



Whistleblowing policy

Date Approved by Management Committee:
Latest review date:

October 2020
October 2025

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1. Introduction

- 1.1 Cernach Housing Association is committed to the highest standards of openness, probity and accountability. As employees (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 our work to come forward and speak up without fear of reprisal.
- 1.2 Thus, we recognise that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee (or Committee member, agent or contractor) of Cernach Housing Association feels at a disadvantage in raising legitimate concerns.
- 1.3 This policy and procedure is in addition to Cernach Housing Association's complaints procedures, notifiable events and other statutory reporting procedures. It has been framed using the EVH model whistleblowing policy dated December 2011 and we have also considered the new Regulatory Framework, published by the Scottish Housing Regulator in February 2019 which, in relation to whistleblowing states that RSLs must:

Have effective arrangements and a policy for whistleblowing by staff and governing body/elected members which it makes easily available and which it promotes.

- 1.4 All employees, contractors, other bodies, agency staff, etc. working for Cernach Housing Association on its premises or remotely are covered by this policy. The policy also applies to suppliers and those providing services under a contract within Cernach Housing Association on any of its premises or to staff/Committee conducting Association business outwith the main premises.
- 1.5 This policy and procedure is intended to cover staff, Committee, consultants or contractors working with us. If you are a tenant, member of the public or other service user, you should raise any concerns regarding whistleblowing directly with the Director or in writing marked "Private & Confidential" for the attention of Caroline Jardine, Director, 79 Airgold Drive, Drumchapel, Glasgow, G15 7AJ.

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2. Scope of the policy

- 2.1 The whistleblowing policy is designed to enable the Association's employees, Committee members, contractors or consultants 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.
- 2.2 This policy is intended to cover concerns that might be in the public interest and may (at least initially) be investigated separately, but might then lead to the commencement of other procedures. These concerns might include:
- a) financial malpractice, impropriety or fraud
 - b) failure to comply with a legal obligation or Statutes
 - c) dangers to health and safety or the environment
 - d) criminal activity involving Cernach Housing Association, its staff, committee members or stakeholders
 - e) a miscarriage of justice
 - f) professional malpractice
 - g) improper conduct or unethical behaviour
 - h) abuse of power or status
 - i) attempts to conceal any of the above

3. Legal framework and regulatory standards

- 3.1 Sections 19 and 20 of the Public Interest Disclosure Act, which came into effect in 1999, give legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns.
- 3.2 The Scottish Housing Regulator makes it a requirement to have clear procedures for employees and governing body members to raise concerns or whistleblow if they believe there has been fraud, corruption or other wrongdoing with the RSL.

4. Risk management

- 4.1 We have considered the potential risks involved where the Association's commitment to the highest standards of openness, probity and accountability may be called into question. Not only will we investigate claims and take

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appropriate action, where applicable, but we shall take steps to deal equally effectively with people who make malicious claims.

- 4.2 This will safeguard the Association's integrity and protect those involved in the Association's business.

5. Equality and diversity

- 5.1 The Association's equality and diversity policy, which was approved by the Committee in April 2015 following community consultation, outlines our commitment to promote a zero tolerance to unfair treatment or discrimination to any person or group of persons, particularly on the basis of any of the protected characteristics¹. This includes ensuring that everyone has equal access to information and services and, to this end, the Association will make available a copy of this document in a range of alternative formats including large print, translated into another language or by data transferred to voice.

- 5.2 We are also aware of the potential for policies to inadvertently discriminate against an individual or group of individuals. To help tackle this and ensure that it does not occur, best practice suggests that organisations carry out Equality Impact Assessments to help identify any part of a policy that may be discriminatory so that this can be addressed (please see section 6 of the equality and diversity policy for more information).

- 5.3 In line with section 6.2 of the Equality and Diversity policy, the Association will apply a screening process based on that recommended by the Equality and Human Rights Commission to ascertain whether each policy requires an Impact Assessment to be carried out. The screening process was applied to this policy and it was decided that an impact assessment was not required.

6. Safeguards

6.1 Protection

- 6.1.1 This policy is designed to offer protection to anyone raising concerns, provided that the disclosure is made: -

- a) in good faith;

¹ The Equality Act 2010 identifies the "protected characteristics" as age, disability, marriage and civil partnership, race, religion or belief, gender, gender reassignment and sexual orientation.

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- b) to an appropriate person/body; and
- c) that the individual has reasonable belief in the validity of the concerns being raised

6.1.2 Cernach Housing Association will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect the individual when they raise a concern in good faith.

6.2 Confidentiality

6.2.1 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.

6.3 Anonymous allegations

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

6.4 Untrue allegations

6.4.1 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.

6.4.2 However, if the individual makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against the individual concerned and this may include dismissal.

7. Procedure on how to raise a concern

7.1 In addition to the points outlined in this section, it may be useful to refer to the Scottish Housing Regulator's April 2015 publication "whistleblowing about a regulated body". This is attached at Appendix 2.

7.2 First step

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

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Director. If the line manager is not present, or cannot be approached for some reason, then the person should go to the Director.

- 7.2.2 Any complaints will be investigated by the Director unless the complaint is against the Director or is in any way related to their actions. In such cases, the complaint should be addressed to the Chairperson who will, in turn, liaise with the Housing Services Manager to appoint an independent person to investigate the allegations. If the Housing Services Manager is implicated, then another senior member of staff should liaise with the Chairperson.

7.3 Communicating the disclosure

- 7.3.1 Although the individual is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate person that there are reasonable grounds for their concern.
- 7.3.2 The earlier the individual expresses their concern, the easier it is to take 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, the Association will seek further information from the individual concerned.
- 7.3.3 Where any meeting is arranged, the individual can be accompanied by a trade union (or other) representative and also have the meeting off site if they so wish.

7.4 Process

- 7.4.1 On receipt of a disclosure, the Director or Chairperson will consider the information made available to him/her and decide on the form of investigation to be undertaken. This could be an internal investigation or it could involved external assistance, such as from EVH, the internal/external auditor or our solicitor – it very much depends on the nature of the allegations.
- 7.4.2 It may also be the case that a small sub-Committee will be established – this would certainly be the case where the allegation is serious and/or it could result in dismissal. The sub-Committee would normally comprise three Committee members from the Staffing, General Purposes and Audit sub-Committee – this should not include any member who may be implicated or called on to give evidence. The Chairperson of the Staffing, General

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Purposed and Audit sub-Committee should not be on the investigating sub-Committee as they have a lead role in responding to any subsequent appeal.

7.4.3 As soon as is practical (normally before the end of the working day on which the issue is raised), the person receiving it will contact the Scottish Housing Regulator as it is a Notifiable Event. The Notifiable Event will be formally reported via the portal, but it is nonetheless useful to make contact with the SHR to advise that the event is going to be reported and to allow the SHR to ask any initial questions.

7.4.4 Depending on the circumstances surrounding the investigation appropriate action will be taken in accordance with the Association's existing policies and procedures.

7.5 Timescales

7.5.1 Once the investigator² has completed the investigation it will be given to the individual who instructed the investigation. The person receiving the allegation (and co-ordinating the Association's response) will write to the person who raised the concern as soon as possible and:

- a) acknowledge that the concern has been received
- b) indicate how the matter will be dealt with
- c) give an estimate of how long it will take to provide a final response
- d) tell the individual whether any initial enquiries have been made
- e) supply the individual with information on staff support mechanisms and
- f) tell the individual whether further investigations will take place and if not, why not.

7.5.2 A whistleblowing allegation is unsettling for any organisation and can cause anxiety and stress, particularly for those involved. It is therefore important to complete the investigation expeditiously. However, it should never be approached in a hurried or rushed manner at the expense of accuracy.

8. Outcome of investigation

8.1 Once the investigation has been completed and the report is received by the person co-ordinating the investigation, the Chairperson of the Association and, where applicable, the sub-Committee, a decision on what action to take

² Depending on the seriousness and complexity of the allegation, it is possible that the investigator could be the same person who received the allegation.

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will be considered. If there are reasonable grounds to substantiate the complaint, and appropriate procedure will be invoked.

- 8.2 This may also include referral to an external body.
- 8.3 Where an individual feels that their concern has not been dealt with appropriately, they can appeal the decision internally to the Chair of the Staffing, General Purposes and Audit sub-Committee. If, after appealing internally, the individual is still not satisfied with the outcome, they can raise the issue with the appropriate external body as outlined in Appendix 1

9. Policy review

- 9.1 The whistleblowing policy will be reviewed every five years, or sooner in line with legal, regulatory or best practice requirements. The latest review date will be October 2025.

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Appendix 1

List of prescribed persons/external bodies

As at October 2020

The Scottish Housing Regulator

The Association's Regulation Manager is Kirsty Anderson, but anyone within the SHR can be contacted if she is not available.

Tel: 0141 242 5642

Office of the Scottish Charity Regulator (OSCR)

Tel: 01382 220 446

Glasgow City Council Environmental Health

Tel: 0141 287 2000 (Switchboard)

Health and Safety Executive

Tel: 0345 300 9923
(or complete the online form at www.hse.gov.uk)

External Auditor

Alexander Sloan & Co (managing partner is Kevin Booth)

Tel: 0141 204 8989

Internal Auditor

Quinn Internal Audit and Business Support (managing partner is Alex Cameron)

Tel: 07957 117 913

Main solicitor

T C Young

Tel: 0141 221 5562

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Further sources of information

ACAS

Tel: 0300 123 1100

Public Concern at Work

Tel: 020 7404 6609

Unite (Trade Union)

Tel: 0141 404 5425 or 0131 556 9676



Scottish Housing
Regulator

Whistleblowing about a regulated body

Information for potential
whistleblowers

Introduction

This factsheet is for staff and governing body members of regulated bodies if they suspect wrongdoing in their organisation. It explains what whistleblowing is, how the law protects whistleblowers who blow the whistle to us and what we will do if concerns are reported to us.

In this factsheet, we use the term '**staff**' to include current and former employees, agents and contractors.

By '**regulated body**', we mean a social landlord that we regulate, including;

- » housing associations, co-operatives, housing partnerships and housing companies that are registered with us (registered social landlords or RSLs); and
- » local authorities that provide landlord, homeless and factoring services.

By '**governing body**' we mean the governing body or management committee of an RSL and the Housing Committee within a local authority.

What is whistleblowing?

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

What's the difference between a grievance and whistleblowing?

- » **Whistleblowing** is about conduct that affects others: for example, fraud or a failure to comply with health and safety requirements.
- » A **grievance** is where a member of staff has a personal complaint about their own employment situation.

If you have a grievance about your employer, you should follow your employer's Grievance Procedure. We will not intervene where the concerns are about a personal grievance against an employer. But if they are reported to us, we may have an interest if the matter leading to the grievance is of wider significance and we consider it may threaten the interests of tenants or other service users, or pose a risk to the viability of the regulated body.

Why is whistleblowing important?

Problems can arise in any organisation and the best people to identify them are often the people who work in the organisation.

If you have concerns about your organisation, then reporting them an early stage can help to ensure that:

- they do not become worse and so take more time, effort and resources to fix;
- the interests of tenants and other service users and staff are protected; and,
- tenants and other service users, staff, lenders, other stakeholders, and the public, continue to have confidence in the organisation.

Why would the Scottish Housing Regulator be interested in my concerns?

Our role is to safeguard and promote the interests of tenants and service users. We are interested in any conduct which puts this at risk and could threaten the viability or reputation of a regulated body, or the wider sector.

The Scottish Housing Regulator is the prescribed person you can make a disclosure to about social landlords' performance of housing activities; the registration of registered social landlords; and social landlords' financial well-being and standards of governance.

What protection is there for whistleblowers who report concerns to the Scottish Housing Regulator?

The Scottish Housing Regulator is a prescribed person under the Public Interest Disclosure Act 1998 (PIDA). PIDA provides protection to employees, agents and contractors (and in some cases to former employees) who make a qualifying disclosure to a prescribed person if they make the disclosure in good faith and that they reasonably believe the information is true. If you make a protected disclosure, you have a right not to suffer any detriment. This means you should not be treated less favourably for making the disclosure and a claim may be brought to the Employment Tribunal if you are treated less favourably and you suffer a loss as a consequence. It will be for the Employment Tribunal to determine if any whistleblowing claim is a protected disclosure.

Disclosures that are malicious or knowingly untrue are not protected under PIDA. An employer may take disciplinary action against a member of staff who knowingly provides information that they know is untrue.

You may wish to seek legal advice on whether you will be protected.

To qualify for protection a qualifying disclosure must be a disclosure made in the public interest about a possible:

- 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 the above.

Governing body members are not covered by PIDA. However, we will handle concerns reported by governing body members in the same way as qualifying disclosures from staff.

Our Regulatory Framework

Our Regulatory Framework requires an RSL to conduct its affairs with honesty and integrity. We expect all RSLs to have a whistleblowing policy in place which tells both staff and governing body members how they can safely raise concerns and without fear of reprisal. We also expect RSLs to take any concerns raised seriously and look properly into the matter.

How do I report concerns about a regulated body?

You should be able to report your concerns to someone in the organisation who is in a position to deal with them. Your organisation's whistleblowing policy will tell you how to go about this. Reporting the matter internally gives the organisation a chance to put things right.

Sometimes staff or governing body members may be reluctant to report concerns internally because they are worried about repercussions or they have no confidence in the organisation's ability or willingness to deal with the matter. In some cases, they may have reported their concerns but feel that the organisation failed to deal with it appropriately. If you tell us about a qualifying disclosure, you may be protected whether or not you have raised your concerns internally. Local authority staff can also make a disclosure to Audit Scotland.

Do I need to give my name?

We will consider seriously all concerns reported to us, even where the person does not want to give us their name and contact details. However, this could sometimes make it more difficult for us to take forward the concerns, as we would not be able to ask for more information if we needed it and we would not be able to give feedback on any action we take.

If you do not wish to be identified, we will respect your confidentiality as far as we can during any subsequent action that we take. There is a chance that some of the information you provide might reveal your identity because of the nature of it.

If we have concerns that a criminal offence may have been committed then we will need to pass the information to the police.

What will the Scottish Housing Regulator do?

We will ask you some questions to help us understand the nature and extent of your concerns and whether you have reported them internally or to someone else. We will ask for any evidence you can provide to support your concerns. We will consider carefully what you tell us along with any information we already have about the organisation. Where the concern is about a local authority we will agree an appropriate response with Audit Scotland.

Every case is different but there are a number of things that could happen:

- we might take no further action. There could be a number of reasons for this. For example, there might not be enough evidence for us to proceed upon; or we may have been assured that the governing body has dealt with the matter appropriately;
- we might ask the governing body to investigate the matter (normally by the governing body engaging someone independent and so fully objective);
- we might ask the governing body to get independent advice or support to help them to deal with the situation; we might carry out an investigation (planned or unannounced);
- we might refer the matter to another regulator, for example, the Care Inspectorate or Audit Scotland, because the matter falls within their regulatory remit; or
- we might report the matter to the police because we think that a criminal offence may have been committed.

If we need to engage with a regulated body then we will do so in confidence. We will tell it about the concerns but will not reveal any details which could identify a whistleblower. We will continue to maintain the confidentiality of the whistleblower after the whistleblowing case has been concluded.

Will I be told about the outcome?

We may not be able to tell you everything about what we intend to do but, if you give us your name and contact details, we will tell you as much as we can.

Contact us



0141 242 5642



shr@scottishhousingregulator.gsi.gov.uk



Scottish Housing Regulator
Highlander House
58 Waterloo Street
Glasgow
G2 7DA

More advice and support?

You can get advice on whistleblowing from a solicitor, trade union or the Citizens Advice Bureau. You can also contact:

Public concern at Work (PCaW)

Public concern at work is an independent charity which gives confidential advice to people who witness wrongdoing at work but are not sure whether or how to raise their concern.



0207 404 6609
(Open Monday to Friday)



helpline@pcaw.co.uk



website: www.pcaw.co.uk

Audit Scotland

Audit Scotland, the Accounts Commission and the Auditor General are prescribed persons under PIDA. Staff of local authority housing and homelessness services can report concerns to:



0131 625 1854



Website: www.auditscotland.gov.uk

