

Putting People 1st

Handling a Serious Complaint or Grievance Against the Director Policy Ref G.16

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Reviewed: 27 January 2022

Date next due for review: January 2025

This policy document can be produced in various formats, for instance, in larger print or audio-format; and it can also be translated into other languages, as appropriate.

Our equality and diversity policy statement describes our key equality commitments that we use to develop all organisational services; this includes employment services and services to tenants and other customers.

Pineview Housing Association, 5 Rozelle Avenue, Drumchapel, Glasgow. G15 7QR
Tel: 0141 944 3891. Email: mail@pineview.org.uk . Website: www.pineview.org.uk

The Scottish Housing Regulator Reg. No: HAC231; Registered Scottish Charity No: SC038237; FCA Reg. No: 2375R(S); Property Factor Reg. No: PF000151

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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 Director of an RSL.
- 1.2 This policy and procedure sets out the processes to be followed by Pineview Housing Association's Management Committee.
- 1.3 This policy and procedure is also consistent with Pineview Housing Association's Scheme of Delegation for Committee members, confirming that delegated authority is given to the Health & Safety and Staffing Sub Committee, when required to consider complaints, grievance or disciplinary cases needing Committee involvement.

2. REGULATORY EXPECTATIONS

- 2.1 Registered Social Landlords (RSLs) are expected to:
 - Tell SHR in the event of receipt of a serious complaint or grievance about the Director.
 - Take prompt, independent and professional advice as appropriate to the event.
 - Put in place effective governance systems that set out clear procedures for dealing with such events and clarify the role of the governing body.
 - Be open and transparent about the decision-making processes.

3. EQUALITY & DIVERSITY STATEMENT

- 3.1 The Association's Equal Opportunity 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.

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 Director.
 - 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

- 5.1 If a formal serious complaint or grievance is received concerning the Director, the Chairperson of Pineview Housing Association 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 writing to ensure the issues raised are clearly stated.
- 5.2 Pineview Housing Association's Chairperson will in turn inform the SHR of receipt of the complaint in accordance with the SHR guidance note and should aim to do this as soon as is reasonably practical. Please refer to the flow chart in Appendix 1 for reference to steps to be followed.
- 5.3 The Regulator will also be told what steps the Committee 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 practical and the Chairperson will aim to do this within five working days.

6. WHO WILL HEAR THE COMPLAINT/GRIEVANCE?

- 6.1 Pineview Housing Association's Chairperson would not be expected to deal with such matters alone. Therefore a Special Staffing Sub-Committee (SSSC) will be formed consisting of a minimum of three (3) members, said members to be appointed after full consideration. Members should be selected for their skills and experience in dealing with such matters as well as their impartiality, and ideally should not be involved in any other current or recent formal processes in relation to the complainer or the Director. One member will be designated by the SSSC as Chair of the SSSC for the purposes of handling the complaint. Members of the SSSC 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 Pineview Housing Association Management Committee will 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:

- Pineview Housing Association's Management Committee retains control over the affairs of the organisation.
 - It ensures confidentiality for the Association's Director, and the complainer, as is their right.
 - Pineview Housing Association's Management Committee members know that the complaint is being handled.
 - If independent help is required then the associated costs can be authorised.
 - Pineview Housing Association's Management Committee members can monitor any emerging patterns of complaints or grievances and decide on an appropriate course of action.
 - If applicable (where the complaint is from a non-employee) any appeal can be heard by members of the Management Committee who do not have detailed knowledge about the issues.
- 6.3 Appeals against the decision of the SSSC will be dealt with as set out at 9.1 below.
- 6.4 The Management Committee will be told about the outcome of the complaint/grievance at the end of the process.

7. INDEPENDENT ADVICE AND SUPPORT

- 7.1 Due to the sensitive nature of such situations, it would be inappropriate for any Association employees to advise on the investigation or handling of a complaint/grievance against the Association's Director. Access to independent advice must therefore be sought by the SSSC.
- 7.2 Employee matters are complex and such advice will be sought from an employment law expert.
- 7.3 Appendix 2 details the Association's current employment and governance solicitors who will provide the committee with independent advice and support. The Association Chairperson or the SSSC Chairperson may ask Pineview Housing Association's Housing Services Manager for information on contact details and if requested may also assist with administrative tasks, such as arranging meetings and meeting space.
- 7.4 The SSSC 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 SSSC itself, but for matters of a complex and/or particularly serious nature the SSSC 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 SSSC, 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 SSSC 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 SSSC 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 SSSC must follow is set out below:
- a) Invite the complainer to an initial meeting with the SSSC to enable further information about the grievance to be provided, what outcome the complainer seeks, and to explain what the SSSC intends to do to progress the matter as well as the anticipated timescales. The complainer (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 complainer is a third party, they will be entitled to be accompanied by a companion. Legal advisers will not be permitted to attend with the complainer. The SSSC may allow the complainer, if appropriate and on request from the complainer, to provide such further information by way of written submission rather than in a meeting. The complainer will be sent a copy of the minutes of the meeting with the SSSC.
 - b) Decide, with the benefit of independent legal advice, if investigation is required and if so, whether the SSSC will investigate or seek an independent consultant to do so on their behalf. At this stage, the SSSC should also decide indicative timescales for the investigation and decision making process. For matters which are not particularly complex, the SSSC 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 SSSC, 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 SSSC 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 SSSC.

- e) If meetings are arranged or information is sought in writing by the SSSC 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 Director and allow them to put forward their case in response to the complaint/grievance.
 - g) Allow the Association's Director 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 SSSC'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 complainer 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 complainer will not be entitled to sight of any investigation report, witness interview notes etc.
 - k) After the complainer is advised as above but within 5 working days notify the Association's Director 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 Director that would be pursued in terms of the disciplinary procedure with the Association's terms and conditions of employment. The complainer 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)

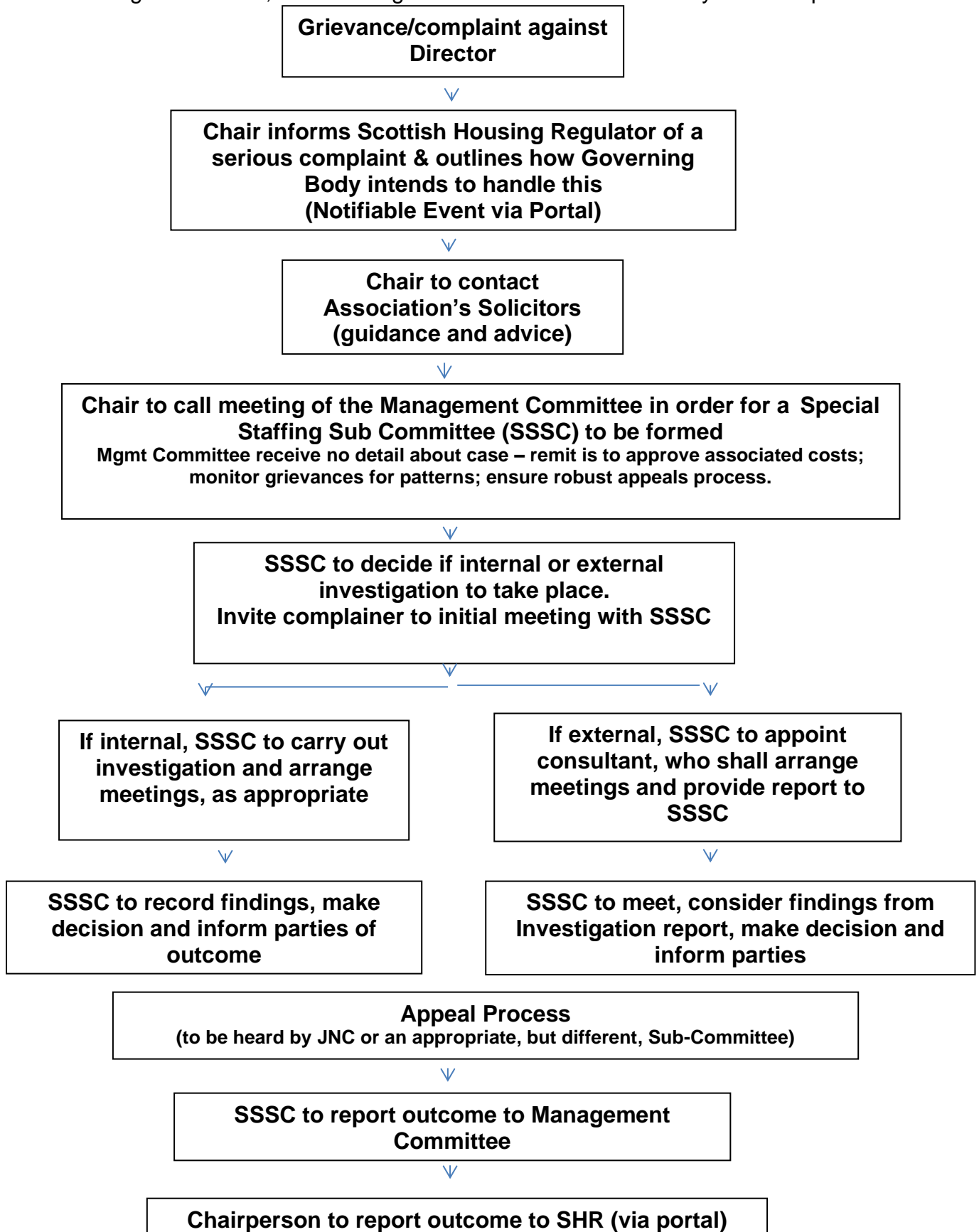
- 9.1 A complainer may appeal against the decision of the SSSC. Appeals will be dealt with by a body which did not participate in the original investigation and decision of the SSSC. An appeal should be sent within 7 days of the issue of the decision (as issued under 8.1) above to the relevant party named below.
- a) If the complainer 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.
 - b) If the complainer is not an employee, the appeal will be dealt with by members of the Management Committee who did not participate in the original investigation and decision, and the appeal should be sent to the Chair of the SSSC, who will arrange for the Management Committee to appoint an Appeal Sub-Committee.
- 9.2 If an appeal is received, the SSSC shall report that fact, and the proposed timescales for dealing with the appeal, to the Management Committee. At the same time, the Association's Chairperson should provide SHR with an update to the Notifiable Event via the SHR portal, noting the appeal and the timescales for dealing with it.
- 9.3 The SSSC shall ensure a report is provided to the Management Committee 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 Management Committee and minute of meeting it was presented to.

10. POLICY REVIEW

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 Director of Pineview Housing Association, the following flow chart shall be followed by the Chairperson.



Appendix 2 – Pineview Housing Association Employment and Governance Law Solicitors (January 2022)

BTO Solicitors

(0)141 221 8012

48 St. Vincent Street Glasgow G2 5HS

Caroline Carr, Partner

mailto:cac@bto.co.uk

Douglas Strang, Senior Associate

Mail to: dst@bto.co.uk

EVH Employment Advisors

0141 352 7435

5th Floor, 137 Sauchiehall Street, Glasgow G2 3EW

Pineview is a full EVH member and all staff terms and conditions (and associated grievance procedures) are covered by these.

- EVH Terms and Conditions of Employment is the document agreed between the full EVH employers and Unite the Union