



Disciplinary Policy

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1. Principles:

In many cases the right word at the right time and in the right way may be all that is needed and will often be a satisfactory method of dealing with a breach of discipline or unsatisfactory conduct. In those circumstances this procedure should not be used.

No disciplinary action will be taken against an employee until the case has been fully investigated.

At every stage in the procedure with HND Children's Care Ltd, the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made.

The employee will have the right to be accompanied by a trade union representative or work colleague at any formal meeting or hearing.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct (see 'Examples of Conduct: Gross Misconduct') when the penalty will be dismissal without notice or payment in lieu of notice.



An employee will have the right to appeal against any disciplinary penalty imposed. See 'Section 7, Appeals Procedure'.

The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

2. Process:

If, despite informal discussions, work or conduct still fails to meet acceptable standards or where a disciplinary matter arises and it is considered that action beyond counselling or normal line management supervision should be considered, the matter will be dealt with under the formal disciplinary procedures.

A disciplinary hearing shall not be convened until the circumstances of the case have been fully investigated by a manager not involved in the allegation.

Where disciplinary proceedings are instigated, following an investigation, and where evidence about an employee's alleged misconduct has been obtained from third parties in the form of written statements, either the statements themselves or a summary of their content will be given to the employee. However, we reserve the right to conceal the identity of any or all of the parties if there is a legitimate reason to do so, such as where there may be a risk to the safety of others if the identity of witnesses is disclosed, or in certain whistleblowing cases. In those circumstances, we will consider providing a summary of the information to the employee.

When an investigation is complete the report will be considered by a designated manager who will determine whether, on the basis of the evidence, a disciplinary hearing should be arranged.

If, following an investigation, a disciplinary hearing is not deemed to be warranted, the employee will be informed in writing of the outcome of the investigation and why the allegations have been unsubstantiated.

3. Disciplinary Sanctions:

The following sanctions may be imposed as indicated but are not necessarily sequential. When a disciplinary sanction is imposed, account will be taken of any 'live' disciplinary warning previously imposed on the employee.

Disciplinary Action:	Period of 'live' warning:
1st Written Warning.	6 months.
2nd Written Warning.	12 months.
Final Written Warning.	18 months.
Transfer and / or demotion accompanied by a Final Written Warning.	18 months.
Dismissal.	N/A.

Warnings will normally be disregarded after the expiration of their term. However, they will not be disregarded if a subsequent warning is issued in relation to further misconduct (of whatever nature) which occurs whilst a warning is 'live'. It is the date of the further misconduct which determines whether an earlier warning remains 'live' and not the date of the hearing in respect of the further misconduct.

3.1 Suspension or Garden Leave:

Any suspension must be approved by the designated manager. If there is an ongoing Child Protection Enquiry, no decisions should be made without the approval of the Local Authority Designated Officer (LADO) / Designated Officer (DO) in the area where the home is located.

Suspension (or 'Garden Leave') is not to be regarded as prejudging the matter and is not to be considered a disciplinary sanction – it is often used to ensure the protection of the employee, other employee's, the company, or children. Where suspension is appropriate the employee will be suspended from work on contractual pay i.e., pay inclusive of payments which would have been made in respect of the employee's normal working arrangements whilst the matter is being investigated.

Any suspended employee submitting a sickness absence certificate shall still be deemed as suspended. Any employee who is absent due to sickness during disciplinary proceedings or during investigations into alleged breaches of rules, procedures, or contractual obligations, will not be entitled to sickness payment (other than SSP).

Written confirmation of the suspension should be forwarded to the employee within three working days and shall state the reason for the suspension.

The need to continue with the suspension of an employee shall be reviewed on a regular basis by the designated manager and advise the suspended employee of progress.



The suspended employee must be available during normal working hours, if required to be so by the employer. Suspended employees are reminded that all other conditions of service continue to apply whilst suspended, e.g., regarding reporting of sickness, applications for leave, working elsewhere for other agencies etc. and as such, permission must be granted from their line manager in the normal manner.

4. Arranging a Disciplinary Hearing:

If there is an ongoing Child Protection Enquiry or Criminal Investigation, no decisions should be made without the approval of the Police and / or Local Authority Designated Officer (LADO) / Designated Officer (DO) in the area where the home is located.

If, after investigating the evidence, it is decided that disciplinary action is appropriate, a disciplinary hearing will be arranged.

The employee will normally be given a minimum of two working days' notice of the hearing (this period of notice may be varied with the consent of both parties). If, for good reason, the employee is unable to attend the hearing, every effort should be made with the employee and his/her representative to agree a mutually suitable date for a rearranged hearing. If there is no alternative but for the hearing to proceed in the absence of the employee, his/her representative will be provided with the opportunity to state the employee's case on his/her behalf. Any written submission by the employee, or by his/her representative, will be considered.

5. Disciplinary Hearing Process:

- The designated manager will come to a decision about who will chair / conduct the hearing and arrange for a suitably qualified person to provide advice to the chair.
- The person chairing the disciplinary hearing should introduce who attends the meeting and why, explain the purpose of the hearing and briefly state how it will be conducted.
- The investigating officer (or other presenting officer) should state precisely what the complaint / allegation is and outline the case by going through the evidence that has been gathered.
- The employee will be invited to state his or her case, ask questions and present evidence (including witness statements) in answer to the allegations made.
- The person conducting the hearing shall be entitled to question and discuss evidence presented at any time in order to establish all the facts.
- The investigating officer and the employee will be entitled to make a closing statement in summation. The parties shall then adjourn, withdraw from the meeting and the manager (assisted by any advisory staff) shall consider all the evidence presented with a view to arriving at a decision, which is reasonable in all the circumstances.
- The chairperson will make a recommendation to the designated manager in terms of the decision / actions that should be taken.
- Once the decision is made, it shall be conveyed orally to both parties and confirmed in writing within five working days of the disciplinary hearing.



6. Termination of Employment:

If an employee's contract is terminated on the grounds of mistreatment or abuse of a child, consideration should be given to making a referral to the Disclosure and Barring Service, in consultation with the Local Authority Designated Officer (LADO) / Designated Officer (DO) in the area where the home is located.

For more information about the circumstances which may result in a referral, and the process for making a referral, go to 'Disclosure and Barring Service' website.

[Making barring referrals to the DBS - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

7. Appeals Procedure:

An employee has the right to appeal against any disciplinary sanction and must do so, in writing, within 5 working days of receiving written notification of the disciplinary sanction and forwarded to the designated manager.

The designated manager should usually allow an appeal to be considered unless there is clear and unequivocal evidence that the decision of the disciplinary hearing was correct. An independent manager should conduct / chair the appeal, with advice and support from a suitably qualified person, preferably someone who has not been consulted or involved in the case thus far.

The appeal hearing will normally be heard within 10 working days of receipt of the letter unless mutually agreed otherwise. The employee shall be given advance notice in writing in of the time and place of the hearing and will have the right to be accompanied by a fellow work colleague or trade union representative of his / her choice.

Employees should note that an appeal hearing is not intended to repeat the detailed investigation of the disciplinary hearing, but to focus on specific factors which the employee feels have received insufficient consideration, such as:

- An inconsistent, inappropriate, or excessively harsh penalty
- Extenuating circumstances
- New evidence subsequently coming to light.

When all the evidence has been heard, the hearing will be adjourned. The manager conducting the appeal will consider the merits of the appeal, in private, before reaching a recommendation, which should be made to the designated manager.

The designated manager will come to a decision and inform the employee, orally, of the decision reached and the reasons for it and confirm this in writing no later than 5 days after the hearing. Where an appeal against dismissal fails, the effective date of termination shall be the date on which the employee was originally dismissed. Once the appeal against disciplinary action has been considered, no further rights of appeal will be allowed.



8. Examples of Conduct:

8.1 Rules of Misconduct:

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Company's *'Disciplinary Policy'*:

- Minor breaches of the company's policies including the Sickness Absence Policy, Electronic Information and Communications Systems Policy.
- Minor breaches of your contract.
- Poor timekeeping.
- Time wasting.
- Unauthorised absence from work.
- Refusal to follow instructions.
- Refusal to obey a reasonable instruction of a supervisor.
- Excessive use of our telephones for personal calls.
- Obscene language or other offensive behaviour.
- Negligence in the performance of your duties.

This list is intended as a guide and is not exhaustive.

8.2 Gross Misconduct:

- Theft, fraud, deliberate falsification of records including fabrication of expense claims or timesheets.
- Fighting, physical violence, actual or threatened violence or behaviour on another person.
- Deliberate damage to the company's property or serious misuse of company's property.
- Serious incapacity to work through alcohol or being under the influence of illegal drugs or other substances.
- Causing loss, damage, or injury through serious negligence.
- Refusal to carry out duties or obey instructions or any other serious act of insubordination.
- Serious breaches of the HND Children's Care Ltd company's procedures which covers specific areas such as Duty of Care; Exercise of Professional Judgement; Power of Position and Trust; Confidentiality, Propriety and Behaviour; Personal Living Space; Gifts, Rewards and Favouritism; Infatuations; Social Contact; Sexual Contact; Physical Contact; Use of Control and Physical Intervention; Respect and Privacy; First Aid and Administration of Medication; One to One Situations; Home Visits; Transporting Children; Trips and Outings, Communications with Children; Access to Inappropriate Images and Internet Usage and Photography and Videos.
- Wilful or reckless or otherwise serious failure to follow the company's safety rules.
- Bringing the company into disrepute.
- Unreasonable refusal and failure to co-operate with the company in obtaining a DBS check.



- Deliberately accessing internet sites containing pornographic, offensive, or obscene material on company owned electronic devices, or in working time.
- Unlawful discrimination or harassment.
- Conviction for a criminal offence that in our opinion, may affect HND Children's Care Ltd reputation or relationships with our staff, customers, or the public, or otherwise affects your suitability to continue to work for HND Children's Care Ltd.
- Possession, use, supply, or attempted supply of illegal drugs.
- Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures.
- Unauthorised use, processing, or disclosure of personal data contrary to HND Children's Care Ltd

'Data Protection Policy'.

- Harassment or discrimination against employees, contractors, clients, or members of the public on the grounds of gender; sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age.
- Failure to report or record any matter which it is the employee's contractual duty (either expressed or implied) to report.
- Giving false information as to qualifications or entitlement to work (including immigration status).
- Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Grievance Procedure, Disciplinary Procedure, Whistleblowing Procedure, or otherwise.
- Undertaking unauthorised paid or unpaid employment during your working hours.
- Abusive or threatening behaviour towards a member of the public, clients, fellow employees.

The above list is neither exhaustive nor exclusive but is indicative of the types of misconduct, the company may suspend you on full pay pending investigation of the matter. If, following investigation and after a full disciplinary meeting, the company is satisfied that there has been Gross Misconduct, the outcome will normally be summary dismissal without notice or payment in lieu of notice.

End.