



WHISTLEBLOWING POLICY AND PROCEDURE

AS WITH ALL OF THE ASSOCIATION’S POLICIES and PROCEDURES, THIS GUIDE, IN FULL AND IN PART, CAN BE MADE AVAILABLE IN SUMMARY, ON TAPE, IN BRAILLE, AND IN TRANSLATION INTO MOST OTHER LANGUAGES –

PLEASE ASK A MEMBER OF STAFF IF YOU WOULD LIKE A VERSION IN A DIFFERENT FORMAT

This Policy is intended to cover Staff, Committee, Consultants or Contractors working with the Association and any of its subsidiaries. If you are a tenant, owner, 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 in writing, clearly marked ‘Private & Confidential’, for the attention of the Chief Executive, at the Association’s Offices, at the Whiteinch Centre, 1, Northinch Court, Glasgow

Relevant Regulatory Standard(s)	<p>1.3 The governing body ensures the RSL complies with its constitution and its legal obligations. Its constitution adheres to these Standards and the constitutional requirements set out below.</p> <p>2.2The governing body recognises it is accountable to its tenants, and has a wider public accountability to the taxpayer as a recipient of public funds, and actively manages its accountabilities.</p> <p>5.1 The RSL conducts its affairs with honesty and integrity and, through the actions of the governing body and staff, upholds the good reputation of the RSL and the sector.</p>
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Date Reviewed	Reviewed By	Summary of Updates
AUGUST 2024	DIRECTOR OF CORPORATE SERVICES	EVH MODEL POLICY

1. Introduction

Whiteinch & Scotstoun Housing Association Ltd. (WSHA) and its subsidiaries is committed to the highest standards of openness, probity and accountability. As Staff, Committee Members and others that we deal with, are often the first to realise that there may be something seriously wrong, we expect those who have serious concerns about any aspect of WSHA's work to come forward and speak up without fear of reprisal. Thus, we recognise that it is an important aspect of accountability and transparency that we provide a mechanism to ensure that no member of Staff, Committee or other stakeholder of WSHA feels at a disadvantage in raising legitimate concerns.

The Public Interest Disclosure Act, which came into effect in 1999, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. These concerns must be made in the 'public interest' as per the Enterprise and Regulatory Act 2013, in addition is 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.

Employers may also be held vicariously liable for workers who victimise colleagues for making a disclosure. WSHA will take all reasonable steps to protect workers from being victimised.

All Staff, Committee Members, Contractors, Consultants and other stakeholders working for or acting on behalf of WSHA-are covered by this policy. The policy also applies to suppliers and those providing services under a contract within WSHA.

2. Aims and Objectives

This policy is designed to enable Staff members of WSHA 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. 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:

- financial malpractice, impropriety or fraud
- falsifying records
- actions taken or planned that may seriously affect tenants
- failure to comply with a legal obligation or Statutes
- dangers to health and safety or the environment
- breaches of confidentiality, including non-compliance with GDPR
- criminal activity involving WSHA, its staff, Committee Members or stakeholders
- a miscarriage of justice
- professional malpractice

- ❑ improper conduct or unethical behaviour
- ❑ failure to meet legal obligations
- ❑ abuse of power or status
- ❑ harassment, bullying and violence of any kind in the workplace – if it relates to public interest
- ❑ deliberate attempts to conceal any of the above

The Policy lays out the broad processes while detailed procedures to be followed can be found in Appendix 1.

3. Policy

3.1. Legal Framework

- ❑ Public Interest Disclosure Act 1998
- ❑ Enterprise and Regulatory Act 2013

3.2 Safeguards

Protection

This policy is designed to offer protection to those employees (and others) of WSHA 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

WSHA 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.

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.

Anonymous Allegations

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 WSHA.

Untrue Allegations

If an individual makes an allegation that is not confirmed by the subsequent investigation, it is probable that no action will be taken against that individual.

However, if the individual makes an allegation that is deemed to be '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. It should 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.

3.3 How to raise a concern

First Step

The individual should raise concerns with their line manager. This information will be passed on as soon as possible to the Chief Executive.

Any complaints will be investigated by the Chief Executive unless the complaint is against the Chief Executive or is in any way related to their actions. Where the complaint is related to the Chief Executive it should be addressed to the Chairperson of the Management Committee who will in turn appoint an independent person to investigate the allegations.

Where a concern from a Committee Member has been reported directly to the Chief Executive, the Chief Executive will inform the Chairperson. If the concern relates to the Chairperson, the Chief Executive must advise the other Office Bearers.

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.

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, WSHA will seek further information from the individual concerned.

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.

Process

On receipt of a disclosure the appropriate person will launch an investigation. Depending on the circumstances surrounding the investigation appropriate action will be

taken in accordance with WSHA's existing policies and the procedures and timescales as laid out in Appendix 1 of this Policy.

Outcome of Investigation

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, the appropriate procedure will be initiated. This may also include referral to an external body or regulator.

Where an individual feels that their concern had not been dealt with appropriately they can appeal the decision internally to the Vice-Chairperson (Audit). 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 4.

4. Equal Opportunities Testing

- 4.1. In accordance with the Association's Equality & Diversity Policy, this Policy has been consciously considered to judge whether there is any likelihood that its presentation or operation could in any way lead, no matter how inadvertently, to discrimination. The conclusion of this exercise is that it is believed that the Policy should operate in a non-discriminatory way.

5. Policy Review

- 5.1. This policy will be reviewed every 5 years.

Appendix 1 Whistleblowing Procedures and Pro Formas

1. Initial Procedures

- 1.1 Once line management or other appropriate person has been approached about a concern (potential whistleblowing matter), they must inform the Chief Executive immediately of the concern, maintaining confidentiality – provided the concern does not relate to the Chief Executive. If the concern relates to the Chief Executive, the Chairperson should be informed.
- 1.2 Where a concern from a Committee Member has been reported directly to the Chief Executive, the Chief Executive will inform the Chairperson. If the concern relates to the Chairperson, the Chief Executive must advise the other office bearers.
- 1.3 From the start, all information relating to the concern must be recorded within a timeline report – to ensure a robust record of the management of the concern has been fully documented. Access to this timeline report should be appropriately restricted and it must be held securely. An example of a timeline report is attached as appendix 3.
- 1.4 Once a concern has been raised it must be formally acknowledged in writing within **three working days** direct to the whistleblower, by the Chief Executive or Chairperson.
- 1.5.1 Within **10 working days** the Chief Executive or Chairperson will confirm in writing:
 - how it is proposed to deal with the matter;
 - whether further investigations will take place, or if not deemed appropriate, why this decision has been made;
 - an estimate of how long it might take to provide a final response;
 - what support can be offered to the whistleblower raising the concern.
- 1.6 A decision will be made by the Chief Executive and Chairperson (or office bearer) on whether the concern warrants further investigation internally under the Whistleblowing policy - or the Grievance or Disciplinary procedures or another policy, as appropriate. It may also be decided that the matter should:
 - be referred to the Police, and/or the Scottish Housing Regulator; and/or
 - be referred to the external auditor; and/or
 - be the subject of an independent external inquiry; or
 - have no further action taken.

In making a decision on the next step, it may be necessary (and advisable) to seek legal advice.

- 1.7 In line with the Scottish Housing Regulator's Notifiable Events – the Regulator must be advised that a whistleblowing concern has been raised. Legal advice should be sought on what should - and should not – be divulged to the Regulator and at what stage of the investigation should the Regulator be apprised.
- 1.8 Some concerns may be resolved by agreed action without the need for formal investigation. If urgent action is required, this may be taken before any investigation is conducted.
- 1.9 The Chief Executive and the Chairperson may decide that no further action will be taken under the Whistleblowing policy in the following (not exhaustive) set of circumstances:
 - if, after investigation, there is no evidence that malpractice has occurred, is occurring or is likely to occur; and/or
 - if the matter concerned is already the subject of legal proceedings, or has already been referred to the police or other public authority (e.g. Scottish Housing Regulator and/or OSCR).
- 1.10 The aim will be to update the whistleblower on the progress of the concern, where possible, within **28 working days** of it being raised. However, in the event of a formal investigation or the involvement of police/ external scrutineers, the whistleblower will receive sufficient information about the outcome of any investigation to enable them to be informed that the concern is being dealt with.
- 1.11 Once the investigation has concluded, the whistleblower will receive an explanation about how the matter has been addressed. If there are legal constraints, e.g. in a criminal investigation, the whistleblower will receive sufficient information about the outcome of any investigation to enable them to be informed that the concern has been dealt with.
- 1.12 If no further action is proposed the Chief Executive and Chairperson (or office bearer) will inform the reasons for this in writing to the whistleblower who has raised the concern.
- 1.13 If the investigation is not completed within three months or in the time originally estimated for the investigation, the Chief Executive and Chairperson (or office bearer) will provide regular updates as agreed with the whistleblower.
- 1.14 Throughout any investigation, the whistleblower will still be expected to continue their duties/role as normal unless deemed inappropriate. If however continuing with their duties/role may have a detrimental affect upon either the whistleblower, other staff, or the investigation – legal advice should be sought on the best course of action

which complies with HR legislation, including whether the whistleblower can be given 'special leave', instructed to work from home, etc.

- 1.15 Given that a whistleblowing matter can be stressful for all involved – the whistleblower / relevant staff / Committee Members should be offered support such as access to a counselling service.

2. Confidentiality

- 2.1 The best way to raise a concern is to do so openly as this makes it easier to investigate and provide feedback. However, it is recognised that many people may not express their concerns due to fear of reprisal, worry of not being taken seriously or of being perceived as disloyal.
- 2.2 Any disclosures made/concerns raised will be treated in a sensitive manner. It is recognised that a whistleblower may want to raise a concern in confidence, i.e. they may want to raise a concern on the basis that their name is not revealed beyond the disclosure route without their consent.
- 2.3 The investigation approach must ensure that confidentiality is maintained as far as possible and all endeavours made to protect the identity of the whistleblower that raised the concern. This should be possible in the majority of cases. Thus, any document, report or recommendation prepared in relation to the matter will not identify the whistleblower raising the concern unless:
- the whistleblower has consented to their identity being exposed in writing, or
 - there is evidence to show that the whistleblower who raised the concern has acted maliciously, or
 - there is a legal obligation to do so, or
 - the information is already in the public domain, or
 - it is necessary for the matter to be dealt with properly or fairly, or
 - it is on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
- 2.4 All parties will be under an obligation to use all reasonable endeavours to ensure that they keep the matter and all information relating to the disclosure/concern strictly confidential except, as permitted under this procedure, as required by law or until such time as it comes into the public domain.
- 2.5 Securing information / evidence must include restricting access to it - including: ensuring all documents are password protected; consideration be given to holding electronic records 'off line' (on a desk top or laptop), restricting remote access, etc.
- 2.6 A whistleblower may choose to raise concerns anonymously, i.e. without providing their name at all. It is preferable that allegations are not made anonymously as it

enables the matter to be investigated more fully. However, this is a matter of choice and depending on the concern raised, there may be the rare occasion where the whistleblower may feel uncomfortable revealing their identity when making an allegation. However, raising a concern anonymously is preferred to silence about potential serious wrongdoing.

2.7 If a concern is raised anonymously it must be treated as credible, unless it is obviously a hoax, and investigated so far as possible. The allegation will be considered at the discretion of the Chief Executive and Chairperson. In exercising this discretion factors to take into account would include:

- the seriousness of the concern raised;
- the credibility of the concern; and
- the likelihood of confirming the allegations from an attributable source – that is someone other than the anonymous source.

3. Protection

3.1 The Chief Executive and Chairperson (or office bearer) will protect a whistleblower who raises a concern (in the belief that it is in the public interest to do so), from victimisation or reprisals such as being subject to discipline, dismissal or any other detriment as a result of raising the concern.

3.2 Where a whistleblower has been victimised for raising a concern, the Chief Executive and Chairperson (or office bearer) will take appropriate action against those responsible, in line with the disciplinary policy.

3.3 If an allegation is made in the belief that it is in the public interest to do so, but is not confirmed by the subsequent investigation, no action will be taken against the whistleblower.

4. Holding a meeting with the Whistleblower

Step One: Before the initial meeting

- You may wish to consider whether the whistleblower feels uncomfortable meeting face-to-face. In such cases you could arrange a convenient time to speak over the telephone.
- You may want to consider whether there are any reasonable adjustments that should be made to facilitate the meeting.
- You may also wish to consider arranging for a note taker to be present during the meeting. This should be agreed with the whistleblower raising the concern.

Step Two: During the meeting

- You may wish to use the template in appendix 2 to guide you through the areas to cover during the meeting.
- Thank the whistleblower for raising the matter, even if their concern proves to be unfounded.
- Recognise that this may be a troubling time for them and establish a supportive relationship.
- Reassure them that they are being listened to and taken seriously.
- Use open body language and an appropriate tone of voice.
- Respect any concerns about their own position/career.
- Avoid giving any unrealistic promises or raising expectations.
- Any records taken from the meeting should be marked with the appropriate protective marking and stored in accordance with the organisation's Data Protection/Storage policy.
- You are not required to commit to anything during the meeting. Listen carefully and ask the whistleblower questions that will assist you in reaching a decision. If you are unsure whether the concern is covered by the Whistleblowing Policy, you may wish to seek advice from the Scottish Housing Regulator and/or your legal advisors.
- As noted previously, offer the whistleblower access to a counselling service to support them through the process. The whistleblower may not need this to be necessary, but the offer should still be made.

Step Three: After the Meeting

- If it turns out the concern does not fall under the Whistleblowing Policy, you should explain to the whistleblower, either by telephone or face to face, the reason why this is so. This discussion should be fully documented by the Chief Executive or Chairperson (or other office bearer) and followed up in writing with the whistleblower.
- If the concern does fall under the Whistleblowing Policy, the whistleblower should be advised that office bearers will be notified of the matter.

Step Four: Next steps

- Office bearers should be advised of the concern (if the concern does not involve them directly). An internal investigation team of the Chief Executive and all the office bearers should be set up if the initial assessment [by the Chief Executive and the Chairperson or other appropriate officer bearer] deems that the concern is valid.
- Once all evidence has been gathered and the concern assessed by the internal investigation team, a decision can be reached as to whether or not it may be appropriate to have the concern investigated by an external firm/individual.
- If an external investigator is to be appointed, they should be engaged in compliance with your procurement policy/procedures.
- You must take legal advice promptly if required.
- You must keep the Regulator apprised as required.

- As noted previous, is it extremely important that a timeline report is maintained that fully records the sequence of the whistleblowing events as they unfold – from the initial contact by the whistleblower, to the final conclusion.

5. Other Points for Consideration

- 5.1 A whistleblower may raise a concern then ‘back off’ / change their mind / withdraw their allegation. In this instance, all evidence must be gathered and secured, and the investigation must continue - to assess whether or not there is validity regarding the concern raised.
After a concern has been raised, some whistleblowers decide that the investigation process may be too demanding, or emotional, etc. This however does not mean that the concern can be ignored – it will still have to be investigated, albeit without the assistance / input of the whistleblower.
- 5.2 A whistleblower may not use the term ‘*whistleblowing*’, however the individual who has been notified of the concern has a responsibility to define whether it is a whistleblowing matter (i.e. in the public interest) and if so, needs to be clear to the whistleblower that this is the case.
- 5.3 It may be appropriate to secure evidence off-site (refer to paragraph 4.20 above). Legal advice should be sought regarding the removal of evidence, taking GDPR and other legislation into consideration.
- 5.4 When assessing the evidence presented, thought should be given as to whether or not the evidence has been tampered with.
- 5.5 As noted above, office bearers should be advised of the concern/allegation (if the concern does not involve them directly). An internal investigation team of the Chief Executive and all the office bearers should be set up as soon as practically possible. Once all evidence has been gathered and the concern assessed, it may be deemed appropriate to have the concern investigated by an external firm/individual.
- 5.6 Who should be involved / told about the concern? An ‘investigation communication protocol’ must to be agreed by the Chief Executive/office bearer investigation team.
- 5.7 A concern relating to fraud (with the appropriate level of evidence) turns the matter into a criminal matter.
- 5.8 All meetings and discussions must be fully documented. All records of meetings must be signed by all attendees, to confirm that the document is a true record of the meeting.
- 5.9 Keep a detailed record of all time spent on the whistleblowing concern – this level of detail maybe required if an insurance claim is to be made.

- 5.10 Remember, whistleblowing allegations may not be simple. For example, a situation could arise where a whistleblowing allegation is made by a member of staff (or member of the governing body) who is subject to a disciplinary hearing (or investigatory hearing in the case of a governing body member). The whistleblowing allegation may, or may not be, spurious. In this example, the original action against the staff/governing body member must still proceed - at the same time as the whistleblowing allegation is being considered/ investigated. A whistleblowing allegation in itself must not prevent the original matter being investigated and appropriate action taken.
- 5.11 Ensure that the Whistleblowing policy includes details of Prescribed Persons under the Public Interest Disclosure Act – those persons to whom a whistleblowing concern can be reported. Prescribed Persons include: Scottish Housing Regulator; Audit Scotland; OSCAR; External Auditor, etc.
- 5.12 Risk Register – does the risk register need to be updated with the whistleblowing concern? Are there ‘lessons to be learned’? If so, how will these lessons be managed?

6. Reports to the Governing Body

- 6.1 The governing body as a whole must be advised that there is a whistleblowing concern that is being investigated – but only in summary with no detail provided.
- 6.2 The level of information regarding the concern given to the governing body and the timing of such information must be confirmed by the Association’s legal advisor.

Appendix 2 Record of Meeting - Template

1. Line Manager Job Title
2. Line Manager Work Location
3. Meeting Date & Place
4. Attendees
5. Checklist During the meeting
 - Reassurance given to the whistleblower that they will not be penalised for raising the concern if they genuinely have a reasonable belief it is in the public interest.
 - Does the whistleblower want their identity to remain confidential?
 - If yes, whistleblower advised that we will generally not disclose their identity without their consent but that there may be circumstances where we are not able to protect their identity as this could make it difficult to fully investigate the matter.
 - Would they like to make a written or a verbal statement? If the whistleblower is making a written statement, you will not need to go into as much detail after you have determined whether the concern falls under the whistleblowing policy.
 - If they are making a verbal statement, the record of the meeting will act as the statement.
 - Facts discussed with whistleblower and supporting evidence secured.
6. Whistleblower to read record of meeting and re-phrase / add any comments as necessary to ensure the concern(s) has been fully and accurately documented.

Whistleblower's signature: Date:.....

Line Manager's signature: Date:.....

Whistleblowing Policy

Appendix 3

Timeline Report

Whistleblowing - Checklist	Detail	Date	Time
Allegation / concern raised			
Raised by whom			
Person(s) who can corroborate			
Evidence given (list)			
Evidence secured (location)			
Details of initial meeting with whistleblower			

Whistleblowing Policy

Whistleblowing - Checklist	Detail	Date	Time
Chairperson advised			
Office Bearers advised			
Internal investigation team formed			
Legal advice sought			
Etc., etc.			

Whistleblowing Policy

Appendix 4

List of Prescribed Persons

The Scottish Housing Regulator Tel: 0141 271 3810

Environmental Health Tel: 0845 270 1558

Health and Safety Executive Tel: 0141 275 3000

OSCR Tel: 01382 220446

Further Sources of Information

ACAS Helpline: 08457 474747

Public Concern at Work Tel: 0207 404 6609

Unite the Union (Trade Union) Tel: 0800 0854390