

Policy Name	Whistle Blowing Policy
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Officer Responsible	Chief Executive
Scottish Housing Regulatory Standard	6
Equalities Impact Assessment Complete	N/A
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Introduction

Lochaber Housing Association (LHA) and our subsidiary companies (jointly referred to the group for the purposes of this policy) are 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, the Group expects those who have serious concerns about any aspect of the Group's work to come forward and speak up without fear of reprisal. Therefore, the Group recognises that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee/Board member or stakeholder of the Group feels 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 because of publicly disclosing certain serious concerns.

This policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to be used to question financial or business decisions.

The policy aims to encourage individuals to feel confident in raising serious concerns to provide an avenue to express these and to set out how any concerns will be dealt with.

Legal Framework

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

What is Whistle Blowing

Whistleblowing is where a member of staff raises concern about improper conduct, wrongdoing, risk, or malpractice with someone in authority either internally or externally. Officially this is known as making a 'protected disclosure'.

Whistleblowing is different from a grievance. Whistleblowing is about conduct that affects others: for example, fraud or a failure to comply with Code of Conduct. Grievance is where a member of staff has a personal complaint about their own employment situation. The Group separate grievance procedure for such situations which should be followed. The Regulator does not generally have an interest in a staff

grievance unless there is a wider issue in terms of threats to the interest of tenants or other service users or pose a risk to the viability of the Group.

All employees, Committee/Board and Stakeholders working for or acting on behalf of any members of the Group are covered by this policy. The policy also applies to suppliers and those providing services under a contract within the Group.

Why is it important?

Problems can arise in any organisation and the best people to identify them are of the people who work in the organisation. If any staff member has a concern about the Group, reporting this concern early can help ensure that the situation doesn't become worse which could mean taking more time, effort, and resources to fix. Early concerns would protect the interests of tenants, other service users and other staff members too.

Role of the Scottish Housing Regulator

The Regulator's role is to safeguard and promote the interests of tenants and service users. They are interested in any conduct which puts this at risk and could threaten the viability or reputation of the Group or the wider sector.

The Regulator is a prescribed person staff can make a disclosure to about the Group's performance, our registration and our financial well-being and standards of Governance.

Scope of the Policy

This policy is designed to enable employees and governing Body Members of the Group to raise concerns internally and at a high level to disclose information that the individual believes shows malpractice or impropriety. Several policies and procedures are already in place, including fraud, anti-bribery, dignity at work, and disciplinary and grievance. 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. These concerns might include:

- Failure to comply with Code of Conduct for Staff and Board members
- Financial malpractice, impropriety, or fraud
- Failure to comply with policies, a legal obligation, or statutes
- Failure to identify health and safety hazards and/or failure to rectify
- Criminal activity involving the Group, its staff, governing body members or stakeholders
- Professional malpractice
- Improper conduct or unethical behaviour
- Failure to meet legal obligations
- Abuse of power or status
- Improper behaviour towards tenants or acting on behalf of tenants in personal matters, including financial matters.
- Breaches of confidentiality
- Deliberate attempts to conceal any of the above

The above list is not exhaustive but is intended to indicate types of behaviours and actions that the Group would find unacceptable and within the scope of the policy.

The Association's Grievance & Complaints Procedures

This procedure should not be confused with the Association's Grievance Procedure which should be used where an employee is aggrieved with his/her personal position (see Statement of Terms & Conditions of Employment).

Similarly, tenants who are aggrieved about the action or inaction of the Association in relation to a particular problem should use the Association's Complaints Procedure.

Safeguards/Protection

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

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

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

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. The identity of the individual making the allegation will be kept confidential if it does not hinder or frustrate any investigation.

Anonymous Allegations

This policy encourages individuals to put their names to any disclosures they make. Concerns expressed anonymously are much less robust, but may never the less be considered at the discretion of the Group.

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. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. 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.

However, if the individual alleges that is deemed to be made 'in bad faith' i.e. frivolously, maliciously or for personal gain, disciplinary action may be

taken against him/her and this may be up to and including dismissal. 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.

Raising a Concern

The individual should raise their concern with their line manager or other appropriate manager. This information will be passed on as soon possible to the Chief Executive. In the situation where a governing Board member has concerns under this policy, normally this should be directed to the Chairperson of the Board.

An allegation will be investigated by the Chief Executive unless the complaint is against the Chief Executive or is in any way related to his/her actions, in which case it should be addressed to the Chairperson of the Board who will in turn appoint an appropriate and independent individual to investigate the allegations.

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

On receipt of a disclosure the appropriate person will launch an investigation.

Complaints of this nature may involve internal and/or independent investigations or the police. It is, therefore, not possible to lay down precise timescales. The investigation officer should ensure that investigations are undertaken as quickly as possible without affecting the quality or depth of those investigations. As soon as practicable the investigating officer should send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

The investigating officer should inform the individual against whom a disclosure has been made as soon as practically possible. This individual will be advised of his/her right to be accompanied by a trade union or other representative at any meeting held under this policy.

The investigating officer will consider whether the disclosure made should:

- Be referred to the police
- Referred to the external auditor
- Form the subject of an independent inquiry

Where further information or clarity is required, it may be necessary to meet with the complainant. In this event the meeting(s) can be arranged off-site, and the complainant can be accompanied by a trade union or other representative.

Outcome of Investigation

Once the investigation has been completed and the report is received, a decision on what action to take will be considered. If there are reasonable grounds to substantiate the complaint, appropriate procedures will be initiated, such as the disciplinary procedure or procedures under the Code of Conduct and/or referral to an external body, such as the police or the Scottish Housing Regulator.

Where an individual feels that their concern has not been dealt with appropriately, they can appeal the decision internally to the Chair of the Governance Sub-Committee. If, after appealing internally, the individual is still not satisfied with the outcome, they can raise the issue with the Scottish Housing Regulator or other appropriate body, for example the Financial Conduct Authority, Health & Safety Executive, Office of the Scottish Charity Regulator etc.

Raising concerns to the Scottish Housing Regulator

The Regulator expects the Group to conduct its affairs with honesty and integrity. They expect the Group to have a Whistleblowing Policy which covers how to raise concerns internally. The Group will take any concerns raised seriously and look properly into the matters raised.

Sometimes staff or governing Board members are reluctant to report concerns internally because they are worried about repercussions, or they have little confidence in the organisation's ability or willingness to deal with the matters. Sometimes this may also be about concerns that the organisation hasn't deal with the matter appropriately. This is when contact with the Regulator may be appropriate.

In relation to protection for whistle-blowers who report concerns to the Regulator, the Regulator is a 'prescribed person' under the Public Interest Disclosure Act 1998 (PIDA). This provides protection to employees, agents and contractors who make a 'qualifying disclosure' to the Regulator if they make the disclosure in good faith and that they reasonably believe the information to be true. This means you should not be treated any less favourably. Recourse could be made to an Employment Tribunal if you suffer a loss as a consequence of whistleblowing.

However, disclosures that are malicious or knowingly untrue are not protected under the PIDA. Any employer may take disciplinary actions against a staff member who knowingly provides information that they know is untrue. Governing Board members are not protected by PIDA, but the Regulator will handle such concerns in the same way as qualifying disclosures from staff.

Protection for a qualifying disclosure applies to public interest issues involving – criminal offence; failure to comply with a legal obligation; miscarriage of justice; threats to an individual's health and safety; danger to the environment; or a deliberate attempt to conceal any of these. Legal advice should be taken on whether you will be protected.

Reporting concerns to the regulator:

- They can be anonymous, but this may make it more difficult to take forward or give feedback

- Confidentiality will be protected as far as possible but there is a chance that some information provided might reveal identities.
- Criminal offences will be passed to the police

What the Regulator will do:

- They will ask some questions to help understand the nature and extent of your concerns and whether you have reported them internally or to someone else
- They will consider carefully what you tell them along with any information they already have about the organisation.

Every case is different, but a number of things could happen:

- Take no further action for example, where there is not enough evidence or assurance has been given that the governing body has dealt with the matter appropriately
- Ask the governing body to investigate the matter (independent advice)
- Ask the governing body to obtain independent advice or support to help them deal with the situation or the Regulator can carry out an investigation
- Refer the matter to another regulator e.g. Care Inspectorate or Audit Scotland where the matters falls within their remit
- Refer the matter to the Police if they think a criminal offense may have been committed.

Engagement between the regulator and the Group will be in confidence. They will tell us about the concerns without revealing details of the whistle-blower. This confidence will be maintained after the case has been concluded.

The Regulator may not be able to tell you everything about what they intend to do but they will tell you as much as they can.

General Data Protection Regulations

The organisation will treat personal data in line with our obligations under the current data protection regulations and our own data protection policies. Information regarding how your data will be used and the basis for processing your data is provided in LHA Group's privacy notices.

This policy can be made available in other formats, for example in large print, audio format or Braille, the document may also be available in other languages, in full or summary form, as appropriate.

Equality, Diversity, and Inclusion

This policy reflects the Association's commitment to meeting our equality obligations in advancing equality, promoting good relations between protected characteristics, and eliminating discrimination in the way we provide our services

It also aims to reflect our commitment to considering the Equalities and Human Rights impacts of what we do as an RSL.

Useful Contacts

Scottish Housing Regulator
0141 242 5642
www.scotishhousingregulator.gov.uk

Health and Safety Executive
www.hse.gov.uk

The Highland Council
<https://www.highland.gov.uk/>

Further Sources of Information

Acas
Helpline 0300 123 1100
<https://www.acas.org.uk/>

Public Concern at Work
Helpline 020 3117 2520
<https://protect-advice.org.uk/pcawchangesnametoprotect/>