



DISCIPLINARY PROVISIONS

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INTRODUCTION

It is Castlehill Housing Association (CHA) policy to help employees so far as is practicable to achieve acceptable standards of conduct and performance. CHA will do so by informing staff about the expected standards, and by providing such supervision and training as is deemed necessary to help staff to undertake their work effectively and safely. We will give appropriate guidance, or will take disciplinary action, if an employee fails to meet required standards of conduct or behaviour.

CHA recognises that disciplinary action must be considered and applied fairly and equitably. In order to ensure the fair and equitable treatment of employees who are subject to disciplinary action, CHA has prepared and issued this statement of disciplinary policy and procedure, in consultation with staff representatives. The provisions will be used as necessary and will apply to all employees. When handling a disciplinary matter, the parties shall have regard to the advice in the ACAS Code of Practice.

PURPOSE

The purpose of these provisions is to provide a sound basis for managing standards of conduct and performance throughout CHA. This requires firstly a clear understanding between management and employees that standards are necessary for the efficient operation of our services, for the health and safety of all employees and tenants, and for fair and consistent employee relations. It means also that employees must know what standards of performance and conduct are expected of them. These points are covered in the section on General Principles, below.

GENERAL PRINCIPLES

Employee Conduct

Employees are expected to conduct themselves within the law, any code of ethics or practice associated with their profession, any rules specifically relating to the workplace or activities, and within the generally accepted standards of good social and moral behaviour. Action by an employee which contravenes these standards, and those set out in the Code of Conduct, may be regarded as gross or serious misconduct and could lead to dismissal. For posts requiring PVG Scheme membership and / or registration with a regulatory body e.g. Care Inspectorate, Scottish Social Services Council (SSSC), certain breaches of the Code may also be reported to the relevant bodies, which may impact upon future employment with other organisations.

Right To Be Accompanied

CHA's policy and procedure takes account of the guidance contained in the ACAS Code of Practice on Disciplinary and Grievance Procedures and provides for the right to be accompanied by a union representative or work colleague at each formal stage of the procedure and for rights of appeal.

Key Principles

The application of the disciplinary process is aimed at achieving acceptable job performance or behaviour where an employee is not discharging their work responsibilities to the standard required.

The successful operation of the procedure is based on the following general principles, which are in accordance with recognised good personnel practice:

- Except in the case of gross or serious misconduct, the principal purpose of disciplinary action should be to help the employee to overcome the presenting problem or deficiency. Formal disciplinary procedures will normally be used only after informal methods of performance improvement have been exhausted.
- A thorough investigation of all the circumstances of a case should be made before disciplinary action is taken.
- The employee shall receive a written statement of the alleged conduct or characteristics or circumstances which led to the contemplation of disciplinary proceedings, and should be given the opportunity to explain the reasons for his/her alleged failure to meet the required standards. A formal warning should never be given without a disciplinary hearing being held, even if the factual evidence appears indisputable.
- The employee shall be informed of the decision and notified of his/her right to appeal against the decision if he/she is not satisfied with it.
- The person who is the subject of the investigation has the right to be accompanied by a trade union representative or work colleague at all formal stages of the process
- Managers should always keep accurate records of any discussions they have with employees regarding their performance, including actions agreed, follow-up monitoring, etc. Records of any disciplinary hearings including dates and action taken must be maintained.

Informal action: (Supervision, Guidance and Coaching)

The aim of the Manager should always be to assist his/her staff to improve their performance or conduct without recourse to formal disciplinary procedures. Minor cases of misconduct and most cases of poor performance may best be dealt with by informal advice and coaching. It will be important for the staff member to understand what needs to be done, how performance or conduct will be reviewed and over what period. The employee should also be made aware of what action will be taken if he/she fails to improve either his/her performance or conduct. It is important to keep a shared record of what has been decided at these discussions. Informal action is not part of the formal disciplinary procedure and the staff member should be informed of this.

THE DISCIPLINARY PROCEDURE

These procedures help ensure that standards are adhered to, and set down a fair method of dealing with alleged failures to observe them. They are set out in the following section, which reflects the requirements of the relevant ACAS Code of Practice.

Structure

The procedure follows a series of stages, ranging from investigation through to disciplinary action including dismissal. Frequently, the issue of a formal warning will resolve the problem. In other circumstances it might be necessary, over a period of time, to pursue several or all of the stages of the procedure in order to resolve the matter. An accusation of gross or serious misconduct will require the immediate implementation of an advanced stage of the procedure. This may include suspension from duty with pay pending investigation and any subsequent disciplinary hearing. Normally, the immediate Manager shall be responsible for recommending that the disciplinary process be invoked.

Complaint/Investigative stage

The manager or senior member of staff must first establish the facts. This may involve an investigation, including meeting with witnesses and taking account of their statements, and will normally require a meeting with the employee as part of this investigative process. The employee will be advised in good time before the meeting of the complaint against her/him and of the right to be accompanied. If the manager considers that there is no case to answer, the employee should be informed and the matter concluded.

Stages

If there appears to be a disciplinary case to answer, the employee shall be required to attend a disciplinary hearing at which the matter will be considered formally. Where the manager hearing the case decides that a disciplinary penalty is appropriate, except in cases of potential gross misconduct, the following procedure shall be followed:

- Stage 1: In the case of minor offences the employee may be given a formal oral warning, which shall normally be expunged after 6 months of satisfactory conduct and performance.
- Stage 2: If the offence is regarded as more serious, or if a further offence occurs within the 'life' of a prior warning, the employee may be given a formal written warning, which shall normally be expunged after 18 months of satisfactory conduct and performance.
- Stage 3: Where there is a failure to improve during the 'life' of a written warning, or where the offence is sufficiently serious, the employee shall normally be given a final written warning. This will advise that failure to improve or a further recurrence may lead to dismissal or some other action short of dismissal, and shall normally be expunged after 24 months of satisfactory performance and conduct.
- Stage 4: If the employee's conduct or performance still fails to improve or in the case of gross misconduct the final step is likely to be punitive disciplinary action, including disciplinary transfer, demotion or dismissal.

Investigative suspension

An employee accused of committing an act of gross or other serious misconduct may be suspended from duty by their line manager in consultation with a more senior member of staff. The suspension will be for the shortest period practicable. This is not punitive action but, rather, is to allow investigations to take place. During periods of suspension, the employee will be entitled to receive full pay except where he/she, when suspended, is receiving less than full pay or no pay under the terms of his/her contract of employment in which case the lesser amount will continue.

Summary Dismissal

Dismissal without notice may be imposed where the employee's conduct constitutes gross misconduct, in the view of the dismissing manager. Examples of gross misconduct include, but are not restricted to: violent or threatening behaviour; fighting or wilful damage to property; fraud or theft; incapacity due to alcohol/drugs; unauthorised disclosure of confidential information; indecent behaviour; bullying and harassment; contravention of the employer's statutory regulations including safety regulations; neglect of duty; misuse or abuse of documents, time sheets or other payment records; unauthorised use of company equipment; criminal conviction with a material bearing on employment; or serious breach of any other 'Staff Conduct' rule.

Appeals

An employee wishing to appeal against a disciplinary decision (excluding conclusions from informal action) should do so in writing stating the grounds for appeal, within 14 calendar days of receiving the warning or (notice of) dismissal. CHA will endeavour to hear the appeal as quickly as possible, and the

decision at appeal, which shall be notified to the employee, shall be final. Appeals against dismissal will normally be heard by the Personnel Sub Committee of the Management Committee.

General Requirements

Each and every step of the disciplinary procedure must be taken without unreasonable delay. The timing and location of meeting must be reasonable and the employee must take all reasonable steps to attend the meetings arranged. Meetings must be conducted in a manner that enables both employer and employee to explain their case. In the case of appeal hearings the appeal will so far as is reasonably practicable be considered by a more senior manager than attended the first meeting.