



DISCIPLINARY POLICY

HR.01 – January 2021

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SSHC Reference	
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Related Documents

- Code of Conduct
- Dignity at Work
- Equality and Diversity
- Data protection Policy
- Specific policies relevant to allegations of misconduct e.g. Attendance, Corporate Social Media, Computer and Email Use *(not an exhaustive list)*

Translation Statement

If you have any difficulties reading this information or need further help understanding our processes please contact us. We can make this document available in a variety of formats. All you need to do is let us know what you need and we will try to assist.

Compliance

This policy has been drafted to ensure that it complies with current legislation and industry good practice.

Equality & Diversity

Fyne Homes is committed to providing services which embrace diversity and which promote equality of opportunity. As an employer we are also committed to equality and diversity within our workforce. Our goal is to ensure that these commitments, reinforced by our Values, are embedded in our day-to-day working practices.

Openness & Confidentiality

Fyne Homes believes that its members, tenants and other interested parties should have access to information on how it conducts itself. This means that unless information requested is considered commercially sensitive or personally confidential it will be made available on request.

Data Protection

Fyne Homes recognises the importance of data protection legislation, including the General Data Protection Regulation, in protecting the rights of individuals in relation to personal information that we may handle and use about them, whether on computer or in paper format. We will ensure that our practices in the handling and use of personal information during the processes and procedures outlined in this policy comply fully with data protection legislation. More information is available from our Data Protection Officer.

1. Introduction

- 1.1. Fyne Homes requires you to maintain the highest possible standards of attendance, conduct and performance. The purpose of this policy is to help you understand these and encourage you to maintain them.
- 1.2. This policy 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 who have completed their probationary period.
- 1.4. Fyne Homes is committed to treating all staff fairly and equitably and to helping employees to perform effectively. However, there will be occasions when it may be necessary to invoke disciplinary procedures. Should the need arise the employee will be given the opportunity to improve throughout the stages of the procedure.
- 1.5. When work falls below an acceptable standard, help will be given to the employee to improve. If standards of work continue to fall and there is a necessity for action, it will automatically begin with a pre-disciplinary informal discussion.
- 1.6. Similarly, when an employee's behaviour is potentially inappropriate and/or unacceptable, it will mean the initiation of a pre-disciplinary informal discussion or the disciplinary procedure, depending on the severity.
- 1.7. If disciplinary action should become necessary, each case will be treated consistently and fairly, and the disciplinary procedure will be observed at all steps.
- 1.8. The employee will be given the opportunity to provide their version of events and any extenuating circumstances will be considered.
- 1.9. An employee's rights will be upheld at all times, and employees will have the right to:
 - 1.9.1.1. know the case against him/her
 - 1.9.1.2. reply
 - 1.9.1.3. due consideration of their case
 - 1.9.1.4. be accompanied
 - 1.9.1.5. appeal.
- 1.10. This policy is adopted on a non-contractual basis and therefore does not make up part of employees' contractual terms and conditions.

1.11. Fyne Homes is an affiliate member of EVH. Therefore, this policy is adapted from EVH's policy and procedure and *excludes* the provision of an appeal to JNC which is provided for full members of EVH.

2. Aim

- 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. Links to vision and strategic priorities

3.1. This policy aims to fulfil the needs of the Association's Strategic Priorities, in particular: Meeting the needs and aspirations of our customers and respecting our customers, staff and committee and approaching our business and activities with openness and integrity.

4. Legal framework

- 4.1. The most important legislation in Great Britain governing discipline and grievances at work includes the Employment Act 2008.
- 4.2. Following the ACAS Code of Practice: Disciplinary and Grievance Procedures is crucially important for employers; an employment tribunal will consider whether or not the employer and employee has followed the Code; if they haven't, the tribunal may adjust any awards made by up to 25% for unreasonable failure to comply.

5. Managing and Reporting

5.1. Complaints raised under this policy will be tracked and monitored by Human Resources and reported to the Staffing Committee on a quarterly basis.

6. Principles - Fyne Homes will:

- 6.1. Inform you of all the allegations against you and give you the opportunity to state your case.
- 6.2. Not take any formal disciplinary action until we have fully investigated the allegations against you.
- 6.3. Conduct our own investigation irrespective of any police proceedings and make decisions in accordance with this policy based on evidence and information available to us at the time.
- 6.4. Pay you full pay if we decide to suspend you pending any investigation outcome.
- 6.5. Proceed with disciplinary action after an appropriate investigation has taken place.
- 6.6. Not take any 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 regional officer.

- 6.7. Give you the right to be accompanied by either a trade union representative of your choice, or a workplace colleague at any stage of the formal procedure.
- 6.8. Make sure if any action is taken against you, (other than dismissal) that we make clear 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.
- 6.9. Not dismiss you if this is the first issue with your conduct, performance or attendance unless you have committed gross misconduct. In this case, the penalty will normally be summary dismissal without notice or pay in lieu of notice.
- 6.10. Provide you with a right of appeal if we issue you with any formal action.
- 6.11. Keep records on your personal file of any live disciplinary action, which will only be available to you and your line manager.
- 6.12. Unreasonably refuse the use of recording devices (in normal circumstances) during any investigation, disciplinary or appeal hearings.
- 6.13. Apply the procedure at any stage depending on the seriousness of the allegations against you.

7. Principles – Fyne Homes expects that you will:

- 7.1. Be honest and transparent in all aspects of your work for us.
- 7.2. Treat all colleagues, clients, committee members, partners and anyone in connection with us with respect and tolerance.
- 7.3. Not abuse Fyne Homes' facilities.
- 7.4. Not disclose any confidential information obtained in connection with your employment with us.
- 7.5. Be frank and upfront about any connections you may have in any business that we deal with.
- 7.6. Not publish or profit from any work done within Fyne Homes as this belongs to us until such time as we give permission for its use
- 7.7. Not accept any gift, favour or inducement from businesses or individuals in connection with us.
- 7.8. 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.
- 7.9. 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 you may hold.
- 7.10. Maintain high standards of performance and carry out your role to the best of your ability.
- 7.11. Maintain high levels of attendance as described in our attendance and absence policy.
- 7.12. Follow instructions and requests from your line manager and any other senior member of staff.
- 7.13. Participate as much as reasonably possible in all parts of the disciplinary procedure.

8. Investigation

- 8.1. Before any formal or informal action takes place, we will conduct an appropriate investigation.

- 8.2. The purpose of this is to establish the facts surrounding the allegations against you. This will normally involve speaking to you and anyone else that may provide us with relevant information.
- 8.3. We will also collect any other information we deem to be relevant. This meeting is not formal and does not form part of the formal disciplinary process.
- 8.4. The length and complexity of the investigation will be determined by the circumstances and the nature of the allegations.
- 8.5. If you are unable, or choose not to participate in the investigation, we will proceed without your input.
- 8.6. The nominated investigator will be neutral and impartial and present their findings in an unbiased, factual, coherent and relevant way.
- 8.7. Fyne Homes reserves the right to appoint a suitably qualified, external investigator if appropriate due to the complexity of the investigation or seniority of the subject(s) of the investigation.
- 8.8. The investigation report will include all evidence referred to. All information will be made available to both you and the disciplinary officer/panel.
- 8.9. On completion of the investigation, the investigator will make one of the following three recommendations:
 - 8.9.1. No further action
 - 8.9.2. Informal action
 - 8.9.3. Formal disciplinary action

9. Police Involvement and Criminal Offences

- 9.1. 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.
- 9.2. 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.
- 9.3. If you are subject to any of the above, and believe this may in any way affect your ability to do your job or our reputation, you must discuss this with your line manager as soon as you possibly can.

10. Suspension

- 10.1. We reserve the right to suspend you on full pay if the allegations against you constitute gross misconduct.
- 10.2. We will aim for your suspension to last no longer than one week. If the investigation has not finished within this time, we will write to you and update you on its progress.
- 10.3. While on suspension you should not have any contact with any other employees other than the person named on your suspension letter.
- 10.4. Suspension on pay is not considered to be a sanction taken under the disciplinary procedure. It is there to ensure that issues are dealt with in a fair and reasonable manner, and adequate protection is given to all employees.
- 10.5. 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.

11. Time Limits of Warnings

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

12. Alternatives to Disciplinary Action

- 12.1. 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.

13. Examples when the Disciplinary Procedure may be used: *(this list is not exhaustive or exclusive)*

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

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

14. Informal Procedure

- 14.1. We will normally use the informal procedure first.
- 14.2. If your performance, conduct or attendance does not meet our required standards then your line manager will meet with you informally if appropriate.
- 14.3. 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.
- 14.4. We will provide all this information in writing in an Informal Action Note.

15. Formal Procedure

- 15.1. We will follow our formal process when attempts to improve any conduct, performance and/or attendance have not improved through the informal process.

- 15.2. We will also use the following formal process straight away for more serious matters.
- 15.3. If you are invited to a formal hearing, this will be done as soon as reasonably practical on conclusion of the investigation.
- 15.4. You will also be given a minimum of 2 working days' notice of the hearing.
- 15.5. 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.
- 15.6. We will not apply any formal stages of this procedure unless an appropriate investigation has taken place.
- 15.7. Advice and guidance will be sought from Human Resources, or suitably qualified external adviser, at all stages of the formal procedure.

16. Formal Procedure Stages:

16.1. First Stage

- 16.1.1. If you do not meet our standards detailed at the informal stage, or the matter is serious, a manager will invite you, in writing, to attend a formal disciplinary hearing.
- 16.1.2. The purpose of the hearing is to provide you with an opportunity to state your case and consider all appropriate evidence.
- 16.1.3. If, after considering all the evidence, including your response and we believe this to be unsatisfactory, and/or it is still appropriate, we will issue you with a first written warning or performance note. This will remain on your file for 6 months.

16.2. Second Stage

- 16.2.1. If you have a live written warning and remain below our standards or, if we consider the matter very serious, a manager will invite you, in writing, to attend a formal disciplinary hearing.
- 16.2.2. The purpose of the hearing is to provide you with an opportunity to state your case and consider all appropriate evidence.
- 16.2.3. If, after considering all the evidence, including your response and we believe this to be unsatisfactory, and/or it is still appropriate to do so, we will issue you with a final written warning. This will remain on your file for 12 months.

16.3. Third Stage

- 16.3.1. 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.
- 16.3.2. The purpose of the hearing is to provide you with an opportunity to state your case and consider all appropriate evidence.
- 16.3.3. If, after considering all the evidence we deem it appropriate, we may dismiss you. We will make a payment in lieu of notice if the reason for dismissal is anything other than gross misconduct.

- 16.3.4. If we dismiss you for gross misconduct, we will not give you notice or make a payment in lieu of notice.
- 16.3.5. Alternatively to dismissal, the Association may decide that suspension without pay, transfer or demotion are appropriate sanctions.
- 16.3.6. Members of our Governing Body, who sit on the Staffing Committee, will hear appeals against dismissal

17. Gross Misconduct

- 17.1. 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.
- 17.2. We will normally regard the following as gross misconduct: *(this list is not exhaustive or exclusive)*
 - 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 rules and procedures, or any other policies, operating procedures or workplace rules put in place by us.
 - Acts of gross professional incompetence.
 - Bringing Fyne Homes 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.

18. Notice of Decision

- 18.1. 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.
- 18.2. This letter will detail the reasons for the formal sanction and what we expect of you.
- 18.3. 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.

19. Right to Appeal

- 19.1. If you wish, you have the right to raise an appeal within 5 working days of receiving your notice of decision letter, which details any formal action against you.
- 19.2. Details on how to appeal will be included in your notice of decision letter confirming the action taken against you.
- 19.3. We will arrange an appeal hearing within 10 working days of receiving your request.
- 19.4. We will write to you after the hearing confirming our decision regarding your appeal.
- 19.5. Any appeal will be taken, where possible, by someone who was not involved in the original disciplinary hearing.

20. Appeals Procedure

- 20.1. Appeals against any formal warnings will be made to one level above at which the disciplinary action was taken, if possible.
- 20.2. You have the right to one internal appeal against any formal warnings or performance note.
- 20.3. You should raise your appeal within one week (5 working days) of receiving your notice of decision letter.
- 20.4. Your appeal will be heard within 10 working days of the appeal being lodged.
- 20.5. At the appeal you will be asked to state the reason for your appeal and provide evidence to substantiate your reasons.
- 20.6. The manager/panel will ask any appropriate questions.
- 20.7. The appeal hearing will conclude and the appeal chair will conduct any necessary investigation.
- 20.8. We will advise you of the outcome of your appeal in writing. This decision will be final.
- 20.9. At all levels, the outcome of an appeal hearing may:
 - 20.9.1. Confirm a previous action;
 - 20.9.2. Dismiss the previous action; or
 - 20.9.3. Substitute a lesser penalty.

21. Authority to take disciplinary action

- 21.1. First written and final warning- direct line manager or supervisor or someone of equivalent authority
- 21.2. Dismissal - senior manager or Director or Chief Executive, or individual representative of the Staffing Committee
- 21.3. Advice and guidance will be sought from Human Resources or a suitably qualified external adviser, at all formal stages of the disciplinary and appeals process.

22. Records

- 22.1. 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.

- 22.2. Your manager/ Human Resources will remove disciplinary warnings from your file when no longer live.

23. General Data Protection Regulations

- 23.1. The organisation will treat your personal data in line with our obligations under the current data protection regulations and our own [insert name of policy or procedure]. Information regarding how your data will be used and the basis for processing your data is provided in Fyne Homes' employee privacy notice.

24. Reviewing process

- 24.1. This policy will be reviewed in line with the respective current Fyne Homes' policies, and/or where a change in legislation arises.
- 24.2. If there is a procedural delay in the policy revision then the relative legislation in force at the time will prevail.

Version number	Revision Date	Part of doc revised	Reason for revision	Approved by
9	Nov 2017	All	Ref. to ACAS Code & update	ManComm
10	Aug 2018	Foreword	GDPR statement	DPO
11	Jan 2021	All	3 yearly review – minor updates	ManComm