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<b>Policy Name</b>	<b>Protocol for Dealing with an Alleged Breach</b>
<b>Policy Author</b>	<b>SFHA Model Policy / Deputy Director (Interim)</b>
<b>Approved by Sub Committee</b>	<b>N/A</b>
<b>Approved by Management Committee</b>	<b>Oct 2024</b>
<b>Latest date of Next Review</b>	<b>Oct 2027</b>

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HAPPY TO TRANSLATE

**Registered with the Scottish Housing Regulator No. 203**  
**Registered Charity No. SCO38737, VAT Registration No. 180223636**  
**Registered society under the Co-operative and Community Benefit Societies Act 2014**

## 1. Introduction

- 1.1 This protocol will be used by WWHC 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. In exceptional circumstances (for example particularly complex or sensitive issues) it may be helpful for the chair to be supported by the RSL's solicitor or another trusted external adviser. In such circumstances, the solicitor/adviser may by agreement fulfil duties otherwise undertaken by the Chair, but will always be accountable to the Chair and governing body. The references to "Chair" throughout this protocol, as they relate to the investigation and management of complaints, should be interpreted as applying to whoever is charged with carrying out / overseeing the specific responsibilities.
- 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. It is important to ensure that anyone who may be called upon to exercise these responsibilities is provided with appropriate training and/or support.

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, Committee Members, Director

Senior Staff	Director, Senior Staff
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- 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 and/ or obtain other external support that may be needed in exercising any or all of the responsibilities associated with this protocol.

### **3. What Constitutes a Breach?**

3.1 A breach of the Code of Conduct is a potentially serious matter and so any allegation of a breach must be handled and managed carefully. This Protocol is a process that will apply to managing and/or responding to alleged breaches of the Code of Conduct. Breaches can include (but are not limited to):

- 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 WWHC's Values, Rules or policies; threatens the reputation of WWHC; risks bringing the organisation into disrepute or undermines WWHC 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 others may involve more significant issues. Consequently, it is important to distinguish between issues that might, at least initially, be relatively minor and/or be described as 'performance-related' (e.g. irregular attendance at meetings, regularly disrupting meetings because of mobile phone, failing to prepare for meetings) from unacceptable conduct (such as bullying,

offensive or discriminatory behaviour, seeking personal gain / benefit). For these kinds of situations, different approaches are likely to be appropriate, depending on the details of individual circumstances and recognising that it may not always be appropriate to undertake a formal investigation in response to an isolated and/or relatively minor issue (see 4.4 below). Whilst a failure to participate effectively in the RSL's governance is, ultimately, likely to constitute a breach of the Code, it will not be appropriate to resort to that allegation and launch an investigation without, first, engaging with the GBM and seeking to address the issue e.g. by offering additional support.

#### **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: just because the Code of Conduct may be referred to does not automatically require a formal investigation. An initial review of the complaint or allegations should enable a decision to be reached on the most appropriate response: those making the decision must be able to explain the reasons for their conclusion. 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 Director 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 Issues or complaints which are dealt with as described above (3.2 – 4.4) do not constitute Notifiable Events to the SHR.
- 4.6 Where an initial review concludes that further investigation is required, one of the two routes described in this Protocol: [Route A and Route B] will be selected by those responsible for dealing with the complaint. The reason(s) for the selected course of action should be recorded as part of the case file, which should be maintained throughout the investigation to ensure there is an audit trail of how the complaint was addressed.
- 4.7 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 guidance<sup>1</sup>) 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. If repeated, any action under Route A would be material to the decision about how to respond to subsequent complaints, which would most likely require investigation under Route B (see 5.3 below).
- 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 (e.g. offensive language or behaviour), 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 (or sub-committee convenor) may ask the member to leave the meeting or a vote may be taken to exclude the member from the rest of the meeting. For the avoidance of doubt, any complaint relating to the Chair or Vice-Chair should be investigated in accordance with Route B (see 6.4).

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<sup>1</sup> Scottish Housing Regulator (2024) [Notifiable Events guidance](#)

- 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 (Route B), if more 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 as no one who may be party to the investigation can be responsible for its oversight.
- 6.6 The Director can support the implementation of the Protocol, including providing advice to the Chair (unless involved in the issue, in which case the role should be assigned to another senior

member of staff or to the organisation's solicitor or other specialist adviser).

- 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 Director, the matter should immediately be notified to the Chair or to another office bearer, if the Chair is involved.
- 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(s) who is/are 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 making reference to the specific part(s) of the Code that the complaint relates to), 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 investigations<sup>2</sup>.
- 6.11 Leave of absence is recommended when a complaint is being investigated, and is especially important in cases where the complaint raises serious issues. Where a complaint is being investigated that relates to a number of GBMs, there may be practical issues to consider - for example forming and maintaining a

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<sup>2</sup> Code of Conduct F7

quorum. However, if this is a consideration, there are likely to be significant governance issues that require to be managed and seeking legal advice and/or specialist help is recommended in these circumstances. The Management Committee must record any decision to grant any leave of absence or not grant a leave of absence.

- 6.12 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 (if known) and which members of the Management Committee are responsible for its oversight.
- 6.13 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.
- 6.14 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.
- 6.15 Existing and former members of the GB may be identified as being able to contribute relevant information to an investigation: the Code of Conduct requires current and former GBMs to contribute to an investigation and a failure to co-operate (by either the subject of a complaint or a GBM asked to contribute) would, itself, constitute a breach of the Code. Former members of the GB who left more than a year before the complaint is made should not, usually, be approached.

## **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 Director (or other senior member of staff if the Director is involved in the complaint). The Chair and other office-bearer, with any support they feel necessary, will brief the agreed advisor/investigator and then consider their recommendations (i.e. the Investigator's 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(s) who is/are 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(s) 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
- If there has, how serious a breach it is
- What action should be taken and the outcomes to be achieved

8.4 The Management Committee will report the findings of the investigation and any proposed action to the member concerned, in writing, within seven days of the meeting at which the report of the investigation was considered. The Investigator will be expected to provide written conclusions that can be incorporated into this communication. The Chair should ensure that, in addition to the formal notification, there is personal contact with the GBM(s) whose conduct has been investigated to explain the GB's conclusion, any action and the outcome to be achieved (e.g. training). If the complaint is not upheld, it will be important to make this very clear: it would be appropriate, for example to formally welcome Committee Member's back from leave of absence at their first meeting.

## **9. Action to Deal with a Breach**

9.1 If, following investigation, a breach of the Code is confirmed, the GB should determine what action will be taken in response. This action will reflect the seriousness of the circumstances and will be informed by the findings and recommendations of the investigation. Action 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 Rule 3 (44.5)
- 9.4 A record of the outcome of an investigation (whether the complaint is upheld or not) will be retained in the Management Committee member's file for [insert period – 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 WWHC 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

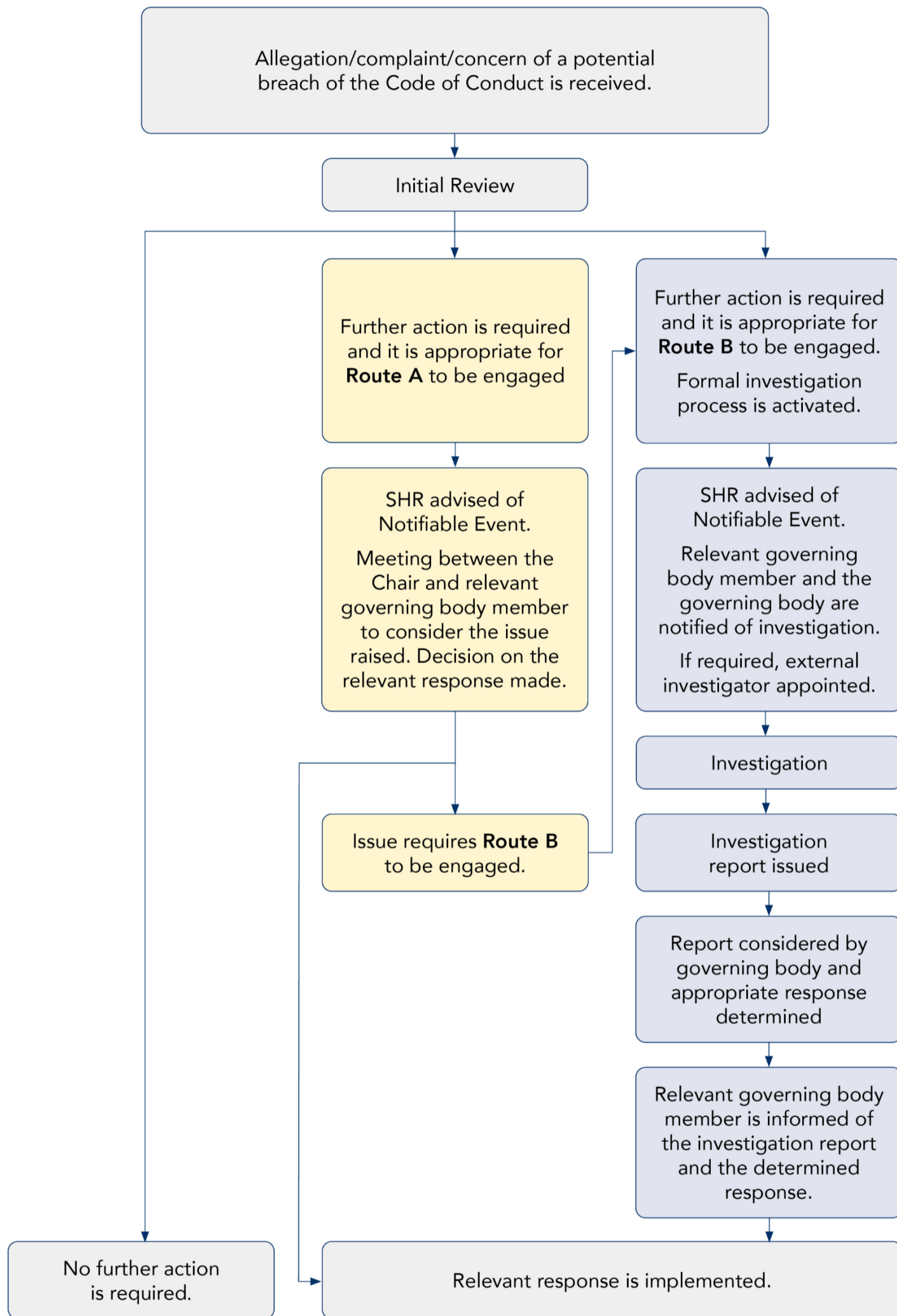
## **11. Approval and Review**

- 11.1 This protocol was approved by the Management Committee of WWHC on 28<sup>th</sup> October 2024.
- 11.2 This policy will be subject to a review every 3 years or sooner if required by changes in legislation or guidance.

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<sup>3</sup> SFHA Model Rules (2020)

**Appendix D - Flow Chart Summarising Protocol Process**



## **Appendix E – Guidance on Implementing the Model Protocol**

This Appendix has been produced to support the implementation of the Model Protocol at Appendix C which can be used when a potential breach of the Code of Conduct has been identified. The references to the protocol are consistent with Appendix C, but please note that your organisation may have amended or customised the Protocol – in which case, references in this guidance may not be consistent. References to rules are to the SFHA Charitable Model Rules 2020.

The Model Protocol sets out a process to deal with and respond to concerns and complaints about alleged failures to comply with and/or potential breaches of the Code of Conduct. It can be customised to fit your organisation's processes, and at several points square brackets are included as a prompt to insert details pertinent to your organisation, e.g. Management Committee. The protocol is offered as a model or template that individual organisations may adapt to meet their own requirements. It is not intended to be prescriptive.

### **Who Implements the Protocol? (section 2 of the Protocol)**

Concerns about a governing body member's conduct should be communicated to the Chair who is then responsible for deciding how to proceed and leading the agreed process. On becoming aware of a concern, the Chair should, in consultation with other office bearers decide on the appropriate way forward.

If the Chair is the subject of the complaint or allegation, the Vice-Chair should lead the process, unless they are also involved. In that event, the other office bearers should take the lead; and if that isn't possible, two other members of the governing body should do so (e.g. members of the Audit Committee). This guidance refers to the Chair throughout but, when implementing the Model Protocol, should be understood to refer to the governing body member who is leading the process.

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, including anyone who may be called on as a witness. Consequently, it may be necessary to ask other members of the governing body to take on the responsibilities that the Protocol allocates to the Chair and other office bearers. Delegated authorities should be sufficiently flexible/comprehensive to support this.

The senior officer will normally provide support to the Chair in implementing the protocol, although this role may be undertaken by another senior member of staff or by an officer with specific governance

responsibility.

The Scheme of Delegation should make provision for the implementation of the protocol so that there is an agreed list of authorised people to implement the process.

### **Describing or Defining the Complaint (section 3 of Protocol)**

It is important that there is clarity about what the concern is or the nature of the complaint. Although the complaint or concern may not, initially, be in writing, the issue should always be recorded to ensure there is clarity and agreement about the issue. This may be achieved e.g. by the Chair producing a note of what has been reported to them or by the senior officer preparing the note.

Some examples might be:

- During a conversation, a concern is raised with the Chair by a governing body member about the conduct of another governing body member at an external event. The Chair subsequently produces a short note describing the conversation/concern which forms the basis of discussion with the office bearers about how to proceed;
- The senior officer has concerns about the conduct of a governing body member towards staff which they communicate to the Chair in an e-mail; this becomes the basis for discussion between the Chair and the office-bearers about how to proceed;
- A written complaint is received about the conduct of a governing body member

### **When to Use the Protocol (section 4 of the Protocol)**

If a concern is raised, the first step is to establish whether there is sufficient information to proceed and, if there is, to determine which route is most appropriate.

It is important to remember that proceeding to investigate an issue may not be the most appropriate response, at least initially: where concerns are essentially performance related (e.g. irregular attendance, lack of preparation), a conversation between the GB and Chair should be arranged where support can be offered and any challenges being encountered by the GBM can be identified and understood. It would only be in the event that the 'performance' did not improve that action relating to a potential breach of/failure to uphold the Code of Conduct may be considered appropriate.

The Model Protocol provides for an initial review (see Section 4) and it is important to stress that this is not a 'mini-investigation'. This should simply be a swift overview of the concern/complaint to establish which the most appropriate course of action is. This could be undertaken by the

officer supporting the Chair and is likely to be especially relevant in the event that an anonymous complaint or allegation is made.

The purpose of such a review is to

- (a) clarify the complaint/concern/allegation;
- (b) determine whether there is sufficient information to take the matter forward;
- (c) if there is, agree which of the two 'routes' described in the protocol is the most appropriate. This element of the review should always involve the Chair.

If this review concludes that there is nothing to support the matter being pursued (e.g. because the concerns are vague and/or because the anonymity of the allegation(s) make further investigation impossible or because the complaint is obviously malicious), no further action should be taken.

If there is agreement that sufficient information is (or is likely to be) available, a decision should be taken by the Chair as to the appropriate process to respond to the concern.

### **Routes of Investigation**

It is the responsibility of the Chair to determine the most appropriate course of action. The Model Protocol is clear that not every concern justifies formal action. It describes two 'routes' – A and B.

Route A is essentially an informal response to a relatively minor issue e.g. minor discourtesy; inadvertent omission which does not have serious implications; lack of awareness of the impact of a comment; insensitivity towards another person; lack of knowledge in a significant area of the governing body's business. Such matters can appropriately be addressed in a conversation between the Chair and the governing body member concerned and may result in an apology being made and/or training provided. This is described at Section 5 of the Protocol.

For all other concerns, a more formal approach should be adopted as described in Route B of the Model Protocol and an investigation carried out. This is described at Section 6 of the Protocol.

Appendix D provides a flow chart summarising the process under Route A and Route B.

An investigation under Route B will usually be overseen by the Chair and another office-bearer or governing body member. A template description of these responsibilities is provided at Appendix F. This responsibility could be included in the Scheme of Delegation or could form part of the report to, or minute of the GB meeting that receives notice of the complaint.

### **Who Should Be Informed that the Protocol is Being Implemented?**

If either Route A or Route B of the Protocol is implemented, the governing body member whose conduct is being questioned should be informed about the nature of the concern/allegation and the process by which it is to be dealt with. Enough information should be provided to identify the provision(s) of the Code which the complaint relates to. The governing body member should be informed if leave of absence is to be taken and of the likely timescale for the conduct of the process. If there is any change to this timescale, they should be informed at the earliest opportunity, and advised of the amended timeframe. A template letter for this purpose is included at Appendix G.

The person making the complaint should be informed that the matter is being investigated and should also be informed of the outcome. Where Route B of the Protocol is being implemented, the governing body member should also be informed that they should take a leave of absence. Rule 37.8 of the SFHA Model Rules 2020 provides that the governing body can require a governing body member who is the subject of an investigation to take leave of absence until the investigation is complete and the matter has been concluded. If the Chair believes that this is NOT necessary, the governing body should be advised of the reason(s), which should be recorded as part of the record of the management of the complaint.

A Notifiable Event (NE) should be submitted to the SHR providing details of the allegation/complaint and the process by which it is to be investigated.

### **Investigation Under Route B (section 7 of Protocol)**

Under Route B, the investigation may be either internal or independent, but complaints involving the Chair or any other office-bearer should always be investigated independently.

For either, a brief should be prepared, and a template for this purpose is included at Appendix H.

- **Internal Investigation**

Internal investigations will only be appropriate in very limited circumstances. Exceptionally, if an RSL is considering carrying out an internal investigation, it must satisfy itself that all of the following apply:

- the investigation cannot give rise to any conflict of interest (present or future) given the working relationship that exists between governing body members;
- there is no potential for future working relationships to be compromised by an internal investigation being undertaken;



- the concern or complaint relates to a straightforward matter;
- the investigation is unlikely to be extensive;
- all of the required specialist skills are available in-house.

If undertaking an internal investigation, an investigating officer(s) should be appointed. This must be someone who has no knowledge of the matter to be investigated and who does not normally work closely with the governing body member(s) concerned. Please note that the investigating officer should not be a staff member because they would in effect be investigating their employer, which would represent a conflict of interests. For these reasons, in most cases an independent investigation is more appropriate under Route B.

- **Independent Investigation**

An independent investigator should be appointed. The brief should be issued and responses invited. Your solicitors, internal auditors, other external advisers and other RSLs may be able to suggest suitable people to approach.

An alternative might be to consider whether it would be appropriate to ask someone from another RSL to undertake the investigation. The same considerations listed above in respect of an internal investigation would, of course, apply. There are likely to be additional considerations around reputational impact when considering this possibility.

The Brief should be issued to those selected as being suitable and responses invited. It is not always necessary to seek proposals from more than one source. Often, it will be appropriate to check availability with potential investigators and to issue the brief to those who have indicated their ability to respond within the proposed timescale.

### **Keeping Everyone Informed**

It is important to remember that the conduct of an investigation is likely to be unsettling and potentially stressful for those involved. Care should be taken to ensure that those who are the subject of an investigation are kept informed about its progress. Responsibility for doing this should be identified at the outset of the process. Any delay or change to the process should be communicated swiftly to everyone affected.

### **Considering the Investigation Report (section 8 of Protocol)**

The draft report should be considered by the governing body members responsible for overseeing the investigation. Once they are satisfied that the report meets the terms of the Brief and contains all of the information necessary for the issue to be considered, a governing body meeting

should be called. Care should be taken to identify and manage any potential conflicts of interest on the part of other members of the governing body.

The Chair should decide whether or not the report should be issued in advance to the governing body and whether the governing body member concerned should be given access to the report. Individual circumstances will determine the most appropriate approach.

The Investigator will normally be invited to present the report at the meeting and to answer questions but should then leave to enable the governing body to consider the findings, their decision and the proposed response.

### **Determining Appropriate Response (section 9 of the Protocol)**

Although the investigation is intended to establish whether there is sufficient evidence to conclude whether or not a breach of the Code of Conduct has occurred, it is the governing body's responsibility to determine if a breach has actually been committed. If a breach has occurred, it is also the governing body's responsibility to determine how serious a confirmed breach is and what is an appropriate response. In reaching a decision about the seriousness of a breach, the governing body should take account of its consequences (actual and potential; internal and external). The governing body must exercise good governance and must act in the best interests of the organisation. The response must always be proportionate: not unduly severe but, equally, not capable of being interpreted as overlooking or brushing aside unacceptable conduct. Whilst it is right that mitigating factors should be considered, care should be taken to ensure that decision-making is not unduly influenced by loyalty.

The response will depend on the specifics of the issue but the options can include:

- Request to make an apology: in this case, the governing body should be provided with confirmation that an apology, in appropriate terms, has been given/made
- Requirement to undertake training: the governing body should be informed of the completion of the required training
- Formal censure: the letter stating the outcome of the investigation should include the censure (e.g. "The board/committee is very disappointed that XXX and expects you to ensure that this does not occur again. In the event of any further breaches occurring during the remainder of your term on the board/committee, we may ask you to resign")
- Request to resign from an office-bearing or representative role
- Request to resign from the governing body

- Removal from the governing body

The decision of the governing body should be communicated to the governing body member as soon after the meeting as possible. It may be appropriate for the Chair to contact the governing body member to provide an initial indication before the formal written decision is issued, whether or not the complaint has been upheld.

It is possible for an interim meeting to be held, which the governing body member who has breached the Code is invited to attend to respond to the conclusion, before the governing body determines its final response. This is likely to be particularly appropriate if the governing body is minded to seek to remove the governing body member.

If the governing body intends to seek to remove one of its members because of a breach of the Code of Conduct, a special meeting must be called for that specific and sole purpose (Rule 44.5). The process for calling a special meeting is set out at Rule 55. The GBM has the right to attend and make representations to any such meeting.

## **Appendix F – Template Description of Oversight Role**

The Chair and Vice-Chair will be responsible for overseeing the investigation. Their responsibilities include:

- Agreeing the brief for the investigation
- Appointing a suitably qualified/experienced person to conduct the investigation
- Agreeing a timetable for the investigation that balances the need for thorough investigation with the importance of resolving the matter and reaching a conclusion without undue delay
- Ensuring that all necessary correspondence and communication is issued to the GBM(s) involved in the investigation
- Ensuring that the SHR is kept informed, in accordance with their requirements
- Overseeing the investigation to ensure that timescales are met, the brief is fulfilled and the report contains all necessary information
- Ensuring that the necessary arrangements are made for the GB to consider the report and its conclusions and to agree a consequent course of action, appropriate to the findings – which may or may not uphold the complaint(s)
- Advising the GBM(s) who is/are the subject of the complaint(s) of the outcome of the investigation, the decision of the GB and any proposed action

## **Appendix G – Template letter to inform Governing Body Member of an Investigation**

*This template should be customised to reflect the particular circumstances. Ideally, the governing body member should first be made aware of the issue by the Chair (e.g. by telephone) and the letter is to confirm and formalise the process. It would be appropriate to make reference to the terms of any such phone call e.g. be referring to agreement to take leave of absence and not to discuss the matter.*

Dear

### **Allegation of a Breach of the Code of Conduct**

I write to inform you of the Management Committee's intention to commission an independent investigation into an alleged breach of the Code of Conduct.

The Management Committee has been made aware that it has been alleged that you [insert details, including the relevant section(s) of the Code].

This allegation must be independently investigated. The Management Committee is aiming to conclude the matter by [insert target completion date]. Until the outcome of the investigation is confirmed, it is expected that you will take leave of absence from the Management Committee and you should not discuss the matter with anyone other than the Investigator or someone who will accompany you to any meeting(s) with the Investigator.

Your e-mail address [or other contact details] will be provided to the Investigator so that they can contact you. I will confirm the appointment of the Investigator as soon as possible. I trust that you will co-operate fully with the investigation.

The Management Committee is being informed today of the allegation and your leave of absence, as is the SHR.

Yours sincerely

Chairperson

## **Appendix H – Template Brief for the Conduct of an Independent Investigation**

### **Allegation of a Breach of the Code of Conduct Brief for the Conduct of an [Independent] Investigation**

**Background:** [insert details of the concern / allegation or complaint – the written description referred to in the MP]

The Management Committee member has been informed of the allegation and has taken leave of absence. The SHR has been notified.

**Purpose and Scope of the Investigation:** To investigate an allegation that [specific allegation e.g. breach of confidentiality; unacceptable behaviour] and to report to the Management Committee on the findings and conclusions. The investigation should establish the facts of the allegation, determine whether or not the allegation is substantiated and determine whether or not a breach of the Code of Conduct may have occurred. The investigation should report on whatever facts and circumstances are relevant to the allegation and should identify the conclusions reached. The final report should include a section that can be extracted and used in communication with those whose conduct is being investigated, at the conclusion of the process.

**Conduct of the Investigation:** The investigation should be conducted by means of [e.g. a desk-top review of relevant documents and interviews with relevant people (who should be defined)]. All interviews will be conducted by [e.g. in-person meetings, phone or video-conferencing] and the report will be presented to the Management Committee [e.g. date of the meeting or virtually]. Liaison with WWHC and its representatives will be via [insert details e.g. telephone, other virtual means, and meetings].

Two members of WWHC's Management Committee (including the Chair) will oversee the conduct of the Investigation; they will be supported by [insert relevant Officer], who will be the primary point of contact for the Investigator.

The Investigator will have full access to all relevant documents and XHA will assist with administrative arrangements relating to the conduct of the investigation.

**Timescale:** [Specify, including dates by which any drafts are required and taking account of MP's 'normal' expectation that investigations should be concluded within six weeks]

#### **For Independent Investigations Only**

A suitably experienced person is required to undertake an investigation in

accordance with this Brief. Proposals should be submitted which outline your experience of similar assignments, your availability and capacity to meet the required timescale and your anticipated fee. Details of potential referees should also be provided (WWHC will inform you before approaching any referee)

Please submit your proposal to [insert details] by [specify]

## Equalities Impact Assessment

Policy/Project/Service Information			
<b>Lead Officer</b>	Deputy Director (interim) & Corporate Services Officer		
<b>Policy / Project / Service</b>	Protocol for Managing an Alleged Breach	<b>New Policy / Project / Service or revision of existing?</b>	Revision of existing
<b>Is this a reassessment following amendments being required at a previous assessment?</b>	No		
<b>Briefly describe the aims, objectives and purpose of the policy / project / service.</b>	<p>To ensure that all cases or suspected cases of breaches are handled consistently, fairly and in line with other WWHC policies. To ensure that Regulatory Standards and expectations are complied with at all times and to maintain good governance.</p> <p>To address serious matters where a Committee Member's contribution to the organisation is not meeting expectations and ensure full compliance with WWHC rules.</p>		
<b>Who is intended to benefit from the policy / project / service? (E.g. applicants, tenants, staff, contractors)</b>	Management Committee, staff, tenants, applicants, contractors, other service users		
<b>What outcomes are wanted from this policy / project / service? (E.g. the measurable changes or benefits to members/ tenants / staff)</b>	<p>To ensure high standards of service provision and that all staff, tenants, service users etc. are treated with respect.</p> <p>To not bring WWHC in to disrepute and to ensure good standards of governance and practices.</p>		



<b>Consultation</b>
<b>Who have you engaged and consulted with as part of your assessment?</b> Consultation carried out by SFHA with internal governance forums, SFHA working group and SHR input.

<b>Equalities Impact Assessment</b>			
<b>Which protected characteristics could be affected by the policy, practice, or service?</b>		<b>Identify any positive impact/s that could result for each of the protected characteristic groups.</b>	<b>Identify any negative impact/s that could result for each of the protected characteristic groups.</b>
<b>Age</b>			
<b>Disability</b>			
<b>Gender Reassignment</b>			
<b>Marriage &amp; Civil Partnership</b>			
<b>Race</b>			
<b>Religion/Belief</b>			
<b>Pregnancy/Maternity</b>			
<b>Sex</b>			
<b>Sexual Orientation</b>			

<b>Action Plan To Mitigate Negative Impact</b>		
<b>What action/s are required to address the impacts arising from this assessment?</b>		
<b>Protected characteristics</b>	<b>Action</b>	<b>Implementation Date</b>

<b>Age</b>		
<b>Disability</b>		
<b>Gender Reassignment</b>		
<b>Marriage &amp; Civil Partnership</b>		
<b>Race</b>		
<b>Religion/Belief</b>		
<b>Pregnancy/Maternity</b>		
<b>Sex</b>		
<b>Sexual Orientation</b>		
<b>Human Rights</b>		

<b>Final Decision</b>	<b>Tick relevant box</b>	<b>Include explanation where appropriate</b>
<b>Approved for implementation without change</b>	X	
<b>Amend or change the Policy/Project/Service</b>		
<b>Continue the Policy/Project/Service without change (despite impact)</b>		
<b>Stop the Policy/Project/Service</b>		
<b>Lead Officer Signature</b>		
	R.Hosie	
<b>Date</b>		
	17/10/2024	
<b>Date approved by Management Committee</b>		
	28/10/2024	