



WHISTLEBLOWING POLICY & PROCEDURE

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Review Dates	September 2022 / January 2023 January 2026
Regulatory Standards of Governance and Financial Management	The RSL conducts its affairs with honesty and integrity.
National Care Standards	Standard 3: Management and Staffing arrangements

1. Whistleblowing Policy

Viewpoint Housing Association (VHA) uses the definition set out in the Scottish Housing Regulator's @Whistleblowing about a regulated body: "Whistleblowing is where a member of staff raises concern about improper conduct, wrong doing, risk or malpractice with someone in authority either internally or externally e.g. a regulator. Officially, this is known as making a 'protected disclosure'"

This policy and the associated procedures apply to all employees, irrespective of the nature of their contract. They also apply to other individuals who perform work for VHA, such as contractors, or who undertake placements within VHA and to Board members.

This policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question business or financial decisions taken by the Association nor is intended to be used to reconsider any matters, which have already been addressed under harassment, complaints, disciplinary or other procedures.

Whistleblowing is a standing agenda item on the Risk & Audit Committee Agenda, all cases of whistleblowing will be reported to the Risk & Audit Committee, and the outcomes reported to the Board.

2. Policy Statement

Whistleblowing can be defined as reporting the misconduct of a third party on either a collective or an individual basis. Viewpoint wishes to maintain the highest standards of conduct, openness, probity and accountability and has procedures for resolving complaints from tenants and the public, and grievances from staff.

Our policy shall be to encourage individuals to maintain high ethical standards in their work, and to understand that they have a duty to ensure that others uphold the same standards. In support of that aim, we shall maintain simple and effective ways for individuals to report concerns without fear of reprisal.

Any concerns raised using this policy shall be acted upon, recorded, and reported internally and, where necessary, to appropriate external bodies. It is recognised that most cases will have to proceed on a confidential basis. Whistleblowing is a notifiable event and shall be reported to the relevant regulatory body.

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, known as “whistleblowing” but anyone who whistle blows is protected from detriment by this policy.

3. Legal and Regulatory Framework

The Public Interest Disclosure Act 1998 provides protection for employees who raise genuine concerns about wrongdoing within the organisation they work for. This includes raising concerns through their employer or through a ‘prescribed’ person or organisation. Examples of prescribed organisations are the SHR, Care Inspectorate, Police or H&S Executive.

The Scottish Housing Regulator also sets Regulatory Standards of Governance and Financial Management and a Codes of Governance for Staff and Governing Body Members, which set expectations on governance, ethical standards and openness and confidentiality.

The policy also covers the specific whistleblowing requirements under the Pension Act 2004, which requires certain breaches of the law to be reported to the Pensions Regulator.

4. Aims and Objectives

The Association will respect the confidentiality of staff raising the concerns in confidence provided the disclosure is made:

- in good faith and
- the organisation or person should be one that deals with the concerns being raised.

All concerns raised will be treated in confidence and every effort will be made not to reveal the individual’s identity. However, the individual may require to be interviewed as a witness at some stage in the process.

The aims of the Policy are:

- To encourage and enable employees and other stakeholders to disclose genuine and legitimate concerns without being subject to any detriment in the course of their employment, such as victimisation.
- To provide an opportunity for concerns raised to be investigated and allow appropriate action to be taken to ensure the matter is resolved effectively within VHA as far as is possible.
- To deal consistently with such issues in a fair, objective, and discreet manner.
- To deter serious malpractice and promote accountability.

5. Confidentiality

All concerns will be treated in confidence and every effort will be made to protect the identity of the person raising concerns if they so wish. At the appropriate time, however, and depending upon the nature of the issues involved, the person raising the concerns may need to come forward as a witness. They will be properly supported during this process. The details of the complaint will be kept strictly on a “need to know” basis.

6. Principles

This policy is designed to enable employees to raise concerns at a high level and to disclose information that the individual believes shows malpractice or impropriety. This policy is intended to cover concerns that might be in the public interest and might include:

- Any criminal activity e.g. fraud
- Professional malpractice
- A breach of the law or regulatory requirements,
- Dangers to health and safety or the environment, including risks to the public as well as other employees
- Abuse or neglect of vulnerable people
- Financial malpractice, impropriety or fraud
- Breaches of confidentiality, including non-compliance with GDPR
- A miscarriage of justice
- Professional malpractice
- Abuse of power or status
- Falsifying records
- Improper conduct or unethical behavior
- Discrimination e.g. racial
- Risk or damage to the environment
- Harassment, bullying and violence of any kind in the workplace – if it relates to public interest. (Personal grievances - bullying, harassment, discrimination are not covered by whistleblowing law unless the matter relates to the public interest. These grievances may be covered by other legislation such as the Equalities Act, etc.)
- Attempts to conceal any of the events or practices described above

7. Related Documents

- Codes of Conduct – Governing Body & Staff
- Disciplinary Procedure
- Grievance Procedure
- Complaints Policy
- Anti-Fraud & Money Laundering Policy
- Scottish Housing Regulator’s Notifiable Events Guidance

8. Awareness of the Policy

All staff will be made aware of the policy, and there will be training for managers and the Board on how to respond positively to whistleblowing. This will be arranged annually.

The internal and external auditors will be given a copy of VHA’s Whistleblowing Policy.

Staff will also be made aware of where to seek external advice and support.

9. Equality & Diversity

Viewpoint will not discriminate in the operation of this policy because of age, gender, race, religion or belief, marital status, family circumstances, political or sexual orientation, medical condition or disability. Viewpoint aims to promote equality of opportunity for all and complies with the current legal requirements in relation to equality and diversity issues.

10. Appeals

If following an investigation an individual is not satisfied the whistleblowing incident has been investigated appropriately or they are dissatisfied with the outcome then they can appeal.

The route of appeal will be identified based on the investigation and who dealt with the matter initially. The Appeal Process will be highlighted to the individual in the correspondence outlining the outcome of the Whistleblowing concern.

11. Exceptions to the Policy

The policy does not apply where disclosures are made for personal gain, or are malicious. Any claim of whistleblowing has to be dealt with as per the Policy & Procedure and relevant timescales. Initially it can be impossible to determine whether the complaint is real or malicious.

If not upheld and the disclosure was malicious then the outcome for the

complainant may result in disciplinary action.

Sometimes it may be necessary to involve the police or another outside body like the Care Inspectorate or The Scottish Housing Regulator. Managers should inform the Chief Executive before involving outside bodies in response to a complaint under the Whistleblowing policy.

In certain cases, the HR team may be appointed to review the matter and carry out a formal investigation reporting to the Chief Executive or the Board as necessary.

12. Review Cycle

This policy will be reviewed on a three-year cycle or earlier in line with any legislative changes or requirements.

The Association will translate any of its documents into alternative formats and will translate documents into other languages on request.

The Whistleblowing procedure forms the main part of the operational Framework. This policy and procedure will be discussed at induction and the Chief Executive shall ensure that all reports which are identified as potential matters of public concern shall be recorded in a register kept for that purpose and reported to and signed by the Chair of Viewpoint at least annually. When any matters are raised through this policy, the Chief Executive will ensure the Chair is kept informed of the matter until it is resolved. The Chair of Viewpoint Board shall review the reports received under this procedure and the action taken at least annually.

Procedure

1. Once line management or other appropriate person has been approached about a concern (potential whistleblowing matter), they must inform the CEO immediately of the concern, maintaining confidentiality – provided the concern does not relate to the CEO. If the concern relates to the CEO, the Chair should be informed.
2. Where a concern from a Board Member has been reported directly to the CEO, they will inform the Chair. If the concern relates to the Chair, the CEO must advise the other Office Bearers. Further guidance is also available in the Code of Conduct (Governing Body Members) on handling Whistle blowing
3. From the start, all information relating to the concern must be recorded within a timeline report – to ensure a robust record of the management of the concern has been fully documented. Access to this timeline report should be appropriately restricted and it must be held securely.
4. Once a concern has been raised, it must be formally acknowledged in writing within **three working days** direct to the whistleblower, by the responsible officer or Chair.
5. Within **10 working days**, the officer or Chair will confirm in writing:
 - how it is proposed to deal with the matter;
 - whether further investigations will take place, or if not deemed appropriate, why this decision has been made;
 - an estimate of how long it might take to provide a final response;
 - what support can be offered to the whistleblower raising the concern?
6. A decision will be made by the officer and/or Chair on whether the concern warrants further investigation internally under the Whistleblowing policy or the Grievance, Disciplinary or another policy, as appropriate. It may also be decided that the matter should:
 - be referred to the Police, and/or the Scottish Housing Regulator, Care Inspectorate;
 - be referred to the external auditor;

- be the subject of an independent external inquiry; or
- have no further action taken.

In making a decision on the next step, it may be necessary (and advisable) to seek legal advice.

7. In line with the Scottish Housing Regulator's Notifiable Events, the Regulator must be advised that a whistleblowing concern has been raised. Legal advice should be sought on what should, and should not, be divulged to the Regulator and at what stage of the investigation should the Regulator be advised.
8. Some concerns may be resolved by agreed action without the need for formal investigation. If urgent action is required, this may be taken before any investigation is conducted.
9. The CEO and the Chair may decide that no further action will be taken under the Whistleblowing policy in the following (not exhaustive) set of circumstances:
 - if, after investigation, there is no evidence that malpractice has occurred, is occurring or is likely to occur; and/or
 - if the matter concerned is already the subject of legal proceedings, or has already been referred to the police or other public authority (e.g. Scottish Housing Regulator and/or Care Inspector; OSCR)
10. The aim will be to update the whistleblower on the progress of the concern within **28 working days** of it being raised, where possible. However, in the event of a formal investigation or the involvement of police/ external scrutineers, the whistleblower will receive sufficient information about the outcome of any investigation to enable them to be informed that the concern is being dealt with.
11. Once the investigation has concluded, the whistleblower will receive an explanation about how the matter has been addressed. If there are legal constraints, e.g. in a criminal investigation, the whistleblower will receive sufficient information about the outcome of any investigation to enable them to be informed that the concern has been dealt with.
12. If no further action is proposed, the CEO and Chair (or office bearer) will inform the reasons for this in writing to the whistleblower who has raised the concern.
13. If the investigation is not completed within three months or in the time originally estimated for the investigation, the CEO and Chair (or office bearer) will provide regular updates as agreed with the whistleblower

14. Throughout any investigation, the whistleblower will still be expected to continue their duties/role as normal unless deemed inappropriate. If however continuing with their duties/role may have a detrimental effect upon either the whistleblower, other staff, or the investigation – legal advice should be sought on the best course of action which complies with HR legislation, including whether the whistleblower can be given ‘special leave’, instructed to work from home, etc.
15. Given that a whistleblowing matter can be stressful for all involved – the whistleblower / relevant staff / governing body members should be offered support such as access to a counselling service.

Holding a meeting with the Whistleblower

Step One: Before the initial meeting

- You may wish to consider whether the whistleblower feels uncomfortable meeting face-to-face. In such cases, you could arrange a convenient time to speak over the telephone.
- You may want to consider whether there are any reasonable adjustments that should be made to facilitate the meeting.
- You may also wish to consider arranging for a note taker to be present during the meeting. This should be agreed with the whistleblower raising the concern.

Step Two: During the meeting

- Thank the whistleblower for raising the matter, even if their concern proves to be unfounded.
- Recognise that this may be a troubling time for them and establish a supportive relationship and reassure them that they are being listened to and taken seriously.
- Use open body language and an appropriate tone of voice.
- Respect any concerns about their own position/career.
- Avoid giving any unrealistic promises or raising expectations.
- Any records taken from the meeting should be marked with the appropriate protective marking and stored in accordance with the organisation’s Data Protection/Storage policy.
- You are not required to commit to anything during the meeting. Listen carefully and ask the whistleblower questions that will assist you in reaching a decision. If you are unsure whether the concern is covered by the Whistleblowing Policy, you may wish to seek advice from the Scottish Housing Regulator and/or your legal advisors.

- As noted previously, offer the whistleblower access to a counselling service to support them through the process. The whistleblower may not deem this to be necessary, but the offer should still be made.

Step Three: After the Meeting

- If it turns out the concern does not fall under the Whistleblowing Policy, you should explain to the whistleblower, either by telephone or face to face, the reason why this is so. This discussion should be fully documented by the CEO or Chair (or other office bearer) and followed up in writing with the whistleblower.
- If the concern does fall under the Whistleblowing Policy, the whistleblower should be advised that office bearers would be notified of the matter.

Step Four: Next steps

- Office bearers should be advised of the concern (if the concern does not involve them directly). An internal investigation team of the CEO and all the office bearers should be set up if the initial assessment [by the CEO and the chair or other appropriate officer bearer] deems that the concern is valid.
Once all evidence has been gathered and the concern assessed by the internal investigation team, a decision can be reached as to whether or not it may be appropriate to have the concern investigated by an external firm/individual.
- If an external investigator is to be appointed, they should be engaged in compliance with your procurement policy/procedures.
- You must take legal advice promptly if required.
- You must keep the Regulator(s) apprised as required.
- As noted previously, it is extremely important that a timeline report is maintained that fully records the sequence of the whistleblowing events as they unfold – from the initial contact by the whistleblower, to the final conclusion

Other Points for Consideration

- A whistleblower may raise a concern then ‘back off’ / change their mind / withdraw their allegation. In this instance, all evidence must be gathered and secured, and the investigation must continue - to assess whether or not there is validity regarding the concern raised. After a concern has been raised, some whistleblowers decide that the investigation process maybe too demanding, or emotional etc. This however does not mean that the concern can be ignored – it will still have to be investigated, albeit without the assistance / input of the whistleblower.
- A whistleblower may not use the term ‘*whistleblowing*’, however the individual who has been notified of the concern has a responsibility to define whether it is a

whistleblowing matter (i.e. in the public interest) and if so, needs to be clear to the whistleblower that this is the case.

- It may be appropriate to secure evidence off-site. Legal advice should be sought regarding the removal of evidence, taking GDPR and other legislation into consideration.
- When assessing the evidence presented, thought should be given as to whether or not the evidence has been tampered with.
- As noted above, office bearers should be advised of the concern/allegation (if the concern does not involve them directly). In an internal investigation, the CEO and all the office bearers should be set up as soon as practically possible. Once all evidence has been gathered and the concern assessed, it may be deemed appropriate to have the concern investigated by an external firm/individual.
- Who should be involved / told about the concern? An 'investigation communication protocol' must to be agreed by the CEO/office bearer and investigation team.
- A concern relating to fraud (with the appropriate level of evidence) turns the matter into a criminal matter.
- All meetings and discussions must be fully documented. All records of meetings must be signed by all attendees, to confirm that the document is a true record of the meeting.
- Keep a detailed record of all time spent on the whistleblowing concern, this level of detail maybe required if an insurance claim is to be made.
- Ensure that the Whistleblowing policy includes details of Prescribed Persons under the Public Interest Disclosure Act – those persons to whom a whistleblowing concern can be reported. Prescribed Persons include Scottish Housing Regulator; Audit Scotland; OSCR; External Auditor, etc.
- Risk Register – does the risk register need to be updated with the whistleblowing concern? Are there 'lessons to be learnt'? If so, how will these lessons be managed?

Confidentiality

- The best way to raise a concern is to do so openly as this makes it easier to investigate and provide feedback. However, it is recognised that many people may not express their concerns due to fear of reprisal, worry of not being taken seriously or of being perceived as disloyal.
- Any disclosures made/concerns raised will be treated in a sensitive manner. It is recognised that a whistleblower may want to raise a concern in confidence, i.e. they may want to raise a concern on the basis that their name is not revealed beyond the disclosure route without their consent.
- The investigation approach must ensure that confidentiality is maintained as far as possible and all endeavours made to protect the identity of the whistleblower that raised the concern. This should be possible in the majority of cases. Thus, any document, report or recommendation prepared in relation to the matter will not identify the whistleblower raising the concern unless:

- the whistleblower has consented to their identity being exposed in writing, or
- there is evidence to show that the whistleblower who raised the concern has acted maliciously, or
- there is a legal obligation to do so, or
- the information is already in the public domain, or
- it is necessary for the matter to be dealt with properly or fairly, or
- it is on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
- all parties will be under an obligation to use all reasonable endeavours to ensure that they keep the matter and all information relating to the disclosure/concern strictly confidential except, as permitted under this procedure, as required by law or until such time as it comes into the public domain.
- securing information / evidence must include restricting access to it - including: ensuring all documents are password protected, consideration be given to holding electronic records 'off line' (on a desktop or laptop), restricting remote access, etc.
- a whistleblower may choose to raise concerns anonymously, i.e. without providing their name at all. It is preferable that allegations are not made anonymously as it enables the matter to be investigated more fully. However, this is a matter of choice and depending on the concern raised; there may be the rare occasion where the whistleblower may feel uncomfortable revealing their identity when making an allegation.

However, raising a concern anonymously is preferred to silence about potential serious wrongdoing.

If a concern is raised anonymously, it must be treated as credible, unless it is obviously a hoax, and investigated so far as possible. The allegation will be considered at the discretion of the CEO and chair. In exercising this discretion, factors to take into account would include:

- the seriousness of the concern raised;
- the credibility of the concern; and
- the likelihood of confirming the allegations from an attributable source
- that the issues relate to someone other than the anonymous source.

Reports to the Governing Body

The governing body as a whole must be advised that there is a whistleblowing concern that is being investigated - but no detail, only a summary. The level of information regarding the concern given to the governing body and the timing of such information must be confirmed by your legal advisor.

How to Raise a Concern Externally

If the investigation finds the concern unsubstantiated and internal procedures have been exhausted but the employee is not satisfied with the outcome the Association recognises their right to make disclosures to the appropriate prescribed organisation or body (e.g. the SHR, Care Inspectorate, Police or H&S Executive.).

However, the employee can take their concern directly to the appropriate prescribed organisation or body:

The Scottish Housing Regulator.

Scottish Housing Regulator

Buchanan House

58 Port Dundas Road

Glasgow

G4 0HF

shr@scottishhousingregulator.gsi.gov.uk

Tel: 0141 242 5642

Care Inspectorate

Compass House

11 Riverside Drive

Dundee

DD1 4NY Tel: 0345 600 9527

Protection and Support of Staff / Governing Body

Any member of staff or Board who raise concerns through whistleblowing will be protected from suffering any detriment. Detriment refers to any disadvantage suffered by a whistleblower as a result of whistleblowing, such as disciplinary action, or victimisation by managers or colleagues. This applies whether they have raised issues internally within Viewpoint or with auditors or regulators. Confidentiality will be maintained wherever possible; where law or a regulator requires identifying the whistleblower, staff reporting concerns will be advised of this.

It will be regarded as a serious disciplinary offence (and in some cases it may extend to gross misconduct) for staff to be discouraged from reporting concerns or to victimise staff following any whistleblowing.

The accused party will also be provided with appropriate support while the investigation is ongoing. This can be in the form of either internal or external support/mentoring. Viewpoint's Employee Assistance Programme provider can also provide support to staff raising concern through whistleblowing. Any contact through this route is treated confidentially and is not shared with the organisation.

Employees should not contact the press or any other media route; this is not a prescribed organisation, body or person. If an employee does contact the press, they could be subject to disciplinary action.