



Disciplinary and Dismissal Policy

Disciplinary rules and procedures exist to create an orderly and fair working environment whilst maintaining consistency in the way individuals are treated in the event of misconduct. The purpose of using disciplinary procedures and actions are primarily to deal with situations where employees fail to comply with disciplinary rules, they may also be used in circumstances where the employee continually fails to meet the expectations of their job description and duties.

1. INFORMAL PROCEDURE - VERBAL WARNING

The informal procedure will be used in minor cases of misconduct or unsatisfactory performance. In such an event the employee's immediate superior will discuss the matter with the intent of making clear how the employee failed to meet standards of performance or conduct and providing the employee with an opportunity to improve. There will be no written comments recorded on the employee's disciplinary record at this stage.

2. FORMAL PROCEDURE

If as a result of informal proceedings the employee repeatedly fails to meet standards of performance or conduct, or the employee commits an act of gross misconduct (please refer to appendices 2 and 3 for examples of general and gross misconduct) then the company may take formal disciplinary proceedings described herein.

The first stage of the formal disciplinary procedure is for the company to write to the employee with details of the alleged case of misconduct or poor performance. The letter will further advise the employee of a date on which a formal hearing will take place to discuss the matter in detail. The employee has the right to be accompanied by a work colleague and is further entitled to receive a copy of any documentation that will be produced in the meeting. Where possible the time and location of the meeting should be agreed by the employee and all efforts should be made to ensure that these are acceptable, and allow time for adequate preparation.

During the course of the meeting the company will decide if it will be advantageous to implement disciplinary action and if so in what form. When arriving at this decision the company will take into account the employee's previous disciplinary record, term of service, cases of similar occurrences and the explanations given by the employee for the recent misconduct.

Where the employee's poor performance or misconduct has been continuous or in cases where an incident of misconduct has had or will have a serious negative affect on the company's business the company may issue a final written warning.

In cases of gross misconduct the company may feel it is necessary to dismiss the employee even if he/she has not been the subject of any previous misconduct or poor performance.

First Formal Action – Unsatisfactory Performance

If it is concluded from the meeting that the employee has been performing to an unsatisfactory level and failing to meet the company's expectations then the company will issue a written statement to the employee detailing the situation. The statement will include the performance targets that are not being met, improvement required from the employee, timescales and a date on which the performance will be re-evaluated. On issue of the statement the employee will be advised that this is the first stage of disciplinary action and further failures to meet performance targets may result in a final written warning or dismissal. A copy of the statement will be kept in the employee's disciplinary file for a period of 6 months.

First Formal Action – Misconduct

If it is concluded from the meeting that the employee has committed an act of misconduct then the company will issue a written statement to the employee detailing the situation. The statement will explain the nature of the misconduct followed by the change in behaviour required. On issue of the statement the employee will be advised that this is the first stage of disciplinary action and further incidents of misconduct may result in a final written warning or dismissal. The employee will be further advised of his/her right to appeal against the decision. A copy of the statement will be kept in the employee's disciplinary file for a period of 6 months and will be disregarded for disciplinary purposes after this period of time.

Final Written Warning

If there is a recurrence of poor performance or misconduct within the timescale specified during the first formal action or where an incident of misconduct has had or will have a serious negative affect on the company's business the offending employee may be issued with a final written warning. The final written warning may only be issued after a formal hearing has been conducted between the management and the offending employee. Where possible the meeting should be arranged at a convenient time and location for the employee.

The final written warning will explain the nature of the misconduct and will stress that failure to improve or modify behaviour will result in dismissal or some other penalty. The employee will be further advised of his/her right to appeal against the decision. A copy of the statement will be kept in the employee's disciplinary file for a period of 12 months and will be disregarded for disciplinary purposes after this period of time.

Dismissal or Disciplinary Action

If as a result of previous actions taken the employee's conduct or performance fails to improve then the company may feel it appropriate for the employee to be dismissed or receive some other form of penalty such as demotion or loss of seniority pay or privileges. If this is the case then the situation will be referred to the company's Three-stage formal disciplinary procedure set out herein.

3. FORMAL THREE-STAGE DISCIPLINARY AND DISMISSAL PROCEDURE

The formal disciplinary and dismissal procedure applies to all dismissal and penalties that relate to a single individual notwithstanding the provisions stated in Appendix 1.

Stage 1 – Written Statement

The Manager will write to the employee with details of the alleged incident of misconduct or performance failures that may result in dismissal or disciplinary action. The written statement will include a time and location on which a formal hearing can be held to investigate the situation.

In cases of ill health, redundancy, retirement or the expiry of a fixed term contract the written statement must give full details into the reasons that led the company to terminate the person's employment.

Stage 2 – The Hearing

During the course of the hearing the employee has the right to be accompanied by a work colleague or trade union representative. Reasonable provisions should be made by the company to ensure that the employee and his/her companion may be able to attend the hearing without too much difficulty, in the same respect the employee must take all reasonable steps to attend.

Reasonable time must also be provided to the employee to allow for any preparation required at the meeting. Following completion of the hearing the manager will issue a written statement advising the employee of the actions that will be taken by the company as well as a right to appeal the decision.

Stage 3 – Appeal

If the employee wishes to appeal the decision made at the hearing then they must inform the Manager within 5 working days. The Manager will then arrange a meeting to discuss the appeal within a reasonable time (usually 7 working days). The employee is entitled to be accompanied by a work colleague at the hearing.

When possible a person more senior than the Manager should chair the meeting. In circumstances where this is not possible all effort should be made to ensure the situation is dealt with impartially. After the meeting the employee should be advised in writing of the outcome of the appeal, making it clear that the decision is final.

4. FAILURE TO ATTEND HEARING

If the company or employee is unable to attend the original hearing another reasonable date must be scheduled no later than 5 working days after the original hearing. If the second hearing has been missed then the law considers the disciplinary or dismissal procedure to have been fully exercised and the company may take action to impose disciplinary measures or dismissal.

Appendix 1

Non-Applicable/Appropriate Procedure Circumstances

Detailed below are examples where the disciplinary and dismissal procedure would not be applicable or appropriate, but is treated as having been complied with:

- When employees are dismissed for taking industrial action(s).
- When it is not possible for employment to continue as a result of severe damage to the working environment or premises.
- When one party behaves in a violent and unreasonable manner and as such would prevent reasonable dialogue and procedure from taking place.
- When procedures relate to a group of employees. In this case it may be advantageous to hold meetings between the management and the employees to take matters forward.

Appendix 2

Examples of General Misconduct

The following are examples of general misconduct that may result in formal disciplinary proceedings to be taken by the company. The list is not exhaustive.

- Frequent absenteeism
- Poor timekeeping
- Poor work performance
- Unreasonable behaviour to other work colleagues
- Harassment or victimisation
- Breach of company security
- Breach of health and safety rules
- Repeated or serious failures to follow instructions

Appendix 3
Examples of Gross Misconduct

The following are examples of gross misconduct that may result in dismissal. The list is not exhaustive.

- Breach of Child Protection
- Physical violence or abuse
- Use of alcohol or intoxicating substances on company property
- Serious insubordination
- Vandalism or destruction of company or employee property
- Theft or fraud
- Unlawful discrimination or harassment
- Disclosure of confidential information
- Access of pornographic or inappropriate material through the internet or otherwise
- Negligence that may result in serious consequences for the company
- Falsification of company records or documents
- Working with a competitor

Internal use only

This policy was adopted on	
Signed on behalf of Spice Childcare	
Date for review	