



## **TCC Christian Pre School Disciplinary Procedure**

### **1. Purpose and Scope**

The purpose of the Disciplinary Procedure is to help and encourage all employees and to achieve and maintain required standards of conduct, job performance and good discipline. This procedure applies to all staff.

It sets out to enable the individual whose performance and/or conduct has failed to reach the required standard, to make necessary improvement through guided instruction. The aim is to ensure that the pre-schools interests are safe-guarded while staff are treated fairly and equitable, with an emphasis on correction rather than punishment.

The purpose of this procedure is to clarify the rights and responsibilities of management and employees in respect of disciplinary action. Its objective is to provide a fair and consistent means by which disciplinary rules are observed and standards of work performance and conduct are maintained. It provides a method for dealing with alleged breaches of organisational policies, rules and procedures; cases of alleged misconduct; or persistent poor performance. It ensures that disciplinary action, if taken, is appropriate to the circumstances.

For the purpose of disciplinary procedures the term misconduct is used to include failure in personal conduct, persistent poor performance or deliberate infringement of policies, rules and procedures. See paragraph 5 and 6 for more information.

### **2. Principles**

The management has a responsibility to ensure that the staff are aware of general and specific rules, standards and procedures laid down for the regulation of work and conduct. Employees are required to familiarise themselves with these standards and procedures and to co-operate with managers to ensure they are adhered to.

In cases of minor misconduct or unacceptable performance or behaviour, managers should exhaust all other means of achieving the required standards before formal disciplinary action is taken. This will include setting clearly defined objectives and standards, monitoring them over a reasonable time periods and providing additional coaching or training. In some cases this may also include reference to other appropriate sources of counselling and assistance.

No disciplinary action will be taken until a case has been thoroughly investigated. When commencing an investigation into an allegation of misconduct there shall be no assumption that disciplinary action will automatically follow.

At every stage of the procedure workers will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.

The manager investigating a case must decide if further action will follow and assess the level at which the disciplinary hearing should be held. S/he must ensure that it is conducted by a church leadership representative authorised to take appropriate disciplinary action if the allegation is substantiated.

Disciplinary action will only take place where it is decided, following a disciplinary hearing, that misconduct had occurred and disciplinary action is appropriate. For definition see paragraph 5).

Workers have the right to be accompanied by a trade union representative or work colleague of their choice at all stages of this procedure, including an investigatory, disciplinary, review or appeal hearing.

Workers will not be dismissed for a first breach of discipline, except in the case of gross misconduct, when the penalty will be dismissal without notice and with or without payment in lieu of notice.

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

Employees have the right to appeal against any disciplinary penalty imposed to an appeals committee.

At all stages of the disciplinary procedure both manager and the individual concerned must ensure the confidentiality of events and discussions. This will not preclude sharing such confidence when seeking advice. Any discussions with witnesses should be confined to the specific areas on which the witnesses may have information. Any unreasonable breach of confidence may itself be treated as a disciplinary case of misconduct.

All formal letters sent to an employee under the terms of this procedure shall wither be handed to her/him personally or sent by Recorded Delivery. Copies of all correspondence shall be sent to his/her representative unless indicated otherwise by the employee.

Recorded and written warnings will cease to be 'live' following the specified period of satisfactory conduct or performance and will be disregarded for future disciplinary purposes.

### **3. The Procedure**

Where discussion, coaching, training or other informal action fails to achieve the required improvement in performance or behaviour, or where the matter is more serious, the following procedure shall be undertaken;

- The manager will identify and clarify the issue by establishing the essence of the problem. The matter must be investigated in a systematic and thorough manner by gathering information promptly, establishing relevant facts and taking into account statements of witnesses if appropriate. The employee will be expected to attend any investigatory hearing called. S/he may be accompanied by a trade union

representative or work colleague. The meeting will be recorded and a written statement taken.

- In serious cases, the church leadership representative will have the power to suspend to the worker, with full pay, pending investigation of the allegations. Suspension in these circumstances does not constitute disciplinary action.
- Following the investigation the employee should, without unavoidable delay, be given a written statement of the allegation and advised of the intention to hold a disciplinary hearing. This will state her/his rights under this procedure, including the right to be accompanied by a trade union representative or work colleague.
- At the same time the employee will be provided with copies of all documentation and supporting evidence to be presented at the hearing.
- The employee will be given time to prepare her/his case and the disciplinary hearing will normally be held not earlier than the fifth and not later than the tenth working day following notification. The disciplinary hearing shall be conducted in accordance with the procedure described in section 16 below.
- If following the disciplinary hearing it is decided to institute disciplinary action, one of the sanctions below may be applied.

#### **4. Disciplinary Sanctions**

The manager applying a disciplinary sanction should also give the employee specific guidance to encourage improvement. Any recorded disciplinary sanction must contain; details of actions to be taken to enable the employee to achieve improvement; a set timescale within which improvement expected to take place; and a plan for review to monitor and discuss progress with the worker. Actions may involve training, counselling or some other form of assistance that the manager/others will provide. Depending on the circumstances the following range of disciplinary sanctions may be applied:

##### **Stage 1 – Oral Warning**

If conduct or performance does not meet acceptable standards the employee will normally be given a formal oral warning by his/her manager. S/he will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of their right to appeal. A brief note of the oral warning detailing the complaint; the improvement required; the set timescale for improvement; the dates for review will be kept in the employee's personal file but will be disregarded for disciplinary purposes for six months.

##### **Stage 2 – Written Warning**

If performance is still unsatisfactory or the misconduct is a serious one, or if a further misconduct occurs, the employee will be given a written warning. This will give details of the complaint; the improvement required; the set timescale for the improvement and dates for

review. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement and will advise of the right to appeal. A copy of this written warning will be kept in the employee's personal file but will be disregarded for disciplinary purposes after 12 months.

### **Stage 3 – Final Warning**

If there is still a failure to improve conduct or performance, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal (in effect both first and final written warnings), a final written shall normally be given. This will detail the complaint and the steps to be taken as above, will warn that dismissal may result if there is no satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months (in exceptional cases duration may be longer).

### **Stage 4 – Dismissal**

If conduct or performance is still unsatisfactory and the employee fails to reach the prescribed standards, or if the offence constitutes gross misconduct, dismissal will normally result. The employee will be provided as soon as reasonably practicable, with written reasons for dismissal, the date on which his/her employment will terminate and be advised of the right of appeal. (Employees with one year's continuous service or more have the right, on request, to have a written statement or particulars of reasons for dismissal).

## **5. Disciplinary Offences Guideline**

Misconduct is defined as failure in personal conduct, persistent poor performance or deliberate infringement of policies, rules and procedures. In order that a consistent approach is made in treatment of disciplinary cases a suggested list of possible disciplinary offences as follows.

The list is provided as a guideline. The decision to take disciplinary action or the sanction imposed may vary according to the exact circumstances of the case. Reasons for disciplinary action may include but are not limited to:

- Dishonesty
- Breach of confidentiality
- Negligent use, misuse or unauthorised use of the Pre school's property including equipment, materials and information
- Health and safety issues, for example
  - Threatened physical abuse

- Abusive behaviour, offensive or obscene language or gestures directed at colleagues, parents and children.
- Failure to observe established health, fire and safety rules, and to report accidents or injuries whilst on duty.
- Smoking
- Creating or contributing to unsanitary conditions
- Performance related issues for example:
  - Serious neglect of duty which undermines the pre-school's policies
  - Failure over a period of time to perform work to satisfactory standards
  - Refusal to carry out a reasonable order of the manager
  - Misuse of the individual's employed position towards a fellow employee, parent or child including oppressive or abusive conduct; bullying, harassment or victimisation.
- Infringement of terms and conditions of service, for example
  - Persistent lateness
  - Absence from duty without permission of manager
  - Excessive sickness absences with no appropriate certificates or authorisation
- Failure to comply with policies, procedures and regulations as laid down by the pre-school from time to time;
- Engaging in or knowledge of activities on or off the premises which could be considered a discredit to the pre-school or its employees;
- Making a false statement of any kind within the realms of the pre-school's employment, knowing it to be false or having reckless regard as to either the validity or falseness of the statement.

## **6. Gross Misconduct**

Gross misconduct is defined as misconduct serious enough to destroy the employment contract between the pre-school and the employee which makes further working relationships and trust impossible. Gross misconduct is normally restricted to serious offences. The principal reasons for summary dismissal could include but are not limited to:

- Criminal offence which affects the individual's ability to carry out his/her job;
- Physical assault by an employee on any other person;
- Theft, misappropriation or unlawful destruction of property: the pre-school's employees' or others;
- Serious infringement of safety rules or negligence which causes unacceptable loss, damage or injury;
- Supplying security access codes to any unauthorised person;
- Unauthorised disclosure of information or misuse of trust of a serious nature;
- Making malicious or unfounded allegations of a serious nature;

- Deliberate falsification of any documents or claims, including time sheets, overtime or expense forms;
- Misconduct at work or away from work of such a serious nature as to bring into disrepute either the employee's position or the organisation;
- Sexual or racial discrimination;
- Harassment of a serious nature;
- Persistent alcohol or drug abuse;
- Failure to disclose unspent criminal conviction(s) or any convictions whether spent or not, in respect of posts exempt under the terms of the Rehabilitation of Offenders Act 1975;
- Providing false information on a job application form.

## **7. Suspension**

Suspension is not a disciplinary action and shall be on full pay. It should only take place where the allegation being investigated would, if substantiated, constitute gross misconduct or where it was considered in the best interest of all parties if the employee was not to remain at work. Such suspension will only be imposed after careful consideration and will be reviewed to ensure it is not unnecessarily protracted.

Normally the employee will be informed of his/her suspension at an interview with the manager and transport to the employee's home will be arranged. S/he is entitled to have a union representative or work colleague present at the meeting. In any case the manager will inform the worker in writing that s/he is to be suspended immediately: stating the nature of the alleged offence, the purpose of suspension, and its anticipated duration. A copy of this letter will be provided to the employee's representative.

Suspension in these circumstances should normally be for a period of 28 days or less. However, in exceptional circumstances, the period may be extended. The employee will be informed in writing specifying the duration of the extension and the reasons for it. In cases of alleged misconduct suspension may continue until the appeal process, if pursued, has been concluded.

## **8. Criminal Offence**

An employee will not be dismissed or otherwise disciplined simply because s/he has been charged with or convicted of a criminal offence. The consideration will be whether the conduct warrants action because of its employment implications. However, where the conduct requires the pre-school prompt attention; there will be no need to await the outcome of the prosecution before taking reasonable action.

Where the police are called in, they will not be asked to conduct any investigation on the pre-school's behalf; nor will they be present at any disciplinary hearing or interview.

## **9. Trade Union Representative**

No disciplinary action shall be taken against a trade union representative until the circumstances have been discussed with a full-time official of the trade union concerned.

## **10. Failure to attend a disciplinary hearing**

If an employee is unable to, or decides not to take part in any of the meetings under this procedure, s/he must notify the manager responsible for conducting the meeting in writing, specifying the reasons for non-attendance. This must be done 48 hours in advance of the meeting. If sickness prevents an employee from attending, then normal procedures for informing sickness apply.

If an employee does not attend a disciplinary hearing and does not provide prior written explanation giving reasonable justification of non-attendance, the manager will send the employee a recorded delivery letter. The letter will instruct him/her to attend a hearing at a new date which may include an additional charge of failure to attend and inform.

If the employee does not attend the disciplinary hearing at this new date and time and does not provide prior written explanation giving reasonable justification for non-attendance, the manager will proceed to hold the hearing at the set date inviting the employee's representative to be present. Such a hearing will normally include the additional charge of failure to attend and inform.

## **11. Appeal**

An employee may appeal against any formal disciplinary action taken under this procedure to the pre-school's Appeal Committee. An appeal may be lodged against the decisions of the disciplinary hearing as regard to finding and/or outcome. It may also be lodged against failure to follow this procedure adequately.

An employee wishing to appeal against a disciplinary decision must do so in writing to the manager within ten working days of receiving written notification of the disciplinary action, stating the reasons for the appeal. Any documents submitted in support of the appeal must be attached.

Arrangements for the appeal hearing will be made by the manager. The appeal shall be conducted in accordance with the procedure detailed in Section 15 below.

## **12. Employment Tribunal**

Nothing in this procedure shall affect an employee's right to make a complaint to an Employment Tribunal in accordance with relevant employment legislation. It is recommended that before taking such action the worker seeks appropriate legal advice.

### 13. Disciplinary Sanctions Table

Sanction	Lowest Level of Management Authorised to Impose Sanction
Informal Action	Manager
Suspension	Church Leadership
Extension of Suspension period	Church Leadership
Oral Warning (recorded)	Manager
Written Warning	Church Leadership
Final Warning; dismissal of probationary employees	Church Leadership

### 14. The Disciplinary Hearing

The Disciplinary Officer (Church Leadership representative) will conduct the disciplinary hearing.

The manager who has conducted the investigation will be the Presenting Officer responsible for presenting the case against the employee. (Where the sanction recommended by management is a recorded oral warning, the Disciplinary Officer and Presenting Officer may be one and the same i.e. the manager)

The employee has the right to be accompanied and assisted by a trade union representative or work colleague (or friend).

Where possible, a note-taker, who must be uninvolved in the case, will take down a record of the proceedings.

Witnesses should not be present throughout the hearing. They should be called in, one by one, to give their evidence and asked to withdraw once they have done so.

- I. The Disciplinary Officer will open the proceedings with an explanation of the purpose of the hearing and the procedure to be followed, introducing those present. S/he will read aloud the allegations and ask the employee if she/he wishes to take the opportunity to admit or deny them.
- II. If the employee admits the allegations, s/he will be asked if they or their representative wish to offer any explanation for the misconduct or to have any mitigating circumstances taken into account
- III. The hearing will then proceed to stage (XV) below.
- IV. If the employee denies the allegations, the following steps will take place:
  - V. The presenting officer will state the case against the employee in the presence of the employee and his/her representative.
  - VI. The employee or his/her representative shall be given the opportunity to reply to the allegations and ask questions of the Presenting Officer.

- VII. The Presenting Officer may call witnesses.
- VIII. The employee or his/her representative shall have the opportunity to question any witnesses called by the Presenting Officer.
- IX. The Disciplinary Officer may ask questions for clarification of the Presenting Officer and any witnesses.
- X. The employee or his/her representative shall put the employee's case in the presence of the Presenting Officer.
- XI. The Presenting Officer shall have the opportunity to ask questions of the employee, his/her representative and of any witnesses called by the employee.
- XII. The Disciplinary Officer may ask questions for clarification of the employee, his/her representative and any witnesses called by the employee.
- XIII. The Presenting Officer shall have the opportunity to sum up the case against the employee, but may not introduce any new material.
- XIV. The employee or his/her representative shall have the opportunity to sum up the employee's case, but may not introduce any new material.
- XV. The employee, his/her representative, the Presenting Officer and the note-taker shall withdraw.
- XVI. If recall is necessary both parties are to return regardless of the point giving rise to doubt.
- XVII. The Disciplinary Officer shall consider the case in private.

S/he (they) must first decide whether on the balance of probabilities, taking due regard of all the facts, the case against the employee is proven.

If the case against the employee is proven, and before imposing a disciplinary penalty s/he must consider:

- The level of disciplinary penalty indicated by the procedure
  - Any special mitigating circumstances which might make it appropriate to lessen the penalty;
  - The worker's disciplinary record, general record, age, position and length of service;
  - Whether there are any other 'live' warnings;
  - How the pre-school has dealt with similar cases in the past;
  - Whether the proposed penalty is reasonable in view of all circumstances
- XVIII. The Disciplinary Officer shall inform the employee of the decision at the conclusion of the deliberations, if practicable. In any case s/he shall provide the employee with written confirmation of the decision within five working days of the hearing. This will include notifying the employee of his/her right of appeal and the procedure to be followed.

If at any time during the proceedings it becomes apparent that there is no case for the employee to answer, an immediate adjournment may be called by the Presenting Officer.

The hearing may be adjourned by either side or by the Disciplinary Officer if it is considered necessary to gather further information or evidence or clarify any issue. The hearing will be reconvened as soon as possible.

## **15. Appeals Procedure**

An employee may appeal against any formal disciplinary action taken under this procedure to the pre-school's Appeal Committee. An appeal may be lodged against the decisions of the disciplinary hearing as regard to finding and/or outcome. It may also be lodged against failure to follow this procedure adequately.

Where a probationary employee is dismissed, s/he shall have the right of appeal against the decision.

An employee wishing to appeal against a disciplinary decision, must do so in writing to the church leadership representative within ten working days of receiving written notification of the disciplinary action, stating the reasons for the appeal. Any documents submitted in support of the appeal must be attached.

Arrangements for the appeal hearing will be made by the church leadership representative who will ensure that a minute taker is present. The appeal shall be conducted in accordance with the procedure set out below.

The Appeals Panel is the Church Leadership, excluding those who were members of the Disciplinary Panel who made the decision which is subject of the appeal. Three members of the church leadership will constitute an Appeals Panel, one of whom will be the panel's Chair person.

The employee may be accompanied by a union representative or a work colleague (or friend) of his/her choice at any appeal hearing.

The management representative at the appeal hearing will be the Disciplinary Officer (Church Leadership representative) responsible for the decision which is the subject of the appeal.

The appeal will be heard as soon as possible but not later than 20 working days from the date of receiving the employee's request for appeal.

The date and time of any appeal hearing shall be agreed between the employee, the union representative/work colleague (or friend), the management representative and the Panel members.

The appeals process provides the opportunity for the Appeals Panel to consider any new evidence not previously presented; whether the decision of the disciplinary hearing was reasonable in the circumstances; or whether the disciplinary procedure was followed adequately.

## **Conduct of Appeal Hearings**

The Chair of the Appeals Panel will conduct the hearing as follows:

- I. The Chair of the Panel will open the proceeding with an explanation of the purpose of the hearing and the procedure to be followed, introducing those present. S/he will read aloud the employee's reason for lodging an appeal as submitted in writing to the Chair.
- II. The employee and/or his/her representative will put his/her case in the presence of the management representative outlining the grounds for the appeal and the reasons why they feel the original decision was incorrect. The employee or his/her representative shall call any witnesses or refer to any documents as necessary. Witnesses shall be called in turn and for each witness the procedure shall be:
  - a) The employee or representative question the witness
  - b) The management representative questions the witness
  - c) The Appeals Panel question the witness
- III. The management representative will ask questions of the employee and/or representative.
- IV. The Appeal Panel will ask questions of the employee and/or representative.
- V. The management representative will put the case for disciplinary action in the presence of the employee and his/her representative calling witnesses and referring to documents, as necessary. Witnesses shall be called in turn and for each witness the procedure shall be as in (ii) above.
- VI. The employee and/or representative will ask questions of the management representative.
- VII. The Appeal Panel will ask question of the management representative.
- VIII. The management representative and the employee and/or his/her representative will sum up their respective cases and then withdraw.
- IX. The Appeals Panel will consider the case in private. The decision of the Panel shall be notified to the employee verbally at the end of the Hearing in the presence of the management representative and shall be confirmed in writing within five working days of the hearing.
- X. The decision of the Appeals Panel will be final.

## **16. Records**

Records will be kept detailing:

- The nature of any breach of disciplinary rules or unsatisfactory performance;
- The employee's defence or mitigation;
- The action taken and the reasons for it;
- Whether an appeal was lodged and its outcome;
- Any subsequent developments and

- Copies of all correspondence relating to this procedure including recorded oral warnings and written warnings.

These records will be kept confidential and retained in accordance with this disciplinary procedure and the General Data Protection Regulation (GDPR) 2018. Employees will be entitled to have access to their own records in accordance with the Act. Copies of any hearing records will be given to the employee concerned.

Also see 'Prevent Duty' policy.

Signed ..... Manager

Date.....