



DISCIPLINARY PROCEDURE

Reviewed and agreed: Full Council Committee meeting 22nd April 2021- Agenda item 7

1. INTRODUCTION

1.1. This procedure is designed to help and encourage all 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.
- Protect the council's image and reputation with the public.

2. SCOPE

1.1. The procedure applies to all employees of Folkestone Town Council.

- Informal coaching, supervision and training will be considered, where appropriate, to improve conduct and / or attendance
- No formal disciplinary action will be taken (i.e. a formal warning) until the case has been fully investigated
- For formal action the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made at a disciplinary hearing
- Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary hearing
- Employees have the right to be accompanied at a formal disciplinary hearing or interview by a work colleague or trade union official of their choice
- Employees will not ordinarily be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will usually be dismissal without notice or payment in lieu of notice
- An employee will have the right to appeal against any disciplinary action
- The procedure may be implemented at any stage if the employee's alleged misconduct warrants this

4. STANDARD COUNCIL DISCIPLINARY PROCEDURE

4.1. Preliminary enquiries / investigation

4.1.1. The Parish Clerk may make preliminary enquiries to establish the basic facts of what has happened in order to understand whether there may be a case to answer under the disciplinary procedure.

4.1.2. If the Parish Clerk believes there may be a disciplinary case to answer, they may want a more detailed investigation undertaken to establish the facts of a situation or to establish the perspective of others who may have witnessed misconduct. You may be asked to meet an investigator as part of the disciplinary investigation. You may be accompanied by a work colleague or trade union official.

4.1.3. If the investigator (which could be a member of the Personnel subcommittee, the Parish Clerk or an external person) suggests there has been misconduct, you may be invited to a disciplinary hearing.

4.1.4. Where minor concerns about conduct become apparent, the Parish Clerk will raise this with you and clarify the improvements required. A file note will be made and kept on your file, you will be asked to read and sign the file note. Informal discussions like this are not part of the formal disciplinary procedure.

4.1.5. If the conduct fails to improve, or if further matters of conduct become apparent, The Parish Clerk may decide to formalise the discussions and invite you to a first stage disciplinary hearing.

5. SUSPENSION

5.1. If allegations of gross misconduct or serious misconduct are made, the council may suspend you while further investigations are carried out.

5.2. Suspension will be on full pay; this does not imply any determination of guilt or innocence, as it is merely a measure to enable further investigation.

5.3. While you are suspended you are required to be available during normal hours of work so that we can contact you if necessary.

5.4. You must not contact or attempt to contact or influence anyone connected with the investigation in any way or to discuss this matter with any other employee without prior approval of the Parish Clerk.

5.5. You must not attend or visit your place of work. If you wish to contact any employee who you feel could assist you in preparing an explanation for the allegations made against you, please contact the Parish Clerk in order that arrangements can be made for the employee to be available for interview.

6. VERBAL WARNINGS

6.1 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.

6.2 A note confirming the Verbal Warning will be placed on the employees personnel file and form part of the informal management of the employee. A copy will be provided to the employee. A Verbal Warning will 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 and therefore warrants formal sanctions.

7. FORMAL SANCTIONS STAGE 1 - FIRST WRITTEN WARNING

7.1. If the council has concerns about your conduct we will write to you explaining the concerns and invite you to a formal disciplinary hearing to discuss these concerns. This will give you an opportunity to give your perspective. You will have the right to be accompanied to the meeting.

7.2. Following a disciplinary hearing if your conduct has fallen beneath acceptable standards, a First Written Warning will be issued in writing by the Chair of the disciplinary hearing and will set out:

i. the nature of the misconduct and the improvement required (if appropriate) and over what period;

ii. the likely consequences of any further misconduct or failure to improve your conduct to an acceptable standard;

iii. any additional offences may result in further disciplinary action;

and

iv. your right of appeal.

7.3. A first written warning will remain in force for 6 months. The warning will be taken into account should any further misconduct occur (whether for similar circumstances or not) within a specified period of time.

7.4. While the warning will not remain active in relation to future disciplinary matters after the specified time, a record of what has occurred will be kept and may be referred to if relevant.

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

8. FORMAL SANCTIONS STAGE 2 - FINAL WRITTEN WARNING

8.1. If the offence is sufficiently serious, or if there is further misconduct or a failure to improve sufficiently during the currency of a prior warning, we will write to you again explaining the concerns and invite you to a formal disciplinary hearing to discuss the concerns. This will give you an opportunity to give your perspective.

8.2. You will have the right to be accompanied to the meeting.

8.3. Following a disciplinary hearing if your conduct has fallen beneath acceptable standards, a final written warning may be issued.

This will be issued by the Chair of the disciplinary hearing and will set out:

i. the nature of the misconduct and the improvement required (if appropriate) and over what period;

ii. the likely consequences of any further misconduct or a failure to improve your conduct to an acceptable standard;

iii. any additional offences may result in more further disciplinary action up to and including dismissal; and

iv. your right of appeal.

8.4. 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 a written warning.

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

8.6. The warning will be taken into account should any further misconduct occur (whether for similar circumstances or not) within a specified period of time.

8.7. While the warning will not remain active in relation to future disciplinary matters after the specified time, a record of what has occurred will be kept and may be referred to if relevant.

9. FORMAL SANCTIONS STAGE 3 - DISMISSAL

9.1. If there is still further misconduct, an offence equivalent to gross misconduct or a failure to improve sufficiently the council will write to you again explaining the concerns and invite you to a formal disciplinary hearing to discuss the concerns. This will give you an opportunity to give your perspective.

9.2. You must take all reasonable steps to attend the meeting. You will have the right to be accompanied to the meeting.

9.3. If the time or date proposed for the meeting is inconvenient (either for you or for your companion) you may ask to postpone the meeting by up to 5 working days.

9.4. The meeting may be adjourned to allow matters raised during the meeting to be investigated, or to afford the Panel time to consider their decision.

9.5. Following a disciplinary hearing, if your conduct remains beneath acceptable standards or if there has been insufficient improvement you may be dismissed.

9.6. The council will inform you of their decision and any applicable sanction within 5 working days. The meeting may be reconvened for this purpose.

9.7. If you are dismissed you will be provided in writing with;

i. Reasons for dismissal

ii. The date on which the employment will terminate

iii. The right of appeal

9.8. If you are accused of an act of gross misconduct, it is likely that you will be suspended from work on full pay while the alleged offence is investigated.

9.9. If, on completion of the investigation, the council is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or pay in lieu of notice.

9.10. Where a final written warning is given to an employee, the council may also impose on the employee:

i. loss of seniority;

ii. in line with any provision in the contract of employment, transfer to a job of a lower status

9.11. The above sanctions may be imposed in conjunction with other forms of disciplinary action, or as an alternative to dismissal.

10. APPEALS

10.1. An employee who wishes to appeal against the decision must notify the Chair of the Personnel Sub Committee in writing within 5 days of receiving written notice of the decision.

10.2. Once you notify the council that you wish to appeal, you will be invited to attend a disciplinary appeal meeting.

10.3. You must take all reasonable steps to attend that disciplinary appeal meeting.

10.4. You have the right to be accompanied to a disciplinary appeal meeting by a fellow employee or by a representative of a trade union.

10.5. The council will consider any new evidence that the employee wishes to put forward will be considered, as well as any new evidence from the council. The original disciplinary sanction will be reviewed.

10.6. The disciplinary appeal sanction originally imposed cannot be increased upon appeal.

10.7. The disciplinary appeal meeting will not necessarily take place before any disciplinary sanction imposed by the council takes effect. 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.

10.8. The meeting may be adjourned to allow matters raised during the meeting to be investigated, or to afford the panel time to consider its decision.

10.9. After the disciplinary appeal meeting the council will inform the employee of its final decision within 5 working days. The decision will be confirmed to the employee in writing by Chair of the appeal hearing.

11. GENERAL PROCEDURAL INFORMATION

11.1. Meetings under each stage of the disciplinary process will be conducted by either the Parish Clerk and/or members of the Personnel Subcommittee.

11.2. Where disciplinary proceedings are instigated against the Parish Clerk any investigations and any meetings will be carried out by the Town Mayor and the Council's Personnel Sub-Committee. Any disciplinary appeal meeting will be conducted by an approved panel with no prior involvement in the investigation and disciplinary hearing. The authority to dismiss the Parish Clerk may only be taken by the full Council in accordance with written contracts of employment.

12. DATA PROTECTION

12.1. The Council processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with its data protection policy.

12.2. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure.

12.3. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.

13. DISCIPLINARY RULES

13.1. The following is a list of the disciplinary rules. These are intended to set safe and efficient standards of performance and acceptable levels of conduct.

13.2. This list is not to be regarded as exclusive or exhaustive. Acts of misconduct not falling within one of these rules may also give rise to disciplinary action.

13.3. Who do these rules apply to?

These disciplinary rules apply to all employees regardless of their length of service or the length of their contract.

13.4. Misconduct

The following is a list of examples of behaviour and conduct which is viewed as misconduct. They will normally lead to a disciplinary warning unless there are very exceptional mitigating circumstances. This list is not to be regarded as exclusive or exhaustive. Acts of misconduct not falling within one of these rules may also give rise to disciplinary action:

i. Unsatisfactory time keeping, including repeated lateness, an unacceptable level of attendance or failure to follow absence reporting procedures

- ii. Absenteeism, including any absence from work during a working day without prior authorisation or instruction.
- iii. Unsatisfactory work performance (either repeated instances or poor work or one piece of very poor work)
- iv. Failure to comply with rules and regulations applicable to job requirements.
- v. Failure to use safe working practices and / or observe the requirements of the Health and Safety Policy and associated procedures
- vi. Failure by an employee to perform the duties and responsibilities of his or her post to the standard expected by the council.
- vii. Data protection breaches and misuse of the organisation's information
- viii. Breach of confidentiality - to an extent short of that specified under the relevant example given for Gross Misconduct
- ix. Insubordination and lack of respect for others.
- x. Placing inappropriate, derogatory or offensive comments on social networking sites, e.g. Facebook which affect the council, its staff, members or suppliers
- xi. Dishonesty; to an extent short of that specified under the relevant example given for Gross Misconduct
- xii. Behaviour liable to bring the council into disrepute; to an extent just short of Gross Misconduct
- xiii. Any other conduct that from time to time is defined by the council as amounting to misconduct.
- xiv. Incapability at work brought on by the use of alcohol or drugs
- xv. Negligence resulting in minor loss, damage or injury to the council, a fellow employee or client
- xvi. Impropriety or disorderly conduct whether within or outside working hours which the council reasonably considers to be detrimental to or conflicting with the interest of the council or its clients
- xvii. Failure to disclose a personal interest which conflicts with the council or its clients
- xviii. Unsatisfactory manner or / and appearance
- xix. Any act or omission which, after investigation and due consideration to the individual circumstances is believed to amount to misconduct

13.5. Gross Misconduct

The following is a list of examples of behaviour and conduct which is viewed as extremely serious. They will normally lead to dismissal unless there are very exceptional mitigating circumstances. This list is not to be regarded as exclusive or exhaustive. Acts of gross misconduct not falling within one of these rules may also give rise to disciplinary action:

- i. Refusal or repeated failure by an employee to carry out his or her duties may result in disciplinary action.
- ii. Falsification of documents or information (including expense claims), or intentionally making false statements when incidents or accidents are being investigated, or when applying for employment or in connection with medical examination
- iii. Abandoning duty without permission

- iv. Possession, custody or control of illegal drugs on the organisation's premises
- v. Serious incapability at work brought on by the use of alcohol or drugs
- vi. Unauthorised disclosure of confidential information.
- vii. Assaulting a fellow employee or any other person whilst acting or purporting to act on behalf of the council.
- viii. Insulting, indecent or offensive behaviour towards a fellow employee or any other person whilst acting or purporting to act on behalf of the council.
- ix. Serious or repeated harassment (including sexual and racial harassment).
- x. Incapacity at work due to the influence of alcohol, unprescribed drugs or any other substance.
- xi. Wilful damage to council property.
- xii. Theft, unauthorised use or possession of council property or theft of the property of a fellow employee.
- xiii. Conduct bringing the council into disrepute.
- xiv. Serious infringement of any of the Council's policies and procedures including the Health and Safety Policy, Equality and Diversity Policy, Data Protection Policy and any policies regarding the use of information technology
- xv. Any other conduct that from time to time is defined by the council as amounting to gross misconduct.