

Disciplinary Policy

We will provide this policy on request at no cost, in large print, in Braille, on tape or in another non-written format.

We can produce information on request in large print, Braille, tape and on disk. It is also available in other languages. If you need information in any of these formats please contact us on Freephone 0800 479 7979.

如果你向我們提出要求，我們可以為你提供本資訊的其他語言的版本，或者是盲文或磁帶。如果你需要本資訊的任何一種這些版式的版本，請聯繫我們，電話號碼是 0800 479 7979。

Si vous nous le demandez, nous pouvons vous remettre ces informations en d'autres langues, en braille ou sur cassette. Si vous souhaitez que ces informations vous soient fournies sous l'un de ces formats, contactez-nous en composant le 0800 479 7979.

چنانچه مایل باشید می‌توانید این مطالب را به فارسی یا زبان‌های دیگر و همچنین بریل و یا بر روی نوار کاست دریافت دارید. در صورت نیاز خواهشمندیم با شماره تلفن 0800 479 7979 با ما تماس بگیرید.

ਜੇ ਤੁਸੀਂ ਸਾਨੂੰ ਬੇਨਤੀ ਕਰੋ ਤਾਂ ਅਸੀਂ ਤੁਹਾਨੂੰ ਇਹ ਜਾਣਕਾਰੀ ਹੋਰ ਭਾਸ਼ਾਵਾਂ, ਬ੍ਰੇਲ (ਨੋੜਹੀਣਾਂ ਲਈ ਭਾਸ਼ਾ) ਵਿੱਚ, ਜਾਂ ਟੇਪ ਉੱਪਰ ਦੇ ਸਕਦੇ ਹਾਂ। ਜੇ ਤੁਹਾਨੂੰ ਇਨ੍ਹਾਂ ਵਿੱਚੋਂ ਕਿਸੇ ਰੂਪ ਵਿੱਚ ਚਾਹੀਦੀ ਹੋਵੇ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਸਾਡੇ ਨਾਲ 0800 479 7979 ਨੰਬਰ ਤੇ ਸੰਪਰਕ ਕਰੋ।

Na Pana/Pani życzenie możemy zapewnić te informacje w innych językach, alfabetem Braille'a lub na kasecie. Jeśli chciał(a)by Pan(i) uzyskać te informacje w którejś z tych form, prosimy skontaktować się z nami pod numerem telefonu 0800 479 7979.

Haddii aad na weydiisato waxaanu warbixintan kugu siin karaa iyadoo ku qoran luuqad kale, farta ay dadka indhaha la' akhriyaan ama cajalad ku duuban. Haddii aad jeclaan lahayd in warbixintan lagugu siiyo mid ka mid ah qaababkaas, fadlan nagala soo xidhiidh telefoonka 0800 479 7979.

По вашей просьбе данная информация может быть предоставлена на других языках, шрифтом Брайля или в аудиозаписи. Если вам требуется информация в одном из этих форматов, позвоните нам по номеру 0800 479 7979.

Approval body	<i>Executive Team</i>
Date of approval	<i>27 September 2022</i>
Review Year	<i>October 2025</i>
Customer engagement required	<i>No</i>
Trade union engagement required	<i>Yes - For Consultation</i>
Equality Impact Assessment	<i>No</i>

1. INTRODUCTION

- i. This policy is designed to help and encourage all employees to achieve and maintain standards of conduct and job performance (or capability). The process ensures consistent and fair treatment for all and helps to clarify and reinforce employee rights.
- ii. Wheatley Homes South Limited (WHS) expects and has every confidence that employees will conduct themselves in the proper manner, abide by rules and policies as are laid down by WHS and performance their job to the required standard. However, situations may arise where:
 - Terms of employment are breached (e.g., failure to comply with contractual requirements or policies)
 - Conduct is not of an acceptable standard
 - Performance is not of the required standard
 - A breach of the WHS Code of Conduct

In these circumstances the disciplinary procedure provides a method of addressing the poor conduct or performance and can help promote a positive improvement.

- iii. There are circumstances where an allegation or complaint will be investigated or otherwise dealt with under another WHS policy, but may transfer to be dealt with under this Disciplinary Procedure including:
 - Dignity at Work
 - Attendance Support Policy
 - Whistleblowing
 - Anti-Bribery
 - Grievances
 - Complaints Handling
 - Code of Conduct

2. SCOPE

- i. This Policy and Procedure applies to all employees but not to agency workers or self-employed contractors.
- ii. This Policy and Procedure is non-contractual and may be amended or withdrawn at any time at the discretion of WHS, following consultation with the Trades Unions.
- iii. The procedure incorporates the requirements stated in the Employment Act 2008, Employment Rights Act 1996, Employment Relations Act 1999, and the ACAS Code of Practice.
- iv. Where any disciplinary action involves a WHS Supporting People Services employee, the following notifications will be made:
 - **The Care Inspectorate:** will be notified of any alleged misconduct which warrants investigation, dismissal, or other disciplinary action. The personal details of the individual who is the subject of the allegation of misconduct should not be included in the notification. The notification must be made within 24 hours of the allegation being received. An

update to the notification must also be submitted to the Care Inspectorate when the disciplinary process is completed outlining the findings of any investigation and any disciplinary action. In the event that a worker leaves employment of WHS before the disciplinary process is concluded, the outcome of the disciplinary process must still be notified to the Care Inspectorate.

- **The Scottish Social Services Council (SSSC);** will be notified (and the worker involved informed of the report) under the following circumstances:
 - *any investigation regarding serious matters such as dishonesty, violence, or any case involving detriment or harm to vulnerable people - as soon as the investigation starts.*
 - *when a worker is investigated or charged with a criminal offence - immediately.*
 - *suspension of a worker - immediately.*
 - dismissal on grounds of misconduct or a worker resigning or abandoning their position in circumstances where, but for the resignation or abandonment, the worker would have been dismissed on the grounds of misconduct or dismissal on such grounds would have been considered by WHS. The SSSC must be provided with an account of the circumstances which led to the dismissal, or which were present when the resignation or abandonment took place – immediately.
 - misconduct that might call in to question their registration with SSSC – immediately.
 - any disciplinary process where there is no risk to the public or service users will be notified to SSSC when the final outcome is known.

- **The Protection of Vulnerable Groups Act (2007);** places a duty on organisations and personnel suppliers to refer an individual with a PVG Scheme Record to Disclosure Scotland when certain criteria are met ((a.) an individual doing regulated work has done something to harm a child or protected adult and (b) the impact is so serious that WHS has (or would) permanently remove the individual from regulated work). A referral to Disclosure Scotland will be made if it is felt that these criteria are met.

3. BASIC PRINCIPLES

- i. No disciplinary action will be taken until the case has been investigated.
- ii. Employees have the right to be accompanied at all stages of the disciplinary procedure by a work colleague or trade union representative. No legal representation will be allowed.
- iii. Employees will not normally be dismissed for a first breach of discipline, except in the case of gross misconduct or misconduct of such a serious and fundamental nature that it undermines the relationship between the employee and the organisation, when the action taken may be summary dismissal.

- iv. Employees will be given reasonable notice of a disciplinary hearing, usually a minimum of 48 hours, and be given the opportunity to state their case before a decision is reached. Employees are not permitted to use any form of recording equipment (including covertly) to record any part of the disciplinary process.
- v. Written confirmation of the outcome of any disciplinary action will usually be provided within five working days.
- vi. Employees will be encouraged to improve and meet the acceptable standards of conduct or performance. Employees will be advised of the action that will result if they fail to achieve these standards.
- vii. Employees will have the right to appeal any formal disciplinary action taken.

4. RESPONSIBILITIES

General responsibilities are outlined in this section for:

i. Responsibilities of EMT and / or Board

The Board and Executive Management Team's responsibilities include, but are not be limited to:

- Ensuring provision of appropriate training and guidance to all staff, and Board members to promote awareness of the disciplinary process
- Ensuring that WHS adopts a consistent and objective approach when dealing with disciplinary issues
- Reviewing the Disciplinary policy in line with the policy review dates and ensure that it is reflective of WHS values and practice

ii. Responsibilities of the Line Managers

The line managers responsibilities may include, but will not be limited to:

- To aid their direct reports in resolving minor conduct or performance issues via the informal procedures in the first instance
- Seek advice from the Human Resources department when aware of more serious performance or conduct issues
- Maintain strict confidentiality about any disciplinary matter in which they are involved
- Cooperate with any disciplinary investigation of which they may be part
- Where appointed as an investigating, disciplinary or appeals officer, to ensure they have undertaken the correct training and follow the procedures as outlined in this policy
- Take every step to support employees manage a positive change in behaviour or performance
- To raise any breach of this policy to the attention of the Human Resources department

iii. Responsibilities of the Employees

The employees' responsibilities may include, but will not be limited to:

- Raising concerns to management involving the conduct or performance of other employees
- Cooperating with any disciplinary investigation that they may be part of
- Maintaining strict confidentiality of any disciplinary matter that they are involved in

- Taking every step to improve their own performance or conduct if part of a disciplinary process
- Raising any behaviour in breach of this policy to the attention of the line manager or where appropriate to the Human Resources department
- Comply with any duties to notify regulatory bodies.

5. POLICY

i. Informal action

Since it is WHS's aim to encourage and maintain acceptable standards of conduct and performance, every effort will be made to deal with minor problems in the first instance through informal action with the first line manager in order to avoid the need to implement the formal procedure. This principle should be applied in the first instance to minor issues with conduct (including attendance) and performance.

Although informal, successful resolution of an informal matter will result in a verbal warning letter being sent to the employee from the line manager, detailing points discussed, actions required and support / training to be provided (within a prescribed time frame) and any informal warning issued to the employee.

ii. Formal action

Where informal action fails, or informal action is inappropriate (for example because of the seriousness of allegations or underperformance) the following formal procedure will be used.

Investigation

When a complaint of misconduct or underperformance is made against an employee, WHS will, appoint an appropriate investigating officer to carry out the investigation which may involve interviewing and taking statements from the employee and any witnesses, and reviewing documents and any other evidence. The purpose of the investigation will be for WHS to establish a fair and balanced view of the facts relating to any allegations against the employee, before deciding whether to proceed with a disciplinary hearing. The gravity of investigation required will depend on the nature and seriousness of the allegations. The investigation is a fact-finding exercise and no decision on disciplinary action will be taken at this stage.

Suspension

In cases where the employee's continued presence at work may hinder a disciplinary investigation or where it is otherwise reasonable to do so, a member of the WHS executive team may authorise suspension of an employee from work. The HR Manager should be consulted prior to a suspension taking place. If this is not possible, they should be informed of the action as soon as practicable. The suspension will be for no longer than is reasonable to investigate the allegations. The suspension will be confirmed in writing to the employee. It is not a disciplinary penalty and does not imply that a decision has already been made about the allegations.

The suspended employee must be available for any investigation meetings whilst on suspension. During a suspension the employee will be paid at a rate equivalent to their contractual earnings. While suspended, the employee should not visit WHS premises or contact any tenants, suppliers, contractors, or employees, unless authorised to do so in writing by the investigating officer. IT access will usually be suspended.

Invite to disciplinary

Following the investigation, the investigation officer will make a recommendation whether disciplinary action is required. The Human Resources department will appoint, at their discretion, a disciplinary officer who will be a manager who was not involved in the investigation process.

The employee will then be invited to attend a disciplinary hearing. The invite letter will be sent to the employee in advance of the hearing detailing the nature of the allegations against them, their right to be accompanied and all relevant evidence will be enclosed within the invite so the employee can prepare. Within the invite to the disciplinary meeting, we will notify you of who will be present at the meeting including who the note taker and disciplining officer will be.

Any allegations of misconduct against the Chief Executive will be heard by an ad hoc subgroup of 3 appropriately trained Members of the Board of Management (“the disciplinary board”) with delegated authority to act on behalf of the Board of Management.

Right to be accompanied

Employees may be supported at any stage of the formal disciplinary process (including appeals) by a fellow work colleague or a recognised Trade Union Representative of their choice. The employee must advise the HR Manager not less than one working day in advance of a hearing of the name of the representative that will be attending with them. The person accompanying the employee at the hearing is entitled to address the hearing and ask questions but cannot answer questions on the employee’s behalf.

It is the employee’s responsibility to secure their representatives attendance for any hearing. If the person accompanying cannot attend on the proposed hearing date, the employee may suggest a reasonable alternative date, which must be within 5 working days of the date first proposed. The hearing will take place on the agreed rescheduled date whether or not the person accompanying the employee attends.

Disciplinary hearing

At the Disciplinary Hearing there will be present the Disciplining officer; Note taker and an advisor from HR or the Company Solicitor. At the disciplinary hearing, the disciplinary officer will explain the allegations of misconduct or underperformance against the employee and go through the evidence that has been gathered from the investigation. The employee will have an opportunity to state their case in relation to the allegations and challenge any evidence. The employee will be permitted to ask questions and present their own evidence, including witnesses, if appropriate.

The disciplinary officer will adjourn the hearing to consider the evidence presented. Where appropriate, they may adjourn the hearing overnight or longer in order to carry out further investigations if required.

The proceedings, any statements and all documents and records relating to disciplinary hearings will be kept confidential. A member of Human Resources will be present at any disciplinary hearing to take minutes.

Decision

Once the disciplinary officer has taken appropriate time to reflect upon the representations made and the seriousness of the matter, the hearing will be re-adjourned so that the outcome can be confirmed.

Written notification of the hearing outcome will be sent to the employee within five working days of the hearing that confirms any disciplinary action taken and notifying the employee of their right to appeal.

iii. Disciplinary sanctions

Stage 1 – First Written Warning

Following any verbal warning, if there is no improvement in the standard of conduct (including attendance) or performance, or the first act of misconduct or underperformance is of a nature which is not minor, the employee may initially be given a First Written Warning in respect of their misconduct or underperformance. The employee will receive a letter that;

- Confirms the reasons for the first written warning being issued
- Explains the improvements required and timescale for achieving these standards
- Outlines the consequences of a repetition of the misconduct or failure to improve the performance standard
- Confirms the employees right to appeal the decision
- Outlines any support that WHS will provide to assist the employee

A First Written Warning will be placed on the employees file but will be disregarded after 12 months for disciplinary purposes.

Stage 2 – Final Written Warning

If there are any further incidents of misconduct or underperformance, or if the incident is sufficiently serious, a further disciplinary hearing will be held. At this meeting the employee may be given a Final Written Warning in respect of their misconduct or underperformance. The employee will receive a letter that will be set out in the same manner and provide the same information as the First Written Warning letter. A Final Written Warning will be placed on the employees file but will be disregarded after 12 months for disciplinary purposes.

The First and Final Written Warnings will be kept on the employee's personnel record but will be disregarded for disciplinary purposes after the specified timeframe. In exceptional cases depending upon the seriousness and nature of the misconduct or performance, the period for which the Final Written Warning remains in force may be longer than 12 months or may be extended in cases of repeated misconduct or performance.

Stage 3 – Dismissal

If there is still a failure to improve misconduct or performance standards, or if the incident is sufficiently serious, a disciplinary hearing will be held, and dismissal or summary dismissal may result. In either case, the employee will

be provided with the written confirmation of the dismissal, normally within five working days of the hearing date, which will set out the following:

- Details of the reason for the dismissal
- The date on which the employment terminated or will terminate
- The appropriate period of notice or pay in lieu of notice (if any)
- The employee's right of appeal

Gross misconduct is misconduct of such a serious and fundamental nature that it undermines the relationship between the employee and WHS. Examples of misconduct include (*please note this list is not exhaustive and only gives an indication of the types of offences that may amount to gross misconduct*):

- Unacceptable use of obscene or abusive language (including language of a discriminatory nature)
- Possession or being under the influence non-prescribed drugs whilst at work or on WHS premises
- Possession or being under the influence of alcohol or consumption of alcohol on WHS premises, or during working hours, other than on occasions approved by WHS
- Fraudulent wage claims or falsification of records
- Wilful damage or misuse of WHS property
- Unlawful discrimination, harassment, bullying or victimisation
- Serious insubordination
- Bringing WHS into disrepute
- Unauthorised absence
- Acts of indecency, or sexual harassment or bullying
- Illegal Gambling, bribery, or corruption
- Serious deliberate breach of health and safety policies and procedures, or endangering the health and safety of himself/herself, a fellow employee, a tenant, a service user or third party
- Serious breach of the WHS's policy on internet or e-mail use
- Breach of confidentiality, including the unauthorised disclosure of WHS's business to the media or any other party (save for disclosures made under the Public Interest Disclosure Act 1998)
- Unauthorised access to or use of electronic information, computer data or computer hardware
- Copying of computer software owned by or licensed to WHS (other than when authorised)
- Misuse of WHS's name for purposes of deception
- Serious breach of any WHS policy or procedure
- Any act or omission that amounts to the repudiation of the contract of employment
- Serious negligence which causes or might cause unacceptable loss, damage, or injury
- Conviction of a criminal offence (except for minor road traffic offences)

- Breach of any regulatory rules applicable to certain employees including the SSSC Code of Practice for Social Service Workers.
- Serious breach of WHS’s Code of Conduct

In the event that an employee commits an act of gross misconduct, WHS may be able to terminate the employee’s employment without notice or pay in lieu of notice. The employee will receive payment in lieu of notice for outstanding annual leave accrued.

Under this policy WHS may impose other additional or alternative disciplinary sanctions as it considers reasonable which may include deduction from wages, unpaid leave, transfer to other departments, amended duties and demotion.

iv. Authority to take disciplinary action

HR must be informed prior to any disciplinary action being taken. In general, the following managerial levels will have authority to take disciplinary action up to the permitted levels:

- Cases of alleged Misconduct can be dealt with by the employees’ line manager
- Cases of potential serious or gross misconduct must be dealt with by a member of EMT

v. Appeals process

If an employee wishes to appeal against a disciplinary decision, they must do so within 5 working days of receiving the notification of the disciplinary outcome. The appeal should be made in writing to the HR Manager and should specify the grounds for appeal. If the employee wishes to produce additional evidence to support their case, then they should provide this with their appeal letter.

The HR Manager will appoint a suitable manager as appeals officer who was not involved in the original disciplinary hearing or investigation. The appeals officer will be more senior to the level of management of the disciplinary officer. The employee will be invited to an appeal hearing and will have the right to be accompanied by a colleague or trade union representative. Appeal hearings will usually be convened within ten working days of the appeal being lodged.

Appeals against dismissal will be heard by an ad hoc trained Committee of 3 members of the Board of management. An appeal by the Chief Executive or a Director will be heard by the full Board (except for any members involved in the disciplinary) unless that is not reasonably practicable.

At the appeal hearing, the employee or their representatives will be asked to present their appeal to the appeals officer. The manager who took the original decision will then have the opportunity to explain the reasons for their decision. The appeals officer may exercise discretion as to whether or not the two parties are present together during the proceedings. The appeals officer will adjourn the meeting to consider the merits of the appeal before

reaching a decision. The appeals officer should review factors that the employee feels have received insufficient consideration, such as:

- an inconsistent/inappropriate harsh penalty
- extenuating circumstances
- bias of the disciplining manager
- unfairness of the hearing
- new evidence subsequently coming to light.

The appeals officer will where possible verbally inform the employee of the decision reached and confirm this in writing no later than five working days after the appeal hearing. The appeal officer shall have the authority to make one of the following decisions (this list is not exhaustive and other outcomes may be appropriate depending on the case):

- confirm the previous sanction
- dismiss previous sanction
- substitute a lesser or greater sanction

Where an appeal against dismissal fails, the effective date of termination shall be the date on which the employee was originally dismissed.

The appeal decision is the final stage of the disciplinary procedure, and there is no further right to appeal.

vi. Criminal investigations

Where there is police involvement or investigation, WHS will conduct its own investigation and make decisions based on evidence and information available to it at the time, unless doing so would prejudice the police process. The matter will not be put on hold until the police investigation, court proceedings and/or other statutory or regulatory proceedings conclude unless there is a foreseeable risk of prejudice.

6. GOVERNANCE AND REGULATION

- i. This policy is the responsibility of the Human Resources Department.
- ii. The policy is due for formal review every three years.

7. SANCTIONS

- i. Any breaches of this policy will amount to poor performance in itself and be subject to disciplinary action.

8. RELATED / REFERENCED POLICIES

- Equality and Diversity policy
- Attendance Support Policy
- Group Whistleblowing policy
- Code of Conduct
- Anti-bribery policy
- Complaints Handling
- Grievance Policy
- Dignity at work policy

