



Serious Complaint Against the Chief Executive Officer

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| Policy Title: | Serious Complaint Against the CEO |
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| Scottish Housing Regulator Standard: | 5 |
| Scottish Housing Regulator Guidance: | 5.5, 5.6 |

Vision

By providing aspirational homes and high-quality services we will transform communities to enhance the quality of life of our customers.

Values

- Customer and Community Focussed
- Treating our customers with respect
- Accountable
- Making a difference
- Innovative
- Equal access to services and opportunities for all

Strategic Objectives

Deliver first class customer services

Provide quality homes, communities and sustainable tenancies

Achieve robust financial management and governance excellence

Empower, develop and engage our staff

Build strong collaborative relationships locally and nationally

Serious Complaint against the Chief Executive Officer Policy

1. Introduction

- 1.1 This policy and procedure supports the Scottish Housing Regulator (SHR) Guidance Note on Notifiable Events and the appendix to the Guidance Note specifically relating to handling a serious complaint or grievance, against the Chief Executive/Director of an RSL.
- 1.2 This policy and procedure follows the principles of Ardenglen Housing Association's complaint and grievance procedures and sets out the processes to be followed by Ardenglen Housing Association's Board of Management.
- 1.3 This policy and procedure is also consistent with Ardenglen Housing Association's Standing Orders for Board members, confirming that delegated authority is given for a panel of Board members to form a sub-committee when required to consider complaints, grievance or disciplinary cases needing Board involvement. These principles are consistent with the revised, statutory **ACAS Code of Practice on Disciplinary and Grievance Procedures (effective 11 March 2015)**.

Commented [JM1]: Updated to relevant procedure. Previous policy cited 2009 procedure.

2. Regulatory Expectations

- 2.1 Ardenglen are expected to adopt the following approach when dealing with a Serious Complaint against the CEO:
 - The Chair should notify the SHR if there is a formal serious complaint against the Chief Executive, for example serious allegations from an individual employee of bullying or harassment by the Chief Executive.
 - The Chair should also advise the SHR how the governing body intends to handle the complaint.
 - Seek appropriate advice and support to help manage the situations and discharge our employment responsibilities fully and properly.
 - Ensure that we have effective governance systems in place that set out clear procedures for dealing with serious complaints or grievances about the Chief Executive and clarify the role of the governing body in these procedures.
 - Be open and transparent about our decision-making processes for handling such matters.

3. Equality & Diversity Statement

- 3.1 The Association's Equality and Diversity policy outlines our commitment to promote a zero tolerance to unfair treatment or discrimination to any person or group of persons, particularly on the basis of any of the protected

characteristics. This includes ensuring that everyone has equal access to information and services and, to this end, the Association will make available a copy of this document in a range of alternative formats including large print, translated into another language or audio.

- 3.2** We are also aware of the potential for policies to inadvertently discriminate against an individual or group of individuals.

To help tackle this and ensure that it does not occur, best practice suggests that organisations carry out Equality Impact Assessments to help identify any part of a policy that may be discriminatory so that this can be addressed (please see section 6 of the Equality and Diversity Policy for more information).

- 3.3** In line with section 6.2 of the Equality and Diversity Policy, the Association will apply a screening process based on that recommended by the Equality and Human Rights Commission to ascertain whether each policy requires an Impact Assessment to be carried out. The screening process was applied to this policy and it was decided that an impact assessment is not required.

4. What Constitutes A Serious Complaint/Grievance?

- 4.1** 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 Chief Executive.
- Inappropriate behaviour which may bring the Association into disrepute.
- Allegations of fraud
- Allegations of actions which would be a breach of the Association's regulatory obligations.

5. Immediate action required on receipt of a formal complaint/grievance

- 5.1** If a formal serious complaint or grievance is received concerning the Chief Executive, the Chair of the Board (the 'Chair') 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 writing to ensure the issues raised are clearly stated.
- 5.2** The Chair will in turn inform the Scottish Housing Regulator (SHR) of receipt of such a complaint in accordance with the SHR guidance note and our policy on Notifiable Events.

5.3 The Regulator will also be told what steps the Board intends to take to handle the complaint, and the Regulator will be updated thereafter as required.

5.4 Acknowledgement of the complaint/grievance should be sent to the complainant as soon as is practicable, ideally within three working days. Ardenglen's **Director of Finance, Digital and Corporate** can assist the Chair with this task. In the event that the complaint is from the Director of Finance, Digital and Corporate; the Corporate and Compliance Officer will assist the Chair.

Commented [JM2]: It was previously the Head of Housing which doesn't exist anymore. I thought it may be more apt for DFDC to deal with the Chair on this matter.

6. Who will hear the complaint/grievance?

6.1 The Chair would not be expected to deal with such matters alone. Therefore a Hearing sub-committee of Board members will be selected to handle the complaint. This Board will have a quorum of 3 members. One member will be designated Chair for the purposes of handling the complaint. Members of this sub-committee will then be responsible for hearing and deciding on any action from the complaint/grievance.

6.2 Due to the highly sensitive nature of complaints at this level, it is vital that confidentiality is observed and maintained throughout. The full Ardenglen Board 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:

- Ardenglen's Board retains control over the affairs of the Group.
- It ensures confidentiality for the Chief Executive at the centre of the allegations, as is their right.
- The Board knows that the complaint is being handled.
- If independent help is required, then any associated costs can be authorised. The Board can monitor any emerging patterns of grievances and decide on an appropriate course of action.
- By keeping the substance of the complaint confidential, it leaves a clean route for any appeal to be heard by other members of the Board who are untainted by detailed knowledge.

6.3 Should it be required an Appeals sub-committee will be formed from remaining members of the Board.

6.4 The Board will be notified of the outcome of the complaint / grievance at the end of the full process.

7. Independent advice and support

- 7.1** Again due to the sensitive nature of such situations, it would be inappropriate for any Ardenglen Group employees to be involved in the investigation or handling of a complaint/grievance against the Chief Executive. Access to independent advice must therefore be sought by the Hearing sub-committee.
- 7.2** Employee matters are complex and such advice will be sought from an employment law expert.
- 7.3** The Association Chairperson or the Staffing Sub-Committee Chairperson may ask Ardenglen Housing Association's Finance, Digital Corporate Services Director (or any other member of the Leadership Team) for information on possible sources of independent employment law advice. The Finance, Digital Corporate Services Director will provide this information and if requested may also assist with administrative tasks, such as arranging meeting space.
- 7.4** The Staffing Sub-Committee should take legal advice as to whether any investigation of the complaint/grievance is required and, if so, whether it would be appropriate to appoint an external investigator. Straightforward matters may be investigated by the Sub-Committee itself, but for matters of a complex and/or particularly serious nature the Sub-Committee may commission an independent party to conduct the investigation. That party will conduct the investigation, interview the appropriate individuals, and prepare a factual report for the Sub-Committee, whose job it will be to decide whether the complaint/ grievance should be upheld or rejected, and to decide on any remedial steps to be taken.
- 7.5** External investigators should be appropriately qualified and independent. The Sub-Committee may wish to take legal advice as the availability of potential investigators and should record the reasons for their selection of a particular party.
- 7.6** Where an external investigation is being carried out, the Sub-Committee should oversee the investigation and where appropriate approve any steps being taken by the investigator.

8. Addressing The Complaint/Grievance

- 8.1** The process for addressing a complaint/grievance which the Sub-Committee must follow is set out below:
- a) Invite the complainant to an initial meeting with the Sub-Committee to enable further information about the grievance to be provided, what outcome the complainant seeks, and to explain what the Sub-Committee intends to do to progress the matter as well as the anticipated timescales. The complainant (if an employee of the

Association) will be entitled to be accompanied at the meeting by a trade union representative or a fellow employee of their choosing. 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 Sub-Committee may allow the complainant, if appropriate and on request from the complainant, to provide such further information by way of written submission rather than in a meeting. The complainant will be sent a copy of the minutes of the meeting with the Sub-Committee.

- b) Decide, with the benefit of independent legal advice, if investigation is required and if so, whether the Sub-Committee will investigate or seek an independent consultant to do so on their behalf. At this stage, the Sub-Committee should also decide indicative timescales for the investigation and decision making process. For matters which are not particularly complex, the Staffing Sub-Committee should generally aim to collect all the relevant information and make a decision within 4 weeks of receipt of the complaint/grievance.
- c) If deemed necessary by the Staffing Sub-Committee, an external party may be sourced to record meetings throughout the process.
- d) Where further investigation is considered necessary, investigate the complaint and gather information and evidence – this may require a meeting (or a further meeting) with the complainant and other relevant parties/witnesses. Where the Sub-Committee has decided that it is appropriate to commission an independent party (e.g. an employment/personnel specialist) to undertake the investigation, all findings will be reported to the Staffing Sub-Committee.
- e) If meetings are arranged or information is sought in writing by the Sub-Committee or the investigator, a reasonable opportunity must be afforded to the person being asked to attend a meeting, or provide information, 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 be offered to provide the information.
- f) Meet (or have the independent investigator meet) with the Association's Chief Executive and allow them to put forward their case in response to the complaint/grievance.

- g) Allow the Association's Chief Executive to be accompanied at any meeting by a trade union representative or a fellow employee of their choosing.
- h) Consider any report prepared by an external investigator, or review and consider the Sub-Committee's notes of meetings it has held with the parties and witnesses, and any other written submissions received.
- i) Investigate further if required or proceed to make a decision as to whether the complaint/grievance should be rejected, upheld, or upheld in part. Decide any remedial or other steps to be taken.
- j) Advise the complainant of the decision within 5 working days, with reasons for the decision, and any remedial steps, and advise as to the right of appeal if dissatisfied with the outcome (see 9.1 below). The complainant will not be entitled to sight of any investigation report, witness interview notes etc.
- k) After the complainant is advised as above, but within 5 working days notify the Association's Chief Executive of the outcome and whether there are any further steps to be taken.

8.2 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 disciplinary process. In the event that disciplinary action was to be taken against the Chief Executive that would be pursued in terms of the disciplinary policy. The complainant would be advised of that fact but would not be entitled to be told of the outcome of any disciplinary process.

8.3 At all stages it is important to keep accurate and appropriate records to document and evidence information sought, information received, and decision making.

9. Post Investigation Actions (Including Appeals)

9.1 A complainant may appeal against the decision of the Staffing Sub-Committee. Appeals will be dealt with by a body which did not participate in the original investigation and decision of the Staffing Sub-Committee. An appeal should be sent within 7 days of the issue of the decision (as issued under 8.1k) above to the relevant party named below.

9.2 a) If the complainant is an employee, the appeal will be dealt with by an individual appointed by the JNC (Joint Negotiating Committee), and

the appeal should be sent to the JNC Appeal Chair at (Care of) Employers in Voluntary Housing, 5th Floor, 137 Sauchiehall Street, Glasgow, G2 3EW, 0141 352 7435, contactus@evh.org.uk.

- b) If the complainant is not an employee, the appeal will be dealt with by members of the Board of Management who did not participate in the original investigation and decision, and the appeal should be sent to the Chair of the Sub-Committee, who will arrange for the Board of Management to appoint an Appeal Sub-Committee.

9.2 If an appeal is received, the Staffing Sub-Committee shall report that fact, and the proposed timescales for dealing with the appeal, to the Board of Management. At the same time, the Association's Chairperson should provide SHR with an update to the Notifiable Event via the portal, noting the appeal and the timescales for dealing with it.

9.3 The Staffing Sub-Committee shall ensure a report is provided to the Board of Management confirming the outcome of the complaint/grievance – which outcome may be final and fully reported only after the outcome of an appeal. This report should not include detail about the complaint/grievance.

9.4 The Association's Chairperson should then provide SHR with an update to the Notifiable Event via the portal, confirming the matter has been concluded and enclosing the final report to the Board of Management and minute of meeting it was presented to.

10. Policy Review

10.1 This policy and procedure shall be reviewed every three years or sooner as deemed necessary in line with any future SHR guidance.

Appendix 1 – Flow Chart

Should a serious grievance/complaint be raised against the Chief Executive Officer of Ardenglen Housing Association, the following flow chart shall be followed by the Chairperson.

