



# Bournemouth CVS

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## **DISCIPLINARY PROCEDURE**

### **1 Purpose and Scope**

- a) Many day to day performance issues can, and should be dealt with as part of ongoing supervision and development by line managers. Such matters are not regarded as a part of the formal disciplinary process although issues identified and/or discussed during supervision meetings may give rise to disciplinary proceedings. There are occasions when more serious matters arise or performance issues are not resolved through routine supervision sessions and this procedure describes how these will be dealt with.
- b) This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, performance and attendance. The aim is to ensure consistent and fair treatment for all. Every effort will be made to deal with matters as quickly as possible. This procedure is based on the ACAS Code of Practice on Discipline and Grievance.
- c) The full procedure set out in section 3 will not apply during an employee's probationary period. During that time any concerns regarding conduct or attendance will be dealt with as part of the probationary process and may result in either an immediate end to employment - where matters are serious, or an extension to the probationary period, or an end to employment at the end of the probationary period.

### **2 Principles**

- a) Line managers must ensure that their staff are aware of general and specific rules, standards and procedures covering work and conduct. Employees must familiarise themselves with these standards and procedures and follow them.
- b) No disciplinary action will be taken against an employee until the case has been fully investigated. The employee will be informed in writing that an investigation will take place. When starting an investigation into an allegation of misconduct or poor performance, there shall be no assumption that disciplinary action will automatically follow.
- c) The employee will be advised in writing of the nature of the complaint against them and will be given the opportunity to state their case at a disciplinary meeting before any decision is made.

- d) At all formal disciplinary meetings the employee will have the right to be accompanied by prior arrangement, by a Trade Union representative or a fellow employee
- e) No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will normally be dismissal without notice or payment in lieu of notice.
- f) An employee will have the right to appeal against any disciplinary penalty imposed.
- g) The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.
- h) An employee will be made fully aware at the outset of any disciplinary case that the formal procedure is being used rather than the situation being an informal one.
- i) BCVS Confidentiality Policy will be observed at all times in the implementation of this policy.

### **3 Who is authorised to take disciplinary action?**

Informal action: Line Managers

Formal action: Chief Executive, Chair of Trustees or designated Trustee

### **4 Procedure**

If informal action fails to achieve the required improvement in performance or behaviour, then this procedure is followed. This procedure applies to all employees, once their probationary period is completed.

#### Invitation to a Disciplinary Meeting

(a) Following an investigation if there is a case for formal disciplinary action the employee should, without unavoidable delay (normally within 10 working days of the alleged misconduct or poor performance issue), be given a letter from the Chief Executive detailing the allegation, the possible consequences and inviting them to a disciplinary meeting.

(b) This will also state that they have the right to be accompanied by a trade union representative or work colleague at the meeting.

(c) At the same time the employee will be provided with copies of all documentation and supporting evidence to be presented at the meeting.

(d) If the employee or their companion are unable to make the meeting then it will be rearranged within 5 working days of the original date.

#### Disciplinary Meeting

(e) The Chief Executive and another manager or trustee will form a Panel. Where possible, a note-taker, who must be uninvolved in the case, will take down a record of the meeting but will take no part in the proceedings.

(f) If there are any witnesses, they should not be present throughout the meeting. They should be called in, one by one, to give their evidence and asked to leave once they have done so. Witnesses unable or unwilling to be present will be asked to provide a written statement.

(g) The Chair of the formal meeting will open the meeting with an explanation of its purpose and will read aloud the allegations.

(h) If the employee has a companion that companion can:

- Put the employee's case
- Ask questions of any witness or documentary evidence
- Sum up the employee's case
- Respond on the employees behalf to any view expressed at the meeting
- Confer with the employee during the meeting.

However the companion does not have the right to answer questions on the employee's behalf or address the meeting if the employee does not wish it

(i) The Chair will then ask the employee if s/he wishes to take the opportunity to respond to the allegations or concerns or if there are any mitigating circumstances to be taken into account. The Panel members may question the employee and any witnesses called.

(j) The Chair will summarise the main points of the discussion and ask the employee if they have anything further to say.

(k) The Panel will then consider the details heard in private. They must decide whether the case against the employee has been established on the balance of probabilities, i.e. whether misconduct is confirmed or the employee's performance is found to be unsatisfactory.

(l) If this is the case, when they are considering appropriate disciplinary action, they should also consider any special, mitigating circumstances, the employee's previous disciplinary or performance record, how Bournemouth CVS has dealt with similar cases in the past and whether the proposed action is reasonable in view of all the circumstances.

(m) The Chair shall give the employee written confirmation of the decision normally within five working days of the meeting. This will include notifying the employee of her/his right of appeal and the procedure to be followed.

#### Failure to attend a disciplinary meeting

(n) If the employee fails to attend a meeting then the meeting will be rearranged within 5 working days. The employee will be warned that the rearranged meeting may go ahead without them, the panel making its decision on the evidence available to the Panel if they do not attend. However if the employee has good reasons such as sickness the Panel may consider rearranging again, or negotiating the place or time, or allowing the employee to provide their response in writing.

## 5 Disciplinary Action

If following the disciplinary meeting it is decided to take action, one of the sanctions below may be applied.

### **STAGE 1 – WRITTEN WARNING**

If conduct, performance or attendance does not meet acceptable standards, the employee will normally be given a written warning by the Panel Chair. This will

- give details of the complaint
- the improvement required, the timescale and review dates
- detail any support or training that will be provided to assist the employee
- warn that action under Stage 2 will be considered if there is no satisfactory and sustained improvement
- and will advise of the right of appeal.

A copy of this written warning will be kept on the personnel files. The exact duration of the warning will be specified at the time when it is given. The warning will usually lapse after six months and will be removed from the file in the absence of any further misconduct or poor performance.

### **STAGE 2 – FINAL WRITTEN WARNING**

If there is still a failure to improve conduct, performance or attendance, or if a further misconduct occurs, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, a final written warning will be given. This will

- give details of the complaint
- give details of the improvement required, the acceptable timescale and review dates
- warn that dismissal will result if there is no satisfactory or sustained improvement
- advise of the right of appeal.

A copy of this final written warning will be kept on the personnel files and subject to satisfactory conduct will be removed from the personnel file after twelve months unless specified at the time of warning.

### **STAGE 3 – DISMISSAL**

If conduct, performance or attendance is still unsatisfactory or if gross misconduct occurs, dismissal will normally result. The employee will be provided, as soon as reasonably practicable, with

- written reasons for dismissal
- date on which employment will terminate
- advice about the right of appeal.

#### Time limits for warnings

There may be occasions where an employee's conduct is satisfactory throughout the period that the warning is in force, only to lapse very soon thereafter. Where a pattern emerges and there is evidence of abuse, the employee's disciplinary record should be borne in mind in deciding how long any warning should last.

## **6 Gross Misconduct**

Gross misconduct includes any action which threatens the organisation, its work or reputation, people connected with the organisation or members of the public, or which destroys the employer's necessary relationship of trust with the employee.

The following list, while not exhaustive, provides examples of offences which are normally regarded as gross misconduct:

- Theft, fraud, deliberate falsification of records.
- Physical violence
- Criminal offences which affect the individual's ability to carry out her/his role
- Serious bullying or harassment
- Discriminatory behaviour
- Abuse of position of authority
- The giving or receiving of bribes or unauthorised gifts
- Failure to comply with organisational policies and procedures
- Deliberately accessing internet sites containing pornographic, offensive, extremist or obscene material
- Deliberate damage to property
- Serious act of insubordination
- Misuse of the organisation's property or name
- Bringing the employer into serious disrepute both at and away from work
- Incapacity through alcohol or misuse of illegal drugs
- Serious negligence which causes unacceptable loss, damage or injury
- Serious infringement of health and safety rules
- Serious breach of confidence
- Providing false information during recruitment
- Engaging in unauthorised employment during contracted hours
- Making malicious or unfounded allegations of a serious nature
- Unauthorised entry, or supplying access codes to outside parties, to computer records
- Action likely to endanger others

If you are accused of an act of gross misconduct, you may be suspended from work on full pay while the organisation investigates the alleged offence. If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

## **7 Suspension**

(a) While any alleged misconduct is being investigated, the employee may be suspended and will be paid their usual salary. It should only take place where it is considered that the employee may impede the disciplinary investigation or commit further offences if he/she remains at work.

(b) The Chief Executive or Chair of the Board of Trustees will inform the employee in writing that s/he is to be suspended immediately: stating the nature of the alleged offence, the purpose of suspension, and its anticipated duration.

(c) Suspension will not imply that any view has been reached by the organisation about the allegations made neither should it be considered as a disciplinary penalty. Periods of suspension will be kept to a minimum

## **8 Appeals**

(a) An employee is entitled to appeal against any Disciplinary Warning or other Disciplinary Action. To do so an employee must notify the Chair of the Board of Trustees or his/her authorised deputy, if the Chair has already been involved in an earlier stage of the procedure, in writing within seven working days of receiving the written warning or other written notification of the penalty. The employee must specify the issues he/she wishes to appeal or contest and attach any documents in support of the appeal.

(b) The Chair or his/her deputy will appoint an Appeal Panel made up of three Trustees. If possible, in the interest of fairness, these will be people who have not been directly involved in the disciplinary procedure at any previous stage. If necessary, the Chair may replace a Trustee with an independent external person. If possible a note taker will also be present.

(c) A meeting of the panel will be convened as quickly as is reasonably practicable. The employee will be given at least two working days notice of the meeting. The employee is entitled at the appeal meeting to be accompanied by a trade union representative or fellow employee. At the appeal any disciplinary penalty imposed will be reviewed but cannot be increased. Confirmation of the decision of the meeting will be given in writing within five working days. The decision of the Appeal Panel is final.

## **9 Disciplinary action involving the Chief Executive**

If the Chief Executive is subject to alleged misconduct or poor performance the procedure in Section 4 and 5 will be managed by the Chair of Trustees or other designated trustee.

Date:

Signed:

Chair of BCVS Board

Chief Executive BCVS

Policy reviewed and agreed April 2016.

Policy to be reviewed and amended: April 2020