintained in the employee's personnel file for a specified period of time.

If the employee continues to fail to meet the required standards and there is already an active written warning on record, or the misconduct is sufficiently serious, we will issue a final written warning indicating that further behaviour of a similar nature within a specified time period could result in dismissal. This warning will be recorded and a copy maintained in the employee's personnel file for a specified period of time.

If the employee continues to fail to meet the required standards and there is already an active final warning on record, or the matter amounts to gross misconduct, we may authorise dismissal.

*[The procedure may be implemented at any stage dependant on the offence and severity of the offence committed by the employee in each particular case.]*

### **Levels of authority**

The Nursery Manager (Annette Hill) has the authority to suspend an employee pending investigation (in the absence of the owners). Only the owners (Bryn and Michelle) have the authority to dismiss an employee.

### **Gross misconduct**

In the case of gross misconduct, the nursery reserves the right to dismiss an employee without notice (or payment in lieu of notice) if, after investigation and a hearing, the management are satisfied that there is sufficient justification for so doing.

### **Duration of warnings**

Under normal circumstances warnings will be valid for the following time periods, although these may vary according to the nature of the occurrence and may therefore be determined by mutual agreement at the time of issue:

- Verbal warning - six months
- First written warning - six months
- Final written warning - 12 months.

On expiry, warnings will be disregarded for future disciplinary purposes.

### **Alternatives to dismissal**

In some cases we may, at our discretion, consider alternatives to dismissal. These may be authorised by the owners and will usually be accompanied by a final written warning. Examples include:

- Demotion
- Transfer to another area
- A period of suspension without pay
- Loss of seniority
- Loss of overtime
- Reduction in pay

### **Examples of gross misconduct**

Examples of what would constitute a gross misconduct offence include:

- Failure to inform the employer of a disqualification, either personally or a person living in the same household as the registered provider, or a person employed in that household
- Theft or the unauthorised possession of property belonging to the nursery, its employees or customers
- Assault on any employee or persons associated with the nursery
- Breach of confidence i.e. the divulging of confidential information relating to the nursery, its employees or clients
- Dishonesty, including the use of any funds, expenses or allowances for any other purpose than that for which they have been delegated by the nursery
- Being under the influence of drugs or alcohol whilst on duty
- Serious or persistent breaches of safety rules
- Fraud including falsification of work records and expense claims
- Signing/clocking in or out for another employee
- Physical assault or abuse towards a child e.g. hitting a child in chastisement or harsh disciplinary actions
- Discrimination/harassment in any way against a person
- Persistent failure to follow nursery documentary systems and procedures.

Further behaviour that could constitute gross misconduct is not limited by the above list.

### **Examples of misconduct**

Examples of what would constitute a misconduct offence include:

- Minor breaches of our policies [including the Sickness Absence Policy, Mobile Phone and Social Networking Policy, and Health and Safety Policy]
- Minor breaches of your contract
- Damage to, or unauthorised use of, our property
- Poor timekeeping
- Time wasting
- Unauthorised absence from work/unacceptable attendance levels
- Refusal to follow instructions
- Excessive use of our telephones for personal calls
- Excessive personal email or internet usage
- Obscene language or other offensive behaviour
- Negligence in the performance of your duties

- Smoking in no smoking areas.

N.B. Some of the misconduct offences above may, dependent on the circumstances and having followed a detailed investigation, also be classed as gross misconduct offences.

## **Grievances.**

### **Objectives and guiding principles**

We recognise that an employee needs to feel that his or her grievance has been fully investigated and has received a fair hearing. The employee also needs to understand the reasons for the decision made by the manager who heard their grievance. The employee should then be given the opportunity to appeal against the decision. Their appeal should be submitted in writing and should be investigated and heard by someone more senior to the person who heard the initial grievance. The person allocated to hear the employee's appeal should be able to take a fresh and independent look at the issue. In our organisation the deputy manager deals with the grievance initially separately before being passed on to the owners of the nursery.

ACAS advocates the use of mediation to resolve grievances, in an attempt to maintain a good working relationship and resolve issues within the workplace. We may decide to use such mediation where appropriate using ACAS support and guidance.

Our grievance procedure does not form part of any employees' contract of employment. It may be amended at any time and we may depart from it depending on the circumstances of any case.

This procedure applies to all employees regardless of length of service.

Our nursery believes that all employees should be treated fairly and with respect. We encourage all employees to try to resolve any grievance with the individual concerned on an informal basis, as most grievances can be resolved quickly through discussion. Your line manager will assist you with this if you feel this is the best route for you.

If this does not resolve the problem you should initiate the formal process below.

## **Grievance process**

### **Stage 1**

#### **Making your grievance**

- You should put your grievance in writing and forward it to your immediate line manager
- will form the basis of any investigations and the subsequent hearing, so it is important that you set out clearly the nature of your grievance and any dates and names of individuals involved. You should also indicate the outcome that you are seeking. If your grievance is unclear, you may be asked to clarify your complaint before any meeting takes place
- If your complaint relates to an issue with your immediate line manager, then the grievance may be sent to the manager

- Before proceeding to a full grievance hearing, it may be necessary to carry out investigations of any allegations made by you. If any evidence is gathered in the course of these investigations, you will be given a copy long enough in advance of the hearing for you to consider your response. In exceptional circumstances, the evidence given by individuals may have to remain confidential. Where confidentiality is necessary, this will be explained to you and an appropriate summary of the evidence gathered will be given to you.

## **Stage 2**

### **The grievance hearing**

The hearing will be held as soon as is reasonably possible following any investigations, and within five working days of the receipt of your written complaint. It will be conducted by the manager. You are entitled to bring a companion to the grievance meeting if you make a reasonable request to do so. This request must be in advance of the meeting and you should tell us the name of your chosen companion. The companion may either be a trade union representative or a work colleague.

You should ensure that you attend the meeting where possible. If you are unable to attend because of circumstances beyond your control, you should inform your line manager as soon as possible and a further meeting will be re-arranged as soon as possible. If you fail to attend without explanation, or if it appears that you have not made sufficient attempts to attend, the hearing may take place in your absence.

During the hearing you will be given the opportunity to explain your complaint. Your explanations should focus on the complaint and not on irrelevant issues. The manager conducting the hearing will inform you if they believe the key issues are not being focused on. They may also set a reasonable timeframe for the meeting; this will be determined by the nature and complexity of your complaint.

The hearing may be adjourned to allow further investigations to take place. Following the meeting, you will be informed in writing of the outcome within seven working days and told of any action that the nursery proposes to take as a result of your complaint, if applicable. If it is anticipated that further investigation is required and therefore the outcome cannot be provided within this timeframe, we will inform you as to when you can expect to receive the outcome.

[N.B. However, if another employee has been disciplined as a result of the grievance, you should not inform the employee who raised the grievance as this information is confidential between you as the employer and the other employee.]

If you are dissatisfied with the outcome, you may make a formal appeal in writing to; the nursery owners stating your full grounds of appeal, within seven working days of the date on which the decision was sent or given to you.

One of the owners will hear the appeal.

## **Stage 3**

We will hold an appeal meeting, normally within one week of receiving the appeal. This will be dealt with impartially by an owner who has not previously been involved in the case. You will have the right to bring a companion, as explained above.

We will confirm our final decision in writing, usually within seven working days of the appeal hearing. There is no further right of appeal.

**Grievances linked to disciplinary matters**

Complaints that you may have about any disciplinary action taken against you should be dealt with as an appeal under the disciplinary procedure.

Grievances raised while you are subject to disciplinary proceedings will usually be heard when the disciplinary process has been completed. If a grievance has any bearing on the disciplinary proceedings, it can be raised as a relevant issue in the course of the disciplinary hearing.