



Muirhouse Housing Association

Title of Policy: Disciplinary Policy

Date of Adoption or Last Review: May 2019

Lead Officer: Chief Executive

Approval Date June 2022

Review Date June 2025

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Policy: Disciplinary Policy

Our Vision, Our Mission, Our Values

Our Vision is an engaged, thriving, desirable and eco-friendly Muirhouse with high quality, truly affordable and greener homes.

Our Mission - We will provide high quality, truly affordable homes and services for residents and strengthen our engagement and partnerships to enrich the community and safeguard our environment.

Our Values - In upholding our central value of providing high quality, affordable homes and services, our behaviours and decisions will demonstrate our commitment to

Excellence: Ensuring the highest standards in all that we do and innovating to continually improve. Across the MHA Group, we are committed to providing a high quality, customer focused service that demonstrates value for money.

Caring: Being compassionate about and responding appropriately to the needs of our residents, staff, and Board.

Mutual Respect: Valuing the views, knowledge, expertise, and skills of others and collaborating to achieve good outcomes for residents, staff and the Association. We will continue to be a leading member of the local community, working with our customers and statutory, voluntary, and private sector partners.

This policy applies to

To all employees of Muirhouse Housing Association.

Policy Summary

The Disciplinary Policy provides guidance to employees of MHA on our expected standards of conduct and how any concerns, problems or complaints in relation to these will be dealt with in accordance to the disciplinary procedure.

Equalities

Muirhouse Housing Association are committed to ensuring people or communities do not face discrimination or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

This document complies with our Equality, Diversity and Inclusion Policy.

Privacy

This policy has been developed and will be applied in compliance with General Data Protection Regulations (2018).

Compliance

SHR Regulatory Standards

Standard 5 - The RSL conducts its affairs with honesty and integrity.

Standard 6 – The governing body and senior officer have the skills and knowledge they need to be effective.

Related Policies

Code of Conduct (Staff and Governing Board Members)

Grievance Policy

Dignity at Work Policy Employment Contract

EVH Terms and Conditions of Service

Attendance and Absence Management Policy

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1.0. INTRODUCTION

- 1.1 Muirhouse 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.
- 1.2 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.

2.0 PRINCIPLES

- 2.1 The following principles govern the operation of this policy:
- 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.

3.0 GENERAL DATA PROTECTION REGULATIONS

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

4.0 OBJECTIVES

- 4.1 The objectives of this policy are to investigate allegations and ensure that they are treated with consistency and any investigation is conducted fairly.
- 4.2 You can expect MHA 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 the normal pay that you would have been entitled to had you not been suspended if we decide to suspend you pending any investigation/disciplinary 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.

4.3 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 MHA 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 MHA 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 and absence 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.

5.0 APPROACH AND METHOD

5.1 Investigation

- 5.1.1 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.
- 5.1.2 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.
- 5.1.3 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.
- 5.1.4 On completion of the investigation, the investigator will make one of the following three recommendations:
- No further action
 - Informal action
 - Formal disciplinary action

5.2 Police Involvement and Criminal Offences

- 5.2.1 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.
- 5.2.2 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.
- 5.2.3 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.

5.3 Suspension

- 5.3.1 We will suspend you if the allegations against you are gross misconduct. We will aim for your suspension to last no longer than one week. If the investigation has not finished within this time, we will write to you and update you on its progress. While on suspension you should not have any contact with any other employees other than the person named on your suspension letter.
- 5.3.2 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.
- 5.3.3 During your suspension you will receive the normal pay that you would have been entitled to had you not been suspended.

5.4 Time Limits of Warnings

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

5.5 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.

5.6 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.
- Wilful and persistent refusal to obey reasonable instructions.
- Professional incompetence.
- Violent, aggressive or abusive behaviour
- Fraud/dishonesty
- Smoking in non designated areas or MHA premises

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

- Oral warning
- Written warning
- Final written warning

5.7 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.

5.8 Formal Procedure

5.8.1 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.

5.8.2 We have three stages in our formal procedure:

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.

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. Alternatively, should the situation require, the duration can be extended as an alternative to suspension.

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 a final 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. The JNC Appeal Chair will hear appeals against dismissal.

5.8.5 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 willful damage or misuse of our property from us, our staff, clients, customers or anyone connected with us.
- Bullying, threatened/actual violence, or provoking violence.
- Being intoxicated or being under the influence of alcohol or illegal drugs whilst at work.
- 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.
- Conduct that brings MHA into serious disrepute.
- Serious breaches of security or confidentiality, including misuse or disclosure of confidential information that leads to an irrevocable breakdown of trust and/or confidence.
- 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.
- Bullying, threatening/actual violence, or provoking violence (add) with employees or the public.

5.9 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.

5.10 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.

5.11 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 the right to one appeal.
- 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.
- 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.
- 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.

Appeal hearings to the JNC Appeal Chair will be held within 20 working days (where possible).

5.12 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.

Authority to take disciplinary action:

- First written - Line manager
- Final warning - Chief Executive
- Dismissal - Chief Executive

Any disciplinary action against the Chief Executive would be carried out by the staffing sub committee and who report the outcome to the Board of Management.

5.13 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. Such records will be held confidentially. Retention of the records will be necessary in the event of further misconduct or where the employee fails to change their behaviour despite the measures taken. They will further allow the manager to apply further stages of the disciplinary procedure at a later date if necessary.

6.0 BREACHES OF THIS POLICY

6.1 Any alleged breach of this policy should be reported to the Chief Executive or Staffing Sub Committee if relating to a breach by the Chief Executive immediately and this will be dealt with accordingly.

6.2 Any case involving such breaches will be subject to investigation. The outcome will be reported to the Board of Management which will decide what action should be taken.

7.0 MONITORING AND PERFORMANCE MEASUREMENT REPORTING

7.1 The following areas also will be subject to monitoring and evaluation:

- Risks
- Impacts and outcomes

- Financial and regulatory implications
- Compliance with policy requirements and procedures

These will be actively monitored by the Chief Executive and Corporate Manager.

- 7.2 Any matter which demonstrates a serious failure of internal controls should also be reported immediately to the Chair of the Board of Management.

8.0 COMPLAINTS AND APPEALS

This policy sets out Muirhouse Housing Association's Policy on Disciplinary however anyone wishing to make a complaint about the policy can do so through our Grievance Procedure, which is available from MHA.

9.0 POLICY AVAILABILTY

This Policy will be provided to staff on commencement of employment and made available to all staff.

10.0 REVIEW

- 10.1 This policy will be reviewed every 3 years.
- 10.2 An interim review may take place in the event of changes to good practice, or legal requirements.