

## **Disciplinary Policy**

### **Introduction**

This disciplinary procedure is designed to help and encourage employees to achieve and maintain acceptable standards of conduct and job performance at all times, including the need to: -

- Fulfil the duties specified in their contract of employment.
- Be honest and act beyond suspicion of dishonesty.
- Maintain high standards of integrity and conduct to protect the council's image and reputation with the public.

This policy indicates the disciplinary procedure that will normally be followed in the event of misconduct or underperformance. The following list provides examples of conduct that will normally be regarded as misconduct leading to disciplinary proceedings. The list is not exhaustive. These are examples only:

- Unsatisfactory time keeping.
- Absenteeism, including any absence from work during a working day without prior authorisation or instruction.
- Failure to comply with rules and regulations applicable to job requirements.
- Failure by an employee to perform the duties and responsibilities of his or her post to the standard expected by the council.
- Insubordination.

The following list provides examples of conduct that will normally be regarded by the council as Gross Misconduct. This list is not exhaustive. These are examples only:

- Refusal or repeated failure by an employee to carry out his or her duties
- Falsification of documents or information (including expense claims)
- Unauthorised disclosure of confidential information.
- Assaulting a fellow employee or any other person whilst acting or purporting to act on behalf of the council.
- Insulting, indecent or offensive behaviour towards a fellow employee or any other person whilst acting or purporting to act on behalf of the council.
- Serious or repeated harassment (including sexual and racial harassment).
- Incapacity at work due to the influence of alcohol, unprescribed drugs or any other substance.
- Wilful damage to council property.
- Theft, unauthorised use or possession of council property or theft of the property of a fellow employee.
- Conduct bringing the council into disrepute.

Any other conduct that from time to time is defined by the council as amounting to gross misconduct

## **Scope**

The procedure applies to all employees of Boughton Monchelsea Parish Council.

## **Informal action**

In cases of minor misconduct or underperformance managers will deal with matters informally by discussing the issues with the employee and encouraging them to achieve the required standards. This will involve setting clearly defined objectives and /or standards, monitoring them over a reasonable time period and providing training and appropriate support. Such actions are not part of a formal disciplinary process.

## **Standard Council Disciplinary Procedure**

In the case of serious misconduct, or continued minor misconduct, or underperformance, the Council may deem it necessary to consider a formal disciplinary sanction. The following formal disciplinary procedure will be followed.

The Council will investigate any alleged misconduct or underperformance and will establish the facts surrounding the complaint as necessary, taking into account the statements of any available witnesses.

If an employee is accused of any Gross Misconduct he or she may be suspended from work on full pay pending the outcome of an investigation into the alleged offence(s) and the holding of a disciplinary hearing. During this time the employee should remain away from the workplace and should not contact colleagues or Councillors without prior permission. The Council may require the employee to attend a meeting to investigate the circumstance of the alleged offence whilst suspended from work.

Following the investigation the council will write to the employee inviting them to attend a disciplinary hearing to discuss the matter. The council will set out in writing the allegations of misconduct, under performance concerns, or other circumstances which lead the council to contemplate taking disciplinary action against the employee. The employee will be warned if the disciplinary action might amount to dismissal.

The employee will be provided with any relevant supporting evidence and a copy of this disciplinary policy. The letter will also advise the employee of their right to be accompanied at the hearing by a workplace colleague, trade union official or other representative.

The employee will be provided with a reasonable opportunity to consider his or her response to the information provided in the letter before attending the meeting. The employee must take all reasonable steps to attend the meeting.

Disciplinary meetings will normally be convened within 5 working days of the council sending the employee the letter.

If the time or date proposed for the meeting is inconvenient (either for the employee or for the employee's companion should he or she wish to be accompanied to the meeting) the employee may ask to postpone the meeting by up to 5 working days. If the employee fails to attend on this second date then the hearing may proceed in their absence, or it may be postponed again should there be reasonable cause.

The employee will have the opportunity to state their case at the disciplinary hearing. The Chairman of the meeting may adjourn the hearing to allow matters raised during the course of the meeting to be investigated. The employee will be informed of the period of any adjournment.

After the meeting the Council will inform the employee of their decision and any applicable sanction in writing within 5 working days unless additional investigation is required.

If the employee wishes to appeal against the decision he or she must notify the council in writing within 5 days of receiving written notice of the decision. The employee should set out full grounds for appeal prior to the meeting.

If the employee notifies the council that he or she wishes to appeal, the employee will be invited to attend a disciplinary appeal meeting. The employee must take all reasonable steps to attend that disciplinary appeal meeting. The employee has the right to be accompanied to a disciplinary appeal meeting by a fellow employee, a representative of a trade union or other representative.

A disciplinary appeal meeting will normally be convened within 7 working days of the council receiving notification that the employee wishes to appeal. If the meeting date is inconvenient for the employee or the employee's companion he or she may ask to postpone the meeting by up to 5 working days.

At the meeting any new evidence that the employee wishes to put forward will be considered together with any new evidence from the council. The original disciplinary penalty will be reviewed but the sanction originally imposed will not be increased upon appeal. The meeting may be adjourned to allow matters raised during the course of the meeting to be investigated.

After the disciplinary appeal meeting the council will inform the employee of its final decision in writing within 5 working days.

If the employee's appeal is against dismissal and the appeal is successful the employee will be reinstated and continuity of employment will be preserved.

### **Formal disciplinary sanctions following disciplinary hearing**

#### **Verbal warnings**

Verbal Warnings are issued for most first instances of general misconduct, depending on the seriousness of the offence. If the employee is given a Verbal Warning he or she will be warned of the likely consequences of any further disciplinary offences or a failure to improve his or her conduct to the satisfaction of the council. A note confirming the Verbal Warning will be placed on the employees personnel file and a copy will be provided to the employee. A Verbal Warning will normally remain in force for 6 months.

The Verbal Warning stage of the procedure may be omitted if the offence is of a sufficiently serious nature.

### **Stage 1 – First written warning for misconduct**

In the case of a serious offence or repetition of an earlier minor offence the employee will normally be given a First Written Warning. A First Written Warning will be issued by the Chairman of Boughton Monchelsea Parish Council and will set out:

- i. the nature of the offence and the improvement required (if appropriate) and over what period;
- ii. the likely consequences of any further offence or failure by the employee to improve his/her conduct to an acceptable standard;
- iii. that further offences will result in more serious disciplinary action; and
- iv. the employee's right of appeal.

A first Written Warning will normally remain in force for 6 months.

The First Written Warning stage of the procedure may be omitted if the offence is of a sufficiently serious nature.

### **Stage 1 – First written warning for unsatisfactory performance**

In the case of a problem of continued underperformance then the employee will be given a first written warning of the need to improve performance. A first Written warning will be issued by the Chairman of Boughton Monchelsea Parish Council and will set out:

- The precise nature of the problem of performance and the improvement required and the timescale for improvement, together with review dates
- The likely consequences of failure by the employee to improve their performance to an acceptable standard
- That failure to improve will result in more serious disciplinary action
- The employee's right of appeal

A first written warning of need to improve performance will normally remain in force for 6 months

### **Stage 2 – Final written warning**

If performance does not improve, or if further misconduct occurs within the time period specified in a First Written Warning, or if the misconduct is sufficiently serious the employee will be given a Final Written Warning following the disciplinary hearing. A Final Written Warning will be issued by the Chairman of Boughton Monchelsea Parish Council and will set out:

- the nature of the offence and the improvement required (if appropriate) and over what period;
- the likely consequences of any further offence or a failure by the employee to improve his/her conduct to an acceptable standard;
- that further offences will result in more serious disciplinary action up to and including dismissal; and
- the employee's right of appeal.

Final Written Warnings may also be issued in circumstances where the misconduct does not amount to gross misconduct, but is sufficiently serious enough to warrant only one written warning.

A Final Written Warning will normally remain in force for 12 months.

### **Stage 3 – Dismissal with notice**

If there is insufficient improvement after the period notified in stage 2 the employee will be dismissed with the appropriate notice following the disciplinary hearing.

A letter will be sent to the employee detailing the reasons for the dismissal, the date on which their employment will terminate and the arrangements for the notice period. The letter will detail the employee's right of appeal.

### **Gross misconduct (dismissal without notice)**

If the Council finds the employee to be guilty of gross misconduct his or her employment will be terminated summarily without notice or pay in lieu of notice following the investigation and the disciplinary hearing.

A letter will be sent to the employee by the Chairman of the Council following the dismissal detailing the reasons for the dismissal and the date on which the employment terminated. The letter will inform the employee of their right to appeal.