



Policy Title: Dealing with Breaches of Code of Conduct

Policy Manual Section: Governance

Date Approved by Management Committee: February 2017

Next Review Date: February 2020

This document will be made available in different languages and formats on request, including Braille and audio formats.

1.0 Aims of the Policy

- 1.1 This Policy sets out the arrangements and key consideration to be taken into account where a Committee Member is alleged to have breached the Code of Conduct.
- 1.2 Failure by a Management Committee Member to follow the Code of Conduct could have serious consequences for the Association. The work or the reputation of the Association could be damaged as result of a member's action.
- 1.3 This policy and set of procedures must be seen within the context of the Association's Rules, which provides for the removal of Management Committee Members in particular circumstances; and of its Standing Orders, which set out the arrangements for the effective conduct of business.
- 1.4 This policy is consistent with the Regulatory Code of Governance, which requires housing associations to have in place arrangements to investigate breaches of standards of conduct and for taking appropriate disciplinary action where required.

2.0 Action to be Taken in Event of Breach

- 2.1 Breaches of the Code of Conduct during the course of Management Committee or sub-committee meetings will be dealt with by the Chairperson either during the meeting or afterwards. If a member is obstructive, offensive or disregards the authority of the Chairperson, a vote may be taken to exclude him/her from the meeting.
- 2.2 Any other allegation that there has been a breach of the Code of Conduct will be the subject of an investigation, which will be initiated by the Management Committee. The Management Committee will decide on the most appropriate method to investigate the alleged breach, which may include the Director, Chairperson or in certain cases to procure the services of an external company or consultant to conduct the investigation, such as the Association's solicitor, internal auditor or other consultant. The investigation would normally be overseen by a small ad-hoc committee set up for the purpose, which can brief the investigator and then consider their recommendations at the end of the investigation prior to the matter being reported the Management Committee. It is essential to involve an external adviser where the allegation involves the Chairperson. A Management Committee member subject to investigation in this way will have the right to make representations on his/her own behalf. A Management Committee member will also have the right to be accompanied at any meeting.
- 2.3 The Management Committee should consider based on the alleged breach whether to suspend the Committee Member whilst an investigation is on-going due to an alleged breach of the Code of

Conduct. This consideration is seen to protect the Committee Member and Association.

- 2.3 The advisor of the sub-committee will submit the results of the investigation to the Management Committee for their consideration. It will thus be a Management Committee decision as to what the outcome of the investigation will be, whether the individual has indeed been in breach of the Code, and if so, what sanction may apply in these circumstances.

3.0 Sanctions

- 3.1 If, following investigation, a breach of the Code is confirmed, action will be taken in response. This action will reflect the seriousness of the circumstances. It may take the form of some or all of the following:
- an informal discussion with the member concerned
 - advice and assistance on how his or her conduct can be improved
 - the offer of training or other form of support
 - a formal censure
 - a vote to remove the Management Committee Member from the governing body.
- 3.2 The Association's Rules provides for membership of the Management Committee to be ended where two-thirds of the remaining Management Committee members vote in favour of this at a special meeting of the Management Committee convened for this purpose. Failure to comply with the Association's Code of Conduct is one of the situations described in the Rules that could lead to such a vote. The member who is the subject of the action has the right to make representations, as set out in the Rules/Standing Orders.
- 3.3 The following circumstances may lead to a vote to remove a Management Committee Member:
- Failure to perform to the published standards laid down by the Scottish Federation of Housing Associations and Scottish housing Regulator, as adopted and operated by the Association
 - Failure to comply fully with the Association's Code of Conduct for Committee Members policy.
- 3.4 The following circumstances will result in a vote to remove a Management Committee Member
- A serious or persistent breach of the Association's Rules or Standing Orders.
 - A serious or persistent breach of the Association's policy on Entitlements, Payments and Benefits.

- A serious or persistent breach of the Code of Conduct.
- Failure to respond to a formal censure or other earlier intervention.
- Actions which are judged following investigation likely to have a material adverse effect on the reputation or financial position of the Association.

3.5 In determining the appropriate course of action in the event of an alleged breach, the Management Committee must demonstrate that it is acting in accordance with its constitution, its Standing Orders and with the principles of natural justice

4.0 Interpretation of ‘Serious Breach’

4.1 The interpretation of the term ‘serious breach’ lies with the Management Committee, having regard to the terms of the Association’s Rules, will include:

- Failure to act in the best interests of the Association and the purpose for which it operates.
- Support for, or participation in, any initiative, activity or campaign which directly or indirectly undermines or prejudices the interests of the Association, its service users or the Association’s contractual obligations.
- Accepting a bribe from a third party designed to influence the decisions made by the Association.
- Consistent or serious failure to observe the principle of corporate responsibility which is described in the Code of Conduct.

5.0 Notifiable Event

5.1 The Scottish Housing Regulator (Regulator) provides guidance on Notifiable Events. This guidance sets out events that the Regulator expects the Association to report to them. It also provides examples of a Notifiable Events, which directly relates to a breach of the Code of Conduct, these are:

- Serious complaints, investigations or disciplinary action relating to a governing body member;
- Breaches of the Code of Conduct by governing body members and any proposed investigation of these or action taken in response.

5.2 The Director or Chairperson will notify the Regulator of the event or any breach of the Code of Conduct, which is the subject of an investigation, immediately, thereafter report the matter to the matter to the Management Committee to decide on how the matter will be managed and investigated.

- 5.3 The Association will provide the following information to the Regulator on a Notifiable event:
- Details of the alleged breach of Code of Conduct; and
 - Who is involved and/or affected; and
 - What the Association is planning to do and what action it has already taken.
- 5.4 The Regulator will require sufficient information to be confident the Association has an effective strategy to deal with the event.
- 5.5 The Regulator may assist or intervene to protect the interests of tenants, public investment and the reputation of the sector. They may also review the Association's engagement status and set out outcomes in a Regulation Plan.
- 5.6 Failure to notify the Regulator of a Notifiable Event may result in regulatory action. The Association will have to provide details to the Regulator why we failed to notify them of the event. They will consider our explanation of the reason for the delay and determine any appropriate course of action.

5.0 Review

- 5.1 This policy will be reviewed in February 2020 and thereafter every three years.