

1.0 INTRODUCTION

- 1.1 This Policy applies to everyone in the employment of Scottish Borders Housing Association (hereafter referred to as “The Association”).
- 1.2 The policy is designed to take account of the ACAS Code of Practice on Disciplinary and Grievance Procedures and its accompanying guidance.
- 1.3 The purpose of the Policy is to encourage and help all employees to achieve and maintain acceptable standards of conduct, performance and attendance and to ensure that fair, consistent and effective arrangements operate on every occasion where disciplinary action is considered when an employee does not achieve the standards expected.
- 1.4 This Policy recognises that the application of disciplinary action is meant to be corrective and has discretion to determine the appropriate disciplinary sanction to apply to an employee who it concluded has committed an act of misconduct.

2.0 PRINCIPLES

- 2.1 Disciplinary action is normally only used where other interventions i.e. counselling, have failed to produce the required improvement or when the conduct matter is sufficiently serious to require immediate formal action.
- 2.2 The counselling should attempt to deal with the matter informally and give the employee an opportunity to improve before any formal action is taken.
- 2.3 It is anticipated that isolated cases of minor misconduct will be dealt with by the immediate Line Manager in an informal manner. If, after counselling, the employee’s conduct or performance does not improve and meet acceptable standards, notification will be given in writing that formal disciplinary action will be considered.
- 2.4 Where an employee is incapable of performing to a satisfactory standard, help will be given by the Association to enable improvement. This will be dealt with under the Managing Performance Policy.
- 2.5 While it is not the intention of this Policy to be prescriptive in relation to examples of less serious or more serious misconduct, **Appendix A** gives examples of some incidents which the Association regards as falling into formal disciplinary action. It is emphasised that Line Managers at all levels will be required to exercise judgement in relation to breaches of disciplinary rules, taking account reasonableness and consistency of application across the organisation.
- 2.6 Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee’s agreement.
- 2.7 Advice from the Human Resources Team must be sought at all stages of the procedure and prior to any action, including suspension being taken.

3.0 RESPONSIBILITIES

3.1 Normally the possible need for disciplinary action will come first to the attention of an employee's immediate Line Manager who is responsible for initiating the investigation of the matter and either proceeding with disciplinary action or bringing the matter to the attention of the appropriate more senior manager.

3.2 **Responsibilities of Line Managers:** Each Line Manager has a responsibility to:

- Ensure that they are familiar with SBHA's Disciplinary Policy & Procedure and apply them equitably;
- Actively consult with the HR Team at all stages of the Procedure;
- Ensure that employees are treated fairly and consistently;
- Respect and work in line with SBHA's Employee Code of Conduct and People Charter;
- Take responsibility for fully investigating possible breaches of the Disciplinary Policy, and decision making as applicable; and
- Adhere to timescales set in the Procedure.

3.3 **Responsibilities of Employees:** Each employee has a responsibility to:

- Take full accountability of their actions and inactions;
- Maintain expected and reasonable levels of attendance and performance at work;
- Respect and work in line with SBHA's Employee Code of Conduct and People Charter;
- To participate and co-operate in investigations;
- Comply with all of SBHA's Policies & Procedures; and
- Conform with any SBHA or statutory rules or agreements applicable to their role.

3.4 **Responsibility of Human Resources:** Human Resources have a responsibility to:

- Proactively advise, support and guide all employees in the application of the Policy and Procedure;
- Ensure fairness and consistency throughout the Organisation;
- Be present at all formal Disciplinary Hearings;
- Adhere to the timescales given within this Policy and Procedure wherever possible;
- Ensure that hearings are convened and conducted in accordance with the provisions contained within the Procedure;
- Retain any records relating to Disciplinary action in accordance with the Data Protection Act;
- Develop the skills of line managers and employee representatives to allow this Policy and Procedure to be put into practice effectively; and
- Monitor and review the use of the Policy and Procedure.

3.5 **Responsibility of Employee/ Union Representatives:** Each Employee/Union representative has the responsibility to:

- Make themselves familiar with the Policy and Procedure;
- Represent employees fairly and in line with the Policy and Procedure;
- Respect and work in-line with SBHA's Employee Code of Conduct and People Charter;
- To participate and co-operate in investigations; and
- Act at all times in line with their responsibilities under the Recognition Agreement.

4.0 REVIEW OF POLICY

This Policy will be reviewed 3 years after implementation, or earlier if legislative or other changes necessitate this.

1.0 DISCIPLINARY ACTION

1.1 The following illustrate misconduct which could lead to disciplinary action. They do not constitute an exhaustive list and each case must be judged on its merits rather than trying to make an alleged offence fit one of these headings:

- negligence (i.e.) lack of proper care or omission of duty;
- consistently sub-standard and/or careless work or inefficiency;
- failure or refusal to adhere to proper and reasonable rules, regulations, Policies/Procedures and instructions;
- carrying out business unrelated to the Association or taking part in activities unrelated to that of the Association during working hours or on Association premises (unless express permission has been granted for such activities);
- using SBHA resources for activities unrelated to the Association;
- time off work without justifiable cause or explanation;
- poor attendance or timekeeping;
- failure to take reasonable care of equipment/materials provided by the Association or premises occupied by the Association;
- misuse of the Association's computer network or other assets.
- Where lack of or loss of qualifications affects work performance, action will be taken in the light of the circumstances of each case. This also applies where an employee unreasonably fails to follow CPD requirements. This may or may not include disciplinary action.
- Alleged or proven criminal offences, and/or behaviour out-with the work situation, including those which may bring SBHA into disrepute, could be dealt with under this Policy if they affect an employee's ability to carry out the requirements of his/her post or fulfil the terms of his/her Terms & Conditions of their contract. Action will be taken in the light of the circumstances of each case.

1.2 Normally such offences will be dealt with by the use of warning(s) which will give the employee the opportunity to improve their performance or behaviour. Dismissal will not normally be appropriate for a first offence.

2.0 GROSS MISCONDUCT

2.1 The following are regarded by the Association as examples of gross misconduct which may lead to dismissal, regardless of whether or not previous warnings have been issued. They do not constitute an exhaustive list and each case must be judged on its merits. Dismissal may be without notice if the circumstances of the case so justify:

- theft of Association property or property of a colleague or other persons within the Association;
- gross insubordination;
- breaches of Health and Safety rules or omission of duty where contravention of regulations or requirements results in or could result in harm or risk to other persons;

- wilful damage to Association property or premises;
- fraud or attempted fraud e.g. falsifying time sheets, falsifying mileage sheets;
- Bullying or harassment of any type, including unlawful discrimination, harassment, intimidation which contravenes SBHA's equality and dignity at work commitments and policies.
- viewing or downloading material on the Internet which could cause offence to other employees or Association service users;
- Defamatory and/or abusive comments regarding SBHA or its people through the inappropriate use of any medium including social media or other internet sites;
- attending work and/or carrying out their duties under the influence of any substance to an extent that the employee is unable to carry out their duties satisfactorily;
- consumption of alcohol whilst on duty (other than where approval has been given);
- breach of requirements regarding confidentiality;
- non-disclosure of criminal convictions;
- bringing the Association's name into disrepute;
- wilful breach/disregard of the Association's Financial Policies or Standing Orders and Entitlements, Payments and Benefits Policy.