



Personal relationships at work policy

If you require this policy in a different format please ask a member of staff

Date of Approval
Revised November '07 (subject to approval)

Review Due
November '10

Introduction

Personal relationships can develop within the working environment and on occasion, go beyond friendship. Therefore, like any other behaviour within an organisation, expected standards are sought and having a policy on personal relationships at work will assist employees' in understanding what these standards are. To help employers within housing commit to such a policy, this publication provides model personal relationships at work policy.

As referred to in our Committee Members Handbook, Committee and staff should have a professional relationship based on mutual respect. This does not mean Committee and staff cannot be friendly to each other, but they should remember that if the relationship becomes too informal, it can be hard to get it back to a professional footing. This is also applicable to staff in their working relationship with each other and indeed those Committee or staff who may have involvement with external organisations, e.g. contractors, Communities Scotland, etc....

This publication is therefore intended to provide guidance in areas where personal relationships overlap with working relationships and to ensure that individual members of staff are not open to allegations of impropriety, bias, abuse of authority or conflict of interest.

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Defining 'Personal Relationships' at Work

It is difficult to provide one overall definition for 'personal relationships at work'. The term covers an array of situations; for example, close relationships, extra marital affairs, one night stands, etc. And within the context of housing it takes into consideration relationships concerning committee members; staff; tenants; Communities Scotland; suppliers; contractors; consultants.

Given this explanation of the term, there is the reality of complexity in dealing with personal relationships which surface. To help overcome the complexity of dealing with personal relationships, it is advisable that organisations should avoid being intrusive in a person's life. Not only is this a commendable approach, but maintaining this attitude can avoid infringing on a person's human rights.

Legal and Regulatory Considerations

Communities Scotland

Communities Scotland expects RSLs to meet published performance standards. We would refer RSLs to the self-assessment questions, in particular the following:

Can we demonstrate that all the governing body's decisions are taken in the best interests of our organisation and our tenants?

Is there an effective relationship between the governing body and the management team (for example in terms of understanding of roles, effective communication, planning, reporting and so on)?

Do we adhere to a sound governance framework which sets out:

- codes of conduct;
- how we handle conflicts of interest; and
- how we ensure compliance with schedule 7 of the Housing (Scotland) Act 2001?

Schedule 7 of the Housing (Scotland) Act 2001

There is legislation and guidance on how to deal with, among other things, applications for housing and jobs where there is a 'close relative' and/or family relationship. The relevant Communities Scotland Guidance Notes should be considered. (Note reference: Schedule 7 of the Housing (Scotland) Act 2001, 'Control of Payments and Benefits').

Communities Scotland guidance notes (2003/02) provide a definition of 'close relative' and 'member of the family' and the guidance notes provide further information on this. These definitions are:

Member of the Family: as defined by Section 108 of the 2001 Act - 'Meaning of 'family' and 'spouse': cohabitation':

1 For the purposes of this Act, a person ('A') is a member of another's ('B') family if

A is the spouse of B, or A and B live together as husband and wife or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex, or

A is B's parent, grandparent, child, grandchild, brother, sister, uncle aunt, nephew or niece.

2 For the purpose of subsection (1)(b)-

- a) a relationship by marriage is to be treated as a relationship by blood,
- b) a relationship of the half-blood is to be treated as a relationship of the whole blood,
- c) the stepchild of a person is to be treated as that person's child, and
- d) a person brought up or treated by another person as if the person

were the child of the other person is to be treated as that person's child.

Close Relative: a person is a close relative if:

- a) he or she is the spouse or he or she cohabits with that person (whether the same or different sexes), or
- b) he or she is that person's parent, grandparent, child, stepchild, grandchild, brother or sister.

It is essential that you comply with Communities Scotland's current guidance on these requirements and restrictions.

Schedule 7 is the law, and Communities Scotland has made it clear that in their guidance they expect housing organisations not only to comply with the law, but to uphold the spirit of the law. As a movement, housing, receives substantial amounts of public money and should do everything possible to show that it operates in an open and publicly accountable manner at all times. This includes maintaining a good reputation.

Another important aspect of Schedule 7 is that it also affects those persons who were Committee members or staff within the previous 12 months. Therefore employers should give regard to the fact that Schedule 7 is not just applicable to current committee and staff.

Sex Discrimination Act (SDA) 1975

This Act was amended in October 2001 to prevent direct or indirect discrimination against married persons in the employment field whereby the person is treated less favourably on the grounds of his or her marital status than an unmarried person of the same sex. For example, in the case of Chief Constable of Bedfordshire Constabulary v Graham [2002], it was found that the applicant had been less favourably treated than a non-married female applicant.

Employment Equality (Sexual Orientation) Regulations 2003

These regulations prohibit discrimination on the grounds of sexual orientation in relation to employment and training. Employers must be careful that they do not discriminate against individuals where they have disclosed details regarding their sexual orientation.

Human Rights Act 1998

Article 8 of the Human Rights Act refers to 'the right to respect for private and family life' and article 10 refers to 'freedom of expression'. Therefore this provides individuals with an argument that an employer's restrictions on relationships at work are unreasonable and infringing on their basic human rights. This act is only directly enforceable in the public sector, however employment tribunals and courts are guided by its principles.

Employment Rights Act (ERA) 1996

The ERA provides the right for an employee not to be unfairly dismissed. The only legitimate interest an employer has is how a personal relationship affects their ability to do their job. It may be right to raise the subject if someone's performance has slipped, but care must be taken or it could

lead to an unfair dismissal claim or even constructive dismissal.

The Regulation of Care (Scotland) Act 2001

Strict standards are expected between staff and tenants in supported or care accommodation. Such standards are regulated by the Care Commission under The Regulation of Care (Scotland) Act 2001.

General Guidelines of Personal Relationships

It is important to consider the potential situations which could lead to difficulties with personal relationships at work. Personal relationships are not problematic in themselves but problems may happen if they are poorly managed. It is also useful to view what possible personal relationships could be formed and indeed, the possible consequences of these.

This is considered below:

P o t e n t i a l Situations

Personal Relationships Ending

Sometimes the aftermath can be very awkward with accusations of not only familiarity, but also difficulties of a strained atmosphere - and even claims of harassment, or victimisation.

If Personal Relationships Become an Issue and are Ignored

This can cause resentment and in turn affect teamwork, motivation and even lead to resignations.

Personal Relationships Lead To Acts Which Contravene Workplace Policies

For example, recruitment, harassment, equality, etc. such policies are set up to improve management and indeed, to avoid Employment Tribunals. In particular organisations should have a harassment policy which is actively promoted to their staff, and applied. Failure to do so could result in a successful sex discrimination case against the organisation.

In terms of business policy, an employee or committee member could be in a position to influence the decision or approval of a procurement standard, for example, if an employee or committee member has a personal relationship with a contractor, and has responsibility for approving their work with the organisation, their decision to provide work to this contractor may be biased.

Employers Duty of Care towards Employees Health and Safety

The Health and Safety Executive have identified relationships at work as potentially creating tension and conflict, and therefore a stressful environment.

How can we deal with this?

Employers should have appropriate policies and procedures which set boundaries on what is and is not acceptable behaviour which may indirectly govern how 'affairs' are conducted. Employers have a responsibility to identify what is and what is not acceptable in matters of confidentiality, team working and standards of behaviour.

The model policy within this publication suggests that the difficulty in a 'relationship' only arises when it potentially leads to a breach of an

organisation's policies, conflicts of interest, or when individuals leave themselves open to allegations.

This policy allows the individual to identify a time early enough in any relationship to avoid the possibility of such allegations, and to try to agree with their organisation how to minimise or eliminate the problems of such a breach of policy.

Therefore it is essential for employers to have a clear policy on personal relationships at work, and provide the discretion for employees to be sensible about their relationships in the workplace.

Types of Personal Relationships

Personal relationships at work are not uncommon and within housing, they can evolve at various levels. Possible relationships are considered below:

1 Personal Relationships between Committee Members

Committee members have a responsibility to ensure that these relationships do not forward agendas contrary to the best interests of the organisation, or, at the worst, to maintain their personal power bases against the best interests of the organisation and the community.

It is necessary for every organisation to maintain a Register of Interests. This highlights to the individual and their fellow committee members the potential for conflicts between, for example, their role as a councillor- with local planning, housing, environmental, etc. responsibilities - and the housing organisation as a potential applicant, receiver of funds or even, litigant.

However, it is not as transparent when there are families, couples and other personal relationships between committee members.

Organisations should review their committee composition to ensure that it is representative. In order to achieve this objective you could challenge all decisions against the following criteria:

- such as, how does this benefit our residents/community?
- can this be interpreted to meet the self-interests of any individual, or group, on the committee?
- and would you feel comfortable explaining your decision or behaviour to the media?

Finally to ensure good practice, you would check that any decisions are positive, transparent and accountable.

Good practice would suggest, therefore, that committees try to:

- avoid over dependence on one family or group on their committee,
- closely monitor decisions to prevent bias creeping in, and
- ensure sub-committees, working parties, selection panels, appeal committees, etc. are not dominated by people with close

- relationships- family or personal, and
- ensure that so far as possible, decisions are not reviewed by people who have such close relationships (e.g. disciplinary appeal)

Housing organisations with concerns regarding such criticism can address them through membership promotions, standing orders, and committee remits.

2 Personal Relationships between Committee and Staff.

i. The National Housing Federation Model ‘Code of Conduct for Employees’

The SFHA Code of Governance and the Code of Conduct for Committee Members are under review and will refer more clearly to these issues in the future.

The National Housing Federation Model ‘Code of Conduct for Employees’ already states ‘You are responsible to the board of your employer through the line management structure leading to the Chief Executive. If your work brings you into contact with board members, mutual respect between you and them is essential to the good running of the organisation. Close personal familiarity between you and individual board members could be prejudicial to this relationship and should be avoided, especially in the work context’. There could be the possibility of breaches of confidentiality; and accusations of favouritism on the part of the committee member in terms of training opportunities, promotion or other benefit.

ii. Resignation of Committee Member Involved

The relatively small size of organisations in Scotland may make it difficult for a committee member who is involved in a personal relationship to achieve such separation, or avoid an accusation of undue influence. In our opinion, the committee member should consider resignation.

This, at first, appears a stark conclusion to what could be a subject open to debate. However, the Code of Conduct is there to protect the organisation, the individuals and the staff. The employee, more often than not, is dependent for their livelihood on their salary, whereas, the committee member is participating in a voluntary activity. If the employee decides to find other employment, and leave, that would be their own decision. But if such an option is not available, and there is no agreement, it will be simpler for the committee member to resign.

For those who resign because they recognise the potential for conflict, it does not have to mean an end to their involvement in social housing. Experienced and knowledgeable committee members are in great demand. EVH has helped people in these circumstances to join other management committees, and continue their commitment to housing.

3 Personal Relationships between staff

As with all areas of employment, there has been an opportunity for Tribunals, and others to consider this area and make pronouncements on what would be expected of a fair and reasonable employer. In the options below, the Chief

Executive/Director would be expected to speak to the Chair, as their line manager.

Options

i. Declaration

Some employers manage personal relationships at work through 'self-regulation'. It protects the organisation, and parties involved. This approach has been suggested in the draft policy in Appendix 1. The intention is to protect individuals from allegations of breaching the organisation's policies. Early declaration would offer most protection against such allegations.

ii. Managing Staff

Managers are expected to treat all staff during the performance of their duties in the same professional manner. This should be expected to continue if they are close friends or in a relationship with one of their staff. This self declaration, therefore, applies more often where there is an opportunity for favouritism or bias, e.g. where a personal relationship develops between a member of staff and their line manager. The fact that the declaration is recorded will act as a check on any advantage being given but will also allow a more senior employee, or committee, to monitor the opportunities, or provide a more objective view on a decision.

iii. Moving an Employee

The employer can insist that one of the two employees move to another office, or department. If that is not practical, the employer could consider termination of one of the contracts.

A number of employers have such clauses in their contracts. The decision to change or 'vary' a contract of employment should only be considered where there is a clear business need for the organisation, and after proper consultation with staff, and their representatives.

iv. Married Couples - Moving one partner

Depending on the posts the recruitment of the partner of a married employee may be prohibited by schedule 7 of the Housing (Scotland) Act. However, employees may become married while employed, and might offer no real disruption. Employers should recognise that it can be difficult to maintain standards where one partner is supervising another. It is difficult to envisage the discipline procedure operating fairly, or equitably.

There are also more mundane but important matters such as holidays being taken at the same time in a small organisation or department.

The movement of one partner could be considered in line but with all the same safeguards against arbitrary or discriminatory applications and the need to consult. The situation should be monitored, and normal standards of behaviour expected.

4. Personal Relationships Involving Committee or Staff with Tenants/Residents

For example, allocations:

The allocation of a house is considered a 'benefit', Communities Scotland Guidance Notes 2003/02 relaxes the legislation by allowing RSLs to make an allocation to a close relative of a committee member or employee by introducing a special exception to the legislation. RSLs must ensure that they comply with the conditions attached, which are detailed in the guidance.

Too close a relationship with tenants can also lead to accusations of favouritism, and, if they breakdown, discrimination. It is recognised that in small communities it is possible that personal relationships could overlap with professional. The need to be transparent, publicly accountable and professional in managing your houses should ensure that behaviour is above reproach.

5. Personal Relationships With Communities Scotland, Suppliers, Contractors ,Consultants and all other organisations involved in the RSLs business.

This can become a serious conflict of interest. Your register of interests could be extended to include 'friends'. It is an area which has caused considerable difficulties for organisations involved in receiving large amounts of public money because of the keen interest of the public, media and politicians. Therefore in order to demonstrate transparency, integrity and public accountability the register could be extended in this way.

Issues that apply to all relationships

Personal Conduct

Confidentiality

The opportunity to inadvertently or deliberately advise your 'partner' of confidential information has to be prevented, and, therefore, clearly stated as unacceptable.

Infatuation/Harassment

This kind of behaviour is obviously unacceptable. However, it will be easier to control if set standards are adopted by the organisation which explain that it would be unacceptable behaviour.

Physical Contact

It is not uncommon to make rules that prohibit physical contact between partners at work. It ensures that their colleagues are not made to feel awkward, and it is a precursor to prohibiting more affectionate behaviour.

Office Parties

In Employment Tribunals, office parties are normally associated with over indulgence in alcohol provided by the employer. There is a need to remind everyone that normal standards of behaviour should be maintained, and that any misbehaviour will not be excused.

Appendix 1

Model Policy on ‘Personal Relationships at Work’

Elderpark Housing Association Limited does not wish to interfere in the personal or domestic lives of its committee or staff. It also recognises that strong personal relationships and friendships start and grow from working relationships, and that many couples meet through their jobs, and the associated networks. However, regulators and best practice have identified some problems in this area between staff, and between staff and committee. They have recommended that organisations have suitable policies and procedures for dealing with any potential problems. This document summarises our policies and procedures.

It is not our intention to change our Code of Conduct for Committee, or the contracts for our staff. However, we wish to remind all our committee and staff that they must uphold our existing policies on equal opportunities, recruitment and selection, training and development, and dignity at work.

Schedule 7 of the Housing (Scotland) Act 2001 specifically prevents the granting of benefits to close relatives of committee or staff under certain circumstances as a result of their membership or employment with any Housing Association. Communities Scotland have recently extended this definition to include those who co habit. It is, therefore, essential that those intending to live together should advise their line manager, Director or the Chair, of their intention to co-habit to ensure that the Association complies with our regulator, Communities Scotland requirements.

It then makes sense for those employees or committee who find that their friendship or close relationship or affair may cast doubt on the objectivity of their decision making to advise the appropriate person i.e. Chair for committee and Director, and Director or line manager for staff. When to advise will be a matter of judgement for the individuals concerned, but it should certainly be before there is a likelihood of them leaving themselves open to the types of allegations suggested. (Individuals can discuss in confidence their own situation with the Employee Counselling Service on 0141 332 9833).

It will then be a matter of discussion initially between the parties, and the Chair and Director as to how to avoid the potential for conflict of interest. This should also include where relationships have broken down, and both parties feel awkward, and working relationships may be adversely affected.

Elderpark Housing Association Limited will expect committee members who are in this position to withdraw from any committees or decisions where their ‘partner’ could be affected. This would be expected to run for a period of at least 12 months after the relationship stops. It could also result, in certain circumstances, in the committee member having to consider resignation because these difficulties are too great.

Committee and staff will be expected to maintain the highest standards

of propriety and should ensure that their work is not affected by using work time, activities and events, such as conferences to further their personal relationship. They should also be aware how awkward demonstrations of close affection can have on their colleagues and committee.

All of this depends on the judgement of the individuals concerned, and their managers and the committee. It is not intended that no-one has personal relationships that overlap with work relationships. But we must seek to maintain our policies, the highest standards and avoid allegations of impropriety which will distract us from our mission.

In summary, it is essential that committee and staff recognise:

- Staff and committee behaviour should meet the requirements of our policies, and should be such as to avoid allegations of breaching these policies.
- If you are in a personal relationship which could lead to such allegations, you take the appropriate steps to make a manager or the Chair aware of the situation and jointly try to devise ways of avoiding any possible allegations of favouritism or harassment.

The highest standards of behaviour are required at conferences and other events where individuals are there as a result of their committee membership or staff employment with Elderpark Housing Association Limited.

Review

This policy will be reviewed every three years, the next review being due in November 2010, or sooner if legislative or best practice changes require this.