

Disciplinary Policy

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Team: Human Resources

Author: Senior HR Management Team

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1. Purpose Statement

- 1.1 This policy is designed to ensure that all colleagues maintain the required standard of conduct and behaviour expected of them. This disciplinary policy is based on the ACAS code of practice on disciplinary and grievance procedures and wider legalisation. This policy does not form part of any employee's contract of employment and the council may amend it at any time.

2. To whom this policy applies

- 2.1 This policy applies to all permanent and fixed term employees of the council except for some aspects where senior statutory officers may be subject to other constitutional arrangements.
- 2.2 Although the disciplinary policy and [procedure](#) does not normally apply to casual or temporary workers, natural justice requires that accusations about conduct of a worker should be addressed using a fair process, with the person being allowed the opportunity to explain their side. This policy and procedure may be referred to along with advice from Human Resources to establish an appropriate approach. If, after investigation it is decided that action should be taken, a decision will usually have to be made on whether it is appropriate to continue to offer work to the person or not. A casual temporary worker, for whatever reason, can decide that they no longer wish to accept work.
- 2.3 For certain types of incidents, there may still be a requirement to refer the casual temporary worker to an appropriate professional body. In the circumstances where a casual temporary worker has a pattern of regular working on a continuous basis, managers should seek advice from their HR advisor to check whether the provisions of this policy and procedure will apply.
- 2.4 Those employees on a seasonal or fixed term contract will be subject to this policy. Any investigation should be dealt with promptly and without unnecessary delay. Postponement of investigation meetings and hearings will not normally be agreed except for medical reasons the availability of a union official or other mutually agreed reason. A delay of more than ten working days would not normally be agreed.
- 2.5 The disciplinary policy will not apply to colleagues in their probation period for incidents of misconduct, the probation policy will be followed, however gross misconduct will be considered under this policy, and an investigation will be carried out which could lead to dismissal.

3. This policy replaces

- 3.1 This policy replaces the preceding legacy councils' disciplinary policies.

4. Approval process

- 4.1 The terms of this policy have been agreed after consultation with the trade unions and approved by the director's strategy group.

5. Links to Council Strategies

5.1 This policy supports the people strategy.

6. The Policy

6.1

All managers have a responsibility for ensuring that colleagues are aware of the disciplinary policy and should use the normal supervisory process to resolve day to day issues and concerns. The policy is not intended to replace or restrict supervision however, when routine supervision does not rectify conduct issues promptly, or in the event of gross misconduct, this policy should be applied.

6.2 Matters relating to or arising under the disciplinary policy must always be treated as confidential. Failure to do so may constitute grounds for initiating disciplinary action.

6.3 Misconduct is deemed to have taken place when a colleague's conduct falls short of the council's expectations of its colleagues. Examples are provided in the council's disciplinary procedure and BCP council's code of conduct. Gross misconduct is behaviour that is so serious that it could constitute a fundamental breach of the employment contract (for example the implied terms of trust and confidence as well as loyalty) and would make any further working relationship and trust impossible. It is restricted to very serious offences. The council's [disciplinary procedure](#) provides examples of gross misconduct.

7. How to use this policy

7.1 Disciplinary issues shall be handled promptly and appropriately.

7.2 At each stage of the disciplinary procedure (this can be found on the HR hub intranet page) the colleague will be informed in writing of:

- The nature of the complaints and or allegations against them; and •
The stage at which the matter is being considered.

7.3 The colleague will be informed that the complaint will be investigated and that they will be given a full opportunity to state their case and if action is taken, the nature of the action, what improvement is required and of their right of appeal. Colleagues should make every effort to attend meetings or interviews relating to the application of the disciplinary procedure. In rare circumstances such as where staff refuse to attend a meeting or hearing without sufficient reason these may be held without their presence and decisions made regarding further action.

7.4 This policy (and related [procedure](#)) has been developed in accordance with the ACAS code of practice: disciplinary and grievance procedures to resolve issues of misconduct in a fair, consistent and reasonable manner.

- 7.5 The procedure will be followed in the majority of cases as it seeks to deal with most disciplinary situations and provides the means whereby more serious issues may be addressed.

8. Roles and responsibilities

- 8.1 Managers have a duty to apply the disciplinary procedure fairly and consistently. Those managers whose responsibilities require them to participate in or hold disciplinary meetings will be given appropriate training to enable them to undertake their role effectively.
- 8.2 Colleagues have a duty to conduct themselves in a manner befitting their employment with the council ensuring that they comply with its rules, regulations and policies.
- 8.3 Trade Union - At hearing and outcome stages the employee has a right to be accompanied by a trade union representative (official or union certified companion) or other BCP Council worker. Where disciplinary action is being considered against a colleague who is a trade union representative, it is advisable to discuss the matter at an early stage with the union branch secretary, (after obtaining the colleague's consent), the normal disciplinary procedure will be followed.

9. Enforcement and sanctions

- 9.1 Disciplinary sanctions will be determined according to the seriousness of the alleged misconduct and an assessment or investigation of the facts. Where misconduct is established, and the sanction is a warning, any subsequent misconduct may result in further and potentially more serious action which may ultimately result in dismissal (for example, this may affect and counterweight mitigation presented in any future procedure). Colleagues have a right of appeal against any sanction. Serious allegations of gross misconduct may result in dismissal for a single occurrence.
- 9.2 Criminal offences - If an employee is alleged to have committed, been charged with, or convicted of a criminal offence, not related to work, the council will establish the facts of the case and consider whether the matter is serious enough to justify starting the disciplinary procedure. The main consideration will be whether the offence, or alleged offence, is one that potentially makes the employee unfit for their job role, for example if a cashier is convicted of theft.

The council reserves the right to proceed with a disciplinary case without waiting for the outcome of the criminal proceedings. Public trust and confidence in the council as a public body is a factor which is given great weight in this consideration.

9.3 Governing bodies – Where an allegation is relevant to a governing body, they will be kept informed and asked to advise where required. For example, in fraud related cases BCP Council's Audit department will be informed. Similarly, for safeguarding and matters related to children, the appropriate referral to the Health and Care Professions Council (HCPC) and the Local Authority Designated Officer (LADO) will be actioned.

10. Further information and evidence

10.1 Diversity - The policy will always be applied in accordance with the council's equality and diversity policy (this can be found on the equality and diversity intranet page) and has been designed to be non-discriminatory, fair, consistent and effective. Those responsible for arranging meetings under the disciplinary policy and procedure must ensure that any necessary and or reasonable adjustments required by the colleague or others attending have been addressed.

10.2 Grievances – Where a grievance is raised simultaneously to or is linked closely to a disciplinary action being taken it may be dealt with at the same time as the disciplinary case. If it is, the investigating officer will be asked to investigate concerns raised in the grievance as part of their investigation into the disciplinary matter.

10.3 Record keeping - Data relating to disciplinary cases will be held and destroyed in accordance with the council's data retention policy and the Data Protection Act 2018. Exceptions in the retention timescale will be considered in cases that relate to safeguarding or criminal offences. Colleagues involved in a disciplinary matter have the right to request access to the records related to them by submitting a data subject access request.