

# Disciplinary Policy

## 1. Purpose of the policy

- 1.1 The purpose of the Disciplinary Policy is to help and encourage all employees to achieve and maintain satisfactory standards of conduct within the London Borough of Barnet (the Council) and ensure employees are treated in a manner that is fair, sensitive, and consistent with Council values, employment law, and good management practice. It is important to note that this Policy and associated processes are not punitive in nature.
- 1.2 The Disciplinary Policy should be read in conjunction with the Disciplinary Procedure, which provides clear guidance on the steps that should be followed to ensure that allegations of misconduct are investigated timely and appropriately, and that decisions on any sanctions are made in a fair and rational manner.
- 1.3 The Council may also develop additional resources in order to support managers, employees, and trade union representatives involved in disciplinary cases. Such additional guidance will normally refer to the provisions of this Policy and Procedure and be aligned to the relevant principles of this Policy.

## 2. Scope

- 2.1 This policy applies to all Council employees except those who are in their probationary period. It does not apply to agency workers, contractors or consultants.
- 2.2 For newly appointed employees who are in their probationary period, the council's Staff Induction and Probationary Policy applies.
- 2.3 This policy does not apply to employees working in schools under the direction of a Governing Body. The Council recommends Governing Bodies in community schools within the London Borough of Barnet to adopt the principles of this Policy while adapting the process to local structures and requirements.
- 2.4 This policy does not apply to the conduct of the Chief Executive Officer/Head of Paid Service.

## 3. References

- 3.1 The Council's Code of Conduct, Disciplinary Procedure, and the following policies are associated with this document (please note that the list of associated policies is not exhaustive):
  - Grievance Resolution Policy and Procedure
  - Policy Statement on Dignity at Work
  - Managing Absence Policy and Procedure
  - Procedural arrangements regarding investigations and suspensions as outlined in the relevant Appendices to the Disciplinary Procedure.
  - Policies and procedures covering issues relating to data protection, confidentiality, and information security.

- 3.2 Reference should be made to the relevant Scheme of Delegation provisions to ensure that disciplinary hearings where dismissal is a possible outcome are chaired by a manager with authority to dismiss.

#### **4. General Principles**

- 4.1 Many potential disciplinary issues can be quickly resolved informally. Managers and employees should always look to resolve any misunderstandings or low-level concerns around standards of conduct informally within the workplace.
- 4.2 The Council appreciates that each individual case will vary depending on the specific circumstances. The principles of this Policy will apply to all disciplinary cases within the Council. However, managers, employees, and trade union representatives should remember that the Disciplinary Procedure contains steps which may not be relevant to some cases (e.g. on interviewing witnesses). Similarly, the circumstances of a case may result in some adjustment to the application of certain steps (e.g. the Investigating Officer may determine that it would be more appropriate to e-mail a set of questions to a member of the public who has witnessed an incident instead of having a real-time interview with them).
- 4.3 The Council will conduct disciplinary proceedings in a manner that is consistent with the principles of natural justice. Investigations into allegations of misconduct will be undertaken in a way that is timely, impartial, and proportionate to their seriousness and complexity. Employees against whom allegations of misconduct have been raised will be formally notified of the outcome of the process, together with the rationale behind any decisions made or sanctions imposed.
- 4.4 Any actions/steps within the Disciplinary Procedure should be implemented speedily whilst always maintaining confidentiality and keeping relevant parties informed of what is going to happen.
- 4.5 Where allegations of misconduct have been raised against an employee, the Council may decide to temporarily alter or restrict their duties or suspend the employee from work. More details around suspensions and alterations or restrictions to work duties can be found in the Disciplinary Procedure and Appendix 3.
- 4.6 A copy of the Disciplinary Policy and Procedure is available to employees on the Council intranet or via a request to their line manager and should be given to any employee who is subject to any disciplinary investigation or action. Any schools which choose to adopt this policy should make appropriate local arrangements to ensure that their staff can access it.
- 4.7 Before invoking the formal Procedure, managers should consider seeking assistance and advice from HR, who will ensure that the guidance and advice given supports the case being managed fairly and encourage the consistent application of sound decision-making principles across the Council.
- 4.8 The formal Disciplinary Procedure may be implemented at any stage, depending upon the seriousness of the allegations.
- 4.9 No formal disciplinary action will be taken under this Policy and Procedure without a full and proper investigation and hearing.

- 4.10 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.
- 4.11 Recognised trade union representatives will be subject to the same standards of conduct as other employees but will have the right to be represented by their District or Regional Officer or Regional Officer. More information is available in the Disciplinary Procedure.
- 4.12 Employees will have the right of appeal against any formal disciplinary sanction imposed under the Disciplinary Procedure.
- 4.13 Employees have access to an Employee Assistance Programme which can provide them with counselling and associated support.
- 4.14 Occasionally an employee may raise a grievance during the disciplinary process which is related to the case; both processes will normally run at the same time, however managers should seek advice on the relevant practicalities from HR (please also refer to Council's Grievance Resolution Policy and Procedure).
- 4.15 On some occasions, a disciplinary investigation and/or hearing will uncover room for improvement in employee training, wider working practices, and/or management systems. Where misconduct allegations against an employee are found to be substantiated, the hearing Chair should determine any appropriate disciplinary sanction[s] taking into account any relevant managerial/organisational shortcomings and their impact on the employee's conduct.
- 4.16 Where such scope for improvement is identified, and regardless of the outcome of the disciplinary investigation and/or any subsequent hearing, Investigating and Commissioning Officers should ensure that observations and recommendations are documented and shared with relevant colleagues in the spirit of continuous improvement. Care should be exercised to ensure that data protection and confidentiality requirements are observed, and that improvement plans are not conflated with any sanctions or any part of the Disciplinary Procedure.

## 5. Investigations

- 5.1 The Council will carry out confidential investigations into allegations of misconduct with an emphasis on collecting evidence from employees and other parties who may be aware of the facts of a case.
- 5.2 Managers who commission an investigation into disciplinary allegations ('Commissioning Officers') will designate an 'Investigating Officer' tasked with undertaking the investigation and compiling a report with their findings. Commissioning Officers should exercise care in ensuring that an Investigating Officer is capable of undertaking an independent investigation and able to review the relevant information and produce a report without undue delay. More details can be found in Appendix 2.
- 5.3 Investigations into misconduct allegations may overlap with other investigations or similar processes relating to financial audits, the safeguarding of children or vulnerable adults, or customer/resident complaints. Disciplinary investigations will be conducted separately and independently from other processes. Investigating Officers are permitted to review any

evidence that has been collected as part of those processes and include relevant parts of such evidence in their investigation reports.

## **6. Meetings, interviews, hearings**

- 6.1 Any references to 'meetings', 'interviews', or 'hearings' within this policy will be applicable to discussions held in a defined physical location (normally on Council premises) and those held remotely through the use of teleconferencing/videoconferencing facilities.
- 6.2 Employees are entitled to bring a companion or trade union representative into meetings or hearings held under this Policy. More details can be found in the Disciplinary Procedure.

## **7. Appeals**

- 7.1 Employees who have received a formal sanction at/after a disciplinary hearing are entitled to appeal against the decision of the Chair.
- 7.2 Appeals must be lodged in writing within 14 calendar days of the date of issue of the formal notification of the outcome. Any appeals submitted after the 14-day deadline will need to include reference to the circumstances/reasons for the delay, which will be considered on a case-by-case basis. More information can be found in the Disciplinary Procedure.
- 7.3 Disciplinary appeals are not structured to provide a facility for cases to be reassessed from scratch. Accordingly, appeals must be made on specific grounds, as set out within the Disciplinary Procedure.
- 7.4 The decision of the Chair of a disciplinary appeal hearing is final.
- 7.5 In the interests of natural justice, disciplinary appeal hearing decisions will not result in the employee receiving increased/additional sanctions.

## **8. The role of HR**

- 8.1 HR is responsible for making sure that the Disciplinary Policy is regularly reviewed and advising on its fair and consistent application, providing managers and employees with advice, support, training, and assistance where required. More information is available within the Disciplinary Procedure.

## **9. Confidentiality**

- 9.1 Any employee involved with this process is expected to maintain confidentiality at all stages. If an employee breaches confidentiality, they may be subject to separate disciplinary action depending on the nature of the breach.

## **10. Equality Statement**

- 10.1 In applying this policy, the council will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between

people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, sex, gender reassignment, marriage and civil partnership (in employment only), pregnancy and maternity, race, religion or belief, and sexual orientation. In addition, the council will ensure that employees and job applicants are not unreasonably discriminated against on the basis of other characteristics including socio-economic status, offending background, political affiliation and trade union membership. An Equality Impact Assessment is used for all policies and procedures.