



Yenaa Housing

Capability Disciplinary Policy 2024



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Policy Checklist	
Date of Implementation	Feb 24
Date of Last Review	Feb 26
Date of Next Review	Feb 28

1. Introduction and Purpose

Yenaa Housing is committed to maintaining high standards of performance and conduct among its employees. This policy sets out the procedures for addressing concerns about an employee's capability (their ability to perform their job to the required standard) and for dealing with disciplinary matters (allegations of misconduct or breach of company rules).

This policy aims to:

- * Provide a fair and consistent framework for addressing capability and disciplinary issues.
- * Support employees in improving their performance and conduct.
- * Ensure that Yenaa Housing's business objectives are met.
- * Comply with all relevant employment legislation.

2. Core Principles

Yenaa Housing's approach to capability and disciplinary matters is based on the following principles:

- * **Fairness:** All employees will be treated fairly and consistently.
- * **Objectivity:** Decisions will be based on objective evidence and not on personal feelings or biases.
- * **Confidentiality:** Matters will be treated with sensitivity and confidentiality, to the extent possible (recognizing that information may need to be shared on a need-to-know basis for investigation and decision-making).
- * **Right to Representation:** Employees have the right to be accompanied by a trade union representative or work colleague at all formal meetings under this policy.
- * **Opportunity to Improve:** Employees will be given a reasonable opportunity to improve their performance or conduct before formal action is taken (except in cases of gross misconduct).
- * **Timeliness:** Matters will be dealt with promptly and efficiently.
- * **Right of Appeal:** Employees have the right to appeal against any formal disciplinary sanction or capability decision.

3. Scope of the Policy

This policy applies to all employees of Yenaa Housing (permanent, temporary, and agency). It covers:

- * **Capability Issues:** Concerns about an employee's ability to perform their job to the required standard, due to factors such as lack of skills, knowledge, or aptitude.
- * **Misconduct:** Breaches of company rules, policies, or procedures, or unacceptable behaviour.
- * **Gross Misconduct:** Serious breaches of company rules or policies that justify summary dismissal (dismissal without notice).

4. Relevant Legislation and Guidance

This policy is informed by the following legislation and guidance:

- * **Employment Rights Act 1996:** Sets out the legal requirements for fair dismissal.
- * **ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice on Disciplinary and Grievance Procedures:** Provides guidance on best practice for handling disciplinary and grievance matters.
- * **Equality Act 2010:** Prohibits discrimination and requires reasonable adjustments to be made for disabled employees.
- * **Data Protection Act 2018 and GDPR:** Governs the handling of personal data.
- * **Case Law:** Relevant case law on unfair dismissal and discrimination.

5. Definitions

- * **Capability:** The ability of an employee to perform their job to the required standard.
- * **Misconduct:** Unacceptable behaviour or a breach of company rules, policies, or procedures.
- * **Gross Misconduct:** Serious misconduct that fundamentally breaches the employment contract and justifies summary dismissal. Examples include (but are not limited to):
 - * Theft or fraud
 - * Serious insubordination
 - * Violence or threats of violence
 - * Gross negligence that endangers the safety of others
 - * Serious breach of confidentiality
 - * Serious breach of Yenaa Housing's safeguarding policy

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6. Informal Stage (Capability)

- * If a manager identifies concerns about an employee's capability, they should first discuss these concerns informally with the employee.
 - * The manager should clearly explain the areas where improvement is needed, provide specific examples, and offer support and guidance.
 - * A written record of the informal discussion should be kept.
 - * A reasonable timeframe for improvement should be agreed upon.
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7. Formal Stage (Capability)

If the employee's performance does not improve to the required standard within the agreed timeframe, the following formal procedure will be followed:

- * Stage 1 - First Formal Capability Meeting:
 - * The employee will be invited to a formal capability meeting in writing, with reasonable notice.
 - * The letter will state the purpose of the meeting, the areas of concern, and the employee's right to be accompanied.
 - * At the meeting, the manager will explain the areas of concern in detail and give the employee an opportunity to respond.
 - * A formal Capability Improvement Plan (CIP) will be agreed upon, setting out specific objectives, timescales, and support to be provided.
 - * A written record of the meeting and the CIP will be provided to the employee.
- * Stage 2 - Review Meeting(s):
 - * Regular review meetings will be held to monitor the employee's progress against the CIP.
 - * The manager will provide feedback and support.
 - * The CIP may be adjusted as necessary.
 - * Written records of the review meetings will be kept.
- * Stage 3 - Final Capability Meeting:
 - * If the employee's performance has not improved sufficiently despite the CIP and support, a final capability meeting will be held.
 - * The employee will be given the opportunity to present their case.
 - * The possible outcomes of the meeting are:
 - * Extension of the CIP with revised objectives.
 - * Transfer to a different role (if suitable).
 - * Demotion to a lower-graded role.
 - * Dismissal from employment.
 - * The employee will be informed of the decision in writing, with the reasons for the decision and their right to appeal.

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8. Disciplinary Procedure

- * Investigation: Before any formal disciplinary action is taken, a thorough investigation will be conducted to gather all relevant facts. The investigation may involve interviewing witnesses and reviewing documents.
 - * Suspension: In some cases, it may be necessary to suspend an employee during the investigation. Suspension will be on full pay and will be for as short a period as possible.
 - * Formal Disciplinary Hearing: If the investigation reveals evidence of misconduct, the employee will be invited to a formal disciplinary hearing in writing, with reasonable notice. The letter will state:
 - * The allegations of misconduct.
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- * The possible consequences of the hearing (including dismissal).
- * The employee's right to be accompanied.
- * The employee's right to present their case.
- * Disciplinary Sanctions: If, after the hearing, the manager concludes that misconduct has occurred, one of the following sanctions may be imposed:
 - * Verbal Warning: A formal verbal warning, recorded in the employee's personnel file.
 - * Written Warning: A formal written warning, recorded in the employee's personnel file.
 - * Final Written Warning: A final written warning, recorded in the employee's personnel file. This is the most serious warning before dismissal.
 - * Dismissal: Dismissal from employment (with notice, except in cases of gross misconduct).
- * Gross Misconduct: In cases of gross misconduct, the employee may be dismissed without notice (summary dismissal) following a thorough investigation and disciplinary hearing.

9. Right of Appeal

- * An employee has the right to appeal against any formal disciplinary sanction or capability decision.
 - * The appeal must be submitted in writing to one of the Directors, within 5 working days of the date of the decision letter.
 - * The appeal should clearly state the grounds for the appeal.
 - * An appeal hearing will be held as soon as reasonably practicable, chaired by a manager who was not involved in the original decision.
 - * The employee has the right to be accompanied at the appeal hearing.
 - * The outcome of the appeal will be confirmed in writing, and the decision is final.
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