



Derwentside
Homes

Schedule 1 Housing Act 1996 Policy

Policy Number

POL17

Purpose of Policy

To ensure that there is in place a Payments and Benefits Policy in compliance with the Regulatory Code and Schedule 1 of the Housing Act 1996.

Policy Statement

Derwentside Homes will maintain the highest standards of probity in all of its dealings, acting to maintain the good reputation of the sector, and not bringing it into disrepute. The adoption of a Payments and Benefits Policy sets out as a general rule that Board Members, officers and employees and their families must not benefit from their connection with Derwentside Homes.

Responsible Officer

Policy Author(s)

Date Approved by the Shadow Board

Frequency of Review

Three years or as dictated by legislation/guidance

Review Date

File Reference

Consultees

Tenants Forum

Staff

Derwentside Homes Shadow Board

1. Statement of Intent

- 1.1. Schedule 1 to the Housing Act 1996 ("Schedule 1") is designed to prevent conflicts between the personal interests of the Board Members, officers and employees of a Registered Social Landlord and those persons' duties to that RSL.
- 1.2. Schedule 1 prohibits the making of a non-contractual payment or the granting of a benefit to:-
 - 1.2.1. a board member (including a co-opted member), officer or employee of the RSL;
 - 1.2.2. a person who has held such a position within the previous twelve months; and
 - 1.2.3. a close relative of a person within paragraph 1.2.1 or 1.2.2.
- 1.3 The prohibition under Schedule 1 also covers a business trading for profit of which a person falling within paragraphs 1.2.1, 1.2.2 or 1.2.3 is a principal proprietor or in whose management such a person is directly concerned.
- 1.4 In all cases the references in paragraph 1.2 are to a board member, officer or employee of the concerned RSL itself.
- 1.5 Housing Corporation guidance (Good Practice Note 3 dated September 2002 and revised September 2004) states that, whilst Schedule 1 does not apply to RSLs that are registered charities, the Housing Corporation expects them to keep to the spirit of the legislation and act as if Schedule 1 applies to them. As an RSL that is a registered charity, Derwentside Homes agrees with this statement and this policy reflects that guidance and adopts that principle. Derwentside Homes should also comply with Charity Commission guidance and the Charity Commission publication '*Payment of Charity Trustees (CC11)*' explains the principles of charity law that apply to conflicts of interest.
- 1.6 In addition to a register of interests, a further register needs to be maintained of payments made or benefits granted, noting the matters relevant to such payments in accordance with this policy and all relevant guidance from the Housing Corporation. This register should be monitored by the Board and be available to internal and external auditors and to the Housing Corporation.
- 1.7 The registers referred to in paragraphs 1.6 and 2.3 shall be maintained by the Company Secretary. They shall be kept available for inspection at any time by any Board Member and by any officer or employee who may be named in the register of interests. They shall also be kept available for inspection by any internal or external auditor of Derwentside Homes and by the Housing Corporation.

- 1.8 In addition to the two registers being kept available for inspection as provided by paragraph 1.6, they shall be reviewed formally by the Board of Derwentside Homes. Such formal reviews shall take place at intervals of no less than twelve months, and at such reviews the Board shall:

formally consider the register of interests referred to in paragraph 2.3 and consider in respect of each interest disclosed whether it continues to be appropriate within the then current situation of Derwentside Homes; and

formally consider the register of payments made and benefits granted referred to in paragraph 1.5, and consider the size and number of all such matters in respect of any one individual and whether such arrangements continue to be appropriate within the then current situation of Derwentside Homes.

- 1.9 Derwentside Homes hereby agrees to adopt the Policy set out in paragraphs 2 and 3 below.

2. Outline of Policy

- 2.1 Derwentside Homes will apply Schedule 1 as if it related not only to its own direct commercial and other arrangements (as required by regulatory guidance of the Housing Corporation) but will also apply the rules in Schedule 1 to individuals having a relationship with any trading subsidiary. Accordingly, it will not make a payment or grant a benefit to any individual having the relationship defined in paragraphs 1.2.1, 1.2.2 or 1.2.3 with itself.

- 2.2 In relation to business relationships, each Board Member, officer and employee shall be required to supply to the Company Secretary a full declaration of all interests falling within paragraph 1.2.4. Such declaration shall consist of a statement of the name and registered office or other address of the business trading for profit which is referred to, and a statement of the interest of the person making the declaration and whether he or she is a principal proprietor or directly concerned in management or both.

- 2.3 The Company Secretary shall, from the declarations made pursuant to paragraph 2.2, compile and thereafter maintain a register of businesses falling within paragraph 1.2.4 for Derwentside Homes, and specifying the Board Member, officer or employee concerned. Such register and subsequent updates shall be circulated to the Chair and Vice Chair and shall be available at Board meetings and at any other meetings at which contracts or business arrangements may be awarded or considered.

- 2.4 On each occasion upon which any contract is to be awarded or payment made or other benefit granted to any business, the Chair, Vice Chair or member of the Senior Management Team present shall consult the register of interests prepared pursuant to paragraph 2.3 and shall, if such business is referred to in the register, provide details of the entry. Such a declaration of an interest shall not in itself be a bar to the proposed award, payment or grant but no such award, payment or grant shall be made unless Derwentside Homes has complied with Section 3 of this policy.

In the event that the Board Member, officer or employee to whom the entry relates is present, he shall absent himself and take no further part in the discussion.

3. Exemptions and Determinations

- 3.1 The Housing Corporation has published the Payments and Benefits Determinations 2000 & 2004 (the “Determinations”) and may from time to time amend these to grant some limited exemptions from the scope of Schedule 1. Details of these are available on request.
- 3.2 In accordance with the principle in paragraph 2.1 of the policy no distinction shall be drawn between a relationship with a trading subsidiary for the purposes of this section of the policy.
- 3.3 Where Derwentside Homes wishes to make use of an exemption provided by The General Determination or Special Exemptions (and as amended or replaced from time to time) it may do so in accordance with the following procedure prior to making the payment or granting the benefit:-
- Derwentside Homes must assess whether the proposed action is within its objects, taking legal advice if there is any doubt on this point;
 - No priority, beneficial treatment or beneficial terms must arise from the relationship with Derwentside Homes that would put it in breach of Schedule 1;
 - The decision to make the payment or grant the benefit must be made by the Board or, if appropriate, the relevant committee be delegated authority; and
 - All further steps or qualifications relating to the relevant exemption must be complied with in full.
- 3.4 Where Derwentside Homes is uncertain as to the applicability of an existing exemption or the need to apply for a special determination the Board or relevant committee must take steps in order to avoid action in breach of Schedule 1 which could include:
- taking legal advice as to whether the action proposed constitutes a breach of Schedule 1;
 - discussing the matter with the Housing Corporation.
- 3.5 If a payment is made or benefit granted all details of the process leading to that action shall be recorded in the register referred to in paragraph 1.6 and shall be reported to the Board of Derwentside Homes.

4. Specific Needs

- 4.1 Derwentside Homes will take into account the specific needs, which may arise, of older people, people with disabilities, black and minority ethnic groups, in a manner that promotes equality and inclusiveness.

5. Consultation

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- 5.1 Derwentside Homes will seek the views of tenants on this policy in a variety of different ways including service review groups in line with the arrangements established by Derwentside Homes Tenant Participation and Consultation Policy 05.

6. Monitoring

- 6.1 The Chief Executive will present an annual report to the Board of Derwentside Homes detailing both the rewards and events paid for under the determination and the total cost to Derwentside Homes during the year.

7. Links to the Housing Corporation Regulatory Code and Guidance

- 7.1 This policy has been written to comply with the following elements of the Regulatory Code and incorporates the identified legislation / guidance:

Regulatory Code:

- Properly Governed: Section 2.1, 2.3, 2.4.

Legislation / guidance:

- Housing Act 1996;
- Housing Corporation Regulatory Code;
- Housing Corporation Payments and Benefits Determinations 2000 & 2004;
- Maintaining Standards of Probity Good Practice Note 3 - Sept 2002 (revised Sept 2004) and Supplement (July 2004).

8. Links to other policies

- Board Membership/Recruitment Policy;
- Code of Conduct.

9. Responsibility

- 9.1 The Chief Executive has overall responsibility for the implementation and monitoring of this policy.

10. Review date

- 10.1 This policy will be subject to periodic review.