

Policy on Whistleblowing

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1. Purpose of the Whistleblowing Policy

- 1.1 Whistleblowing (also known as “making a disclosure”) is the term used when a worker passes on information about wrongdoing within the organisation they work for.
- 1.2 This document sets out New Gorbals Housing Association’s policy and procedures on:
 - How employees and committee members can raise any concerns they may have, and
 - How the Association will act upon those concerns.

2. Policy Statement

- 2.1 The Association aims to meet the highest standards of ethical conduct and accountability. Since employees are often the first to realise that there may be something seriously wrong within an organisation, the Management Committee wishes to encourage anyone who has serious concerns about the Association to come forward and speak up without fear of reprisal.

3. Legal Framework

- 3.1 The Association will seek to comply with all relevant legislation, in particular:
 - The Public Interest Disclosure Act 1998
 - The Enterprise and Regulatory Reform Act 2013
 - The Public Interest Disclosure (Prescribed Persons) Order 2014.
- 3.2 In meeting its legal obligations, the Association will offer protection to any New Gorbals employee who raises or discloses concerns about the Association, provided that:
 - The disclosure is in the public interest and is made to an appropriate person or body, and
 - The individual has reasonable belief in the validity of the concerns they have raised

4. Raising Concerns Under the Whistleblowing Policy

Who Can Use the Whistleblowing Policy

- 4.1 The Policy refers throughout to “employees”. For the purposes of the Policy, this also covers other workers who do not have a contract of employment with us, such as agency workers and people who are on training programmes.
- 4.2 Committee members do not enjoy the legal protections held by employees and other workers who make disclosures. However, committee members may also use the Policy as a way of raising concerns that cannot reasonably be raised through our committee structures.

What Can Be Reported and Assessed

- 4.3 It is up to individuals to decide what matters they may wish to report, and what advice they should obtain about their rights (e.g. advice from a trade union, legal adviser or the confidential advice line run by the charity Public Concern at Work).
- 4.4 The Association does not set any limits on the types of suspected wrongdoing that can be reported to us. However, we will only assess allegations under the Whistleblowing Policy if the following conditions are met:

The person making the disclosure reasonably believes that:

❖ **One of the following types of wrongdoing has already taken place or is likely to occur:**

- Criminal activity or offences (for example, financial impropriety such as fraud, bribery or corruption)
- Breach of a legal obligation
- A miscarriage of justice
- Endangering of someone’s health and safety
- Damage to the environment
- Deliberately covering up information in any of the above categories; **and**

❖ **The disclosure of the wrongdoing is in the public interest**

4.5 **“Reasonably believes”** means that concerns should be based on more than unsubstantiated opinion or rumour. The individual is not expected to prove beyond doubt the truth of an allegation, but they should be able to demonstrate that there are reasonable grounds for their concern.

“In the public interest” means that concerns must affect others e.g. tenants or other employees. Personal grievances will only rarely meet this test and so will generally be dealt with using the Association’s policies on grievance, dignity at work etc.

Who Concerns Can Be Reported to

4.6 To obtain legal protection, the individual must make their disclosure to an appropriate person or organisation. This will normally be the Association itself, but it could also be a “prescribed person” listed by the UK Parliament, i.e.

- The Scottish Housing Regulator
- The Office of the Scottish Charity Regulator (OSCR)
- The Care Inspectorate
- The Health and Safety Executive
- The local authority environmental health department

4.7 The Association encourages employees to raise any concerns internally in the first instance. This is the easiest way to obtain legal protection, and for concerns to be investigated fairly and thoroughly.

4.8 Members of staff also have the right to make a disclosure to a prescribed person as listed at 4.6 without raising the matter internally. Similarly, concerns that have been raised initially with the Association can be passed on to a prescribed person at a later stage.

4.9 The main rules for making disclosures to a prescribed person are that the member of staff believes the disclosure is substantially true and that it concerns a matter within the prescribed person’s area of responsibility (for example, a disclosure about misuse of charitable funds would be made to OSCR).

4.10 The Association does not regard disclosures to the news media, social media or via the internet as an acceptable course of action, unless the Association accepts that there are exceptional and compelling reasons for doing so.

How to Raise a Whistleblowing Concern

4.11 Concerns can be raised verbally and/or in writing, as the individual prefers. Concerns should normally be raised in the first instance with the individual’s line manager who will refer the matter on to the Director. Alternatively, employees can choose to raise concerns directly with the Director, Depute Director or Chairperson.

Confidentiality and Anonymous Allegations

- 4.12 Disclosures will be treated in confidence and every effort will be made not to reveal the individual's identity if this is their wish. However, at the appropriate time the individual may need to come forward openly, if action is to be taken on the issue they have raised.
- 4.13 The Association encourages individuals to put their names to any disclosures they make. Anonymous allegations are more difficult to investigate, especially if further information is required. In deciding how to respond to anonymous allegations, the Director and Chairperson will take into account:
- The seriousness of the issues raised;
 - The credibility of the concern; and
 - The likelihood of confirming the allegation from attributed sources.
- 4.14 The Association is obliged to provide the Scottish Housing Regulator with information about whistleblowing allegations, as a Notifiable Event.

5. Investigation Procedures

- 5.1 The Association's Procedures for investigating concerns that have been raised under the Whistleblowing Policy are attached at Appendix 1. These consist of an initial review stage, followed (where required) by an investigation stage.

6. Protection for Whistleblowers

- 6.1 The law offers whistleblowers two main protections:
- It is automatically unfair to dismiss an employee, if the reason or principal reason for the dismissal is that they have made a protected disclosure.
 - It is unlawful to subject an employee or worker to a detriment because he/she has made a protected disclosure.
- 6.2 The Association will ensure that an employee who has made a protected disclosure does not experience detriment as a result (for example in relation to their pay and conditions, career progression, or in any employment references the Association provides).
- 6.3 Moreover, the Association will not tolerate any harassment or victimisation (including informal pressures) by other workers and will take appropriate action to protect the individual when they make a protected disclosure.

7. Allegations that are Untrue or Made in Bad Faith

- 7.1 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, we may take disciplinary action (up to and including dismissal) if we decide that an individual has made an allegation in bad faith (for example frivolously and/or maliciously or for personal gain).

- 7.2 It should be noted that the Enterprise and Regulatory Reform Act 2013 allows a disclosure not made in good faith to be considered by an Employment Tribunal. However, if a Tribunal upholds an employer's argument that a disclosure was made in bad faith, it has the power to substantially reduce any compensation paid.

8. Promoting awareness of the Whistleblowing Policy

- 8.1 This Policy will be brought to the attention of staff and committee during their induction, and periodically at staff and committee briefings and meetings. Information about the Whistleblowing Policy will also be provided in the Association's Codes of Conduct for staff and committee members.

9. Equal Opportunities

- 9.1 The Association is committed to ensuring equal opportunities and fair treatment for all people in its work. In implementing this Policy, the Association will ensure that it does not discriminate against anyone on the grounds of any of the nine Protected Characteristics stated in the Equality Act 2010. These are age, disability, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, race, religion and belief, sex, or sexual orientation.

10. Delegated Authority

- 10.1 The Management Committee has authority to approve all and any of the actions described in this Policy and the accompanying procedures.
- 10.2 In practice, the Management Committee's direct role in deciding how individual cases should be dealt with and in the conduct of any investigations may be restricted, if there is a need to preserve confidentiality or if immediate decisions need to be made.
- 10.3 Accordingly, the Management Committee has delegated authority for these matters to the Chairperson (and other Office Bearers, if available) and Director, who must provide the Committee with reports on the use of the delegated powers.
- 10.4 The outcome of any investigations conducted under the Whistleblowing Policy will always be reported to the Management Committee, along with any steps taken or required to remedy any failures.

11. Policy Review

- 10.1 The Whistleblowing Policy will be reviewed in four years time, or as required by changes in the law or regulatory guidance.