

DISCIPLINARY POLICY AND PROCEDURE

Purpose and Scope

1. This Disciplinary Policy and Procedure for My Child Has A Speech Delay CIC is non-contractual and sets out how any issues with employee standards of conduct, attendance and job performance will be dealt with. The aim of this Disciplinary Policy and Procedure is to ensure consistent and fair treatment for all employees. If an employee has any queries in respect of this procedure, they should contact The Director.

Primary Principles

2. Employees are expected to know the standard of conduct or work expected of them.
3. Depending on the severity of the employee's alleged misconduct, the employer may at its discretion start the procedure at any of the below stages.
4. A final decision on a disciplinary sanction will not be taken against an employee without the employer carrying out what it reasonably believes in the circumstances to be an appropriate level of investigation.
5. A formal disciplinary sanction will not be taken against an employee without the employee being advised of the nature of the problem. The employee will also have the opportunity to state their case at a formal disciplinary meeting before a final decision is taken.
6. Except where an employee has been found to have committed a gross misconduct offence, or is still serving their probationary period, no employee will be dismissed for a first breach of discipline.
7. An employee can appeal against any disciplinary action taken by the employer.
8. Disciplinary matters will be dealt with confidentially, so far as is reasonably possible and employees should keep confidential any information they learn in relation to any disciplinary matter (unless they are the subject of the investigation and disclosure is required to prepare for a meeting under this procedure).
9. The employer may suspend an employee on full pay and benefits, including:
 - a. Performance based pay or benefits such as:
 - bonusat any stage of the disciplinary process, whilst an investigation is completed into an employee's conduct.
10. The employee agrees that if the employer requests, they will not contact clients, employees, suppliers or other business contacts of the employer whilst suspended from work. The period of suspension will be as short as is reasonably practicable in the circumstances and is not a disciplinary penalty, or an indication as to the decision that will be made once the investigations have been completed by the employer.
11. My Child Has A Speech Delay CIC 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 My Child Has A Speech Delay CIC's Data Protection Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.

Informal Discussions

12. Where possible and appropriate the employer will initially deal with disciplinary matters informally. This will take the form of the employee's line manager speaking with them in confidence about the disciplinary issue(s), making a confidential note for the employee's personal file and monitoring them informally to see if there is an improvement. Only if this does not resolve the issue(s) or the matter cannot be dealt with adequately informally, will the employer start the formal procedure.

Formal Procedure

13. Stage 1 - Formal Meeting

- a. An employee will usually be invited to a formal meeting in writing and given at least two (2) working days' notice. If required, there may be an investigatory interview before this meeting. At the meeting, the person chairing will explain the complaint against the employee and go through the evidence, giving the employee the opportunity to ask questions, present their case and respond to allegations including responding to witness statements (although an employee will not usually question witnesses directly). If the employee wishes to call a witness they should notify the employer at least 24 hours before the meeting.
- b. The employee will be advised that they are able to bring a companion to the meeting with them. The employee's choice of companion will be agreed to if they are either a colleague, a trade union official or a trade union representative (which if not an employed official, must be certified by their union as competent to accompany a worker) and under the circumstances, the employee has made a reasonable request to be accompanied. The employee should advise the employer of the identity of the companion (or any change in their choice of companion) and whether they will require any special adjustments to be made for their or their companion's attendance, at least 24 hours before the start of the formal meeting.
- c. The employer encourages employees to bring their choice of colleague, trade union representative or trade union official to formal meetings under this procedure, but the employee should bear in mind how practical it is for their choice of companion to attend and consider if there is a suitable and available individual who is geographically close to where the meeting is to be held, rather than first considering an individual geographically based further away.
- d. If an employee or their companion is unable to attend the meeting at the time, date and place specified by the employer, they must notify the chair of the meeting as soon as possible in writing. Except in the case of an emergency, this should be at least 24 hours before the start of the meeting and the employee should advise of a time when they and their choice of companion will be available within five (5) working days of the original proposed meeting and provided this is reasonable, the new meeting time will be agreed.
- e. The role of the companion in a formal meeting is to make notes, confer with the employee and if the employee requests it, to address the hearing to state the employee's case and respond to any views expressed at the meeting. The companion does not have the right to answer questions or address the hearing if the employee does not request this and must not prevent the employer from explaining its case.
- f. Employees must make every effort to attend any scheduled meeting under this procedure, failure to co-operate under this procedure could be treated as a disciplinary offence in itself and a decision could be made in an employee's absence if they are unable to attend more than two consecutive scheduled meetings.
- g. If the employer will be referring to any documentation during the formal meeting, unless this is a document an employee will have already seen (such as an email sent by the employee) this should be sent to the employee at least 24 hours before the start of the meeting, so that they have a reasonable chance to prepare. Likewise, if the employee wishes to refer to any documentation, this should be sent to the person chairing the meeting at least 24 hours before the start of the meeting.
- h. If the employer finds as a result of the first formal meeting that a disciplinary offence was committed by the employee, the sanction will normally be either:
 - i. an improvement note setting out the performance problem, the improvement required, the timescale in which the employee must make the improvement, any support or training the employee will receive to help

with the improvement and the right to appeal the improvement note. The employee will be advised that this constitutes the first stage of the formal procedure. A record of the improvement note will be kept on the employee's file for six months, but will then be disregarded for the purpose of continuing with this procedure, subject to achieving and sustaining satisfactory performance; or

- ii. a first written warning for misconduct if conduct does not meet acceptable standards. The warning will be in writing and set out the nature of the misconduct, the change in behaviour required and state that there is a right of appeal against the first written warning. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the warning will be kept, but it will be disregarded for disciplinary purposes after six months.

14. Stage 2 - Second Formal Meeting

- a. If there is sufficiently serious misconduct, further misconduct or a failure to improve performance during the currency of a prior warning, the employee will be invited to a second formal meeting in writing by the employer, with at least two (2) working days' notice. As in the case of the first formal meeting, (b)-(e) under Stage 1 above will apply.
- b. If the employee is found to have committed a disciplinary offence as a result of a Stage 2 meeting, the sanction will usually be a final written warning. A final written warning will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. A copy of this written warning will be kept on the employee's file but will be disregarded for disciplinary purposes after six months, subject to achieving and sustaining satisfactory conduct or performance.

15. Stage 3 - Final Formal Meeting

- a. If there is sufficiently serious misconduct or still further misconduct or failure to improve performance, the employee will be invited to a third and final meeting in writing by a director of the employer, with at least two (2) working days' notice. Again, at this stage of the disciplinary procedure, (b)-(e) under Stage 1 above will apply.
- b. If the employee has been found to have committed a disciplinary offence as a result of a Stage 3 meeting, the sanction may be dismissal or some other action short of dismissal, such as demotion, disciplinary suspension or transfer to another role if permitted by the employee's contract of employment with the employer.
- c. Decisions taken under Stage 3 of this disciplinary procedure can only be taken by the The Director of the employer. If The Director takes the decision to dismiss as a result of a Stage 3 meeting, they will advise the employee in writing of the reasons for dismissal, the date on which the employment will terminate, practical arrangements on termination and the employee's right of appeal.
- d. If the The Director takes the decision after a Stage 3 meeting to impose some sanction short of dismissal, the employee will receive details of the complaint, will be warned that dismissal could result if there is no satisfactory improvement, and will be advised of the employee's right of appeal. A copy of the written warning will be kept on the employee's file, but will be disregarded for disciplinary purposes after six months subject to achievement and sustainment of satisfactory conduct or performance.

Gross Misconduct

16. If an employee is accused of an act of gross misconduct, they may be suspended from work on full pay, normally for no more than five (5) working days, while the alleged offence is investigated by the employer.
17. If, on completion of the investigation and a formal meeting, the employer is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.
18. The following is a non-exhaustive list of the type of offences which are normally regarded as gross misconduct, together with any other behaviours which in the reasonable opinion of the employer constitute gross misconduct:
 - a. any form of dishonesty, including theft or fraud;

- b. physical violence or assault;
- c. deliberate damage to employer property;
- d. breaking any law, even outside of work, which could bring the employer into disrepute;
- e. incapacity under the Mental Health Act 1983;
- f. repeated or serious failure to follow reasonable instructions given by the employer or repeated or serious failure to comply with the terms of your contract of employment or the employer's policies and procedures;
- g. discrimination, harassment, victimisation or bullying of staff, customers, suppliers or other third parties;
- h. committing an act of arson;
- i. misusing confidential information acquired during and as a result of your employment;
- j. failing to devote all working time and effort to the employer or being disloyal to the employer whilst employed by it;
- k. a serious or repeated breach of the employer's Health and Safety Policy;
 - l. accepting bribes; and/or
- m. being under the influence of drink or drugs at work, so as not to be able to perform contractual duties.

Appeals

- 19. An employee will be advised about their right of appeal whenever a decision is made under this procedure. An employee who wishes to appeal against a disciplinary decision must do so in writing as directed by the employer when they are informed by the employer of the disciplinary decision, within five (5) working days.
- 20. A manager who has not been involved with the process until this stage will invite the employee to an appeal hearing, where (b)-(e) under Stage 1 above will again apply. At the appeal hearing, any disciplinary penalty imposed will be reviewed or the case reheard, at the employer's discretion.
- 21. The employee will be informed in writing of the result of their appeal, usually within five (5) working days and the director's decision on the appeal is final.
- 22. If the employee appeals a dismissal, their employment will not continue whilst the appeal process is taking place. However, if the appeal is successful the employee will be reinstated with no loss of continuity of employment or pay.

Attribution

- 23. This Disciplinary Policy and Procedure was created using a document from [Rocket Lawyer](https://www.rocketlawyer.com/gb/en) (https://www.rocketlawyer.com/gb/en).