

WHISTLEBLOWER POLICY

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LANARKSHIRE
HOUSING ASSOCIATION LTD



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WHISTLEBLOWER POLICY

(*Note Lanarkshire Housing Association hereinafter referred to as LHA)

1.0 PURPOSE OF THE POLICY

- 1.1 The objective of this policy is to provide a framework which enables staff (includes current and former employees, agents & contractors for the purpose of this policy) and governing body members to raise any concerns, internally or externally, if they suspect LHA of wrongdoing or improper conduct. This process is known as 'whistleblowing'.
- 1.2 LHA actively promotes whistleblowing in order to ensure that it carries out its business with honesty & integrity and in accordance with the Scottish Housing Regulator's (the Regulator) Regulatory Framework.
- 1.3 This policy includes a summary of the principles and processes that will guide LHA's actions to ensure that whistleblowers feel confident about reporting their concerns without fear of reprisal.
- 1.4 Staff and Governing Body members will be made aware of this policy and new members provided with a copy at induction stage. LHA's agents and contractors are also forwarded a copy at appointment or other time considered appropriate by the appointing officer.

2.0 REMIT OF POLICY

- 2.1 The types of concerns which fall within the remit of this policy include any conduct that threatens the interests of tenants and other service users or puts at risk the viability and reputation of LHA or the wider sector.
- 2.2 Examples of such actions include those which do not seem proper, ethical, legal or compliant with LHA's codes of conduct, policies and procedures.
- 2.3 This description of improper conduct is not exhaustive but is intended to indicate the types of behaviour and actions that LHA would find unacceptable and within the scope of this policy.
- 2.4 Whistleblowing relates to conduct that affects others and is distinct from a grievance, where a member of staff has a personal complaint about their own employment situation and should instead be dealt with through the Association's Grievance Procedure. The Regulator will not intervene in such cases, unless the matter is found to be of wider significance and threatens the interests of service users or poses a viability risk to the Association.

- 2.5 Complaints are also distinct from whistleblowing as these involve expressions of dissatisfaction from members of the public over action, lack of action or about standards of service provided by or on behalf of LHA. These should instead be dealt with in accordance with LHA's Complaints Handling Procedure.

3.0 PRINCIPLES OF THE POLICY

- 3.1 Where a whistleblower does not wish to be identified, LHA will investigate the matter sensitively and in as confidential a manner as practically possible, whilst meeting its legal obligations relating to data protection.
- 3.2 If the whistleblowing concern is raised anonymously, the matter will still be investigated as far as reasonably possible.
- 3.3 The whistleblower is not required to prove the truth of an allegation beyond doubt and is only expected to demonstrate reasonable grounds for their claim that they are disclosing information that shows malpractice or impropriety.
- 3.4 LHA will take appropriate steps to protect whistleblowers from being treated less favourably as a result of making a disclosure and any victimisation or harassment will be subject to appropriate disciplinary action.
- 3.5 LHA will be as open and transparent as possible (given any potential legal, confidentiality or data protection issues) and provide the whistleblower with as much information as it is able to as quickly as possible, depending on the complexity of the matter and the extent of information to be gathered.
- 3.6 Efforts will be made to avoid any conflicts of interest in the reporting, investigation, decision-making, appeal or other part of the whistleblowing process.
- 3.7 The Chief Executive (or Chairperson if the concern involves the Chief Executive in any way) is responsible for overseeing the implementation of this policy and retains overall responsibility for determining whether any raised concern falls within its scope and is founded on reasonable grounds.

4.0 REPORTING PROCEDURE

- 4.1 Whistleblowers are encouraged to promptly report concerns (known as protected disclosures) internally, in order that LHA is given the opportunity to investigate and put things right, before issues escalate.
- 4.2 Staff members (employees) should raise concerns directly with their line manager, acting as the appropriate persons, unless those

concerns involve that person in any way. In such instances, these should instead be raised with the Chief Executive.

- 4.3 Line managers receiving notification of concerns should not seek to investigate the matter themselves, but should instead inform the Chief Executive as soon as practically possible.
- 4.4 Any concerns involving the actions of the Chief Executive should instead be reported to LHA's Chairperson.
- 4.5 If the concern involves both the Chief Executive and the Chairperson, the whistleblower should raise the matter directly with the Regulator.
- 4.6 LHA's agents and contractors should raise their concerns with the Chief Executive, unless the concern involves that person, whereby they should raise the matter with the Chairperson. If the matter implicates both the Chief Executive and Chairperson, the whistleblower should instead report to the Regulator.
- 4.7 Governing body members should raise concerns direct with the Chief Executive, unless those concerns involve that person and, in such instances, should instead report to the Chairperson. If the concern involves both the Chief Executive and Chairperson, the governing body member should directly approach the Regulator regarding the matter.

5.0 THE INVESTIGATION

- 5.1 On receipt of the concern, this will be investigated by the Chief Executive, or other party appointed by them as deemed appropriate (may be a member of the senior management team or a suitably qualified independent investigator).
- 5.2 If the whistleblowing concern involves the Chief Executive in any way, the matter will instead be investigated by the Chairperson, or a suitably qualified independent investigator appointed by the Chairperson, as they consider appropriate.
- 5.3 If the investigation is carried out by a member of the senior management team or an independent investigator, it will be carried out under the direction of the Chief Executive (or Chairperson if it involves that person) and they will instruct the investigator to ascertain whether there is any information or evidence to support the whistleblower's claim and provide a report on their findings within an agreed timescale.
- 5.4 If required, further information will be sought from the whistleblower. Where a meeting is required, this may be held off-site, with a colleague of the whistleblower or union representative in attendance.

6.0 WHAT ACTION WE MIGHT TAKE

- 6.1 On receipt of a concern, this will be formally acknowledged to the whistleblower within 3 working days by the Chief Executive (or Chairperson if the concern involves the Chief Executive) or other person delegated by them.
- 6.2 Thereafter, the Chief Executive (or Chairperson if the concern involves the Chief Executive) or other person delegated by them, will communicate with the whistleblower within 10 working days to either provide the final response or outline the proposed course of action and estimated timescale for a final response.
- 6.3 After considering the findings of the investigation, the Chief Executive (or Chairperson if the concern involves that person) will decide whether there is a need for action being taken and if so, determine the particular action required.
- 6.4 Any action taken will be in accordance with LHA's existing policies and procedure and could include referring a matter to LHA's external auditor, passing information to the police if there are indications that a criminal offence may have been committed or contacting the Regulator if the matter is a notifiable event. Alternatively, it could involve taking no action due to lack of evidence.
- 6.5 Where it is decided by the Chief Executive (or Chairperson if it involves that person) that the whistleblowing matter should not be progressed or cannot be substantiated, the Chief Executive (or Chairperson) will inform the whistleblower, in writing, as soon as possible. The whistleblower will also be advised of their right to appeal this decision to the Chairperson of the Audit & Assurance Sub Committee, for consideration by that body.
- 6.6 The final response to the whistleblower should provide as much information as possible regarding the findings of the investigation, in accordance with the principles of this policy.
- 6.7 If, after appealing internally, the individual remains dissatisfied – LHA will inform the whistleblower that they subsequently have the option of raising the matter with the Regulator.
- 6.8 The Corporate Services section will maintain a record of concerns received & outcomes, in a form that does not affect staff confidentiality, and the Chief Executive (or Chairperson if it involves that person) will report to the governing body annually (as a minimum) on all recorded cases of whistleblowing.

7.0 THE SCOTTISH HOUSING REGULATOR

- 7.1 LHA recognises that sometimes people may be reluctant to report concerns internally, therefore, whistleblowers also have the option to

report these directly to the Regulator - acting as the 'Prescribed Person' to whom disclosures can be made about social landlords.

- 7.2 Whistleblowers may also approach the Regulator because they are dissatisfied with the way that LHA previously dealt with their whistleblowing concerns or the outcome of this.
- 7.3 In the event of the Regulator deciding to investigate the matter, LHA will cooperate with them in their enquiries in an attempt to reach a satisfactory resolution. In this respect, LHA may seek specialist advice, if it considers this appropriate.
- 7.4 The Chief Executive (or Chairperson if the concern involves that person) will notify the Regulator of any whistleblowing claims that result in a notifiable event and advise how LHA is responding to this.

8.0 LEGAL PROTECTION FOR THE WHISTLEBLOWER

- 8.1 A whistleblower is protected by the Public Interest Disclosure Act 1998 (PIDA) which provides protection for employees, agents & contractors (and sometimes former employees) making a qualifying disclosure to a prescribed person, if this is made in good faith and reasonably believed to be true.
- 8.2 To receive protection, a qualifying disclosure must be in the public interest about a possible:
 - Criminal offence
 - Failure to comply with a legal obligation
 - Miscarriage of justice
 - Threat to an individual's health and safety
 - Danger to the environment, or
 - A deliberate attempt to conceal any of the above
- 8.3 If a person considers that they have been treated unfairly and suffered a loss as a consequence of making a whistleblowing disclosure - a claim may be brought to the Employment Tribunal, for them to determine an outcome.
- 8.4 Governing body members are not covered by PIDA, however, the Regulator will handle their reported concerns in the same way as those from staff.
- 8.5 Malicious or deliberately false disclosures are not protected under PIDA and LHA may take appropriate disciplinary or other action against parties found to have made these.