



RUTHERGLEN & CAMBUSLANG HOUSING ASSOCIATION

WHISTLEBLOWING POLICY

ALL OF THE ASSOCIATION'S POLICIES AND PUBLICATIONS CAN BE MADE AVAILABLE IN LARGER PRINT, AUDIO FORM, BRAILLE OR OTHER LANGUAGES AS REQUIRED AND APPROPRIATE.

For further details please contact the office on 0141 647 4917 or by email at info@randcha.co.uk

Purpose	To provide a mechanism to ensure that any employee, Board member or stakeholder of Rutherglen and Cambuslang Housing Association feels able to raise a whistleblowing concern
Regulatory Requirements	Standard 5: The RSL conducts its affairs with honesty and integrity
Regulatory Guidance	Guidance 5.6: There are clear procedures for employees and governing body members to raise concerns or whistleblow if they believe there has been fraud, corruption or other wrongdoing within the RSL.

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1.0 INTRODUCTION

Rutherglen & Cambuslang Housing Association is a Registered Social Landlord (RSL) and a Charity registered with the Office of the Scottish Charity Regulator (OSCR). As such the Association is part of a sector that has a strong reputation for integrity and accountability to all of its service users and Regulators. It is committed to upholding these and ensuring the highest standards of openness, transparency and probity.

It is recognised that an important factor in ensuring these are met is to encourage a culture where employees, Committee members or any other stakeholder feel able to come forward with any serious concerns they may have about any aspect of the Association's business activities and to do so without fear of reprisals.

The Whistleblowing Policy is intended to put in place a framework where legitimate concerns can be raised, managed and addressed in a safe and supportive environment.

2.0 REGULATORY & LEGISLATIVE REQUIREMENTS

2.1 Scottish Housing Regulator (SHR)

The Scottish Housing Regulator's regulatory framework requires that the Association has **“Effective arrangements and a policy for whistleblowing by staff and governing body/elected members which it makes easily available and which it promotes”**

2.2 The Public Interest Disclosure Act 1998

The Act gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns

2.3 The Enterprise and Regulatory Act 2013

The Act states that, to benefit from protection whistleblowing claims must satisfy a public interest test and cannot be for of a personal rather than public interest.

3.0 POLICY FRAMEWORK

The Association is committed to ensuring that it delivers good governance in all areas of its activities.

The Whistleblowing Policy is part of a suite of documents to support achieving this aim that includes those relating to:

- Codes of Conduct for staff and Committee members
- Fraud, Bribery & Corruption
- Dignity at Work
- Disciplinary
- Grievances
- Notifiable Events

4.0 DEFINITION OF WHISTLEBLOWING

For the purposes of this policy, Whistleblowing will be where a member of staff, Committee or other stakeholder raises concerns about improper conduct, wrongdoing, risk or malpractice with someone in authority either internally or externally.

Whistleblowing is different from a complaint or grievance and refers to concerns about conduct or activities that affect others and/or has a wider impact.

5.0 POLICY OBJECTIVES

The Whistleblowing Policy is intended to;

- Demonstrate the Association's commitment to open and transparent and accountable
- Enable individuals to raise concerns internally and at a high level to disclose information they believe shows malpractice or impropriety
- Provide assurance to employees, Committee members and other stakeholders that there will be no adverse treatment or reprisals as a result of whistleblowing
- Set out the process for managing and addressing concerns raised under this policy
- Give guidance on what is regarded as serious concerns that are in the public interest that would fall under the scope of this policy
- Demonstrate the Association's zero tolerance approach to harassment or victimisation of individuals that whistle blow

6.0 SCOPE OF POLICY

The terms of this policy will apply to;

- Employees – permanent and temporary
- Committee Members
- Volunteers with the Association
- Contractors & consultants

7.0 PUBLIC INTEREST CONCERNS

In line with the Enterprise and Regulatory Act 2013, to benefit from protection, whistleblowing claims must be in the public interest. Such concerns include;

- Financial malpractice, impropriety
- Failure to comply with a legal obligation or Statutes
- Dangers to health and safety or the environment
- Criminal activity involving Rutherglen & Cambuslang Housing Association, its staff, committee members 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

These may, initially, be investigated as a separate concern but may ultimately lead to the review and/or development of other procedures.

N.B. The above list is not exhaustive but is intended to be illustrative of the types of behaviour, actions or activities that would be unacceptable and within the scope of this policy.

8.0 POLICY PRINCIPLES

In implementing this policy, the Association will adhere to a number of overarching principles;

- All concerns raised under this policy will be treated seriously, sensitively and as confidentially as possible
- The rights and wishes of the whistle-blower will be respected
- As far as possible the identity of the whistle-blower will be protected
- Individuals can raise concerns directly with an external body such as the Scottish Housing Regulator
- As the whistleblowing process can be stressful, support will be provided to everyone involved
- Individuals considering reporting a concern as a Whistle blower may obtain independent advice

9.0 ANNONYMOUS ALLEGATIONS

The Association wishes to create an environment where it's staff, Committee Members and stakeholders feel able to put their name to any disclosure they make as anonymous reports are less robust and could hinder an investigation and/or the implementation of the procedures.

However, concerns reported anonymously may be considered at the discretion of the Association. In exercising this discretion consideration will be given to;

- The seriousness of the concern raised
- The risks the allegations present to the Association
- The credibility of the concern
- The likelihood of obtaining corroboration

10.0 UNFOUNDED/UNTRUE ALLEGATIONS

Allegations that are vexatious, false, mischievous in intent, malicious or made frivolously or for personal gain are likely to be deemed a breach of the Code of Conduct.

For employees, this may instigate disciplinary action and for members of the Management Committee this may lead to them being removed from the Committee in accordance with the protocol for dealing with breaches.

11.0 WHISTLEBLOWING PROCESS & PROCEDURES

The Association will put in place clear procedures and guidance notes for both reporting serious concerns and for investigating concerns raised. These will be provided to staff and members of the Management Committee and made available to other stakeholders via the Association's website.

12.0 PROTECTION FOR WHISTLEBLOWERS

This policy is designed to offer protection to those individuals who make a disclosure provided it is made;

- In good faith
- To an appropriate person/body
- In the reasonable belief in the validity of the concern being raised

No individual will be subjected to any form of harassment, victimisations, discrimination or bullying as a result of them legitimately raising a concern under the terms of this policy. All appropriate steps will be taken to protect the individual and anyone found to be in any way targeting the whistle blower will be subject to appropriate action such as disciplinary and/or legal.

13.0 OUTCOMES

Following the completion of a full investigation into the concerns raised, the outcome will be recorded and the appropriate action taken. This may be to;

- Take no further action
- Investigate further under another of the Association's policies such as Grievance, Disciplinary, Anti-Fraud & Bribery
- Take action under another of the Association's policies such as Grievance, Disciplinary, Anti-Fraud & Bribery
- Refer the matter to Police Scotland
- Refer the matter to the Scottish Housing Regulator and/or another regulatory body
- Instigate an independent, external investigation

No further action will be taken under this policy where;

- The concern raised is clearly not in the public interest and/or is a personal issue or grievance
- The matter is best dealt with under another of the Association's policies and procedures
- After investigation there is no corroborating evidence to support the allegation
- The matter has been referred to Police Scotland or another regulatory body
- The matter is already the subject of legal proceedings

The individual that raised the concern will normally be advised of the outcome of the investigation in the allegations unless there are compelling legal, safety or confidentiality grounds for not doing so.

14.0 APPEALS

Anyone involved in the reporting of a concern or any subsequent investigation has the right of appeal if;

- They feel their concern has not been dealt with appropriately
- They believe the correct processes have not been followed
- After investigation, they disagree with the outcome and the proposed course of action

Appeals must be submitted to the Chair of the Management Committee in writing within 14 days of the notification of the outcome.

The Association will endeavour to support the Chair to advise the individual of the outcome of their appeal within 21 days from the date the appeal is submitted. However, it is recognised that the Chair is a voluntary member of the Management Committee and may have other personal obligations that prevent this timescale being met. Any delays will be communicated in writing to the individual.

Within that period the Chair will be required to;

- Meet with the individual. The individual may be accompanied by a work colleague or trade union representative and the Chair can request a note taker to be present
- Meet with anyone else that can present evidence to support the grounds for the appeal
- Seek any appropriate advice if required including external legal advice

Any further appeal against the decision of the Chair will need to be made directly to the appropriate external regulatory body.

15.0 NOTIFICATION TO THE SCOTTISH HOUSING REGULATORY

Whistleblowing falls within the definition of a Notifiable Event and concerns raised under the terms of this policy will therefore be reported to the Regulator.

16.0 CONFIDENTIALITY

As far as possible, all cases of whistleblowing will be dealt with in confidence and, in particular, every effort will be made not to reveal the whistle-blower's identity without their consent unless;

- There is a legal obligation to do so
- It is required to allow the matter to be dealt with properly and fairly
- The individual is required to come forward as a witness as part of the investigations
- It is already in the public domain

All confidential information and documentation relating to the declaration, investigation and outcome will be held securely with restricted access unless it is;

- Already in the public domain
- Required for legal purposes
- In the public interest

17.0 POLICY REVIEW

The full Whistleblowing Policy will be reviewed by the Management Committee every three years. However, elements of the policy may be subject to review within that period as required to comply with changes in regulatory standards or requirements, legislation or good practice.

WHISTLEBLOWING POLICY – APPENDIX 1

PROCEDURES

REPORTING CONCERNS

There are 3 possible courses of action for staff or committee members who have a concern about malpractice or wrongdoing within the Association;

1. Seek Advice

There are a number of sources of advice and support and these are listed in the Whistleblowing Information Leaflet (**Appendix 2**)

2. Raise Concern Internally with a Manager, Director or Chair

This can be verbally or in writing and can be made anonymously although this may impede any further action being taken.

If verbally, you can have colleague or a Union representative with you.

If in writing give as much background, information and evidence as possible.

3. Raise Concern Externally

Official external bodies that a concern can be raised with are ‘prescribed persons’.

A list of prescribed persons and their contact details are given in the Whistleblowing Information Leaflet (**Appendix 2**)

BEING ADVISED OF A CONCERN

Respect the confidentiality of the person reporting the concern but advise that the concern will need to be reported immediately to the Director, or if the concern involves the Director, the Chair. If the concern involves the Director and the Chair, advice must be sought from the Association’s solicitor.

The Director will start a timeline to ensure that a complete and detailed record of the management of the concern is fully documented. Access to all documentation pertaining to the whistleblowing event will be appropriately restricted and held securely.

ACKNOWLEDGING RECEIPT

Unless the concern has been raised anonymously, a letter acknowledging receipt of the concern should be sent to the person(s) that raised it **within 5 working days** of the concern being raised. The letter should advise;

- That the concern is being investigated
- Who is leading on the investigation
- The timescale for an outcome
- Of the protection provided to Whistleblowers

- Where they can get external, independent advice
- That their confidentiality will be respected as far as possible
- That other people may be approached for verification or corroborating evidence as part of the investigation
- That raising an unfounded allegation maliciously or frivolously is a serious matter and may lead to disciplinary action

The letter should not make any comment on the validity of the concern.

INITIAL REVIEW

An initial review of the concern should be carried out by the Director, or a Senior Manager designated by the Director.

The review will be to;

- Determine if the concern falls within the scope of the Whistleblowing Policy
- Clarify the details of the concerns raised – this may require a meeting with the person raising the concern
- Determine what, if any, form of investigation should be carried – this may be an internal investigation or by appointing an independent

There are 3 potential forms of investigation that should be considered;

1. Internally – Carried out by the Director and/or a Senior Manager
2. Externally – By appointing an appropriate independent investigator. This should always be instructed if the concern relates to the Director or an Office Bearer
3. Police Scotland – If the concern is of a criminal nature, it should be reported to the Police. Advice from the Association’s solicitors may be sought before contacting the Police

Within **10 working days** the lead investigating manager will write to the Chair, the Director (if not the Investigating Senior Manager) and the person(s) that raised the concern in writing) to advise of the outcome of the initial review.

OUTCOME OF INITIAL REVIEW

There are 5 potential outcomes of the initial review;

1. The concern raised does not meet the criteria for a Whistleblowing complaint
2. The matter concerned is already the subject of legal proceedings or has already been referred to the appropriate authority
3. There is no foundation or supporting evidence but the concern was made in good faith
4. There is no foundation or supporting evidence and the allegations were vexatious
5. There is evidence that the concerns raised are legitimate and remedial action is to be taken
6. That further investigation is required

Outcome	Letter to person(s) raising concern to include;
1	<ul style="list-style-type: none"> ➤ The criteria for raising a concern under the Whistleblowing Policy ➤ Confirmation that no further action will be taken ➤ Their right to appeal the decision
2	<ul style="list-style-type: none"> ➤ Advise that the matter concerned is already the subject of legal proceedings or has already been referred to the appropriate authority ➤ Confirmation that no further action will be taken by the Association at that time pending the outcome of the external investigations and/or legal proceedings ➤ An estimate of the timescales for a final response, if possible
3	<ul style="list-style-type: none"> ➤ Advise that there was a lack of corroboration to support the allegation ➤ Confirmation that the review found that the concerns were raised in good faith ➤ Confirm that no further action will be taken unless further supporting evidence is provided ➤ An invite to discuss the outcome with the investigating officer and their right to have a colleague or Union representative with them ➤ Their right to appeal the decision ➤ Where they can get further support and advice
4	<ul style="list-style-type: none"> ➤ Advise that there was a lack of corroboration to support the allegation and that the review found the allegation to have been vexatious ➤ An appointment to discuss the outcome with the investigating officer and Director (if appropriate) and their right to have a colleague or Union representative with them ➤ Their right to appeal the decision ➤ Where they can get further support and advice
5	<ul style="list-style-type: none"> ➤ Advise that there is evidence to support the allegations ➤ Confirmation that no further investigation will be carried out ➤ The actions to be taken to remedy the matter ➤ An invite to discuss the outcome with the investigating officer and their right to have a colleague or Union representative with them ➤ Their right to appeal the decision ➤ Where they can get further support and advice
6	<ul style="list-style-type: none"> ➤ Advise that there is evidence to support the allegations ➤ Confirm that a further investigation is to be carried out ➤ Advise of the form of investigation and who will carry it out ➤ Confirm that further discussions with them may required as part of the investigation and their right to have a colleague or Union representative with them at any meetings ➤ Confirmation that their identity and confidentiality will be protected as far as possible and circumstances where this might not possible ➤ An estimate of the timescales for concluding the investigation ➤ An estimate for issuing a final written response if appropriate/possible ➤ Where they can get further support and advice

NOTIFICATIONS

So long as appropriate and will not compromise the investigation, the Director must advise the Chair of the concern as soon as practically possible.

The Chair will contact members of the Management Committee to;

- Advise that a concern has been raised and is being reviewed and, potentially, fully investigated
- Give a basic summary of the nature of the concern but not who raised it
- Stress that the matter is to be kept in the strictest of confidence.
- Confirm the authority of the Director and Chair to instruct any formal investigations required
- That a Whistleblowing event is a Notifiable Event

On behalf of the Chair, the Director or Investigating Senior Manager will make a Notifiable Events submission to the Scottish Housing Regulator in line with regulatory requirements.

Before submitting the Notifiable event, legal advice must be sought on what can/should be divulged and at what stage of the investigation the Regulator should be informed.

It shall be the responsibility of the Director or the investigating manager to provide the Scottish Housing Regulator with updates on the management of the allegations.

INSTRUCTING AN EXTERNAL INVESTIGATION

The Director (or investigating manager) and Chair will have the authority to decide on the most appropriate form of investigation and, where required, to appoint an independent external investigator or report the matter to Police Scotland where there is evidence of illegal activities.

If necessary, legal advice may be sought prior to instructing an external investigation.

CONDUCTING AN INTERNAL INVESTIGATION

The Director or Senior Manager should seek any advice and guidance necessary to allow a full and complete investigation. This may be from the Association's legal advisers, external auditors, EVH etc

Where further information or clarification of events is required arrangements to meet with the person(s) that raised the concern and/or other witnesses. This meeting could be held away from the office and/or outwith normal working hours if it is the preference of the individual and/or necessary to maintain confidentiality.

The individuals must be advised that they have the right to have a colleague or a Union representative present at the meeting.

Every effort should be made to support the individual(s) and to minimise any difficulties they may face in participating in the investigation (e.g. if required to give evidence in criminal or disciplinary proceedings, arrange for them to get advice on the process, have someone there to support them etc)

A record of all meetings should be signed by those present to confirm it is true record of the discussions.

A record of all actions taken, meetings, discussions documentation, correspondence and evidence must be meticulously kept and held securely. A note of the time spent on the investigation should also be kept in case an insurance claim is to be made.

CONFIDENTIALITY

Every effort must be made by the investigating manager to protect the identity of the person(s) that raised the concern unless;

- They have given written permission for their identity to be revealed
- There is a legal obligation on the Association to reveal their identity
- The information is already in the public domain
- It is necessary to allow the investigation to be carried out effectively, properly or fairly

Where the identity of the person(s) that raised the concern is known by other staff, all staff must be reminded that any form of harassment, bullying or discrimination towards that person will be regarded as a serious breach of the Code of Conduct and may be subject to disciplinary action.

CONCLUDING AN INVESTIGATION

The Director and Chair should be informed of the findings of the investigations as soon as it has been completed.

The Director, Chair and, if appropriate, the Senior Management Team should meet to discuss the findings and;

- Their implications for the Association in the immediate and longer term
- Any risk to the Association
- What steps are required to remedy any failures
- If any further investigation or legal advice is required
- If referral to an external body or regulator is required
- What the person(s) that raised the concern can/should be told
- If any disciplinary action is required (if investigation finds the allegations to be vexatious)

Within 5 working days of the investigation being concluded, the person(s) that raised the concern should be advised in writing that the Association/external investigator has concluded their investigations.

There are 5 potential responses to the person(s) that raised the concern;

1. Advise that the investigation found the concerns to be correct
Give the remedial actions the Association is proposing to take
2. Advise that the outcome of the investigation can not be disclosed (i.e due to legal constraints, because it could compromise future proceedings etc)
Give the remedial actions the Association is proposing to take (if appropriate)
3. Advise that the matter has been referred to an external body or regulator for further investigation and/or advice
4. Advise that the investigation could find no supporting evidence of the concerns raised
Advise that the investigator is satisfied that the concern was raised that there were reasonable grounds for raising the concern
Confirm that no further action would be taken
5. Advise that the investigator is satisfied that there is evidence that the concern was raised maliciously, frivolously, to cause harm or for personal gain
Advise that further disciplinary action will/will not be taken

Regardless of the response to the person(s) that raised the concern, individuals must be advised that they have the right to appeal the outcome.

REPORTING

Legal advice should be sought to establish what information, level of detail and personal information relating to the investigation can be disclosed to the full Management Committee and the Scottish Housing Regulator.

In line with the legal advice given, the Director shall;

- Provide the full Management Committee with a report on the outcome of the investigation and any remedial actions to be taken
- Update the Scottish Housing Regulator as part of the Notifiable Event