

Whistleblowing Policy and Procedures

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Scottish Social Housing Charter Relevant Standard Outcomes

STANDARD

Section:- The customer/landlord relationship

2. Communication

Social landlords manage their businesses so that:

- *tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.*

Scottish Housing Regulator – Relevant Standards of Governance and Financial Management and Guidance

STANDARD	
1	The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users. Relevant Standard 1.3
5	The RSL conducts its affairs with honesty and integrity. Relevant Standard 5.6

WHISTLEBLOWING POLICY AND PROCEDURES

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HISTLEBLOWING POLICY AND PROCEDURES

1. INTRODUCTION

- 1.1. The word whistleblowing in this Policy refers to the disclosure internally or externally by Board members or members of staff (including agency workers or supervised self-employed workers) of malpractice, as well as illegal acts or omissions at work ('public interest disclosure').

2. LEGISLATIVE CONTEXT

- 2.1. This policy and procedure has been written to take account of the [Public Interest Disclosure Act 1998](#), which protects Board members and member of staff making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions. The Act is incorporated into the [Employment Rights Act 1996](#), which also already protects Board members and member of staff who take action over, or raise concerns about, health and safety at work.
- 2.2. This policy and procedure has been written to take account of the [Enterprise and Regulatory Reform Act 2013 \(ERRA\)](#), which came into effect on the 25 June 2013 and which provides increased protection for Board members and member of staff who raise genuine concerns which they reasonably believe are in the 'public interest'.

3. POLICY STATEMENT

- 3.1. Lochalsh & Skye Housing Association is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices. Lochalsh & Skye Housing Association recognises that individual Board members and members of staff have a right and duty to raise such matters with the organisation that, in turn, has a duty to ensure Board members and members of staff can easily express their concerns through all managerial levels and that Board members and members of staff concerns are dealt with thoroughly and fairly. To achieve these ends, it encourages freedom of speech. It also encourages Board members and members of staff to use internal mechanisms for reporting any malpractice or illegal acts or omissions by its employees or ex-employees.

4. OTHER POLICIES AND PROCEDURES

- 4.1. Lochalsh & Skye Housing Association has a range of policies and procedures, which deal with standards of behaviour at work; they cover Discipline, Grievance, Harassment and Recruitment and Selection. Board members and members of staff are encouraged to use the provisions of these procedures when appropriate.

5. PUBLIC INTEREST DISCLOSURES

5.1. There may be times, however, when the matter is not about a Board member or a member of staff's personal employment position. Only disclosures made "in the public interest" will be a protected disclosure. Board members and members of staff must be able to demonstrate that they "reasonably believe" that the disclosure they are making is in the "public interest". In such cases the matter is covered by this Whistleblowing Policy. Examples of a 'qualifying disclosure' (this list is not exhaustive) include:

- Malpractice or ill treatment of a client/customer by a senior Board member or member of staff
- Repeated ill treatment of a client/customer, despite a complaint being made
- A criminal offence has been committed, is being committed or is likely to be committed
- Suspected fraud
- Disregard for legislation, particularly in relation to health and safety at work
- The environment has been, or is likely to be, damaged
- Breach of standing financial instructions
- Showing undue favour over a contractual matter or to a job applicant
- A miscarriage of justice
- Information on any of the above has been, is being, or is likely to be concealed

5.2. Board members and members of staff are not expected to prove beyond doubt the truth of an allegation, however, they will need to demonstrate to the designated officer that they "reasonably believe" that the disclosure they are making is in the "public interest" and is therefore a 'protected disclosure'. Examples (this list is not exhaustive) include:

- The disclosure is made in the public interest
- The person making the disclosure reasonably believes that it tends to show malpractice or impropriety
- In making the disclosure, the person does not commit a criminal offence
- It does not disclose any confidential information to any person other than the Chief Executive, Chairperson or members of the Board
- The person does not expect any personal gain from making such a disclosure.

5.3 Whistleblowing is considered to be a **Notifiable Event** to the Scottish Housing Regulator There is [advisory guidance](#) and [a fact sheet](#) about how RSLs should deal with whistleblowing. The SHR should be notified about the allegations and how the Association is responding to them.

6. HOW TO MAKE A DISCLOSURE

- 6.1 By law (the Public Interest Disclosure Act 1998), you can make a whistleblowing disclosure to one of the following
- your employer
 - a legal adviser
 - another person who is responsible for the wrongdoing
 - a prescribed person or body
 - any other person or body if there's a good reason to, or if it's related to an 'exceptionally serious failure' – for example, the police or media
- 6.2 You must also make sure your disclosure is made with 'reasonable belief' and is
- a qualifying disclosure
 - in the public interest
- 6.3 You should put your disclosure in writing. This could be in an email or a letter. In your disclosure you could include:
- the background and reason behind the concern
 - whether you've already raised the concern with anyone else and their response
 - any relevant dates

7. ANONYMOUS ALLEGATIONS

- 7.1. Lochalsh & Skye Housing Association encourages Board members and members of staff to put their name to their allegation whenever possible and to provide their contact details. Without this information, Lochalsh & Skye Housing Association cannot respond to them and Board members and members of staff cannot take advantage of the protection afforded by the policy. Concerns expressed anonymously are much less powerful, but will be considered at the discretion of the organisation.

8. DESIGNATED OFFICERS

- 8.1. The following people have been nominated and agreed by Lochalsh & Skye Housing Association as designated officers for concerns under this procedure. They will have direct access to the most senior person in the organisation.
- 8.1.1. Chief Executive, Morrison House, Portree, Isle of Skye, 01478 612035
- 8.1.2. Human Resources Manager
- 8.1.3. Chairperson (in respect of concerns raised regarding the Chief Executive)
(as above)

9. ROLE OF DESIGNATED OFFICER

- 9.1. As a first step members of staff should normally raise concerns with their line manager. This depends, however, on the seriousness and sensitivity of the

issues involved and who is suspected of the malpractice. Where concerns are not raised with the line manager, the designated officer will be the point of contact for Board members or members of staff who wish to raise concerns under the provisions of this policy. Where concerns are raised with him/her, he/she will arrange an initial interview, which will if requested be confidential, to ascertain the area of concern. At this stage, the whistleblower will be asked whether he/she wishes his/her identity to be disclosed and will be reassured about protection from possible reprisals or victimisation. He/she will also be asked whether or not he/she wishes to make a written or verbal statement. In either case, the designated officer will write a brief summary of the interview, which will be agreed by both parties. The designated officer will report to the most senior person in the organisation (or the Chair, if appropriate), who will be responsible for the commission of any further investigation work.

10. COMPLAINTS ABOUT THE MOST SENIOR PERSON IN THE ORGANISATION

- 10.1. If exceptionally the concern is about the most senior person in Lochalsh & Skye Housing Association, this should be made to the Chairperson of the Board, who will decide on how the investigation will proceed. This may include an external investigation.
- 10.2. Where the Board member or member of staff considers that the matter cannot be safely raised with a designated officer they should seek advice from an appropriate external agency. This can include the organisation's internal or external auditors or the regulator.
- 10.3. The complaints handling policy and procedure (Appendix 5) also details guidance about complaints made against the senior officer.

11. SUPPORT

- 11.1. Lochalsh & Skye Housing Association recognises that Board members and members of staff may wish to seek advice and is happy for them to be accompanied by another colleague, a friend or a trade union representative officers when using the provisions of this policy.

12. THE INVESTIGATION PROCESS

- 12.1. The investigation may need to be carried out under the terms of strict confidentiality, i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. This may be appropriate in cases of suspected fraud. This investigation includes an external investigation commissioned by the designated officer.
- 12.2. The designated officer and the organisation will ensure that the whistleblower does not experience detriment to themselves or their role during and after the process

- 12.3. The designated officer will offer to keep the whistleblower informed about the investigation and its outcome.
- 12.4. If the result of the investigation is that there is a case to be answered by any individual, the Disciplinary Policy and Procedure will be used.

13. FOLLOWING THE INVESTIGATION

- 13.1. Even where there is no case to answer, but the Board member or member of staff was not acting maliciously, the designated officer should ensure that the Board member or member of staff suffers no reprisals. Lochalsh & Skye Housing Association will not tolerate any harassment or victimisation of a whistleblower (including informal pressures), and will treat this as a serious disciplinary offence, which will be dealt with under the Disciplinary Policy and Procedure.
- 13.2. Only where false allegations are made maliciously, will it be considered appropriate to act against the whistleblower under the terms of the Disciplinary Policy and Procedure.
- 13.3. The designated officer will then arrange a meeting with the whistleblower to give feedback on any action taken. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned). The feedback will be provided within 28 days of the conclusion of the investigation.
- 13.4. If the whistleblower is not satisfied with the outcome of the investigation, Lochalsh & Skye Housing Association recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons as detailed at **Appendix 1**.
- 13.5. If a Board member or member of staff takes the matter outside the organisation, they should ensure that they do not disclose confidential information.
- 13.6. Once the investigation is concluded, The Board should be notified of the process followed, the outcome and further actions where applicable. Confidentiality should be followed at all times and senior officers should only disclose appropriate information in a private session Board paper
- 13.7. If a settlement agreement is to be made, The Board must be notified and carry out the correct process which should be guided by specialist advice from individuals such as HR or Legal Advisors

14. TIMELINES

- 14.1 Following notification of a concern, the Designated Officer will acknowledge receipt immediately and arrange to interview the whistleblower within 5 working days.

- 14.2 The summary report of the interview will be produced within a further 2 working days and agreed by both parties.
- 14.3 If further investigation work is required, this should be completed and reported to the Chief Executive (or Chairperson, if appropriate) within 20 working days.
- 14.4 The 20-working day limit allows time for a thorough, proportionate and consistent investigation to arrive at a decision that is objective, evidence-based and fair.
- 14.5 If exceptionally more than 20 days are required, the reasons will be explained to the whistleblower and a revised timescale agreed with them.

15. GENERAL DATA PROTECTION REGULATIONS

- 15.1. The Association will treat your personal data in line with our obligations under the current data protection regulations and our own policies and procedures
- 15.2. Information regarding how your data will be used and the basis for processing your data is provided in the Association's Privacy Policy.

16. REVIEW OF POLICY

- 16.1. This document will be reviewed by the Board or Sub-Committee set up for that purpose in accordance with the requirements of the Association's Register of Policies and Procedures.
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Appendix 1

List of Prescribed Persons

The Scottish Government

Tel: 0131 313 0044

The Highland Council Environmental Health

Tel: 01349886606

Health and Safety Executive

Tel: 0141 275 3000

OSCR

Tel: 01382 220 446

The Scottish Housing Regulator

Tel: 0141 271 3810

Further Sources of Information

ACAS

Helpline: 08457 47 47 47

Public Concern at Work

Tel (general): 0141 883 6761

UNITE

Tel: 0800 085 4390

SCHEDULE OF REVISIONS		
DATE	REVISION No.	DETAILS
21.03.2017	1.1	ADDED: Section 13 (Timelines)
21.10.2019	1.2	ADDED: page – new SHR Standards of Governance and Financial Management
21.10.2019	1.2	ADDED:NEW Point 14 - GENERAL DATA PROTECTION REGULATIONS
13.11.2020	1.2	CHANGED: Management Committee to The Board
24.09.2024	1.3	ADDED: NEW 5.6 paragraph referencing Whistleblowing SHR guidance and notifiable event
24.09.2024	1.3	ADDED: NEW Point 6 – How to make a disclosure
24.09.2024	1.3	ADDED: NEW Point 12.2
24.09.2024	1.3	REMOVED: Point 8.1.2 Director of Investment reference
24.09.2024	1.3	CHANGED: Point 8.1.3 Finance Services Manager to Human Resources Manager
24.09.2024	1.3	Regulatory standards introduction summarised.