

Southside

HOUSING ASSOCIATION

Whistleblowing Policy

Approved: September 2013

Reviewed: July 2019 (Staffing and General Purposes Sub-Committee)

Next Review: July 2022

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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, Neighbourhood Committee members and stakeholders of SHA 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 Director, or in writing marked "Private and Confidential" FAO Patrick McGrath.
- 1.7 **General Data Protection Regulation**

SHA will treat your personal data in line with our obligations under the General Data Protection Regulation (EU) 2016/679, 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 employee privacy notice.

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.

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

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

² Notifiable Events – Statutory Guidance, February 2019

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.

5. RAISING A CONCERN

5.1 First Step

5.1.1 The individual should raise concerns with their immediate line manager. This information will be passed on as soon as possible to the Director. If the Director is absent or otherwise unavailable then the complaint will be passed to the Depute Director.

- 5.1.2 Any complaints will be investigated by the Director unless the complaint is against the Director or is in any way related to their actions. Where the complaint is related to the Director, it should be addressed to the Chairperson of the Management Committee who will in turn appoint an independent person to investigate the allegations.
- 5.1.3 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.
- 5.1.4 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.
- 5.1.5 Where any meeting is arranged, the individual can be accompanied by a trade union representative and also have the meeting off-site if they so wish.

5.2 **Process**

- 5.2.1 On receipt of a disclosure the appropriate person will launch an investigation.
- 5.2.2 Depending on the circumstances surrounding the investigation appropriate action will be taken in accordance with SHA's existing policies and procedures.

5.3 **Timescales**

- 5.3.1 Once the investigator has completed the investigation it will be given to the individual who instructed the investigation. They will then 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. **OUTCOME OF INVESTIGATION**

- 6.1 Once the investigation has been completed and the report is received by the Chairperson, a decision on what action to take will be considered. 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.
- 6.2 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 (who should not be an office bearer). If, after appealing internally the individual is still not

satisfied with the outcome, they can raise the issue with the appropriate external regulatory body as outlined in Appendix 1

7. MONITORING AND REVIEW

- 7.1 All Whistleblowing events and associated investigations will be properly recorded and documented. Details of events of Whistleblowing will be reported to the Management Committee.
- 7.2 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.

List of Prescribed Persons

Scottish Housing Regulator

Buchanan House
58 Dundas Road
Glasgow
G4 0HF

Tel: 0141 242 5642
Email: shr@scottishhousingregulator.gsi.gov.uk
Web: www.scottishhousingregulator.gov.uk

The Care Inspectorate

Compass House
11 Riverside Drive
Dundee
DD1 4NY

Tel: 0345 600 9527
Email: enquiries@careinspectorate.com
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

12 Endeavour Square
London
E20 1JN

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

Environmental Health

Land and Environmental Services
Glasgow City Council
231 George Street
Glasgow
G1 1RX

Tel: 0141 287 9000
Email: les@glasgow.gov.uk
Web: www.glasgow.gov.uk

Health and Safety Executive

Mercantile Chambers
53 Bothwell Street
Glasgow
G2 6TS

Tel: 0141 275 3000
Web: www.hse.gov.uk

Further Sources of Information

ACAS

151 West George Street
Glasgow
G2 2JJ

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

Public Concern at Work

CAN Mezzanine
7-14 Great Dover Street
London
SE1 4YR

Tel: 0203 117 2520
Email: whistle@pcaw.org.uk
Web: www.whistleblowing.org.uk