



## STAFF DISCIPLINARY PROCEDURE

### PROCEDURE STATEMENT

Whilst Bayleaf Care does not wish to impose unreasonable rules of conduct on its employees, certain standards of behaviour are necessary to maintain good employment relations and discipline in the interest of all employees and the welfare of our children. Bayleaf Care prefers that discipline be voluntary and self-imposed and in the great majority of cases this is how it works. However, from time to time, it may be necessary for Bayleaf Care to act towards individuals whose level of behaviour or performance is unacceptable.

The purpose of a disciplinary procedure is to ensure the safe and effective operation of the organisation and to promote fair treatment of individual employees. The following procedure provides a framework to address any lapses in conduct, attendance or job performance and encourages individual employees to achieve and maintain an acceptable standard.

This disciplinary procedure is entirely non-contractual and does not form part of an employee's contract of employment.

### PROCEDURE

#### Informal Warnings

Minor breaches of Bayleaf Care's standards may result in a **single-point supervision** by the immediate line manager. The objective of this single-point supervision is to help the employee to improve his/her conduct, attendance or job performance, without having to use a formal procedure.

A note of the single-point supervision will be kept of what was discussed and what was agreed. The line manager will monitor the employee's conduct, attendance or job performance, over an agreed period. However, in cases where informal discussion does not lead to an improvement in conduct or performance or where the matter is considered to be too serious to be classed as minor, this may lead to a formal procedure. Examples of minor breaches of Bayleaf Care standards include, but are not limited to:

- Breaching Bayleaf Care's boundaries, specifically lending and borrowing, space boundary and supervision. Repeated or serious breaches may be regarded as gross misconduct.
- Engaging in conduct outside of Bayleaf Care boundaries, policies or procedures.
- Engaging in such activities at his/her place of work likely to endanger the safety or wellbeing of other employees, visitors or children.
- Being insubordinate or discourteous to any member of Management or visitor to the Company.
- Failing to exercise the required capability or skill to meet working practices acceptable to Management.

- Persistently refusing to co-operate with Management or comply with any reasonable instruction from a Manager or Supervisor.
- Using vulgar, obscene or indifferent language to any member of staff, management or child.
- Persistently being late in arriving at work or meetings or absenting from the place of work without permission.
- Persistent and frequent absences or taking unauthorised absences or other absenteeism not covered by a medical certificate, approved by management or acceptable under the self-certification system.
- Not using password protection on laptops or PCs.
- Use of non-virus checked discs or CDs on laptop or PCs
- Failure to secure information on the work laptop/mobile or desktop whilst at work .
- Misconduct also includes consistently poor or disruptive attitude that is likely to have a detrimental effect on other staff. Disciplinary action will be taken if the employee fails to improve when requested, which could also include dismissal.
- Smoking on the Company's premises.
- Failure to regularly attend staff meetings, supervision, and or training, or a failure to complete the Level 4 qualification within the specified time.

### **Investigation**

If it becomes necessary to formally address issues regarding an employee's conduct, attendance or job performance, the matter will first be investigated by the employee's **line manager**.

This investigation will be carried out quickly and thoroughly. Confidentiality will be maintained, as far as is reasonably possible, during the investigation and throughout the disciplinary process, should this be activated.

Depending on the circumstances of the case, the employee may be invited to attend an investigatory interview. There is no right for the employee to be accompanied to a formal investigatory interview. The organisation reserves the right dispense with an investigatory interview and proceed directly to a formal disciplinary hearing.

### **Suspension**

Under certain circumstances, it may be necessary in the interests of the safety or welfare of our children and employees that Bayleaf Care may decide to suspend an employee on full pay, while the matter is being investigated. Suspension is a neutral act and does not imply guilt. This is not a disciplinary sanction, but a way of ensuring that a full review of the circumstances can take place as effectively as possible and to minimise risk to the parties involved. Consideration should also be given to a partial suspension and whether or not the employee can continue with some of his/her duties or place them in an alternative work environment, if appropriate and reasonable .

During the period of suspension, the employee should not attend any of the company's premises other than for a welfare or investigation meeting or discuss the suspension or allegations with any clients, children or fellow employees without prior consent of the Investigating Officer. In event the investigation has been concluded and if there is a further requirement to continue the employee's suspension from duty or under certain circumstances wherein the employee fails to co-operate with the investigation, a decision may then be made to review the payment element of suspension.

The normal procedures relating to requests for time off for holidays and sickness apply during suspension.

Should an employee resign part way through the investigatory/disciplinary process the chairperson may decide to proceed with a meeting in their absence. Each case would be reviewed on an individual basis. However, whatever the outcome, the employee would be notified and advised that this information would be referred to in any subsequent reference request.

### **Disciplinary Hearing**

If, after an investigation has been carried out, it is considered that there is a case to answer, the employee will be notified in writing of the nature of the complaint against him/her. The employee will be provided with details of any supporting evidence which may be available to enable him/her to answer the case. This will include the provision of copies of written evidence, including witness statements, where appropriate. The employee will be invited to attend a disciplinary meeting to discuss the matter and he/she must make every effort to attend the hearing. The employee will be advised that disciplinary action may be taken as a result of this meeting and of his/her statutory right to be accompanied at this meeting by a colleague or a trade union representative.

If the employee is unable to attend a disciplinary hearing and provide a good reason for failing to attend, the hearing will be adjourned to another day. Unless there are special mitigating circumstances, if the employee is unable to attend the rearranged hearing, the hearing will take place in his/her absence. The employee will be allowed to make written submissions in such a situation.

Where the chosen companion is unavailable on the day scheduled for the meeting, it will be rescheduled, provided that the employee proposes an alternative time within five working days of the scheduled date.

At this meeting the nature of the breach of Bayleaf Care standards will be made clear to the employee and he/she will be given the opportunity to state his/her case, ask questions, present evidence, call relevant witnesses and raise points about any information provided by witnesses. If any additional issues arise during this meeting, an adjournment may take place to allow further investigation.

Following the hearing, Bayleaf Care will decide whether or not disciplinary action is justified and, if so, the employee will be informed in writing of Bayleaf Care's decision in accordance with the stages set out below and notified of his/her right to appeal against that decision. It should be noted that an employee's behaviour is not looked at in isolation, but each incident of misconduct is regarded cumulatively with any previous occurrences.

### **Disciplinary Action**

If, at the conclusion of a disciplinary or sickness absence meeting, or shortly thereafter, it is decided that there has been a breach of Bayleaf Care's standards, formal disciplinary action will be taken.

If the employee is issued with a warning, he/she will be informed of the period for which the warning will remain in place. A copy of the written warning will be kept in the employee's file. If his/her conduct, attendance or job performance has reached an acceptable level after the specified period, the warning will be disregarded for disciplinary purposes, but will be kept on file.

- **Stage 1 – Written Warning**

The employee will be given a formal WRITTEN WARNING. He/she will be advised of the reason for the warning, how he/she needs to improve their conduct or performance, the timescale over which the improvement is to be achieved, that the warning is the first stage of the formal disciplinary procedure and the likely consequences if the terms of the warning are not complied with. The written warning will be recorded but nullified after **six months**, subject to satisfactory conduct and performance.

- **Stage 2 – Final Written Warning**

Failure to improve performance in response to the procedure so far, a repeat of misconduct for which a warning has previously been issued, or a first instance of serious misconduct or serious poor performance, will result in a FINAL WRITTEN WARNING being issued. This will set out the nature of the misconduct or poor performance, how he/she needs to improve their conduct or performance, the timescale over which the improvement is to be achieved and warn that dismissal will probably result if the terms of the warning are not complied with. This final written warning will be recorded but nullified after **twelve months**, subject to satisfactory conduct and performance.

- **Stage 3 – Dismissal or Other Disciplinary Action**

Failure to meet the requirements set out in the final written warning will normally lead to DISMISSAL with appropriate notice. A decision of this kind will only be made after the fullest possible investigation. The employee will be informed of the reasons for dismissal, the appropriate period of notice, and the date on which his/her employment will terminate. The employee can appeal against the dismissal decision.

Other disciplinary action may be taken. The employee will be informed in writing of the decision, given details of the reason for other disciplinary action, and details of the appeal process.

A decision to dismiss or impose other disciplinary action will normally be taken by a senior manager in consultation with a Director of Bayleaf Care, and dismissal will only be applied when sound judgement indicates no reasonable alternative.

If an employee is dismissed, his/her employment will terminate on the date specified in writing. His/her employment will NOT be suspended pending the outcome of any appeal procedure. Should an appeal reverse the decision to dismiss the employee, he/she will be reinstated with no break in service and any monies owing to him/her will be paid.

**Any of the above stages of disciplinary action may be omitted, depending on the seriousness of the misconduct.**

- **Appeal**

An employee may appeal against any disciplinary sanction imposed against him/her, with the exception of a single-point supervision. The appeal will be heard by a senior manager or director who has not been involved in the decision to impose the disciplinary sanction. The senior manager is obliged to consider any representations made by the employee, his/her fellow employees or trade union official and those of the manager who conducted the investigation and the manager who conducted the disciplinary hearing and imposed the disciplinary sanction.

The senior manager hearing the appeal must decide on the basis of both sets of representations, together with any subsequent facts that may have come to light, whether or not to uphold the disciplinary sanction. In the event that the senior manager finds for the employee, the senior manager shall allow the appeal and shall remove all records of the disciplinary sanction from the employee's record. In the event that the senior manager does not accept the representations made by or on behalf of the employee, the senior manager must uphold the disciplinary sanction.

When lodging an appeal, the employee should state:

- the grounds of appeal; and
- whether he/she is appealing against the finding that he/she has 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 him/her.

### **Gross misconduct**

If an employee is found guilty of gross misconduct, Bayleaf Care is entitled to summarily dismiss him/her. This means that he/she will be dismissed with immediate effect, without notice. Alternatively, Bayleaf Care may impose another penalty short of dismissal.

Examples of gross misconduct include, but are not limited to:

- Failure to notify management of criminal proceedings being instituted against an employee, or any changes which may affect a Disclosure Barring certificate.
- Failing to report safeguarding concerns regarding children or concerns over colleagues' practice.
- Theft, fraud or deliberate falsification of records, misappropriation of property, unauthorised possession of Company property, or any other form of dishonesty.
- Falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee.
- Misuse, abuse or deliberate damage to Bayleaf Care property, including intellectual property, or that of other employees.
- The supply or possession of alcohol or illegal drugs or being under the influence of alcohol or illegal drugs on Bayleaf Care premises or during working hours.

- Wilfully causing harm or injury to another employee, physical violence actual or threatened, bullying or grossly offensive behaviour.
- Sleeping on duty unless expressly permitted.
- Conduct at work likely to offend decency.
- Serious act of insubordination.
- Inappropriate use of internet, intranet and email facilities.
- Disclosure of confidential information about the company, children or colleagues.
- Serious breach of the health and safety rules.
- Serious breach of Company's policies.
- Serious or repeated negligent acts in the performance of duties.
- Persistent failure to follow reasonable instructions.
- Giving false or misleading information to Bayleaf Care.
- Leaving the workplace without permission or reasonable excuse or leaving children without supervision.
- Serious disregard for rules or instructions given by Bayleaf Care.
- Criminal activities outside of work where, in the reasonable opinion of the Directors of Bayleaf Care such conduct is incompatible with the individual's employment.
- Bringing Bayleaf Care into serious disrepute.
- Passing or disclosing confidential information about the company's business or our children to any other employee or person inside or outside the organisation not entitled to receive it.
- Sexual misconduct at work.
- Engaging in sexual language, jokes or innuendos; flirtatious behaviour or language; discussions about sexual issues that are not relevant to your role; a sexual relationship or sexual behaviour with children/ young people or their families/ significant others.
- Any criminal charges or allegations of abusive or harmful behaviour displayed towards a child.
- Any charges or allegations of downloading or possession of pornography or pseudo pornographic material on work or personal electronic devices (this includes, but is not exclusive to, PCs, laptops, mobile phones, iPads). This may be considered a gross misconduct with potential summary dismissal if the content found in possession specifically relates to any indecent / pornographic or pseudo- pornographic material related to children or adolescents, or any other illegal sexual behaviour.
- Undertaking other alternative gainful employment on his/her own account without written approval of Management or accepting work in your own name, which should have been offered to your Employers in the first instance.

- Criminal charges or convictions for offences of dishonesty or violence committed outside working hours, where, in the opinion of the company, the charge or conviction is such as to affect, or be likely to affect, the suitability of the employee for the position in which he/she is employed, or the business or reputation of Bayleaf Care, or where the existence of the charge or conviction could, in the opinion of the Directors, seriously undermine the trust and confidence that the company has in the employee.
- Bullying, offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end. Examples of bullying would include picking on someone or setting him/her up to fail or making threats or comments about someone's job security without good reason.
- Harassment, unwanted conduct related to relevant protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age, that:
  - has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
  - is reasonably considered by that person to have the effect of violating his/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her, even if this effect was not intended by the person responsible for the conduct.
- Inappropriate use of social media, including interacting with children accommodated by Bayleaf Care, past or present on any social media platform.
- Having any contact with children or their families / significant others outside of normal working hours without discussion with a manager or a Senior Manager.
- Offering, promising or giving a bribe; requesting, receiving, or agreeing to receive a bribe; offering, promising or giving a bribe to a public official with the intention of influencing that official in the performance of his/her duties to gain an advantage.

**Staff Disciplinary Procedure – Flowchart:**

