



DISCIPLINARY & APPEALS POLICY

1.0 INTRODUCTION

- 1.1 Almond Housing Association Limited (AHA Ltd.) recognises the importance of implementing and monitoring an effective disciplinary and appeals policy, to ensure the fair and consistent treatment of all employees who may be subject to disciplinary action.
- 1.2 AHA Ltd. will ensure that all employees are aware of the standards of performance and/or conduct that we expect them to achieve, through producing and implementing clear and comprehensive policies and procedures covering all our activities. Through this disciplinary policy AHA Ltd. will ensure that all employees are aware of the action to be taken should their performance and/or conduct fall below acceptable standards.
- 1.3 The aim of disciplinary action will be to:
 - clarify and restate the rules, policies or standards required, and
 - encourage, improve or correct the employee's performance or behavior.
- 1.4 This policy complies with the Acas Code of Practice and the Acas Guide on Disciplinary and Grievance policy and procedure. The key principles from both documents are:
 - a) the procedure is designed to establish the facts quickly and deal consistently with disciplinary issues;
 - b) the levels of management who can take the different types of action are specified;
 - c) at every stage in the procedure the employee will be informed of the nature of the complaint against them;
 - d) no disciplinary action will be taken until the matter has been fully investigated and the employee has been given an opportunity to state their case;
 - e) all information and/or documentation relevant to the issue will be made available to the employee and, should they agree, to their representative;
 - f) the employee has the right to be accompanied and be represented, if they wish, at every stage of the formal disciplinary procedure by a colleague, or by a staff association/trade union representative who has been certified in writing by their union as having experience of, or training in, acting as a worker's companion at disciplinary or grievance hearings, so long as the presence of the companion will not prejudice the hearing or result in a conflict of interest;
 - g) the disciplinary procedure may be initiated at any of the stages 1 – 3 (see Section 4), depending on the seriousness of the alleged misconduct;
 - h) disciplinary warnings given for different reasons will be cumulative for the purposes of following the various stages of the procedure;

- i) an employee will not normally be dismissed for a first offence, except where the offence comes into the category of gross misconduct;
- j) an employee will have the right to appeal against any disciplinary penalty imposed;
- k) the employee will be informed in writing of any disciplinary action taken, the reasons for the action, the change or improvement in behavior etc. expected (with timescales where appropriate, which will be reasonable according to the circumstances), the consequences of any failure to improve or of further incidents requiring disciplinary action, and the procedure for submitting an appeal;
- l) written communications will be sent to the employee's home address;
- m) references to disciplinary warnings issued will be removed from the employee's personal record at the end of the specified period, so long as the required standards have been attained and/or maintained and if no other incidents that would render the employee liable to disciplinary action have occurred in that time;
- n) repeated or re-occurring breaches of the same rules will entitle management to initiate disciplinary action at a higher level, irrespective of the expiry of any previous warning.

1.5 In implementing this policy and the supporting procedures AHA Ltd. will ensure that we comply with our Equality and Diversity policy, in particular where any special arrangements are required for an employee with a disability.

We will also comply with all current data protection legislation with regard to the handling (processing) of personal and sensitive information.

1.6 The principles and processes in this policy and the supporting procedures will not apply during a new employee's probationary period.

2.0 RESPONSIBILITIES

2.1 Board of Management

- To ensure that there is in place a policy on Disciplinary Action and Appeals which complies with the current law, statutory regulations, guidance and good practice.
- To take any action under the policy which requires the involvement of Board Members.

2.2 Management

- Chief Executive: To ensure that all employees are aware of the policy, and that it is applied consistently across the organisation.
- Head of Corporate Services: To administer the policy and supporting procedures on a day-to-day basis, and provide advice and training to Board Members, Senior Management Team and all employees as required.
- Other Heads of Section: To ensure the policy and supporting procedures are implemented fairly and consistently within their Sections.

2.3 Employees

- To ensure that they have read, understood and comply with the policy and procedures as required.

3.0 INFORMAL COUNSELLING

- 3.1 Wherever possible AHA Ltd. will aim to encourage and maintain acceptable standards of conduct and performance without having to use the disciplinary procedures. We will therefore seek to deal with minor problems through performance management or informal counselling.
- 3.2 Performance management and counselling will not be part of the formal disciplinary procedure. Their aim will be to prevent the need for disciplinary action through helping the employee to recognise and overcome particular problems at an early stage.

4.0 DISCIPLINARY ACTION

- 4.1 There will be three levels of disciplinary action:

Level 1	- Improvement Note or First written warning	-	for a minor breach of rules, or unsatisfactory conduct or performance
Level 2	- Final written warning	-	for continued breaches of rules, or a more serious first offence
Level 3	- Dismissal (with or without suspension)	-	for continued breaches of rules, or gross misconduct

For examples of offences which will result in disciplinary action, see Appendix 1.

- 4.2 Each level of disciplinary action will remain on the employee's personal file for a minimum period, as follows:
- Improvement Note/
First written warning - 6 months
 - Final written warning - 12 months

An Improvement Note will be used where 'poor performance or behaviour' is the main issue. A First Written Warning will be used where there is a breach of rules or procedures.

- 4.3 The length of time will begin on the date the warning was first issued, whether or not the employee submits an appeal which is subsequently unsuccessful. If, during the period of one warning a further warning is issued, the time period for the new warning will supercede the time period for the earlier warning.
- 4.4 Disciplinary warnings will be issued by the appropriate level of management (Appendix 2).
- 4.5 In the case of gross misconduct where dismissal is an option, as an alternative AHA Ltd. may implement reductions in the employee's grade and associated salary. In determining the nature and status of the post to which the employee may be demoted, AHA Ltd. will take into account existing skills, seniority and qualifications. Any such demotion will be on a permanent basis, but the employee will have the right to secure subsequent advancement on the basis of effective performance and conduct.

AHA Ltd. may also instigate suspension without pay for a period of up to two working weeks (all to be implemented through the first payroll after confirmation of any such punishment).

5.0 APPEALS

- 5.1 AHA Ltd. recognises the importance of having an effective policy and procedure to enable an employee to appeal against disciplinary action taken against them.
- 5.2 The appeals procedures are based on the principles contained in the Acas Code of Practice on Disciplinary and Grievance procedures. The key principles are:
- a) the time limit within which an appeal should be lodged is specified;
 - b) an appeal is dealt with speedily;
 - c) the appeals procedure is separate from the Grievance Procedure;
 - d) the appeal is heard by the level of management or Board above that which took the disciplinary action;
 - e) the action which may be taken by those hearing the appeal is specified;
 - f) the employee has the right to be accompanied and be represented, if they wish, by a colleague, or, if appropriate, by a staff association/trade union representative who has been certified in writing by their union as having experience of, or training in, acting as a worker's companion at disciplinary or grievance hearings, so long as the presence of the companion will not prejudice the hearing or result in a conflict of interest.
- 5.3 Appeals against disciplinary action will be heard by the appropriate level of management (Appendix 3). There will be one level of appeal, except that an employee who has been dismissed will also have the right to take their case to an Industrial Tribunal after completing the AHA Ltd. appeals process.

6.0 UNAUTHORISED ABSENCE

- 6.1 Any employee who is absent from work for more than five days without giving notification will be written to asking that they report to our office at a specific date and time. If the employee does not attend, or fails to provide an adequate explanation for their non-attendance, a further letter will be sent by recorded delivery inviting the employee to attend a disciplinary meeting to discuss the absence.
- 6.2 If the employee does not attend the disciplinary meeting nor offer an acceptable explanation for their non attendance, AHA Ltd. will consider proceeding to dismissal.
- 6.3 The employee will not be eligible for pay for the period of absence from work, neither will they be entitled to notice or pay in lieu of notice, or for any other benefit that may otherwise accrue, during the period of notice.
- Written acknowledgement of this will be sent to the employee along with confirmation of the final administrative arrangements and notification of the right to appeal.
- 6.4 Periods of unauthorised absence of less than five days may also result in disciplinary action, which may lead to dismissal.

7.0 EXTERNAL ADVICE

- 7.1 Where appropriate, AHA Ltd. may decide to involve a representative from an appropriate external human resources organisation in an advisory capacity, at each and every stage of the disciplinary procedure.

8.0 REVIEW

- 8.1 The Head of Corporate Services will ensure that this policy is reviewed by the Board of Management at least every 5 years.

FIRST APPROVED IN	NOVEMBER 1996
CURRENT VERSION 5.0 APPROVED IN	JUNE 2017
NEXT REVIEW DUE BY	JUNE 2022

APPENDIX 1**EXAMPLES OF OFFENCES WHICH MAY RESULT IN DISCIPLINARY ACTION**

The examples of offences and misconduct below are not exhaustive. Employees are under a duty to comply with the standards of behaviour and performance we require, and to behave in a reasonable manner, at all times.

1. The following examples are regarded as 'minor' or 'less serious' and may result in an Improvement Note or First Written Warning. An Improvement Note will be used where 'poor performance or behaviour' is the main issue. A First Written Warning will be used where a breach of rules or procedures has occurred.

- Failure to achieve the required standards of work performance.
- Sub-standard or careless work over a period of time.
- Poor time-keeping, including failure to follow flexitime procedures.
- Failure to adhere to current policies or procedures, e.g. failing to report sickness absence promptly, or failing to process a reported repair.
- Unacceptable level of short-term absences, or unexplained absenteeism.
- Failure to obey a reasonable instruction.
- Failure to adhere to staff security procedures.
- Unacceptable standard of dress or appearance.
- Breach of minor safety rules where no injury, or damage to property or equipment has resulted, including failure to use safety clothing or equipment when required to do so.
- Failure to follow computer security procedures, which does not result in any breach of confidentiality, or loss or damage to data.
- Neglect of equipment resulting in minor loss or damage to equipment or property.
- Negligence regarding the carrying out of prescribed duties or a breach of a policy which adversely affects AHA Ltd.'s efficiency.
- Minor incidents of 'harassment' against a colleague, which do not involve a breach of our Equality & Diversity policy.

Depending on the circumstances, any of the above may be regarded as 'more serious' conduct which may result in a Final Written Warning.

2. The undernoted offences are regarded as 'more serious' and will normally result in a Final Written Warning, which may be issued without any previous warnings in place.

- Any of the offences listed under (1) above occurring, or re-occurring, during the period that an Improvement Note or First Written Warning is in force.
- Negligence regarding the carrying out of prescribed duties or a breach of a policy which adversely affects AHA Ltd.'s efficiency and reputation and/or which may breach a code of practice or statutory guidance.

- Breach of safety rules which results in minor injury to self or others, or minor damage to equipment or property (however depending on the circumstances, this may result in dismissal).
- Failure to comply with the Equality & Diversity policy, including specific racial, sexual, age, sexual orientation, religion, belief or disability discrimination, harassment or victimisation.
- Attendance at work under the influence of alcohol or drugs, but not wholly incapable or performing duties to a reasonable standard.
- Action or behaviour while on duty that brings the organisation into disrepute.
- Deliberate or wilful failure to follow computer security procedures including a loss or damage to data, abusive emails, copying of computer software, removal of software or licences, use of unauthorised software, and/or unauthorised activities.
- Posting negative or critical comments about the organisation on social networking sites, e.g. Facebook, Twitter etc., or about work colleagues, in particular without their knowledge, and especially where this results in AHA Ltd's reputation being damaged without cause.
- Deliberately initiating a 'mischievous' grievance against a colleague or Board Member.

Depending on the circumstances, any of the above may be regarded as gross misconduct which may result in dismissal.

3. The undernoted offences are regarded as 'gross misconduct' and will normally result in dismissal, which may follow a period of suspension from duties. In the most serious of cases the action may be dismissal without suspension, notice or payment in lieu of notice.

- Any of the offences listed under (2) above, occurring, or re-occurring, during the period that a Final Written warning is in force.
- Gross insubordination, i.e. refusal to obey a reasonable instruction accompanied by verbal abuse and/or threatening behaviour.
- Fighting with a colleague at work, or assault, abusive or very threatening behaviour towards a colleague, tenant, applicant or other member of the public, while on duty.
- Theft or unauthorised possession either of AHA Ltd. property, or of the personal property of colleagues or other persons attending our office.
- Fraud or attempted fraud e.g. falsely claiming benefits or expenses, or falsification of documents for personal benefit or the specific benefit of others, in breach of our rules or policies.
- Any act of deceit or dishonesty relating to the individual's duties, or any other aspect of our business or affairs.
- Wilful breach or disregard of safety rules which seriously endangers the health and safety of others, i.e. potentially involving the loss of 'life or limb', whether or not actual injury or damage results.

- Attendance at work under the influence of alcohol or drugs to the extent that the employee is incapable of undertaking their prescribed duties to an acceptable standard.
- Wilful or grossly negligent damage to AHA Ltd.'s property or equipment, or to the possessions or property of colleagues, tenants, applicants or other members of the public while on duty.
- Breach of confidentiality, i.e. the disclosure of any confidential information or trade secrets of AHA Ltd. to any third party, without prior authority or consent.
- Computer system sabotage, introduction of viruses or 'timebombs', hacking, breach of data protection rules, viewing and/or downloading unacceptable material from the internet such as pornographic, racist or violent material.
- An act of indecent or immoral behaviour while on duty.
- Very serious breach of the Equality & Diversity policy, i.e. very serious discrimination, harassment or victimisation.
- Wilful non-disclosure of an interest in a contractual arrangement between AHA Ltd. and any other public agency or private company.
- Behaviour outwith normal working hours and work location which results in, or is likely to result in criminal charges which will affect the employee's ability to perform their duties, particularly where there is an element of trust involved or where there is a perceived risk to colleagues, tenants or others.

NOTES

1. The lists above contain examples only and are not to be regarded as exhaustive. The circumstances in each situation will be considered on their own merits, while having regard to the guidance above, and the disciplinary action to be taken will be at the appropriate level for that situation.
2. If a disciplinary warning is in force when the annual incremental review is undertaken, no increment will be awarded to the employee(s) subject to the warning(s).
3. Where an offence would normally result in dismissal, but where as a result of mitigating circumstances the action is reduced to a Final Written warning, the warning may be kept on file for 3 years.

APPENDIX 2**LEVELS OF AUTHORITY FOR ISSUING DISCIPLINARY WARNINGS**

Staff Grade/Title	Improvement Note/ First Written Warning	Final Written Warning	Dismissal
Corporate Services Assistant Corporate Services Officers Tenant Engagement Officer Community Engagement Officer	Head of Corporate Services	Head of Corporate Services	Chief Executive
Housing Assistants	Housing Support Manager	Head of Housing Management	Chief Executive
Housing Officers	Housing Manager	Head of Housing Management	Chief Executive
Housing Support Manager Housing Manager	Head of Housing Management	Head of Housing Management	Chief Executive
Maintenance Assistants Maintenance Supervisors	Repairs Manager	Head of Asset Management	Chief Executive
Capital Projects Surveyor Asset Management Officer Clerk of Works	Capital Projects Manager	Head of Asset Management	Chief Executive
Capital Projects Manager Repairs Manager Development Manager	Head of Asset Management	Head of Asset Management	Chief Executive
Finance Assistant, Finance Officer Debt Recovery Officer ICT Officer Financial Controller	Head of Finance	Head of Finance	Chief Executive
Head of Section	Chief Executive	Chief Executive	Chairperson
Chief Executive	Chairperson	Chairperson	Chairperson & 1 Board Member

APPENDIX 3**LEVELS OF AUTHORITY FOR HEARING APPEALS**

Disciplinary action taken by	Appeal to
Housing Support Manager Housing Manager	Head of Housing Management
Capital Projects Manager Repairs Manager	Head of Asset Management
Head of Section	Chief Executive
Chief Executive	Chairperson
Chairperson – Levels 1 & 2 Chairperson & Board Member – Level 3	Appeals Panel *

* **Note:** The Appeals Panel will consist of 3 members of the Staffing Sub-Committee who were **not involved** in deciding on the disciplinary action.