



PORT OF LEITH  
HOUSING ASSOCIATION

**DISCIPLINARY POLICY AND PROCEDURE**  
**December 2018**

## FULL REVIEW TRACKING

A “Full Review” refers to a point when the whole document is reconsidered by appropriate stakeholder to establish if it is still fit for purpose and this is formally signed-off at the appropriate management level. This acts as assurance the Association’s position on key matters is up to date with legislation, regulation and good practice.

<b>Policy Owner</b>	Corporate Services Manager
<b>Document Author(s)</b>	Corporate Services Officer
<b>Approved By</b>	LT
<b>Review Cycle</b>	3 yearly
<b>Last reviewed</b>	New – December 2018
<b>Next Review Date</b>	December 2021
<b>Communication &amp; Training Methods</b>	All employees will be made aware of this policy and procedure through the induction process. Managers carrying out disciplinary processes will undergo appropriate training and receive support from PoLHA Corporate Services Department in the application of this Policy.
<b>The policy has a direct link to the following POLHA policies and procedures</b>	Disciplinary Investigation Guidance Disciplinary Investigation Report Template
<b>This policy complies with the requirements of these legal and/or regulatory documents</b>	n/a
<b>Equality &amp; Diversity Impact (EI) Assessment Status</b>	This document was EDI Assessed by Lisa Hadow and Ian Treger using the organisation’s set procedure in November 2018 and is considered to be free of anything which may lead to any unfair discrimination in its application.  EI Assessment records are held by Corporate Services and can be accessed on request to the Corporate Services Manager.

## REVISION TRACKING

Revisions are minor changes which are made between Full Reviews which might be needed because of new ideas or changes

<b>Revision Date</b>	<b>Part of doc revised</b>	<b>Reason for revision</b>	<b>Approved by</b>

## **1. POLICY STATEMENT**

- 1.1 The PoLHA Group is committed to developing and maintaining constructive relations with its employees and aims to ensure that there will be a fair and consistent approach to the enforcement of standards of conduct throughout the organisation.
- 1.2 The Group expects all employees to adhere to its core values, to treat others with respect and courtesy and to carry out their job and responsibilities effectively.
- 1.3 This policy and procedure is designed to help and encourage all employees to achieve and maintain appropriate standards of conduct, attendance and job performance. However, it is recognised there will be occasions when an employee's conduct or performance falls below the standards expected by the company.
- 1.4 To ensure fair treatment, the law requires the Organisation to lay down a clear and consistent framework of disciplinary rules and procedures. It is important that employees fully understand the procedures. If an employee has any queries regarding this disciplinary procedure, they should contact a member of Corporate Services team immediately.
- 1.5 If it is believed an employee has breached the expected standards of conduct, attendance, job performance or company policy or procedures, the procedures detailed below will be followed.
- 1.6 In poor performance or attendance cases, where the reason is not within the control of the employee (eg health or the changing nature of the job) the Organisation's capability policy and procedure will be used.

## **2. RESPONSIBILITIES UNDER THE POLICY**

- 2.1 Managers are accountable for ensuring the application of this policy and following the procedures in a consistent manner. Managers are required to contact the Corporate Services team at an early stage for guidance.
- 2.2 PoLHA Corporate Services Team is responsible for providing advice, guidance and support to Quay Managers in the application of this policy and procedure.

## **3. POLICY FRAMEWORK**

### **3.1 Exceptions**

- 3.2 Where an issue is considered to be very serious, then the informal action may be bypassed and formal disciplinary procedures will be started immediately.
- 3.3 In normal circumstances the organisation reserves the right not to follow the Disciplinary Procedures for employees who have less than two years' service. Except where, at the manager's discretion, it is considered a suitable course of action to follow the Disciplinary Procedures.

### **3.4 External Consultants**

3.4.1 The PoLHA Group may, at any time during the disciplinary process, engage external consultants to conduct any part or all of the procedures under the disciplinary policy. This is usually considered if there is no one internally who is available to carry out the process.

### **3.5 Disciplinary Action**

3.5.1 The level of the sanction imposed will be dependent upon the seriousness of the offence. Where, following a Disciplinary Hearing, it is established that the employee has committed a disciplinary offence, the following disciplinary action may be taken.

#### **3.5.2 Level 1 – Formal Written Warning**

3.5.2.1 This would be the first stage in the procedure if, after investigation and hearing the misconduct is considered to be of a nature that requires a formal warning. The employee would be advised that more serious disciplinary action may be taken against them if there is no satisfactory improvement or if there is a repetition of misconduct. A note of the First Written Warning will be kept but it will be disregarded after nine months, subject to satisfactory conduct. Where the matter is one off performance, the timescales for the identified improvement in performance will be set as appropriate in the circumstances.

#### **3.5.3 Level 2 – Formal Written Warning**

3.5.3.1 When there is repeated misconduct or no improvement in performance, following the issue of a Level 1 Formal Warning, a further Disciplinary Hearing will be held and, after full consideration of the circumstance a Level 2 Formal Written Warning may be issued.

3.5.3.2 Level 2 can be the first stage in the procedure if, after investigation and hearing, the misconduct or unsatisfactory performance is considered serious enough to warrant an immediate Level 2 Formal Written Warning.

3.5.3.3 Where there is no repeated misconduct within a period of normally 12 months, the warning will be disregarded in relation to any future disciplinary action. Where the matter is one of performance, the timescales for improvement in performance will be set as appropriate to the circumstances.

#### **3.5.4 Level 3 – Final Written Warning**

3.5.4.1 This level is appropriate if there is continued failure to improve and conduct or performance is still unsatisfactory after the issue of a Level 1 or 2 Warning.

3.5.4.2 Level 3 can be the first stage in the procedure if the misconduct or unsatisfactory performance is sufficiently serious.

3.5.4.3 Where there is no repeated misconduct within a period of normally 12 months (in exceptional cases the period may be indefinite) the warning shall be disregarded in relation to any future disciplinary action. Where the matter is one of performance, the timescales for the identified improvement in performance will be set as appropriate to the circumstances.

### 3.5.5 **Level 4 - Dismissal**

3.5.5.1 Where the employee has committed further acts of misconduct (these being acts other than gross misconduct), or where the misconduct is sufficiently serious or performance does not improve despite previous warnings, the employee may be dismissed. In the case of dismissal in these circumstances the PoLHA Group reserves the right to pay in lieu of notice where appropriate.

3.5.5.2 Where the employee has committed an act of gross misconduct, the employee will normally be summarily dismissed ie dismissed without notice.

### 3.5.6 **Accompanying Sanctions**

3.5.6.1 In exceptional circumstances, it may be appropriate to consider the imposition of the following sanctions along with a formal warning:

- Withholding or loss of salary increment and / or
- Demotion (including application of salary for demoted post) and / or
- Transfer to another department

Please note, this list is not exhaustive.

### 3.6 **Authorisation Levels**

3.6.1 The points below show the minimum levels of authority in relation to imposing different levels of disciplinary sanction. All formal disciplinary action should be progressed with advice and support from Corporate Services Team.

**Level 1 Formal Written Warning:** Department Operational Manager

**Level 2 Formal Written Warning:** Department Operational Manager

**Level 3 Formal Written Warning:** Department Operational Manager

**Dismissal:** Departmental Director /Head of Organisational Development

### 3.7 **Suspension**

3.7.1 At any stage of the disciplinary procedure, the Group may either suspend an employee or request that the employee carries out reasonable alternative duties for a temporary period of time. Any suspension will be kept to a minimum and will be on full pay.

3.7.2 Suspension or the fact that the employee has temporarily been given alternative duties does not in itself constitute disciplinary action.

3.7.3 If an employee who is suspended from work becomes ill during that period of suspension, the company will remove the employee from suspension and put on sick leave until such time as they recover from the illness. The employee will be paid sick pay as appropriate during the period of sickness.

### 3.8 **Sickness During a Disciplinary Situation**

3.8.1 If an employee fails to attend a disciplinary meeting due to sickness, this will be rescheduled but if a further attempt to meet does not take place, then the employee will be asked to put forward a written submission or the company will request that the employee asks a companion to put forward their submission at a meeting. All

reasonable attempts to hold a disciplinary meeting will be considered before the company reserves the right to decide an appropriate outcome.

### **3.9 Gross Misconduct**

3.9.1 The following will be considered as gross misconduct. This list is not exhaustive.

- Theft
- Fraud
- Deliberate falsification of records, timesheets or other company documentation including those relating to obtaining employment
- Smoking on the company premises / in company vehicles
- Serious breach of the company's equal opportunities policy including discriminatory acts based on a person's sex, racial or ethnic origin, sexual orientation, religion, age or disability
- Assault, acts of violence or aggression, bullying, harassment or victimisation
- Unacceptable use of obscene or abusive language
- Possession or use of or being under the influence of non-prescribed drugs or alcohol on company premises or during working hours
- Deliberate damage to company, employee or customer property
- Serious negligence or actions which causes unacceptable loss, damage or injury
- Serious acts of insubordination
- Unauthorised removal of company property, cash or merchandise
- Refusal to carry out a reasonable management instruction
- Bringing the company into disrepute or adversely affecting the company's reputation
- Misuse of company information which has caused or may cause the company loss or detriment
- Serious breach of health and safety policies and procedures
- Breach of confidentiality, including the unauthorised disclosure of company business to the media or to any other third party
- Gambling, bribery or corruption
- Unauthorised accessing or use of computer data
- Unauthorised copying of computer software

## **4. DISCIPLINARY PROCESS**

### **4.1 Informal Action**

4.1.1 The employee's line manager and / or appropriate appointed employee will do an initial investigation of the circumstances, without delay, and endeavour to ascertain the reasons for the breach of company policy or procedures or why the employee failed to meet performance standards. If the investigation provides evidence to show that the employee did breach company policy or procedures, or there is no

justifiable explanation for their failure to meet the job standards, a meeting with the employee will be arranged.

4.1.2 At this meeting the manager will make sure that the employee is clear about where they breached company policy or procedure or the areas in which their conduct or performance is below the standards required. The employee will be given the opportunity to provide an explanation and to raise any concerns they may have about the situation.

## 4.2 **Outcome**

4.2.1 The content and outcome of this informal meeting will be confirmed by the manager to the employee.

4.2.2 Possible outcomes are:

### 4.2.2.1 a) Informal

Clarification of any improvement required, any additional support or training that will be provided, any other agreed actions and the timescale for improvement and review.

At the end of the time period for improvements, the employee's conduct or performance will be reviewed. If the standards have been met then no further action will be taken. Where there is no improvement and / or a repetition of the unsatisfactory conduct then a decision may be made to proceed to the formal stages of the disciplinary procedure.

### 4.2.2.2 b) Formal

Proceed to Formal Disciplinary Procedures.

## 5. **SUSPENSION**

5.1 An employee may be suspended while investigations take place. Suspension can be applied in the following circumstances:

- To deal with a potentially difficult or inflammatory situation
- Where there are risks to an employee or PoLHA Group property
- It will help an investigator to proceed with an investigation unhindered, eg where there are reasonable grounds to suspect that evidence may be altered or witnesses pressurised.

This list is not exhaustive

5.2 The Departmental Director has the authority to suspend employees and should liaise with the Corporate Services Manager or Officer prior to confirming the suspension. The employee's Line Manager or Departmental Director should inform the employee of the decision to suspend verbally, either in a face to face meeting or by telephone as appropriate.

5.3 A member of the Corporate Services team will confirm in writing to the suspended employee the reasons for a suspension and any conditions which apply as soon as practicable.



5.4 The continued need for suspension should be reviewed throughout the investigation and hearing process.

5.5 Suspended employees must attend investigation meeting(s) as required.

## **6. FORMAL DISCIPLINARY PROCESS**

6.1 At all stages of the disciplinary procedure, an employee will be advised of the nature of the complaint / allegation against them.

### **6.2 Investigation**

6.2.1 When it appears there has been a breach of company policy or procedure or if an employee has failed to meet the performance standards required, the company may initially investigate the circumstances. The investigation may include interviewing the witnesses (including the employee under investigation) and gathering other evidence such as documentary evidence.

6.2.2 Neither the employee nor any witnesses have the right to be accompanied at the investigation meetings.

6.2.3 An investigation report will be produced summarising all information / evidence from the investigation process. This will then be passed to an appointed Hearing Officer, to decide whether there is a disciplinary case to be answered at a formal disciplinary hearing.

### **6.3 Disciplinary Hearing**

6.3.1 If, after investigation, it appears that there has been a breach of company policy or procedure or an employee has failed to meet the performance standards required, the company may require the employee to attend a disciplinary hearing.

6.3.2 If an employee is required to attend a disciplinary meeting, they will usually be given a minimum of 48 hours' notice, in writing, of the time and date of the meeting. This may be extended in serious or more complicated cases to ensure that the employee has every opportunity to consider all facts and prepare their response.

6.3.3 They will also be advised of the reason the meeting is being held and where possible given factual statements or evidence which may be used in the meeting.

6.3.4 An employee will have the right to be accompanied to a disciplinary hearing by a fellow employee or by a trade union official. The employee's companion may address the meeting and confer with the employee during the meeting but may not answer questions on behalf of the employee.

### **6.4 At the Disciplinary Hearing**

6.4.1 The purpose of the Hearing is to decide whether the offence or allegation has taken place and why. The Hearing Officer will review the facts established during the investigation, ask the employee questions and the employee will have the opportunity to state their case.

6.4.2 Based on all this information, the Hearing Officer will adjourn the meeting and then decide whether disciplinary action is appropriate and, if it is, what level of warning is

appropriate.

## **6.5 Outcome**

- 6.5.1 The outcome of the Hearing will normally be communicated, in writing, to the employee within five working days. In exceptional circumstances this timescale may be extended but the employee will always be notified if the time limit is extended.

## **7. APPEALS**

- 7.1 Employees have the right to appeal against any level of disciplinary action taken against them including their dismissal.

- 7.2 Employees should submit any appeal in writing to the Corporate Services Manager, no later than five working days after the employee has been notified in writing of the disciplinary decision or dismissal. The first of the five working days is the day on which the employee received written confirmation of the company decision. In the appeal letter, the employee should clearly state the reasons for the appeal.

- 7.3 An Appeals Hearing Officer will be appointed and a meeting to hear the appeal will be held as quickly as possible and should be within 15 working days of receiving the notice of appeal. In exceptional cases where this is not possible, the employee will be notified of any delay.

- 7.4 The Corporate Services team will send out written confirmation of the date and time of the Appeal Meeting and confirm the employee's right to be accompanied to the appeal by a fellow employee or a trade union official.

### **7.5 At the Appeal Hearing**

- 7.5.1 The employee will attend the meeting and be given the opportunity to state their case. The Appeal Hearing is not a full re-hearing of the case and focus should be on the grounds for appeal.

- 7.5.2 The Organisation will notify the employee, in writing, of the decision in response to the employee's appeal within three working days of the meeting. In exceptional circumstances this timescale may be extended but the employee will always be notified if the time limit is extended.

- 7.5.3 The decision of the Appeal Hearing Officer is final and this exhausts internal procedures.