

### 3: Staff Disciplinary & Grievance Procedures

---

Kidz Enterprise will maintain a well-motivated, highly skilled and professional staff team; however, occasionally action will be taken to encourage improvement in individual behaviour and performance. Kidz Enterprise will provide a fair, transparent, effective and consistent method of dealing with grievances and disciplinary incidents. Our aim is always to support and encourage staff while promoting good employment relations.

#### Grievance Procedure

The grievance procedure is separate from the disciplinary procedure. The grievance procedure is designed to assist in resolving concerns, problems or complaints staff may have relating to their work, working conditions or relationships with colleagues. Kidz Enterprise aims to resolve most grievances informally as there is an open policy for communication and discussion. This enables problems and concerns to be raised and settled with line managers during the course of everyday activities.

In some cases, careful and thorough investigation is necessary if concerns are to be satisfactorily resolved. Such investigations may reveal matters requiring action under the disciplinary procedure, or that the grievance is not confined to one individual and it is one which other employees wish to pursue as a collective grievance under this procedure. In such cases, it is still necessary to ensure that grievances are resolved.

For this procedure to operate in practice it is important that all staff read the procedure thoroughly and understand its implications in order to use it effectively and fairly.

#### Procedure

The procedure for dealing with grievances is similar to that of disciplinary matters.

Each stage will be dealt with within ten working days of receipt of the written grievance. A written reply will be given at each stage. For stages 2 and 3 staff may be accompanied by a fellow employee, trade union or other representative.

**Stage 1** If it is not possible to resolve a grievance informally, the member of staff should formally put the complaint in writing to the line manager stating the nature of the grievance.

**Stage 2** The line manager or their immediate superior (if appropriate) will hold a meeting with the staff involved to discuss the matter and a written reply detailing the decision will be given to him/her/them, subject to normal availability, within ten working days of the meeting. The employee will have the right to appeal against the decision.

**Stage 3** If the member of staff feels that the grievance has not been resolved satisfactorily, they may appeal within ten working days of receiving their decision in writing. They should inform their manager in writing of the reason for appeal. The appeal will be dealt with impartially and, if possible, by a manager who has not previously been involved in the case. Staff will then be invited to a second meeting to discuss the appeal. The final decision will be confirmed in writing to the staff concerned to be despatched within ten working days of the appeal meeting. This decision will be final.

## Disciplinary Rules and Procedures

This procedure is designed to assist in resolving issues in relation to discipline and to clarify the rights and responsibilities of management, staff and their representatives. The disciplinary procedure will be used primarily to help and encourage staff to improve rather than imposing punishment and applies to all members of staff irrespective of their length of service or status.

This part of the procedure applies to circumstances where there has been failure to achieve the prescribed standards, such as unsatisfactory job performance, absence from work and behaviour towards other staff which is anti-social and likely to cause offence.

Kidz Enterprise has a duty to advise, counsel and train all staff and may give informal counselling for the purpose of improving conduct or performance when employees commit minor infringements of the established standards. These will be documented by the manager as a record of their discussion. However, if counselling proves unsuccessful, formal warnings will be given.

If it is considered that a member of staff's conduct has fallen below the standards required, the Person in Charge/manager will follow the five step process outlined below.

### 1. Establish the facts

The incident will be fully investigated and the facts established. Investigations will be non-discriminatory and apply equally to all staff irrespective of gender, marital status, sexual preference, race or disability. Investigations will be conducted by the Person in Charge/manager.

### 2. Put in writing

If it is decided that there is a disciplinary case, the relevant staff member will be notified with a written explanation of the conduct, and other circumstances that have led to the decision about taking disciplinary action. If it is necessary, the staff member may be suspended on full pay or reassigned to alternative duties.

### 3. Meet and discuss

The meeting will be held without delay whilst giving the staff reasonable time to prepare their case. Staff may be accompanied at the disciplinary meeting by a work colleague or trade union representative. The Person in Charge/manager will be accompanied by a member of their local authority, extended school team or independent advisor. The manager will explain the complaint against the member of staff and present evidence. The staff will also be allowed to answer all allegations and present evidence.

### 4. Management decision

After hearing all the evidence, the manager will decide whether disciplinary or other action is required. For misconduct or unsatisfactory performance a first written warning may be given. If the staff member's first misconduct is sufficiently serious, the staff member may be given a final written warning. If the manager considers that the complaint is of a more serious nature, the meeting will be adjourned and the staff member may be suspended on full pay or reassigned to alternative duties, to enable further investigations. Suspensions will be as brief as possible and are not considered a disciplinary action.

### 5. Appeal

After the meeting the employee will be informed of the decision and if the member of staff feels that the disciplinary action taken against them is wrong, they may appeal in writing within ten working days. The appeal will be dealt with impartially and, if possible, the Person in Charge/manager, or a senior member of staff who was not involved in the original disciplinary action will hear the appeal and impartially adjudicate the case. The staff will then be invited to a second meeting to discuss the appeal. The member of staff has the right to be accompanied at appeal hearings. The final decision will be confirmed in writing to the staff concerned to be despatched within ten working days of the appeal meeting.

## Special cases

If a member of staff is charged or convicted with a criminal offence, this is not normally a reason for disciplinary action. The offence needs to be considered in terms of whether it affects the staff member's suitability to do the job or their relationship with colleagues and customers.

## Gross Misconduct

In the case of some acts termed gross misconduct, staff will be dismissed for the first offence. In these cases, immediate suspension with pay followed by dismissal will normally result. However, a fair disciplinary process will be followed before dismissing for gross misconduct. The following are examples of serious offences, which are considered as gross misconduct:

- Theft
- Fraud or deliberate falsification of Kidz Enterprise's documents
- Being an unfit person under the terms of the Care Standards Act 2000 or the Childcare Act 2006
- Gross negligence that either causes or might cause injury, loss, or damage to persons or property
- Child abuse (for further details refer to the Safeguarding Children policy)
- Indecent conduct
- Deliberately accessing internet sites containing pornographic, offensive or obscene material
- A criminal offence outside employment which renders the employee unsuitable for work and which is unacceptable to other employees
- Inability to fulfil his/her duties because of intoxication by alcohol or drugs
- Failure to attend an interview arranged under the disciplinary procedure without reasonable explanation
- Physical violence towards a colleague, user of the provision or member of the public
- Deliberate damage or misuse to setting property
- Serious infringement of health and safety rules (for further details refer to the Health and Safety policy)
- Persistent bullying
- Racial or sexual harassment and breaches of the Equality & Diversity, and Race Relations legislation
- Any act of misconduct which is sufficiently serious to destroy the mutual trust and confidence between Kidz Enterprise and the employee concerned.

In the case of gross misconduct the police will be notified. If the police are involved in an investigation, then the suspension deadline will be extended.

While the alleged incident of gross misconduct is being investigated, the individual concerned is likely to be suspended, during which time normal pay levels will prevail. Such suspension is not to be regarded as a form of disciplinary action and will be for as short a period as possible. Any decision to dismiss will be taken only after a full investigation.

## **Allegations Against Staff**

All staff are advised to minimise time spent alone with children and be aware of the potential risks in doing so (for further details refer to the Safeguarding Children policy).

If an allegation of abuse has been made against a member of staff, the manager will follow the procedures of the Safeguarding Children policy

If an allegation of abuse is made against the manager, then another designated member of staff will report the matter directly to the Person in Charge, local Social Services department and Ofsted.

Any member of staff who is dismissed on the grounds of safeguarding concerns or leaves under investigation for being unsuitable for work with children will be referred to the Disclosure and Barring Service.

### **Timescale for review**

**STAGE 1 - FIRST WRITTEN WARNING to remain on file for 12 months**

**STAGE 2 - FINAL WRITTEN WARNING to remain on file for 2 years**

If a warning is given, it will include:

The level of improvement required  
The date by which it is to be achieved  
What will happen if the improvement is not achieved  
How to appeal

### **Definitions**

#### **Harassment**

It is a condition of service that employees do not harass colleagues or members of the public. Kidz Enterprise recognises the problems of sexual and racial harassment and is committed to preventing them.

Harassment is considered to be gross misconduct and will be dealt with under the disciplinary procedure.

Harassment is defined as occasional or systematic expressions of discriminatory or oppressive attitudes which understandably cause offence or discomfort or which a person finds objectionable. This may occur on a person to person basis or as a result of the policies or attitudes of institutions or other bodies.

#### **Sexual Harassment**

Examples of sexual harassment may include unnecessary touching or unwanted physical contact, suggestive remarks or other verbal abuse, leering at a person's body, unwanted sexual advances, offering inducements for sexual favours, physical abuse or assault, or pornographic displays.

#### **Racial Harassment**

Examples of racial harassment may include offensive or unnecessary comments on colour, race, customs, dress, nationality, ethnic or national origin, religious beliefs, racial abuse or physical attack.

Because of the nature of harassment, Kidz Enterprise recognises that staff may find it easier to talk to a woman rather than a man, or a person of the same cultural background or with the same religious beliefs, about the problems they are experiencing.

Grievances under this clause will be handled with all possible speed, sensitivity and confidentiality. In settling the grievance, every effort will be made to discipline the harasser and any disciplinary proceedings will be dealt with under the procedures of grievance and discipline.

**Note:** Kidz Enterprise obtains professional advice about disciplinary & grievance procedures from Peninsula Business Services.

Updated By: **Derek Beesley (Director of Childcare)**    Date: 6<sup>th</sup> March 2016

Signature: *D. Beesley*

