

POLICY

SETTLEMENT AGREEMENTS

All North View policies and publications can be made available on tape, in Braille, large print and community languages.

For further details please contact us on 0141 634 0555 or email us on enquiries@nvha.org.uk.

Passed:-	11 th Sept 2019	Review Date:-	August 2024
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1.0 INTRODUCTION

- 1.1 North View Housing Association expects that its existing range of employment policies will be able to successfully resolve the huge majority of workplace disputes, and business challenges we may face. However, we acknowledge that there may be occasions when “Settlement Agreements” can be considered when unique situations, that our policies do not directly provide for, arise. Our aim is to resolve disputes sensibly and therefore minimise the use of Settlement Agreements. Where they are used, we will ensure that conditions contained within them are restricted to those necessary to deal with the industrial relations, business challenge and employment law issues concerned. We will also seek value for money in any agreement(s) we conclude.

2.0 Background

- 2.1 Settlement Agreements are one way in which employers and employees (or former employees) mutually agree to deal with local disputes and business challenge issues that may otherwise have had potential to reach an Employment Tribunal (or other court). Settlement Agreements will often be used to bring the employment relationship to an end in a conclusive and binding manner. They can also be used to deal with other types of workplace issue we may have from time to time, such as: changes to working patterns; disputes over overtime arrangements; introduction of new grading systems and similar.

We would expect our existing policies (such as Redundancy, Retirement, Grievance, Discipline, Company Sick Pay, Notice Provisions and similar; along with, our local/national negotiating framework(s)) to provide methods to deal with the majority of such matters.

- 2.2 We reserve the right to resolve employment disputes using Settlement Agreements where we consider it sensible to do so. For example, we may include our using these as a further safeguard in cases of mass redundancies. We may also consider their use where the employment relationship with one of our employees has irretrievably broken down, or, where it has broken down between employees – and where none of our existing policies offer an obvious method to resolve the problem.

- 2.3 We accept that in all cases any agreement struck must be entered into voluntarily



INVESTOR IN PEOPLE

NORTH VIEW HOUSING ASSOCIATION

29A Stravanan Road, Castlemilk, GLASGOW G45 9LZ

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by the employee(s), and that they must also have received suitable advice from an appropriately qualified and indemnified person.

3.0 Contents of any Settlement Agreement

- 3.1 Disputes in which employees are remaining in our employment may be settled with a variety of monetary and/or other provisions as are pertinent to the matters at hand – overtime pay rates may be altered; small monetary sums may be agreed to effect a change in working practices; changes to shift working patterns may be agreed, and such like.
- 3.2 Where a dispute results in the employee leaving our employment (or a similar issue with a former employee resulting in their waiving any rights to approach an employment tribunal) the main tool in settling the matter will generally be to pay an agreed financial sum to the employee. [We will consider payment levels on a case by case basis.](#) The sum paid is likely to reflect the extent of our exposure to a successful employment tribunal claim and any cost savings we will make by resolving matters quickly. To help us assess an appropriate figure, [we will take advice from our legal specialist; Committee will consider such advice when determining the payment level.](#) We acknowledge the additional need to pay contractual elements as may be due, such as notice pay and outstanding holiday pay. Any agreement we strike will separate the various payments and will identify clearly those elements (and their value) which will be subject to income tax and national insurance contributions in the normal way.
- 3.3 From time to time, and in the light of particular circumstances faced, we may consider including other “one-off” components within an agreement. For example, we may waive our right to reclaim training costs made on behalf of the employee concerned; or, come to an arrangement over the employee not having to return company property or vehicles we had provided. This list is not exhaustive but, in all cases, the realistic value of such items will be taken into account (and form a part of) the overall limits we have set out above.
- 3.4 We will offer a factual reference where asked to do so. Such reference will state the start and end dates of employment with us; the post title; the range of duties included within the post; and, the applicable salary range. Our reference will not allude to the level of performance, nor the reason the employment came to an end.
- 3.5 We will include the expected provisions confirming that both parties will maintain suitable confidentiality in relation to the terms of the agreement and the requirement not to disclose these. However, we will restrict such provisions to cover those matters that are normally confidential within an industrial relations framework; or those that are otherwise specifically contained within the spirit of the General Data Protection Regulations framework. We will not include restrictions



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on disclosing matters beyond – particularly such issues that are undeniably of wider public interest/whistleblowing.

4.0 Concluding Agreements

- 4.1 We acknowledge that no agreement may be struck unless the employee(s) concerned have received advice from a suitably qualified and indemnified adviser – such as an authorised/certified trade union person; an authorised/certified advice worker; or a solicitor. We will not permit the employee to use any adviser who is also acting for us. Where the adviser charges the employee a fee, we will cover that cost up to a value that our solicitor deems reasonable; if the fee is greater, then the employee will be responsible for paying the balance. Such a sum as we pay in this regard will be over and above the overall limits we have earlier set out.
- 4.2 The Association will use any resource whom we feel is best able to conclude the agreement on our behalf, which will normally be an employment solicitor. We may also ‘mix and match’ – for example one of our employees may deal with the difficult “negotiations” stage before passing the matter on to the solicitor to write up the formal agreement paperwork.

5.0 Costs involved

- 5.1 Aside from the value of any payments made to employees, we will seek value for money in the cost involved in our executing any agreement. Wherever possible we will have our own staff perform all required work. If we do not have internal capacity or expertise, we will seek support from other external HR advisers, or from our solicitors. Where the matter has reached ACAS Pre-Employment Tribunal conciliation we will use the (free) ACAS service in concluding any agreement – unless we feel that the matters are so complex as to warrant our substituting our own agreement paperwork (bearing in mind that this may undo any good will built up with the employee/ACAS officials in getting to a “yes” position).
- 5.2 Due to the expected limited use, we will sense check likely costs involved each time we execute a Settlement Agreement.

6.0 The process

- 6.1 The Director will timeously inform the Management Committee of any situation that he/she believes could be best resolved via a Settlement Agreement. The name of the employee(s) affected will not be disclosed to the Management Committee, unless it is impossible not to do so.
- 6.2 The Management Committee will consider the matter and may choose to delegate limited authority to the Director/a Senior Member of Staff to progress the matter. If



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it does so, the Director/a Senior Member of Staff will obtain advice from our solicitor and, in the event of a monetary payment being offered, establish the range of sums that the Association may have to pay, and the conditions that would apply (to both parties) upon concluding the Settlement Agreement. The Director/a Senior Member of Staff will report these findings to the Management Committee or Office Bearers Group (should authority be delegated to the Office Bearers Group to deal with the matter). The Management Committee/Office Bearers Group will approve the arrangement prior to the signing of the Settlement Agreement.

- 6.3 The Settlement Agreement may be signed by a person authorised by the Management Committee or Office Bearers Group; this would normally be the Chairperson, or Director.
- 6.4 All Officers and Committee Members party to the arrangement will respect the confidentiality of the Agreement.

7.0 Notifiable Event

- 7.1 The Scottish Housing Regulator deems the making of a Settlement Agreement with a member of staff to be a Notifiable Event. In the event of the conclusion of such an Agreement, the Chairperson shall formally notify the Regulator as soon as reasonably practical to do so. The matter will then be reported to the Management Committee at its next Meeting, and they will be informed that it has been registered as a 'Notifiable Event'.

End of Policy

Review and amendments



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