



DISCIPLINARY POLICY & PROCEDURES

Principles

This document has been drawn up following reference to guidelines for procedures for charitable organisations and for Oxfordshire County Council.

1. Policy

This policy is designed to help and encourage all employees to achieve and maintain the standards of conduct required for successful fulfilment of their job role and to provide a good working environment for all. It sets out the standards required by the Let's Play Project and the associated action that may be taken if these standards are not met.

The aim of the policy is to ensure that if an employee does not meet the standards required by the Let's Play Project (for whatever reason) they are treated in a fair manner and that our expectations of them will be fair and reasonable.

The Let's Play Project see the Disciplinary Policy as a method of facilitating and encouraging improvement in behaviour, within a stated time period and with specific guidelines, where appropriate. This is therefore seen as an aid to good management. It is recognised that effective managerial support should reduce the need for disciplinary action. The Let's Play Project would hope that all matters could be resolved informally in discussion with the Line Manager but recognise that this may not always be the case.

This policy does not apply to volunteers or employees during their probationary period however, Let's Play may choose, at its discretion, to follow some of the principles and approaches within the policy. Nor does it apply to redundancy dismissals or the non-renewal of a fixed term contract upon expiry.

If the matter cannot be resolved informally then the following procedure should be adopted:

2. Commitment

When operating the Disciplinary Policy and procedure, the Let's Play Project is committed to fairness and transparency will aim to ensure the following:

- Matters will be dealt with promptly and will not unreasonably delayed
- Information action will be considered, where appropriate, to resolve problems
- No Disciplinary action will be taken against an employee until the case has been reasonably investigated in order to establish the facts of the case
- For formal action, the employee will be advised of the nature of the problem/complaint against them and they will be given sufficient opportunity to state their case before any decision is made
- Employees will be provided, where appropriate, with written copies of evidence and witness statements in advance of a Disciplinary Hearing.

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- At all stages of the formal Disciplinary process (but not any investigatory hearing) the employee will have the right to be accompanied
- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct
- Employees will have the right to appeal against any Disciplinary action
- The procedure may be implemented at any stage should the employee's misconduct warrant this

3. What is Misconduct & Gross Misconduct?

Misconduct

Occurrences which the Let's Play Project deems as not so serious, and would normally on a first occurrence result in a First Written Warning being issued (unless the employee is in their Probationary Period) are called 'Misconduct'

The following is a non-exhaustive list of examples of misconduct:

- Failure to perform satisfactorily the duties of the post
- Unsatisfactory time keeping
- Failure to carry out medication for service users correctly and/or misuse of service user's medication
- Failure to comply with the Charity's procedures for the notification of sickness absence
- An unacceptable record/level of attendance
- Inappropriate use of the Charity's computer equipment
- Behaviour liable not conducive to good order or working relationships
- Failure to carry out a reasonable instruction
- Breach of rules, practices and instructions relating to health and safety at work to an extent short of that specified as Gross Misconduct Category
- Breach of the charity's confidentiality guidelines or disclosure of information to an extent short of that specified as Gross Misconduct category
- Failure to disclose any private interest or business activity or employment where such activities could conflict with the interests of the Charity
- Breach of Charity policies and procedures, or any out of work conduct short of those specified in Gross Misconduct category which could bring the company into disrepute

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Gross Misconduct

Occurrences which the Let's Play Project deems as very serious are called 'Gross Misconduct', and as they are viewed in such a serious light, could result in summary dismissal on a first occurrence. Some examples include, but are not limited to:

- A serious and/or substantial breach of;
 - Trust and confidence (eg. Acting in a way that is against the Charity's interest and/or not acting in good faith)
 - Confidentiality (eg. Not exercising care and caution with information and/or disclosing information that is sensitive and confidential and/or sharing personal details with colleagues etc.)
 - Fidelity (e.g. acting in a way that is not loyal, honest or faithful etc)
- Being under the influence of alcohol/non prescribed drugs/ legal highs whilst working and/or being on work premises; bringing alcohol/non prescribed drugs/legal highs onto the Charity's premises; consuming alcohol on Charity premises without the permission of a Member of the Board of Trustees
- Breaches of law (eg. Smoking in an unauthorised area; failing to provide papers demonstrating right to work authorisation; working with vulnerable adults or young people without government clearance; operating machinery when not authorised or trained to do so).
- Breaching IT and Data Policies including deliberately accessing internet sites containing pornographic, offensive or obscene material
- Breach of Bribery policy and/or breach of whistle-blowing policy and/or breach of financial regulations
- Bringing the Let's Play Project into serious dispute (e.g. acting in a manner that is detrimental to the Charity) or conduct which is reasonably likely to bring us into disrepute
- Deliberate, reckless and/or serious damage to the Let's Play Project premises or property, or that of a colleague and/or service user
- Driving service user(s) or the Charity's vehicle without permission
- Serious failure to comply with a reasonable management request and/or serious insubordination with a reasonable excuse
- Serious failure to comply with health and safety and/or security rules without a reasonable excuse and/or a serious breach of Health and Safety
- Failure to comply with an Investigation process or misleading the Investigation Chair or Disciplinary Chair

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- Failure to follow Safeguarding procedures
- Falsifying documents
- Fights whilst on Charity premises
- Gross negligence (eg. Carelessness, neglect, disregard etc) causing loss, damage or injury
- Inappropriate conduct in front of, towards or with regards to a service users
- Running personal errands whilst working with or without a service user present
- Taking service users to your own home/allowing service users to know where you live
- Misuse of Charity/colleagues/service users facilities, equipment and money
- Serious failure to carry out medication for service users correctly and/or serious misuse of service users medication
- Taking items which are being thrown out by, or are unsuitable, for service users without the permission of a Senior Manager and the service user's family
- Theft or any other dishonesty, which is admitted or there are reasonable grounds for so believing (eg fraud, deliberate falsification of records, intention to steal, claiming SSP or SMP without entitlement)
- Threatening to, or committing acts of, violent or abusive behaviour or bullying to colleagues, service users or any other 3rd party (on any grounds), including but not restricted to inappropriate behaviour at a work related social event
- Unauthorised absence eg. Taking holiday without permission, failure to follow absence notification procedures, not attending work when due to do so etc .
- Unauthorised possession of, or failing to look after properly, cash, vehicles, telephones or other property belonging to the Let's Play Project, colleagues or service users
- Any conduct that has taken place outside or within the employee's employment which has, or may potentially, lead to a criminal conviction, caution or imprisonment that may be considered damaging to the Company, its employees or its reputation and make it inappropriate for the employee to continue to be employed by the Company.
- Failing to respond to requests to renew and/or failing to renew a DBS disclosure within reasonable timescales/before the date of expiry, including failing to provide acceptable identity documents in line with guidance, within a reasonable timescale

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This list gives the main examples for which employees may be summarily dismissed but there may be other incidents that could amount to Gross Misconduct which have not been listed.

If there is evidence to the effect, or the employee has been found to have carried out any of these acts listed above or any other act of Gross Misconduct, they can be dismissed with immediate effect. An employee dismissed for Gross Misconduct will not be asked to work their notice, nor will they receive any pay in lieu of notice.

4. The Procedure

Informal

Informal action will be taken wherever possible before proceeding through any Disciplinary processes where a minor offence has been committed and we think formal action is unnecessary. Informal action would involve a meeting with the Line Manger and/or HR which is followed up in writing outlining the required improvements and associated timescales. The meeting will involve a two-way discussion aimed at discussing possible shortcomings in conduct and encouraging improvement. Emphasis will be placed on finding ways for the employee to improve and for the improvement to be sustained. The aim being to draw to the employees' attention the importance of complying with the Let's Play Project's policies and what is expected of them. If this informal action does not bring about the required improvement within the agreed timescales, Disciplinary action will be taken.

Investigation

If an employee is suspected of an incident of Misconduct or Gross Misconduct, an investigation will be undertaken to establish the facts of a case. Questions may be asked and enquiries made to establish a fair and balance view of the facts before deciding whether to proceed to a Disciplinary Hearing. An investigation Chair will be allocated by The Board of Trustees, if an investigation is required. This would usually be somebody more senior to the employee who is the subject of the allegation or complaint.

The Let's Play Project will endeavour to make sure that investigations are undertaken promptly; both because people's recollections of events will fade over time, and because it's important to resolve the matter as quickly a possible for the benefit of all those involved. However, there may be times where this is not possible, for example, when matters are being investigated by the police and they have stated that they need to complete their proceedings before any investigations are carried out internally. In these circumstances the Let's Play Project will however seek to continue t their investigations in parallel as far as possible.

If an employee is called to a meeting as part of the investigation, employees do not have the right to be accompanied (although there may be occasions where this is allowed) nor would copies be provided of any papers or investigatory notes at this time. All employees must cooperate fully and promptly in any Investigation.

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It will not always be necessary to hold an investigation meeting with the employee nor will it always be necessary to conduct an investigation.

The Let's Play Project may employ the use of external consultants to carry out investigations where appropriate. In these instances the investigation will be overseen by a member of the Board of Trustees to ensure the consultant acts in manner consistent with the Disciplinary policy.

Once an investigation has been carried out the Investigation Chair will decide whether or not there is a case to answer at a Disciplinary Hearing. If there is, formal Disciplinary action will commence.

Where the facts are in dispute, no Disciplinary penalty will be imposed until the case has been carefully investigated and there is reasonable belief that the employee committed the act in question.

Formal

Once the Investigation Chair has decided there is a case to hear at Disciplinary (or where it is apparent from the facts that a disciplinary hearing is required), The Board of Trustees will allocate a Disciplinary Chair. If practicable the Disciplinary Hearing will be chaired by an employee who has not been involved in the investigation.

The employee will then be invited to attend a Disciplinary Hearing. The notification letter will contain information about the alleged misconduct and its possible consequences if founded. Copies of any documented evidence may be included with the notification although the Let's Play Project retain the right to withhold some information such as witness details if necessary. The notification will include time, date and venue. All employees have the right to be accompanied at the Hearing.

The Hearing will be held as soon as reasonably practicable, usually with a minimum of 48 hours' notice to ensure the employee has had a reasonable chance to consider their response to the information before the Disciplinary Hearing takes place.

Employees and their companions should make every effort to attend the Hearing. At the Disciplinary Hearing, the Disciplinary Chair will explain the allegation/complaint and will review any gathered evidence with the employee. The employee will be expected to answer any questions presented and will be given ample opportunity to set out their case and to raise points about any information provided. There will normally be a note taker/company witness present alongside the Disciplinary Chair. The notes are for the Let's Play Project use only, and should the employee want notes of the meeting they should make their own or ask their companion to do so on their behalf.

The employee must take all reasonable steps to attend the Disciplinary Hearing. Reasonable adjustments will also be made to accommodate the needs of an employee with a disability.



The Disciplinary Chair may need to stop the Disciplinary Hearing part-way though if they believe they need to make any further enquiries. If necessary, the Hearing may then continue once those enquiries are complete, however, this is unlikely to be on the same day. The employee will be given a reasonable opportunity to consider any new information obtained should the Hearing be reconvened.

If an employee is charged with, or convicted of a criminal offence, this may or may not be grounds for Disciplinary action, depending on the nature of the offence. Consideration will be given to what effect their charge or conviction has on their suitability to undertake their ? and their relationship with the Let's Play Project, colleagues and service users and whether the offence could bring the Let's Play Project into disrepute.

Statutory Right to be Accompanied

Employees attending a Disciplinary Hearing may bring an appropriate companion. The chosen companion can be a fellow employee, a trade union representative or an official employed by a trade union. Solicitors, friends or family who do not work for the Let's Play Project are not allowed. The trade union representative must be able to show their identification before proceeding with the Hearing. A trade union representative who is not an employee official must have been certified by their union as being competent to accompany the employee. To exercise the right to be accompanied employees must make a reasonable request. What is reasonable will depend on the individual case. The companion is allowed to address the Hearing to put and sum up the workers case, respond on behalf of the employee to any views expressed at the Hearing and to confer with the employee during the Hearing. They do not have the right to answer questions on the employees' behalf, address the Hearing if the employee does not wish it or prevent the employer from explain their case.

Employees must provide the name of their companion to HR in advance of the hearing.

There is no obligation on any employee to act as a companion if they do not wish to.

Sanctions

After the Disciplinary Hearing a decision will be made as to whether or not Disciplinary or any other action is justified. The employee will be informed of the outcome in writing along with details of their right of appeal. If practicable the employee will also be informed of the outcome face to face or via telephone.

- Stage One – First Written Warning
- Stage Two – Final Written Warning
- Stage Three – Dismissal



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Where misconduct is confirmed it is usual to give the employee a First Written Warning which would normally remain on file for a period of 6 months, although longer periods can be given depending on the nature of the case. A further act of misconduct within a set period of time would normally result in a further Disciplinary process and a Final Written Warning which would normally remain on file for a period of 12 months, although longer periods can be given depending on the nature of the case. If however the employees' first act of misconduct is sufficiently serious it may be appropriate to move directly to a Final Written Warning. This may occur where the actions have had, or are liable to have, a serious or harmful impact on the Charity.

First and Final Written Warnings

When a First or Final Written Warning is issued the employee will be informed in writing and will be given details on:

- The fact that a First or Final Written Warning is being issued
- The life of the warning on their file
- The nature of the incident(s)/issue
- The improvement required
- The time-scale within which improvement is sought
- The form in which monitoring will take place
- The consequences of any further occurrences
- The right to appeal

Dismissal

A decision to dismiss can only be taken with approval from a member of the HR department. The employee will be informed in writing of the reason for dismissal, the date on which employment will/did end the appropriate period of notice and their right of appeal. No employee will be dismissed for a first breach of discipline except in cases of gross misconduct.

Unless an employee is being dismissed for gross misconduct they will receive the appropriate period of notice, it may be that they are placed on garden leave for this time.

In serious cases, or where an employee has not yet completed their probationary period, dismissal with previous warnings may be appropriate.

The Let's Play Project can impose the level of outcome that is believed to be appropriate regardless of what has already happened for example, if an employee has an Informal Warning on their file and they are investigated and find themselves in receipt of a Disciplinary Sanction, this sanction would not necessarily be a First Written Warning, it may be decided that a Final Written Warning is more suitable or a different outcome altogether.

Other sanctions can also be given, if appropriate, including:

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Demotion – An employee can be demoted either temporarily or on a permanent basis. This might result in a loss of pay or benefits. A demotion will normally be combined with a Disciplinary warning at the appropriate level. Further misconduct will then be dealt with like any other Disciplinary.

Deduction of wages – Money may be deducted from the employee's wages as a fine. The amount of the fine would be decided by the person conducting the Disciplinary Hearing and HR. All employees agree to authorise the deduction. Examples of such deductions would include the loss or damage to property that the Let's Play Project may be liable for. A deduction of wages will normally be combined with a Disciplinary warning at the appropriate level. Further misconduct will then be dealt with like any other Disciplinary.

Compulsory Training

Any of the outcomes

2.1. Guide:

- a. Employees of the Let's Play Project will be given a copy of this document when they accept the terms of employment as part of their induction and reminded about it before any disciplinary hearing.
- b. No disciplinary action will be taken against a person until the case has been fully investigated.
- c. All disciplinary matters relating to the process will be treated as confidential.
- d. The person will be informed that a written record of the complaint and its basis will be given at each stage and will be given the opportunity to state their views before any decision is made.
- e. All employees of the Let's Play Project should be made aware of their rights to be accompanied by a work colleague or union rep.
- f. Minor breaches of the requirements, including misconduct, may be dealt with informally by giving help (such as specific training) when an informal verbal warning may be given and kept on record related to the disciplinary record **for 12 months**.

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- g. These procedures apply in cases of continued inefficiency or incompetence, misconduct or gross misconduct.

2.2 Operation of the procedure:

- a. The Manager at the Let's Play Project and a Trustee will oversee any verbal and written warnings.
- b. In the case of the issue involving the Manager, two Trustees will oversee the procedure. No-one involved in the issue will be asked to oversee the procedure.

c. Stage 1: Informal procedure:

- 1) If an employee's performance is deemed unsatisfactory through inefficiency or incompetence it should normally be resolved through the normal supervision channels, unless there is evidence that the employee is incapable of maintaining a satisfactory performance. It is in the interests of everyone that issues involving competence are addressed as quickly as is reasonably practical.
- 2) At this stage a written document will be given to the employee detailing the changes/improvements required and targets to attain, if necessary, and what training may be given, also the period in which the Let's Play Project's wish to see these happen (usually three months).
- 3) A three monthly review will allow both parties to reflect on progress. Following the three monthly review a further three months of supervision will be put in place.
- 4) If at the end of this time the performance is still considered to be inadequate the formal disciplinary procedure will be put in place.
- 5) This will be the first stage towards the formal procedure should the requirements not be met and maintained. This will be kept on record for **12 months** subject to a satisfactory outcome (it will then be, considered closed for disciplinary purposes).

d. Stage 2: Misconduct (formal procedure) and first written warning:

- 1) This covers any failure to comply with **Stage 1** (informal procedure) and the accepted guidelines for work and behaviour, for example:
 - I. Unauthorised absenteeism.
 - II. Persistently poor timekeeping.
 - III. Refusal or failure to carry out lawful and proper instructions.

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- 2) **Note:** This list is not exhaustive and there are different levels of misconduct which may more appropriately be termed gross misconduct.
- 3) If the employee involved in **Stage 1** fails to reach the required standards then a First Written Warning will be issued. This will specify what has been observed as a failure to comply and what the employee is required to achieve within a given timescale (usually three months). It will also inform the employee that a final written warning may be given should a sustained improvement not be seen.
- 4) This first warning will be kept on record for **12 months** subject to a satisfactory outcome (then it will be considered closed for disciplinary purposes).

e. **Stage 3:** **Final written warning:**

- 1) If the performance required in **Stage 2** does not improve in the agreed time (usually three months) following the written warning, a final warning will be issued stating that dismissal will follow any further failure to reach the targets agreed. This will specify what has been observed as a failure to comply within the timescale previously stated and what the employee is required to achieve to sustain that improvement together with its timescale (usually three months).
- 2) It will also inform the employee that action may be taken if failure occurs following on to **Stage 4**, (dismissal), but also that they have a right to appeal and to be accompanied by colleague or union rep.
- 3) Following this meeting a written record of the discussions and the outcome will be given to all attending. This will be kept on record for 12 months subject to a satisfactory outcome (when it will then be considered closed for disciplinary purposes subject to continued satisfactory performance).

f. **Stage 4:** **Dismissal:**

- 1) No dismissal can take place without the agreement of the Chairperson and one other Trustee. The employee will be provided with:
 - I. Written reasons for the dismissal.
 - II. The date on which employment will end and also of.
 - III. The right of appeal (and the right to be accompanied to any appeal hearing).

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g. **Stage 5:** **Appeal:**

- 1) If the employee wishes to appeal against the decision to dismiss this must be put in writing to the Manager within five working days of the **Stage 4** meeting.
- 2) This appeal should be heard by two other Trustees (not previously involved) within five working days of the receipt of the appeal.
- 3) The appeal panel will decide whether or not to invite the member of staff to the appeal hearing. All written records at each stage of the process will be reviewed and a final decision communicated to the employee within five working days.
- 4) The Chair of the Trustees, or nominee, will communicate any decision (**which will be final**).

3. **Gross misconduct:**

- a. There may be actions by an employee which can be termed as Gross Misconduct and may be considered serious enough to justify instant dismissal.
- b. This list is neither exhaustive, nor exclusive, but contains some examples in addition to those specified in **Stage 2** above.

1) For example:

- Sexual misconduct whilst working for the Let's Play Project
- Serious breach of Health and Safety requirements
- Theft
- Verbal or physical abuse of staff, young people/ vulnerable adults or parents
- Falsification of timesheets or expenses claims
- Serious insubordination
- Failure to disclose any criminal records
- Being under the influence of alcohol or illegal substances when working with children/attending training or working in the office
- Smoking in a session working with young people/attending training or working in the office

- 2) If Gross Misconduct is alleged the employee can be suspended from work on full pay while an investigation is carried out (within ten working days).

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- 3) If this allegation appears to be proven then a disciplinary hearing will be held where at least two persons will be on the panel (consisting of two Trustees or a Trustee and a Senior Management person with delegated authority to dismiss).
- 4) If the panel is then satisfied that an act of Gross Misconduct has occurred then the employee may be then dismissed without notice or payment in lieu of notice.

c. **Appeal:**

- 1) If the employee wishes to appeal against the decision to dismiss this must **be put in writing** to the Project Manager within **5** working days of the **Stage 5** meeting.
- 2) This appeal should be heard by two other Trustees not previously involved.
- 3) All written records at each stage of the process will be reviewed and a final decision communicated to the employee within **5** working days.
- 4) The Chair of the Let's Play Project Trustees, or nominee, will communicate any decision (which will be final).
- 5) Records will be kept of any meetings held, and copies issued to all concerned. They will be held on file and retained in accordance with the Data Protection Act 1998 retention time guidelines.

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