

General Welfare Requirement: Suitable People

Providers must ensure that adults looking after children, or having unsupervised access to them, are suitable to do so.

Employment

2.1.2 Grievance

Policy Statement for St Joseph's Pre-school

St Joseph's Pre-school is committed to an open and honest method of working. Employees should raise any difficulties arising (or experienced by employees as a result of actions or omissions by the Pre-school), immediately with their line manager or a member of the management committee (committee). St Joseph's Pre-school is committed to ensuring that all staff at the pre-school should be treated in a fair, consistent and sensitive way.

Looking after employee's wellbeing and mental health

St Joseph's Pre-school recognises that going through a grievance procedure can be very stressful. As such, the setting will consider the wellbeing and mental health of any employees involved.

By looking out for employee's wellbeing and offering support can help prevent:

- absence;
- mental health issues arising;
- existing mental health issues getting worse.

If a Grievance is raised while a Disciplinary is taking place

St Joseph's Pre-school can pause the disciplinary procedure and deal with the grievance first. If the disciplinary and grievance cases are related, the employer can deal with both at the same time.

Dealing with Grievances Informally

If a member of staff has a grievance or complaint to do with work or the people they work with, they should, wherever possible, start by talking it over with their line manager. A solution may be able to be agreed informally. However, if the employee's grievance cannot be dealt with informally, ie. in discussion with the line manager, because

- they feel raising it informally has not worked;
- they do not want it dealt with informally;
- it is a very serious issue, eg. sexual harassment or whistleblowing.

then the following standard procedure (a 3 step process) will apply.

An employee should always raise a grievance as soon as they can. If the grievance is with regards to sexual harassment, this can be raised anonymously if need be.

Related Grievances

If there are 2 or more related grievances, the employer should:

- still follow the formal procedure, for all the grievances;
- keep information confidential;
- consider what each employee wants;
- explain to the employees how it is dealing with the grievances.

There is some flexibility in how to run the grievance procedure in these situations. For example, the employer could decide to have a single meeting to cover all the grievances, if the employees agree.

Each employee still has the right to their own grievance meeting in which employees who are part of the grievance are not present.

If anything similar has happened before

To keep things fair St Joseph's Pre-school will:

- aim to follow the same fair procedure;
- gather evidence from all sides;
- consider all the information.

Formal Grievance procedure

For matters that are serious and/or the employee wishes to raise the matter formally.

Stage 1 – Inform the employer

- The employee should inform the employer of his/her grievance in writing. The document should stick to the facts and avoid language that is insulting or abusive. It should include:
 - what the grievance is about;
 - any evidence, eg payslip or employment contract;
 - what they want the setting to do about it – this must be specific and realistic.
- Line managers or a member of the committee should deal with all grievances raised, whether or not the grievance is presented in writing. However, employees need to be aware that if the statutory procedure applies, they will **not** subsequently be able to take the case to an employment tribunal unless they have raised the grievance first **in writing** and waited a further 28 days before presenting the tribunal claim.
- Where there is no line manager, or the issues relates to the conduct of the line manager, or another employee, and the employee feels unable to approach them directly, a member of the committee should be notified.

Stage 2 – Meeting and decision

- On receiving a formal grievance, a manager should invite the employee, in writing, to a meeting as soon as possible, normally within 5 working days, and inform them that they have the right to be accompanied. It is good practice to agree a time and place for the meeting with the employee. If the employee's companion cannot attend on a proposed date, the employee can suggest another date so long that it is reasonable and not more than five working days after the date originally proposed by the employer. The five-day time limit may be extended by mutual agreement.
- St Joseph's Pre-school can arrange for someone not involved in the grievance to:
 - take notes at the meeting;
 - act as a witness if necessary.
- To keep the procedure fair, the line manager/member of the management committee will:
 - consider information or evidence from all sides;
 - see if a similar grievance has happened before and aim to follow the same fair procedure
- The employee should be allowed to explain their complaint and say how they think it should be settled. If the employer reaches a point in the meeting where they are not sure how to deal with the grievance, or feel that further investigation is necessary, the

meeting should be adjourned to get advice or make further investigations. This might be particularly useful in small organisations that lack of experience of dealing with formal grievances. The employer should give the grievance careful consideration before responding.

- The employer should respond in writing to the employee's grievance within 5 working days, and should let the employee know that they can appeal against the employer's decision if they are not satisfied with it. If it is not possible to respond within five working days, the employee should be given an explanation for the delay and told when the response can be expected.
- A confidential record will be kept of the meeting, the evidence gathered and the decisions or actions taken.

Step 3 – Appeals

- If the employee informs their employer that they are unhappy with the decision after a grievance meeting, the employer should arrange an appeal meeting, normally within 5 working days of receipt of an appeal. It should be noted that the appeal stage is part of the statutory procedure and if the employee pursues an employment tribunal claim, the tribunal may reduce any award of compensation if the employee did not exercise the right of appeal. As far as is reasonably practicable, the appeal should be with a more senior manager than the one who dealt with the original grievance. In small organisations, even if there is no more senior manager available, another manager should (if possible) hear the appeal. If that is not an option, the person overseeing the case should act as impartially as possible. At the same time as inviting the employee to attend the appeal, the employer should remind them of their right to be accompanied at the appeal meeting.
- As with the first meeting, the employer should write to the employee with a decision on their grievance within 10 working days of the appeal meeting. They should also tell the employee if the appeal meeting is the final stage of the grievance procedure, ie. that this decision is final.

Sharing Information

Under data protection law¹, St Joseph's Pre-school will get consent from any person who provided information for the meeting/appeal before sharing it.

This might mean that the setting will need to make some information anonymous before sharing it.

Keep talking

During the investigation, St Joseph's Pre-school will keep talking confidentially with:

- the employee who raised the grievance;
- anyone else involved in the grievance.

The Pre-school acknowledges that clear, regular and confidential communication can help avoid:

- misunderstandings;
- a drop in work morale;
- stress or other mental health problems;
- further action, such as more grievances;
- legal action later on.

¹ General Data Protection Regulations (GDPR) 2018 and Data Protection Act 2018

Modified Grievance procedure (2-step process)

This procedure applies when employment has ended and either:

- St Joseph's Pre-school and the employee agree the modified procedure should be followed; or
- St Joseph's Pre-school or the employee are unable to complete a step in the standard grievance procedure (as described above).

The modified grievance procedure is:

Step 1: Put it in writing

- The employee must send a written explanation of their grievance to the line manager, stating the basis for their complaint.

Step 2: The appeal

- The line manager will invite the employee to a meeting to discuss the grievance/appeal.
- The employee has the right to be accompanied.
- The employee must be given the line manager's final decision after the meeting and St Joseph's Pre-school will follow this up in writing within 5 working days.

What a "Companion" Person should do

With the permission of the person raising the grievance, the companion is allowed to:

- take notes;
- set out the case of the person raising the grievance;
- speak for them;
- talk with them during the meeting.

The companion cannot:

- answer questions put to the person raising the grievance;
- prevent anyone else at the meeting from explaining their side of things.

After the grievance procedure

Talking to staff

All disciplinary outcomes and details will remain confidential. However, where appropriate, the Pre-school may talk privately with any staff who knew the grievance procedure was happening. This can help avoid any negative effects on the Pre-school, eg. bad feeling; gossip; bullying; low work morale.

If the St Joseph's Pre-school decides no action is needed

To make sure there is no bad feeling, the Pre-school will talk privately with the employee. We will also keep a note of how we carried out the procedure for future reference.

If the employee needs to take things further

If the employee feels they have tried everything and their problem is still not resolved, they could in some cases make a claim to an employment tribunal².

² For more information/advice on employment tribunals visit <https://www.acas.org.uk/making-a-claim-to-an-employment-tribunal>

Keeping records

- It is important, and in the interests of both the employer and employee, to keep written records during the grievance process. The records should include:
 - the nature of the grievance raised;
 - a copy of the written grievance;
 - the employer's written response;
 - action taken;
 - reasons for action taken;
 - whether there is an appeal and, if so, the outcome; and
 - subsequent developments.
- Records should be treated as confidential and kept in accordance with the General Data Protection Regulations 2018 and the Data Protection Act 2018, which gives individuals the right to request to have access to certain personal data. All personal information will be kept confidential.
- Copies of meeting records should be given to the employee including any formal statements that may have been taken. In certain circumstances (for example, to protect a witness) the employer might withhold some information.

Further evidence

- www.legislation.gov.uk; or www.hse.gov.uk; or other government websites.
- www.acas.org.uk offers comprehensive advice for employers and employees. This procedure has been written following ACAS' Code of Practice on disciplinary and grievance procedures.

Legal framework

- Health and Safety at Work etc Act 1974
- Employment Rights Act (1996)
- Equalities Act (2010)
- Data Protection Act (2018)
- General Data Protection Regulations (2018)
- The Worker Protection (Amendment of Equality Act 2010) Act 2023

Associate Policies and Procedures

- 2.1 Employment and staffing
 - 2.1.1 Disciplinary Procedure
- 5.4 Data Protection
- 5.7 Retention periods for records

Version Number	Author	Purpose of change	Date
1.0	K Coupe	New policy	Aug 2014
2.0	K Coupe	Reviewed & updated in line with GDPR & DPA 2018, and inclusion of version control	19/09/18 Cttee Mtg
3.0	K Coupe	Review of procedure using ACAS advice as a reference.	13/07/2021 Chair (A Hitchings)
4.0	K Coupe	Reviewed and updated: <ul style="list-style-type: none">• new sections on "related" or "similar" grievances;	25/02/2024 Committee Member

Version Number	Author	Purpose of change	Date
		<ul style="list-style-type: none"> • the importance of keeping talking through the procedure; • what happens if no action taken or the employee wants to take it further; • inclusion of “Associated Policies and Procedures” section as per EY Safeguarding Audit s175/157 2023 	(S Long)
5.0	K Coupe	<p>Updated in line with The Worker Protection (Amendment of Equality Act 2010) Act 2023</p> <ul style="list-style-type: none"> • confirmation that sexual harassment grievances can be made anonymously; • inclusion of Legal Framework section 	17 Dec 2024 Cttee Mbr (G Ind)