



DISCIPLINARY POLICY AND PROCEDURES

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V1	26/08/2024	Management Committee	New Policy document.

1.0 POLICY STATEMENT

It is Castlehill Housing Association's (CHA) policy to help employees to achieve acceptable standards of conduct and behaviour. CHA will do so by informing everyone about what is expected of them to ensure they operate safely and lawfully, with dignity and respect for everyone they encounter during their employment with us.

CHA expects all our staff to follow our rules, policies, codes of conduct and procedures at all times, and does so by providing supervision and training, as is deemed necessary, to help employees to undertake their work effectively and safely. CHA will give appropriate guidance, or will take disciplinary action, if an employee fails to meet required standards of conduct or behaviour.

Disciplinary procedures are necessary to ensure that employees who breach the standards expected are treated reasonably, consistently, objectively and fairly in every case. This policy and procedure have been produced in line with the relevant ACAS Code of Practice to ensure that CHA meets all its legal requirements.

2.0 PRINCIPLES

The successful operation of the procedure is based on the following general principles, which are in accordance with the ACAS Code of Practice:

- To treat disciplinary matters fairly, consistently and reasonably across the organisation.
- To act promptly when potential disciplinary matters come to light.
- To deal with minor breaches of discipline informally, using resolution-based methods where possible and appropriate.
- To investigate the facts as may be appropriate before taking action under the formal parts of this procedure.
- To advise in writing at all stages of the formal procedure of the nature of the complaint and give employees the opportunity to state their case, present any evidence, witnesses and mitigating factors before a decision is reached.
- The right to be accompanied by a 'companion' (as defined by the ACAS Code of Practice) – a CHA work colleague or accredited trade union representative – at each stage of the procedure except the informal stage.
- Not to dismiss you for a first breach of disciplinary rules except in the case of gross misconduct.
- To have the right of appeal against disciplinary penalties awarded.
- To be always treated with courtesy and respect throughout your case.
- To record all cases of disciplinary action taken under these procedures and to supply on request copies of any such records held which relate to individuals.

3.0 SCOPE

This policy and associated procedures apply to all employees of CHA.

Where any disciplinary matter concerns standards of attendance this will normally be dealt with under Absence Management Policy but may be addressed under this policy where appropriate.

This policy does not form part of any employee's contract of employment and it may be amended at any time.

4.0 RELATED POLICIES

- Grievance Policy and Procedures
- Bullying and Harassment Policy
- Alcohol and Substance Misuse Policy
- Social Media, Internet and Email Acceptable Use Policy
- Absence Management Policy

5.0 ROLES AND RESPONSIBILITIES

Managers are responsible for:

- Setting an example to all staff through their own conduct and behaviour.
- Reinforcing clear standards for the conduct of all staff they manage and provide appropriate feedback to their staff in respect of their conduct.
- Managing the conduct of their staff, always adhering to this policy and procedure.
- Raise and deal with issues in relation to conduct and behaviour promptly and not unreasonably delay meetings, decisions or confirmation of these decisions.
- Seek and take account of professional advice from the Corporate Services team.

Employees are expected to:

- Abide by CHA's code of conduct, relevant policies and procedures at all times.
- To carry out your job to the rules and standards expected of your role.
- To maintain effective and professional working relations with colleagues and other stakeholders and treat everyone with dignity and respect.
- To clarify expectations, behaviours and rules with your line manager if you are unsure about them.
- To co-operate if you are asked to be involved with a disciplinary case.
- To co-operate with those handling a potential disciplinary case concerning you.
- To treat those dealing with a disciplinary case with courtesy and respect at all times.

Corporate Services will:

- Provide advice to managers on the use of this policy, procedure and best practice and offer support through each of the stages.
- Provide advice to staff on this policy and procedure.
- Ensure consistency, reasonableness and fairness in the application of this policy.
- Ensure the provision of all necessary information and documentation in relation to this policy.
- Review the policy on an ongoing basis to ensure that it meets CHA requirements and all legal and regulatory requirements.

6.0 CONDUCT WARRANTING DISCIPLINARY ACTION

Offences under CHA's disciplinary procedure fall into two categories, misconduct and gross misconduct.

6.1 MISCONDUCT

Misconduct is a less serious breach of rules which would not normally result in dismissal for a first offence. The severity and frequency of the breach will be considered when determining the level of warning issues. The following list is not exhaustive but gives an indication of the offences CHA deems to be misconduct.

- Failure to disclose any potential conflicts of interest in personal life or that of a close family member.
- Failure to report any criminal conviction or police caution.
- Unauthorised absence from work, which have no underlying medical cause and are not disability related.
- Minor breaches of financial regulation.
- Minor breaches of policies around data management, email and internet usage and security and / or social media.
- Persistent minor breaches to CHA Code of Conduct, Policies and / or procedures.
- Behaviour that is not aligned with CHA values, code of conduct or with relevant professional standards.
- Insubordination.
- Repeated lateness or persistent time wasting.
- Vexatious or malicious complaints raised under the grievance or bullying and harassment policy.

6.2 GROSS MISCONDUCT

Gross misconduct is a breach of CHA policies and disciplinary rules which is so serious that it amounts to a fundamental breach of trust and confidence between you and CHA.

You can be summarily dismissed for a first offence which is considered to constitute gross misconduct. If you are summarily dismissed for gross misconduct, the dismissal is without notice or payment in lieu of notice. The following are some offences that CHA considers to be gross misconduct, this list is not exhaustive.

- Any form of assault or physical violence.
- Theft, deliberate malpractice, deception, cover up of deficiencies or falsification of documents or accounts.
- Serious breach of financial regulations.
- Bringing CHA into serious disrepute.
- Deliberate, unauthorised disclosures to a third party of any confidential information.
- Failure to comply with the law of regulation in the conduct of CHA's business.

- Submissions of falsified claims for overtime, expenses, advances of allowances or other fraudulent acts.
- Falsely reporting or recording sickness absence.
- Acts of discrimination, bullying, harassment or victimisation of Castlehill staff, tenants, service user, contractors or other stakeholders.
- Downloading of inappropriate material from the internet.
- Serious breach of health and safety procedures.
- Incapacity to work due to being under the influence of alcohol or other legal / illegal substances.
- Using or selling illegal substances on CHA property at any time.
- Wilful damage to property belonging to Castlehill, it's employees, tenants, service users or contractors.
- Serious insubordination.
- Abusive behaviour.
- Serious negligence.
- Continued absence without leave.
- Covert recording of staff, meetings or other interactions without express consent.

7.0 DISCIPLINARY PROCEDURE

7.1 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.

At a meeting your companion is entitled to address the meeting, ask questions and confer privately with you. Your companion does not however, have the right to answer questions on your behalf or address the meeting if you do not wish them to or prevent the employer from explaining their case.

There is no right to be accompanied at informal stages of this procedure, however there may be exceptional circumstances where it is agreed that it would be better for a companion to be present to support these discussions.

7.2 INFORMAL PROCEDURE

For minor infringements of discipline, your line manager will make every effort to resolve the matter by informal and confidential discussions with you. A written record of the conversation should normally be made, confirming any actions to be taken and the implications if there is a repetition of the behaviour or if the informal process does not bring about improvement.

As part of the process the manager may issue a verbal warning to the employee. This will outline the reasons for the verbal warning, set expectations around expected improvements in conduct and what action will be taken if there is failure to improve or a further recurrence.

If this informal process does not bring about an improvement, if there is a repetition of the behaviour or the misconduct is considered too serious to be classed as minor, the formal disciplinary procedure will be implemented. Informal actions may also be carried out after a disciplinary

investigation or hearing to bring about learning and improve the working relationships between the staff member and other parties involved.

8.0 FORMAL PROCEDURE

8.1 INVESTIGATION

As soon as reasonably practicable after a suspected breach of disciplinary rules comes to light, your line manager or other appropriate person will instigate an impartial investigation. The purpose of the investigation is to gather facts without unreasonable delay.

You will be advised as soon as possible that an investigation is taking place and this will be confirmed to you in writing, advising when we expect to conclude the investigation and advise you of an outcome. You will normally be interviewed as part of the investigation, and if this is the case you will be notified of the location and date of the interview and your right to be accompanied in advance of the meeting. There may be exceptional circumstances where CHA will proceed directly to a formal disciplinary meeting, without a prior investigation meeting.

Witnesses may be asked to provide a written account of what they have witnessed. Statements should be signed and dated or sent by the witness directly from their CHA email account. Witnesses may also be asked to attend a witness interview, where notes will normally be taken.

CHA may inform or involve the Police or any other relevant statutory or regulatory bodies where required at the appropriate point of the formal Disciplinary Procedure.

8.2 SUSPENSION

If considered appropriate and reasonable, you may be suspended from your duties while the investigation is undertaken. The decision to suspend can only be taken following consultation with Corporate Services and with approval from the relevant Director. Suspension will usually only be considered if:

- There is a significant health and safety, business or other risk or the potential for such risk and/or
- your continued presence in the workplace may hinder an investigation taking place.

You may be suspended at the beginning or at any time during the investigation depending on the circumstances. If you are suspended it will be confirmed to you in writing.

Suspension is a precautionary measure only, pending the outcome of disciplinary proceedings and is not a punishment in itself. When suspended your contract of employment will continue and you will be paid your normal basic pay rate and receive any usual benefits. When suspended you are required to be available to attend meetings and respond to requests under this procedure.

8.3 DISCIPLINARY MEETING

Having established the facts, if there is reasonable belief that you have committed a disciplinary offence, you will be invited to a disciplinary meeting. The meeting will be chaired by an appropriate manager not involved in the incident or its investigation.

You have the right to be accompanied by a companion, as defined in section 7.1. You will be sent a copy of the evidence to be considered at the meeting and will have the opportunity to state your case fully. You should also give copies of any papers or witness statements that you intend to rely on

at the meeting at least two working days in advance of the meeting to the person chairing the meeting.

You will be given at least two working days' notice to attend the meeting which you and your companion must make every effort to attend. The meeting will only be re-arranged if you provide a good reason why you are unable to attend, or your companion cannot make the arranged date.

A member of the Corporate Services team will usually be present to support the meeting, ensuring due process is followed. A note taker will normally be present to take written notes of the meeting. The covert recording of meetings is forbidden.

Prior to making a decision the disciplinary meeting will be adjourned to consider all relevant information. The meeting may also be adjourned, if necessary, for the purpose of clarifying or gathering additional information. If new information is collected, you will be advised of the new information and given a reasonable time to consider it prior to the meeting being reconvened.

Following an adjournment and once the manager conducting the meeting is satisfied that all relevant information has been gathered and properly considered you will be advised of the decision and what, if any, disciplinary action is to be taken.

The decision and action will be confirmed to you in writing and you will receive a copy of the notes of the disciplinary hearing. If you consider that the notes do not properly reflect the discussion you had you can propose amendments within five working days. Where these are agreed, the record will be duly amended. If your proposed amendments are not agreed, your comments will be attached to the record. You will also be advised of your right to appeal against the decision.

8.4 FORMAL WARNINGS

If there appears to be a disciplinary case to answer, the manager of the disciplinary meeting has the authority to conclude that a disciplinary penalty is appropriate.

- If the offence is regarded as more serious, or if a further offence occurs when an active oral warning is in place, the employee may be given a formal written warning, which shall normally be expunged after 12 months of satisfactory conduct.
- Where there is a failure to improve during an active 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 18 months of satisfactory performance and conduct.

8.5 DISMISSAL

In cases where it is concluded that gross misconduct has taken place, CHA may summarily dismiss you without notice or payment in lieu of notice.

In cases of repeated misconduct, where formal warnings have been exhausted, CHA may dismiss you without notice or payment in lieu of notice.

The decision to dismiss will be taken by either a director or the Chief Executive. CHA will confirm the decision to dismiss you in writing, setting out the nature of the misconduct that led to the dismissal and the right to appeal from the decision.

8.6 ACTION SHORT OF DISMISSAL

Gross misconduct cases may not always result in dismissal. Depending on the circumstances of the case and any mitigating factors, CHA may issue the following disciplinary penalties:

- Monetary payments by way of restitution for culpable loss or damage caused by you.
- Demotion or loss of seniority.
- Extension to the normal period of a final written warning.
- Participation in a programme of drug or alcohol rehabilitation.
- Any other appropriate actions to prevent the repetition of the misconduct.

You have the right to appeal a decision to impose any of the above sanctions.

8.7 APPEALS

An employee has the right to appeal against any disciplinary decision. This should be done in writing stating the grounds for appeal, within 10 working days of receiving the warning or notice of dismissal.

The appeal hearing will be usually conducted by a more senior manager than the one who made the disciplinary decision. Where the disciplinary decision was made by the Chief Executive, any appeal will be heard by the Chair of the Management Committee, supported by the Corporate Services Team.

CHA will endeavour to hear the appeal as quickly as possible. At the appeal hearing the employee will be given the opportunity to explain their grounds for appeal. The employee will receive a written outcome of the appeal hearing within five working days. The decision on the outcome of the Appeal is final.