



WHISTLE BLOWING POLICY (2020)

1.0 INTRODUCTION

The Association is committed to the highest standards of openness, probity and accountability. As employees (and others that we deal with) are often the first to realise that there may be something seriously wrong, the Association expects those who have serious concerns about any aspect of the Association's work to come forward and speak up without fear of reprisal.

Thus, the Association recognises that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee (and other members) of the Association feel at a disadvantage in raising legitimate concerns.

The Public Interest Disclosure Act (1998) gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns.

These procedures are in addition to the Association's complaints procedures and other statutory reporting procedures.

All employees, contractors, other bodies, agency staff, etc. working for the Association on its premises are covered by this policy. The policy also applies to suppliers and those providing services under a contract within the Association on any of its premises.

This policy is intended to cover staff, Committee, consultants or contractors working with us. If you are a tenant, member of the public or other service user, you should raise any concerns that would normally be called "Whistleblowing" directly with the Chief Executive or (if the issue concerns the Chief Executive) the Chairperson.

2.0 WHY IS WHISTLEBLOWING IMPORTANT?

Problems can arise in any organisation and the best people to identify them are often the people who work in the organisation.

Reporting concerns about your organisation an early stage can help to ensure that:

- ✓ they do not become worse and so take more time, effort and resources to fix;
- ✓ the interests of tenants and other service users and staff are protected; and,
- ✓ tenants and other service users, staff, lenders, other stakeholders, and the public,
- ✓ continue to have confidence in the organisation.

3.0 **GENERAL DEFINITION**

For the purposes of this policy the term “Whistleblowing” will have the following meaning:

“A situation where anyone raises a concern about improper conduct, wrongdoing, risk or malpractice with someone in authority, either internally or externally.

4.0 **REGULATORY DEFINITION**

According to the SHR whistleblowing is where a member of staff raises concern about improper conduct, wrongdoing, risk or malpractice with someone in authority either internally or externally e.g. a regulator. Officially, this is known as making a ‘protected disclosure’.

The SHR differentiates between a grievance and whistleblowing as follows:

Whistleblowing - is about conduct that affects others: for example, fraud or a failure to comply with health and safety requirements.

A **grievance** is where a member of staff has a personal complaint about their own employment situation (and in this situation the Associations Grievance Procedure should be followed).

5.0 **SCOPE OF POLICY**

This policy is designed to enable anyone to raise concerns internally and at a high level to disclose information that the individual believes shows malpractice or impropriety.

A number of policies and procedures are already in place, including grievance, dignity at work, and discipline along with Staff and Governing Body Codes of Conduct. This policy is intended to cover concerns that might be in the public interest and may (at least initially) be investigated separately but might then lead to the commencement of such procedures.

These concerns might include:

- ✓ financial malpractice, impropriety or fraud;
- ✓ failure to comply with a legal obligation or statutes;
- ✓ dangers to health and safety or the environment;
- ✓ criminal activity;
- ✓ a miscarriage of justice;
- ✓ professional malpractice;
- ✓ improper conduct or unethical behaviour;
- ✓ attempts to conceal any of the above.

6.0 SAFEGUARDS FOR EMPLOYEES

6.1 Protection

This policy is designed to offer protection to those employees of the Association who disclose such concerns provided the disclosure is made:

- ✓ in good faith;
- ✓ to an appropriate person/body; and
- ✓ in the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety.

The Association will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect the individual when they raise a concern in good faith.

6.2 Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal the individual's identity if they so wish. However, at the appropriate time the individual may need to come forward as a witness.

6.3 Anonymous Allegations

The Association will consider anonymous allegations should sufficient information be provided to enable an investigation to take place.

6.4 Untrue Allegations

If an individual makes an allegation in good faith that is not confirmed by the subsequent investigation, no action will be taken against that individual. However, if the individual makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against the individual concerned.

7.0 EMPLOYEES: HOW TO RAISE A CONCERN: INTERNALLY

7.1 First Step

The individual should normally raise concerns with their departmental manager (or with the Chief Executive) if the complaint is against or is in any way related to the actions of their departmental manager).

This information will be passed on as soon as is reasonably possible to the appropriate designated investigating officer as follows:

- ✓ Complaints of malpractice will be investigated by the Chief Executive unless the complaint is against the Chief Executive or is in any way related to the actions of the Director. In such cases, the complaint should be passed to the Chairperson for referral.
- ✓ In the case of a complaint that is in any way connected with but not against the Chief Executive, the Chairperson will nominate another senior member of staff to act as the alternative investigating officer.
- ✓ The complainant has the right to bypass the line management structure and take their complaint direct to the Chairperson. The Chairperson has the right to refer

the complaint back to management if he/she feels that the management, without any conflict of interest, can more appropriately investigate the complaint.

7.2 Communicating the Disclosure

Although the individual is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

Concerns may be raised verbally or in writing. Any individual making a written report are invited to use the following format:

- ✓ The background and history of the concern (giving relevant dates).
- ✓ The reason why there is concern about the situation.

The earlier the individual expresses their concern, the easier it is to action

7.3 Process for Internal Allegations

On receipt of a disclosure the Chief Executive or Chairperson will consider the information made available to him/her and decide on the form of investigation to be undertaken.

This may be to:

- ✓ Investigate the matter by management, internal audit, or through the disciplinary process;
- ✓ Refer the matter externally to the external auditor or the police;
- ✓ Call for an independent inquiry.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

7.4 Timescales

The person who will have to reach the decision on the matter should not carry out the investigation. The responsible person will write to the individual concerned (unless it is an anonymous allegation) within 10 working days of a disclosure being made.

They will:

- ✓ acknowledge that the concern has been received;
- ✓ indicate how the matter will be dealt with;
- ✓ give an estimate of how long it will take to provide a final response;
- ✓ tell the individual whether any initial enquiries have been made;
- ✓ supply the individual with information on staff support mechanisms; and tell the individual whether further investigations will take place and if not, why not.

The amount of contact between the persons considering the issues and the individual will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary (and where possible), the Association will seek further information from the individual concerned.

Where any meeting is arranged, the individual can be accompanied by a third party representative and also have the meeting off-site if they so wish.

8.0 HOW TO RAISE A CONCERN: EXTERNALLY

Public Interest Disclosure Act (1998) provides protection for staff who make a whistleblowing claim to a prescribed person **whether or not** they have raised the matter within their own organisation.

It is a requirement of Regulatory Standards that RSLs ensure that their whistleblowing policy also makes it clear that staff can appropriately report concerns to the Scottish Housing Regulator (as one of the prescribed persons) and that they should not suffer any detriment for doing so.

Governing body members are not covered by the Public Interest Disclosure Act but the SHR will handle concerns raised by governing body members in the same way as qualifying disclosures from staff.

Employees can also obtain advice, in confidence, by contacting their Trade Union (if appropriate).

In terms of how the SHR would deal with a concern raised information can be found in the *"Whistleblowing about a regulated body"* leaflet published by SHR in April 2015.

9.0 OUTCOMES OF INVESTIGATIONS

In terms of a matter reported internally, once all facts are established the Chief Executive or Chairperson will decide what action to take. If the complaint is justified, then they will invoke the appropriate procedures.

The Association hopes the individual will be satisfied with any action taken. If they are not and feel it is right to take the matter outside the Association (assuming they haven't done so already), contact can be made with any of the Prescribed Persons and Further Sources of Information as outlined in **Appendix 1**.

10.0 COMMITTEE REPORTING

The Committee will be informed by way of a formal written report following any Whistleblowing allegation or incident.

This report will be presented to the Management Committee by the Chief Executive / Chairperson or Independent Body as soon as practical once the outcome of the investigation is known.

11.0 GENERAL DATA PROTECTION REGULATIONS

The Association will treat your personal data in line with our obligations under the current data protection regulations and our own Privacy Policy.

Information regarding how your data will be used and the basis for your data is provided in the Associations employee Privacy Notice.

12.0 **POLICY REVIEW**

This policy will be reviewed at least every 3 years and following each whistleblowing event.

George Tainsh
Chief Executive

2nd June 2020

Policy Review and Consultation Process

Recommended by Finance, Audit & Corporate Governance Committee	11 th June 2020
APPROVED BY THE MANAGEMENT COMMITTEE ON	25th June 2020
Date of Next Review	June 2023

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DECLARATION (To be signed by Staff and Committee)

Signed **Date**

I(print name) have read and understood the aforementioned policy and accept the expectations and obligations contained therein.

Clarification and guidance as required, on any aspect of the policy, has been sought and obtained from the Chief Executive and/or the Chairperson.

List of Prescribed Persons

Scottish Housing Regulator

Tel: 0141 242 5642

Email: shr@shr.gov.scot

Environmental Health

Clackmannanshire Council

Tel: 0500 545 540 or 01259 450000

Email: ehhealth@clacks.gov.uk

Fife Council

03451 550 022

Health and Safety Executive

Tel: 03007906787

Web: hse.gov.uk

OSCR (Charity Regulator)

Tel: 01382 220 446

Email: info@oscr.org.uk

Further Sources of Information

EVH

Tel: 0141 352 7435

ACAS

Helpline: 0300 123 1100

Public Concern at Work (PCaW)

Tel (general): 02031 172 520

helpline@pcaw.co.uk

Unite (Trade Union)

Glasgow Office

0141 404 5424

Edinburgh Office

0131 556 9676