



**Muirhouse
Housing
Association**

MUIRHOUSE HOUSING ASSOCIATION



**Muirhouse
Homes Ltd**

MUIRHOUSE HOMES

Title of Policy:	Whistleblowing
Date of Adoption or Last Review:	February 2019
Lead Officer:	Stevie McAvoy, Chief Executive
Date of Next Review:	February 2022
Regulatory Standards of Governance and Financial Management:	Standard 5 The RSL conducts its affairs with honesty and integrity. Guidance 5.3

Whistleblowing Policy

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1. Introduction

Muirhouse Housing Association (MHA) and Muirhouse Homes (MH4) are 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, MHA and MH4 expects those who have serious concerns about any aspect of our work to come forward and speak up without fear of reprisal. Therefore, MHA and MH4 recognise that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee, Board/ Committee member, supplier or stakeholder of MHA/MH4 feel at a disadvantage in raising legitimate concerns.

The Public Interest Disclosure Act, 1998, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. These concerns must be made in the 'public interest' as per the Enterprise and Regulatory Act 2013. In addition, if a disclosure is not made in 'good faith' this will still be considered by an employment tribunal but compensation can be reduced by up to 25% in such circumstances.

Employers may also be held vicariously liable for workers who victimise colleagues for making a disclosure. MHA and MH4 will take all reasonable steps to protect workers from being victimised.

All employees, Board/ Committee/ and stakeholders working for or acting on behalf of MHA and MH4 are covered by this policy. The policy also applies to suppliers and those providing services under a contract within MHA and MH4.

If you are a customer, member of the public or other service user, you should raise any concerns or complaints directly or in writing marked 'Private and confidential' with the Housing Services Team Leader and it will be dealt with in line with our Complaints policy.

2. Scope of Policy

This policy is designed to enable employees of MHA and MH4 to raise concerns internally and the highest level to disclose information that the individual believes shows malpractice or impropriety. A number of policies are already in place, including dignity at work, and disciplinary and grievance procedures. This policy is intended to cover concerns that are in the public interest and may (at least initially) be investigated separately but may lead to the instigation of other procedures. These concerns might include:

- * Financial malpractice, impropriety or fraud
- * Failure to meet or comply with a legal obligation or statutes
- * Dangers to health and safety or the environment

- * Criminal activity involving MHA, its staff, Board/ Committee member, stakeholders or suppliers
- * Professional malpractice
- * Improper conduct or unethical behaviour
- * Abuse of power or status
- * Deliberate attempts to conceal any of the above

3. Legal Framework

- * Public Interest Disclosure Act 1998
- * Enterprise & Regulatory Act 2013

4. Safeguards

4.1 Protection

This policy is designed to offer protection to those employees of MHA and MH4 who disclose such concerns provided the disclosure is made:

- In the public interest.
- To an appropriate person/body; and
- That the individual has reasonable belief in the validity of the concerns being raised.

MHA and MH4 will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect the individual when they raise a concern with the above provisions acknowledged.

4.2 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.

4.3 Anonymous Allegations

This policy encourages individuals to put their names to any disclosures they make. Concerns expressed anonymously are much less robust, but may never the less be considered at the discretion of MHA/MH4.

4.4 Untrue Allegations

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, if the individual makes an allegation that is deemed to be made 'in bad faith' i.e. frivolously, maliciously or for personal gain, disciplinary action may be

taken against them and this may be up to and including dismissal. It should also be noted that under the provisions of the Enterprise and Regulatory Act 2013, if a disclosure is not made in 'good faith' this will still be considered by an employment tribunal, but compensation can be reduced by up to 25% in such circumstances.

5. Raising a Concern

5.1 First Step

The individual should raise concerns with their immediate line manager. This information will be passed on as soon possible to the Chief Executive.

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 of the Board of Management who will in turn appoint an independent person to investigate the allegations.

Although the individual is not expected to prove beyond reasonable 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, MHA will seek further information from the individual concerned.

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

5.2 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 MHA/MH4's existing policies and procedures.

5.3 Timescales

We will acknowledge receipt of the whistle blowing concern within three working days of receiving it. At this time, we will indicate how the matter will be dealt with and give an estimate of how long it will take to provide a final response. We will also supply the individual with information on staff support mechanisms.

Once the investigator has completed the investigation it will be given to the individual who instructed the investigation.

We will endeavour to conclude our investigations within 20 working days. Thereafter, we will then write to the person who raised the concern as soon as possible to advise of the conclusion. Due to the nature of whistle blowing concerns, for legal reasons, we may not be able to provide details of actions taken.

5.4 Outcome of Investigation

Once the investigation has been completed and the report is received by the Chief Executive (or Chairperson if the concern has been about 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 initiated. This may also include referral to an external body or regulator.

Where an individual feels that their concern has not been dealt with appropriately, they can appeal the decision internally to the Chair of the Audit & Risk Committee. If, after appealing internally the individual is still not satisfied with the outcome, they can raise the issue with the appropriate external regulatory body as outlined in Appendix 1.

6 Alternative methods of taking forward a concern

6.1 Other methods of raising a concern

This policy is intended to provide staff with an avenue to raise concerns. If an individual feels it is appropriate to take the matter outside this process, the following are possible contact points:-

- our Internal or External Auditors
- the Scottish Housing Regulator
- your own solicitor
- Police Scotland
- the Scottish Public Services Ombudsman.

If staff do take the matter outside MHA, they must ensure that they do not disclose confidential information or that disclosure would be privileged.

6.2 Professional Advisers

Our auditors (internal and external) and solicitors are aware of this Policy and our wish to be open and accountable for our actions. They can also be contacted in confidence for advice and as a contact for raising concerns or starting investigations. Contact details for our current professional advisers can be obtained directly from us.

We will notify the Scottish Housing Regulator about all whistleblowing concerns that result in a notifiable event. The notification should be made by the Company Secretary and include how the case is being dealt with. S/he should also ensure that each case is recorded and monitored and that regular updates are provided on the status of each case.

6.3 Contacting the Media

Staff are expected to work within the guidance of this policy. Contacting the media is not permitted and could result in formal disciplinary action up to and including dismissal. In line with the Staff Code of Conduct, all contact with the media should be directed through the Chief Executive.

7. Reporting

Any whistleblowing case will be reported to the Audit and Risk Committee. An annual report on any whistleblowing cases will be provided to the Board. This will include the date and description of any such incident, the outcome of the investigation and subsequent action taken.

8. Recording

8.1 Recording Incidents

All incidents will be added to the Register of Fraud, Corruption, Bribery and Whistleblowing. The Register will include the date and description of any such incident, the outcome of the investigation and subsequent action taken. The Register is password protected and is overseen by the Finance & Corporate Services Manager with support from the Corporate Services Team Leader.

The Register of Fraud, Corruption, Bribery and Whistleblowing which will be presented to each meeting of the Association's Audit and Risk Committee. The Audit and Risk Committee will provide oversight of the Register ensuring that all cases are handled within the terms and timescales set out in the Policy. An annual report on any alleged, detected or attempted fraud, corruption or malpractice will be provided to the Board.

8.2 Notifications of incidents

All cases will be notified to the Scottish Housing Regulator without delay and in accordance with regulatory guidance regarding Notifiable Events. Notifiable events include (but are not limited to) fraud or the investigation of fraud; serious financial loss, actual or potential; a serious complaint, allegation, investigation or disciplinary action relating to the Board or senior staff; a breach of the regulatory standards.

8.3 Reporting Financial Irregularities

We are required to report all financial irregularities to our external auditors and in some cases to our Insurers and this will be undertaken in writing without delay.

Appendix 1

List of Prescribed Persons

- **The Scottish Housing Regulator**
Tel: 0141 242 5642
- **Environmental Health (of your local authority)**
Edinburgh Council – Environmental Health
environmentalhealth@edinburgh.gov.uk
[0131 529 3030](tel:01315293030)
- **Health and Safety Executive**
Edinburgh
Belford House
59 Belford Road
Edinburgh
EH4 3UE

Further Sources of Information

- **ACAS**
Helpline: 08457 47 47 47
www.acas.org.uk
- **Public Concern at Work**
Tel (general): 0207 404 6609
- **Unite the Union**
Tel: 020 7611 2500