



## Human Resources

### DISCIPLINARY PROCEDURES

#### Purpose

This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.

This procedure applies to all employees.

The aim is to ensure consistent and fair treatment for all and to clarify and reinforce rights and obligations.

[All references to the "organisation" contained within this procedure should be taken to mean the employing Association.]

#### Informal Action

Since it is the organisation's aim to encourage and maintain acceptable standards of conduct and performance, every effort will be made to deal with minor problems in the first instance through informal action with the first Line Manager in order to avoid the need to implement the formal procedure. This principle should be applied in the first instance to minor issues with both conduct, performance or attendance.

Although informal, the meeting will result in an improvement note written to the employee from the line manager, detailing points discussed, actions required and support/training provided. This is to ensure fairness and clarity as to the improvements, time scale and support required, for both the employee and the line manager.

The Line Manager will arrange for provision of support, practical assistance and/or training, as appropriate, to ensure that minor problems are resolved at an early stage and that acceptable standards of work performance and behavior and a level of attendance are met.

As employees are often reluctant to discuss matters of a personal nature which are affecting their work, the employee should be encouraged to seek independent confidential counselling out of the workplace, if

applicable. This is available through the Employee Counselling Service.

Where informal action fails or the matter is more serious the following formal procedure will be used.

### Principles for the Formal Procedure

1. At any stage in the procedure the employee will be informed of the nature of the complaint against him/her and will be given the opportunity to state his/her case before any decision is made. Written confirmation of the nature of the complaint will be supplied.
2. There are three classes of issues that can be dealt with in accordance with the disciplinary procedure: conduct, capability (performance) and attendance. It is important to determine at the start of the procedure which one of those types applies, in order to deal with the issue effectively and correctly.
3. No disciplinary action will be taken against the employee until the case has been fully investigated.

If dismissal is one of possible outcomes of the disciplinary procedure (in cases of either alleged gross misconduct or further misconduct where the employee has a valid final warning on his/her file), an employee will be placed on suspension until such investigations are carried out. Suspension will be notified to the employee in writing and will not normally exceed a period of 5 working days without a review, containing a meaningful explanation about the progress in the investigatory process. During such a suspension the employee will be paid at a rate equivalent to his/her contractual earnings.

4. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty will normally be summary dismissal, i.e. dismissal without notice or wages in lieu of notice.
5. At all stages of the procedure, the employee will have the right to be accompanied by either his/her Trade Union representative or fellow employee of his/her choice.
6. All information/documentation forming a part of the investigation will be made available to the employee/TU representative before the hearing.
7. An employee will have the right to appeal against any disciplinary penalty imposed.
8. In appropriate cases, (e.g. poor performance or poor attendance)

an employee will be advised in writing of the time allowed for improvement and when and how reviews will take place, and what action may be taken if there is no improvement as required.

9. The procedure may be initiated at any of stages 1-3, dependent upon the seriousness of employee's alleged misconduct.
10. For the purpose of the procedure to be followed, warnings given for different reasons shall be cumulative.
11. No disciplinary action or suspension will be taken against a Trade Union representative until discussions have taken place with a full-time official of the Union. If the full time official is unavailable, a district officer will be contacted instead.
12. The Management Committee will elect an ad hoc Staffing Sub-Committee or equivalent with full delegated powers to administer appropriate stages of the Disciplinary Procedure. Membership of such Committee to remain as constant as possible to ensure stability, consistency of treatment for employees and to enable members to gain experience in dealing with staff matters. In exceptional circumstances, however, in order to ensure impartiality at different stages of the disciplinary process, the organisation may resort to involving suitably experienced committee members from outwith the Staffing Sub-Committee or equivalent.
13. The use of recording devices will not normally be permitted during any investigatory, disciplinary or appeal meetings.
14. Where there is a police involvement or investigation, the organisation will conduct its own investigation and make decisions based on evidence and information available to it at the time. The matter will not be put on hold until the police investigation and/or court proceedings conclude.
15. All parties to this agreement (Trade Union; Staff; Employer; EVH) agree to be bound by the process, spirit and intention of this agreement.

## FORMAL PROCEDURE

### STAGE 1 - FIRST WRITTEN WARNING/ PERFORMANCE NOTE

If there is no improvement in the standard of conduct/performance/attendance following the informal action, or the first act of misconduct/underperformance is of a more serious nature, the employee will be interviewed by their line manager and given an opportunity to explain his/her actions.

If the explanation is not satisfactory a FIRST WRITTEN WARNING or a PERFORMANCE NOTE will be issued.

The employee will be informed in writing of his/her right of appeal.

### STAGE 2 - FINAL WRITTEN WARNING

If there is still no improvement in the standard of conduct/performance/attendance or the first / second act of misconduct/underperformance is of a more serious nature, the employee will be interviewed by their line manager of a and given an opportunity to explain his/her actions.

If the explanation is not satisfactory a FINAL WRITTEN WARNING will be issued. The employee will be informed in writing of his/her right of appeal.

### STAGE 3 - DISMISSAL

If:

(a) There is still no sustained improvement in the standard of conduct/performance/attendance whilst a final written warning remains live.

or

(b) If there is an allegation of GROSS MISCONDUCT the formal hearing will be conducted by the Staffing Sub-Committee.

If an acceptable explanation is not forthcoming DISMISSAL will normally result - with or without notice as appropriate.

In cases of GROSS MISCONDUCT dismissal may be without notice or payment in lieu of notice.

The employee will be provided within 2 working days with written reasons for dismissal, the date on which employment will terminate and the right of appeal.

## TYPES OF OFFENCES

The following are examples of the various categories of misconduct and/or poor performance but the lists are not exhaustive.

It should be noted that inclusion on these lists at a particular stage does not mean that these offences will automatically be dealt with at this stage. Individual cases will be investigated and action taken at the appropriate stage dependent upon mitigating circumstances etc.

### Misconduct - Action taken at stage 1 of Procedure

- (a) Poor timekeeping (repeated lateness or early leaving).
- (b) Failure to notify timeously reasons for absence in accordance with procedures.

### Serious Misconduct - Action taken at stage 2 of Procedure

- (a) Deliberate damage or misuse of Association property.
- (b) Intentional unauthorised absence.
- (c) Unsafe working practices.
- (d) Willful and persistent refusal to obey reasonable instructions.

### Gross Misconduct - Action taken at Stage 3 of Procedure

- (a) Theft from Association, its employees or clients.
- (b) Fighting or threatening another employee.
- (c) Being under the influence of drink or drugs whilst at work.
- (d) Fraudulent wage claims or falsification of records.
- (e) Serious wilful damage or misuse of organisation property.
- (f) Sexual and racial harassment.
- (g) Deliberately accessing internet sites containing pornographic, offensive or obscene material.
- (h) Serious insubordination.
- (i) Bringing the organisation into serious disrepute.

## Authority to Take Disciplinary Action

First Written Warning	Line Manager
Final Written Warning	Line Manager
Dismissal	Staffing Sub-Committee

### Duration of Warnings

#### STAGE 1 - FIRST WRITTEN WARNING

Will remain on employee's personal record for 6 months.

#### STAGE 2 - FINAL WRITTEN WARNING

Will remain on employee's personal record for 12 months.

### Records

The record of any disciplinary action should be based on the pro formas provided by EVH. This file will only be accessed by the employee, the Admin. Officer, the Line Manager and the Director. It is the responsibility of the Director to ensure that spent disciplinary warnings are removed from employee's files timeously.

### Appeals

An employee has the right of appeal against any formal disciplinary action. The employee will be advised of the right of appeal and the right to representation at the appeal. They will be advised of how and when to exercise this right of appeal when the warning is issued.

No person involved in the original disciplinary decision should participate in the appeals hearing unless this is not practicably possible.

### Appeals Procedure

Appeals against any formal warnings are to one level above that at which the disciplinary action was taken, if possible. Employees have a right to one internal appeal against the first written warning /performance note. There is one internal appeal against the final written warning and thereafter to the Independent Appeal Chair. Appeals against dismissal are to the Independent Appeal Chair.

The Appeal Chairs are independent persons jointly agreed by W.H.A. and the Union.

All appeals should be lodged within 5 working days of notification of the decision.

All internal appeal hearings should be convened within 10 working days of the appeal being lodged.

Appeal hearings to the Independent Appeal Chair should be convened within 20 working days. At all levels, appeal hearings shall be entitled to:

- (i) confirm previous action
- (ii) dismiss previous action
- (iii) substitute a lesser penalty

#### Independent Appeals

The Appeal Chair is the final stage of the internal disciplinary and grievance procedure and decisions of the Independent Chair shall be final.

#### **CONDUCT OF APPEAL HEARINGS TO THE INDEPENDENT CHAIR**

1. An employee will have the right to representation by his/her Trade Union official or a fellow employee of his/her choice.
2. If written submissions are made, they must be lodged with the Appeals Administrator (EVH) no later than 10 working days before the date of the appeal hearing.

Copies of such written submissions will be issued to both parties no later than 5 working days before the date of the appeal hearing.

NB: Submissions received later than 10 working days before date of appeal hearing will not be accepted.

3. The Independent Chair will be responsible for ensuring the proper conduct of proceedings.
4. The Independent Chair may call for any information/documentation which he feels is relevant to the case.
5. The following order will apply to disciplinary hearings:
  - (i) The Association will open the proceedings by stating the case against the employee. The Association may call witnesses.
  - (ii) The employee and his/her representative may ask questions of the

- Association's representative and witnesses.
- (iii) The Independent Chair may also ask questions of the Association's representative and witnesses.
  - (iv) The Association's representative may then re-examine his/her witnesses.
  - (v) The employee or his/her representative may then state his/her case. The employee may call witnesses.
  - (vi) The Association's representative may ask questions of the employee and the employee's representative and witnesses.
  - (vii) The Independent Chair may also ask questions of the employee and the employee's representative and witnesses.
  - (viii) The employee or his/her representative may then re-examine his/her witnesses.
  - (ix) Both parties may have the opportunity to sum up their cases. In the summing up neither party may introduce any new matter.
6. The Independent Chair at his discretion, may adjourn the hearing in order that further evidence may be produced by either party or for any other reason.
7. Following the hearing, both parties including representatives and witnesses shall withdraw to allow the Independent Chair to deliberate in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary both parties shall return even if only one party is concerned with the point giving rise to doubt.
8. The Independent Chair will provide both parties with a written decision including summary reasons for decision reached within 5 working days.

## **GRIEVANCE PROCEDURES**

### Introduction

It is the Association's aim to ensure that its employees are given the opportunity to raise and have resolved grievances and disputes.

Management hope that the great majority of doubts and problems will be settled quickly through constructive informal discussions. However, they recognise the need for a formal procedure designed to meet those circumstances which cannot quickly be resolved through informal discussion.

#### 1. Representation

At all stages of the Grievance Procedure the employee will have the right to be represented/accompanied by either his/her trade union representative or a fellow employee of his/her choice.

2. Right of Appeal

An employee will have the right of appeal against any formal decision taken on a grievance issue. Notice of the right of appeal will include details of the time limit within which such an appeal must be made.

3. Status Quo - Ante

Should the Grievance Procedure be invoked, both parties agree to maintain the status quo - ante (the previous state of affairs) until the issue which is the subject of the grievance is resolved.

Informal Stage

Any employment related concern should be discussed in the first instance with the employee's immediate Line Manager.

If the matter cannot be satisfactorily resolved at this stage, the following formal procedure will apply.

## Formal Procedure

### Stage 1

Any employee who has a grievance relating to their employment should raise the matter in writing to his/her immediate Line Manager, who should try to resolve the matter within 2 working days.

A written record of grievance and any proposed solution/agreement will be recorded in the personal file.

### Stage 2

If the matter is not resolved to the satisfaction of the employee within time agreed, the employee should request a meeting with the Director.

The Director will convene a meeting within 3 working days of request and having carried out what investigation is deemed necessary give a decision within 5 working days of the meeting taking place.

A written record of grievance and any proposed solution/agreement will be recorded in the personal file.

### Stage 3

If the employee is still not satisfied he/she should present the grievance in writing to the Chair of the Ad Hoc Staffing Sub-committee. The Chair of the Sub-committee should then arrange a meeting of the Sub-committee within 10 working days of receipt of grievance notification. The Chair should further inform the employee and his/her trade union if appropriate of the date and time of hearing. Following hearing of the grievance, the Ad Hoc Staffing Sub-committee will give their decision in writing to both employee and trade union within 3 working days of date of meeting.

### Stage 4

Appeals from the decision of the Ad Hoc Staffing Sub-committee will be to the Independent Appeal Chair.

The employee should set out clearly, in writing, the grounds for such an appeal, which should be submitted within 7 days of the employee receiving notification of the Staffing Sub-committee's decision.

A hearing will be convened within 20 working days.

Following the hearing of the grievance, the Independent Appeal Chair will give his decision in writing to both employee and Trade Union within 5 working days of date of hearing.

#### Grievances Raised After the Termination of Employment

If an employee raises a grievance after either side has terminated the employment relationship, a modified grievance procedure will be used.

#### Collective Grievances

These should be raised at stage 2 in the first instance.

Where the issue remains unresolved following exhaustion of the internal procedure, either side may refer the matter to ACAS conciliation.

[Timescales may be amended at each stage of the procedure by mutual agreement. In respect of Independent Chair Hearings, each side may apply for an extension which may be granted by the Chair.]

#### Independent Appeals

The Appeal Chair is the final stage of the internal disciplinary and grievance procedure and decisions of Independent Chair shall be final.

### **PENSIONS**

Williamsburgh Housing Association provides for all permanent and fixed-term staff, regardless of hours of work or job grade, the option to join an occupational pension scheme. The only restriction on this will be where the employee falls outside the lower and upper age limits for entry dictated by individual pension schemes or fails to fulfill a scheme's medical requirements.

Details of the particular scheme are provided in the employee's Contract of Employment offer letter.

Further details can be obtained on request from the Finance Manager.