

Whistleblowing Policy

Reference:	HS_POL_CHE_WHI_2.0	Approved by:	Board
		Date of approval:	26 July 2017
Scope:	Board and Staff of Housing Solutions		
Legislation:	Public Interest Disclosure Act 1998 Data Protection Act 1998 Human Rights Act 1998 Freedom of Information Act 2000 Equality Act 2010 Enterprise & Regulatory Reform Act 2013	Date of next Review:	26 July 2020
Regulatory/ Governance	Code of Governance	By:	Company Secretary
Related Policies:	Anti Fraud, Theft & Bribery Policy Anti Harassment and Bullying Policy Disciplinary Policy Employee Code of Conduct Equality & Diversity Policy Grievance Procedure Probity Policy Safeguarding Adults Policy Safeguarding Children Policy		
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1. Policy Statement

- 1.1 It is Housing Solutions' policy to conduct its business with the highest standards of probity, transparency and accountability. The Whistleblowing Policy is intended to address concerns of malpractice or impropriety which may affect the interests of HSL, our customers, other stakeholders or the wider public interest.
- 1.2 HSL seeks to provide a safe and secure environment in which Board Members, employees, or others acting on behalf of the Association, are encouraged to raise concerns about malpractice.
- 1.3 The Association will respond promptly, impartially and effectively to all reports of suspected malpractice and impropriety.

2 Scope

- 2.1 The Whistleblowing Policy provides a mechanism for raising concerns about the service provision of HSL, or conduct of employees, Board Members or other persons acting on behalf of Housing Solutions. Concerns regarding malpractice can be raised with the assurance that there will be no detrimental effect upon the career or day to day work of the person making the report.
- 2.2 The areas of malpractice which are in law appropriate for investigation under whistleblowing and for which protection is afforded for whistleblowers include, but are not limited to committed acts or attempts to conceal:
- Financial malpractice, impropriety or fraud
 - Failure to comply with a legal obligation or statute
 - Failure to take action to mitigate or control recurrent and major risks relating to the Association's business
 - A major breach of health & safety law that could endanger staff, customers or members of the public e.g. abuse or neglect of vulnerable people
 - Criminal activity by the Association or an individual within it
 - A miscarriage of justice
- 2.3 This Policy is not intended to facilitate questioning of correctly conducted and agreed business decision-making by the Association, by the Board, by executive or senior staff.
- 2.4 It is not intended to allow reconsideration of decisions already reached under other appropriate procedures including disciplinary, grievance, harassment or complaints procedures.
- 2.5 There may be incidents of misconduct or poor performance that do not amount to malpractice and are better dealt with through either the *Disciplinary Policy* or *Anti Harassment & Bullying Policy*.
- 2.6 Where there is uncertainty about how to proceed with a concern, guidance is available from:
- the Company Secretary for issues relating to governance matters involving non-executive directors.
 - the HR team for staff impropriety and malpractice.
 - *Please also refer to Appendix 2 which is taken directly from the Government Website.*

NOTE: Please refer also to section 5 "Making a Disclosure".

3. Protection

- 3.1 Employees are protected by law (Public Interest Disclosure Act 2008, (as qualified by the Enterprise & Regulatory Reform Act 2013), when making a "qualifying disclosure". A qualifying disclosure is a report that is made in the public interest in the reasonable belief that an act such as is listed in 2.2 has

occurred.

- 3.2 The Enterprise & Regulatory Reform Act 2013 protects whistleblowers from victimisation at the hands of their employer and / or co-workers.

4. Handling Disclosures

4.1 HSL will treat disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

4.2 Anonymous Allegations:

4.2.1 Whistleblowers are encouraged to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the Association. In exercising this discretion, the factors to be taken into account will include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources.

4.3 Untrue Allegations:

4.3.1 If an individual makes an allegation which is not confirmed by 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. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against that individual.

4.4 Any colleague who tries to discourage someone from coming forward or criticises or victimises them after voicing a concern, will be dealt with under the organisation's disciplinary procedure.

4.5 Employees who believe that they have been penalised in any way for making disclosures should report the incident in line with the Organisation's grievance procedure.

4.6 When requested and wherever possible reports will be kept confidential and details will only be accessible to people who are dealing directly with the case.

5. Procedure for Making a Disclosure

5.1 In order to qualify for legal protection the reporting person must make the disclosure in the public interest and with the reasonable belief that the information disclosed is substantially true. Disclosures should be made in one of the following ways:

5.2 Internal Disclosure

5.2.1 Dependent upon the disclosure and who is involved in a concern/ impropriety, employees should initially contact their line manager, the HR Manager, a senior

manager, the Company Secretary or the designated Board Member for whistleblowing - making clear that they want to make a protected disclosure.

5.3 Disclosure to Regulatory Body

5.3.1 Where an internal disclosure has been made by an individual(s) and no action taken;

or that the individual(s) has reason to believe he/she would be victimised for making the disclosure internally;

and where the employee believes that the disclosure meets the criteria in 2.2;

or where a Board Member is making a disclosure, an act such as in 2.2 has occurred *and* the Board has not addressed concerns raised;

a report can be made to the relevant regulatory body i.e. the Homes and Communities Agency - or Financial Conduct Authority where the matter involves financial malpractice.

5.4 External Disclosure other than 5.3

5.4.1 Where disclosures have been made as per 5.2 and/or 5.3 and no appropriate action has been taken, an external disclosure can be made, for example, to the Police – where there is evidence that the law has been broken - or to a local or interested MP – where the matter is of local / public concern.

6. **Access to Support**

6.1 Any employee may speak confidentially to their line manager, a member of the HR team, other senior manager or a Board Member if they require guidance on making a report. Managers will be made aware of their role and how they can support the person making the accusation throughout cases. Training will be provided where necessary.

6.2 A Board Member may speak confidentially to the Chair or Vice Chair where they are not involved in the malpractice – or another Board Member where they are – or the Chief Executive where they are not directly involved in the malpractice – or the Company Secretary, where the issue is one of advice and process.

6.3 Independent and confidential advice is available via Public Concern at Work on 0207 4046609 www.pcaw.org.uk. Information on whistleblowing is also available on the Government website; www.gov.uk/whistleblowing

7. **Equality & Diversity**

7.1 HSL recognises the needs of a diverse population and always acts within the scope of its own Equality and Diversity Policy, the Human Rights Act 1998, and Equalities Act 2010. The Association works closely with its partners to ensure it has a clear understanding of its resident community with clear regularly updated service user profiles. HSL will record, analyse and monitor information on ethnicity, vulnerability and disability.

8. Confidentiality

- 8.1 Under the Data Protection Act 1998 and the Human Rights Act , all personal and sensitive information, however received, is treated as confidential.
- 8.2 When dealing with resident information, officers will ensure that they only involve other agencies and share information with the consent of the resident concerned, unless:
- HSL is required to by law
 - The disclosure of the information is necessary for the protection of children.

9. Monitoring & Review

- 9.1 This policy will be reviewed on a 3 yearly basis or in response to changes in legislation, regulatory guidance, good practice or changes in other relevant Housing Solution's policy.
- 9.2 All cases of whistle-blowing will be reported to the Audit & Risk Committee. Where this results in allegations being upheld and action being taken, this will be reported to the Board at the next meeting.

10. Appendices

Appendix 1 – Procedure for Handling a Disclosure

Appendix 1

Procedures for Handling a Disclosure

1. On receipt of a complaint of malpractice, the employee/ Board Member who receives the allegation must make a written/ e record and pass this information as soon as is reasonably possible as follows:
 - i. Complaints of malpractice involving a Board Member – including the Chief Executive - will be investigated by the Board nominee for Whistleblowing supported by the Company Secretary.
 - ii. Complaints of malpractice against an Executive Director will be passed to the Chief Executive for consideration and/or referral to an uninvolved and appropriately senior member of staff.
 - iii. Where allegations are against several or all Board Members and raise wider issues of management culture, the allegations should be investigated by an independent person with the process facilitated and supported by the Company Secretary.
2. The complainant has the right to bypass the line management structure and take their complaint directly to the Board Member responsible for whistleblowing. The Board Member must make the Chair aware that they have been approached with a disclosure. The Chair will either allow an investigation to proceed or exercise the right to refer the complaint back to the Chief Executive - if he/she feels that the Executive are able to investigate the matters raised without any conflict of interest and are more appropriately placed to investigate the complaint.
3. If there is evidence of criminal activity then the investigating officer should inform the police. The Association will ensure that any internal investigation does not hinder a formal police investigation.
4. If the complainant needs independent advice at any stage of the process, they may contact the independent charity – Public Concern at Work (www.pcaaw.co.uk) on the Whistleblowing Advice Line 0207 404 6609, or email; whistle@pcaaw.co.uk: who provide free and confidential advice on whistleblowing matters.
5. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.
6. The investigating officer should, as soon as practically possible, 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.
NOTE: Where any actions breach the confidentiality of other affected parties then full disclosure to the whistleblower will be withheld and explained.
7. All responses to the complainant should be in writing and sent to his/ her home

address.

8. The investigating officer should follow these steps:
 - Full details and clarification of the complaint should be obtained.
 - The investigating officer (or Board Member) should inform the employee(s)/ Board Member(s) against whom the complaint is made as soon as is practically possible.
 - The subject of investigation will be informed of their right to be accompanied by a trade union or other representative at any future interview or hearing held under these procedures.
 - At this stage, the investigating officer should consider the involvement of the police if criminal activity is at all evident or the internal auditors or other independent investigators. If in any doubt he/ she should consult with the Chief Executive/Chair or Company Secretary as appropriate re other involvement.
 - The allegations should be fully investigated by the investigating officer with the assistance, where appropriate, of other individuals/bodies
 - A judgement concerning the complaint and validity of the complaint will be made by the investigating officer. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Chief Executive or Chair as appropriate.
 - The Chief Executive / Chair will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate procedures.
 - The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.
 - If appropriate, a copy of the outcomes will be passed to the Audit & Risk Committee to enable them to consider whether they should request a review of the relevant procedures.
9. If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence with the Chief Executive /Chair as appropriate.
10. If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, HSL recognizes the lawful rights of employees and Board Members to make disclosures to prescribed persons (such as the Health and Safety Executive), or, where justified, the regulator(s).

Appendix 2 Whistleblowing for Employees

Extract from Gov.UK Website

Complaints that count as whistleblowing

You're protected by law if you report any of the following:

- a criminal offence, eg fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, eg doesn't have the right insurance
- you believe someone is covering up wrongdoing

Complaints that don't count as whistleblowing

Personal grievances (eg bullying, harassment, discrimination) aren't covered by whistleblowing law, unless your particular case is in the public interest.

Report these under your [employer's grievance policy](#).

Contact the [Advisory, Conciliation and Arbitration Service \(Acas\)](#) for help and advice on resolving a workplace dispute.