



Disciplinary Policy

Introduction

It is necessary for the proper operation of the company's business and the health and safety of employees that the company operates a disciplinary procedure. The following procedure will be applied fairly in all instances where disciplinary action is regarded as necessary by the company's management other than where an informal warning is given for any minor act of misconduct committed by an employee.

Kids Club Ely Ltd reserves the right to implement the procedure at any stage as set out below taking into account the alleged misconduct of an employee.

Where time limits are referred to in the course of this procedure they may be varied by agreement between the employee and the company.

Employees have the right to be accompanied at a disciplinary hearing by: a fellow worker; a trade union official employed by the union; or a trade union official who is certified in writing by the union as having the necessary experience or training to act as a companion.

Matters that the organisation views as amounting to disciplinary offences include (but are not limited to):

- persistent bad timekeeping;
- unauthorised absence;
- damage to the organisation's property;
- failure to observe the organisation's procedures;
- abusive behaviour;
- unreasonable refusal to follow an instruction issued by a manager or supervisor;
- absences that are not genuine or not for the reason provided;
- data protection breaches and misuse of the organisation's information;
- smoking [or use of an e-cigarette] in non-designated areas of the organisation's premises; and
- bribery offences under the Bribery Act 2010.

Investigation

An employee's supervisor or manager (or, where appropriate, a different manager) will promptly and thoroughly investigate any matter that is reasonably suspected or believed to be contrary to any of the company's policies or rules or be considered to be a disciplinary matter. The employee will be informed as soon as possible as to the fact of an investigation and when it has been concluded.

There may be instances where suspension with pay is necessary while investigations are carried out. Kids Club Ely Ltd has the right to suspend with pay where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised before a disciplinary hearing, or if there is a potential risk to the business or other employees or third parties in allowing the employee to remain at work. Suspension is not, in itself, a form of disciplinary sanction.

Depending on the circumstances of the case, the employee may be invited to attend an investigatory interview. The employee will be informed at the outset that the interview is an investigatory interview. There is no right for employees to be accompanied at an investigatory interview. Kids Club Ely Ltd reserves the right to dispense with an investigatory interview and to proceed directly to a disciplinary hearing.

Procedure

Where, upon completion of an investigation, there are reasonable grounds to believe that there is a disciplinary case to answer, the employee will be invited to attend a disciplinary hearing before the employee's manager or the company directors.

In the event of a disciplinary hearing taking place Kids Club Ely Ltd will:

- a. give the employee a minimum of two working days' notice of the hearing;
- b. tell the employee the purpose of the hearing, its possible consequences and that it will be held under the company's disciplinary procedure;
- c. explain the employee's right to be accompanied at the hearing;
- d. give the employee written details of the nature of their alleged misconduct; and
- e. provide to the employee all relevant information (including statements taken from any fellow employees or other persons that the company intends to rely upon against the employee) not less than two working days in advance of the hearing.

Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the time and/or date of the hearing will be rearranged.

Kids Club Ely Ltd will comply with (a) above in respect of giving notice of the rearranged hearing. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, the rearranged hearing will take place in the employee's absence. The employee's companion may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

Where the chosen companion is unavailable on the day scheduled for the hearing, the employee may request that the hearing be rescheduled to an alternative time that is reasonable and within five working days of the scheduled date.

Role of companion

The employee's companion has the right to address the hearing to put the employee's case, sum up the case and respond on the employee's behalf to any view expressed at the hearing. The companion may also confer with the employee during the hearing. However, there is no requirement for Kids Club Ely Ltd to permit the companion to answer questions on behalf of the employee, or to address the hearing where the employee indicates that they do not wish this.

Recording of meetings

The employee, or any person acting on their behalf, is not permitted to record electronically any meeting held by Kids Club Ely Ltd as part of the disciplinary process. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.

In certain limited circumstances, Kids Club Ely Ltd may permit the meeting to be recorded electronically. For example where the employee is disabled, it may be appropriate as a reasonable adjustment under the Equality Act 2010. Where the organisation permits the meeting to be recorded electronically, it will take responsibility for making the recording.

Data protection

Kids Club Ely Ltd processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with its Data Protection Policy.

In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with Kids Club Ely Ltd's data

protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.

The disciplinary hearing

A disciplinary hearing will normally be conducted by the employee's manager together, as required, with a note-taker.

Any member of management responsible for the investigation of the disciplinary offence(s) shall not be a witness for the investigation.

The employee will be entitled to be given a full explanation of the case against them and be informed of the content of any statements provided by witnesses in advance of the hearing. They will be permitted to set out their case and answer any allegations. The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given the opportunity to raise points about any information provided by witnesses. Where the employee intends to call relevant witnesses, they should give advance notice to Kids Club Ely Ltd that they intend to do this.

Kids Club Ely Ltd may adjourn the disciplinary proceedings if it appears necessary or appropriate to do so (including for the purpose of gathering further information). The employee will be informed of the likely period of any adjournment. If further information is gathered, the employee will be allowed a reasonable period of time, together with their companion, to consider the new information prior to the reconvening of the disciplinary proceedings.

As soon as possible after the conclusion of the disciplinary proceedings, the company will convey the decision to the employee and will also inform the employee what disciplinary action, if any, is to be taken. The decision will be confirmed in writing. The employee will be notified of their right of appeal under this procedure.

Disciplinary action

Where, following a disciplinary hearing, Kids Club Ely Ltd reasonably believes that the employee has committed a disciplinary offence, the following disciplinary action may be taken:

- a. Where a minor offence or offences have been committed, a recorded oral warning may be given. The warning will:
 - i. set out the nature of the offence committed;
 - ii. inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
 - iii. specify the period for which the warning will remain "live", after such period the organisation will review the warning and:

- iv. state that the employee may appeal against the warning.
- b. Where either a more serious disciplinary offence has been committed or following a recorded oral warning that remains "live", a further minor offence or offences have been committed by an employee, the employee will receive a first written warning. The warning will:
 - i. set out the nature of the offence committed;
 - ii. inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
 - iii. specify the period for which the warning will remain "live", after such period [the organisation will review the warning/the warning will automatically lapse]; and
 - iv. state that the employee may appeal against the warning.
- c. Where a serious disciplinary offence amounting to gross misconduct has been committed, thereby justifying summary dismissal, but the company decides, after taking into account all relevant circumstances, that a lesser penalty is appropriate, or, where an employee commits further disciplinary offences after a first written warning has been issued and remains "live", a final (or combined first and final) written warning may be given. Such a warning will:
 - i. set out the nature of the offence committed;
 - ii. inform the employee that further misconduct is likely to result in their dismissal;
 - iii. specify the period for which the warning will remain "live", after such period the organisation will review the warning and:
 - iv. state that the employee may appeal against the warning.
- d. Where the employee has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given under c. above, the company may elect to dismiss with notice or payment in lieu of notice.
- e. Where the company reasonably believes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed without notice.
- f. Where a final written warning is given to an employee under c. above, the company may also impose on the employee:
 - i. disciplinary suspension without pay;
 - ii. loss of seniority;
 - iii. in line with any provision in the contract of employment, transfer to a job of a lower status.

The above sanctions may be imposed in conjunction with other forms of disciplinary action, or as an alternative to dismissal.

Expired warnings

Expired warnings, together with any associated documentation, will not be retained on an employee's personnel record and will be destroyed and deleted.

Appeal

An employee may appeal against any disciplinary sanction imposed against them, with the exception of an informal oral warning. Wherever possible, the appeal will be heard by a senior manager who has not been involved in the decision to impose the disciplinary sanction on the employee.

The appeal manager is obliged to consider any representations made by the employee, the employee's companion and those of the manager who conducted the investigation and the manager who conducted the disciplinary hearing and imposed the disciplinary sanction.

Should any new evidence be introduced on appeal, the employee will be given the opportunity to consider it and raise comments. Once the relevant issues have been thoroughly explored, the appeal manager will decide whether or not to uphold the disciplinary sanction. In the event that the appeal manager finds for the employee, the appeal manager shall allow the appeal and shall remove all records of the disciplinary sanction from the employee's record.

In the event that the appeal manager does not find for the employee, the senior manager must uphold the disciplinary sanction. In the event that the appeal manager partially finds for the employee, the appeal manager shall partially allow the appeal and impose a lesser disciplinary sanction.

When lodging an appeal, the employee should state:

- a. the grounds of appeal; and
- b. whether they are appealing against the finding that they committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

The employee must provide written notice of the appeal within five working days of being informed of the disciplinary sanction being imposed against them.

Appeal hearings will normally take place within 10 days of receipt of the employee's written notice of appeal.

Upon completion of the appeal, the appeal manager will convey their decision to the employee. The decision will be confirmed in writing within ten days. Kids Club Ely Ltd's decision at the appeal is final.

Where there is an appeal against a dismissal, an employee will not be entitled to be paid or reinstated (unless they are entitled to notice) between the date of dismissal and the conclusion of the appeal process. In the event however that the decision to dismiss is overturned on appeal, the employee will be reinstated with immediate effect and they will be paid for any period between the date of the original dismissal and the successful appeal decision. Their continuous service will not be affected.

Gross misconduct

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee Kids Club Ely Ltd. In the event that an employee commits an act of gross misconduct, Kids Club Ely Ltd will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.

Matters that the company views as amounting to gross misconduct include (but are not limited to):

- theft or fraud;
- other offences of dishonesty;
- unauthorised absence;
- falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee;
- falsification of records including reports, accounts, expense claims or self-certification forms, whether or not for personal gain;
- data protection breaches, disclosure of company documents, trade secrets and other confidential information to unauthorised third parties;
- indecency;
- physical violence or bullying;
- deliberate damage to or misuse of property;
- gross insubordination;
- the use or distribution of illegal drugs while at work;
- serious incapability at work brought on by alcohol;
- possession, custody or control of illegal drugs on the organisation's premises;
- serious breach of the organisation's rules, including, but not restricted to, health and safety rules and rules on computer use;
- gross negligence;
- conviction of a criminal offence that is relevant to the employee's employment;
- misuse or abuse of social media in and outside work;
- deliberately accessing pornographic, offensive or obscene material;
- making covert recordings of colleagues or managers;
- conduct that brings the organisation's name into disrepute; and
- unlawful discrimination or harassment.

Other acts of misconduct may come within the general definition of gross misconduct.

This policy is non-contractual and the company may make changes to it from time to time.