

## **Ecclesall Kids Club**

### **2.2 Staff Disciplinary Procedure**

Ecclesall Kids Club aims to have a team of well-motivated, highly skilled and professional staff. However, should the behaviour, performance or conduct of a member of staff fall below the standards that we expect we will adhere to the Disciplinary Procedures set out in this guidance. Examples of the behaviour, performance and conduct expected are set out in the **Staff Conduct and Behaviour Policy**.

Ecclesall Kids Club and its staff will adhere to the ACAS Code of Practice on Disciplinary and Grievance procedures (2015) which states that:

- Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- Employers and employees should act consistently
- Employers should carry out any necessary investigations to establish the facts of the case.
- Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
- Employers should allow employees to be accompanied at any formal disciplinary or grievance meeting.
- Employers should allow an employee to appeal against any formal decision made.

Staff will not be dismissed for a first breach of discipline except in the case of Gross Misconduct which in rare cases may result in dismissal, in all cases a fair disciplinary process will be followed, regardless of the degree of breach of standards in performance, conduct or behaviour.

Staff have the right to appeal at all stages of the procedure and this will be confirmed within the warning or dismissal letter. The member of staff will always have the opportunity to ask questions answer allegations and state their case before decisions are made. All employees have the right to be accompanied by a colleague or representative to disciplinary meetings.

#### **Informal Action for Minor misconduct**

Informal action should be taken in cases of minor misconduct. The employee will be invited to attend an informal meeting by the Leader (or Manager where appropriate) where an explanation of the minor misconduct will be given. The Leader or Manager will give constructive feedback and the employee may express their views on the issue. This is separate from the formal part of this disciplinary procedure. The Leader or Manager will explain to the employee what needs to be improved, and put in place any measures to support the employee in the form of a **written Action Plan**. The employee's performance, conduct or behaviour will be reviewed at an agreed later date against the plan. Notes should be kept by the Leader (or Manager) of this meeting and stored confidentially but not placed on the employee's file. The employee should be advised if their conduct,

performance or behaviour does not improve they will be moved to the Formal Disciplinary procedure.

## **Formal Disciplinary Procedure**

### **The Investigation**

Formal disciplinary action will not be taken before an investigation has taken place, depending on the breach of standards and facts this may be a very short time span if the facts are evident .

The investigation will usually be carried out by the Leader or Club Manager where appropriate. The employee will be informed as soon as possible that an investigation is taking place and the date when the investigation will conclude. The investigation should take no longer than 10 working days.

There may be instances where an employee is suspended with pay while the investigation carried out.

Depending on the case it may be necessary for the member of staff to attend an investigatory interview. If such an interview is held, it will be made clear that the interview is part of the investigation process and separate from the disciplinary meeting.

The member of staff has the right to be accompanied to an investigation interview by a representative or work colleague.

### **The Procedure**

Once the investigation has concluded and the Leader or Club Manager believes that there are reasonable grounds that an employee committed an act of Misconduct, the staff member will be invited to attend a disciplinary hearing. The disciplinary hearing will take place within 10 working days of the conclusion of the investigation. The disciplinary hearing will be heard by the Club Manager as Chair (if appropriate) Leader or a member of the Management Committee, depending on the circumstances, we will:

- give the staff member in advance at least 5 working days notice of the hearing date, time and venue;
- explain that the disciplinary hearing will be conducted under this procedure;
- the letter will give a full explanation as to why the disciplinary hearing is taking place;
- the letter will state the employee's right to be accompanied by a representative or work colleague;
- provide the employee all relevant information including statements the employer wishes to use as part of this process;
- Witnesses – the names of any witnesses being called by the employee must be made available no later than 2 working days prior to the hearing. It is the responsibility of the employee to organise their own witnesses. The employee will be advised of the name of witnesses along with the disciplinary panel within 2 working days of the hearing.

### **Attendance at a Disciplinary Hearing**

The employee should take all reasonable steps to attend the Disciplinary Hearing on the date / time stated in their letter. However, the meeting will be rescheduled to another time

if their accompanying person is not available at the chosen time. In these cases the employee must propose another date within 5 working days of the original meeting date. Where an employee fails to attend or remain throughout a scheduled meeting through circumstances beyond their control, the hearing or the continuation of the meeting should be arranged for another time (within 5 working days).

Employees may not be able attend a meeting due to ill health. In these circumstances the employee may be required to submit a medical certificate from their GP. The matter will also be referred to an Occupational Health Practitioner (eg SOHAS) etc who with the employee's consent will discuss the matter with the individual's GP to assess the length of time the employee is unable to attend Disciplinary Meetings. If an employee does not give their consent, the Chair will have no option but to base any decision on whether to defer the meeting or proceed in the employee's absence on the information available. Each case will be evaluated on its own merits but the prime objective is to minimise any delays in holding meetings.

If there is any additional evidence presented at the hearing the Chair may decide to adjourn a meeting and reconvene at a later date (within 5 working days of the original meeting date).

## **Formal Procedure**

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| Stage 1 – Oral Warning (recorded) | If an employee's conduct or performance does not meet the required standards the employee will be given an oral warning, which will be recorded on their HR file for 6 months and then removed. The employee is advised at this stage that if their behaviour, conduct or performance does not improve, the employer will move to the second stage of this disciplinary procedure. |
| Stage 2 – First Written Warning   | If the offence is a serious one, or following a review of stage 1 of this procedure there has been no improvement in conduct or performance, a written warning will be given to the employee. The warning will set out details of the complaint and the required improvement. This warning will be placed on the employee's HR file for 9 months and then removed.                 |
| Stage 3 – Final Written Warning   | A final written warning will be issued to an employee if there is still a failure to improve conduct or consistent poor performance or if the misconduct warrants a written warning but not dismissal. The written warning will have a full exploration of the complaint   |

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|                                     | and will warn that continued misconduct or poor performance will result in dismissal. This final written warning will be placed on an employee's file and will be spent after 12 months.   |
| Stage 4 – Dismissal                 | If an employee's performance or conduct continues to be unsatisfactory, then the employee will be dismissed. Only a designated Committee Member can make the decision to dismiss an employee. The employee will receive full written confirmation of the decisions that have been taken and the date in which employment will terminate. The letter will also set out the employee's right to appeal.      |
| Stage 4 – Action Short of Dismissal | In serious cases where dismissal is considered but it is decided to impose disciplinary action other than dismissal, it may also be decided to retain a final warning permanently on the employee's personal record and the employee be advised that any recurrence will lead to dismissal. Such a warning will be subject to review, at not less than 12 month intervals, at the request of the employee. |

### ***Disciplinary meetings***

For each stage of the procedure at the disciplinary meeting will explore the behaviour, misconduct or performance issue, and, if still applicable following the discussion at the meeting, will then issue the appropriate type of warning (or dismissal notice).

#### ***Before the meeting***

Before each disciplinary meeting the member of staff will be written too, stating the date, time and purpose of the meeting, setting out the specific disciplinary issue to be discussed, and offering the right to be accompanied by a colleague or representative.

#### ***After the meeting***

Following each disciplinary meeting the Leader, Manager or Committee member as appropriate will write to the member of staff to confirm:

- that an oral, first written or final written warning has been issued (depending on the stage of the disciplinary process)
- what the warning was for
- what improvement in conduct or performance is expected and within what timescale
- the consequences of further misconduct or lack of performance

- how long the warning will be kept on file
- how they can appeal against the decision.

## **Dismissal**

If, during the period of the final written warning, there is a further breach of Club rules, or if the member of staff's performance or behaviour has still not improved, dismissal may result. The organisation of the final disciplinary meeting at which this decision is made is the same as described above for the earlier disciplinary meetings.

Immediately after the final disciplinary meeting the Club will write to the member of staff to confirm:

- that at the disciplinary meeting it was decided that their conduct/performance/behaviour was still unsatisfactory and that they will be dismissed
- why they are being dismissed
- when their last day of service will be
- how they can appeal against the decision.

If the decision was taken not to dismiss the member of staff, this must also be confirmed in writing.

## **Appeals**

A member of staff wishing to appeal against a disciplinary decision must do so in writing, stating the grounds for the appeal, and within five working days of being informed of the decision. A meeting to hear the appeal will be set up no more than ten working days later. The member of staff has the right to be accompanied to the appeal hearing.

A member of the Management Committee (usually the Chair), who was not involved in the original disciplinary action, will hear the appeal and make an impartial and final decision. Within ten working days of the appeal hearing the Committee will inform the member of staff in writing of the outcome of the appeal hearing.

## **Examples of Minor Misconduct (see staff behaviour and conduct policy)**

- Dishonesty
- Breach of confidentiality & data protection
- Misuse of equipment and materials
- Engaging in activities of the premises which could bring the employer into disrepute
- Supplying false or misleading information when applying for employment
- Abusive, obscene language or gestures
- Performance related issues for example, serious neglect of duty which undermines the Club
- Failure over time to perform work to satisfactory standards, high levels of unsubstantiated, sickness absence despite or failure to attend work as contracted
- Failure to discharge duties or adhere to club policies eg notifying absence

- Refusal to carry out a reasonable request of a Leader or manager
- Breach of the Club's written policies

### **Examples of Gross Misconduct (see staff behaviour and conduct policy)**

Staff may be dismissed without notice if they are found to have committed an act of gross misconduct. Examples of gross misconduct include:

- Any form of child abuse
- Putting a child at risk of harm
- A serious breach or continued breaches of health and safety requirements and/or club policies
- Repeated minor breaches in safeguarding requirements and policies despite warnings and support to improve (via an action plan).
- Continued breaches of club policies
- Persistent - inappropriate behaviour towards colleagues or managers, eg shouting, insubordination
- Repeated actions or unacceptable behaviour which expose the setting, staff or children to risk
- Data protection breaches
- Physical violence
- Persistent bullying, sexual or racial harassment
- Being unfit for work through alcohol or illegal drug use
- Failure to share medical information, eg medical condition or medications with appropriate Managers which would require assessment of medical capability or specialist advice to be sought to determine suitability to safely carry out duties with regard to looking after children.
- Theft, fraud or falsification of documents, expense, sickness absence (SSP) and time claims
- Being disqualified under the terms of the Statutory Framework for the Early Years Foundation Stage (Section 75 of the Childcare Act 2006) or the Children's Act 1989.
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### **Referral to Disclosure and Barring Service**

If a member of staff is dismissed (or would have been dismissed if they had not left the setting first) because they have harmed a child or put a child at risk of harm, we will make a referral to the Disclosure and Barring Service. See DBS policy.

#### Notification to Ofsted

The Club will notify Ofsted if a member of staff becomes disqualified, or if any significant event occurs which is likely to affect their suitability. Note that a member of staff could become disqualified through the actions of a spouse, partner or housemate.

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| This policy was adopted by: Ecclesall Kids Club | Date: 7/2/17                                 |
| reviewed: 04/03/2024                            | Signed: <i>Ecclesall Kids Club Committee</i> |