

Low Farm Nursery and Therapy Centre Performance Management and Disciplinary Procedures

Written by Ruth Lo October 2015

Reviewed September 2019

Review September 2020

INTRODUCTION

Low Farm Therapy Centre (hereafter known as the Centre) requires good standards of discipline from its employees. These disciplinary procedures apply to any misconduct, which may include failure to meet Centre standards. The procedure is referred to in your Contract of Employment but is not contractual. This procedure should be read with reference to the 'Code of Conduct.'

The purpose of the procedure is to be corrective rather than punitive and it should be recognised that the existence of procedures such as these is to help and encourage employees to achieve and maintain standards of conduct and to ensure consistent and fair treatment for all employees.

If an employee's standard of work or conduct falls and, after warnings, remains below the level which is acceptable, they may be dismissed.

Summary dismissal without notice will take place if an act of gross misconduct is committed. Gross misconduct can be any deliberate act by an employee that is detrimental to the good conduct of the Centre's business. Examples of misconduct and gross misconduct are listed below.

EXAMPLES OF MISCONDUCT

The following is a non-exhaustive list of examples of offences which amount to misconduct falling short of gross misconduct:

- Unauthorised or frequent absence from work
- Persistent lateness
- Smoking on the premises
- Contravention of minor safety regulations
- Non-submission of medical certificate
- Unsatisfactory job performance

EXAMPLES OF GROSS MISCONDUCT

The following is a non-exhaustive list of examples of offences which may amount to gross misconduct:

- Dishonesty
- Falsification of the Centre's records
- Failure to comply with relevant statutory or regulatory requirements
- Serious insubordination
- Violent, abusive or intimidating conduct

- Deliberate damage to the Centre's property
- Unauthorised use or disclosure of confidential information
- Attending work under the influence of alcohol or non-medically prescribed drugs, or bringing these into the workplace.
- Any action likely to bring the Centre into disrepute
- Sleeping on duty
- Breach of Health and Safety rules which endanger the health and safety of others
- Failure to disclose correct information on your application form
- Conviction for any serious criminal offence while an employee of the Centre
- Obscene or indecent behaviour or sexual misconduct
- Downloading or circulation of offensive material
- Wilful refusal to obey a reasonable management instruction or request
- Harassing or victimising another employee/child/parent/carer on the grounds of race, colour, ethnic origin, national origin, religion or belief, gender, sexual orientation, marital status, age and/or disability
- Unauthorised possession of Centre property or the property of another employee or employees
- Serious breach of health and safety rules
- Leaving the premises without permission
- Failure to follow parents' preferences or requests e.g. dietary requirements, administering of medicines
- Not being aware of a child's location
- Use of inappropriate language e.g. in front of children

DISCIPLINARY PROCEDURE

INFORMAL ACTION

In the first instance the Centre will always endeavour to deal with any problems in an informal manner. If the problem is not resolved informally, is of a more serious nature, or is not appropriate to use at this stage, the formal procedure below will be instituted.

FORMAL ACTION

1. The Head of Centre will investigate and identify the conduct of the employee. If he/she decides that action is needed the following steps will be taken.
2. The Head of Centre will set out in writing the allegations against the employee. This will be sent or given to the employee and a meeting will be arranged for the matter to be discussed.
3. The Head of Centre will arrange a meeting which will be held without unreasonable delay but allowing the employee reasonable time to consider the allegations. The purpose of the meeting is to put to the employee the behaviour alleged and to allow the employee to put his/her response to the allegations.
 - 3.1. The employee has a duty to attend the hearing. Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause the Head of Centre should make a decision on the evidence available.
 - 3.2 If the circumstances demand it, then the meeting may be arranged without notice.

- 3.3 The employee has the right to be accompanied to the meeting by a work colleague or trade union representative.
- 3.4 The meeting will be held at a reasonable time and in a convenient location taking into account the needs of those attending.
- 3.5 A written record of the discussions will be made and placed in the employee's personnel file.

4. After the meeting has been held the Head of Centre will issue one of the following outcomes. For each of these they will decide what standard is required of the employee and what, if any, assistance will be offered to the employee (e.g. training) and the timescale for that standard to be reached. This will be communicated in writing within a reasonable time and a copy will be placed on the employees personnel file.

- **No further action.** For instance where, after investigation, the employee's conduct is found to be of the standard required.
- **First Written Warning.** Where misconduct is confirmed this will be given and remains active on the employee's personnel file for 12 months. A further act of misconduct or failure to improve performance within a set period would normally result in a final written warning.

A first or final written warning should set out the nature of the misconduct or poor performance and the change in behaviour or improvement in performance required (with timescale). The employee should be told how long the warning will remain current. The employee should be informed of the consequences of further misconduct, or failure to improve performance, within the set period following a final warning. For instance that it may result in dismissal or some other contractual penalty such as demotion or loss of seniority.

- **Final Written Warning.** This remains active on the employee's personnel file for 12 months and may be given where there is serious misconduct or repeated failure to meet standards previously set.
- **Action short of dismissal** (e.g. demotion). This may be imposed where it is decided that such action is necessary to enable the employee to meet the standards of conduct required. If no alternative can be found, dismissal may be imposed.
- **Dismissal.** This may be imposed when all other avenues are exhausted and/or when the employee is unable to meet the standard(s) required. The employee should be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal. An employee may be dismissed for a single incidence of gross misconduct. If the employee commits an act of gross misconduct, his employment may be terminated summarily, without payment of notice.

5. The employee will be given the opportunity to appeal against the decision. The employee will have 5 days to decide whether or not he/she wishes to appeal. The employee should address his/her appeal to Pascale Lo on behalf of Lo and Lo Education, setting out, in writing, the grounds upon which he/she wishes to appeal. Lo

and Lo Education, with 2 independent panel members with senior experience in HR, education or healthcare, will arrange a meeting with the employee which will be held within a reasonable period of time. Clauses 3.1 to 3.5 will apply to any appeal meeting(s).

6. After the appeal meeting Lo and Lo Education will write to the employee to inform him/her of the decision. This should take place within a reasonable period of time and the decision will be final and binding. There is no further right of appeal.

RULES FOR SUSPENSION OF STAFF

The Centre may suspend an employee during the disciplinary process. Suspension is entirely within the discretion of the Centre and, prior to any disciplinary hearing, will be on full basic pay. Suspension on full pay is *not* disciplinary action, does not imply guilt or blame and will be for as short a period as possible.