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## Disciplinary and Grievance Procedure for Preschool Employees.

### Discipline Procedure (V2)

#### Purpose

- 1.1. St Thomas's Preschool requires good standards of conduct from its employees, together with satisfactory standards of work. The procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. The aim is to ensure that concerns are handled in a fair, consistent and timely manner, with the intention of bringing about an improvement. The procedure applies to all employees, except those in their probationary period.
- 1.2. This procedure is designed in accordance with the ACAS Code of Practice on disciplinary procedures. When involved in disciplinary proceedings, all parties should bear in mind the Code of Practice and further guidance provided by ACAS, which is intended for use by employees, employers and trade unions.
- 1.3. The Disciplinary procedure does not form a part of the contract of employment and it may be amended from time to time.
- 1.4. When time limits are specified in this procedure, they may be varied by agreement between St Thomas's Preschool and the employee.

#### 2. Disciplinary rules

- 2.1 It is not practicable to specify all the disciplinary rules or offences that may result in disciplinary action, as these may vary depending on the nature of the employee's work. Examples of conduct/performance that will normally be addressed through the disciplinary procedure are given below but the lists are not exhaustive.
- 2.2 Disciplinary offences that will normally be addressed through the disciplinary procedure include:
  - Unsatisfactory work performance

- Inappropriate or disruptive behaviour
- Absenteeism or poor punctuality
- Abuse, misuse or neglect of Preschool property or facilities including excessive personal use of the Preschool's facilities, telephones or computer network;
- Negligence resulting in minor loss, damage or injury;
- Failure to comply with a reasonable request or instruction
- Breach of the terms and conditions of employment
- Dishonesty

2.3 Many of the disciplinary rules are contained within St Thomas's Preschool's organisational and operational policies. Breaches of these policies and procedures will normally lead to the instigation of the disciplinary procedure. Examples of such policies are the:

- Achieving Positive Behaviour Policy and other policies concerned with the care and management of children at the Nursery
- Information sharing Policy and other policies concerned with issues of confidentiality and data protection
- Equal Opportunities policy
- Financial procedures
- Health and safety policy and other policies concerned with the safety and security of colleagues and children at the Nursery
- Mobile Phone and Social networking Policy
- Safeguarding and Child Protection Policies

2.4 Examples of Conduct which is likely to be treated as gross misconduct, ie. misconduct judged so serious that it is likely to lead to dismissal without notice or a payment in lieu of notice are given below in the Gross Misconduct section of this Policy.

### **3. Informal action**

3.1. In cases of minor misconduct and/or unsatisfactory performance the Preschool will initially try and help the employee to improve on an informal basis. An informal discussion will be arranged as soon as possible after the problem arises, and the employee's line manager will explain the problem and agree actions to address the matter with the employee. Details of targets and minimum standards will be confirmed in writing. This does not form part of the formal disciplinary procedure, but the employee will be informed that should performance or conduct not improve, the employer will proceed to the formal procedure.

3.2. If the informal action does not provide a solution to the problem, or if the disciplinary issue is too serious to be dealt with informally, then the formal disciplinary procedure will be followed.

#### 4. The Formal Procedure and Disciplinary Warnings

- 4.1. Investigations: The employer will investigate any matter that it reasonably believes is a disciplinary matter in order to establish a fair and balanced view of the facts before deciding whether to proceed with a formal disciplinary hearing. This may involve reviewing any relevant documents, interviewing the employee and any witnesses, and taking witness statements. The amount of investigation required will depend on the nature of the problem and will vary from case to case.
- 4.2. If the investigation concludes that formal disciplinary action is required the matter will normally be dealt with using the following the stages of the formal procedure set out below. However the procedure may be implemented at any stage if the severity of the misconduct or unsatisfactory performance warrants this.
- 4.3. At every stage the employee should be given reasonable notice that a disciplinary hearing is due to take place to give them the opportunity to prepare their case; they should be given in advance, details of the complaint against them and written copies of any evidence that will be referred to at the hearing. They should be offered the opportunity to be accompanied by a member of St Thomas's staff / union representative if they wish to do so.

#### 4.4. Recorded Warning

- 4.4.1. The employee should be interviewed by the line manager/disciplinary panel that will explain the specific complaint.
- 4.4.2. The employee will be given a full opportunity to state their case.
- 4.4.3. After careful consideration by the management and if the warning is considered to be appropriate, the employee needs to be told:
  - What action should be taken to correct the conduct/unsatisfactory performance
  - That they will be given reasonable time to rectify matters, and that their progress in rectifying matters will be reviewed.
  - What training needs have needs identified, with timescales for implementation.
  - What mitigating circumstances have been taken into account in reaching the decision.
  - That if they fail to improve then further action will be taken.
  - That they may appeal against the decision within a limited period (5 days)

The above will be confirmed in writing and the warning will be recorded in the employee's personnel file. The warning will remain active for six months from the date it is given, after which time it will be removed from the file, if the required improvement in conduct/performance has been sustained.

#### 4.5. Formal Written Warning

- If the employee fails to correct their conduct/performance and further action is necessary, or if the original offence is considered too serious to warrant an initial ~~oral~~ recorded warning.
- The employee will be interviewed and given the opportunity to state their case. (Reasonable time must be allowed for preparation by the employee; – 1 week may be required)
- If, following the disciplinary interview, a further formal warning is considered to be appropriate, this will be explained to the employee and a letter confirming this decision will be sent to the employee.

The letter will:

- Contain a clear reprimand and the reasons for it (specific and objective)
- Explain what corrective action is required and what reasonable time is given for improvement, and the arrangements for reviewing that improvement has been made.
- State what training needs have been identified, with timescales for implementation.
- Make clear what mitigating circumstances have been taken into account in reaching the decision.
- Warn that failure to improve will result in further disciplinary action which could result in final written warning and if unheeded, ultimately to dismissal with appropriate notice.
- Explain that they may appeal against the decision within a limited period (5 days)

The warning will remain active for 12 months from the date it is given, after which time it will be removed from the file, if the required improvement in conduct/performance has been sustained.

#### 4.6. Final Written Warning

If the employee fails to correct their conduct/performance, and further action is necessary, or if the original offence is considered too serious to warrant any initial warnings:

- The employee will be interviewed and given the opportunity to state their case. (Reasonable time must be allowed for preparation – 1 week)
- If a further final warning is considered to be appropriate, this will be explained to the employee and a letter confirming this decision will be sent to the employee.

The letter will:

- Contain a clear reprimand and the reasons for it (specific and objective)
- Explain what corrective action is required and what reasonable time is given for improvement.

- State what training needs have been identified, with timescales for implementation.
  
- Make clear what mitigating circumstances have been taken into account in reaching the decision.
- Warn that failure to improve will result in further disciplinary action, which could result in dismissal.
- Explain that they may appeal against the decision within a limited period (5 days)

The warning will remain active for 12 months, or for such other specified period of time, from the date it is given, after which time it will be removed from the file, if the required improvement in conduct/performance has been sustained.

#### **4.7. Dismissal**

If the employee still fails to correct their conduct/performance, then:

- The employee will be interviewed as before.
- If the decision, following the disciplinary interview, is to dismiss, the employee will be given notice of dismissal, stating the reasons for dismissal and given details of the right to appeal.

### **5. Gross Misconduct**

Certain disciplinary offences may be regarded as so serious as to warrant dismissal without any prior warnings having been given, and for the dismissal to be given without notice or pay in lieu of notice. A dismissal for gross misconduct will only be made following a disciplinary hearing and will be confirmed in writing, and employees will be given a right of appeal.

The following is a non-exhaustive list of examples of offences which amount to gross misconduct:

- Theft or fraud
- Ill treatment of children
- Assault, abusive or intimidating conduct
- Malicious damage
- Gross carelessness which threatens health and safety of others
- Being unfit through use of drugs or alcohol or being in possession of non-medically prescribed drugs
- Serious breaches of the employer's policies and procedures
- Falsification of records
- Failure to comply with relevant statutory or regulatory requirements
- Gross insubordination
- Acts of unlawful discrimination, harassment, and bullying or offensive behaviour
- Unauthorised access to or use or disclosure of confidential information

- Actions which damage the reputation of the Nursery or is likely to bring the Nursery into disrepute, including actions which cause the employer to lose faith in the employee's integrity
- Conviction for any serious criminal offence while an employee of the Nursery, which brings into question the employee's suitability for their role.
- Accepting a gift which could be construed as a bribe
- Victimising or bullying anyone who uses the whistleblowing policy in good faith
- Maliciously raising false concerns
- Concealing or destroying information about wrongdoings

## 6. Suspension

If the alleged misconduct would warrant dismissal if proven, an employee may be suspended with pay while investigations are being made. Such suspension is not disciplinary action and does not involve any prejudgement. Investigations should consist of obtaining written statements from all witnesses to the disciplinary incident, and from the employee who is being disciplined. Obviously these investigations should be carried out within as short a time as possible.

## 7. Appeals

At each stage of the disciplinary procedure the employee must be told that they have the right to appeal against any disciplinary action, and that the appeal must be made in writing to the Chairperson within five days of receiving written confirmation of the disciplinary following the disciplinary interview. The employee should state the grounds for appealing against the disciplinary warning. The Chair will arrange for the appeal to be conducted by a member(s) of the Management Committee not involved with the matter to date.

The appeal hearing should be heard if possible, within ten days of receipt of the appeal. A note taker may be present.

The employee may be accompanied at the appeal hearing by a Preschool colleague or trade union official -

The appeal hearing may be a complete rehearing of the matter or it may be a review of the original decision, taking account of any new information provided by the employee. This will be at the employer's discretion depending on the grounds of appeal, if there is any new information that the employee wishes to provide, and the circumstances of the employee's case.

Following the appeal hearing the employer may:

- (a) confirm the original decision;
- (b) revoke the original decision; or
- (c) substitute a different, though not a more severe, disciplinary sanction.

The employee will be informed in writing of the final decision within approximately one week of the appeal hearing. There will be no further right of appeal.

## 8. Lines of Authority

<b>Warning</b>	<b>Lowest Authority to conduct hearing and issue warnings. In the absence of the Line Manager deputies will be appointed in their place</b>	<b>Appeal</b>
<b>Formal recorded warning</b>	<i>Line manager</i>	<i>Member of M.C. appointed by the Chair</i>
<b>First Written</b>	<i>Line manager</i>	<i>As above</i>
<b>Final Written</b>	<i>Line manager</i>	<i>Panel of M.C members - minimum two</i>
<b>Dismissal after previous warning(s)</b>	<i>Line manager plus M.C. member or two M.C members.</i>	<i>As above</i>
<b>Dismissal for gross misconduct</b>	<i>Panel of M.C members, or linemanager/M.C members</i>	<i>Panel of M.C.</i>

## 9. Probationary Period Employees

St Thomas's Preschool will not generally use the organisation's full Disciplinary Procedure to terminate during the probationary period. Issues to unsatisfactory performance/conduct will be dealt with at probationary review meetings with the line manager. If a probationary period employee is not performing satisfactorily, or there are incidences of misconduct, they will normally be seen by their line manager, informed of any shortcomings, offering training and support (where appropriate) and warned that failure to improve will result in dismissal. In some instances the probationary period may be extend to allow time to reach a satisfactory standard.

If the employee is unable to reach the required standard of performance or conduct, they will normally be invited to a review meeting, with the right to be accompanied, prior to a decision being taken regarding their continued employment.

A probationary employee who commits an act of gross misconduct will be summarily dismissed.

## 10. Confidentiality

Disciplinary matters will be handled with as high a degree of confidentiality as is practicable. Confidential records of disciplinary matters will be kept in the employee's personnel file in accordance with Data protection legislation. Copies of meeting notes will be provided to the employee although the employer reserves the right to withhold certain information (eg. to protect a witness)

## 11. Overlapping grievance and disciplinary procedures

Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently.

This policy was reviewed by St Thomas' Preschool in 2017 and will be reviewed in 2018

### GRIEVANCE PROCEDURE (v2)

It is the Preschool's intention that any problems, complaints or concerns raised by its employees are dealt with in a fair, timely and consistent manner by following this grievance procedure. The procedure does not form part of the contract of employment and may be changed from time to time.

When raising and handling grievances, all parties should consider the Code of Practice and guidance provided by ACAS, which is intended for use by employees, employers and trade unions.

Where time limits are specified in this procedure, they may be varied by agreement between the employer and the employee.

#### Dealing with grievances informally

Most grievances can be resolved quickly and informally through discussion with an employee's line manager. If an employee has a grievance or complaint to do with their work or the people they work with they should, wherever possible, start by talking it over with their manager, as a solution may be able to be reached informally. However, if this does not resolve the problem or the matter is too serious to be dealt with informally, the employee should use the formal procedure below.

When an employee raises a concern informally, the line manager may ask the employee to clarify that they are happy to take this approach to resolving the matter or, if they think it is appropriate given the nature of the complaint, may suggest to the employee that the matter should be dealt with as a formal grievance.

#### Formal Procedure

<i>Stage of Formal Grievance Procedure</i>	<i>Authority to deal with grievance</i>
<i>Raise formal grievance in writing</i>	<i>Line Manager. (Preschool Manager) If grievance relates to your Line Manager the grievance can be raised with the Chair of the M.C..</i>
<i>Appeal</i>	<i>Chair of the Management Committee , who will appoint Panel of 3 members.</i>



You should set out your grievance in writing and address it to your Line Manager. You should state the basis for the grievance, providing a brief description of the reasons for the complaint, including any relevant facts, dates, and names of individuals involved so that it may be investigated if necessary. You should avoid using language that might appear to others to be abusive or insulting. The Line Manager will deal with the matter without unreasonable delay and will arrange to meet with you normally within (7) days. However, the Line Manager should have a reasonable opportunity to consider the information provided by the employee and undertake any investigations they think necessary before the meeting is held.

The Line Manager will acknowledge receipt of your written grievance and keep you informed about arrangements for dealing with the grievance.

Your Line Manager will invite you to a meeting, at which every opportunity will be given for your grievance to be stated and thoroughly discussed and for you to explain how you think it could be resolved. The Line Manager/trustee hearing the grievance may arrange for a suitable person to be present at the meeting as note-taker.

You should make every effort to attend the meeting. If however you or your chosen companion is unable to attend the meeting for a reason which was not known at the time the meeting was arranged, the employer will attempt to rearrange for a date within five days of the original scheduled date.

If the complaint or grievance relates to your Line Manager, the grievance can be raised with the Chair of the Management Committee, who will follow the same procedure described in the previous paragraphs. The Chair may decide to deal with the grievance personally or appoint another trustee to deal with the matter in their place.

You may be accompanied by a trade union representative or St Thomas's Preschool work colleague at any grievance hearing. You should tell the person conducting the hearing in advance whom you have chosen as your companion. The companion is there to support and assist you, but they cannot answer questions on your behalf or prevent the Line Manager/trustee from explaining the employer's case/point of view. It is your responsibility to keep your representative informed and to arrange their attendance at meetings.

As appropriate, either before or after the meeting, further investigation may take place and action taken.

A decision will be given without unreasonable delay and confirmed in writing normally within 10 days unless extended by mutual consent. The written decision will set out the action which will be taken to resolve your grievance or the reasons for not upholding the grievance, if this is the case, and how you can appeal if you are unhappy with the outcome.

### ***The Appeal Stage***

If you are dissatisfied with the decision you may, within 10 days of that decision, appeal in writing, explaining the grounds for appealing, to the Chair of the Management Committee who will appoint 3 members ("the Panel") to hear your grievance. If a member of the Management Committee, dealt with the grievance at the first stage, or is the subject of the grievance they shall play no part in the Panel. The Chair will acknowledge receipt of your written appeal and keep you informed about progress in dealing with the matter.

Arrangements will be made for a grievance appeal hearing, without unreasonable delay but allowing for any investigations which the Panel members wish to carry out. You will have the right to bring a companion to the appeal hearing. The principles outlined above for the grievance hearing will apply to appeal hearings also.

The Panel will ordinarily give a decision in writing, including any reasons for their decision, within ten days.

The Panel's decision is final and the grievance procedure is exhausted following this stage.

### ***Confidentiality***

Grievances will be handled with as high a degree of confidentiality as is practicable. Confidential records of the grievance will be kept in the employee's personnel file in accordance with Data protection legislation. Copies of meeting notes will be provided to the employee.

### ***Overlapping grievance and disciplinary procedures***

Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently.

This policy was adopted by St Thomas' Preschool in April 2023 and will be reviewed in April 2024