



Bridgewater Housing Association Policy

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Consultation	

1. INTRODUCTION

Bridgewater Housing Association is committed to the highest standards of openness, probity and accountability. As employees are often the first to realise that there may be something seriously wrong, the Association expects those who have serious concerns about any aspect of the Association's work to come forward and speak up without fear of reprisal. Thus, the Association recognises that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee, governing board member or stakeholder of the Association feel at a disadvantage in raising legitimate concerns.

The Public Interest Disclosure Act, which came into effect in 1999, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns.

All employees, governing Board members and Stakeholders working for or acting on behalf of the Association are covered by this policy. The policy also applies to suppliers and those providing services under a contract within Bridgewater Housing Association.

A customer, member of the public or other service user, will be encouraged to raise any concerns regarding "Whistleblowing" directly with the Chief Executive, or in writing marked "Private & Confidential"

2. 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'.

Whistleblowing is different from a grievance. Whistleblowing is about conduct that affects others: for example, fraud or a failure to comply with health and safety requirements. Grievance is where a member of staff has a personal complaint about their own employment situation. The Association has a separate grievance procedure for such situations which should be followed. The Regulator does not generally have an interest in a staff grievance unless there is a wider issue in terms of threats to the interest of tenants or other service users or pose a risk to the viability of the Association.

3. WHY IS IT IMPORTANT?

Problems can arise in any organisation and the best people to identify them are often the people who work in the organisation. If any staff member has a concern about the Association, reporting this concern early can help ensure that the situation doesn't become worse which could mean taking more time, effort and resources to fix. Reporting concerns early would protect the interests of tenants and other service users and other staff members too; and in dealing with concerns other members of the public or our stakeholders (e.g. our lenders) will have confidence in the organisation.

4. ROLE OF THE SCOTTISH HOUSING REGULATOR

The Regulator's role is to safeguard and promote the interests of tenants and service users. They are interested in any conduct which puts this at risk and could threaten the viability or reputation of the Association or the wider sector.

Regulatory requirements are set out in the Scottish Housing Regulator's Regulatory Standards of Governance and Financial Management, which includes:

Standard 4

The RSL conducts its affairs with honesty and integrity.

The Regulator is the 'prescribed person' staff can make a disclosure to about the Association's housing performance, registration, financial well-being and standards of governance.

5. SCOPE OF POLICY

This policy is designed to enable staff and governing Board members of the Association 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 fraud, bribery, grievance, dignity at work, and discipline. However, this policy is intended to cover concerns that are in the public interest and may (at least initially) be investigated separately but might then lead to the commencement of other procedures. Actions and behaviours which we would deem to be unacceptable include:

- Failure to comply with Policies and current legislation.
- Failure to comply with our Code of Conduct for staff and Board members.
- Fraud.
- Falsifying records.
- Offering or accepting bribes or other inducements.
- Non-disclosure of interests.
- Breaches of confidentiality.
- Failure to identify Health and Safety hazards and/or failure to rectify these.
- Harassment, bullying and violence of any kind in the workplace.
- Use of discriminating practices or actions.
- Gross incompetence.
- Gross negligence of duties and responsibilities.
- Improper behaviour towards customers or acting on behalf of customers in personal matters, particularly financial matters.

The above list is not exhaustive but is intended to indicate types of behaviour and action that the Association would find unacceptable and within the scope of this policy.

6. SAFEGUARDS

This policy is designed to offer protection to those staff members of the Association who disclose such concerns provided the disclosure is made:

- in good faith.
- to an appropriate person/body; and
- that the individual has reasonable belief in the validity of the concerns being raised.

The 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.

7. CONFIDENTIALITY

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.

8. ANONYMOUS ALLEGATIONS

This policy encourages individuals to put their names to any disclosures they make. Concerns expressed anonymously are much less powerful but may nevertheless be considered at the discretion of the Association.

9. UNTRUE ALLEGATIONS

If an individual makes an allegation in good faith that is not confirmed by the subsequent investigation, no action will be taken against them. However, if the individual makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against them, and this may include dismissal.

10. RAISING A CONCERN WITH THE ASSOCIATION

First Step

The individual should raise concerns with their immediate line manager. This information will be passed on as soon as possible to the Chief Executive. In the situation where a governing Board member has concerns under this Policy, normally this should be directed to the Chairperson of the Association.

Any complaints will be investigated by the Chief Executive unless the complaint is against the Chief Executive or is in any way related to their actions. Where the complaint is related to the Chief Executive it should be addressed to the Chairperson who will in turn appoint an independent person to investigate the allegations. A separate policy exists for such complaints.

Although the individual is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate that there are reasonable grounds for their concern.

The earlier the individual expresses their concern, the easier it is to 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.

Where any meeting is arranged, the individual can be accompanied by a trade union representative and also have the meeting off-site if they so wish.

Process

On receipt of a disclosure the appropriate person will launch an investigation.

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

Timescales

Once the investigator has completed the investigation, the findings will be given to the individual who instructed the investigation. They will then write to the person who raised the concern as soon as possible and:

- 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; and tell the individual whether further investigations will take place and if not, explain why.

11. OUTCOMES OF INVESTIGATIONS

Once the investigation has been completed and the report is received by the Chief Executive, (or Chairperson if the complaint is against the Chief Executive) a decision on what action to take will be considered. If there are reasonable grounds to substantiate the complaint, an appropriate procedure will be invoked.

This may also include referral to an external body.

Where an individual feel that their concern has not been dealt with appropriately, they can appeal the decision internally to the Vice Chair. If, after appealing internally the individual is still not satisfied with the outcome, they can raise the issue with the Scottish Housing Regulator.

12. RAISING CONCERNS TO THE SCOTTISH HOUSING REGULATOR

The Regulator expects the Association to conduct its affairs with honesty and integrity. It further expects the Association to have a Whistleblowing Policy which covers how to raise concerns internally. The Association will take any concerns raised seriously and look properly into the matters raised.

Sometimes staff or governing Board members are reluctant to report concerns internally because they are worried about repercussions, or they have little confidence in the organisation's ability or willingness to deal with the matters. Sometimes this may also be about concerns that the organisation hasn't deal with the matter appropriately. This is when contact with the Regulator may be appropriate.

The Regulator is a 'prescribed person' under the Public Interest Disclosure Act 1998 (PIDA). This provides protection to employees, agents and contractors who make a 'qualifying disclosure' to the Regulator if they make the disclosure in good faith and that they reasonably believe the information to be true. This means the person should not be treated any less favourably. Recourse could be made to an Employment Tribunal if they suffer a loss as a consequence of whistleblowing.

However, disclosures that are malicious or knowingly untrue are not protected under the PIDA. Any employer may take disciplinary actions against a staff member who provides information that they know is untrue. Governing Board members are not protected by PIDA but the Regulator will handle such concerns in the same way as qualifying disclosures from staff.

Protection for a qualifying disclosure applies to public interest issues involving – 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 these. Legal advice should be taken on whether the protection applies.

Reporting concerns to the regulator:

- They can be anonymous but this may make it more difficult to take forward or give feedback.
- Confidentiality will be protected as far as possible but there is a chance that some information provided might reveal identities.
- Criminal offences will be passed to the police.

What the Regulator will do:

- They will ask some questions to help understand the nature and extent of the concerns and whether they have been reported internally or to someone else.
- They will consider carefully what they are being told along with any information they already have about the organisation.

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

- Take no further action for example, where there is not enough evidence or assurance has been given that the governing body has dealt with the matter appropriately.
- Ask the governing body to investigate the matter (independent advice).
- Ask the governing body to obtain independent advice or support to help them deal with the situation or the Regulator can carry out an investigation.
- Refer the matter to another regulator e.g. Care Inspectorate or Audit Scotland where the matters fall within their remit.
- Refer the matter to the Police if they think a criminal offense may have been committed.

Engagement with the Association involved will be in confidence. They will tell us about the concerns without revealing details of the whistle-blower. This confidence will be maintained after the case has been concluded.

The Regulator may not be able to tell the complainant everything about what they intend to do but they will tell them as much as they can.