



## DISCIPLINARY PROCEDURE

### Purpose and scope

This procedure is designed to help and encourage all Crediton Town Council (CTC) employees to achieve and maintain acceptable standards of conduct, attendance and job performance. This procedure applies to all employees except where it conflicts with a contractual or statutory requirement, which takes precedence. The aim is to ensure consistent and fair treatment for all working for CTC.

### Principles

The procedure is not a substitute for good management practices and should only be invoked when initial attempts to improve conduct have been made following discussions between the employee and Town Clerk. Where there has been gross misconduct or serious breach of disciplinary rules, however, the formal procedure should be actioned immediately.

No disciplinary action will be taken against an employee until the circumstances have been fully investigated.

The employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made at a disciplinary meeting.

Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.

At all stages of the procedure the employee will have the right to be accompanied by a trade union representative or work colleague.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will 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.

### Roles & Responsibilities

Normally, the Town Clerk will consider minor disciplinary issues and resolve them, if they can, without recourse to the formal procedure.

All other disciplinary issues involving the formal procedure will immediately be referred to the Council Affairs and Finance Committee, who will then be responsible for nominating an Officer to investigate.

The Officer who carries out an investigation should not participate in any subsequent decision to take action under the procedure. Likewise, the Officer (or Panel) hearing the case should not be involved in the investigation beforehand. It is important that respective roles are identified at an early stage so that those roles are not compromised. The Investigating Officer need not be the Town Clerk, although this would normally be the case. Only the HR Committee has the right to suspend or dismiss an employee.

## The Procedure

### ***First stage of formal procedure***

This will normally be either:

- *an improvement note for unsatisfactory performance* if performance does not meet acceptable standards. This will set out the performance problem, the improvement that is required, the timescale, any help that may be given and the right of appeal. The individual will be advised that it constitutes the first stage of the formal procedure. A record of the improvement note will be kept for six months, but will then be considered spent – subject to achieving and sustaining satisfactory performance

or

- *a first warning for misconduct* if conduct does not meet acceptable standards. The warning will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the warning will be kept, but it will be disregarded for disciplinary purposes after a specified period (e.g., six months).

### ***Final written warning***

If there is further misconduct or a failure to improve performance during the currency of a prior warning, or if the offence is sufficiently serious a final written warning may be given to the employee. This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. A copy of this written warning will be kept by the Town Clerk but will be disregarded for disciplinary purposes after 12 months subject to achieving and sustaining satisfactory conduct or performance.

### ***Dismissal or other sanction***

If there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal or some other action short of dismissal, such as demotion or disciplinary suspension or transfer (as allowed in the contract of employment). Dismissal decisions can only be taken by the HR Committee and the employee will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

If some sanction short of dismissal is imposed, the employee will receive details of the complaint, will be warned that dismissal could result if there is no satisfactory improvement, and will be advised of the right of appeal. A copy of the written warning will be kept by the Town Clerk but will be disregarded for disciplinary purposes after 12 months subject to achievement and sustainment of satisfactory conduct or performance.

### **Gross misconduct**

The following list provides some examples of offences which are normally regarded as gross misconduct:

- theft or fraud
- physical violence or bullying
- deliberate and serious damage to property
- serious misuse of an organisation's property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material

- serious insubordination
- unlawful discrimination or harassment
- bringing the organisation into serious disrepute
- serious incapability at work brought on by alcohol or illegal drugs
- causing loss, damage or injury through serious negligence
- a serious breach of health and safety rules
- a serious breach of confidence.

If you are accused of an act of gross misconduct, you may be suspended from work on full pay, normally for no more than ten working days, while the alleged offence is investigated. If, on completion of the investigation and the full disciplinary procedure, CTC is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

### **Appeals**

An employee who wishes to appeal against a disciplinary decision must do so, in writing, within ten working days.

The employee will be invited to an appeal meeting, within ten working days, and the appeal will be heard by an Appeals Sub-Committee. At the appeal any disciplinary penalty imposed will be reviewed. The Appeals Sub-Committee will be made up of members of the HR Committee and members will be chosen at an appropriate meeting.

The Appeal Sub-Committee's decision is final.