

Group Policy Document

Date Issued	February 2000
Last Review Date	August 2019
Department	Management
Title	Whistleblowing
Objective	To describe our arrangements for enabling staff and Management Committee/Board Members to bring directly to our attention issues of concern regarding malpractice within the Group in an open and supportive environment.
Responsible	Chief Executive
Next Review Date	August 2024

1.0 INTRODUCTION

- 1.1 We are committed to the highest standards of openness, probity and accountability. We (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. We recognise that it is an important aspect of accountability and transparency to ensure that no one feels at a disadvantage in raising legitimate concerns.
- 1.2 The Public Interest Disclosure Act 1998, which came into effect in 1999, gives legal protection to members of staff against being dismissed or penalised by us 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 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.
- 1.3 Employers may also be held vicariously liable for staff who victimise colleagues for making a disclosure. We will take all reasonable steps to protect staff from being victimised.
- 1.4 All staff, contractors, other bodies, agency staff, etc. working for us on our premises are covered by this policy. The policy also applies to suppliers and those providing services under a contract.

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- 1.5 If you are a customer, member of the public or other service user, you should raise any concerns regarding “Whistleblowing” directly with the Chief Executive, or in writing marked ‘Private and Confidential’ FAO Martin Pollhammer, Chief Executive.
- 1.6 The organisation will treat your personal data in line with our obligations under the current data protection regulations and our own Privacy Policy. Information regarding how your data will be used and the basis for processing your data is provided in our fair processing notices.

2.0 SCOPE OF POLICY

- 2.1 This policy is designed to enable all our staff and Management Committee/Board Members to raise concerns internally and at a high level and to disclose information that they believe shows malpractice or impropriety.
- 2.2 We have a Dignity at Work policy along with grievance and disciplinary procedures within our EVH terms and conditions. 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 use of these procedures. These concerns might include:
 - Financial malpractice, impropriety or fraud
 - Failure to comply with a legal obligation or Statutes
 - Dangers to health and safety or the environment
 - Criminal activity involving the Group, its staff, committee/board member or stakeholders
 - Professional malpractice
 - Improper conduct or unethical behaviour
 - Failure to meet legal obligations
 - Abuse of power or status
 - Deliberate attempts to conceal any of the above

3.0 LEGAL FRAMEWORK

- Public Interest Disclosure 1998
- Enterprise & Regulatory Act 2013

4.0 SAFEGUARDS

4.1 *Protection*

4.1.1 This policy offers protection to members of staff and Management Committee/Board Members who disclose concerns provided the disclosure is made:

- In the public interest
- To an appropriate person/body
- That the Individual has reasonable belief in the validity of the concerns being raised

4.1.2 We 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.

4.2 *Confidentiality*

4.2.1 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.

4.3 *Anonymous Allegations*

4.3.1 We would encourage individuals to put their names to any disclosures they make. Concerns expressed anonymously are much less robust, but will be considered at the discretion of the Chief Executive.

4.4 *Untrue Allegations*

4.4.1 If an individual makes an allegation that is not confirmed by the subsequent investigation, it is probable that no action will be taken against them. However, if the individual makes an allegation that is deemed to be made '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 also be noted that under the provisions of the Enterprise and Regulatory Act 2013, if a disclosure is in 'bad faith' this will still be considered by an employment tribunal but compensation can be reduced by up to 25% in such circumstances.

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5.0 HOW TO RAISE A CONCERN

5.1 *First Step*

- 5.1.1 Any staff member should normally raise concerns with their line manager who will pass the information on as soon as is reasonably possible to the Chief Executive.
- 5.1.2 Any complaints will be investigated by the Chief Executive unless the complaint is against the Chief Executive or is in any way related to the actions of the Chief Executive. In such cases, the complaint should be passed to the Chair of the Management Committee/Board who will in turn appoint an independent person to investigate the allegations.
- 5.1.3 The complainant has the right to bypass the line management structure and take their complaint direct to the Chair of the Management Committee or Board. The Chair has the right to refer the complaint back to **management** if they feel that the management, without any conflict of interest, can more appropriately investigate the complaint
- 5.1.4 Where the staff member feels they cannot raise their concern through the line management structure or the Chair of the Management Committee, then they may raise this with the Internal and External Auditors.
- 5.1.5 Any Management Committee or Board Member who has a concern should raise this in the first instance with the Chair of the Management Committee or Board who will investigate. If they feel that they are unable to do this, they may raise their concerns with the Internal and External Auditors.
- 5.1.6 Staff Members and Management Committee or Board Members can also obtain advice regarding their concerns, in confidence, by contacting one of the bodies in **Appendix 1**.

5.2 *Communicating the Disclosure*

- 5.2.1 Although the person making the allegation is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person investigating that there are reasonable grounds for their concern.
- 5.2.2 Concerns may be raised verbally or in writing. Anyone making a written report is invited to use the following format:

- The background and history of the concern (giving relevant dates)
- The reason why there is concern about the situation

The earlier they express their concern, the easier it is to action.

5.3 *Process*

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5.3.1 On receipt of a disclosure the Chief Executive or Chair will consider the information made available to them and decide on the form of investigation to be undertaken. This may be to:

- Investigate the matter by management, internal audit, or through the disciplinary process
- Refer the matter externally to the external auditor or the police
- Call for an independent inquiry

5.3.2 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

5.4 *Timescales*

5.4.1 The person who reaches the decision on the matter will not carry out the investigation. They will write to the individual concerned within ten working days of a disclosure being made. They will:

- Acknowledge that the concern has been received
- Indicate how the matter will be dealt with
- Give an estimate of how long it will take to provide a final response
- Supply the individual with information on staff support mechanisms
- Tell the individual whether further investigations will take place and if not, why not

5.4.2 Where any meetings are arranged, the person who raised the concern can be accompanied by a trade union representative and also have the meeting off-site if they so wish.

6.0 OUTCOMES OF INVESTIGATIONS

6.1 Once all facts are established the Chief Executive or Chair of the Management Committee/or Board will decide what action to take. If the complaint is justified, then they will invoke the right action in accordance with the appropriate policy or procedure.

Alternatively the disclosure may be referred to an external body.

6.2 We hope the individual will be satisfied with any action taken. If they are not and feel it is right to take the matter outside the Group, **Appendix 1** provides a list of Prescribed Persons to contact and Further Sources of Information.

7.0 REVIEW

Approved by Management Committee 26/09/19

- 7.1 The Chief Executive will ensure that this policy is reviewed every five years by the Management Committee.

Appendix 1

List of Prescribed Persons

Scottish Housing Regulator

Tel: 0141 242 5642

www.housingregulator.gov.scot

Environmental Health

Tel: 01620 827365

www.eastlothian.gov.uk

Health and Safety Executive

Tel: 0300 003 1747

www.hse.gov.uk

The Scottish Government

Tel: (general): 0300 244 4000

www.gov.scot

Further Sources of Information

ACAS

Helpline: 0300 123 1100

www.acas.org.uk

Protect (formerly Public Concern at Work)

Tel (Whistleblowing): 020 7404 6609 (General): 0203 117 2520

www.pcaw.org.uk

Unite

Tel: (Edinburgh): 0131 556 9676 (Glasgow): 0141 404 5424

www.unitetheunion.org