



# **SHA Procedure for Handling a Serious Complaint or Grievance against the Senior Officer**

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## **1 INTRODUCTION**

- 1.1 This procedure supports the Scottish Housing Regulator (SHR) Notifiable Events Statutory Guidance<sup>1</sup>, and the specific provisions contained within appendix 3 of the Guidance relating to handling a serious complaint or grievance against the Chief Executive/Director of an RSL.
- 1.2 This procedure follows the principles of Southside Housing Association's (SHA) grievance procedures and sets out the processes to be followed by SHA's Management Committee.
- 1.3 The procedure is also consistent with SHA's Scheme of Delegated Authority policy, which states that any actions against the Senior Officer are delegated to the Staffing and General Purposes Sub-Committee empowered to hold hearings and make decisions.

## **2 REGULATORY EXPECTATIONS**

- 2.1 The SHR's Statutory Guidance sets out what is required of registered social landlords (RSL) in relation to handling a serious complaint or grievance against the Senior Officer. RSLs are expected to:
  - Notify the SHR if there is a formal serious complaint or grievance against the Senior Officer;
  - Take prompt, independent and professional advice as appropriate to the event that has occurred;
  - Put in place strong governance systems that set out clear procedures for dealing with such events and clarify the role of the governing body; and,
  - Be open and transparent about the decision-making processes.

## **3 WHAT IS A SERIOUS COMPLAINT OR GRIEVANCE?**

- 3.1 It is difficult to create a list of all the possible eventualities but a few examples are noted below:
  - Allegations from an individual employee of bullying or harassment by the Senior Officer;
  - Inappropriate behaviour which may bring the Association into disrepute;
  - Allegations of fraud; and,

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<sup>1</sup> Scottish Housing Regulator – Notifiable Events Statutory Guidance, February 2019

- Allegations of actions which would be a breach of the Association's regulatory obligations.

#### **4 IMMEDIATE ACTION REQUIRED ON RECEIPT OF A FORMAL SERIOUS COMPLAINT OR GRIEVANCE**

- 4.1 If a formal serious complaint or grievance is received concerning the Senior Officer, the Chair of the Management Committee will be informed immediately. 'Formal' normally means that the complaint has been submitted in writing. However there may be occasions where a member of staff receives a verbal complaint. In this instance the complainant will be asked to confirm their complaint in line with SHA's complaint handling and grievance procedures, and be recorded to ensure the issues raised are clearly stated.
- 4.2 The Chair will also inform the SHR of receipt of such a complaint in accordance with the SHR guidance note and SHA's Notifiable Events Policy. The Chair should also advise the SHR how the Management Committee intends to handle the complaint. This must be done as soon as is reasonably practicable.
- 4.3 Acknowledgement of the serious complaint/grievance should be sent to the complainant as soon as is practicable, ideally within three working days. SHA's HR and Corporate Support Manager may assist the Chair in doing this.
- 4.4 The Senior Officer will be notified in writing of the complaint/grievance made against them within three working days of receipt of the complaint/grievance. This notification will contain sufficient information about the complaint/grievance and its possible consequences to enable the Senior Officer to prepare to answer the case at a meeting with a sub-group comprising of members of the Staffing and General Purposes Sub-Committee (Sub-Committee Group).
- 4.5 Copies of any written evidence, including witness statements if applicable, will be provided along with the notification. SHA's HR and Corporate Support manager may assist the Chair in formulating the notification letter

#### **5 HEARING THE SERIOUS COMPLAINT OR GRIEVANCE**

- 5.1 The Management Committee's Chair is not expected to deal with such matters alone. Therefore a Sub-Committee Group comprised of members of SHA's Management Committee will be appointed to handle the complaint. This Sub-Committee Group will have a required quorum of 3 members. One member will be designated chair for the purposes of handling the complaint. Members of this Sub-Committee Group will then be responsible for hearing and deciding on any action from the complaint/grievance.

5.2 Due to the highly sensitive nature of complaints at this level, it is vital that confidentiality is observed and maintained throughout. The members of SHA's Management Committee may be told that a complaint/grievance has been received and is being dealt with but not about any of the detail. This is for a variety of reasons:

- The Management Committee retains control over the affairs of SHA;
- It ensures confidentiality for the Senior Officer and complainant at the centre of the allegations, as is their right;
- The Management Committee knows that the complaint is being handled;
- If independent help is required, then any associated costs can be authorised by Management Committee;
- The Management Committee can monitor any emerging patterns of grievances and decide on an appropriate course of action; and,
- By keeping the substance and details of the complaint confidential, it leaves a clean route for any appeal to be heard by other members of the Management Committee who have not been previously closely involved with investigating the complaint or grievance or the details of the complaint or grievance.

5.3 Appeals against the decision of the Sub-Committee Group will be handled as set out at paragraph 9.1 of the procedure.

## **6 INDEPENDENT PROFESSIONAL ADVICE AND SUPPORT**

6.1 Due to the sensitive nature of such situations, it is inappropriate for any SHA employees to be involved in the investigation or handling of a complaint/grievance against the Senior Officer. Access to independent advice must therefore be sought by the Sub-Committee Group. Investigation of the complaint/grievance, and any subsequent action taken, must comply with SHA's legal duties as an RSL, including those relating to equalities and human rights.

6.2 Employment matters are complex and such advice will be sought from an employment law expert.

6.3 The Chair or Sub-Committee Chair may ask SHA's HR and Corporate Support Manager for information on possible sources of independent advice. The HR and Corporate Support Manager will provide this information and if requested may also assist with administrative tasks such as arranging meeting space or for courier delivery of confidential documentation.

- 6.4 The Sub-Committee Group should take legal advice as to whether any investigation of the complaint or grievance is required, and if so, whether it would be appropriate to appoint an external investigator. For matters of a particularly complex or serious nature the Sub-Committee Group may wish to commission an independent party to conduct the investigation. That party will conduct the investigation, interview appropriate individuals and prepare a factual report for the Committee. It will then be the role of the Sub-Committee Group to decide if the complaint/grievance has been upheld or rejected, and to decide on any remedial actions to be taken.

## **7 PROCESS FOR HEARING A SERIOUS COMPLAINT OR GRIEVANCE AGAINST THE SENIOR OFFICER**

- 7.1 The full process for hearing a complaint/grievance against the Senior Officer, which must be followed by the Sub-Committee Group is set out below:
- 7.1.1 Invite the complainant to an initial meeting with the Sub-Committee Group to enable further information about the complaint to be provided, what outcome the complainant is seeking, and to set out what action the Sub-Committee Group will take to investigate the matter and the anticipated timescales involved.
- 7.1.2 If the complainant is an employee of SHA they will be entitled to be accompanied at the meeting by a trade union representative or another SHA employee. If the complainant is a third party, they will be entitled to be accompanied by a companion. Legal advisers will not be permitted to attend the meeting. The Sub-Committee Group may allow the complainant, if appropriate and at the request of the complainant, to provide such further information in the form of a written submission rather than personal attendance at the meeting. The complainant will be issued with a copy of the minutes of the meeting.
- 7.1.3 The Sub-Committee group will decide with the benefit of independent legal advice, if investigation is required and if so, whether the Sub-Committee Group will investigate or seek an independent consultant to do so on their behalf. At this stage the Sub-Committee Group will also decide indicative timescales for the investigation and decision making process. For matters which are not particularly complex, the Sub-Committee Group will aim to collate all the relevant information and come to a decision within four weeks of receipt of the complaint/grievance.
- 7.1.4 If deemed appropriate by the Sub-Committee Group, an independent external party may be engaged to record meetings throughout the process.
- 7.1.5 Where further investigation is considered to be necessary to investigate the complaint and gather information and evidence. This may require a meeting (or further meeting) with the complainant and other relevant parties/witnesses. Where the Sub-Committee Group has decided that it is appropriate to commission an independent party (e.g. an employment/personnel specialist or

consultant) to undertake the investigation. All findings will be reported to the Sub-Committee Group.

- 7.1.6 If meetings are arranged or information is sought in writing by the Sub-Committee Group or the appointed investigator, a reasonable opportunity must be given to the party being invited to attend a meeting or to submit written submission to do so. If a party does not attend, or fails to provide the requested information, without a reasonable justification and despite being given a reasonable period in which to do so, then the meeting will not be re-arranged and no further opportunity need to be offered to provide the information.
- 7.1.7 Sub-Committee Group or the appointed independent investigator meet with the Senior Officer to allow them to forward their case and submit information in response to the complaint/grievance. The Senior Officer may be accompanied by a trade union representative or another SHA employee.
- 7.1.8 Sub-Committee Group will review the notes of meetings held with parties and witnesses and any other written submissions received, or consider any report prepared by an appointed independent investigator.
- 7.1.9 Sub-Committee Group will then investigate further if required or progress to make a decision in relation to the complaint/grievance, and to decide any remedial actions to be taken. The outcomes open to the Sub-Committee Group are to:
- Uphold the complaint
  - Partially uphold an element, or elements of the complaint
  - Not uphold the complaint
- 7.1.10 The decision of the Sub-Committee Group will be conveyed in writing to the Senior Officer within 5 working days of the Sub-Committee Group having reached a decision. The written decision will include details of:
- The nature of the complaint/grievance raised
  - The date(s) of the meeting(s) and who was in attendance;
  - The key points considered from discussions at or submissions made to the meeting(s);
  - The names of any witnesses or other parties who provided information;
  - The reasons for the Sub-Committee Group's decision;
  - The outcome of the complaint/grievance; and,
  - The right of appeal
- 7.1.11 Following the investigation, and consideration of the information presented, it should be borne in mind that the findings may lead to the instigation of disciplinary action which would activate the SHA's disciplinary process. In the event that disciplinary action was to be taken against the Senior Officer this would be progressed in line with the SHA's Disciplinary Policy

7.1.12 The complainant would be advised that a disciplinary process will be undertaken, however they are not entitled to be informed of the outcome of any disciplinary process

7.3 At all stages it is important to keep accurate and appropriate records to document and evidence decision making. In particular an accurate record should be retained in relation to meetings of details of:

- the nature of the grievance/complaint raised;
- Notes of the meeting(s) held to hear the complaint/grievance;
- SHA's response;
- Any action taken and the reasons for this;
- Whether there was an appeal against the decision;
- Notes of the Appeal meeting; and,
- The outcome of the Appeal meeting.

## **8. RIGHT OF APPEAL – SENIOR OFFICER**

8.1 If the Senior Officer is dissatisfied with the outcome of the complaint/grievance made against them, an appeal may be submitted by them to the Employers in Voluntary Housing (EVH) Joint Negotiating Committee (JNC) within ten working days of the date of the decision letter. Contact details are:

JNC Appeal Chair  
C/O Employers in Voluntary Housing  
5<sup>th</sup> Floor  
137 Sauchiehall Street  
Glasgow  
G2 3EW

Tel: 0141 352 7435  
Email: [contactus@evh.org.uk](mailto:contactus@evh.org.uk)

An appeal should specifically outline the reasons why the Senior Officer believes the decision to be unfair or unreasonable and or/why they feel the appropriate procedures have not been properly applied.

8.1.1 Grounds for an appeal include:

- Procedural irregularities;
- Unfairness of the decision
- New evidence which could not have been available at the time of the original decision or was unreasonably withheld and which could have materially affected the outcome.



- 8.1.2 The administration of the process from this point will be taken over by EVH who will notify the Chair of the Management Committee of the outcome of the appeal. A written report will also be provided by the JNC to the Senior Officer.

## **9 RIGHT OF APPEAL – COMPLAINANT**

### **Right of Appeal - Employee**

- 9.1 If the complainant is an employee of the Association, if they are dissatisfied with the outcome of complaint they have made then they may appeal the decision. An appeal may be submitted by them to the EVH Joint Negotiating Committee within ten working days of the date of the decision letter. Contact details are set out at section 8.1 above. Grounds for an appeal include those set out at section 8.1.1 above.

- 9.1.1 The administration of the process from this point will be taken over by EVH who will notify the Chair of the Management Committee of the outcome of the appeal. A written report will also be provided by the JNC to the complainant and/or their representative.

### **Right of Appeal – Non SHA Employee**

- 9.2 A complainant who is not an employee of the Association may appeal against the decision of the Sub-Committee Group. An appeal may be submitted by them in writing to the Chair of the Sub-Committee Group, within ten working days of the date of the decision letter. An appeal should specifically outline the reasons why the complainant believes the decision to be unfair or unreasonable and or/why they feel the appropriate procedures have not been properly applied. Grounds for an appeal include those set out at section 8.1.1.

- 9.1.1 The Chair of the Sub-Committee Group will advise the Management Committee who will arrange for an Appeals Sub-Committee to be appointed comprised of members who did not participate in the initial decision making process.

## **10 NOTIFYING THE SHR**

- 10.1 If an appeal is received the Chair of the Sub-Committee or EVH will report that fact, and the proposed timescales for dealing with the appeal to the Management Committee. Subsequently, The Chair of the Management Committee will submit an update to the Notifiable Event to the SHR via the Landlord Portal, advising the SHR of both the appeal and the proposed timescales for dealing with it.
- 10.2 Following the conclusion of any Appeal, the Chair of the Management Committee will submit a further update to the Notifiable Event to the SHR via the Landlord Portal confirming the matter has been concluded and enclosing

the final report to the Management Committee and the minute of the meeting it was presented to.

## **11. DATA PROTECTION**

- 11.1 The Association handles the personal data we use in line with our obligations under data protection legislation and the Association's Privacy Policy and Data Retention Schedule. Information about how we handle personal data and the legal basis for processing personal data is available through the Association's Fair Processing Notice for Employees.

## **12 EQUALITY AND HUMAN RIGHTS**

- 12.1 The Association will provide equality of opportunity and fair treatment for all, ensuring that no individual or group is treated less favourably than anyone else. We work closely with community stakeholders, to provide assurance that we are achieving these aims.
- 12.2 The Association will meet, and where appropriate exceed our obligations under the **Equality Act 2010**, including the general equality duty in the Act, to ensure we do not discriminate against, harass or victimise a person because they have one or more of the nine protected characteristics described in the Act.
- 12.3 An Equality Impact Assessment (see Appendix 1) has been carried out as part of the review of this policy, in order to assess where the aims of this policy may have a positive, negative or neutral impact upon any of the nine Protected Characteristics set out in the Equality Act 2010

## **13 PROCEDURE REVIEW**

- 13.1 The procedure will be reviewed as necessary in line with any future SHR statutory or advisory guidance, or otherwise every three years.



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