



TOLLCROSS
housing association

Disciplinary Policy & Procedure

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Policy Created	//
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CORPORATE FIT	
Internal Management Plan	✓
Risk Register	✓
Business Plan	✓
Regulatory Standards	✓
Equalities Strategy	✓
Legislation	✓

On request, the Association can provide translations of all our documents, policies and procedures in various languages and other formats such as computer disc, tape, large print, Braille etc. and these can be obtained by contacting the Association's offices.

1. Introduction

- 1.1 Tollcross Housing Association requires you to maintain the highest possible standards of attendance, conduct and performance. The purpose of this policy and procedure is to help you understand these and encourage you to maintain them.
- 1.2 This policy and procedure will inform you of our expected standards of conduct, performance and attendance. Please speak to your line manager if you are unsure of the standards expected of you. If you do not meet our standards, then we will manage this in accordance with this disciplinary procedure.
- 1.3 This policy and procedure applies to all employees.

2. Policy Aims

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

3. What you can expect from Tollcross Housing Association

We can begin the procedure at any of the stages 1 to 3, depending on the seriousness of the allegations/s against you.

There are three areas that we can deal with in line with the disciplinary procedure – conduct, capability (performance) and attendance and we will tell you which of these applies at the beginning of the process.

We will:

1. Not take any formal disciplinary action against you until we have fully investigated the case. If dismissal is one of the possible outcomes of the disciplinary procedure, we may suspend you until we have carried out our investigations. We will write to you about the suspension which should not normally last longer than five working days without a review. We will explain the progress of our investigation. During the suspension you will receive your normal pay (i.e. what you would receive if you were not suspended; if you are unfit for work, you would receive any applicable sick pay).

2. Let you know, throughout the procedure, the nature of the allegations against you will give you the opportunity to state your case before any decision is made. We will also confirm the outcome to you in writing.
3. Not normally allow recording devices to be used during any investigation, disciplinary or appeal meetings.
4. Not dismiss you if this is the first issue with your conduct, performance or attendance unless you have committed gross misconduct when the outcome will normally be summary dismissal without notice or pay in lieu of notice.
5. At all stages of the formal procedure, give you the right to be accompanied by either your trade union representative or a workplace colleague. This does not apply to investigation meetings.
6. Make all information and documents passed to the disciplinary officer/panel available to you before the hearing.
7. Provide you with a right of appeal against any formal disciplinary action imposed.
8. Make sure if we have told you to improve your performance (for example, poor performance or poor attendance) we will tell you in writing what is required, in what timescales, whether and how often reviews will take place and what action may be taken if there is no improvement.
9. Add together warnings given for different reasons, for the purpose of the procedure to be followed (but warnings for capability/performance will not, for example, be added to warnings for conduct or attendance).
10. Not take disciplinary action, or suspend you if you are a trade union 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 district officer instead.
11. Conduct our own investigation irrespective of any police involvement or investigation, and make a decision based on the evidence and information available to us at the time. The matter will not be put on hold until the police investigation or court proceedings are concluded.

4. What we expect from you

You will:

1. Be honest and transparent in all aspects of your work for us.
2. Treat all colleagues, clients, partners and anyone in connection with us with respect and tolerance.
3. Not abuse Tollcross Housing Association's facilities.

4. Not disclose any confidential information obtained in connection with your employment with us.
5. Be frank and upfront about any connections you may have in any business that we deal with.
6. Not publish or profit from any work done within Tollcross Housing Association as this belongs to us until such time as we give permission for its use
7. Not accept any gift, favour or inducement from businesses or individuals in connection with us.
8. Be loyal and ask permission before taking up any other work (paid or unpaid) – particularly if this in any way affects your ability to work for us.
9. Meet the standards set out in all our policies and procedures and in particular, our code of conduct, equality and human rights and dignity at work, regardless of any personal or political beliefs you may hold.
10. Maintain high standards of performance and carry out your role to the best of your ability.
11. Maintain high levels of attendance as described in our attendance and absence policy.
12. Follow instructions and requests from your line manager and any other senior member of staff.
13. Participate as much as reasonably possible in all parts of the disciplinary procedure.

5. Investigation

- 5.1 Before any informal or formal action takes place, we will conduct an appropriate investigation. The purpose of this is to establish the facts surrounding the allegations against you. This will normally (but not always) involve speaking to you and anyone else that may provide us with relevant information. We will also collect any other information we deem to be relevant. If we do meet with you for an investigation meeting this is not a formal disciplinary hearing and does not form part of the formal disciplinary process.
- 5.2 The length and complexity of the investigation will be determined by the circumstances and the nature of the allegations. If you are unable, or choose not to participate in the investigation, we will proceed without your input.
- 5.3 The nominated investigator 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. All information will be made available to both you and the disciplinary officer/panel.

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

- No further action
- Informal action
- Formal disciplinary action

6. Police Involvement and Criminal Offences

6.1 We may treat any criminal investigation, charge or conviction connected to you as a disciplinary matter if we consider it relevant to your employment with us.

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

6.3 If you are subject to any criminal investigation, arrest, charge or conviction, you must discuss this with your line manager as soon as you possibly can.

7. Suspension

7.1 We may suspend you on your normal pay (which would be sick pay if you are unfit for work) if the allegations against you could amount to gross misconduct and where we consider it appropriate to suspend. We will aim for your suspension to last no longer than one week. If the investigation has not finished within this time, we will contact you and update you on its progress. While on suspension you are not permitted to contact any of your work colleagues in connection with these matters.

7.2 We may also suspend you if we feel you are interfering with an investigation in any way, even if the allegations are not at gross misconduct level.

8. Time Limits of Warnings

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

9. 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.

10. Examples when the Disciplinary Procedure may be used

1. Any issues relating to your conduct/performance/attendance.
2. Poor timekeeping and/or attendance.
3. Unauthorised absence.
4. Failure to follow absence notification procedures.
5. Abuse of flexi time and/or TOIL.
6. Failure to meet and/or maintain the improvements required in an informal action.
7. Breaches of our policies.
8. Performance below our expected standards.
9. Deliberate misuse or damage of our property (including corporate clothing, electronic devices, email and internet).
10. Not following our health and safety instructions.
11. Unsafe working practices.
12. Willful and persistent refusal to obey reasonable instructions.
13. Professional incompetence.

The level and type of warning issued will depend on the circumstances and severity of individual cases.

11. Informal Procedure

11.1 We will normally use the informal procedure first. If your performance, conduct or attendance does not meet our required standards then your line manager will meet with you informally if appropriate. They will discuss the issues with you, and tell you what improvements are required, the support available, and explain any further consequences if you do not meet or maintain the standards we require. We will provide all this information in writing in an Informal Action Note.

11.2 We realise that you may benefit from also discussing some matters of a personal nature, which are affecting your work with someone independent from the Association. In this instance, we encourage you to get independent confidential counselling out of work, if this applies. You can access this through an employee counselling service, which is one of benefits that we provide to our employees and further details can be accessed from the intranet and staff notice board.

12. Formal Procedure

12.1 We will follow our formal process when attempts to improve any conduct, performance and/or attendance have not improved through the informal process. We will also use the following formal process straight away for more serious matters. If you are invited to a formal hearing, this will be done as soon as reasonably practical on conclusion of the investigation. The chair of the disciplinary hearing will not be the same person who investigated the matter. You will also be given a minimum of 2 working days' notice of the hearing. If we issue you with a formal warning, you will have the right to appeal and we will give you the details of how to do this in the letter confirming the outcome of your hearing. We will not apply any formal stages of this procedure unless an appropriate investigation has taken place.

12.2 We have three stages in our formal procedure:

a) First Stage

If there is no improvement in the standard of conduct, performance or attendance after informal action, or the act of the misconduct or underperformance is of a more serious nature, after conducting an investigation, you will be invited to attend a disciplinary hearing to allow you the opportunity to state your case.

If, the explanation is not satisfactory, you will receive a first written warning or formal improvement note, which will remain live on your file for a six-month period.

We will give you written information about your right of appeal.

b) Second Stage

If there is still no improvement in the standard of conduct, performance or attendance or the act of misconduct or underperformance is of a more serious nature, you will be invited to attend a disciplinary hearing to allow you the opportunity to state your case.

If the explanation is not satisfactory, you will receive a final written warning, which will remain live on your file for a twelve-month period.

We will give you written information about your right of appeal.

c) Third Stage

If you have a live final written warning and remain below our standards, or if we feel you may have committed an act of gross misconduct, a senior manager will invite you, in writing, to attend a formal disciplinary hearing. The purpose of the hearing is to provide you with an opportunity to state your case and consider all appropriate evidence. If, after considering all the evidence we decide to uphold the allegations, we will consider what penalty to apply. If appropriate, we may dismiss you. In cases of gross misconduct, you may be summarily dismissed without notice or payment in lieu of notice. Your annual leave entitlement may be reduced to the statutory minimum entitlement of 28 days. We will give you written reasons for your dismissal within 5 working days and tell you the date on which your employment ends and give you details about your right of appeal.

13. Gross Misconduct

13.1 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. We will normally regard the following as gross misconduct: *(this list is not exhaustive)*

- a) Theft and/or serious willful damage or misuse of our property from us, our staff, clients, customers or anyone connected with us.
- b) Bullying, threatened/actual violence, or provoking violence.
- c) Under the influence due to alcohol or any other substance.
- d) Possession, use, supply or attempted supply of illegal and/or legal substances.
- e) Fraud, forgery or other dishonesty including, fraudulent wage claims or falsification of records/expenses including time sheets and overtime.
- f) Harassment, discrimination or victimisation.
- g) Serious infringement of health and safety rules and procedures, or any other policies, operating procedures or workplace rules put in place by us.
- h) Acts of gross professional incompetence.
- i) Bringing Tollcross Housing Association into serious disrepute.
- j) Serious breaches of security or confidentiality, including misuse or disclosure of confidential information.
- k) Acceptance of bribes or other concealed payments.

- l) Deliberately accessing internet sites containing illegal, pornographic, offensive, obscene, and/or information to incite or carry out any acts of violence.
- m) 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.
- n) 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.
- o) Malicious or untrue allegations against others.

14. Notice of Decision

We will issue you with the outcome of our decision, including the reasons for this in writing to you within 5 working days of the formal disciplinary hearing (or such additional period as reasonably required). This letter will detail the reasons for the formal warning and what we expect of you. If we dismiss you, we will provide you with details of your last date of employment, and inform you of any outstanding payments that we will make to you in your final salary.

15. Appeals

15.1 You have the right of appeal against any formal disciplinary action. We will tell you in writing when and how you can use this right when the outcome is issued.

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

15.3 At all levels, appeal hearings will be entitled to:

- confirm previous action;
- dismiss previous action; or
- substitute a lesser penalty.

15.4 Appeals procedure

Appeals against any formal outcomes will be made to one level above that at which the disciplinary action was taken, if possible.

15.5 First Written Warning

15.5.1 You have a right to one internal appeal against the first written warning or performance note.

15.5.2 You should make your appeal within 5 working days of our notice of the decision. All internal appeal hearings will be held within 10 working days of the appeal being lodged (or such additional period as reasonably required).

15.6 Final Written Warning

15.6.1 There is one right of appeal against the final written warning and after this it will be made to the JNC Appeal Chair.

15.6.2 Your first appeal should be made within 5 working days of our notice of the decision. All internal appeal hearings will be held within 10 working days of the appeal being lodged (or such additional period as reasonably required).

15.6.3 Appeal hearings to the JNC Appeal Chair should be made within 5 working days and will be held within 20 working days where possible.

15.7 Dismissal – JNC Appeals

15.7.1 If you are appealing against dismissal, you must do so to the JNC Appeal Chair. The JNC Appeal Chairs are independent people appointed by the Joint Negotiating Committee.

15.7.2 You should make your appeal within 5 working days of our notice of the decision. Appeal hearings to the JNC Appeal Chair should be held within 20 working days (where possible).

The JNC Appeal Chair is the final stage of the internal disciplinary and grievance procedure available. The Secretary to the JNC Appeal will send you a copy of the guidance notes following your appeal request. The Chair's decision is followed by a written report and sent to you and us.

16. Authority to take disciplinary action

First written and final warning	-	Supervisor/Line Manager/Director
Dismissal	-	representatives of the Committee (Staffing Sub-Committee)

17. Records

We will keep records on your personal file of any disciplinary action, which will only be seen by you, your line manager and the senior officer if appropriate. Your manager will remove disciplinary warnings from your file when no longer live.

18. General Data Protection Regulations

The Association will treat your personal data in line with our obligations under the current data protection regulations and our own Data Protection Policy and Procedures. Information regarding how your data will be used and the basis for processing your data is provided in Tollcross Housing Association's Employee Transparency Statement.

19. Equalities

- 19.1 An Equality Impact Assessment (EIA) has been carried out when reviewing this policy. In line with good practice the completed EIA will be published alongside the Disciplinary Policy and Procedure.
- 19.2 Where there is a need for follow-up action, the tasks and timeframe for achieving them shall be noted in the Equality and Human Rights Action Plan to ensure they are addressed.
- 19.3 We do not see this policy as having any direct impact upon the protected characteristics contained within the Equality Act 2010.

20. Policy Review

We will review and update this Disciplinary Policy and Procedure at least every 4 years or earlier, if required by changes in legislation.

Note to Managers

The above disciplinary procedures, as outlined by EVH should be adhered to and followed strictly at all times.

If you are in the position, whereby you are required to arrange a formal investigation or disciplinary hearing, please advise the Chief Executive of the situation, who will in turn arrange for the Corporate Services Director to compile the necessary documentation. Please do not submit any documentation by yourself.

The standard documentation which would be used in the disciplinary process and also details the information required is available from the Corporate Services Director to compile the appropriate documentation.