



SHA Whistleblowing Policy

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1. INTRODUCTION

- 1.1 Southside Housing Association (SHA) is committed to the highest standards of openness, probity and accountability. As employees are often the first to realise that there may be something seriously wrong, SHA expects those who have serious concerns about any aspect of our work to come forward and speak up without fear of reprisal.
- 1.2 Therefore SHA recognises that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee, Management Committee member, Neighbourhood Committee member or stakeholder of SHA feel at a disadvantage in raising legitimate concerns.
- 1.3 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 concerns. These concerns must be made in the ‘public interest’ as per the Enterprise and Regulatory Act 2013, in addition if a disclosure is not made in ‘good faith’ this will still be considered by an employment tribunal but compensation can be reduced by up to 25% in such circumstances.
- 1.4 Employers may also be held vicariously liable for workers who victimise colleagues for making a disclosure. SHA will take all reasonable steps to protect workers from being victimised.
- 1.5 All employees, Management Committee members, sub-committee members and stakeholders of SHA including the wholly owned subsidiary Southside Factoring and Related Services (SFARS) are covered by this policy. The policy also applies to suppliers and those providing services under a contract within SHA.
- 1.6 If you are a customer, member of the public or other service user, you should raise any concerns regarding “Whistleblowing” directly with the Chief Executive Officer (CEO), or in writing marked “Private and Confidential’ FAO CEO, Southside Housing Association.
- 1.7 **Data Protection**

SHA will treat your personal data in line with our obligations under the UK General Data Protection Regulation, Data Protection Act 2018 and our own Privacy Policy. Information regarding how your data will be used and the basis for processing your personal data is provided in SHA’s privacy notices published on the SHA website.

2. SCOPE OF POLICY

2.1 This policy is designed to enable employees of SHA to raise concerns internally and at a high level to disclose information that the individual believes shows malpractice or impropriety. A number of policies are already in place, including the Dignity at Work policy and Disciplinary and Grievance procedures. This policy is intended to cover concerns that are in the public interest and may (at least initially) be investigated separately, but may lead to the instigation of other procedures.

2.2 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 involving SHA, its employees, Management Committee members, Neighbourhood Committee members or stakeholders
- Professional malpractice
- Improper conduct or unethical behaviour
- Failure to meet legal obligations
- Abuse of power or status
- Deliberate attempts to conceal any of the above

3. LEGAL AND REGULATORY FRAMEWORK

3.1 This policy has been informed by the following legislation:

- Public Interest Disclosure Act 1998
- Enterprise & Regulatory Act 2013

3.2 SHA are regulated by the Scottish Housing Regulator (SHR). The SHR's *Regulation of Social Housing in Scotland: Our Framework*¹ places a number of regulatory expectations upon SHA in regard to Whistleblowing.

3.3 There is a regulatory requirement for a registered social landlord (RSL) to have effective arrangements and a policy for whistleblowing by staff and governing body members which it makes easily available and which it promotes.

3.4 The SHR Standards of Governance and Financial Management, Standard 5.6 also sets out an obligation that RSLs must meet:

- There are clear procedures for employees and governing body members to raise concerns or whistleblow if they believe there has been fraud, corruption or other wrongdoing within the RSL.

¹ Scottish Housing Regulator – Regulation of Social Housing in Scotland: Our Framework, February 2019

- 3.5 The SHR's Statutory Guidance on Notifiable Events² provides further guidance on Whistleblowing and outlines 'Whistleblowing allegations' as a Governance and Organisational Issue category Notifiable Event.

4. SAFEGUARDS

4.1 Protection

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

- In the public interest.
- To an appropriate person/body; and,
- That the individual has reasonable belief in the validity of the concerns being raised.

- 4.1.2 SHA will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect the individual when they raise a concern with the above provisions acknowledged.

4.2 Confidentiality

- 4.2.1 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

4.3 Anonymous Allegations

- 4.3.1 This policy encourages individuals to put their names to any disclosures they make. Concerns expressed anonymously are much less robust, but may nevertheless be considered at the discretion of SHA.

4.4 Untrue Allegations

- 4.4.1 If an individual makes an allegation that is not confirmed by the subsequent investigation, it is probable that no action will be taken against them. However, if the individual makes an allegation that is deemed to be made 'in bad faith' i.e. frivolously, maliciously, or for personal gain, disciplinary action may be taken against them and this may be up to and including dismissal.
- 4.4.2 It should also be noted that under the provisions of the Enterprise and Regulatory Act 2013, if a disclosure is not made in 'good faith' this will still be considered by an employment tribunal but compensation can be reduced by up to 25% in such circumstances.

² Notifiable Events – Statutory Guidance, February 2019

5. RAISING A CONCERN

5.1 First Step

- 5.2 The individual should raise concerns with their immediate line manager. This information will be passed on as soon as possible to the CEO. If the CEO is absent or otherwise unavailable then the complaint will be passed to the Deputy Director.
- 5.3 Any complaints will be overseen by the CEO (although they may delegate part or all of the practical investigation) unless the complaint is against the CEO or is in any way related to their actions. Where the complaint is related to the CEO, it should be addressed to the Chairperson of the Management Committee who will in turn appoint an independent person to investigate the allegations.
- 5.4 If both the CEO and Chairperson are implicated in the concern, the individual should raise their concerns directly to the SHR.
- 5.5 Although the individual is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate that there are reasonable grounds for their concern.
- 5.6 The earlier the individual expresses their concern, the easier it is to action. 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, SHA will seek further information from the individual concerned.

6. PROCEDURE FOR HANDLING A WHISTLEBLOWING DISCLOSURE

- 6.1 On receipt of a disclosure the appropriate person will launch an investigation.
- 6.2 The CEO and/or Chairperson must also notify the SHR of any whistleblowing allegations in accordance with the SHR's Notifiable Events statutory guidance.
- 6.3 All disclosures will be investigated by the Chief Executive, unless the complaint is against the Chief Executive or is in any way related to their actions.
- 6.4 Where the disclosure is related to the Chief Executive, the Chairperson will appoint an independent person to investigate the allegations.
- 6.5 Depending on the circumstances surrounding the investigation appropriate action will be taken in accordance with SHA's existing policies and procedures.
- 5.6 The Chief Executive and/or Chairperson may appoint a member of the Senior Management Team to investigate, appoint an appropriate external investigator if deemed necessary, or may refer the matter to the external auditor or the police.

Investigation

- 6.7 The investigator will not be the person who makes any decision regarding the concern raised, but they will write to the person who raised the concern as soon as possible and:
- 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;
 - Supply the individual with information on staff support mechanisms; and inform the individual whether further investigations will take place and if not, explain why.
- 6.8 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, the Association will seek further information from the individual concerned.
- 6.9 Where any meeting is arranged, the individual can be accompanied by a trade union representative and can also have the meeting off-site if they wish.

Outcome of the Investigation

- 6.10 In terms of a disclosure reported internally, the person who undertook the investigation should submit their report to the person who appointed them, i.e. the CEO or Chairperson. The CEO or Chairperson will then consider and decide what action to be taken. If there are reasonable grounds to substantiate the complaint, an appropriate procedure will be initiated. This may also include referral to an external body or regulator.
- 6.11 Where an individual feels that their concern has not been dealt with appropriately, they can appeal the decision internally to the Chair of the Audit Committee. If, after appealing internally the individual is still not satisfied with the outcome, they can raise the issue with the appropriate agencies who are designated Prescribed Persons as outlined in Appendix 1

7. RAISING A CONCERN EXTERNALLY

- 7.1 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.
- 7.2 The SHR's Regulatory Standard 5.6 requires that RSLs ensure that their whistleblowing policy also makes it clear that staff and governing body members can appropriately report concerns such as fraud, corruption or other wrongdoing they

have about e.g. fraud, corruption or other wrongdoing and that they should not suffer any detriment for doing so.

- 7.3 Governing body members are not covered by the Public Interest Disclosure Act 1998 but the SHR will handle concerns raised by governing body members in the same way as qualifying disclosures by staff.
- 7.4 the SHR has published a factsheet for staff and governing body members of RSLs who wish to make a disclosure about a concern they have in “Whistleblowing about a regulated body: Information for potential whistleblowers” updated by the SHR in February 2022.
- 7.5 Employees can also obtain advice, in confidence, by contacting their trade union (if appropriate).

8. EQUALITY AND HUMAN RIGHTS

- 8.1 SHA will provide equality of opportunity and fair treatment for all, ensuring that no individual or group is treated less favourably than anyone else. We work closely with community stakeholders, to provide assurance that we are achieving these aims.
- 8.2 SHA will meet, and where appropriate exceed our obligations under the **Equality Act 2010**, including the general equality duty in the Act, to ensure we do not discriminate against, harass or victimise a person because they have one or more of the nine protected characteristics described in the Act.
- 8.3 An Equality Impact Assessment (see Appendix 2) has been carried out as part of the review of this policy, in order to assess where the aims of this policy may have a positive, negative or neutral impact upon any of the nine Protected Characteristics set out in the Equality Act 2010

9. MONITORING AND REVIEW

- 9.1 All Whistleblowing events and associated investigations will be properly recorded and documented. Details of events of Whistleblowing will be reported to the Management Committee.
- 9.2 This policy will be reviewed every three years, or sooner in the event of any legislative or regulatory changes. This means that the next review of this policy should take place in 2022.

Appendix 1

List of Prescribed Persons

Scottish Housing Regulator

Buchanan House
58 Port Dundas Road
Glasgow
G4 0HF

Tel: 0141 242 5642
Email: shr@shr.gov.scot
Web: www.housingregulator.gov.scot

The Care Inspectorate

Compass House
11 Riverside Drive
Dundee
DD1 4NY

Tel: 0345 600 9527
Email: concerns@careinspectorate.gov.scot
Web: www.careinspectorate.com

Office of the Scottish Charity Regulator

2nd Floor
Quadrant House
9 Riverside Drive
Dundee
DD1 4NY

Tel: 01382 220446
Email: info@oscr.org.uk
Web: www.oscr.org.uk

Financial Conduct Authority

Intelligence Department (Ref: PIDA)
12 Endeavour Square
London
E20 1JN

Tel: 0207 066 9200
Email: whistle@fca.org.uk
Web: www.fca.org.uk

Health and Safety Executive

Cornerstone
107 West Regent Street
Glasgow
G2 2BA

Tel: 0300 003 1747
Web: www.hse.gov.uk

Further Sources of Information

ACAS

2nd Floor West
Student Loans Company
100 Bothwell Street
Glasgow
G2 7JD

Tel: 0300 123 1100
Web: www.acas.org.uk

Protect (formerly Public Concern at Work)

The Green House
244-25414 Cambridge Heath Road
London
E2 9DA

Tel: 0203 117 2520
Web: www.protect-advice.org.uk



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