

Safeguarding and Welfare Requirement: Suitable people
Providers must ensure that adults looking after children, or having unsupervised access to them, are suitable to do so.

Data

Providers must retain records, policies and procedures required for the safe and efficient management of the setting and to meet the needs of the children



7.2 DISCIPLINARY and GRIEVANCE PROCEDURE

Policy Statement

This policy applies to all employees and is designed to ensure that employees are treated fairly, reasonably and consistently. It complies with the statutory requirements regarding grievances and reflects best practice and the ACAS code of practice.

N.B. Decision makers should also refer to the 'ACAS Guide on Disciplinary and Grievance' for further information, sample letters, preparation for meetings and advice on making grievance decisions.

If an employee is dissatisfied, they must have the opportunity for prompt discussion with their immediate manager. For the Manager, this would normally be the committee chairperson. If the grievance persists, a management panel should be set up for the purpose of further discussion, at which the employee may, if s/he wishes, be accompanied by a work colleague or trade union representative.

Procedures

The aim of this procedure is to settle the grievance fairly and as near as possible to the point of origin. It is intended to be simple and rapid in operation. There is a right of appeal, to the full Playgroup committee. At this level also, the employee's work colleague or trade union official may be present. Employees are entitled to be accompanied at all stages of the grievance procedure.

- **Standard statutory minimum procedure**

Feltwell Playgroup committee must ensure that the following statutory minimum procedure is always followed when grievances have been raised by employees. They should also ensure that it is followed if there is an issue raised about an employee. The procedure in both instances consists of the following three steps:

- **Step 1: Statement of grievance -**

The employee must set out the grievance and the basis for it in writing and, send the statement or a copy of it to the committee.

The committee must set out the grievance and the basis for it in writing and send the statement or a copy of it to the staff member.

- **Step 2: Meeting -**

The committee must invite the employee to attend a meeting to discuss the grievance. The meeting must not take place unless the employee has informed the committee (or vice-versa) what the basis for the grievance is when they made the statement under step 1 and they have had a reasonable opportunity to consider their response to that information. The employee must take all reasonable steps to attend the meeting. After the meeting, the committee must inform the employee of its decision as to the response to the grievance in writing and notify them of the right to appeal against the decision if they are not satisfied with it. The employee should be notified of the decision within 5 days of the meeting. Any appeal must be submitted within 5 days of the date of the decision letter.

- **Step 3: Appeal -**

If the employee does wish to appeal, they must inform the committee in writing. If the employee informs the committee of their wish to appeal, the committee must invite them to attend a further meeting. The employee must take all reasonable steps to attend the meeting. After the appeal meeting, the committee must inform the employee of its final decision.

- **Hearing the appeal**

Any appeal hearing should be heard, if possible, within 15 days of receipt of the appeal. Two or three committee members - not, if possible, those involved in the initial grievance meeting - will serve as an appeals committee. If this is not possible, the appeal group may consist of the same people as the previous panel and they must make every effort to hear the appeal as impartially as possible. A written record of the meeting will be kept.

- **Modified statutory procedure**

A modified procedure will apply in the following cases:

- the (former) employee is no longer employed by the Playgroup;
- the standard grievance procedure had not commenced or, if it had been commenced, had not been completed before the last day of the employee's employment; and
- the parties have agreed in writing, after the Playgroup became aware of the grievance, that the modified grievance procedure should apply in relation to that grievance.
- In such circumstances the following procedure will apply:

- ❖ **Step1 – Statement of grievance**

The employee or the committee must set out in writing the grievance and the basis for it and send a copy of it to the relevant party. If the employee wishes for the modified procedure to be followed after the employment has ended, then they must include this in their statement at step 1 of the process. The committee can decide whether to allow the employee's request for them to respond in writing or to insist that a meeting takes place in line with the standard grievance procedure.

- ❖ **Step 2 – Response**

The committee must set out in writing its response and send the statement or a copy of it to the former employee or the employee must do the same to the committee.

- **Time scales**

Each step and action under the grievance procedure must be taken without unreasonable delay. Early meetings to resolve grievances will help to facilitate resolution of issues. Consideration should be given to timings and locations of meetings to ensure that the employee and their representative are able to attend. Two reasonable attempts by the committee to arrange a meeting will normally be sufficient if they prove abortive because of the employee's non-attendance. If an employee is not able to attend the first grievance meeting arranged then they will be required to provide an alternative date to take place within 5 days of the original date given by the committee. Failure to do so will normally result in the grievance processes being aborted unless there are extenuating circumstances or - in the case of the Playgroup disciplining an employee - the grievance being upheld.

- **Employment tribunals**

If an employee wishes to use a grievance as the basis of a complaint to an employment tribunal they must first complete step one of the statutory grievance procedure. Employment tribunals may adjust any award of compensation by between 10 and 50 per cent for failure by either party to follow relevant steps of the statutory procedure. Failure to do so might mean that an Employment Tribunal will refuse to deal with any claim the employee might subsequently make.

- **Minor Disagreements**

It is recognised that staff, committee or parents may have disagreements or grievances from time to time on a wide variety of issues, including:

- terms or conditions of contract;
- supervision or management;
- discrimination on the grounds of race, sex, disability, sexual orientation, religion or belief;
- sexual harassment;
- bullying;
- health and safety;
- overloading.

These can usually be resolved informally by discussion, if necessary, with the help of the Early Years Advisor and are outside the limit of the disciplinary and grievance procedure.

• **Disciplinary Procedure**

A more serious situation arises when a dispute/grievance cannot be resolved, or when the Playgroup is dissatisfied with the conduct or activities of an employee.

Instant dismissal is possible only in extreme circumstances of gross misconduct such as:

- Ill-treatment of children;
- Theft or fraud;
- Assault;
- Malicious damage;
- Gross carelessness which threatens the health and safety of others;
- Being unfit through drugs or alcohol.

Otherwise an employee will not be dismissed without the appropriate warnings.

Any disciplinary matter will normally be dealt with in three stages:

- An oral warning;
- A written warning;
- Notice of dismissal.

The employee may be accompanied by a friend or trade union official at each stage if they wish and that person may speak on the employee's behalf.

- If an oral warning is given:
 - ❖ The Playgroup chairperson who will explain the complaint, should interview the employee;
 - ❖ The employee will be given the chance to state their case;
 - ❖ If the warning is still considered to be appropriate, the employee will be told:
 - What action should be taken to correct the conduct;
 - That they will be given reasonable time to rectify matters;
 - That if they fail to improve then further action will be taken;
 - That a record of the warning will be kept;
 - That they may appeal against the decision.

If matters are rectified within the given time the record of the verbal warning on the individuals file will be destroyed.

- If the employee fails to correct their conduct and further action is necessary:
 - ❖ The employee will be interviewed and given the opportunity to state their case, as before.
 - ❖ If the need for disciplinary action is established, a letter will be sent to the employee immediately.
 - ❖ The letter will:
 - Contain a clear reprimand and give the reasons for it;
 - Explain what corrective action is required and that reasonable time will be given for improvement;
 - Warn that failure to improve will result in further action being taken;
 - Explain that the employee has the right to appeal against the decision;
- If the employee still fails to correct their conduct, then:
 - ❖ the employee will again be interviewed and given the opportunity to state their case;
 - ❖ If the decision is to dismiss, the employee will be given notice of dismissal, stating the reasons for the dismissal and giving details of the right to appeal.

Suspension

If the circumstances appear to warrant instant dismissal, an employee may be suspended while investigations are made.

Where a member of staff or volunteer is dismissed from Playgroup or disciplined because of misconduct relating to a child, the safeguarding officer will notify LADO (the Local Authority

Designated Officer) and Ofsted so that the misconduct can be investigated and any further action taken. This could result in the staff or volunteers name being included on the List for the Protection of Children and Vulnerable Adults.

Employees Rights

- All employees have rights regardless of length of service. These include the right:
 - Not to be discriminated against on grounds of race;
 - Not to be discriminated against on grounds of sex or marriage;
 - To equal pay with members of the opposite sex doing similar work or work of a similar value;

- To an itemised pay statement;
 - To statutory Sick Pay (if earnings exceed a specific amount each week);
 - To a safe working environment in line with the requirements of the Safety At Work Act 1974, plus subsequent regulations;
 - To reasonable time off for public duties (this need not be paid time off);
 - To paid time off for normal ante-natal check-ups;
 - To belong to a trade union and take part in its activities;
 - Not to be unfairly dismissed for union activities;
- Other rights are dependent on length of service. These include:
 - Within trial period (usually 6 months):
 - ❖ The Playgroup need not give any notice to an employee still within their trial period.
 - After the trial period but within 2 years:
 - ❖ All staff members must be given a written contract of employment, stating the terms and conditions of the post;
 - ❖ Such a statement must also be provided for people who have been employed for 5 years or more, or who now work for 8 hours or more per week and previously worked 10 hours or more;
 - ❖ The contract must give information about the job title, pay hours of work, holidays and holiday pay, sickness and sickness pay, pensions, pension schemes (if applicable) and notice;
 - ❖ It must also tell the employee of any disciplinary rules which apply to their job and set out the procedure for dealing with disciplinary decisions and grievances;
 - ❖ Any changes in these terms and conditions, once they have been accepted, must be notified to the employee at least 4 weeks before they come into effect;
 - ❖ A written statement of reasons for dismissal.
 - After 2 years:
 - ❖ Maternity pay, if enough National Insurance contributions have been paid,
 - ❖ The right to return to work after maternity leave, except in organisations with 5 or fewer employees,
 - ❖ The right not to be unfairly or wrongfully (in breach of contract) dismissed;
 - ❖ Redundancy Pay. This is awarded to any Playgroup employee who loses their job because of the closure of the Playgroup or a decrease in the number of children attending the group (providing they have worked in the same Playgroup for 16 hours or more per week for at least 2 years, or 8 hours or more per week for at least 5 years). The Playgroup must pay any employee over the age of 41, one and a half weeks salary for each full year of service, between the ages of 22 and 41, one week's salary for each full year's service and between the ages of 16 and 21, half a week's salary for each full year of service. The salary scale is the one in use at the time the employee is declared redundant;
 - ❖ Employees are also entitled to reasonable time off (not necessarily with pay) to look for another job or make arrangements for training for further employment.

An employee cannot claim unfair dismissal if they are made redundant provided that they have not been unfairly selected for redundancy.

Legal Framework

The Employment protection act 1996 re: employee's rights.

Health and safety at work act 1974 and subsequent regulations.

This policy was adopted by	Feltwell Playgroup
On	11.05.2021
Date to be reviewed	(on or before) 11.05.2022
Signed on behalf of the provider	S.N.
Name of signatory	Samantha Newman
Role of signatory (e.g. chair, director or owner)	Committee Chairperson