

GROUP POLICY ON PAYMENTS & BENEFITS

Reviewed/Approved: October 2019

Next Review: October 2022

Related Policies and Procedures

- Codes of Conduct (Management Committee and staff)
- Declaration of Interests
- Gifts, Hospitality and Donations
- Anti Bribery
- Payment of Expenses
- Training
- Employee Recruitment and Terms and Conditions of Employment
- Housing Allocations
- Repairs and Improvements
- Decoration Allowances
- Adaptations
- Procurement

1.0 Policy Purpose

- 1.1 This Policy is aimed at committee members and employees¹ in the Association and our subsidiary SFARS Ltd, referred to in this Policy as “our people” and “you”. The Policy describes how we will manage payments and benefits to our people and, in certain circumstances, to people closely connected to them (for example, family members).
- 1.2 The people affected by our rules on controlling payments and benefits are shown on page 3 of this Policy, while Appendix 1 sets out in detail what payments and benefits are permitted or prohibited and the procedures that must be followed.

2. Legal and Regulatory Framework

- 2.1 This Policy is a requirement of the Association’s Rules. The Association must make sure that our committee members, as charity trustees, only receive payments or benefits where the law on charities allows this. We must also comply with the Scottish Housing Regulator’s standards and guidance which oblige us to:

¹ For the purposes of this Policy, “employees” includes people on fixed term contracts and secondment; and volunteers directly involved in delivering services to customers (e.g. volunteer handymen and women)

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- Conduct our affairs with honesty and integrity; [*Scottish Housing Regulator, Regulation of Social Housing in Scotland: Our Framework (March 2019)*]
 - Ensure that our people do not benefit improperly from their position;
 - Set a clear policy for any payments and benefits we make to our people and their close relatives, making sure that we act with transparency, honesty and propriety and avoid any public perception of improper conduct;
 - Ensure that our policy covers payments and benefits to committee members in all parts of our group structure.
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2.2 In developing this Policy, we have strengthened, to suit the Association's circumstances, the 2016 Model Policy published by the SFHA.

3. Policy Statement

3.1 Principles

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- The Association and SFARS Ltd will act lawfully and with integrity, to avoid any public perception of improper conduct.
 - Nobody should benefit improperly or inappropriately from their position with us.
 - Our people and those closely connected to them should not receive any preferential treatment, in the services we or our contractors and suppliers provide. Equally, they should not be unfairly disadvantaged if they are seeking to use our services.
 - This Policy does not affect any statutory or contractual entitlements that our people or those closely connected to them may have.
 - Our people must never offer, seek or accept bribes and must comply with our Anti Bribery Policy at all times.
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We expect our people to act in good faith and in return we will apply a common-sense approach to the application of the Policy. If you are unsure about anything covered by the Policy, you should consult the Chair or Director (Committee members) or your line manager (employees).

3.2 The Management Committee may consider and approve payments or benefits that are not addressed explicitly in this Policy. If the Committee does this, its decisions must be lawful and have regard to the principles and current regulatory guidance described above.

4. Payments and Benefits Covered by the Policy

4.1 Appendix 1 sets out our rules for the following types of payments and benefits:

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- 1) Committee membership, payment of expenses and attendance at training and other events
 - 2) Staff recruitment and HR management
 - 3) Granting of tenancies
 - 4) Matters relating to a tenancy or other service agreement (e.g. repairs, improvements, adaptations, discretionary payments)
 - 5) Sale, purchase or leasing of land or property
 - 6) Procurement and contracts with businesses trading for profit (including private use of our contractors and suppliers by our people)
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5. Declaring Interests and Actions Covered by the Policy

5.1 The Association maintains a **Register of Interests** that you should use to record any interests you or people closely connected to you have that are relevant to our business or our decisions. All of our people will be asked annually to confirm that their entry in the Register of Interests is accurate and up to date. Our **Policy on Declaration of Interests** describes the interests you should consider and the definition of “closely connected to” that applies for this purpose.

5.2 The Code of Conduct also contains a section on declaring interests that you should comply with at all times.

5.3 You should always make a declaration if you or a person closely connected to you:

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- Are already a tenant or service user of ours
 - Have applied for rehousing from us
 - Have made an application for employment with us
 - Are a principal proprietor/shareholder or senior manager of a company trading for profit that we do business with, or that is on our approved list (this includes nominated sub-contractors)
 - Are, or could become, involved in tendering for or the management of any contract for the provision of goods or services to us.
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5.4 In deciding what interests you should declare, we ask you to do this from the point of view of a reasonable and objective observer and to adopt a common sense approach.

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- We do expect you to be familiar with the actions of **members of your household** and of people with whom you **are in close or regular contact**.
 - We recognise that **you may not always be in close or regular contact** with everyone in the definition of “closely connected”.
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- We do not expect you to go to **unreasonable lengths** to identify the actions or involvement of others, or to **conduct research** into the employment, business interests and other activities of all persons to whom you are closely connected.
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6. Formal Controls on Payments and Benefits

- 6.1 Some of the interests you declare or that we identify may relate to a **potential payment or benefit**. For example, receiving a house, applying for a job, or purchasing a low cost home ownership property from us. Please see **Appendix 1** for a full list.
- 6.2 If this is the case, we will apply the **formal controls** set out in Appendix 1. These controls include:
- Deciding whether the potential payment or benefit can be permitted;
 - Making sure you do not play any part in our decision-making processes;
 - Obtaining Committee approval for the proposed payment or benefit;
 - Recording approval in the Association’s Register of Payments and Benefits, to make sure matters are clearly “on the record”.
- 6.3 The formal controls apply where the potential beneficiary of a payment or benefit is a **committee member or employee** within the Group, **or a person closely connected to a committee member or employee**. The people we regard as closely connected for this purpose are:

Members of your household	People closely connected to you
Anyone who normally lives as part of your household, whether they are related to you or not <i>(this includes spouses/partners and children who work or study away from home)</i>	<ul style="list-style-type: none"> • Parents, parents-in-law and their partners • Sons and daughters, stepsons and step-daughters, and their partners • Brothers and sisters and their partners • A partner’s parent, child, brother or sister • Grandparents, grandchildren and their partners • Someone who is dependent on you or whom you are dependent on • Close friends

7. Private Use of Our Contractors and Suppliers

- 7.1 You should not use any of the Group’s contractors or suppliers for private purposes, other than the small number of exceptions stated in Appendix 2 (utilities, banks or national chains; and low value purchasing such as local sandwich shops and window cleaners). The Association will give a list of its contractors and suppliers to all Committee and employees, to promote compliance with this aspect of the Policy.

8. Policy Implementation and Compliance

- 8.1 The Association will maintain a **Register of Payments and Benefits** to record cases where we have approved a payment or benefit affected by this Policy. It is our responsibility rather than yours to maintain this Register, but we depend on you being open in declaring all interests affected by this Policy that you are aware of.
- 8.2 We will not use the Register of Payments and Benefits for employment matters (these will be recorded instead in personnel files); or for repairs or other contractual entitlements that occur after a tenancy has been approved and recorded in the Register.
- 8.3 If prior Committee approval is needed, the Management Committee has delegated authority to any of its sub-committees to approve the granting of a tenancy, to prevent delays in decision-making. Decisions made under this delegated authority will be reported to the next Management Committee meeting.
- 8.4 Where a matter relates wholly to SFARS (e.g. an applicant for housing managed by SFARS is related to a SFARS Board member), the SFARS Board will decide the matter. If a matter concerns both the Association and SFARS (e.g. a SFARS Board member is seeking to be rehoused by the Association), the Association's Management Committee will decide the matter. To prevent delays in decision-making, the SFARS Board may establish an ad hoc payments and benefits committee made up of the Chair and two other SFARS Board members. The committee's decisions will be reported to the next meetings of the SFARS Board.
- 8.5 All payments and benefits granted by the Association and SFARS must be recorded in the Group's Register of Payments and Benefits. An annual report on the items recorded in the Register will be submitted to the Association's Management Committee.

9. Breaches of the Policy on Payments and Benefits

- 9.1 We will follow the procedures set out in our codes of conduct to investigate alleged breaches of this Policy or related policies and procedures, by either employees or committee members. The Management Committee will be responsible for deciding what action should be taken, based on the investigation findings. This may include taking action to recover payments or benefits that have been made in breach of our Policy, and/or disciplinary action.
- 9.2 Breaches of the Policy shall be treated as a breach of the codes of conduct and must therefore be reported to the Association's Management Committee.

10. Policy Review

- 10.1 The Association will review this Policy and its procedures for compliance in three years time, or earlier if changes occur to the law or regulatory guidance. We will also review the policy and procedures in response to any breaches that occur, to incorporate lessons learned and to minimise the risks of any recurrence.

DECISION OR ACTIVITY	PERMITTED?	SHA GUIDANCE/PROCEDURES
1. MANAGEMENT COMMITTEE MEMBERSHIP & PAYMENT FOR SERVICE		
1.1 Payment for service as a committee member or for providing advice to us in a professional capacity	No	SHA will not pay committee members for their service (other than repayment of out of pocket expenses), or for any advice provided in a professional capacity. This policy also applies to SFARS.
1.2 Membership of the Management Committee by anyone closely connected to a member of the MC or board member of SFARS	Yes	This is permitted under our Rules. Entry required on the Register of Interests, to declare any such relationships.
2. MANAGEMENT COMMITTEE: PAYMENT OF EXPENSES		
2.1 Payment of expenses (out of pocket expenses, reimbursement of travel costs etc.)	Yes	Claims must be in accordance with our policy and procedures and do not need to be recorded in the Register of Payments and Benefits
3. COMMITTEE AND STAFF: ATTENDING TRAINING AND EVENTS		
3.1 Attendance by committee and/or staff members at training events or conferences/seminars or openings/similar events hosted by other RSLs	Yes	<ul style="list-style-type: none"> • We will pay the costs of the event package. If not part of the package, we will arrange and pay for committee members' travel and accommodation. • No need to record in the Register of Payments and Benefits
3.2 Attendance by committee and/or staff members at external events to mark awards, achievements or other significant milestones relevant to our business	Yes	<p>MC and staff members will be able to accept hospitality at corporate events we organise, in accordance with our Policy on Gifts and Hospitality.</p> <p>It is not the Association's usual practice to send MC or staff members to "pay to attend" awards ceremonies. If exceptional circumstances were to arise in future, the MC would approve attendance in advance based on reasonable and proportionate costs and a demonstrable benefit to the Association.</p> <p>SHA would make any arrangements on behalf of those attending, and costs for each attendee would also need to be recorded in the Register of Payments and Benefits.</p>

DECISION OR ACTIVITY	PERMITTED?	SHA GUIDANCE/PROCEDURES
4. COMMITTEE AND STAFF: GIFTS AND HOSPITALITY		
4.1 Acceptance of gifts and hospitality	Yes, in some circumstances	SHA's Policy on Gifts, Hospitality and Donations sets out the limits and procedures that apply to accepting gifts and hospitality and when they must be recorded in the Register of Gifts and Hospitality
5. STAFF RECRUITMENT		
5.1 Making an offer of employment (temporary or permanent) to someone who is closely connected to an existing employee	Yes	Permitted as long as: <ul style="list-style-type: none"> • There has been an open recruitment exercise in accordance with our policy and nobody closely connected to the job applicant has played any part in the recruitment and selection process; and • The offer of employment is approved by the Management Committee; and • No direct or indirect line management or supervision responsibility will be created between people who are closely connected to each other; and • The offer of employment is recorded in the Register of Payments and Benefits, following its acceptance
5.2 Existing staff: approval of re-gradings/promotions and contract enhancements, specific to an individual staff member?	Yes	Permitted as long as: <ul style="list-style-type: none"> • The proposed arrangement is based on an objective assessment and approved by the Management Committee
5.3 Making an offer of employment to someone who is, or who has been in the last twelve months, an SHA Committee member or a SFARS Board member	No	<ul style="list-style-type: none"> • We will discourage former Committee/Board members from applying for employment within this timeframe. • If this situation occurs, we will seek legal advice to make sure that we always act in accordance with the law, with regard to excluding former committee or board members from consideration.
5.4 Making an offer of employment to someone who is closely connected to a current SHA Committee member or a SFARS Board member	No	<ul style="list-style-type: none"> • This cannot be permitted

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6. HUMAN RESOURCES MANAGEMENT		
6.1 All entitlements arising from a contract of employment with SHA	Yes	<ul style="list-style-type: none"> Any entitlement in terms of contract and agreed remuneration package is always permitted without the need to record. Our terms and conditions of employment and associated HR policies shall be regarded as part of the employment contract in relation to this Policy.
6.2 Provision of a loan by us to one of our people	No	This is not permitted unless allowed for in the contractual terms of employment. We cannot make any other loans to individuals.
6.3 Redundancy or Voluntary severance payment to an employee The Association put in place a separate Settlement Policy (based on an EVH drafted template) in July 2019.	Yes	<p>We can make redundancy payments to an employee in line with their contract of employment or the relevant statutory provisions.</p> <p>We can make a voluntary severance payment to an employee which is outside the terms of their contract of employment provided:</p> <ol style="list-style-type: none"> The payment is instead of any redundancy entitlement; and The payment arises directly from a decision to terminate the employee's contract of employment and there is a clear business rationale for doing so (such as early retirement, redundancy, restructuring or to improve organisational effectiveness and efficiency); and The proposed payment is approved by the MC and the affected employee does not play any part in advising the MC about any voluntary severance payment that may be awarded to them; and The total sum of the non-contractual payment and benefit does not exceed, in the opinion of EVH or our legal adviser, the total cost of a successful application by the employee to a Court or Tribunal (including the likely level of compensation that might be awarded by a court or tribunal and associated costs to the organisation to participate in the tribunal); and Payment is no more than one year's gross remuneration, if the employee has more than 10 years or more continuous service with SHA; or, if less than 10 years continuous service, payment is no more than one-tenth of one year's gross remuneration for each year of completed service. Where staff transferred in to SHA under TUPE total years service can be used for this calculation.

DECISION OR ACTIVITY	PERMITTED?	SHA GUIDANCE/PROCEDURES
		<p>In exceptional circumstances (e.g. if a settlement agreement is being negotiated), the MC shall have authority to exceed the limits specified in point e), where independent advice confirms that this is required.</p> <p>Any settlement agreement made with staff will be reported to the Scottish Housing Regulator in line with its Notifiable Events Statutory Guidance.</p>
7. TENANCIES & SERVICE AGREEMENTS		
<p>7.1 The granting of a tenancy or lease in one of our properties (including those managed by our subsidiary SFARS) to one of our people or to someone closely connected to them</p>	<p>Yes</p>	<p>Permitted as long as:</p> <ul style="list-style-type: none"> • The decision is in accordance with our published allocations policy (SHA) or lettings criteria (SFARS), and • Neither the applicant nor anyone closely connected to them is involved in any way or in any part of the allocation process, and • Granting of the tenancy is approved in advance by the SHA Management Committee or SFARS Board; or, if a decision is needed earlier to start the tenancy, by any sub-committee of SHA or SFARS, as applicable and • Granting of the tenancy is recorded in the Register of Payments and Benefits
<p>7.2 Where one of our people is an SHA tenant and receives a repair, improvement or adaptation to their home</p>	<p>Yes</p>	<ul style="list-style-type: none"> • Repair works carried out in accordance with SHA's policy do not need to be declared or recorded (tenanted and factored properties). • Property adaptations must comply with our policy; be approved by a senior manager; and be recorded in the Register of Payments and Benefits. MC approval is not required. • Improvement works must be carried out as part of an approved programme and in accordance with our policy. <ul style="list-style-type: none"> – If not part of an approved programme, the works must be approved by a senior manager and recorded in the Register of Payments and Benefits. MC approval is not required. – If a MC or staff member has a personal interest in improvement works to be discussed at a meeting, they must declare an interest.

DECISION OR ACTIVITY	PERMITTED?	SHA GUIDANCE/PROCEDURES
7.3 Where one of our people is an SHA tenant and receives a decoration allowance or other discretionary payment relating to their tenancy	Yes	Payments and/or allowances must be made in accordance with our policy and procedures; be approved by a senior manager; and be recorded in the Register of Payments and Benefits . MC approval is not required.
8. SALE/PURCHASE/LEASING OF LAND OR PROPERTY OF PROPERTY		
8.1 Disposal of our interest (whole or part) in a property to a Management Committee member, employee or someone closely connected to a Committee member or employee via LIFT; HomeBuy; Help to Buy or other LCHO scheme; or via leasing of a commercial property.	Yes	<p>This is permitted, provided:</p> <ul style="list-style-type: none"> • People in priority purchaser groups receive the first opportunity to purchase • The disposal must not be on terms that are more favourable than those available to other purchasers/lessees • Our policy and procedures are followed, including setting selling prices with reference to an independent valuation and advice • The prospective purchaser or lessee or anyone closely connected to them plays no part in our approval or processing of the transaction • The disposal shall be approved by the MC. The MC will assess proposed disposals to MC or staff members carefully, to ensure that they do not create any reputational risks for SHA • The disposal shall be recorded in the Register of Payments and Benefits, with full details recorded in the relevant files for audit purposes <p>We will not normally permit purchasing by SHA employees unless interest from priority purchaser groups has been exhausted and it is in the economic interests of the Association to dispose of unsold properties.</p>
8.3 Any other sale of SHA heritable property to one of our people or someone closely connected to them	No	This is not permitted (for example, if SHA decides to dispose of properties that are surplus to requirements).

DECISION OR ACTIVITY	PERMITTED?	SHA GUIDANCE/PROCEDURES
8. SALE/PURCHASE/LEASING OF LAND OR PROPERTY OF PROPERTY		
8.4 The purchase of land or other assets from anyone who is, or who has been in the last twelve months, one of our people; or from a person who is closely connected to one of our people	No (in almost all cases)	<p>This is generally prohibited. We may make exceptions to this for owners unable to afford improvement/repair works that are part of a recognised programme, or if you are referred to us under the Scottish Government's Mortgage to Rent scheme. In these circumstances, purchase may be permitted provided that:</p> <ul style="list-style-type: none"> • Our policy and procedures are followed, including a business case for properties to be purchased as part of an improvement/repair programme • The prospective seller (or someone closely connected to them) plays no part in the decision to purchase the property or in the processing of the transaction by us • The transaction is approved by the Management Committee and recorded in the Register of Payments and Benefits, and details of the process followed are recorded in the relevant files.

DECISION OR ACTIVITY	PERMITTED?	SHA GUIDANCE/PROCEDURES
9. CONTRACTS: BUSINESSES TRADING FOR PROFIT		
<p>9.1 Entering into a contract with a <u>relevant business</u></p> <p>A relevant business is a business trading for profit where one of our people, or someone closely connected to them, is a principal proprietor or shareholder or is directly involved in the management of the business¹</p> <p>This includes cases where we have required the use of a specified third party (e.g. where a main contractor is employing a relevant business as a nominated sub-contractor).</p>	<p>No (in almost all cases)</p>	<p>Contracts with relevant businesses are not permitted in almost all circumstances.</p> <p>SHA cannot enter into a contract with a relevant business owned or managed by someone who has been a MC member or employee in the last 12 months.</p> <p>We will only consider entering into a contract with a relevant business in other circumstances, where:</p> <ul style="list-style-type: none"> • The MC member or employee affected by this policy is not involved in any part of the procurement process or decision; • The appointment is approved by the MC which is satisfied that the appointment is reasonable in the circumstances; • There is no reasonable alternative available to us (e.g. because the goods/services are of a specialist nature). <p>In these circumstances, the appointment would be recorded in the Register of Payments and Benefits and details of the process followed would be recorded in the relevant files for audit purposes.</p> <p>The Association will include in tender documentation an explanation of the grounds for setting aside a tender if our policy provisions on contracts with relevant businesses are breached.</p>
<p>9.2 The purchase of goods/services from our suppliers/contractors by one of our people, for private purposes</p>	<p>No</p>	<p>The only permitted exceptions are businesses that:</p> <ul style="list-style-type: none"> • Only provide services of a small value (e.g. local window cleaners or sandwich shops) or • Have such a large national or local standing that no favour could ever realistically be gained (e.g. banks, utility companies, national chains) <p>The Association will provide all committee members and employees with a list of our contractors and suppliers, so that it is clear which businesses are covered by our rules on private use.</p>

¹ These terms are further defined below using the detailed definitions contained in previous regulatory guidance on Schedule 7

Further definition of terms in relation to procurement and contracts

Source: Communities Scotland Guidance Note 2003/02, Control of Payments and Benefits

Businesses trading for profit: a business trading for profit is one that can distribute its surpluses, profits or capital to its members or shareholders for their personal use.

Person directly concerned in the management: a person is “directly concerned in the management” of a business trading for profit if he or she has the power to make decisions for the business such that there is a real risk that the RSL’s decision to make a payment or grant a benefit to the business could be influenced by the interests of the business.

Principal Proprietor: someone whose degree of ownership is such that there is a real risk that the RSL’s decision to make a payment or grant a benefit to that business could be influenced by that fact. This degree cannot be set at any particular percentage of share ownership or equity partnership – it will depend on the facts of each case. However, a person may be considered a principal proprietor if he/she:

- can vote on questions affecting the management and conduct of the business or its internal constitution;
- has the right to any shares of the business; or
- has the right to any share capital of the business on the winding-up.

A person will not normally be considered a principal proprietor if they have a small shareholding in a large company and in the case of large businesses that operate nationally, such as banks, building societies and public utilities, this condition will only apply to parts of the business with which the RSL has a direct relationship.