

A meeting of the Management Committee will take place on **Thursday 28 September 2022 at 4.00pm at the Maitlandfield Hotel, Haddington**

Please advise staff if you are unable to attend

Joyce Bolan
Secretary



B U S I N E S S

1.0 GENERAL

- 1.1 Apologies
- 1.2 Declaration of Interest by Management Committee Members
- 1.3 Minutes of 24 August 2023 – **for approval**
- 1.4 Action List – for information
- 1.5 Matters Arising

2.0 GOVERNANCE

- 2.1 Election of Office Bearers – **for approval**
- 2.2 Other Management Committee Appointments – **for approval**
- 2.3 Code of Conduct and Eligibility for Membership – **for signing**
- 2.4 Secretary's Report – **for homologation**

3.0 PRIORITY ITEMS

4.0 POLICIES

- 4.1 Mutual Repairs Policy – **for approval**
- 4.2 Rent & Service Charge Policy Review – **for approval**
- 4.3 Attendance & Absence Management Policy Review – **for approval**

5.0 BUSINESS MANAGEMENT

None

6.0 ANY OTHER BUSINESS

DATE OF NEXT MANAGEMENT COMMITTEE MEETING

Saturday 25 November 2023 at 9.30am at Carberry Tower, Musselburgh
Followed by the Management Committee Away Day

Action List

Report by Martin Pollhammer, Chief Executive – for information

The table below sets out the required actions agreed at the last meeting of the Management Committee on 24 August 2023, and confirms the actions taken as a result.

Minute Ref	Action Required	Action By	Action Taken
1.5	Note the requirement for a Mutual Repairs Policy to the Action List	MP	The new Policy is presented at Agenda Item 4.1
1.5	David Rose to convey the Association's thanks and best wishes to Eamonn Connolly at EVH on his retirement	DR	Complete
2.1	Issue a Membership Certificate to Dr Wilson	GA	Complete
4.1	Amend as minuted, then update the Alcohol & Substance Misuse Policy on the ELHA file structure and in the Committee area of elha.com; update the Policy Review Calendar	ES	Complete
4.2	Amend as minuted, then update the Equality & Diversity Policy on the ELHA file structure and elha.com; update the Policy Review Calendar	ES	Complete
4.3	Add the Equality & Human Rights Strategy to the ELHA file structure and elha.com; update the Policy Review Calendar	ES	Complete
4.4	Update the Authorisations and Standard Charges / Allowances Policy on the ELHA File Structure and in the Committee area of elha.com; update the Policy Review Calendar	ES	Complete
4.5	Amend as minuted, then add the Procurement & Value for Money Strategy on the ELHA file structure and elha.com; update the Policy Review Calendar	ES	Complete
5.1	Extend training on Equality Impact Assessments and Equality & Human Rights Strategy to Management Committee members	KB	See Agenda Item 5.1

Election of Office Bearers

Report by Martin Pollhammer, Chief Executive – for approval

1.0 Election of Management Committee Office Bearers

In accordance with the Rules of the Association, the Management Committee is required to elect the following Office Bearers for the coming year at the first Management Committee meeting following the Annual General Meeting:

1. Chair
2. Vice-Chair
3. Secretary

2.0 Voting Procedure

The voting procedures are as follows:

- Nominations will be invited
- Retiring Office Bearers may stand for re-election (note the Chair cannot serve for more than five consecutive years)
- Each nomination should be proposed and seconded
- Where there is only one nomination per post, a majority of the Management Committee members present are required to approve the Office Bearer's appointment
- Where there is more than one nomination per post, a secret ballot of Management Committee Members is required to determine the elected Office Bearer

The outgoing Secretary should Chair the discussion in relation to the appointment of the Chair. Once this appointment is made, the new Chair can assume their position and Chair the discussions in relation to the appointment of other Office Bearers.

Recommendations

The Management Committee is asked to confirm the appointment of the Chair, Vice Chair and Secretary for the Management Committee year 2023/24.

Other Management Committee Appointments

Report by Brian Logan, Chair – for approval

1.0 Appointments to be Made

The Association currently has one Sub-Committee; the Audit & Assurance Committee. In addition, there are two Advisory Committees (the Health & Safety Committee and the Joint Consultative Committee (JCC)), and two Working Groups (the Remuneration Working Group and the Governance Standards Working Group).

As this is the first meeting since the Association's AGM, membership of the Audit & Assurance Committee, Advisory Committees and Working Groups should be confirmed. A minimum of three and a maximum of ten members can sit on the Audit & Assurance Committee. The Chair should not be a member of the Remuneration Working Group.

Current membership of the Advisory Committees and Working Groups are set out in **Appendix 1** to this report. The Management Committee is asked to appoint up to ten members of the Audit & Assurance Committee, and up to three members to each of the Advisory Committees and Working Groups.

2.0 Appointments to the Board of R3 Repairs Limited

The R3 Repairs Limited Board is appointed annually by the Management Committee. It consists of up to six members, three of which are expected to be Management Committee members (but can be ELHA members of staff), and three who are independent members. The R3 Repairs Limited Board can appoint Directors in between the annual re-appointment process.

There are currently three Management Committee members serving on the R3 Board, Alan Forsyth, Peter Ewart, and Iain Atkinson, and all three are prepared to stand again. ELHA does not wish to place staff members on the R3 Board unless it is unavoidable. The Management Committee needs to confirm which members of the Management Committee will sit on the R3 Board in 2023/24.

There are three independent places available on the R3 Board, with two existing serving members, in Nick Pollard, and Fiona Sheldon, and there is currently one independent vacancy on the R3 Board. The R3 Board is developing a Succession Plan and has identified a potential candidate to recommend to the Management Committee in Peter Hayman. Peter Hayman has served on Management Committee for 35 years, and is the last surviving original member, but is stepping down as a member at the AGM, which will enable him to join the R3 Board as an independent member. The two serving independent members of the R3 Board have indicated their willingness to continue. The Management Committee is asked to confirm Nick Pollard and Fiona Sheldon's re-appointment as Directors, and Peter Hayman's appointment as a Director.

2.1 Nick Pollard

Nick is currently Group Finance Director at Link Group, which has an in-house maintenance subsidiary. Nick was previously the Director of Finance & IT for Kingdom Housing Association, and prior to that, Finance Director at Argyll Community Housing Association. Nick is familiar with the regulatory, governance and financial regime of both the commercial environment as well as the social housing sector through his career.

Nick's previous experience includes being a Senior Housing Finance Consultant in Scotland with Tribal, working on several large-scale voluntary stock transfers and SHQS delivery plans, as well as experience of social housing regulation having been a social housing financial analyst / regulator in England with the Housing Corporation for four years. Nick also has an extensive knowledge of treasury finance, commercial and retail banking, having spent 14 years with Lloyds Banking Group in a variety of roles.

Nick has a degree in Business Economics and is a qualified member of the Association of Accounting Technicians. He lives in Tranent, East Lothian, with his wife and three children.

2.2 Fiona Sheldon

Fiona is well known to several Management Committee members, having been a member of the Management Committee from September 2008 until the 2013 AGM (after having previously served on the Management Committee as one of the founder members of the Association). Fiona has served on the R3 Board since its inception, initially as one of the Management Committee Members of the Board.

Fiona lives in East Lothian and is a retired solicitor, having practised in Haddington for 35 years, during which time Fiona was adviser to the Haddington Citizens Advice Bureau for 24 years.

2.3 Peter Hayman

Peter is a Founder Member of East Lothian Housing Association and has been on the Management Committee for 35 years. He was Vice-Chair of the Association for 15 years and Chair for eight years, and has also recently served as Chair of the Audit & Assurance Committee.

Peter is a retired university teacher and held the position of Vice-Dean of Faculty and Head of Department at Edinburgh University. He was formally a trustee of the Care & Repair East Lothian Charitable Trust, and Vice-Chair and a Director of Homes for Life Housing Partnership. Peter has also recently served on the Health & Safety Committee and the Joint Consultative Committee.

3.0 Care & Repair Local Advisory Committee

The Care & Repair Local Advisory Committee (LAC) normally has Management Committee representation. Eileen Shand is the current LAC Chair.

The Management Committee is asked to appoint a Local Advisory Committee member for 2023/24.

4.0 SFHA Representative Member

One Representative Member for the SFHA is required (who, if required, is able to cast the Association's vote at General Meetings). David Rose is the current representative member.

5.0 EVH Representative Member

One Representative Member for EVH is required (who, if required, is able to cast the Association's vote at General Meetings). David Rose is the current Vice-Chair of EVH and is ELHA's representative member. EVH take details of a second member who can act in the Representative Member's absence. It is proposed that this responsibility is taken by the Chair.

6.0 Care & Repair Charitable Trust

Finally, although not related to ELHA (since it is a standalone charity, so this is for information only), the Board of the Care & Repair Charitable Trust has always had some Management Committee representation. Currently David Rose serves on the Charitable Trust Board.

Recommendations

The Management Committee is asked to:

- (a) Confirm membership of the Audit & Assurance Committee (and if the Management Committee wishes, to delegate responsibility for electing a Convenor to the Audit & Assurance Committee);
- (b) Confirm the membership of the Health & Safety Committee;
- (c) Confirm the membership of the Joint Consultative Committee;
- (d) Confirm the membership of the Remuneration Working Group;
- (e) Confirm the membership of the Governance Standards Working Group;
- (f) Confirm the appointment of Directors to the R3 Repairs Limited Board;
- (g) Appoint a representative to the Care & Repair Local Advisory Committee;
- (h) Appoint a Representative Member of the SFHA;
- (i) Appoint a Representative Member of EVH; and
- (j) Confirm that the Chair acts as EVH Representative Member in the absence of the nominated Representative Member.

Audit & Assurance Committee, Working Group and Advisory Committee Membership 2023/24

Current membership of the Management Committee's Sub-Committees, Advisory Boards and the R3 Board, are set out below:

Management Committee Member	Audit & Assurance	Health & Safety	JCC	R3 Board	RWG	GSWG
Iain Atkinson	✓			✓		
Joyce Bolan	✓	✓	✓			✓
Jim Curran						
Shirley Evans						
Peter Ewart	✓*			✓	✓	
Alan Forsyth				✓*	✓*	
Peter Hayman (Retired at AGM)	✓	✓	✓*			✓
Katrina Hamilton	✓					
Brian Logan	✓					
Pamela McLeod						
David Rose	✓	✓	✓			✓
Eileen Shand					✓	
Paul Hillard	✓					

*** Current Chair**

JCC – Joint Consultative Committee

RWG – Remuneration Working Group

GSWG – Governance Standards Working Group

Model code of conduct for governing body members

Appendix A

Model Code of Conduct for Governing Body Members

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East Lothian Housing Association

Code of Conduct for Management Committee Members

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1. Introduction

- 1.1. All members of Management Committee must sign this Code of Conduct when they are elected, co-opted or appointed, and on an annual basis thereafter. References throughout this Code of Conduct (the Code) to 'we', 'us' and 'our' mean East Lothian Housing Association (ELHA). The Code reflects our Vision for Healthy Happy Homes, and our Values which are to be Honest, Professional, Reliable and Friendly.
- 1.2 We attach the greatest importance to ensuring that high standards of governance and ethical behaviour are demonstrated by all of our people and in all of our activities.
- 1.3 Our Code of Conduct sets out the requirements and expectations which are attached to your role as a member of our Management Committee. You have a personal responsibility to uphold the requirements of our Code. You cannot be a member of the Management Committee¹ if you do not agree to adopt our Code of Conduct. To confirm that you understand its requirements and accept its terms, you must review and sign this Code annually.
- 1.4 As a Registered Social Landlord (RSL), we are required to adopt and comply with an appropriate Code of Conduct². Our Code is based on the Model Code of Conduct produced by the Scottish Federation of Housing Associations, which the Scottish Housing Regulator (SHR) has confirmed fully complies with its Regulatory Standards.
- 1.5 Our Code of Conduct is an important part of our governance arrangements; it is supported by the Role description which describes your responsibilities as a Management Committee member. You are responsible for ensuring that you are familiar with the terms of this Code and that you always act in accordance with its requirements and expectations. Management Committee Members must always ensure their actions accord with the legal duties of the RSL and with regulatory guidance. You must also ensure you are familiar with any policies which are linked to this code.
- 1.6 If there is a concern that a member of the Management Committee may have breached any part of this Code, the matter will be investigated in accordance with the Protocol that we have adopted. A serious breach of our Code may result in action being taken by the Management Committee to

¹ Our Rules state that the Management Committee can remove a member who fails to sign the Code of Conduct (Rule 44.5.2); it is a regulatory requirement that our Rules enable the Management Committee to take such action (SHR Regulatory Framework (2019) Constitutional Standard 19

² Scottish Housing Regulator (2019) Regulatory Framework, [Regulatory Standard 5.2](#)

remove the Management Committee member(s) involved.

- 1.7 This Code of Conduct was adopted by our Management Committee on 30 September 2021.

2. Who Our Code Applies To

- 2.1 Our Code of Conduct applies to all elected, appointed and co-opted members of our Management Committee and its sub-committees and to the governing bodies of all subsidiaries and members of the ELHA Group.

3. How Our Code Is Structured

- 3.1 Our Code of Conduct is based on the seven principles which are recognised as providing a framework for good governance. They demonstrate honesty, integrity and probity.³
- 3.2 Each principle is described, as it applies to the activities of ELHA and its Management Committee members, and supporting guidance is offered for each to provide more explanation of our Code's requirements. The guidance is not exhaustive and it should be remembered that ELHA and our Management Committee members are responsible for ensuring that their conduct at all times meets the high standards that the RSL sector is recognised for upholding.
- 3.2 The seven principles that you must adhere and commit to by signing this Code are:

A. [Selflessness](#)

B. [Openness](#)

C. [Honesty](#)

D. [Objectivity](#)

E. [Integrity](#)

F. [Accountability](#)

G. [Leadership](#)

³ Committee for Standards in Public Life (May 1995), [Nolan Principles](#)

A Selflessness

You must act in the best interests of ELHA at all times and must take decisions that support and promote our strategic plan, aims and objectives. Members of the Management Committee should not promote the interests of a particular group or body of opinion to the exclusion of others.

- A.1** I will always uphold and promote ELHA's aims, objectives and values and act to ensure their successful achievement
- A.2** I will exercise the authority that comes with my role as a Management Committee member responsibly
- A.3** I will accept responsibility for all decisions properly reached by the Management Committee (or a sub-committee or working group with appropriately delegated responsibility) and support them at all times, even if I did not agree with the decision when it was made.
- A.4** I will consider and respect the views of others.
- A.5** I will not seek to use my position inappropriately to influence decisions that are the responsibility of staff.
- A.6** I will not seek to use my influence inappropriately or for personal gain or advantage or for the benefit of someone to whom I am closely connected⁴ or their business interests.

⁴ See Appendix 1, p13-15 for definition of "closely connected"

B. Openness

You must be transparent in all of your actions; you must declare and record all relevant personal and business interests and must be able to explain your actions.

- B.1** I will use my best endeavours and exercise reasonable skill and care in the conduct of my duties.
- B.2** I will avoid any situation that could give rise to suspicion or suggest improper conduct.
- B.3** I will declare any personal interest(s) and manage openly and appropriately any conflicts of interest; I will observe the requirements of our policy on the matter. I will keep my entry in the Register of Interests complete, accurate and up to date. I will make an annual statement to confirm my declarations are accurate.
- B.4** I will not accept any offers of gifts or hospitality from individuals or organisations which might reasonably create – or be capable of creating – an impression of impropriety or influence or place me under an obligation to these individuals or organisations. I will comply with ELHA’s policy on Entitlements, Payments and Benefits.
- B.5** I will ensure that, in carrying out my role as a Management Committee member, I am informed about and take account of the views, needs and demands of tenants and service users
- B.6** I will ensure that ELHA is open about the way in which it conducts its affairs and positive about how it responds to requests for information.
- B.7** I will not prevent people or bodies from being provided with information that they are entitled to receive.

C. Honesty

You must ensure that you always act in the best interests of the organisation and that all activities are transparent and accountable.

- C.1** I will always act honestly and in good faith when undertaking my responsibilities as a Management Committee member.
- C.2** I will use my experience, skills, knowledge and judgement effectively to support our activities.
- C.3** I will ensure that decisions are always taken and recorded in accordance with our Rules and procedures.
- C.4** I will ensure that ELHA has an effective whistleblowing policy and procedures to enable, encourage and support any staff or Management Committee member to report any concerns they have about possible fraud, corruption or other wrongdoing.⁵
- C.5** I will report any concerns or suspicions about possible fraud, corruption or other wrongdoing to the appropriate senior person within the organisation in accordance with our whistleblowing policy.
- C.6** I will comply with our policies and procedures regarding the use of our funds and resources⁶ and I will not misuse, contribute to or condone the misuse of these resources.
- C.7** We forbid all forms of bribery, meaning a financial or other advantage or inducement intended to persuade someone to perform improperly any function or activity. I will neither accept from nor give bribes or any other inducement to anyone. I will comply with our Fraud and Theft policy on bribery and will report any instances of suspected bribery or corruption within the organisation or any of its business partners.
- C.8** I will ensure that neither I nor someone closely connected to me receives or is seen to receive preferential treatment relating to any services provided by the organisation or its contractors/suppliers. I will declare all interests openly and ensure they are effectively managed to demonstrate this.

⁵ These concerns might include, but are not confined to, suspected fraud, dishonesty, breach of the law, poor practice, non-compliance with regulatory requirements, misconduct, breach of this code.

⁶ Resources include people, equipment, buildings, ICT, funds, knowledge, stationery, transport

D. Objectivity

You must consider all matters on their merits; you must base your decisions on the information and advice available and reach your decision independently.

- D.1** I will ensure that the decisions that I take are consistent with our aims and objectives and with the relevant legal and regulatory requirements (including those of the Scottish Housing Regulator, the Office of the Scottish Charity Regulator, the Financial Conduct Authority and the Care Inspectorate).
- D.2** I will prepare effectively for meetings and ensure I have access to all necessary information to enable me to make well-informed decisions.
- D.3** I will monitor performance carefully to ensure that the organisation's purpose and objectives are achieved, and take timely and effective action to identify and address any weaknesses or failures.
- D.4** I will use my skills, knowledge and experience to review information critically and always take decisions in the best interests of the organisation, our tenants and our service users.
- D.5** I will ensure that the Management Committee seeks and takes account of additional information and external/independent and/or specialist advice where necessary and/or appropriate.
- D.6** I will ensure that effective policies and procedures are implemented so that all decisions are based on an adequate assessment of risk, deliver value for money, and ensure the financial well-being of the organisation.
- D.7** I will contribute to the identification of training needs, keep my knowledge up to date, and participate in ongoing training that is organised or supported by us.

E. Integrity

You must actively support and promote our values; you must not be influenced by personal interest in exercising your role and responsibilities.

- E.1** I will always treat my Management Committee colleagues our staff, our customers and partners with respect and courtesy
- E.2** I will always conduct myself in a courteous and professional manner; I will not, by my actions or behaviour, cause distress, alarm or offence.
- E.3** I will publicly support and promote our decisions, actions and activities; I will not, by my actions or behaviour, compromise or contradict the organisation, its activities, values, aims or objectives. I will notify the Chair quickly if I become aware of any situation or event that I am associated with which could affect ELHA and/or its reputation
- E.4** I will fulfil my responsibilities as they are set out in the relevant role description(s); I will maintain relationships that are professional, constructive and that do not conflict with my role as a Management Committee member.
- E.5** I will comply with, support and promote our policies relating to equalities, diversity and human rights as well as uphold our whistleblowing and acceptable use⁷ policies.
- E.6** I will respect confidentiality and ensure that I do not disclose information to anyone who is not entitled to receive it, both whilst I am a member of the Management Committee and after I have left.
- E.7** I will observe and uphold the legal requirements and our policies in respect of the storage and handling of information, including personal and financial information.

⁷ This relates to the use of ICT, social media and networking, facilities etc., and is specific to each individual RSL.

F. Accountability

You must take responsibility for and be able to explain your actions, and demonstrate that your contribution to our governance is effective.

- F.1** I will observe and uphold the principles and requirements of the SHR's Regulatory Framework, and gain assurance that relevant statutory and regulatory guidance and ELHA's legal obligations are fulfilled.
- F.2** I will ensure that we have effective systems in place to monitor and report our performance and that corrective action is taken as soon as the need is identified.
- F.3** I will contribute positively to our activities by regularly attending and participating constructively in meetings of the Management Committee, its committees and working groups.
- F.4** I will participate in and contribute to an annual review of the contribution I have made to our governance.
- F.5** I will ensure that there is an appropriate system in place for the support and appraisal of our Senior Officer and that it is implemented effectively.
- F.6** I will not speak or comment in public on our behalf without specific authority to do so.
- F.7** I will co-operate with any investigations or inquiries instructed in connection with this Code whilst I am a Management Committee member and after I have left.
- F.8** I recognise that the Governing Body as a whole is accountable to its tenants and service users, and I will demonstrate this in exercising my judgement and in my decision-making

G. Leadership

You must uphold our principles and commitment to delivering good outcomes for tenants and other service users, and lead the organisation by example.

- G.1** I will ensure that our strategic aims, objectives and activities deliver good outcomes for tenants and service users. I will make an effective contribution to our strategic leadership.
- G.2** I will ensure that our aims and objectives reflect and are informed by the views of tenants and service users.
- G.3** I will always be a positive ambassador for the organisation.
- G.4** I will participate in and contribute to the annual review of the Governing Body's effectiveness and help to identify and attain the range of skills that we need to meet our strategic objectives.
- G.5** I will not criticise or undermine the organisation or our actions in public.
- G.6** I will not criticise staff in public; I will discuss any staffing related concerns privately with the Chair and/or Senior Officer.
- G.7** I will not harass, bully or attempt to intimidate anyone.
- G.8** I will not use social media to criticise or make inappropriate comments about the organisation, its actions or any member of the Management Committee, staff or other partners.
- G.9** I will not act in a way that could jeopardise our reputation or bring us into disrepute.⁸

⁸ This includes activities on social media, blogs and networking sites.

4. Breach of this Code

- 4.1 I recognise that each member of the Management Committee has a personal and individual responsibility to promote and uphold the requirements of this Code. If I believe that I may have breached the Code, or I have witnessed or become aware of a potential breach by another member, I will immediately bring the matter to the attention of the Chair.

5. Acceptance and Signature

I _____ have read and understood the terms of this Code of Conduct and I agree to uphold its requirements in all my activities as a member of our Management Committee. I am aware that I must declare and manage any personal interests. I agree to review all relevant Registers regularly to ensure that all entries relating to me are accurate. I understand that, if I am found to have breached this Code of Conduct, action will be taken by the Management Committee which could result in my removal.

Signed _____

Date _____

Appendix B

Further Guidance for Governing Body Members

Supporting Guidance to the Code of Conduct for Management Committee Members

This Guidance has been prepared for members of the Management Committee to support the adoption of our Code of Conduct. All members of the Management Committee must sign the Code of Conduct when they are elected, co-opted or appointed, and then on an annual basis thereafter. References throughout this Code of Conduct (the Code) to 'we', 'us' and 'our' mean East Lothian Housing Association (ELHA).

We attach the greatest importance to ensuring that high standards of governance and ethical behaviour are demonstrated by all of our people and in all of our activities. Our Code of Conduct sets out the requirements and expectations which are attached to your role as a member of our Management Committee. You have a personal responsibility to uphold both the spirit and the requirements of our Code.

Our Code of Conduct is an important part of our governance arrangements. It is supported by the Role description which describes your responsibilities as a Management Committee member and you are responsible for ensuring that you are familiar with the terms of the Code and that you always act in accordance with its requirements and expectations. Management Committee members must always ensure their actions accord with the legal duties of the RSL and with regulatory guidance. You must also ensure you are familiar with any policies which are linked to this code.

As a Registered Social Landlord (RSL), we are required to adopt and comply with an appropriate Code of Conduct⁹. Our Code is based on the Model Code of Conduct produced by the Scottish Federation of Housing Associations (2021), which the Scottish Housing Regulator (SHR) has confirmed fully complies with its regulatory requirements.

You cannot be a member of the Management Committee if you do not agree to adopt our Code of Conduct. To confirm that you understand its requirements and accept its terms, you must review and sign this Code annually. Our rules state that the Management Committee can remove a member who fails to sign the Code of Conduct (Rule 44.5.2). It is a regulatory requirement that our rules enable the Management Committee to take such action.¹⁰

Each year, following the AGM, Management Committee members will be asked to sign and date our Code of Conduct to confirm your commitment to the principles, requirements and expectations that it describes and to meet the requirements of our rules. A copy of our Code, showing your signature throughout your membership of the

⁹ Scottish Housing Regulator (2019) Regulatory Framework, [Regulatory Standard 5.2](#)

¹⁰ SHR Regulatory Framework (2019) Constitutional Standard 19

Management Committee, will be retained by us, in accordance with our Data Protection/Privacy policy.

Our Code of Conduct applies to all elected, appointed and co-opted members of our Management Committee and its sub-committees and to the governing bodies of all subsidiaries and members of the ELHA Group.

Breach of the Code

If a complaint is made or concern is raised that a member of the Management Committee may have breached any part of our Code, the matter will be investigated in accordance with the Protocol which has been approved by the Management Committee. The protocol forms part of our governance policies and is accessible in the Management Committee area of elha.com.

A potential breach will normally be formally investigated. It is the responsibility of the Chair to decide, in consultation with other office bearers, if an internal or an independent investigation should be conducted. A Management Committee member who is the subject of a complaint or concern about a potential breach of our Code is expected to take leave of absence whilst an investigation is carried out: (our Rules allow the Management Committee to require that this happens)¹¹. Whilst on leave of absence for this reason, a Management Committee member is not entitled to receive any papers or correspondence (other than in relation to the investigation) or to take part in any meetings in their role as a Management Committee member. The requirements of our Code of Conduct continue to apply throughout the term of the leave of absence.

A serious breach of our Code may result in action being taken by the Management Committee to remove the member(s) involved. This is a serious course of action which is provided for in our rules¹². It requires a majority of Management Committee members who attend a special meeting of the Management Committee to support a resolution to remove the member because of their failure to comply with the requirements of the Code or our rules, policies or standing orders. If a Management Committee member is removed as a result of such a resolution, or resigns, having been notified of the Management Committee's intention to consider such a resolution, they cannot be re-elected or appointed or co-opted to the Management Committee during the subsequent five year. A Management Committee member who has been removed cannot be elected, appointed or co-opted to the governing body of another RSL during the same period¹³.

¹¹ Rule 37.8

¹² Rule 44.5

¹³ Rule 43.1.5 / 43.1.5 /43.1.7

How the Code is structured

The Code is based on the seven principles which are recognised as providing a framework for good governance. They demonstrate honesty, integrity and probity.¹⁴

In the Code, each principle is described, as it applies to the activities of an RSL and its Management Committee Members. This guidance is offered to support the application of the Code of Conduct by providing some illustrations of the practical application of the Code's requirements. **It is emphasised that the guidance is not exhaustive.**

It must be remembered that Management Committee members and RSLs are always responsible for ensuring that their conduct at all times meets the high standards that the RSL sector is recognised for upholding.

The Principles of the Code

The seven principles of the Code are:

- A. [Selflessness](#)
- B. [Openness](#)
- C. [Honesty](#)
- D. [Objectivity](#)
- E. [Integrity](#)
- F. [Accountability](#)
- G. [Leadership](#)

The remainder of this guidance offers some illustrations of how each of the principles may be applied to your role as a Management Committee member. There are references throughout to the need for Management Committee members to 'be familiar' with the terms of policies and other documents. This does not mean that you need to know the detailed content of all the documents but rather you should be aware of their key principles and have ready access to them in the event that the detail is necessary.

A. Selflessness

This principle emphasises the importance of Management Committee members acting in our best interests at all times and taking decisions that will support delivery of our objectives. Although individual Management Committee members bring knowledge and experience to their role, you are not a representative for a specific interest or group: your experience and knowledge should inform your contribution to discussion but your decision-making should be influenced by our aims and objectives

¹⁴ Committee for Standards in Public Life (May 1995), [Nolan Principles](#)

and not individual or specific interests. In practice, this means that you must always make a conscious effort to see the bigger picture and not concentrate just on the issues that are important to you.

A1 refers to upholding our values, which are included at 1.1 in the introduction of our Code.

The principle contains a commitment to always support and uphold the Management Committee decisions and our actions (A3): if a Management Committee member were to actively undermine or publicly contradict or disagree with decisions and/or actions, this may constitute a breach. E3 of the Code contains a parallel commitment: if a decision is taken by the Management Committee that a member fundamentally disagrees with and cannot support, it may be that resignation should be considered.

This principle is not intended to prevent a Management Committee member from disagreeing with a proposal during a meeting or from recording their dissent from a decision; rather it is intended to ensure that no member of the Management Committee actively and/ or publicly undermines the organisation. In practice, this means, for example, that you should not question in public why a decision was taken or criticise the organisation. It is only if a Management Committee member actively undermines or disagrees with a decision or action that a breach of the Code may arise. A similar provision is contained in the Code of Conduct for staff.

A4 specifies that Management Committee members will always be respectful to others: this means, among other things, that you must uphold and be familiar with our policies relating to Equalities and Human Rights and Dignity at Work. This requirement relates to all of your engagements with Management Committee colleagues and staff, tenants and customers, partners and agents. In practice, this means listening to and considering other views and respecting opinions even if they are very different from your own. It also applies to wider conduct: E1, E2 and E3 are specific about the responsibilities of Management Committee members to ensure that they do not bring the organisation into disrepute.

The Code stresses that Management Committee members should not stray into operational matters or seek to use their influence (A6) inappropriately or for personal gain. This means that Management Committee members should always refer individual matters relating to themselves or someone they know or in which they have an interest to the relevant member of staff or to the Chief Executive for onward delegation.

B. Openness

This principle sets the framework for ensuring that, in all of our activities and in all your actions, transparency and openness are evident. In practice, this means that you must identify and declare all personal interests which are relevant to our work and to your role with us. You must be familiar with the process for declaring interests and you must make sure that the Register of Interests is accurate and up to date at

all times. You must ensure that you are well informed about our policy on declaring interests, which forms part of our EPB (Entitlements, Payments and Benefits) Policy (B3).

You must always be careful and cautious about how your actions may be viewed by others and take care to avoid anything which could compromise or embarrass you or us (B2). In practice, this means that you cannot accept gifts or hospitality that are not permitted by our Entitlements Payments and Benefits policy.

B5 reflects the requirements of SHR's regulatory standard 2 by emphasising the importance of Management Committee members being well-informed about the needs and priorities of tenants. In practice, this may include considering information from Tenant Scrutiny groups, monitoring tenant satisfaction and landlord performance data, offering/considering insight provided from individual Management Committee members' experiences of their landlord. Management Committee members should use this information to inform their consideration of the business that is brought to the Management Committee.

We are covered by the requirements of the Freedom of Information (Scotland) Act and the SHR's Regulatory Framework requires us to be open and accountable for what we do¹⁵. As a member of our Management Committee, you are responsible for ensuring that we comply with these legal and regulatory requirements: in practice, this means monitoring our compliance and ensuring that we communicate openly and respond effectively to tenants, customers, regulators, funders and partners.

The Management Committee should oversee a culture of openness throughout the organisation – in our communications, access to our website, engagement with tenants and customers and willingness to provide information and answer questions. In practice, this means working on the basis that information will be made available unless there is a good reason for it being withheld. At the same time, you must also ensure that confidentiality is respected (B6 and B7 require that information is made available but E6 also requires that confidentiality must be ensured). This means that it is important for **Management Committee** members to be involved in agreeing the policy framework that supports how we categorise information.

C. Honesty

This principle emphasises the importance of always acting honestly and in good faith in undertaking your role as a Management Committee member; it also supplements the principle of Openness. To uphold this principle, you should ensure that you are familiar with our rules, standing orders and scheme of delegation, as well as our governance policies and procedures (C3).

C4 requires you to be aware of the terms of our Whistleblowing Policy: in practice, this means that the Management Committee, collectively, must be assured that the policy is fit for purpose (SHR has issued Statutory Guidance on Whistleblowing) and

¹⁵ Regulatory Standard 2 (SHR Regulatory Framework 2019)

that there is regular training provided for Management Committee members and staff on its terms. Management Committee members must also ensure that there are effective procedures in place for whistleblowing allegations to be made and investigated, with adequate safeguards in place to protect complainants.

Management Committee members have an individual duty to report any concerns that you may have about possible fraud, corruption or wrongdoing (C5 and C7). You must, therefore, be familiar with the terms of our Fraud and Theft policy. You are expressly forbidden to accept any gifts or other inducements which might create, or be capable of creating, a sense of obligation to another party.

C6 stresses your commitment to ensure that our funds and resources are used properly and for legitimate purposes. This means that decisions about what we do and how we act must fit with, amongst other things, our permitted purpose, and objectives, our business plan and the terms of our loans and grant-making authorities.

C8 further emphasises¹⁶ your responsibility to ensure that neither you nor someone closely connected to you is seen to benefit inappropriately from your role with us and to be very open in declaring all relevant personal interests. In practice, this means ensuring that you are not involved in any decisions which personally impact or affect you or someone you are close to.

D. Objectivity

This principle is about the need to ensure that you make decisions based on an objective consideration of the information that is presented to you in reports. In practice, this means that you must be satisfied that you have access to all of the information you need to fulfil your responsibilities, whilst – at the same time – being mindful of and respecting the distinct roles of Management Committee members (strategic) and senior staff (operational).

D1 reflects the provisions of Regulatory Standard 1 by committing Management Committee members to ensuring that decisions are consistent with all legal, constitutional and regulatory requirements. This means that Management Committee members must be familiar with these provisions. Reports should refer and draw attention to the relevant legal, regulatory and financial constraints/conditions, with Minutes recording that these have been adequately considered.

D2 is explicit about the importance of preparing adequately for meetings – our role description contains an indication of the time that is likely to be involved in meeting preparation. Preparation includes reading all of the reports and also accessing any additional information that may be available (e.g. supplementary reports) and which you feel is necessary. This might also involve the Management Committee requesting that specialist or independent advice is obtained (D5 and Regulatory Standard 4.1) – and individual members being aware of when it is appropriate and/or necessary to do so (D5).

¹⁶ A6 and B3 are also relevant

D6 describes the responsibility of Management Committee members to ensure that the organisation has an effective and robust framework for assessing and managing risk: this includes being satisfied about the delegation of authority, operation and reporting of e.g. the Audit and Risk sub-committee. It also relates to the operation of financial regulations and the effectiveness of financial planning, budget preparation, forecasting and reporting. Regulatory Standard 3 is relevant to this principle.

In order to be objective, Management Committee members must be well-informed about the organisation's business and operating environments as well as the sector and economic policy and strategy contexts. D7 commits Management Committee members to participate in regular training to keep their knowledge up to date. Of course, no one is expected to be an expert in everything but there is an expectation that each Management Committee member will help to identify their own ongoing training needs and the priorities for the Management Committee collectively – this will be an element of the annual review of the Management Committee's effectiveness (as required by Regulatory Standard 6.5).

E. Integrity

This principle focuses on the importance of always acting in our best interests and actively promoting our values, aims and objectives and reflects many of the other principles in the Code.

E1 and E2 echo A4: Management Committee members must be respectful and courteous in all that you do: in practice, this means being prepared to 'agree to disagree' when strong opinions are held and being tolerant of views and perspectives which might be very different from your own. It also means recognising and acknowledging that what's acceptable in terms of language and conduct change and being mindful that differences in cultures, faiths and beliefs can be very significant and sensitive.

E3 complements A3 in terms of publicly promoting and supporting us and our activities but it also includes a commitment to notify the Chair as soon as you become aware of anything that might compromise us or our interests. In practice, this might include being associated with, for example, a community council's opposition to a planning application that we have made or being involved in something that may become public and which could embarrass us.

E4 refers to the role descriptions that we have adopted: all Management Committee members must be familiar with the terms of their role description and, for office bearers, there will be more than one. In practice, this principle seeks to ensure that relationships are professional: amicable and constructive with respect for the boundaries between the strategic role of the Management Committee member and the operational responsibilities of senior staff.

E5 complements A4 and is a specific commitment to uphold our Equality and Diversity and Whistleblowing policies: this reflects the regulatory requirement for us to have a whistleblowing policy and the Regulatory Standard that requires 'clear procedures for employees and governing body members to raise concerns or

whistleblow if they believe that there has been fraud, corruption or other wrongdoing within the RSL'¹⁷

E6 and E7 relate to confidentiality and the importance of maintaining it. This applies to the content of reports, discussions at Management Committee and committee meetings and all other business that you have access to in your role as a Management Committee member. Upholding this principle requires you not to discuss anything that is identified as being confidential with anyone who is not entitled to the information; it also means making sure that any papers are stored securely (e.g. by means of passwords on laptops or other devices, in a locked drawer) and that on-line discussions can't be overheard (e.g. if attending a virtual meeting). In applying this principle, you must also be mindful of our duties in respect of safeguarding personal information i.e. anything from which an individual can be identified.

F. Accountability

This principle is about the importance of taking personal responsibility for your contribution to our governance. In practice, this means being active in your role as a Management Committee member – asking questions, critically reviewing information and monitoring performance and participating in strategy and planning events (F3).

F1 is a specific commitment to upholding legal and regulatory requirements: in practice, this means that you should feel assured and satisfied, as far as you reasonably can, that we are compliant with our legal and regulatory obligations as well as our own internally set standards. Your assurance will come from your participation in our governance – the reports, discussions, external advice and audits that you are asked to consider and which form the evidence for the Management Committee annual Assurance Statement (F2).

As a Management Committee member, you are expected to participate in an annual review of the effectiveness of your own contribution (F4) and of our overall governance (G4). As well as being a principle of the Code, this is also a regulatory requirement (Regulatory Standard 6.3, 6.3).

F6 places a responsibility on each Management Committee member to be assured that there is an effective process in place to appraise the Chief Executive's performance: in practice, this also means ensuring that the Chief Executive is adequately supported as well as being held to account for the achievement of both corporate and individual objectives. Management Committee members must also be satisfied that the Chief Executive's annual appraisal is carried out effectively and that its outcome is reported to the Management Committee.

Our Scheme of Delegation identifies who is authorised to make public comments on our behalf; it is not normally appropriate for an individual Management Committee member to speak in public without prior agreement from the Chair. This includes, for example, accepting an invitation to contribute to a conference or event because of

¹⁷ Regulatory Standard 5.6

your role with us. The Code's principles also extend to social media activities (F7, G7).

F8 is a specific commitment to participate in and co-operate with any investigations that may be instructed relating to the Code, involving you either directly or as a witness. This obligation extends beyond your term of membership of the Management Committee which means that your co-operation may be requested when you are no longer a member of the Management Committee. It is unlikely that you would be asked to contribute to any such investigation more than two years after you have left.

As a RSL, we are accountable to our tenants and service users for our actions: F9 requires Management Committee members to ensure that the best interests of tenants and service users guide planning and decision-making. In practice, this means being informed and taking account of the views of tenants and service users in all aspects of your role and ensuring that reports contain sufficient information to give you assurance that proposals are similarly informed before you make a decision.

G. Leadership

The role of the Management Committee is to lead and direct the organisation to deliver good outcomes for our tenants and service users¹⁸. This section of the Code sets out some specific expectations about that part of your role. It also stresses the importance of Management Committee members leading by example and making a positive and active contribution to our governance (G1, G2).

G3 echoes A3 and E3 by specifying your responsibility to be positive in your support for us and our work. In practice, this means representing us positively both when acting on our behalf and in your wider activities.

G4 complements the individual focus of F4 by being explicit that the governing body should review the overall effectiveness of its governance arrangements: this forms part of our annual review process, which also includes a review of the range of skills, knowledge and experience that the Management Committee collectively needs to fulfil its responsibilities. Management Committee members have a responsibility to contribute to the process of identifying any gaps and the best means of filling them (D7)¹⁹.

G5 supports G3 (and A3 and E3) by being explicit that you should not criticise us, our people or our actions in public. This does not mean that you cannot be critical or raise concerns – that is a key part of your responsibility as a Management Committee member – but you should always be constructive and objective in your challenge and criticism, which should be expressed at meetings and in discussions and with the relevant people, in accordance with our structures and procedures.

G6 is a specific commitment not to criticise or undermine (or appear to undermine) members of staff (individually or collectively) in public (including to e.g. tenants or

¹⁸ Regulatory Standard 1

¹⁹ Regulatory Standard 6.5

partners). Any concerns which you have should be raised directly and privately with the Chair or Chief Executive.

G7 echoes provisions in the Staff Code regarding bullying and harassment.

G8 supplements the principle at F7 by making specific reference to social media activity: all of the provisions of the Code apply to your presence on all social media platforms.

As someone who is responsible for leading our organisation, it is essential that Management Committee members are not associated with anything that could compromise us or bring us into disrepute. G9 echoes the provisions that are set out at E3 and E4. In all that you do, you must be mindful of any potential negative impact on us and, if you become aware of anything that could affect us, you must bring it to the attention of the Chair quickly (E3).

Appendix C

Model Protocol for Dealing with a Breach of the Code of Conduct

ELHA Protocol for Managing an Alleged / Suspected Breach of Code of Conduct

1. Introduction

- 1.1 This protocol will be used by ELHA to deal with any alleged breaches of our Code of Conduct for Governing Body Members. It is based on the Model Protocol provided by SFHA.

2. Who is Responsible?

- 2.1 The Chair has delegated authority to deal with all potential breaches of the Code, unless the allegation relates to him/her. In that event, the Vice Chair should take on the responsibilities that the protocol allocates to the Chair. It may be necessary to ask other members of the Management Committee to take on responsibilities should the allegation relate to both the Chair and Vice Chair.
- 2.2 The Chair should consult with other office-bearers (or members of the Management Committee) to instruct, progress and conclude internal and external investigations carried out in accordance with this protocol.
- 2.3 The Scheme of Delegation identifies who has primary responsibility for overseeing the management of alleged breaches of the Code of Conduct.

Delegated Authority to Oversee Potential Breaches	Any two from the following (must include at least one Management Committee member)
Management Committee	Chair, Vice-Chair, Secretary, Audit & Assurance Committee Convenor
Senior Staff	Chair, Vice-Chair, Chief Executive, Other SMT members

- 2.4 No one who is directly involved in a matter that gives rise to a concern that there may have been a breach of the Code of Conduct should be involved in reviewing or managing/conducting an investigation of the matter. Consequently, it may be necessary to ask other members of the Management Committee to take on the responsibilities that the Protocol allocates to the Chair and other office bearers.
- 2.5 The Chair may seek advice from our solicitors in exercising all of the responsibilities associated with this protocol.

3. What Constitutes a Breach?

- 3.1 A breach of the Code of Conduct is a serious matter. This Protocol is a process that will apply to managing and/or responding to alleged breaches of the Code of Conduct. Breaches can include:
- Conduct by a Management Committee member during a meeting (which might involve a member being obstructive, offensive or disregarding the authority of the Chair or failing to observe Standing Orders)
 - Complaints that the conduct of a Management Committee Member has failed to meet the requirements of the Code of Conduct; is contrary to ELHA's Values, Rules or policies; threatens the reputation of ELHA; risks bringing the organisation into disrepute or undermines ELHA and/or its people
 - Inappropriate behaviour towards colleagues, staff, customers or partners
- 3.2 Some complaints and/or concerns may relate to relatively minor matters, whilst other may involve more significant issues. Consequently, different approaches are likely to be appropriate, depending on the details of individual circumstances, recognising that it may not always be appropriate to undertake a formal investigation in response to an isolated and/or relatively minor issue.

4. Initial Review to Determine if Further Investigation Required

- 4.1 When a complaint is received or a concern is raised, consideration should be given as to which is the most appropriate course of action. This may (but may not) require some initial review of the complaint or allegations before concluding on a specific approach. The review should be carried out by those members of the Management Committee appointed in accordance with 2.2 of this Protocol, with support from the Chief Executive if required.
- 4.2 It may be that such a review concludes that there is no substance to the concern or allegation. Depending on the circumstances, it may be appropriate to report the outcome of such a review to the Management Committee. This might be the case, for example, if an anonymous complaint is received which cannot be investigated because of a lack of information.
- 4.3 Anonymous complaints or allegations can be difficult to resolve but, in the event that anonymous information is received or made known, an initial review should be undertaken to establish whether there is the potential for any substance to the concern. If so, an investigation should be undertaken, although it is recognised that it may not be possible to conclude

any such investigation satisfactorily.

- 4.4 Minor issues, actions or conduct at an internal meeting or event are unlikely to constitute a breach of the Code of Conduct that warrant investigation. The Chair (and other office bearers) should exercise their judgement in determining which of the courses of action set out in this Protocol is more appropriate.
- 4.5 Two routes are described in this Protocol: Route A and Route B.
- 4.6 SHR requires that alleged breaches of the Code which are to be investigated under either Route A or Route B must be regarded as Notifiable Events, in accordance with the terms of the SHR's Statutory Guidance. The Chair is responsible for ensuring that the necessary notifications are made to the Scottish Housing Regulator, and that the SHR's requirements (as set out in the relevant guidance²⁰) in terms of reporting the outcome of the investigation are met.

5. Route A

- 5.1 Route A is an internal and informal process to address potential minor breaches. This is intended to be a relatively informal process, used to address e.g. one-off discourtesy at an internal meeting, isolated or uncharacteristic failure to follow policy.
- 5.2 Alleged breaches that occur during the course of a meeting or other internal event (and which have not happened before) will, unless the Chair believes it to be serious, be dealt with by the Chair of the meeting, either during the meeting/event and/or within 24 hours of the meeting. In these circumstances, the Chair may ask the member to leave the meeting or a vote may be taken to exclude the member from the rest of the meeting.
- 5.3 After the meeting, the Chair or sub-committee Convenor will discuss such behaviour with the member and may require the member to apologise or take such other action as may be appropriate (Route A). Where the Chair regards such behaviour as being serious, it should be investigated in accordance with Route B as will repeated incidents of a similar nature.
- 5.4 It may be appropriate for the Chair to record the terms of the discussion in a letter to the Management Committee member e.g. to confirm the provision of training or support or to record a commitment to uphold a specific policy or to record an apology.
- 5.5 It is possible that a concern that it is initially agreed can be addressed via route A ends up being the subject of a formal investigation, if more

²⁰ Scottish Housing Regulator (2019) [Notifiable Events guidance](#)

significant issues emerge, or actions are repeated.

6. Route B

- 6.1 Route B will involve formal investigation of repeated breaches or an alleged significant/major breach. Investigations may be conducted internally or independently, according to the circumstances and people involved.
- 6.2 An investigation under Route B will usually be overseen by the Chair and another office-bearer or Management Committee member.
- 6.3 The Chair or office-bearer, in consultation with the other office-bearers, will decide whether to instruct an independent investigation or carry out an internal investigation.
- 6.4 In the event that the Chair or other office-bearer is the subject of a complaint, an independent investigation should be conducted, overseen by the Vice-Chair and another Management Committee member.
- 6.5 If the Chair is likely to be involved in an investigation (e.g. as a witness), it will be necessary for the office bearers to consider who should be involved in overseeing the investigation.
- 6.6 The Chief Executive can support the implementation of the Protocol (unless involved in the issue, in which case the role should be assigned to another senior member of staff).
- 6.7 Our scheme of delegation identifies who has primary responsibility for overseeing the management of alleged breaches of the Code of Conduct (see section 2.3)
- 6.8 Allegations of a potential breach should normally be made to the Chair or, where the complaint relates to the Chair, to another office-bearer. Where a complaint is made to the Chief Executive, the matter should immediately be notified to the Chair.
- 6.9 Alleged breaches may be the subject of written complaints or allegations; they may also be witnessed by someone. However the alleged breach is identified, the Chair and Secretary should ensure that there is always a written statement of the complaint or allegation that is used as the basis for the investigation. If no written complaint is made, the statement of the matter should be prepared by someone unconnected to the event/situation (e.g. a verbal complaint made by a Management Committee member should be recorded by someone who was not present when the issue arose – this could be a member of staff).
- 6.10 The Management Committee member who is the subject of the complaint/allegation that is to be investigated will be notified in writing of the

alleged breach within seven working days, either of occurring or of receipt of the complaint. A Management Committee member who is subject to an investigation should take leave of absence until the matter is resolved. Rule 37.8 of the 2020 Model Rules contain the provisions to secure this. The letter will inform the Management Committee member of the nature of the potential breach, the arrangements for the investigation and will advise that leave of absence will be in place for the duration of the investigation. Management Committee members are expected to co-operate with such investigations²¹.

- 6.11 An alleged breach of the Code of Conduct which is being dealt with via Route B will be notified to the Management Committee, normally by the Chair or Secretary, within seven working days, either of occurring or of receipt of the complaint. The notice (which should be confidential) will not describe the detail of the complaint and will set out the proposed arrangements for investigation, including who will conduct the investigation and which members of the Management Committee are responsible for its oversight.
- 6.12 The appointment of an external Investigator (when it is decided to be the appropriate response) should be approved by the Management Committee members responsible for overseeing the investigation.
- 6.13 An internal investigation (when it is decided to be the appropriate response) will be carried out by at least two and not more than three Members of the Management Committee, who are not responsible for overseeing the investigation. In selecting the Management Committee members, we will seek to ensure that the investigators represent the profile of the Management Committee.

7. Investigation Under Route B

- 7.1 The conduct of an investigation should remain confidential, as far as possible, in order to protect those involved (witnesses, complainant(s)) and the Management Committee member(s) who are the subject of the complaint.
- 7.2 All investigations will be objective and impartial. Investigations will normally be investigated by an independent person, unless it is decided that an internal investigation is appropriate.
- 7.3 Investigations should not usually take more than six weeks to conclude.
- 7.4 The investigator(s) will be supported by the Chief Executive (or other senior member of staff if the Chief Executive is involved in the complaint). The Chair and other office-bearer, with any support they feel necessary, will brief the

²¹ Code of Conduct F7

agreed advisor/investigator and then consider their recommendations at the end of the investigation, before reporting to the Governing Body.

- 7.5 All investigations will be the subject of a written brief which sets out the Management Committee's requirements and which includes the statement of the alleged breach (scope, timescale, reporting requirements, access to information etc.). The brief may refer to any action previously taken that is relevant.
- 7.6 All investigations will include at least one interview with the Management Committee member who is the subject of the allegation, who will be invited to provide any relevant information. The interview(s) may be conducted face to face or remotely (by telephone or video call). Management Committee members may be accompanied during an interview by a friend (at their request), as a companion to provide support and not to represent. It is not appropriate for another Management Committee member to fulfil this role nor is it appropriate for the RSL to meet any costs (other than reasonable expenses as provided for in the relevant policy) in respect of a companion's attendance.

8. Considering the Outcome of the Investigation

- 8.1 The advisor/investigator will normally present their report to the Management Committee. Before doing so, the report will be reviewed by those overseeing the investigation to ensure that the Brief has been met and that the report is adequate to support the Management Committee's consideration and decision making.
- 8.2 The Management Committee member whose conduct is being investigated will not be party to any of the discussions relating to the investigation.
- 8.3 The report will be considered at a meeting of the Management Committee, which may be called specifically for this purpose. It is the responsibility of the Management Committee to consider the report and findings from the investigation and to determine:
- Whether there has been a breach
 - How serious a breach is
 - What action should be taken
- 8.4 The Management Committee will report the findings of the investigation and the proposed action to the member concerned within seven days of the meeting at which the report of the investigation was considered.

9. Action to Deal with a Breach

- 9.1 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:
- A discussion with the member concerned (which may be confirmed in a subsequent letter)
 - advice and assistance on how their conduct can be improved
 - the offer of training or other form of support
 - a formal censure (e.g. in the form of a letter setting out the conclusions, expressing concern and specifying that there must be improvement / no repetition etc)
 - a vote to remove the Member from the Management Committee
- 9.2 Where, it is concluded that a serious breach has occurred, the Management Committee may require the member to stand down from their position in accordance with the Rules.
- 9.3 If the Management Committee proposes to remove a member, following investigation, the member will have the right to address the full Management Committee before their decision is taken at a special meeting called for that purpose. Any such decision must be approved by a majority of the remaining members of the Management Committee, in accordance with Rule²² (44.5)
- 9.4 A record of the outcome of an investigation will be retained in the Management Committee member's file at least 12 months.
- 9.5 The outcome of any investigation will be notified to the Scottish Housing Regulator, in accordance with the requirements of the Notifiable Events Statutory Guidance.

10. Definitions

- 10.1 ELHA will regard the following actions as a "serious breach" of the Code of Conduct (this list is not exhaustive):
- Failure to act in our best interests and/or acting in a way that undermines or conflicts with the purposes for which we operate.
 - Support for, or participation in, any initiative, activity or campaign which directly or indirectly undermines or prejudices our interests or those of our service users, or our contractual obligations.
 - Accepting a bribe or inducement from a third party designed to influence the decisions we make.
 - Consistent or serious failure to observe the terms of the Code of Conduct.
 - Serious inappropriate behaviour towards a colleague, member of staff, tenant, customer, partner or stakeholder

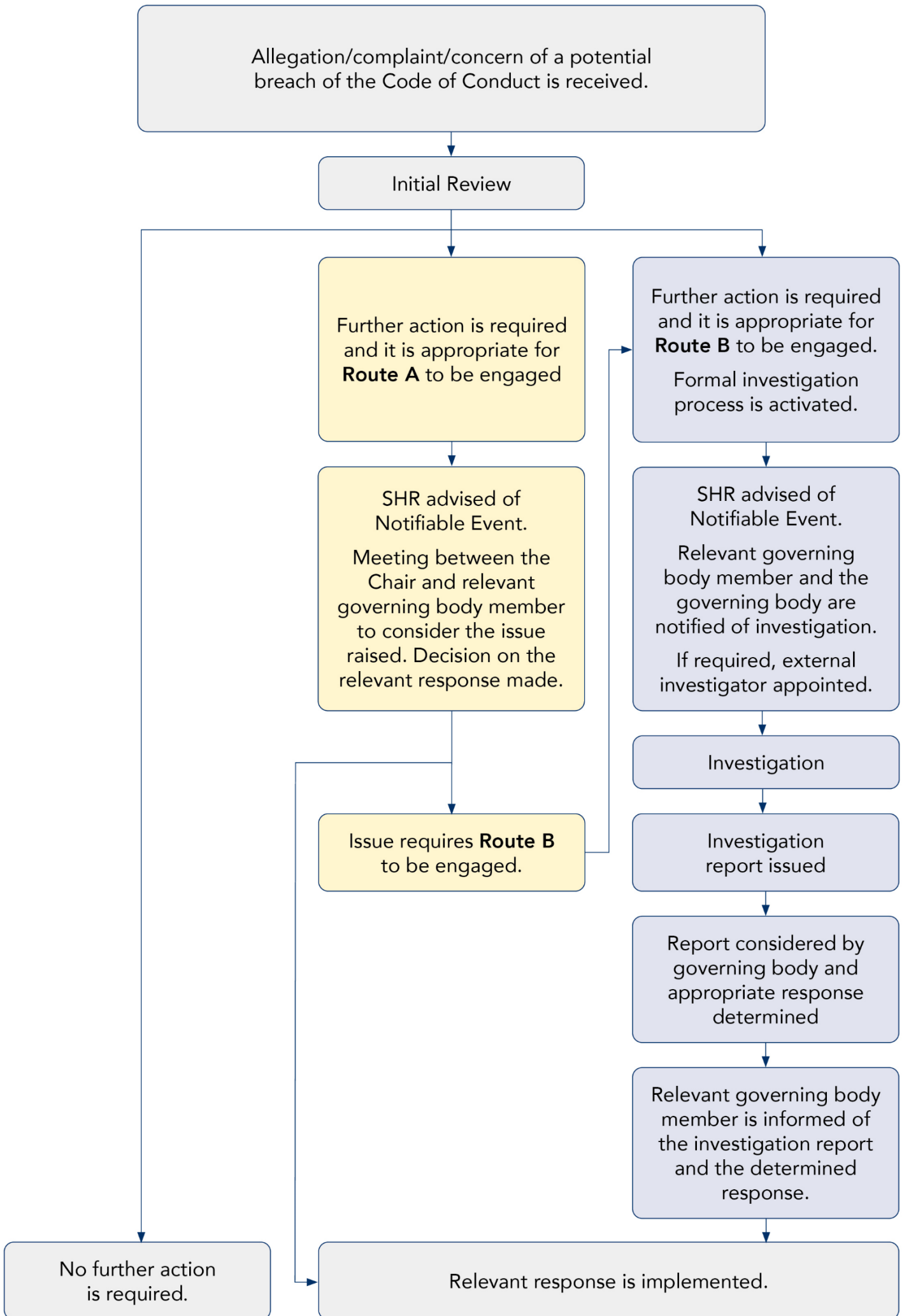
²² SFHA Model Rules (2020)

11. Approval and Review

- 11.1 This protocol was approved by the Management Committee of ELHA on 30 September 2021. It will be reviewed as and when the Scottish Federation of Housing Association's (SFHA) issue any updates to the Model.

Appendix D

Flowchart Summarising Protocol Process



Code of Conduct and Eligibility for Membership

Report by Martin Pollhammer, Chief Executive – for signing

**Please refer to Section 3 on page 2 of this report
for details of how to complete the declarations you are required to make**

1.0 Code of Conduct

Each Management Committee Member has a personal responsibility to uphold the requirements of this Code and must agree to adopt the Code of Conduct to continue in their role of a Management Committee Member. A requirement of the Code of Conduct is that each Management Committee Member must review and sign this Code annually.

Part of the Code of Conduct requires Management Committee Members to declare any interests which will then be recorded on a Register of Interests. These are normally declared when appointed as a Management Committee Member. However, it is the Management Committee Members responsibility to ensure that this is kept up to date. Any failure to make a complete, accurate and prompt declaration - whether deliberately or through taking insufficient care - will be regarded as a breach of this Code.

The Code of Conduct document is attached to this report. The model document was last updated by the Scottish Federation of Housing Associations (SFHA) in April 2021, and this revised document was formally adopted by the Association on 30 September 2021.

Each Management Committee Member is required to sign page 12 of the Code of Conduct and complete (or leave blank as appropriate) and sign the Declaration of Interest Form enclosed with this paper.

2.0 Eligibility for Management Committee Membership

Under Rules 43 and 44 of the SFHA Charitable Model Rules (Scotland) 2020, Management Committee Members are reminded that there are qualifying criteria for serving on the Management Committee. Please note that you cannot remain, be elected, or be re-elected onto the Association's Management Committee if any of the criteria under Rule 43 apply.

Rule 44 also sets out when you are no longer regarded as a Member of the Management Committee. The details of the eligibility criteria are set out in Eligibility for Management Committee Membership form, which also needs to be completed and signed.

3.0 Completing the Annual Declarations

Enclosed in a separate envelope with your Management Committee papers are the following documents:

1. A personalised Declaration of Interest form (showing any declarations you currently have on file)
2. A blank page 12 (the signing page) from the Code of Conduct
3. An Eligibility for Management Committee Membership form
4. A reply paid envelope

Please either return these signed declarations to Eric Stoddart, Executive Support Officer, by 28 September 2023, or hand the completed forms to Eric at the meeting. Failure to complete and return the documents means that you will be unable to continue to serve as a Management Committee member.

Secretary's Report – for homologation

1.0 Membership

No new applications for membership have been received.

2.0 Use of Seal for Homologation

Membership certificate issued to [REDACTED]
[REDACTED] – Certificate Number 384.

Recommendation

The Management Committee is asked to homologate the use of the Seal.

Mutual Repair Policy

Report by Charlie Cooley, Director of Asset Management – for approval

1.0 Introduction

The Chargeable Repair Policy was reviewed by Management Committee on 23 March 2023, when it was agreed that sections relating to mutual repairs should be removed and placed in a separate **Policy Document**, which is attached to this report.

2.0 Proposed Changes

There are no proposed changes to the procedures for dealing with mutual repairs however the following information has been added at Section 1.0 and Section 2.0 to provide some context:

When the Scottish Government enacted the Property Factors (Scotland) Act 2011 (which requires anyone acting on behalf of owners to register and comply with the Property Factors Code of Conduct), advice was sought from Anderson Strathern regarding the Large Scale Voluntary Transfer (LSVT) stock the Association had acquired in 1996. Much of this stock has been sold under the Right to Buy which has led to the Association being the minority owner in all but one of those estates. With the exception of Whitecraig (where the Association has registered as factor), the Association wrote to all owners to confirm it was not a factor and that it had no intention of being one.

Homeowners were also advised that their Deeds of Conditions specified that each had a responsibility for the maintenance, repair and renewal of the Common Areas within the estate they lived, which are defined as roadways, pavements, curbs, laybys, pedestrian ways, parking areas and open spaces (including play areas and areas of hard or soft landscaping), except where they are maintained by the local authority.

The Association used to arrange and pay for the maintenance of communal landscaped areas within many of the former Scottish Homes' developments, however in 2009 it paid East Lothian Council to assume ownership of these areas along with responsibility for their maintenance.

Unfortunately, it was unable to reach a similar agreement with the Council covering the hard landscaping (pavements, curbs etc), and it was decided that the Association would not maintain these as they have no means of recovering a proportion of the cost. Furthermore, it was confirmed that if someone is injured or suffers a loss as a result of the Common Areas not being maintained, liability under statute may lie with the Association as owners.

However, if any claims for damages are made against ELHA as owners of the common areas it has the right to bring homeowners into any claim or court action as their parties on the basis that under the deed of conditions, they are liable for maintenance and repair.

Recommendation

The Management Committee is asked to approve the Mutual Repair Policy.

ELHA POLICY

Date Issued	September 2023
Last Reviewed	n/a
Department	Asset Management
Title	Mutual Repairs Policy
Objective	To minimise the loss of income through the prompt and effective recovery of mutual repair costs.
Responsible	Director of R3 & Asset Management
Next Review Date	September 2028

1.0 Introduction

- 1.1 The Property Factors (Scotland) Act 2011 requires anyone acting on behalf of owners to register and comply with the Property Factors Code of Conduct. Whilst we are a registered factor in terms of the legislation, we are not registered to factor any of the properties that we bought from Scottish Homes (previously the Scottish Special Housing Association) through a Large Scale Voluntary Transfer (LSVT) except for the properties in Whitecraig, where we are the majority owner. More information on factoring can be found in our Factoring Services Policy [Factoring Services Policy](#).
- 1.2 Though we are not a factor for the LSVT developments, we may on occasion carry out a mutual repair in a blocks of flats where we are the majority owner, for the benefit of our tenants. We will do this in consultation with owners unless it is an emergency repair, for health and safety reasons and to protect the property.
- 1.3 If we do have to instruct work we will take reasonable steps to recover costs from mutual owners. We will consider the potential costs in time and money to the Association when trying to recover costs.
- 1.4 We will not charge mutual owners for shared costs without their written agreement, except for emergency repairs carried out to safeguard the occupants and protect the property.
- 1.5 We will encourage mutual owners to carry out repair work when we are the minority owner and will pay our share of the agreed costs. However, we will consider a request from the majority owners to provide a cost for the work and may carry out the work on their behalf provided we have the written agreement of all owners (see also paragraphs 2.4 and 2.5).
- 1.6 We will not arrange or pay for works to hard landscaping within the estates (See Section 2.0).

2.0 Context

- 2.1 When the Right to Buy was introduced in 1980, Scottish Special Housing Association (SSHA), which at that time owned housing stock in East Lothian, prepared a standard Deed of Conditions attached to the sale of each property specifying that each proprietor within a feuing area would be responsible for a share of the maintenance, repair or renewal of “roadways, pavements, kerbs, laybys, pedestrian ways parking areas and open spaces (including play areas and areas of hard and soft landscaping...)” except where they were maintained by the local authority. The Deed of Conditions also provided that as long as it owned a majority of the houses within the feuing area, SSHA or its successors had the right to carry out repairs to these areas and charge a share of the cost to each proprietor. Although there have been several changes to the law since 1980 these conditions still apply to all owners of former SSHA properties.
- 2.2 In 1996 East Lothian Housing Association bought all the remaining SSHA properties in East Lothian from SSHA’s successors Scottish Homes through a Large Scale Voluntary Transfer. By that time the majority of the properties in all but one of the areas had been sold and so, as a minority owner, we are now in a situation where although we may have to instruct and pay for work to the communal areas for the benefit of our tenants, we have no legal right to charge for the work.
- 2.3 Although we have legal title to the Common Areas in the LSVT estates (apart from the soft landscaping area which we conveyed to East Lothian Council) we are not responsible for arranging or paying for work to the Common Areas. This responsibility lies with all homeowners in terms of the Deed of Conditions.
- 2.4 If someone is injured or suffers loss as a result of the areas not being maintained, liability under statute may lie with the Association as owners. If any claim for damages is made against us as owners of the Common Areas, we have the right to bring all homeowners in to any claim or court action as third parties on the basis that under the Deed of Conditions all homeowners are liable for the maintenance and repairs.

3.0 Policy Aims

- 3.1 This policy aims to
- Comply with the Regulatory Standards of Governance and Financial Management
 - Minimise the loss of income by ensuring the prompt and effective recovery of mutual repair costs from owners

4.0 Mutual Repairs Procedure

- 4.1 We will prepare and price a detailed schedule of works for common repairs involving mutual owners.
- 4.2 Once the price has been established, we will inform each mutual owner, in writing of:
- Details of the proposed repair
 - The estimated cost of the work, and their share of the costs
 - That they can arrange the repair themselves using their own contractor
- 4.3 We will ask all mutual owners to confirm in writing that they agree to the work being carried out and that they accept responsibility to pay their share of the cost inclusive of VAT.
- 4.4 If a majority of owners agree that the work should go ahead, we will inform all of the owners that the majority have agreed, and we will then proceed with the work.
- 4.5 If a majority of owners agree that the work should go ahead, but we are a minority owner, we will decide whether we want to proceed to organise the work or advise the majority owners to organise the repair themselves. An example of when we may do the work ourselves is if there is a Health & Safety issue.
- 4.6 If we proceed with work, we will instruct the contractor to carry out the repair according to the schedule of work at the agreed price.
- 4.7 The majority procedure described at 4.4 will apply to the repair of common parts only and does not include improvements such as door entry systems. Improvements require the consent of all owners.
- 4.8 Before the work starts, we will provide each owner with:
- The contractors name, and contact details
 - The date when work will begin
 - The length of time the work will take
- 4.9 We will keep owners fully informed, in writing, of any changes that affect the progress or cost of the work.
- 4.10 We will maintain a record of all issues relating to the repair. This will include:
- A record of phone calls and correspondence
 - Contact with the contractor

- Contact with owners
- Variations to the work

4.11 The Finance Department will send an invoice to each owner within 30 days of receiving notification that the work is complete.

4.12 Invoices must be paid within 14 days of receipt. If the invoice is not paid, the Finance Department will send a reminder letter giving the owner a further 14 days to pay. If the invoice is still not paid, or a suitable arrangement to pay has been agreed and not maintained, we will send a final letter giving the owner a further seven days before passing the debt to a debt collection agency for recovery.

5.0 Correspondence

5.1 All correspondence to mutual owners, including invoices, must be addressed using the owner's name. We will make every effort to establish the name of the owner prior to the repair being instructed.

6.0 Review of Policy

6.1 The Director of Asset Management will ensure that this policy is reviewed at least every five years and that any amendments required are submitted to the Management Committee for approval.

Rent & Service Charge Policy Review

Report by Karen Barry, Director Housing – for approval

1.0 Introduction

The Rent & Service Charge Policy is due its periodic review.

2.0 Proposed Changes

A desktop review has been carried out and as there are no significant changes recommended, there is no requirement to consult tenants. There are some minor changes which are self-explanatory and tracked on the **Policy Document** attached to this report.

One recommendation at Section 11.5 is to move the use of the RPI date from November to October each year so that the Management Committee can use an actual rather than projected inflation figure when considering what increase to consult tenants on (this decision is taken in November each year, but the November inflation figure is not published until mid-December each year).

Section 5.8 has been updated to reflect current Scottish Government policy in this area.

Recommendation

The Management Committee is asked to approve the revised Rent & Service Charge Policy.

Date Issued	23 November 2007
Last Revised	August 2018 <u>2023</u>
Service Area	Corporate
Title	Rent and <u>&</u> Service Charge Policy
Objective	To describe our arrangements for setting rents and service charges for our properties
Responsible	Director of Housing
Next Review Date	August 202 8 <u>3</u>

1.0 Introduction

1.1 This policy outlines our approach to setting rents and service charges for all property owned by East Lothian Housing Association.

1.2 Our ~~R~~rent ~~and~~ & ~~S~~service ~~C~~harge policy has the following main aims:

- To make sure that our rental income is enough to cover the costs of management and maintenance, providing a quality service to our tenants, future repairs and loan repayments
- To comply with the law and the requirements of the Scottish Social Housing Charter which states “A balance is struck between the level of services provided, the cost of the services and how far current and prospective tenants and ~~other customers~~service users can afford them”
- To ensure that costs are recovered in a fair and accountable manner
- To provide a framework for calculating rents for a full range of new build property types to be used when applying for Housing Association Grant.

2.0 General Principles

- 2.1 This policy applies to all residential property for rent and ~~S~~shared ~~O~~ownership.
- 2.2 We aim to charge similar rents for similar properties, as far as possible regardless of location; to set rents that will comply with the Scottish Government's requirements for Housing Association Grant and to ensure that our rents are affordable.
- 2.3 The amount of general service charge to be charged to each property will be the cost of providing the appropriate services to each scheme, averaged out over the number of properties in that scheme. An administrative charge of 10% of the costs will be added to the service charge for Shared Ownership properties.
- 2.4 In addition to the general service charge, some individual properties will attract a service charge for items such as ~~furniture~~white goods that are specific to the property. These charges will be calculated to cover the cost of the service and will be charged only to the property to which they apply.

3.0 Costs to be Covered

- 3.1 This policy provides a framework for setting rents for individual properties which, when added together, will generate enough income to cover all relevant costs. The costs to be covered by rental income include:

Housing Management Costs

The cost of providing a high standard Housing Management Service, as detailed in our annual budget, including items such as staff, rent collection, allocations, financial inclusion and advice services.

Void and Bad Debts

The amount of rent and service charge income lost when properties are empty or when arrears cannot be recovered.

Maintenance Costs

The cost of day to day (reactive) repairs requested by tenants; keeping the properties safe and secure and the cost of regular (cyclical) maintenance such as external paint work, including the cost of administration.

Major Repairs and Renewals

The cost of improving or replacing components, such as heating systems, windows or doors, at the end of their useful life, and major repairs needed during the life of a property.

Loan Charges

The cost of repaying the loans that have been taken out to pay for buying, building, maintaining or improving our properties and the areas around them.

Insurance

The costs of property (buildings) and office insurance, public and employers' liability insurances.

Additional Services

Service charges cover the cost of providing services which are not covered by the rent charge, such as community alarms, stair or window cleaning, stair or courtyard lighting, factoring charges or white goods furniture.

4.0 Affordability

- 4.1 We provide a range of homes for people in housing need. This means that our customers include single people, families with children, older people and people who need support to maintain a tenancy.
- 4.2 We endorse the SFHA's approach to Rent Setting and Affordability outlined in Guidance issued in June 2017 and ~~will work towards fully integrating use of the Affordability Tool within this policy.~~
- ~~4.5 As a first step we will~~ use the Affordability Tool to monitor the affordability of our rents for our new tenants and, where possible, act to address any affordability issues.

5.0 Rent Setting Structure

- 5.1. The rent setting structure is the mechanism used to determine the amount of rent to be charged for each new build type of property.
- 5.2 We use a points system to allow maximum flexibility when considering the rental income we need against the important aim of ensuring affordable

- rents are achieved. The points system also ensures that new build rents are comparable with rents for existing own build properties.
- 5.3 Points are allocated to each new build property dependant on its size and level of amenity.
 - 5.4 The points to be allocated to individual properties are listed in **Appendix 1**.
 - 5.5 A maximum of 5 points can be added to new build properties with additional development costs.
 - 5.6 Additional points for energy efficiency measures arising from new technologies will be added only where there is an anticipated reduction in the running costs of the property to the benefit of the tenant.
 - 5.7 Application of the rent structure results in a points value for each new build property.
 - 5.8 [In appraising new developments, the More Homes Division of the Scottish Government uses a Housing Association Grant Benchmark. If the project is within the grant benchmark the application assessment is streamlined. The Scottish Government can exercise some flexibility on the level of technical scrutiny a project submission receives. The benchmark grant is calculated use a basic three-person equivalent grant with additions for features such as silver standard, zero carbon heating, fire suppression and others. The figure is then adjusted based on the number of bedspaces in the specific project to establish the actual grant benchmark.](#)
 - 5.9 [The grant requirement for a project in the Association's appraisal is based on how much private finance can be covered by the rental income for a project. Rent figures are provided to the Scottish Government as part of the Tender Application. The Scottish Government assesses the rents by comparing to a three-person equivalent. If the adjusted rent is 5% more than the three-person equivalent rent a justification must be made. If the rents are 10% over the three-person equivalent the guidance states approval will only be given in exceptional circumstances – justification may include reference to market conditions or geographic area. When this is the case, the Scottish Government also checks with East Lothian Council that they are happy with the rent.](#)
 - 5.10 [Currently when ELHA's rents are over the 3p equivalent rent the following justification is provided:](#)

ELHA sets its rents in accordance with the Association's approved Rent & Service Charges Policy. This Policy ensures that the Association generates sufficient income to cover the costs of services to tenants, future repairs, and loan repayments, whilst ensuring that the rents charged are affordable to the people being housed. We aim to charge similar rents for similar properties as far as possible, regardless of location, and to set appropriate rent levels that meet the SFHA definition of affordability. ELHA uses the SFHA Affordability Tool prior to the start of every new tenancy to ensure that the rent is affordable. In the event the rent is assessed as unaffordable, appropriate money advice support is provided to the prospective tenant to resolve this. We also carry out an annual test of comparability with other Associations working in our areas of operation and are satisfied that our rents are broadly comparable with others. We therefore believe that the rents as set out in this submission, whilst in excess of the standardised average three-person equivalent rent, meet the definition of affordability in terms of the Client Group(s) being housed."

~~In appraising new developments, the Housing Investment Division of the Scottish Government uses a Housing Association Grant (HAG) Subsidy Target (HST) which, if met, results in streamlined appraisal and approval of the development. The HST is calculated using a standardised rent for a 3 person property. If the **average** rent on a development is less than the standardised rent, the standardised rent will be used. This will result in less HAG and, if our rent setting formula results in rents that are lower than the standardised rent, rents will have to be increased to ensure that the standardised rent is achieved.~~

6.0 Calculation of the "Price per Point"

- 6.1 Starting from a base point in 1995 when the points system was introduced, the costs outlined in section 3 above were calculated in the form of an expenditure budget and provided a figure for the annual income required.
- 6.2 The points values of every property were added together to produce an overall points total for the Association's stock.
- 6.3 A "price per point" figure was then obtained by dividing the income required by the overall points total.
- 6.4 This "price per point" is increased each year by the same amount as our rents thereby creating a link between new build rent setting and rents for existing properties.
- 6.5 The rent to be charged for new build properties is arrived at by multiplying the points value of the property by the "Price Per Point" to arrive at a weekly rent figure.

7.0 Service Charges

7.1 Service charges are based on the actual cost of providing services. The services for which a charge will be made include:

- **Landscape Maintenance** (in areas where a buy out cannot be negotiated)
- **Electricity** - Stair lighting, external lighting (not provided by the local authority)
- **Cleaning** - Stairs, windows, external cleaning, bin and bin store cleaning
- **Component Replacement** - such as ~~controlled entry systems~~, alarms, ~~furniture~~ and white goods
- **Community Alarm** - Line rental, warden charges, maintenance contract
- **Maintenance** - External paint work and replacement of floor coverings (for shared ownership properties only)
- **Factoring Costs** - Where a factor has been appointed in a mixed tenure development and ELHA are not the majority owner

7.2 Service charges for new schemes will be based on estimated costs and will be reviewed to reflect actual costs at the earliest appropriate review date.

7.3 Service charges will be detailed clearly in the Scottish Secure Tenancy Agreement and will be paid monthly along with the rent.

8.0 Non Residential Properties

8.1 The rents for non-residential properties such as garages and workshops will be calculated according to the floor area, level of amenity and comparability with rents charged by other providers.

9.0 Leased Properties

9.1 The rent for leased properties will usually be set using the points system detailed at (5) above.

9.2 Some leased property may be subject to lower grant levels or additional costs. If required, rent will be set at the minimum level required to cover:

- (i) Repayment of any loan outstanding on the property
- (ii) A good standard of management
- (iii) A good standard of reactive maintenance to fulfil our obligations in terms of the lease agreement
- (iv) A sinking fund for future major repairs

10.0 Shared Ownership Properties

10.1 At development stage, the Occupancy Charge for Shared Ownership properties is set using the points system. The management and maintenance allowances set by the Scottish Government are deducted from the annual occupancy charge to provide the base charge.

10.2 The base charge is then multiplied by the Association's share of the property. The annual cost of building insurance, a management fee and any service charges are added and the resultant cost is the Occupancy Charge that Sharing Owners have to pay.

11.0 Rent and Occupancy Charge Reviews

11.1 We will consult tenants before increasing rents in time for their views to be considered by the Management Committee when it meets to consider the annual budget and proposed rent increase.

11.2 We will review rents and occupancy charges annually and apply increases on the first of April each year. We will give tenants and Sharing Owners four weeks written notice of the increase.

11.3 We may apply an additional increase during the year to any property that has been significantly improved out-with our normal maintenance programmes.

11.4 We will increase rents and occupancy charges by the minimum amount required to ensure that the costs detailed at (3) above are covered, taking into account expenditure over the previous year and anticipated changes in costs over the coming year.

11.5 -Our rent increase will normally be linked to the Retail Price Index (RPI), a measure of inflation based upon the annual percentage movement in the retail prices index published by the Department of Employment for the 12 month period ending on 30 ~~November~~October each year or such other period as our Management Committee may determine.

11.6 In the event of negative RPI, our rents will increase by a minimum of 1% to reflect the fact that many of our costs, for example salaries or maintenance costs, will still increase.

12.0 Service Charge Reviews

12.1 The cost of providing services will be reviewed each year at the same time as the rent review and will reflect costs incurred in the year ending 30 September plus any anticipated changes in costs for the coming year.

12.2 Any over or under recovery of costs in previous years will be built in-to the review.

13.0 Policy Review

The Director of Housing will ensure that this policy is reviewed at least every five years. Any recommended changes will be submitted to the Management Committee for approval.

Appendix 1 – Points System for Calculating Rents

Property Type	
House: Detached	61
Semi detached/end terrace	59
Mid terrace	58
Flat	56
Property Size	
One double bedroom	+5
Additional double bedroom	+6
One single bedroom	+3
Additional single bedroom	+4
Separate dining room	+3
Large kitchen/diner	+2
Bathroom/Toilet Facilities	
Additional bathroom	+3
Additional W.C	+2
En Suite	+4
Separate Shower	+2
Additional Features	
Built in/Extra Computer/TV/satellite access	+ 1-3 (per item)
Passive Solar Gain	+2
Energy Efficiency Measures	+0-6
External Features	
Front Garden	+1-2 (dependant on size)
Back Garden	+1-3 (dependant on size)
Driveway/Allocated Space	+1
Garage	+4
Car Port	+2
Private Communal Garden Ground	+1
Private Balcony	+2
Porch	+2
Heating	
Gas	+3
Electric	+1

Deductions	
No External Drying Facilities	-1
No overbath shower	-1
No controlled entry	-1

Attendance and Absence Management Policy

Report by Martin Pollhammer, Chief Executive – for approval

1.0 Introduction

The Attendance & Absence Management Policy is due for its periodic review. The policy has been reviewed by the JCC.

2.0 Policy Review

A desktop review of the Attendance and Absence Management Policy was carried out by the Executive Support Officer (HR) in line with EVH's model policy. Some minor changes were required to the existing information, which were mainly wording changes / additions throughout, to bring in line with EVH's model policy.

The following changes were recommended to and agreed by the JCC:

- At 3.2, the deletion of a section relating to the Bradford Score as the paragraph sounds dismissive of reasons for absence, and is out of context
- At 6.0, the addition of the "Attendance Management" section
- At 8.5, the addition of a paragraph which explains how the Association would deal with the recommendation of "reasonable adjustments" from a medical professional
- At 9.1, further detail added regarding the process that employees and the Association should follow when welfare benefits are required
- At 11.8, the addition of the "Stress Management" section

Recommendation

The Management Committee is asked to approve the revised Attendance and Absence Management Policy.

ELHA POLICY

Date Issued	October 2008
Review Date	September 2023
Department	Corporate
Title	Attendance and Absence Management Policy
Objective	To ensure a fair and consistent approach to managing attendance.
Responsible	Chief Executive
Next Review Date	September 2028

This policy and the guidelines it contains are intended to complement, and not replace, our Terms and Conditions of Service. The Attendance and Absence Management Procedure and the Ill Health Capability Procedure also complement this policy.

1.0 INTRODUCTION

- 1.1 We recognise that on occasions, it may be necessary for employees ~~will sometimes be necessarily to be~~ absent from work ~~for a variety of reasons~~. However, we also have a duty to provide a reliable service to our customers and we therefore need to ensure that we help employees maintain the highest possible level of attendance.
- 1.2 This policy is designed to help all employees achieve good attendance, and to ensure that we adopt a consistent and fair approach to managing attendance throughout the organisation.

2.0 AIMS OF THE POLICY

- 2.1 To manage attendance in a way that reflects genuine concern for employees, and to develop a positive attitude towards attendance.
- 2.2 To set clear expectations for standards of attendance that we require for all employees.
- 2.3 To separate two processes: attendance and absence management, and to provide guidelines for employees and managers in how to manage these.
- 2.4 To ~~try to~~ identify the causes of absence and wherever possible develop a programme of supportive and preventive measures.
- 2.5 To ensure training and support is available to ~~those involved in the process both managers and employees~~.

3.0 PRINCIPLES

~~We require good attendance from all employees to meet our objectives. 3.1 We make employees aware of the importance of good attendance.~~

~~3.2 We require good attendance from all employees.~~

3.13 If the level of attendance is unsatisfactory then we will inform employees what improvement is required and the possible consequences of failure to do so (which may include disciplinary action, up to and including dismissal)

~~3.2 The attendance management process is not concerned with reasons for absences but with number of period of absence / days absence (excluding underlying health conditions protected under the Equality Act 2010).~~

3.3.4 If there is an underlying medical condition causing absence(s), then we will ~~try to identify it and put~~ consider reasonable adjustments ~~in place~~.

3.45 Managers will conduct “return to work” interviews within the spirit of this policy.

3.56 All employees will strictly adhere to our absence reporting procedures. Failure to do so may result in disciplinary action and organisation sick pay being withheld. ~~withholding of sick pay.~~

3.67 We will maintain accurate, up-to-date attendance records for all employees to manage absence effectively.

4.0 ABSENCE REPORTING

4.1 Reporting

All employees must notify their line manager of their absence in line with the Attendance and Absence Management Procedure.

4.2 Certification

All employees must ensure that the appropriate self certificate or medical certificates (fit note) are submitted in line with the Attendance and Absence Management Procedure

4.3 Keeping in Touch

Employees are responsible for phoning their line manager to let them know the reasons for any absence and when a return to work is expected. If, in the event of an emergency, the employee cannot get to a phone on day one of the absence, they should make sure that someone else calls on their behalf. After this, employees should contact the line manager as soon as they can and maintain regular contact by calling daily during the first week of the absence (unless otherwise agreed with your line manager) and weekly thereafter. If the employee fails to keep in contact as outlined above, we will initiate and maintain contact with you.

~~We expect the employee to let us know the following information: the reason for the absence, when a return to work is expected and contact details which can be used to maintain contact during the absence. (If this information is not provided we will contact you to find out this information). must keep their manager informed of the reasons for and progress of all absences and indicate when they are likely to return to work. If they are unable to meet this date, they should contact their Line Manager with a new return date.~~

~~During the first week of any absence the employee should maintain contact with their manager daily (unless otherwise agreed with the manager) and weekly thereafter.~~

4.4 Failure to Comply

Where the employee does not follow reporting, certification, or required keeping-in-touch arrangements, we may withhold Organisation Sick Pay. Failure to comply with these requirements may also lead to disciplinary action against you in accordance with our disciplinary procedure. Similarly if we suspect that an employee has falsified his/her their reason for absence ~~or deliberately misled us~~, we will take disciplinary action which may lead to dismissal.

5.0 ABSENCE NOT RELATED TO ILLNESS

Our Terms and Conditions of Employment contain guidelines for absences relating to a number of reasons. Our policy on these is as follows:

5.1 Social Purposes

Employees will normally be expected to use their annual leave or flexi time. Unpaid leave maybe granted if the employee has no annual leave or flexi time to use.

5.2 Bereavement

Leave with pay will be granted as follows:

- 5 days leave – for close relatives (spouse/partner, parents, siblings, child) or where the employee is responsible for making funeral arrangements
- 1 days leave – other relatives
- In all other cases annual / flexi time leave will be granted as appropriate to attend a funeral

Unpaid or annual leave may be granted to extend these periods if necessary.

5.3 Domestic Stress

Employees will normally be expected to use annual or flexi time leave. However a maximum of 1 day (7 hours) paid leave may be granted in any leave year for absences required due to domestic stress or emergency e.g. emergency repairs, sickness of a dependent or relative.

- 5.4 Moving Home
A maximum of 1 day paid leave may be granted in any leave year.
- 5.5 Jury/Witness Service
Employees who receive a summons to serve on a jury, should report this to their line manager. We will grant leave, unless an exemption is secured. This leave will be with pay, after taking off allowances for loss of earnings employees are entitled to. Employees should make sure that they claim these allowances from the court.
- 5.6 Public Duties
Before committing to paid or unpaid external work, e.g. Children's Panel Hearings, Justice of the Peace etc, employees are required to discuss the impact that this may have on their attendance at work. The approval process will include agreement on how the leave is to be treated

6.0 Attendance Management

- 6.1 This refers to dealing with unacceptable levels of attendance, with no reference to reasons for absence or medical condition.
- 6.2 We will aim to assist in maintaining a good attendance record. This will involve maintaining good records, ensuring return to work meetings are completed and helping investigate and address any identified underlying causes of absence.
- 6.3 Where this fails to secure a required improvement, we will invoke the terms of the disciplinary procedure. Unsatisfactory attendance reviews can result in disciplinary action, up to and including dismissal.
- 6.4 If at any stage during this process it becomes apparent that an underlying health condition is involved, medical information will be sought, and further discussion will take place prior to deciding on any appropriate action, if any.
- 6.5 Absence periods related to pregnancy or underlying health conditions classed as a disability under the Equality Act 2010 will not be considered for the purpose of attendance management process.

7.6.0 SHORT TERM SICK LEAVE

- 7.6.1 We aim to secure better attendance by supporting and encouraging the employee concerned in the first instance. This will involve maintaining good records, ensuring return to work interviews take place in line with this policy, and helping to investigate and address any identified underlying causes of absence.
- 7.6.2 Where this fails to secure an improvement in attendance, we will invoke the terms of the disciplinary procedure, which may include dismissal.

76.3 If at any stage during this process it becomes apparent that an underlying health issue is involved which results in long term or persistent absence, then the Long Term Sick Leave process (section 87) will be followed.

76.4 Absence periods related to pregnancy or an underlying medical condition that falls within the scope of the Equality Act will not be counted for the purpose of the attendance management process (i.e. it will not be included in trigger factor levels – see below).

76.5 Attendance review triggers
We use the Bradford Formula to monitor absenteeism. This model helps us to identify employees who have recurring absences and to put in place appropriate measures to help them improve their attendance. It is weighted towards scores that identify those with a number of short spells of absences.

The Bradford formula works as follows:

$(S \times S \times D)$

S = number of spells of absence in the last year

D = number of days of absence in the last year

Part time staff will have their trigger levels calculated on a pro-rata basis. Below is a table showing trigger levels for different part time hours worked.

Hours worked per week	% of full time hours	Bradford Trigger Levels		
35 Hours	100%	40	40-160	Over 160
28 Hours	80%	32	32-128	Over 128
24 Hours	68%	28	28-109	Over 109
21 Hours	60%	24	24-96	Over 96
17.5 Hours	50%	20	20-80	Over 80

67.6 We use the following table to ensure consistency, when dealing with short-term absence:

Sickness absence	Actions may include:
A Bradford Score of under 40 points on a rolling yearly basis or pro-rata as appropriate	<ul style="list-style-type: none"> Completion of Self Certificate

Sickness absence	Actions may include:
A Bradford score of between 40-160 points on a rolling yearly basis or pro-rata as appropriate	<ul style="list-style-type: none"> • Senior Management Team informed of sickness absence • Manager conducts a Return to work interview • Monitor absence and set a review date
A Bradford Score over 160 points or pro rata as appropriate	<ul style="list-style-type: none"> • Senior Management Team informed of sickness absence • Manager conducts a Return to work interview • referral to Occupational Health* and/or Counselling** (unless there is good reason not to, and it is agreed by Senior Management Team) • Monitor absence and set a review date
A regular pattern of sickness absence identified (e.g. usually sick Mondays, Fridays or following periods of annual leave)	<ul style="list-style-type: none"> • Senior Management Team informed of sickness absence • Manager conducts a Return to work interview • Referral to Occupational Health* and/or Counselling** • Monitor absence and set a review date

* It is important that employees advise their Manager immediately if they miss or cancel an appointment otherwise disciplinary action may be taken. In addition, since our Occupational Health consultant may charge for any missed or late cancellation of appointments, employees who miss or cancel an appointment will normally be liable to pay any charge incurred.

** We may ask employees to contact our employee counselling service, if we feel this is appropriate. In this instance, the Association will allow the employee to attend sessions in working time. See **Appendix 1** for further details.

87.0 LONG TERM SICK LEAVE

87.1 We will be sympathetic and understanding towards any employee with a long-term and/or underlying/chronic health problem/condition. Employees who find themselves in such a position should be confident that their manager will react in a supportive fashion if approached.

87.2 The following will always be considered in relation to long-term absence:

- The nature of the illness and any contributing factors
- ~~Any contributing factors~~

- The likely duration and/or frequency of the absence(s)
- Any actions that can be taken by the employee
- Any reasonable adjustments that we could make
- Any possible redeployment opportunities
- The nature of the duties in relation to the health conditions
- ~~The impact of the employee's health problem on their ability to do their job~~
- Our business needs and the impact that the employee's absence is having upon these
- The employee's entitlement to statutory and company sick pay

87.3 Throughout the duration of the employee's absence it will be expected that they will keep in touch and advise of progress in accordance with section 4.

87.4 Where the absence exceeds 4 weeks unless there is a good reason not to do so (e.g broken limb) we will obtain medical reports and assessments during the absence. The manager will discuss the report with the employee.

8.5 If a medical professional makes suggestions for any reasonable adjustments, these will be discussed with the employee prior to returning to work to determine if these can be accommodated, along with any suggestions we or the employee may also have made. Although we are not bound by the doctor's suggestions, we will make all possible efforts to accommodate a prompt return and good attendance. If we agree any reasonable adjustments, we will also set time scales and reviews to assess if they are still required and suitable.

87.65 Where the employee disagrees with any medical reports, they will be free to submit alternative medical evidence. Where the employee refuses access to medical records or does not attend an independent medical assessment, the process will be managed and decisions made based on the information available.

87.76 If the employee returns to work after a long period of illness, entitlement to annual leave will normally be limited to the statutory minimum.

87.87 When managing a long-term absence, a termination of employment for the reason of ill health capability may be considered where all other options have been exhausted, and the organisation can no longer sustain the absence.
N.B if this outcome is being considered we will seek professional advice. If dismissal through medical incapacity is being considered, the Ill Health Capability Procedure will be followed.

87.89 Where employees leave due to ill health, we will make every effort to help secure appropriate access to the pension scheme and/or other relevant financial benefits that may be available.

98.0 STATUTORY SICK PAY (SSP)

~~98.1~~ ~~Employees are entitled~~ If eligible to SSP, this is irrespective of their entitlement to company sick pay. SSP is reviewed by the Government. It is not paid for the first three days of absence and runs for 28 weeks after that. An employee who is no longer entitled to SSP may be entitled to other welfare benefits, ~~and will be helped to establish their rights.~~ Employees should enquire about these benefits at their local Department for Work and Pensions (DWP). We will notify employees if they are not entitled to SSP and send the appropriate government form but it is the responsibility of the employee to claim any other state benefit they may be entitled to.

109.0 ORGANISATION SICK PAY

109.1 All employees, regardless of length of service or hours of work, benefit from this scheme **provided** that their absence from work is due to **their own** sickness or injury and that they comply with this policy and the supporting procedure. They will, however, be excluded where:

- they are sick whilst taking part in a stoppage of work due to a trade dispute, **or**
- they are sick whilst on maternity leave, **or**
- on the first day of sickness they have already exhausted their entitlement to Organisational Sick Pay, **or**
- the sickness or injury arises out of or in the course of following another occupation or sport as a profession.

109.2 Employees must not undertake any other paid work whilst in receipt of Organisational Sick Pay. Failure to comply with this could result in disciplinary action.

Scale of Allowances

In any **one** period of **52 weeks** we will pay Organisation Sick Pay in accordance with the following scale:

Continuous service at starts:	FullPay	+	Half the date sickness
paid for:	Pay paid for:		
Up to 1 year	5 weeks	+	5 weeks
Over 1 year and under 2	9 weeks	+	9 weeks
Over 2 years and under 3	18 weeks	+	18 weeks
Over 3 years and under 5	22 weeks	+	22 weeks
Over 5 years	26 weeks	+	26 weeks

For further information see Section A5 in our Terms and conditions of service

110.0 OTHER PROVISIONS**110.1** Absence and holidays

If an employee is on annual leave and falls sick and wishes to claim their annual leave back, they should follow the normal reporting procedure within the Attendance and Absence Management Procedure. This means that they should let their manager know of their sickness as soon as possible and provide them with the appropriate fit note (where required). In this instance Occupational Sick Pay will be payable and annual leave will be returned.

If an employee is on annual leave and falls sick and wishes to claim their annual leave back but does not follow the normal reporting procedure within the Attendance and Absence Management Procedure (e.g. they only make their manager aware of their sickness on their return to work), but have provided certification to cover their absence (i.e. an appropriate fit note), they can claim back their annual leave and Occupational Sick Pay will be payable. It is noted however, that staff do not need to report sickness while on annual leave if they do not wish to.

We understand that in some instances (such as hospitalisation) it may be difficult to follow the reporting procedure. These will be considered on an individual basis. However, the aim of this approach is to ensure that, as far as reasonably possible, employee and employer communicate about circumstances that could disrupt the working environment for both the individual employee and their colleagues as soon as is reasonably practical, whilst also ensuring that all employees receive their holiday and contractual entitlements.

Failure to report absence any later than the first day of returning to work will result in any request to reclaim holiday being refused. However, an employee is not obliged to reclaim any annual leave or report any sickness absence during a period of approved annual leave; ~~if~~ if the employee wishes the leave to remain as annual leave, no action is required.

110.2 If an employee is on long term sick leave and wants to go on holiday, they **must** advise their manager first and request annual leave which will be deducted from their annual leave entitlement. Normal pay will be given for the annual leave period. Failing to comply with this may result in disciplinary action.

110.3 If there is a public or general holiday during an employee's period of sickness, the employee will receive full contractual payment for that day. However, we will not take that day from their current entitlement under the sickness allowance scheme. We will treat it as if having the holiday.

110.4 Doctor/hospital/dental appointments

We expect all general, dental and medical appointments to be made out-with working hours (core time). If an employee chooses to make an appointment during working hours, then he/she should request time off from their Manager using annual leave, TOIL or unpaid leave.

We recognise however, that certain hospital/medical appointments are out-with the control of the employee. Where this is the case, the employee should produce evidence of this to their Manager (i.e hospital letter, appointment card).

The employee can then attend during their normal working day without loss of time. If no evidence is produced, the time will be deducted from either annual leave, TOIL or will be unpaid leave,

110.5 Conduct whilst off sick

When on sick leave, employees are still bound by their contract of employment and all policies (including Code of Conduct). ~~expected not to breach their contract of employment.~~ They are still bound by the duties of fidelity and are expected not to participate in activities that would be at odds with the reason for the absence~~their medical condition~~. Any breach of contract will be dealt with under the disciplinary procedure. This includes conduct on social networking sites and any other publicly made remarks regarding the Association, its customers, work colleagues, partners and anyone else who is connected with us.

110.6 Cosmetic procedures

Absence due to cosmetic procedures (whether carried out in the UK or abroad) will not normally fall under the sick leave or pay arrangements unless it is recommended by health professionals. In these cases, the employee should request time off and agree with their line manager how the absence will be processed e.g. annual leave or unpaid leave.

110.7 IVF treatment

Absences resulting from IVF treatment will not be processed as sick leave or attract Organisation Sick Pay. The same applies to a partner of a person that is undergoing such treatment. Instead, employees should discuss with their manager how time off for the treatment could be accommodated, using annual leave, flexi time or unpaid leave. Absences relating to IVF treatment will also not be treated as relating to pregnancy unless the employee actually falls pregnant.

11.8 Stress management

Stress is not an illness. It can result from an illness or lead to one but it is not an illness itself. The same relates to "nervous debility" or any other diagnosis of that type. If an employee goes off sick with stress, the line manager will endeavour to find out the underlying cause so that an appropriate action can be taken (if any) and in particular to determine whether conditions at work cause or contribute to stress and whether something could be done to help the situation. We will follow procedures as outlined in the stress management policy. If the absence is certified by a doctor, the line manager may ask for the doctor to clarify the underlying cause for stress.

124.0 ABSENCE MONITORING

124.1 A fundamental feature of good attendance management is the accurate and timely recording of all absences. This is essential both in terms of managing attendance and absence and the requirements of the Statutory and Organisational Sick Pay arrangements. Good information allows patterns to be identified and can provide an early indication of underlying problems. The sooner such problems are identified and acted upon, the more likely a successful conclusion for both employee and employer can be achieved. ~~we are to achieve a successful conclusion for employee and employer alike.~~

124.2 Accurate recording is also essential in satisfying any concerns over the fairness of any actions taken by managers. The responsibility for maintaining such records rests with our Executive Support Officer.

124.3 We will carry out a return to work interview once an employee reaches a certain absence level (see section 76). This will be done by the employee's manager (or another manager if they are not available) on the first day back to work. We will keep completed forms in the employee's personal file. The return to work interview forms contain confidential information and may only be viewed by authorised personnel, normally the employee's manager or any other manager who deals with the case.

124.4 Having maintained attendance records, the Executive Support Officer will provide aggregated statistics for discussion at Business Management meetings and at Departmental Meetings with Employees. Individual cases will not be discussed as they form a confidential record of each employee.

132.0 DISHONEST ABSENCE

132.1 If an employee is found to falsify or exaggerate their absence, this will be treated as gross misconduct. An investigation will be carried out in accordance with our disciplinary procedure and disciplinary action may be imposed, including dismissal or future withdrawal of our sick pay benefits.

143.0 MONITORING AND REVIEW

143.1 The Chief Executive is responsible for ensuring that this policy is implemented.

143.2 The Chief Executive will ensure that the policy is reviewed at least every five years by the Management Committee.

Appendix 1

Contact details of Employee Counselling Service:

Rowan Consultancy

To arrange and appointment or to speak to someone: 01738 562005