

Disciplinary Policy



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1.0. Purpose

Wroughton Preschool will, at all times, endeavour to ensure that employees achieve and maintain a high standard of performance and conduct whilst at work. It is expected that employees treat colleagues, customers/clients and others with respect and conduct themselves and behave in ways that do not conflict with the Wroughton Preschool's activities and business dealings or which may adversely affect or undermine its reputation.

To this end Wroughton Preschool will ensure that standards are understood, performance is monitored and employees are given appropriate training and support to meet these standards. Under the terms of the contract of employment there is an obligation on the part of the employee to carry out their work to the required standards set by the Preschool.

Whilst we recognise that the majority of our employees conduct themselves in an adult and responsible manner, the purpose of this policy is to ensure that when disciplinary action is raised, the matter is handled fairly, reasonably and consistently.

This policy forms part of an employee's terms and conditions of employment and applies equally to all employees including management. Wroughton Preschool will treat all matters as confidential between the employee and any individuals directly involved in the process and any witness statements and decisions will be kept confidentially and in accordance with the Data Protection Act 1998.

Issues concerning performance or behaviour will normally be dealt with as they arise on a day to day basis, without the need to resort to formal disciplinary procedures. However, where more difficult or serious situations arise, the formal procedure may be deemed to be more appropriate.

2.0. Scope

This policy and procedure applies to all employees and is designed to ensure that a person whose performance or conduct falls below the required standards is aware of the procedure that the Preschool will take whether they are working on or off Preschool premises, that includes customer/client sites, both during and outside of working hours unless otherwise stated. However there are a limited number of exceptions listed as follows:

2.1. Employees on Probationary Periods

2.1.1. In the event that the employee does not meet the required standards of performance or behaviour during a probationary period, the formal Disciplinary Procedure will not apply.

2.1.2. However, the employee will be given the opportunity to address the issues and thereafter, if no satisfactory improvement is made, the individual's contract may be terminated.

2.2. Employees with less than two years service

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2.2.1. The Preschool also reserves the right not to follow this procedure where employment is under one year's service where the employment commenced before 5 April 2012, or less than two years service where the employment commenced on or after 6 April 2012.

2.3. Employees who are absent due to sickness

2.3.1. Employees with a pattern or persistent sickness absence may be subject to this procedure.

3.0. **Procedure**

3.1. Informal Procedure – Counselling

3.1.1. This type of action will not be regarded as action taken under the formal Disciplinary Procedure.

3.1.2. The main purpose of this informal procedure is to find a solution to the problem that is beneficial for both the Preschool and the employee.

3.1.3. If your performance or conduct is not satisfactory it may be that what is required is informal guidance/coaching, through your manager. This can often be the most effective way to improve future performance or conduct without the need to initiate the formal Disciplinary Procedure.

3.1.4. This informal approach does not, however, prevent a manager from initiating the formal Disciplinary Procedure for more serious incidents of misconduct or where you do not respond to informal guidance/coaching.

3.1.5. If during the informal guidance/coaching sessions it becomes obvious that the matter is of a more serious nature, or you do not respond to the informal guidance/coaching, a formal disciplinary meeting will be arranged.

3.1.6. The counselling will be either put in writing to you, or brief notes will be made and recorded on your personnel file for reference purposes. You may be requested to sign this record to confirm its accuracy. You may also be provided with a copy of brief notes. If the problem continues then this may be used as a basis for more formal disciplinary action.

3.2. Suspension

3.2.1. For any situation where Gross or Serious Misconduct is suspected the Preschool reserves the right to suspend all parties involved on full contractual rights whilst investigations are carried out.

3.2.2. The suspension will be confirmed in writing within 2 working days.

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- 3.2.3. Such a suspension will only be imposed after careful consideration and would normally be for no longer than 5 working days, or a date agreed with the individual, dependent upon the nature of the investigation or availability of witnesses.
- 3.2.4. If a suspension meeting is held, there is no legal right for an employee to be accompanied.
- 3.2.5. The Preschool will then consider whether there is a case of Gross or Serious Misconduct to answer and whether a suspension is appropriate and if this is the case you will be informed of the suspension and the reasons.
- 3.2.6. During the suspension you will be expected to be available for interviews during working hours. You will not be permitted to enter the Preschool's premises, undertake any activity on behalf of the Preschool or have any contact with other employees. Exceptions to this can occur only with the permission of your Manager.
- 3.2.7. If it is found that there is a case of Gross or Serious Misconduct to be heard, every effort will be made to arrange the disciplinary hearing as soon as possible to minimise unnecessary anxiety and disruption. It will occur no later than 5 working days after the date of the suspension unless the matter becomes complex that requires further time. If this is the case, you will be informed of this extension.
- 3.2.8. Consideration may also be given to suspension whilst any disciplinary investigations are in progress if this step is necessary to ensure impartiality or if your ability to continue working has been adversely affected by the situation being investigated. Such a suspension may mean that you are given alternative duties during this time.
- 3.2.9. Suspension on its own does not constitute formal action.
- 3.3. Investigation
- 3.3.1. In some instances an investigation meeting may take place before formal disciplinary action is put into process.
- 3.3.2. The Preschool also reserves the right not to follow this procedure where employment is under one year's service where the employment commenced before 5 April 2012, or less than two years service where the employment commenced on or after 6 April 2012.
- 3.3.3. Investigations should be carried out promptly.
- 3.3.4. As part of any investigation witnesses may be interviewed, such as other employees or external individuals. All these interviewees will be informed of the reason for the interview. Employees are required to fully co-operate with such investigations in a professional manner and to provide all information that may be relevant to the investigation.

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- 3.3.5. Other employees may not discuss any information relating to the facts of the case arising from this interview with anyone outside of the meeting, either inside or outside the Preschool, as this will be regarded as a breach of confidentiality.
- 3.3.6. If an interviewee wishes, they may add written comments to be attached to their statement. The manager will inform the interviewees if their statement is to be presented at the disciplinary hearing and if they may be required to attend the hearing as a witness.
- 3.3.7. The investigation may also include examination of written or physical evidence, such as documents, photographs or equipment.
- 3.3.8. Within the investigation, employees will have the opportunity to respond to any allegations and provide their version of events.
- 3.3.9. At this stage information relating to any witnesses to an alleged incident should be provided and statements collected from these employees as part of the investigation process.
- 3.3.10. Witnesses and Informants may request to remain anonymous in certain instances. In order that a fair procedure is followed, the Preschool will, in such circumstances, explore the reasons for this request and decide whether or not it should allow the statements to be anonymous, disregard such evidence or consider it as holding less weight than statements from other named witnesses/informants. Where the Preschool agrees that it should protect the identity of the witness/informant, statements and documents will be anonymised and relevant sections retracted so that the identity of the person is protected at this stage.
- 3.3.11. When taking statements and the witness/informant wishes to retain their anonymity, the Preschool will make them aware that this cannot be guaranteed at a later stage in the process and also that if the matter results in legal proceedings, they may be subject to a witness order requiring their attendance at an employment tribunal to provide evidence in the proceedings.
- 3.3.12. The manager responsible for conducting the investigation will review the case including the evidence collected to determine if a formal disciplinary hearing is required to hear the case.
- 3.3.13. Please note that if a disciplinary warning is issued for any absence reason, then the Preschool reserves the right to suspend any entitlement to Company Sick Payments during the period of the warning given.
- 3.4. Formal Procedure – Disciplinary Hearing
 - 3.4.1. No formal disciplinary action will be taken until the case has been fully investigated.

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- 3.4.2. You will be advised in writing of the nature of the issue and provided with any relevant evidence that may exist.
 - 3.4.3. To enable you to prepare you will be provided with, in writing, full details of the case to answer with at least 2 working days notice of any formal disciplinary meetings.
 - 3.4.4. You will have the right to be accompanied by a recognised representative of the Preschool, a Trade Union representative or a work colleague of your choice at all formal disciplinary meetings.
 - 3.4.5. Should the date and time not be convenient for your representative, by mutual agreement, the Preschool will reschedule the hearing which will be held within 5 working days of the original date set.
 - 3.4.6. You must take all reasonable steps to attend the disciplinary hearing; failure to attend the hearing without providing genuine reasons may be considered an act of misconduct in itself. In such circumstances, the hearing may continue to take place in your absence reviewing all evidence available at that time.
 - 3.4.7. You will also be provided with a copy of the Disciplinary Policy and Procedure.
 - 3.4.8. Dependent on the level of the case your Manager will normally conduct any formal disciplinary meetings.
 - 3.4.9. Both parties have the right to request for witnesses to be present at the disciplinary meeting. However, it is recognised that this may not always be appropriate. If it is deemed that the witness(es) may have relevant information about the alleged offence(s), the Preschool will make arrangements for witnesses to attend. It should be noted that witnesses may also be accompanied by a Trade Union representative or work colleague of their choice to either an investigatory meeting or disciplinary hearing.
 - 3.4.10. At every stage in the formal procedure, you will be advised, in writing, of the nature of the allegation(s) against you and you will be provided with the relevant evidence gathered.
 - 3.4.11. You will be given the opportunity to state your case and respond to the allegation(s) at the meeting before any decision is made.
 - 3.4.12. The meeting will normally be adjourned to allow for full consideration of the evidence before a decision is made.
 - 3.4.13. It should be noted that you and/or your representative may also call for an adjournment as required.

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3.4.14. At all stages of the formal disciplinary procedure, notes will be taken to provide a permanent record. This record will detail the nature of any breach of disciplinary rules or unsatisfactory performance, the employee's defence or mitigation, the action taken by the Preschool and the reasons for the decision. You may be requested to sign this record to confirm its accuracy. You may also be provided with a copy of the brief notes and be given the opportunity to confirm their accuracy.

3.4.15. Where you are not content with the accuracy of the notes, you can request in writing amendments to be made and the Preschool will consider this request. Where it is agreed to revise the file notes, a copy will then be provided for your retention with an additional copy retained on your personnel file.

3.5. Approach

3.5.1. Sanctions can only be issued once a formal hearing has taken place and all the evidence and the employee's defence has been heard.

3.5.2. Under normal circumstances, application of the formal Disciplinary Procedure will begin with a Verbal Warning and then will progress through the stages as necessary.

3.5.3. However, if the disciplinary matter is of a particularly serious nature, then the Preschool reserves the right to escalate the procedure, by omitting one or more stages, if it is appropriate to do so in the circumstances.

3.5.4. This means that on occasions, the Preschool may proceed directly to a formal or final warning for a first occasion if the offence is viewed as a serious disciplinary matter.

3.5.5. It is also important to recognise that any offence, which constitutes Gross Misconduct, may, following an investigation and disciplinary hearing, result in Summary Dismissal (dismissal without notice or payment in lieu of notice).

3.5.6. An employee has the right of appeal against all levels of sanctions.

3.6. Verbal Warning

3.6.1. Following a disciplinary hearing, if the Preschool decides to issue a Verbal Warning this will be confirmed in writing to you.

3.6.2. This will provide details of the offence(s), the improvement required and the agreed timescales in which the improvement will be expected.

3.6.3. A copy of the warning will be retained on your personnel file.

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3.6.4. Subject to future satisfactory conduct and performance, and no repetition of the offence or a similar offence during the following 6 months, this warning will be disregarded for disciplinary purposes 6 months from the date of issue.

3.7. Written Warning

3.7.1. Where there is a reoccurrence, or a further disciplinary offence occurs, which is of a similar nature, or in circumstances where the gravity of the offence warrants such, you will be invited to attend a disciplinary meeting.

3.7.2. Following this meeting you may be given a formal Written Warning. This will provide details of the offence(s), the improvement required and the agreed timescales in which the improvement will be expected.

3.7.3. A copy of the warning will be retained on your personnel file.

3.7.4. Subject to future satisfactory conduct and performance, and no repetition of the offence or a similar offence during the following 6 months, this warning will be disregarded for disciplinary purposes 6 months from the date of issue.

3.8. Final Written Warning

3.8.1. Where there is a reoccurrence, or a further disciplinary offence occurs, which is of a similar nature, or in circumstances where the gravity of the offence warrants such, you will be invited to attend a disciplinary meeting.

3.8.2. Following this meeting you may be given a Final Written Warning. This will provide details of the offence(s), the improvement required and the agreed timescales in which the improvement will be expected.

3.8.3. This formal written warning will be retained on your personnel file.

3.8.4. Subject to future satisfactory conduct and performance, and no repetition of the offence or a similar offence during the following 12 months, this warning will be disregarded for disciplinary purposes, 12 months from the date of issue.

3.8.5. It will warn you that dismissal may be considered if there is either no satisfactory improvement, a repetition of the offence or if a similar offence occurs during the following 12 months.

3.9. Dismissal

3.9.1. Dismissal will be considered if it is found that you have committed an act of Gross Misconduct or have failed to improve your performance and/or conduct despite repeated warnings and/or efforts on the Preschool's behalf to retrain and / or advise.

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- 3.9.2. You will be provided within 5 working days of the dismissal, or as soon as is reasonably practicable, with written reasons for your dismissal, the date on which your employment will terminate and of your right of appeal.
- 3.9.3. All records of the process and the outcome will be retained on your personnel file.
- 3.10. Demotion and Down Grading
- 3.11.1 In the event that, as a result of disciplinary proceedings, the Preschool decides that, as an alternative to dismissal, you should be demoted or otherwise downgraded, the Preschool may change such of your terms and conditions of employment as it considers necessary to achieve such a demotion or downgrading, including, but not limited to, job title, pay and other remuneration.
- 3.11. Appeal
- 3.11.1. At any stage of the disciplinary procedure, including dismissal, you will have the right to appeal the outcome of the hearing regardless as to the level of sanction imposed.
- 3.11.2. In making an appeal you will need to clearly state your grounds for appeal, and typically this will be based on procedural issues, new evidence, or their belief that the sanction imposed is disproportionate to the allegation.
- 3.11.3. All appeals must be made within 5 working days from the date of the hearing or the outcome letter, whichever is stated to you.
- 3.11.4. On receipt of the appeal letter, acknowledgement will be made and either a response to the letter will be made within 10 working days or the convening of an appeal hearing made.
- 3.11.5. The appeal will be reviewed by the Chair or the Committee dependent upon who chaired the original hearing; this may result in a review of the evidence or the convening of an appeal hearing to hear the case.
- 3.11.6. An independent person from outside the Preschool (a professional adviser for example) may be appointed to hear the appeal or review the matter impartially.
- 3.11.7. You will have the right to be accompanied by a recognised representative of the Preschool, a Trade Union representative or a work colleague of your choice at all formal disciplinary hearings, including appeal hearings.
- 3.11.8. Should the date and time not be convenient for your representative, by mutual agreement, the Preschool will reschedule the appeal hearing which will be held within 5 working days of the original date set.

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3.11.9. You must take all reasonable steps to attend the appeal hearing. Failure to attend the appeal hearing without providing genuine reasons may be considered an act of misconduct in itself. In such circumstances, the appeal hearing may continue to take place in your absence reviewing all evidence available at that time.

3.11.10. The findings of the appeal will be notified in writing to you within 5 working days of the hearing or review, unless otherwise notified.

3.11.11. The outcome of the appeal is final.

3.12. What is regarded as General Misconduct?

3.13.1 It is not practical to list all types of misconduct, therefore the following list serves as a guide, however it is not exhaustive:

- Absence from place of work without permission
- Bad behaviour
- Breach of the Preschool's Policies or Procedures
- Failure to adhere to the Preschool's or departmental rules
- Persistent extended breaks
- Persistent failure to attend work regularly
- Persistent poor timekeeping and attendance
- Persistent work of unacceptable quality
- Poor work performance, capability or effort
- Wilful failure to carry out a reasonable request from a Line Manager including refusing to undertake a task for which the employee is accountable (Insubordination)

3.13. What is regarded as Gross Misconduct?

3.13.1. Whilst this list is quite comprehensive, it is not practical to list all types of Gross Misconduct, therefore the following list serves as a guide, and is not exhaustive:

- Accessing and using unauthorised internet sites that includes chat and social networking / social media sites
- Accessing or downloading material that could offend others because of its racist, religious, political, or violent nature, or material deemed to incite hatred, violence or slander towards a specific individual or group
- Accessing or downloading on-line gambling, including games
- Any act of bullying, harassment, victimisation or any other form of discrimination
- Any act, or failure to report an incident or suspicion, of bribery
- Any discrimination on any of the grounds listed in the Company's Equal Opportunities Policy that includes any sexual and/or racial discrimination and any discrimination related to disability, age, gender reassignment, marital status, ethnic origin or religious belief
- Assault or causing bodily harm to another employee, management, client, visitor or any other third party

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- Attending work unfit through substance abuse such as alcohol, non-prescribed drugs or other substances
 - Bringing, or anything that may bring, the Preschool or any individuals into disrepute
 - Carrying or using any explosives or weapons
 - Contravention of the Obscene Publications Act
 - Conviction of a criminal offence that is relevant to the employee's employment with the Preschool and renders them unsuitable for their work
 - Creating, accessing or downloading inappropriate, offensive, obscene or indecent (i.e. pornographic, or sexually explicit material, etc.) material on any of the Company's computers and / or systems
 - Deliberate sabotage of the Preschool's property, business or business relationships
 - Dishonesty
 - Disqualification from driving, if relevant to your duties
 - Downloading and/or installing unauthorised software
 - Driving any Preschool vehicle whilst intoxicated
 - Failure to comply with the Preschool's email, internet and computer usage policies
 - Failure, neglect, refusal or otherwise to perform any of your normal duties or to comply with a reasonable Preschool instruction
 - False declarations to the Preschool regarding work completed, by computer, manual records or any other means
 - Falsification of time sheets, sickness claims, expense claims or other documents for your own or another's gain
 - Frivolous or vexatious claims made under the Grievance Procedure
 - Installing unauthorised software that subsequently destroys part or all of the Preschool's operating systems
 - Involvement of the Preschool's name in fraudulent behaviour
 - Misuse of the Preschool's property or its name
 - Physical violence and/fighting
 - Possession, selling, attempting to sell or transfer, any intoxicating liquor, drugs (other than those medically prescribed) or any other substances, including solvents or volatile substances
 - Receiving or procuring for another, a commission, bonus, rebate, kickback, other payment, reward or benefit in kind arising from any transaction connected with a business relationship between the Preschool and any person or organisation (Bribery)
 - Removal of any Preschool property from the premises without permission
 - Serious breach of health and safety rules
 - Serious negligence which causes or might cause unacceptable loss, damage or injury
 - Smoking on Preschool premises or in Preschool vehicles
 - Theft or unauthorised possession of property belonging to the Preschool, its employees, contractors, visitors, clients or any other third party
 - Threatening or abusive behaviour
 - Unauthorised disclosure of confidential information

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- Unauthorised possession of property belonging to the Preschool, its employees, contractors, visitors, clients or any other third party
 - Unauthorised use of, or tampering with, the Preschool's IT equipment or other equipment
 - Wilful breach of any of the Preschool's rules, policies or expected standards
 - Working in competition with the Preschool
 - Any other misconduct which, in the circumstances, is considered serious enough to warrant Summary Dismissal

3.15 Special Cases

3.15.1 An employee being charged or convicted with a criminal offence is not in itself a reason for disciplinary action. However, the Preschool will consider whether the offence or alleged offence is one that makes the employee unsuitable for their type of work. Therefore, the Preschool will establish the facts of the case and consider whether the facts warrant starting the disciplinary procedure.

3.15.2 Similarly, an employee cannot be dismissed solely because they were absent from work as a result of being remanded in custody.

4.0. **Related Policies**

- Acceptable Use, Online Safety (incl. mobile phones and cameras) & Social Media Policies
- Grievance Policy
- Health and Safety Policy
- Sickness Absence Policy
- Contract of Employment
- The above list is not exhaustive and other Preschool policies may be applicable

5.0 **Where to find further information**

If you require further information on this policy or procedure then please speak with your Manager.

6.0 **Policy Authorisation & Review Date**

This policy was adopted at a meeting of Wroughton Preschool
Held on _____
Date to be reviewed Yearly at AGM
Signed on behalf of the management
committee _____
Name of signatory _____

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Role of signatory (e.g. chair/owner)

Chairperson
