



MUIRHOUSE HOUSING ASSOCIATION

Title of Policy: Disciplinary Policy

Date of Adoption or Last Review: May 2019

Lead Officer: Stevie McAvoy, Chief Executive

Date of Next Review: May 2022

Policy: Disciplinary

What this policy covers

This policy is designed to ensure that all disciplinary matters are dealt with promptly, fairly and consistently and to encourage an improvement in individual conduct and/or performance. It outlines the procedures that we will follow should there be a need to take disciplinary action and your right to appeal.

Employees with less than 24 months' continuous service will follow the same disciplinary procedure until the stage of the appeal meeting. Details can be seen in the relevant sections of this policy.

Throughout this policy there are references to letters and emails. Any written correspondence in relation to a disciplinary, whether a meeting invitation or notification of outcome will be sent either as a recorded delivery letter to your home address or via email from a Muirhouseha domain email to ensure safe data handling and IT security. All email correspondence will take place within our opening hours.

Your entitlements and responsibilities

MHA aims to deal with disciplinary matters promptly and fairly. You have the right to appeal against a decision we make at a disciplinary meeting. In these cases, MHA will make every effort for the appeal to be dealt with by a different manager to the person who dealt with the matter initially.

MHA's decision at the appeal stage is final and there is no further right of appeal.

You have a responsibility to assist MHA, if required, to investigate the matters raised at disciplinary meetings and comply with the disciplinary procedures.

Disciplinary sanctions

The level of the disciplinary sanction, if any, will be determined by the severity of the offence. MHA will normally select one of the following:

Informal warning

An informal verbal warning will usually be applied as the first step of corrective action following unsatisfactory performance or conduct offences. You will be advised of any breach of conduct or standards or which aspect of your conduct has led to the meeting and we will explain the conduct or standards required in the future. The warning will be given verbally and you will be advised that a failure to improve the standard of conduct or performance may result in further disciplinary action. This will subsequently be confirmed in writing within 7 days of the meeting with the inclusion of an action plan for improvement. A time limit will be placed on the warning, this is not more than 6 months.

If personal issues affect your work performance, we would like you to feel free to speak to your line manager about it. However, we realise that you may not want to do this. In this instance, we encourage you to get independent confidential counselling out of work, if this applies. You can get this through an Employee Counselling Service, which is one of the benefits that we provide to our employees.

Written warning

A Written Warning will normally be applied following further breaches of conduct or standards but may be applied as the first step of corrective action following unsatisfactory performance or conduct offences. MHA will define the unacceptable acts and explain the conduct or standards required in the future. You will be advised in writing that a failure to improve the standard of conduct or performance may result in further disciplinary action. A time limit will be placed on the warning in line with staff Terms and Conditions of Employment.

Final written warning

A Final Written Warning is usually applied after a Written Warning has been given and performance or conduct has not improved but may be applied after a more serious first or a second offence. You will be advised in writing within 7 days that a failure to improve the standard of conduct or performance may result in dismissal. A time limit will be placed on the warning in line with staff Terms and Conditions of Employment.

Dismissal

Dismissal occurs when your employment is terminated either with or without notice. Dismissal without notice is also referred to as 'summary dismissal' and is restricted to cases of gross misconduct.

MHA reserves the right, at its complete discretion, to impose a sanction short of dismissal if it is deemed appropriate. This may include demotion, transfer to a different post or another appropriate sanction. Any such decision will be confirmed to you in writing once you have been informed of the outcome.

Disciplinary procedure

Suspension from work

If MHA believes it is appropriate, we may decide to suspend you from your work pending further investigation or disciplinary action. Suspension itself is not a disciplinary sanction.

If a decision to suspend is made, you will be informed verbally and this will usually be followed up in writing. While you are suspended, you will not be allowed to access MHA data, you should not attend work or make contact with anyone connected to MHA unless otherwise instructed by us. If you need to contact anyone connected to MHA while you are suspended, you must notify your line manager. Any reasonable request will not be refused. Breach of the terms of your suspension may result in additional disciplinary action up to and including dismissal without notice.

We will endeavour to keep any suspension as brief as possible. Any period of suspension will be on full pay. However, should you fail to co-operate at any time with the investigatory process, for example by failing to attend any meeting, without good reason then we reserve the right to treat this as unauthorised absence and this may result in pay being withheld until such time as you attend any rearranged meeting.

Investigation Meetings

Depending on the circumstances, you may be required to attend Investigation Meetings before a decision is taken to invoke the disciplinary procedure. An Investigation Meeting is an informal meeting and so you are not permitted to be accompanied unless you are under the age of 18 (when a parent or guardian will be permitted). Depending on the outcome of the investigation, we will decide whether or not to proceed with a Disciplinary Meeting.

If it is decided that there is no case to answer then you will be informed of this fact either verbally or in writing. You will be expected to return to work at the agreed date and time. This will end the process.

Invitation to a Disciplinary Meeting

If you are required to attend a Disciplinary Meeting, we will inform you of this in writing. In the letter, we will set out who is conducting the Disciplinary Meeting, the issues that are to be considered, how seriously these are being viewed, the potential consequences and details of any intention to call witnesses. The letter will also inform you of the date and time of the meeting to allow you sufficient time to prepare your case.

As this is a formal meeting, the letter and/or email will also detail your right to be accompanied.

Your right to be accompanied at a Disciplinary Meeting

You are entitled to be accompanied at a Disciplinary Meeting by a fellow worker or a trade union official. With the exception of those under the age of 18, when a parent or guardian will be permitted, no other person will be permitted to attend.

Should you wish to be accompanied, you must notify us of the name and position of your chosen companion as soon as possible.

Your companion is permitted to put forward and summarise your case, respond on your behalf to views expressed in the meeting, ask questions and confer with you, but will not be entitled to answer questions directly on your behalf.

Action if you cannot attend the meeting on the proposed date

If you feel that you have a legitimate reason as to why you cannot attend the meeting on the proposed date, you must contact the person named on the invitation letter to advise them of this fact immediately. The meeting may then be delayed to facilitate your attendance, if this is considered reasonable.

Attending the disciplinary meeting

You must attend the meeting at the proposed time. Failure to participate in the process or attend arranged meetings without good reason may result in additional disciplinary action or a decision being made in your absence. Prior to the meeting, you should ensure that you are fully prepared to answer questions relating to the incident/circumstances in question. At the meeting you will be given every opportunity to state your case, present any evidence and call relevant witnesses before any decision is made.

After the Disciplinary Meeting

At the end of the meeting there will normally be an adjournment to allow for consideration of the facts. You will be informed of the outcome and any sanction will be confirmed in writing to you as soon as possible. In some circumstances there may be a need to adjourn and reconvene a meeting at a later date, to allow further investigation. In this case you will be advised accordingly.

Notification of the decision and disciplinary sanction

Following the Disciplinary Meeting and within 7 days, we will notify you of our decision and the disciplinary sanction it will apply. This letter will also explain your right to appeal against any decision taken and sanction applied.

Your right of appeal against disciplinary action

You have the right of appeal against any formal disciplinary action. If you wish to appeal against a decision you must submit your request in writing to the Chair of the Staffing Subcommittee, stating the reasons for the appeal, to the individual identified in the letter confirming the sanction. This should be submitted within five working days of receiving notification.

No person involved in the original disciplinary decision should take part in the appeals hearing unless it is not possible to avoid this.

The Appeal Meeting

You will be informed who is conducting the Appeal Meeting, the date and time of the Appeal Meeting. If you feel that you have a legitimate reason as to why you cannot attend the meeting on the proposed date, you must contact the person named on the invitation letter to inform them of this fact immediately. The meeting may then be delayed to facilitate your attendance, if this is considered reasonable. You will be entitled to be accompanied by a fellow worker or a Trade Union official.

At the Appeal Meeting you will be given an opportunity to state your case. Your companion is permitted to put forward and summarise your case, respond on your behalf to views expressed in the meeting, ask questions and confer with you, but will not be entitled to answer questions directly on your behalf.

The meeting will then be adjourned to allow MHA to consider the facts and the decision will be confirmed in writing. The outcome will be communicated as soon as possible, taking into account the complexity of the issues raised in the appeal. The decision at this stage will be final if you have less than 24 months' of continuous service.

Final Appeal for employees with more than 24 months' of continuous service

If you have more than 24 months' continuous service you can make a final appeal against the outcome of a disciplinary to the Joint Negotiating Committee (JNC) Chair. 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 is followed by a written report and sent to you and us.

The JNC appeal Chairs are independent people appointed by the Joint Negotiating Committee. Appeal hearings to the JNC Appeal Chair will be held within 20 working days (where possible). The JNC Appeal Chair is the final stage of the internal disciplinary procedure. Once a JNC appeal has taken place and report issued, the matter will be closed.

General Data Protection Regulations

MHA will treat your personal data in line with our obligations under the current data protection regulations and our own data protection policy. Information regarding how your data will be used and the basis for processing your data is provided in Muirhouse Housing Association's employee fair processing notice.

Review Timescale

This Policy will be reviewed every three years or earlier if employment law or our HR advisors require it.