



Disciplinary Policy

Responsibility: Personnel committee

Review Cycle: Every two years, or earlier in the event of legislative changes

<u>Date of Adoption / Renewal</u>	<u>Resolution Number</u>
19 March 2013	6730
17 March 2015	
21 February 2017	7996
2 July 2019	8825
14 th April 2021	9334
7 th March 2023	10057

DISCIPLINARY POLICY

Disciplinary policy and procedure

Crowborough Town Council (the Council) firmly believes that the fairest way to resolve any problems relating to conduct or performance is to have a well-structured disciplinary policy and procedure. The procedure is designed to help and encourage all employees to achieve and maintain the Council's standards of conduct, attendance and performance and should be looked upon as a corrective process. For the avoidance of doubt, this procedure will be used for conduct, behaviour, performance, and capability at work issues.

Please read the following principles and procedures carefully. This policy and procedure is not contractual and may be amended from time to time by the Council.

1. Principles

- 1.1 Should an employee be subject to formal disciplinary action, they have the right to be informed in advance of the allegations of misconduct or poor performance, which will be raised at any formal disciplinary meeting.
- 1.2 Employees will always be given as much information as possible regarding the allegations of misconduct, attendance or performance which will form the basis of a formal disciplinary meeting.
- 1.3 Wherever possible formal meetings and hearings will be held during the employee's normal working hours.
- 1.4 Employees are expected to make all reasonable efforts to attend any investigation meeting, formal disciplinary meeting, or appeal hearing. Failure to attend any such meeting or hearing may result in it going ahead and a decision being taken in the employee's absence.
- 1.5 An employee may choose to submit written documents or statements instead of attending a formal disciplinary meeting or appeal hearing and must inform their line manager or the Town Clerk of their intention to do so, at least 24 hours in advance of a scheduled meeting or hearing.
- 1.6 Any disciplinary action will only be taken after a full investigation of the facts.
- 1.7 An employee may be suspended on their normal rate of pay during an investigation should it be deemed appropriate. Any period of suspension is not intended to be punitive and will be kept as short as possible.
- 1.8 The Council reserves the right to vary the disciplinary policy and procedure dependent on either the seriousness of the allegations of misconduct, attendance or performance to be addressed, or if continuity of service is a period lasting less than 24 months.
- 1.9 This procedure will not be used if an employee is still within their probationary period.
- 1.10. The Council may choose to record disciplinary meetings or appeal hearings if agreed by all parties. The recordings will only be used to check accuracy of the notes should an issue arise.
- 1.11 Employees have the right to appeal any decision resulting from a formal disciplinary meeting. The appeal decision is final.
- 1.12 Employees have the right to ask witnesses to attend their formal disciplinary meeting and must inform the relevant manager or the Town Clerk who will be called as a witness in advance of the formal disciplinary meeting or appeal hearing.

1.13 Employees will be provided with sufficient information prior to a formal disciplinary meeting to enable them to prepare for such a meeting and put their case forward.

1.14 Should the performance, attendance or conduct of the Town Clerk be the subject of any formal disciplinary action, this will be dealt with by the Town Mayor, the Chair of the Personnel Committee or another Councillor on the Personnel Committee. The Council may appoint an external consultant should it be deemed appropriate.

1.15 The Council reserves the right to deduct from pay the cost of any damage or loss to property or goods, which after a formal disciplinary meeting was found to have been caused by staff negligence or vandalism.

2. Investigation

2.1 An investigation is the process by which the Council will find out all it reasonably can about issues of concern. An investigation is to:

- See if there is a case to answer
- Make sure everyone is treated fairly
- Gather evidence from all sides
- Help the Council see what should happen next

2.2 An investigation should be conducted without unreasonable delay to establish the facts of the case. In some cases this will require an investigatory meeting with the employee prior to a formal disciplinary meeting. In other cases the investigation will be the collation of evidence by the Council for use at a formal disciplinary meeting. Where an investigation meeting is necessary with an employee, whose performance, conduct, or attendance is under investigation, the employee will be given at least 2 working days' notice of the meeting.

2.3 The investigation may be conducted by the Town Clerk, the Chair of the Personnel Committee, the Town Mayor or an external consultant, or any other appropriate person appointed to ensure the investigation is fair and reasonable. Where possible the person conducting the investigation will not be the same as the person conducting a formal disciplinary meeting.

2.4 An investigation meeting alone will not result in a disciplinary sanction being applied. With the exception of a verbal warning, this can only be done as a result of a formal disciplinary meeting.

3. The Procedure

3.1 Informal action

3.1a Minor conduct, attendance or performance concerns will be addressed informally by line managers or the Town Clerk, ~~provided the employee does not have a current formal warning on file under this procedure.~~ Details of any discussion about the misconduct or performance will be put on the employee's individual HR record as a verbal warning. It is expected that improvements in conduct, attendance or performance will be made by the employee with immediate effect.

3.1b Where the informal approach fails to bring about the necessary improvement in conduct, attendance, or performance or in cases of more serious misconduct the formal procedure will be instigated.

4. Formal procedure

4.1 Stage One

4.1a If an employee has a current formal verbal warning on file and the line manager or Town Clerk has cause to raise further concerns about conduct, attendance or performance, or where the misconduct or poor performance is serious enough, the employee will be informed that stage one of this procedure is being instigated. The employee will be informed in writing (including via email) of the area of concern and will be invited to attend a formal disciplinary meeting to discuss

the matter, giving at least two working days' notice.

4.1b At the formal disciplinary meeting the problem will be discussed and the employee will be given the opportunity to offer a satisfactory explanation. If the explanation is unsatisfactory, the employee will be issued with a formal written warning. The manager will confirm the standards of conduct, attendance, or performance required with immediate effect.

4.1c After the meeting, the topics discussed at the meeting will be confirmed in writing and the formal written warning will remain on file for 9 months.

4.1d The employee will either be advised verbally of the outcome at the end of the meeting or will be advised in writing after the meeting. A letter summarising the discussion will be given to the employee as soon as possible after the meeting. This letter will constitute a formal written warning under this procedure, and will include details of the employee's right to appeal against the warning.

4.1e Should a line manager or the Town Clerk have concerns about conduct, attendance or performance while the formal verbal warning is still in effect, Stage Two of this procedure will be instigated.

4.2 Stage Two

4.2a If an employee has a current formal written warning on file, and a line manager or the Town Clerk has cause to raise further concerns about conduct, attendance or performance, or where the misconduct or poor performance is serious enough, the employee will be informed that stage two of this procedure is being instigated. The employee will be informed in writing (including via email) of the area of concern and will be invited to attend a formal disciplinary meeting to discuss the matter, giving at least two working days' notice.

4.2b At the formal disciplinary meeting the problem will be discussed, and employee will be given the opportunity to offer a satisfactory explanation. If the explanation is unsatisfactory, the employee will be issued with a formal final written warning. The line manager or Town Clerk will confirm the standards of conduct, attendance or performance required with immediate effect.

4.2c After the meeting, the topics discussed at the meeting will be confirmed in writing to the employee and the formal final written warning will remain on file for 12 months.

4.2d A letter summarising the discussion will be given to the employee as soon as possible after the meeting. This letter will constitute a formal final written warning under this procedure and will include details of the employee's right to appeal against the warning.

4.2e Should a line manager or the Town Clerk have concerns about conduct, attendance, or performance while the formal final written warning is still in effect, Stage Three of this procedure will be instigated, and this may result in dismissal.

4.3 Stage Three

4.3a If an employee has a current formal final written warning on file, and a line manager or the Town Clerk has cause to raise further concerns about conduct, attendance or performance, or where the misconduct could be regarded as gross misconduct or the poor performance is serious enough, the employee will be informed that stage three of this procedure is being instigated. The employee will be informed in writing (including via email) of the area of concern and will be invited to attend a formal disciplinary meeting to discuss the matter, giving at least two working days' notice.

The employee will be advised that the outcome of this meeting could be their dismissal.

4.3b At the formal disciplinary meeting the problem will be discussed, and the employee will be given the opportunity to offer a satisfactory explanation. If the explanation is unsatisfactory, the employee may be dismissed and their contract of employment terminated.

4.3c The employee will either be advised verbally of the outcome at the end of the meeting, after an adjournment, or will be advised in writing after the meeting if further consideration is necessary. In any event, the employee's dismissal will be confirmed in writing, stating the reason(s) for this action and confirming the effective date of the dismissal and their right to appeal.

4.3d In exceptional circumstances, the Council reserves the right, as an alternative to dismissal, to impose a penalty of suspension without pay for up to a maximum of five working days, together with a final written warning that will remain on file for 12 months.

4.4 Appeal

4.4a If an employee wishes to appeal against a decision to issue a formal warning or terminate the contract of employment the line manager or the Town Clerk must be notified in writing, within five working days of receiving the confirmation of the disciplinary action, clearly detailing the reasons for the appeal.

4.4b If an employee has new information or evidence to support an appeal, details must be given in full and include the names of any witnesses that may be called to call to support their appeal. This is in order that there will be sufficient time to investigate any additional information before the appeal hearing.

4.4c An appeal hearing will be held as soon as reasonably practicable from the date of the receipt of the employee's appeal letter but allowing for reasonable time to carry out any further investigations necessary. Where possible, an appeal hearing will be chaired by a line manager not previously involved in the disciplinary action. Where this is not possible the Council may nominate a suitable person to hear the appeal which may include (but is not limited to) the Chair of the Personnel Committee, the Town Mayor or an external HR consultant.

4.4d If the appeal is successful, the warning will be withdrawn or the individual will be reinstated. If the appeal is unsuccessful the employee's warning or dismissal will stand, and this decision is final.

4.4e The severity of any disciplinary action cannot be increased as a result of an appeal hearing.

4.4f The Council will write to the employee as soon as reasonably practicable from the date of the appeal hearing confirming the outcome of the meeting.

5. Right to a companion

5.1 At any formal disciplinary meeting or disciplinary appeal hearing employees are entitled to be accompanied by a fellow employee or a fully trained and certified trade union official or union representative if they are a member of a union. A note-taker may also attend the hearing, and this will be an appropriate employee who is not in the same team as the employee who is subject to this procedure, or an external consultant. Employees must inform the Council of the name and position of a chosen companion prior to any meeting or hearing.

- 5.2 If a chosen companion is not available at the time proposed for the meeting or hearing, the employee may delay the meeting, provided that they propose an alternative time and date within 5 working days of the date of the original meeting or hearing. If the chosen companion is not available to attend within this timeframe, an alternative companion must be chosen who is able to attend the meeting or hearing.
- 5.3 A companion provides support for the employee and may act as a witness, take notes of the hearing, address the meeting or hearing and confer with the employee. However, the companion may not answer questions on the employee's behalf and if an employee indicates that they do not wish the companion to take an active part in the meeting they will not be permitted to do so. It is the responsibility of the employee to ensure that the person chosen to act as a companion is willing so to act and is available to attend the meeting.
- 5.4 The right to a companion does not apply to investigation meetings, nor to any employees who are attending formal disciplinary meetings or appeal hearings as witnesses.

6. Examples of misconduct

Gross misconduct is misconduct which is so serious that it may lead to dismissal without notice. Examples of gross misconduct includes, but is not limited to:

- Deliberate falsification of records, dishonesty, fraud or theft;
- Breach of Council confidentiality;
- The committing of offences against current discrimination legislation whilst acting on behalf of the Council;
- Fighting or assaulting another person;
- Making yourself unfit to work by solvent abuse, drinking alcohol, taking of illegal substances or failing to follow medical instructions on prescribed drugs;
- Being in possession of illegal drugs and substances or alcohol whilst on Council premises or during normal working hours;
- Being in unauthorised possession of the Council's property;
- Behaviour likely to bring the Council into disrepute;
- Wilful and deliberate damage to or misuse of Council property;
- Conviction on a criminal charge that is relevant to your employment with the Council;
- The misuse including use for personal gain, of confidential information in the course of working for the Council;
- Undertaking private work without permission;
- Harassment (sexual, racial or by reason of another's disability) or bullying behaviour;
- Using threatening, offensive or obscene language, or making comments which may reasonably be expected to cause offence, towards or in your interactions with members of the public or other employees.
- Inappropriate or unwanted physical contact with another employee, member of the public or any visitor to the Council;
- Deliberate failure to comply with or serious disregard of the published rules of the Council, including those covering security, health and safety, equal opportunities and compliance;
- Serious breach of the Council's policies and rules, including the health and safety policy and rules;

- Negligence resulting in potential serious loss, damage or injury;
- Public and deliberate refusal to carry out a reasonable request made by, or serious insubordination of a manager or the Town Clerk;
- Failure to follow Council procedures concerning the handling of money or other valuables;
- Serious breach of the rules relating to the use of computers, e-mail or the Internet.
- Breach of the Council vehicle policy, including using a Council vehicle for personal reasons.

Serious misconduct includes, but is not limited to:

- Refusal to carry out a reasonable request or instruction from a line manager, any other manager or the Town Clerk;
- Unauthorised absence from work;
- Negligence resulting in potential minor loss, damage, or injury.

General misconduct includes, but is not limited to:

- Unsatisfactory record of attendance or reliability
- Persistent lateness
- Failure to maintain an acceptable standard of dress
- Poor standard of personal hygiene