

DISCIPLINARY POLICY

Approved On	June 2016, Amended October 2020
Next Review Date	October 2023

On request, the Association will provide translations of all our documents, policies and procedures in various languages (using a translation service) and other formats such as computer disc, tape, large print, Braille etc. These can be obtained by contacting the Association's offices.

1. Introduction

West of Scotland Housing Association requires you to maintain the highest possible standards of attendance, conduct and performance. The purpose of this policy is to help you understand these and encourage you to maintain them.

This policy will inform you of our expected standards of conduct, performance and attendance. Please speak to your line manager if you are unsure of the standards expected of you. If you do not meet our standards, then we will manage this in accordance with this disciplinary procedure.

This policy and procedure applies to all West of Scotland employees *There is a separate policy for Willowacre Trust employees.*

2. Policy Aims

- To make sure that you know the standards expected in respect of conduct, performance and attendance.
- To manage you in accordance with the procedures in this policy should you fall short of our expected standards.
- To manage any fall in standards in a fair and consistent manner.

3. You can expect West of Scotland Housing Association to:

- Inform you of all the allegations against you and give you the opportunity to state your case.
- Not take any formal disciplinary action until we have fully investigated the allegations against you.
- Conduct our own investigation irrespective of any police proceedings and make decisions in accordance with this policy based on evidence and information available to us at the time.
- Pay you full pay if we decide to suspend you pending any investigation outcome.

- Proceed with disciplinary action after an appropriate investigation has taken place.
- Not take any disciplinary action, or suspend you if you are a trade union representative until we have had discussions with a full-time official of the union. If the full-time official is not available, we will contact a regional officer.
- Give you the right to be accompanied by either a trade union representative of your choice, or a workplace colleague at any stage of the formal procedure.
- Make sure if any action is taken against you, (other than dismissal) that we make clear the standards of improvement required, the timescale within which we expect this to be achieved, the frequency of reviews, and the consequences of inadequate or un-sustained improvement.
- Not dismiss you if this is the first issue with your conduct, performance or attendance unless you have committed gross misconduct. In this case, the penalty will normally be summary dismissal without notice or pay in lieu of notice.
- Provide you with a right of appeal if we issue you with any formal action.
- Keep records on your personal file of any live disciplinary action, which will only be available to you and your line manager.
- Refuse the use of recording devices (in normal circumstances) during any investigation, disciplinary or appeal hearings.
- Apply the procedure at any stage depending on the seriousness of the allegations against you.

4. We expect that you will:

- Be honest and transparent in all aspects of your work for us.
- Treat all colleagues, clients, partners and anyone in connection with us with respect and tolerance.
- Not abuse West of Scotland Housing Association's facilities.
- Not disclose any confidential information obtained in connection with your employment with us.
- Be frank and upfront about any connections you may have in any business that we deal with.
- Not publish or profit from any work done within West of Scotland Housing Association as this belongs to us until such time as we give permission for its use
- Not accept any gift, favour or inducement from businesses or individuals in connection with us.

- Be loyal and ask permission before taking up any other work (paid or unpaid) – particularly if this in any way affects your ability to work for us.
- Meet the standards set out in all our policies and procedures and in particular, our code of conduct, equality and diversity and dignity at work, regardless of any personal or political beliefs you may hold.
- Maintain high standards of performance and carry out your role to the best of your ability.
- Maintain high levels of attendance as described in our attendance management policy.
- Follow instructions and requests from your line manager and any other senior member of staff.
- Participate as much as reasonably possible in all parts of the disciplinary procedure.

5. Investigation

Before any informal or formal action takes place, we will conduct an appropriate investigation. The purpose of this is to establish the facts surrounding the allegations against you. This will normally involve speaking to you and anyone else that may provide us with relevant information. We will also collect any other information we deem to be relevant. This meeting is not formal and does not form part of the formal disciplinary process.

The length and complexity of the investigation will be determined by the circumstances and the nature of the allegations. If you are unable, or choose not to participate in the investigation, we will proceed without your input.

The nominated investigator will be neutral and impartial and present their findings in an unbiased, factual, coherent and relevant way. The investigation report will include all evidence referred to. All information will be made available to both you and the disciplinary officer/panel.

On completion of the investigation, the investigator will make one of the following three recommendations:

- No further action
- Informal action
- Formal disciplinary action

6. Police Involvement and Criminal Offences

We may treat any criminal investigation, charge or conviction connected to you as a disciplinary matter if we consider it relevant to your employment with us.

Should you be subject to any police investigation, we will conduct our own independent investigation, and proceed regardless of the status of any police involvement.

If you are subject to any of the above, and believe this may in any way affect your ability to do your job or our reputation, you must discuss this with your line manager as soon as you possibly can.

7. Suspension

If dismissal is one of the possible outcomes of the disciplinary procedure, we may suspend you until we have carried out our investigations. We will write to you about the suspension which should not normally last longer than five working days without a review. We will explain the progress of our investigation. During the suspension you will receive your normal pay. While on suspension you should not have any contact with any other employees other than the person named on your suspension letter.

We may also suspend you if we feel you are interfering with an investigation in any way, even if the allegations are not at gross misconduct level.

8. Time Limits of Warnings

We may extend the time limits referred to throughout this procedure, depending on the circumstances of individual cases.

9. Alternatives to Disciplinary Action

In addition to issuing warnings, the disciplinary panel/officer may consider other actions instead of dismissal including, redeployment, demotion, or an extension to the time limit of a warning.

10. Examples when the Disciplinary Procedure may be used

- Any issues relating to your conduct/performance/attendance.
- Poor timekeeping and/or attendance.
- Unauthorised absence.

- Failure to follow absence notification procedures.
- Abuse of flexi time and/or TOIL.
- Failure to meet and/or maintain the improvements required in an informal action.
- Breaches of our policies.
- Performance below our expected standards.
- Deliberate misuse or damage of our property (including corporate clothing, electronic devices, email and internet).
- Not following our health and safety instructions.
- Unsafe working practices.
- Willful and persistent refusal to obey reasonable instructions.
- Professional incompetence.

The level and type of warning issued will depend on the circumstances and severity of individual cases.

11. Informal Procedure

We will normally use the informal procedure first. If your performance, conduct or attendance does not meet our required standards then your line manager will meet with you informally if appropriate. They will discuss the issues with you, and tell you what improvements are required, the support available, and explain any further consequences if you do not meet or maintain the standards we require. We will provide all this information in writing in an Informal Action Note.

12. Formal Procedure

We will follow our formal process when attempts to improve any conduct, performance and/or attendance have not improved through the informal process. We will also use the following formal process straight away for more serious matters. If you are invited to a formal hearing, this will be done as soon as reasonably practical on conclusion of the investigation. You will also be given a minimum of 2 working days' notice of the hearing. If we issue you with a formal warning, you will have the right to appeal and we will give you the details of how to do this in the letter confirming the outcome of your hearing. We will not apply any formal stages of this procedure unless an appropriate investigation has taken place.

We have three stages in our formal procedure:

12.1 First Stage

If you do not meet our standards detailed at the informal stage, or the matter is serious, a manager will invite you, in writing, to attend a formal disciplinary hearing. The purpose of the hearing is to provide you with an opportunity to state your case and consider all appropriate evidence. If, after considering all the evidence, including your response and we believe this to be unsatisfactory, and/or it is still appropriate, we will issue you with a first written warning or performance note. This will remain on your file for six months.

12.2 Second Stage

If you have a live written warning and remain below our standards or, if we consider the matter very serious, a manager will invite you, in writing, to attend a formal disciplinary hearing. The purpose of the hearing is to provide you with an opportunity to state your case and consider all appropriate evidence. If, after considering all the evidence, including your response and we believe this to be unsatisfactory, and/or it is still appropriate, we will issue you with a final written warning. This will remain on your file for 12 months.

12.3 Third Stage

If you have a live final written warning and remain below our standards, or if we feel you may have committed an act of gross misconduct, a senior manager will invite you, in writing, to attend a formal disciplinary hearing. The purpose of the hearing is to provide you with an opportunity to state your case and consider all appropriate evidence. If, after considering all the evidence we deem it appropriate, we may dismiss you. We will make a payment in lieu of notice if the reason for dismissal is anything other than gross misconduct. If we dismiss you for gross misconduct, we will not give you notice or make a payment in lieu of notice. Members of our Governing Body / The JNC Appeal Chair will hear appeals against dismissal.

13. Gross Misconduct

Gross misconduct equates to a serious breach of contract and includes actions that will have a serious effect on our business, reputation or damage the relationship of trust and confidence between us. We will normally regard the following as gross misconduct: (*this list is not exhaustive*)

- Theft and/or serious wilful damage or misuse of our property from us, our staff, clients, customers or anyone connected with us.

- Bullying, threatened/actual violence, or provoking violence.
- Under the influence due to alcohol or any other substance.
- Possession, use, supply or attempted supply of illegal and/or legal substances.
- Fraud, forgery or other dishonesty including, fraudulent wage claims or falsification of records/expenses including time sheets and overtime.
- Harassment, discrimination or victimisation.
- Serious infringement of health and safety rules and procedures, or any other policies, operating procedures or workplace rules put in place by us.
- Acts of gross professional incompetence.
- Bringing West of Scotland Housing Association into serious disrepute.
- Serious breaches of security or confidentiality, including misuse or disclosure of confidential information.
- Acceptance of bribes or other concealed payments.
- Deliberately accessing internet sites containing illegal, pornographic, offensive, obscene, and/or information to incite or carry out any acts of violence.
- Being charged or convicted of a criminal offence that in our opinion may affect our reputation, or relationships with staff, clients, customers or anyone connected with us, and/or affects your suitability to work for us.
- If we become aware of any official information from outside agencies that may compromise your suitability for your role, e.g. PVG scheme, Credit Check.
- Malicious or untrue allegations against others.

14. Notice of Decision

We will issue you with the outcome of our decision, including the reasons for this in writing to you within 5 working days of the formal disciplinary hearing. This letter will detail the reasons for the formal warning and what we expect of you. If we dismiss you, we will provide you with details of your last date of employment, and inform you of any outstanding payments that we will make to you in your final salary.

15. Appeals

If you wish, you have the right to raise an appeal within 5 working days of receiving your letter, which details any formal action against you. Details on how to appeal will be included in your decision letter confirming the action

taken against you. We will arrange an appeal hearing within 10 working days of receiving your request. We will write to you after the hearing confirming our decision regarding your appeal.

Any appeal will be taken, where possible, by someone who was not involved in the original disciplinary hearing.

16. Appeals procedure

- Appeals against any formal warnings will be made to one level above at which the disciplinary action was taken, if possible.
- You have a right to one internal appeal against any formal warnings or performance note.
- You should raise your appeal within one week (5 working days) of receiving your outcome letter.
- Your appeal will be heard within 10 working days of the appeal being lodged , (with the exception of a JNC Appeal).
- At the appeal you will be asked to state the reason for your appeal and provide evidence to substantiate your reasons.
- The manager/panel will ask any appropriate questions.
- The appeal hearing will conclude and the appeal chair will conduct any necessary investigation.
- We will advise you of the outcome of your appeal in writing. This decision will be final.
- At all levels, the outcome of an appeal hearing may:
 - Confirm a previous action;
 - Dismiss the previous action; or
 - Substitute a lesser penalty.

17. Appeals procedure

- *You have a right to one internal appeal against the first written warning or performance note.*
- *We will hold appeal hearings within 10 working days of receiving your request, (with the exception of a JNC Appeal).*
- There is one appeal against a final written warning and after this, it will be made to the JNC Appeal Chair.
- If you are appealing against dismissal, you must do so to the JNC Appeal Chair.
- The JNC Appeal Chairs are independent people appointed by the Joint Negotiating Committee.

18. JNC appeals

The JNC Appeal Chair is the final stage of the internal disciplinary and grievance procedure. The Secretary to the JNC Appeal will send you a copy of the guidance notes if you make a valid request for an appeal. The Chair's decision will be followed by a written report, which will be sent to both parties.

Once a JNC appeal has taken place and report issued, the matter will be closed.

19. Authority to take disciplinary action

- First written and final warning - line manager
- Dismissal – CEO or representatives of the committee

20. Records

We will keep records on your personal file of any disciplinary action, which will only be seen by you, your line manager and the senior officer if appropriate. We will remove disciplinary warnings from your file when no longer live.

21. General Data Protection Regulations

The organisation will treat your personal data in line with our obligations under the current data protection regulations and our own Data Protection handbook. Information regarding how your data will be used and the basis for processing your data is provided in the West of Scotland Housing Association's employee privacy notice.

EQUALITY IMPACT ASSESSMENT

WSHA Equality Impact Assessment Tool			
Policy/Strategy to be assessed	Disciplinary policy	Is this a new or revision of existing policy/strategy?	Revision
Person(s) responsible for the assessment	Ann Downie		
1. Briefly describe the aims, objectives and purpose of the policy/strategy	The main aims are: <ul style="list-style-type: none"> • To present proposed changes to the Disciplinary Policy to Members of the Staffing Sub Committee 		

<p>2. Who is intended to benefit from the policy/strategy or who does the policy apply to? <i>(For example, applicants, tenants, staff, contractors)</i></p>	<p>All West of Scotland Housing Association staff</p>								
<p>3. What outcomes are wanted from this policy/strategy or what does the policy cover? <i>(For example, the measurable changes or the benefits to customers of the proposal)</i></p>	<p>Provides a fair and consistent process to manage where standards, in respect of conduct, attendance and performance fall short</p>								
<p>4. Which protected characteristics as defined by the Equality Act 2010 could be affected by the policy/strategy? (indicate if applicable Y/N))</p>									
<p>Race Yes</p>	<p>Sex Yes</p>	<p>Sexual Orientation Yes</p>	<p>Trans sexual Yes</p>	<p>Disability Yes</p>	<p>Religion and belief Yes</p>	<p>Age Yes</p>	<p>Pregnancy & Maternity Yes</p>	<p>Marriage and Civil Partnership Yes</p>	
<p>5. If the policy/strategy is not relevant to any of the protected characteristics listed in part 4 or if the impact of the initiative – whether positive or negative- is not significant, state why and end the process here.</p>									
<p>N/A</p>									
<p>6. Describe the likely positive or negative impact(s) that that the policy/strategy could have on the groups identified in part 4</p>	<p>Positive impact(s) The policy covers staff from all protective characteristic and provides a fair process for managing poor conduct, performance and attendance. The policy, used in conjunction with the Equality’s policy and the Attendance Policy is there to protect staff in different protective characteristics group. The policy defines discrimination against a member of staff with a protective characteristic as potentially gross misconduct and a dismissable offence.</p>	<p>Negative impact(s)</p>							
<p>7. Has there been consultation/is consultation planned with those who will be affected?</p>	<p>This is a minor policy revision to bring in line with EVH terms and conditions which are consulted and agreed at JNC level</p>								
	<p>Reduce Impact</p>	<p>Increase Impact</p>							

8. Action taken to reduce or increase impact as appropriate following consultation		We will ensure all staff are aware of the policy update and communicate to all staff through the insight system.
7. What evidence do you have for the impact? <i>(What research has been conducted or data do you have to support your analysis of the likely impact)</i>	Evidence for positive impact(s)	Evidence for negative impact(s)
	We monitor levels of formal disciplinary action	
8. What actions are required to address the impacts arising from this assessment? <i>(This might include; collecting additional data, putting monitoring in place, taking specific action to mitigate any potentially negative impact).</i>	HR will advise and support managers with the implementation of the policy, ensuring a fair transparent process takes place and that standards of performance, conduct and attendance are maintain at a good consistent level	

Signed: Ann Downie(Job title): HR Officer

Date the Equality Impact Assessment was completed: 02/11/2020