WHISTLEBLOWING POLICY

APPROVED BY HHP BOARD:

EFFECTIVE DATE:
February 2024

hebridean housing partnership

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INTRODUCTION

1.1 The Partnership wishes to maintain the highest standards of service to its tenants, staff and the community and recognises the need to have in place a policy enabling public interest disclosures also known as 'Whistle blowing' to be made. This policy will enable concerns to be raised confidentially inside, and if necessary, outside the Partnership. It is intended to encourage staff to inform management if they are concerned about serious malpractice, fraud or corruption so that management can investigate this.

1.2 Concerns must be made in the public interest as per the Enterprise and Regulatory Act 2013.

1.3 A "qualifying disclosure" means any disclosure of information which, in the reasonable belief of the individual making the disclosure, tends to show one or more of the following aspects covered by the Public Interest Disclosure Act 1998 (PIDA).

a) Criminal Activity;
b) Miscarriages of justice;
c) Danger to health and safety;
d) Damage to the environment;
e) Failure to comply with any legal [or professional] obligation or regulatory requirements;
f) Bribery;
g) Financial fraud or mismanagement;
h) Negligence;
i) Abuse of power;
j) Professional malpractice;
k) Breach of our internal policies and procedures [including the Code of Conduct];
l) Conduct likely to damage the reputation of the Partnership;
m) Unauthorised disclosure of confidential information;
n) The deliberate concealment of any of the above matters.

1.4 Governing Body members are not covered by PIDA but the Scottish Housing Regulator advise in their factsheet Whistleblowing about a regulated body that concerns reported by Governing Body members made to them will be treated in the same way as qualifying disclosures by staff.

1.5 The policy is intended to provide a confidential channel and process for individual employees to raise genuine and legitimate concerns in confidence without affecting job or promotion prospects and without fear of victimisation; to deter serious malpractice; avoid crisis management and public criticism; and promote accountability throughout the Partnership. It gives everyone the opportunity to act professionally and with propriety.

1.6 The policy is separate from our grievance procedure and should not be used by employees to raise grievances about their personal employment situation.

1.7 Similarly, the policy is separate from our complaints procedure and should not be used to make complaints about particular problems.

RAISING CONCERNS

2.1 In most cases, an individual should make the disclosure to a relevant manager, his line manager, or to a Head of Service. Alternatively, concerns can be raised with the Chief Executive, Chair of Audit & Risk Committee or the Chair of the Board.

2.2 Where a disclosure relates to the Chief Executive the matter should be disclosed to the Chair of the Audit & Risk Committee or the Chair of the Board.

2.3 Any member of the Board who has a concern should disclose to the Chair of the Audit & Risk Committee or the Chair of the Board as appropriate.

2.4 The matter will be treated confidentially, and the employee's name will not be disclosed to the alleged perpetrator of malpractice without their prior approval. In order to allow a legitimate concern to be raised without trace, employees may choose to report the matter orally rather than in writing. A full note (which should not identify the complainant) will be made by the person hearing the concern.

2.5 Unless the suspected misconduct involves the Chief Executive, the concern should be referred to them, if not directly, then by the Individual to which the disclosure was first made.

2.6 Concerns must be made in the public interest as per the Enterprise and Regulatory Act 2013.

2.7 All issues raised under this policy will be treated seriously, in confidence and with total discretion.

INVESTIGATING THE ALLEGATION

3.1 We will respond to an individual's concerns. The matters raised may:

a) be investigated by management, or through the disciplinary process;
b) be referred to the police;
c) be referred to our auditors; or
d) form the subject of an independent inquiry.

3.2 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle will be to consider what is in the public interest.

3.3 Some concerns may be resolved by agreed action without the need for an investigation. If the concern is of an urgent nature then this will be taken into account before any investigation is conducted.

3.4 Within 5 working days of a concern being raised, the responsible manager will write, in confidence to the individual making the disclosure acknowledging that the concern has been received.

Thereafter within 10 working days an outline action plan with timescales to address the concern will be provided in confidence. The amount of contact between the staff considering the issues and the individual making the disclosure will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided.

3.5 Where any meeting is arranged, off-site if required, the individual making the disclosure can be accompanied by a union representative or work place colleague.

3.6 We will take steps to minimise any difficulties which an employee may experience as a result of raising a concern. For instance, if the individual making the disclosure is required to give evidence in criminal or disciplinary proceedings we will arrange for the individual to receive advice about the procedure.

3.7 All responses to the employee will be in writing sent to his home address. Regular confidential progress reports (at least monthly, especially if the investigation is prolonged) will be provided to the individual making the disclosure prior to the production of a final response to the original concern.

3.8 If an employee is not satisfied that their concern is being properly dealt with they will have the right to raise it in confidence with the Audit & Risk Committee through the Chair of that Committee and they may wish to seek advice from the charity Public Concern at Work. (Appendix A contains contact details for nominated persons)

3.9 Following any interviews and / or investigation, recommendations will be made to the Chief Executive in confidence (the Chair of the Audit & Risk Committee or Chair of the Board as appropriate). The Chief Executive (Chair of the Audit & Risk Committee or Chair of the Board) will decide what further action should be taken, if any, and the appropriate mechanism to achieve resolution (including an action plan) and means of informing the complainant.

PROTECTING WHISTLEBLOWERS WHO FEAR REPRISAL OR VICTIMISATION

4.1 There is no specific common law duty on employees to report fraud to a nominated person within the Partnership or an external source (see Fraud Policy). The only exception is that line managers will generally have a duty to report the fraud of their subordinate employees. It is usually appropriate that the matter is raised internally where possible, but disclosure outside the employment relationship will, in some cases be justified and necessary.

Disclosure Outside the Employer Body

4.2 Employees are subject to an implied contractual term of confidence and trust, which seeks to prevent them from disclosing their employer's confidential information. There is a clause within the contract of employment a specific confidentiality clause. The breach of this condition is often classed as gross misconduct which justifies summary dismissal.

4.3 If an employee makes an unauthorised disclosure of fraud or serious malpractice to a regulatory authority and its disclosure is in the public interest, case law shows that this is, in many circumstances, a lawful action, notwithstanding that it may contravene an implied contractual duty or a specific confidentiality clause.

What is Considered to be 'In the Public Interest'?

4.4 The difficulty lies in determining what constitutes 'in the public interest'. Such matters are generally confined to fraud, criminal activities and threats to national security. They are matters which warrant disclosure in the interests of protecting the public (or the Partnership, staff or tenants) and in these cases the courts will generally uphold the public interest defence.

Health and Safety Concerns

4.5 With regard to the voicing of concerns over health and safety in the workplace, employees are now statutorily protected against victimisation or dismissal for taking certain specified types of action on health and safety grounds. These protected actions include the bringing to the Partnership's attention, by reasonable means to the Chair of the Health and Safety Committee, the Director of Finance & Corporate Services or the Chief Executive to enable an Executive Team meeting to be held to discuss any concerns about circumstances at the Partnership which the employee reasonably believes to be harmful to health and safety.

Protection for the Employee

4.6 The employee will be protected against victimisation or dismissal for raising legitimate concerns through the proper channels.

PROTECTION FOR THE INSTITUTUION

5.1 If an employee uses this policy to raise concerns maliciously or with dubious motives there may be cause for disciplinary action.

5.2 Employees are encouraged to raise concerns internally even if sometimes they may prove to be unfounded as management would appreciate the opportunity of investigating and taking appropriate action before the concern is raised externally.

APPEAL PROCESS

6.1 An appeal may be made by the individual making the public interest disclosure against the outcome if it is considered that the report fails to answer the concerns raised.

RELATED POLICIES

7.1 The following policy is referenced as part of this Policy.

- Fraud Policy

MONITORING AND REVIEW OF POLICY

8.1 The Whistleblowing Policy will be reviewed no less than every three years. More frequent reviews will be considered if, for example, there is a need to respond to new legislation/policy guidance.

APPENDIX A

CONTACT POINTS FOR NOMINATED PERSONS

POSTION	CURRENT POST-HOLDER	CONTACT POINT
Chair of Audit & Risk Committee	Roddy Nicolson	0300 123 0773
Chair of the Board	Gordon Macleod	0300 123 0773
Company Secretary	Dena Macleod	0300 123 0773
Chief Executive	Dena Macleod	0300 123 0773
Director of Finance & Corporate Services	Donald Macleod	0300 123 0773
Director of Operations	John Maciver	0300 123 0773
Chair of Health and Safety Committee	John Maciver	0300 123 0773
External Auditors	CIB Services	01851 702030
Internal Auditors	Wylie + Bisset	0141 566 7000
Public Concern at Work		020 7404 6609
Environmental Health Department, CNES		0845 600 2772
Health & Safety Executive		0345 300 9923

INTERPRETATIONS AND ABBREVIATIONS

The following interpretation and abbreviations are used in this policy:

WORD	INTERPRETATION
HHP or Partnership	Hebridean Housing Partnership
Board	Means the Board of the Hebridean Housing Partnership
Board Members	All Members of the Board including co-opted Members
Heads of Service	Chief Executive, Director of Finance & Corporate Services, Director of Operations and Head of Executive Office
PIDA	Public Interest Disclosure Act 1998
PCAW	Public Concern at Work

All references to the masculine gender in this policy shall read as equally applicable to the feminine gender