

TO:	Management Committee
PREPARED BY:	Linda Sichi (Deputy CEO)
SUBJECT:	DISCIPLINARY POLICY
DATE OF MEETING:	20 May 2024
APPROVED BY:	Paul Martin (CEO)

# DISCIPLINARY POLICY

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## **1. MILNBANK HOUSING ASSOCIATION (MHA) STRATEGIC OBJECTIVES**

MHA's mission is to provide excellent homes and services in a thriving community. We believe that people living in the MHA community should:

- Have warm, safe, and affordable homes, and receive excellent services from MHA.
- Live in neighbourhoods that are clean and well cared for, with real community pride.
- Have access to opportunities and services that promote a good quality of life.

## **2. MHA's VALUES**

Working as 'One Milnbank' so that we offer the same quality of services, support and housing to all tenants and residents.

## **3. LEGAL & REGULATORY COMPLIANCE**

The Management Committee leads and directs MHA to ensure good outcomes for its tenants and other service users. The Scottish Housing Regulator's Regulatory Framework Financial & Regulatory, Standard 3 states The Association manages its resources to ensure its financial well-being and economic effectiveness, while maintaining rents at a level that tenants can afford to pay. MHA adheres to all relevant legal employment requirements associated with this policy.

## **4. POLICY INTRODUCTION**

Milnbank Housing Association (MHA) requires staff to maintain the highest possible standards of attendance, conduct and performance. The purpose of this policy is to help staff understand and to maintain them. Please speak to your line manager if you are unsure of the standards MHA expects of you. If you do not meet our standards, we will manage this in accordance with this disciplinary procedure.

## **5. PRINCIPLES OF THE DISCIPLINARY POLICY**

MHA's Disciplinary Policy AIMS to:

- To make sure that staff know the standards expected in respect of conduct, performance and attendance.
- To manage staff in accordance with the policy procedures should they fall short of our expected standards.
- To manage any reduction of standards in a fair and consistent manner.

## **6. STAFF CAN EXPECT MHA TO:**

- Inform staff of all the allegations against them and give the employee the opportunity to state their case.
- Not take any formal disciplinary action until we have fully investigated the allegations against you.
- Pay staff normal pay if they are suspended pending investigation.
- Not take any disciplinary action or suspension if staff are a TU 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.
- At all stages of the formal procedure, staff will have the right to be accompanied by either a TU representative or workplace colleague.
- Make sure if any action is taken, (other than dismissal) that MHA is clear of 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.
- We will not dismiss if this is the first issue with an employee's conduct, performance or attendance unless the employee has committed gross misconduct. In this case, the penalty will normally be summary dismissal without notice or pay in lieu of notice.
- Any formal action will be confirmed to the employee in writing.
- Provide the employee with a right of appeal if we issue you with any formal action.
- Keep records on staff personal file of any live disciplinary action, which will only be available to the employee, the line manager, HR and the senior officer if appropriate.
  - We will not normally allow recording devices to be used during any investigatory, disciplinary or appeal meetings.
  - Apply the formal procedure at any stage (1 to 3) depending on the seriousness of the allegations against the staff member.
  - For the purposes of the procedure to be followed MHA will add together warnings given for different reasons.

## **7. MHA EXPECT THAT STAFF WILL:**

- Be honest and transparent in all aspects of their work for us.
- Treat all colleagues, clients, partners and anyone in connection with us with respect and dignity.
- Not disclose any confidential information obtained in connection with the employees' employment with us.
- Declare any potential conflicts of interest that may arise throughout the course of employment.
- 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.

- In line with our Code of Conduct staff should not take on any secondary employment before discussing with their line manager.
- 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 staff may hold.
- Maintain high standards of performance and carry out the role to the best of the employee's ability.
- Maintain high levels of attendance as described in our Managing Attendance policy.
- Follow instructions and requests from the line manager and any other senior member of staff.

## **8. INVESTIGATION**

Before any informal or formal action takes place, MHA will conduct an appropriate investigation to establish the facts surrounding the allegations against the employee. This will normally involve speaking to the employee and anyone else that may provide relevant information. We will also collect any other information we deem to be relevant. An investigation meeting does not form part of the formal disciplinary process.

The length and complexity of the investigation will be determined by the circumstances and the nature of the allegations. If the staff member is unable, or chooses not to participate in the investigation, after considering all reasonable adjustments we may proceed without the benefit of their input.

The investigating officer 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 throughout the report.

All information will be made available to both the employee and the disciplinary officer/panel in advance of the scheduled disciplinary hearing.

On completion of the investigation, the investigator will make one of the following three recommendations:

- (1) No further action
- (2) Informal action
- (3) Progress to a formal disciplinary hearing for formal action to be considered

## **9. Police Involvement and Criminal Offences**

MHA may treat any criminal investigation, charge or conviction connected to the employee as a disciplinary matter if we consider it relevant to their employment with us.

Should an employee be subject to any police investigation, we will conduct our own independent investigation and proceed regardless of the status of any police involvement.

If an employee is subject to any of the above and MHA believe this may in any way affect their ability to do their job or MHAs reputation, the employee must discuss this with the line manager as soon as possible.

## **10. Suspension**

If the allegation(s) is/are of a serious nature, MHA may suspend the employee while we carry out any necessary investigations. Suspension does not constitute disciplinary action. We will suspend on normal pay if the allegations against the employee are of a gross misconduct nature while we carry out any necessary investigations. We may also suspend if we feel the employee is/could interfere with an investigation in any way even if the allegations are not considered at gross misconduct level.

We will aim for your suspension to last no longer than 5 working days. If the investigation has not finished within this time, we will write to the employees to update them on its progress and the impact this has on their suspension.

While on suspension the employee should not have any contact with any other employees other than the person named in your suspension letter.

## **11. Time Limits of Warnings**

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

## **12. 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.

### **Examples when the Disciplinary Procedure may be used:**

Please note the list below is not exhaustive:

- Any issues relating to employee conduct/performance/attendance.
- Poor timekeeping (repeated lateness or leaving early).
- Abuse of flexi time, remote working and/or TOIL.
- Failure to meet and/or maintain the improvements required in an informal action.
- Breaches of our policies.
- Performance and/or conduct is below our expected standards.
- Deliberate misuse or damage of our property (including corporate clothing, electronic devices, email and internet).
- Breach of Healthy and Safety Procedures.
- Willful and persistent refusal to obey reasonable instructions.
- Professional incompetence.
- Theft from us
- Bringing the association into serious disrepute

We can begin the procedure at any stage of the disciplinary process depending on the seriousness of the allegations.

**13. Informal Procedure**

We will normally use the above in the first instance. If performance, conduct or attendance does not meet our required standards then the line manager will meet the employee informally if appropriate. The line manager will discuss the issues with the employee, telling them what improvements are required, the support and training available, timescales for achievements (not normally more than 6 months) and explain any further consequences if the employee does not meet or maintain the standards required.

Following the meeting this information will be followed up in writing in an informal action note. If the employee does not meet the expected standards set out in the informal action within the specified timescale or the matter is more serious, MHA may proceed with the formal disciplinary process.

**14. Formal Procedure**

MHA will follow our formal process when attempts to improve any conduct, performance and/or attendance have not improved through the informal process or the matters are of a more serious nature. If an employee is invited to a formal hearing, this will be done as soon as reasonably practical on conclusion of the investigation. The employee will also be given a **minimum of 2 working days'** notice of the hearing and **5 days' notice** in gross misconduct cases. If we issue a formal warning, the employee will have the right to appeal with the details of how to do this in the letter confirming the outcome of the hearing. MHA will not progress to any formal stages of this procedure unless an appropriate investigation has taken place.

MHA have three stages in our formal procedure:	
<b>Stage 1</b>	<p>If the employee does not meet our standards detailed at the informal stage, or the matter is of a more serious nature a manager will invite the employee, in writing, to attend a formal disciplinary hearing to provide an opportunity for the employee to state their case and consider all appropriate evidence. If, after considering all the evidence, including employee responses, we believe this to be unsatisfactory, and/or it is still appropriate, MHA will issue a <b>first written warning or performance note</b>. This will remain on file for six months.</p> <p>Authority to take disciplinary action at Stage 1: Line manager or supervisor</p>
<b>Stage 2</b>	<p>If the employee has a live written warning and remains below our standards or, if we consider the matter serious misconduct, a manager will invite them, in writing, to attend a formal disciplinary hearing. The purpose of this is to provide the</p>

	<p>employee with an opportunity to state their case and consider all appropriate evidence. If, after considering all the evidence, including the employee's response, we believe this to be unsatisfactory, and/or it is still appropriate, we will issue a <b>final written warning</b>. This will remain on file for 12 months.</p> <p>For employees with under 2 years' service, if there is another issue with their performance, conduct or attendance following the informal action, or if the matter is serious, then the line manager will investigate into this and may invite the employee to a formal meeting. This meeting may result in termination of their contract of employment.</p> <p>Authority to take disciplinary action at Stage 2: Line manager, supervisor or CEO's</p>
<b>Stage 3</b>	<p>If the employee has a live final written warning on file and remains below our standards, or if we feel the employee may have committed an act of gross misconduct, they will be invited in writing to attend a formal disciplinary hearing. The purpose of this is to provide the employee with an opportunity to state their case and consider all appropriate evidence. If, after considering this, including the employee's response and we deem it appropriate, we may <b>dismiss</b>. MHA will make a payment in lieu of notice if the reason for dismissal is anything other than gross misconduct.</p> <p>Authority to take disciplinary action at Stage 3: Panel appointed from the Management Committee</p>

### 15. 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. MHA 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.
- Under the influence due to alcohol or any other substance.
- 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 legislation policies and procedures, or any other policies, operating procedures or workplace rules put in place by us.
- Acts of gross professional incompetence.



- Bringing MHA into serious disrepute.
- Serious breaches of security or confidentiality, including misuse or disclosure of confidential information.
- 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.

### 16. Notice of Decision

We will issue you with the outcome of our decision, including the reasons for this in writing 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, MHA will provide details of the last date of employment and of any outstanding payments that we will make with the final salary payment.

### 17. Appeals

If employees wish, they have the right to raise an appeal against any formal action taken within **5 working days** of receiving the outcome letter. Details on how to appeal will be included in the outcome letter confirming the action taken.

No person involved in the original disciplinary decision should take part in the appeals process unless it is not possible to avoid this.

At all levels of the appeal process, the officer/panel hearing the appeal is entitled to:

- Confirm previous action
- Dismiss previous action or
- Substitute a lesser penalty

### Appeals procedure

First Written Warning	<ul style="list-style-type: none"> <li>• Employees have a right to one internal appeal against the first written warning or performance note.</li> <li>• The appeal should be made within 5 working days of the notice of decision. MHA will hold appeal hearings within <b>10 working days</b> of receiving the request.</li> </ul>
Final Written	<ul style="list-style-type: none"> <li>• There is one appeal against a final written warning and</li> </ul>

<p><u>Warning</u></p>	<p>after this, it will be made to the JNC Appeal Chair.</p> <ul style="list-style-type: none"> <li>●The employees appeal should be made within <b>5</b> working days of the notice of decision. MHA will hold appeal hearings within <b>10 working days</b> of receiving the request.</li> <li>●Appeal Hearings to the JNC Appeal Chair should be made within <b>5 working days</b> and will be held within <b>20 working days</b> where possible.</li> </ul>
<p><u>Dismissal</u></p>	<ul style="list-style-type: none"> <li>●If an employee is appealing against dismissal, they must do so to the JNC Appeal Chair. The JNC Appeals Chairs are independent people appointed by the Joint Negotiating Committee.</li> <li>●The employee should notify the JNC appeal secretary of their intention to make an appeal in writing within <b>5 working days</b> of receiving notice of the decision.</li> <li>●Appeal hearings to the JNC Appeal Chair should be held within <b>20 working days</b>, where possible.</li> </ul>

The JNC Appeal Chair is the final stage of the internal disciplinary and grievance procedures available. The Secretary to the JNC Appeal will send the employee a copy of the guidance notes following the appeal request. The Chair’s decision is followed by a written report and sent to the employees and MHA. Once a JNC appeal has taken place and report issued, the matter will be closed.

**18. Records**

MHA will keep records on in personal files of any disciplinary action, which will only be seen by each individual employee, the line manager, HR and the CEO if appropriate. The line manager will remove disciplinary warnings from the employees’ files when they expire.

**19. EQUALITY & HUMAN RIGHTS**

MHA’s is committed to equal opportunities, and we will respond to the different needs and service requirements of individuals, and we will not discriminate against any individual for any reason outlined in Equality & Human Rights Legislation.

**20. DATA COLLECTION**

MHA will manage all personal data in accordance with our obligations under the GDPR regulations and the Association’s Policy.

**21. POLICY MONITORING & REVIEW**

The Disciplinary Policy will be reviewed by the Governance Sub-Committee every 3 years in line with EVH updates, or as otherwise deemed necessary.

