

Safeguarding and Welfare Requirements: Suitable People. Providers must ensure that people looking after children and suitable to fulfil the requirements of their roles.

## 5.3 Disciplinary Policy

### Disciplinary Policy and Procedure Policy statement

Downton Community Pre-school aims to operate an open and honest method of working with employees. Difficulties experienced by both employees and Management Committee (MC) members should be raised at the earliest opportunity, with the aim of reaching a resolution informally as a result of full and frank discussion. In order to carry out its function, the organisation is obliged to comply with statutory regulations and policies. It is the responsibility of the organisation to ensure that members of the MC and all employees adhere to these statutory provisions. Failure to comply with such procedures and any other breaches will be dealt with in accordance with the following disciplinary procedure:

**Procedure Disciplinary Action: Informal Action/Verbal Written Warning:** Employees committing what are deemed to be minor breaches of discipline will normally be approached by their supervisor/manager and spoken to informally about the matter. A performance improvement plan will be agreed; detailing objectives and time scales; if the objectives are not met within the agreed timescale than a full written warning will be issued. Employees experiencing any sort of difficulty either personally or at work are encouraged to raise the matter with their supervisor as the issues arise, and will be given the opportunity to do so at an informal meeting. It is hoped difficulties may be resolved informally where possible and a further meeting will be arranged to review the situation within a reasonable time. If informal action does not bring about an improvement, or the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor, employers should provide employees with a clear signal of their dissatisfaction by taking further action.

### Step 1: Written Statement/Letter

The first step in any formal process is to let the employee know in writing what it is they are alleged to have done wrong. The letter or note should contain enough information for the individual to be able to understand both what it is they are alleged to have done wrong and the reasons why this is not acceptable. The chair of the committee will issue the written statement /letter to the employee. The employee should be invited to meet with the Chair/Manager and discuss the problem.

### Step 2: Meeting and Discussion

Where possible, the timing and location of the meeting should be agreed with the employee. The length of time between the written notification and the meeting should not exceed two weeks. The employer should hold the meeting in a private location and ensure there will be no interruptions. Remember the employee has the right to be accompanied. At the meeting, the employer should explain the complaint against the employee and go through the evidence that has been gathered. The employee should be allowed to set out their case and

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answer any allegations that have been made. The employee should also be allowed to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses. Following the meeting, the employer must decide whether disciplinary action is justified or not. Where it is decided that no action is justified the employee should be informed. Where it is decided that disciplinary action is justified, the employer will need to consider what form this should take. Before making any decision, the employer should take account of the employee's disciplinary and general record, length of service, actions taken in any previous similar case, the explanations given by the employee and - most important of all- whether the intended disciplinary action is reasonable under the circumstances. If deemed appropriate a performance improvement plan will be actioned, clearly stating the desired objectives and timeframe; if the objectives are not met within this agreed timescale then a written warning will be issued.

### **Performance:**

Following the meeting, an employee who is found to be performing unsatisfactorily should be given a written note by the Chair setting out:

- The performance problem
- The improvement that is required
- The time scale for achieving this improvement
- A review date
- Any support the employer will provide to assist the employee

The employee should be informed that the note represents the first stage of a formal procedure and that failure to improve could lead to a final written warning and, ultimately, dismissal. A copy of the note should be kept and used as the basis for monitoring and reviewing performance over a specified period (eg: six months).

### **Misconduct:**

Where, following a disciplinary meeting, an employee is found guilty of misconduct the usual first step would be to give them a written warning setting out the nature of the misconduct and the change in behaviour required. If deemed appropriate a further performance improvement plan will be actioned, again clearly stating the desired objectives and timeframe; if the objectives are not met within this agreed timescale then the employee will be committing Gross Misconduct. The employee should be informed that the warning is part of the formal disciplinary process and what the consequences will be of a failure to change behaviour. The consequences could be a final written warning and, ultimately, dismissal. The employee should also be informed that they may appeal against the decision. A record of the warning should be kept, but it should be disregarded for disciplinary purposes after a year.

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### **Gross Misconduct:**

Where gross misconduct is committed; such as verbal/physical abuse/bullying, Safeguarding or Child Protection failure, knowingly breaching individual job role, contract and/or the settings active policies and procedures and/or committing intentional damage to property/equipment.

Please note; this is NOT an exhaustive list and all may result in:

- Instant dismissal
- Contract of employment terminated
- Possible prosecution

### **Final Written Warning:**

Where there is a failure to improve or change behaviour in the time scale set at the misconduct stage, or where the offence is sufficiently serious, the employee should normally be issued with a final written warning - but only after they have been given the opportunity to present their case at a meeting. The employee will also have their final performance improvement plan actioned, again clearly stating the desired objectives and timeframe; if the objectives are not met within this agreed timescale then the employee will be given a final written warning. The final written warning should give details of, and grounds for the complaint. It should warn the employee that failure to improve or modify behaviour may lead to dismissal or some other penalty, and refer to the right of appeal. The final written warning should normally be disregarded for disciplinary purposes after two years.

**Dismissal or Other Penalty:** If the employee's conduct or performance still fails to improve, the final stage in the disciplinary process might be dismissal or (if the employee's contract allows it or it is mutually agreed) some other penalty such as demotion, or loss of seniority/pay. A decision to dismiss should only be taken by a manager who has the authority to do so. The employee should be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will terminate, the appropriate period of notice and their right of appeal. It is important for employers to bear in mind that if they dismiss an employee or impose a sanction such as demotion, loss of seniority or loss of pay, they must, as a minimum have followed the statutory dismissal and disciplinary procedures.

The standard statutory procedure to be used in almost all cases requires the employer to:

- Step 1 Write to the employee notifying them of the allegations against them and the basis of the allegations and invite them to a meeting to discuss the matter
- Step 2 Hold a meeting to discuss the allegations-at which the employee has the right to be accompanied - and notify the employee of the decision.
- Step 3 If the employee wishes to appeal, hold an appeal at which the employee has the right to be accompanied - and inform the employee of the final decision.

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Downton Community Pre-School will adhere to the 'Band of Reasonable Responses' and offer a fair procedure by:

- Ensuring an investigation
- Following disciplinary actions as detailed in this policy and employees contract
- Agreeing sanctions, performance improvement plans and appropriate compromise

This policy was adopted at a meeting of	Downton Community Preschool	<i>(name of provider)</i>
Held on	September 2019	<i>(date)</i>
Date to be reviewed	September 2020	<i>(date)</i>
Signed on behalf of the provider		
Name of signatory	Sarah Nutbeam and Lucy Babb	
Role of signatory (e.g. chair, director or owner)	Co-Chairs	

**Legal framework:**

Criminal Justice and Court Services Act (2000)

Equalities Act (2010)

Data Protection Act (1998)

Non Statutory Guidance- Further guidance Can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk), or [www.hse.gov.uk](http://www.hse.gov.uk), or other government websites.