



## WHISTLEBLOWING POLICY

Status: Approved

<b>Policy Lead:</b>	Executive Director Business Support
<b>Owned By:</b>	Executive Director Business Support
<b>Date Approved:</b>	October 2022
<b>Approved By:</b>	Risk and Assurance Committee
<b>Review Date:</b>	October 2025
<b>Regulatory / Legislative Considerations/ References:</b>	<p>This policy is intended to ensure that Berwickshire Housing Association complies with its duty under legislation:</p> <ul style="list-style-type: none"><li>• Employment Rights Act 1996</li><li>• Public Disclosure Act 1998</li><li>• Data Protection Act 2018</li><li>• General Data Protection Regulation 2016</li></ul>
<b>Other Documents to be read in conjunction with this policy:</b>	N/A

<b>Policy Title:</b>	<b>Whistleblowing Policy</b>
<b>Purpose / Aim of policy:</b>	This policy and procedure aims to make it clear that colleagues can raise concerns without fear of reprisal or victimisation. Colleagues who come forward with a concern can be confident that this will not affect their career or enjoyment of their job. This applies equally if colleagues come forward in good faith with a concern that turns out later not to have been justified.
<b>Scope of Policy:</b>	<p>This policy and procedure does not replace other employee policies or procedures. For example, if an employee has a grievance about their working conditions, they should use the Grievance Policy or, if they felt that their manager or a colleague was treating them unfavourably, they should use the Harassment and Bullying Policy. The policy and procedure applies to all BHA colleagues, Board and Committee members, involved customers and contractors.</p> <p>This procedure applies to, but is not limited to, allegations about any of the following:</p> <ul style="list-style-type: none"> <li>• Conduct which is an offence or breach of the law</li> <li>• Alleged miscarriage of justice</li> <li>• Serious Health and Safety risks</li> <li>• The unauthorised use of public funds</li> <li>• Possible fraud and corruption</li> <li>• Sexual, physical, or verbal abuse, or bullying or intimidation of employees, customers or service users</li> <li>• Abuse of authority</li> <li>• Other unethical conduct</li> </ul>
<b>Definitions:</b>	Confidential reporting or 'whistle-blowing' is used to describe the situation when someone becomes aware of a serious problem in an organisation and raises the matter so that it may be investigated and, if necessary, corrected. Sometimes this will involve bringing the problem to wider attention.
<b>Approval Source:</b>	Risk and Assurance Committee
<b>Equality Impact Assessment:</b>	This policy and procedure aims to make it clear that colleagues can raise concerns without fear of reprisal or victimisation. Colleagues who come forward with a concern can be confident that this will not affect their career or enjoyment of their job. This applies equally if colleagues come forward in good faith with a concern that turns out later not to have been justified.
<b>Sustainability Assessment:</b>	Not applicable
<b>Partnership Assessment:</b>	Not applicable
<b>Risk Implications:</b>	As set out in the policy

## **1. Introduction**

### **1. Policy Statement**

- 1.1 The Association is committed to high standards of integrity, openness, and accountability. As part of this commitment, the Berwickshire Housing Association (BHA) encourages colleagues with serious concerns about any aspect of the work of the BHA to come forward and express these concerns. Where appropriate, these concerns will be dealt with through other procedures, such as those for resolving grievances or disciplinary matters, or for dealing with harassment and bullying. However, in some cases it is recognised that colleagues will need to come forward on a confidential reporting basis.
- 1.2 BHA will investigate all confidential reporting concerns. The concern will be handled sensitively and in confidence. Knowledge of the concern will be limited to those who need to know about it. The anonymity of the colleague raising the concern will be protected, wherever possible.
- 1.3 If anyone tries to discourage a colleague from coming forward to express a concern, this will be treated as a disciplinary offence. In the same way, disciplinary action will be taken against anyone who criticises or victimises a colleague who has expressed a genuine concern.

### **2. Purpose of the Policy**

- 2.1 The Board of Trustees and the Executive Team are committed to the highest standards of transparency, probity, integrity, and accountability. The Whistleblowing Procedure sets out the framework for dealing with allegations of illegal and improper conduct.
- 2.2 This procedure is intended to provide a means of making serious allegations about standards, conduct, financial irregularity, or possible unlawful action in a way that will ensure confidentiality and protect those making such allegations in the reasonable belief that it is in the public interest to do so from being victimised, discriminated against, or disadvantaged.

### **3. Objectives and Principles of the Policy**

- 3.1 Any matter raised under this policy and procedure will be dealt with appropriately, consistently, fairly, professionally, and confidentially. The outcome of the investigation will be reported back to the individual who raised the issue where appropriate. If misconduct is discovered as a result of any investigation under this policy, the Group's disciplinary procedure will be initiated, in addition to any appropriate external measures.
- 3.2 For any meeting that is arranged under this policy, individuals have the right to be accompanied by a Trade Union representative, colleague, or other person.

## **Confidentiality and Anonymous Allegations**

- 3.3 Anonymous disclosures are preferred to silence about serious wrongdoing; however, individuals are strongly encouraged to put their name to an allegation. Concerns made anonymously will be considered in the same way but are much less powerful as anonymous allegations may often be difficult to substantiate/prove.
- 3.4 In exercising consideration of an anonymous allegation, the following factors will be taken into account:
- The seriousness of the issue raised
  - The credibility of the allegation; and
  - Whether the allegation can realistically be investigated from factors or sources other than the complainant
- 3.5 All allegations will be treated in confidence and every effort will be made not to reveal a whistle-blower's identity unless the whistle-blower otherwise requests. If the allegation results in court proceedings, then the whistle-blower may have to give evidence in open court if the case is to be successful.
- 3.6 BHA will not, without the whistle-blower's consent, disclose the identity of a whistle-blower to anyone other than a person involved in the investigation/allegation.

## **Protection and Support**

- 3.7 BHA understands that the decision to report a concern can be difficult because of the fear of reprisals. BHA will not tolerate harassment or victimisation and will take action to protect colleagues when they raise a concern.
- 3.8 BHA has a duty of care to all colleagues which may be involved in an allegation raised through this policy and will provide appropriate support to all parties impacted ("complainant" and "respondent") when an allegation is made and any subsequent investigation.
- 3.9 Individuals have a duty of confidentiality and should not report their concerns to the media. Individuals who do so may lose their protection under the Act. However, if, for some reason, there are circumstances in which individuals feel that there is no other practicable option, individuals are encouraged to seek specialist advice from trade union representatives or the independent charity "Public Concern at Work" who can provide free advice and assistance:
- Website - <http://www.pcaw.org.uk/>
  - Telephone Whistleblowing Advice Line: 020 7404 6609 General enquiries: 020 3117 2520
  - Email - Advice line: [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)

### **Malicious, false, or vexatious allegations**

- 3.10 No disciplinary or other action will be taken against a whistle-blower who makes an allegation in the reasonable belief that it is true even if the allegation is not substantiated by an investigation.
- 3.11 The use of policy and procedure is a serious matter and should not be used lightly. A whistle-blower who makes an allegation without reasonable belief that it is true (e.g., making an allegation frivolously, maliciously or for personal gain), will be regarded as a breach of the Code of Conduct and disciplinary action may be taken against the complainant.

### **Training and Awareness**

- 3.12 All individuals within the scope of this policy will receive a copy of this policy as part of their induction to BHA and will be asked to confirm they have read and understood it as part of the induction process.

### **Procedure**

#### **How to Raise a Concern**

- 3.13 Any individual covered under this policy should come forward at the earliest opportunity where there is evidence or suspicion of wrongdoing. Concerns will be recorded and investigated as quickly as possible.

### **Reporting by Concerned Parties:**

#### Colleagues

In the first instance, a report should be made to the respective line manager unless it is believed that the line manager is involved in the wrong-doing or there is another reason why making a report to the line manager is not appropriate.

If it is not appropriate, concerns should be taken to one of the following:

- Any member of Leadership Team
- Any member of Executive Team (including the Chief Executive)
- The Company Secretary
- The Chair of the Board of Trustees
- The Chair of Risk and Assurance Committee
- Internal Audit

#### Board/Committee Members, involved customers and contractors

Concerns about a colleague:

- Report to a member of the Executive Team and Company Secretary

### **Reporting Concerns about:**

#### A member of the Executive Team, Leadership Team, Board of Trustees or other Board Member

- Report to the Chair of the Board of Trustees and Company Secretary

#### The Chair of the Board of Trustees or Chief Executive

- Report to the Chair of Risk and Assurance Committee and Company Secretary

### **External Reporting**

3.14 Individuals can notify a 'prescribed person or body'. If an individual decides to notify a prescribed person or body, they must make sure they notify the correct one for their issue, using the prescribed persons or bodies list. The main bodies relating to BHA may include:

- Scottish Housing Regulator
- Financial Conduct Authority
- Information Commissioner
- Environment Agency
- Health & Safety Executive
- Office of the Scottish Charity Regulator

A full list of prescribed bodies can be found at

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

### **Recording and Evaluation**

3.15 Whether a written or oral report is made it is important that relevant information is provided including:

- The name of the person making the allegation, a contact point and preferred method of communication.
- The background and history of the allegation (giving relevant dates and names and positions of those who may be in a position to have contributed to the allegation);
- Retain any documentation provided by the whistle-blower
- The specific reason for the allegation. Although someone making an allegation will not be expected to prove the truth of any allegations, they will need to provide information to the person they have reported to, to establish that there are reasonable grounds for the allegation.

- 3.16 The individual receiving the report will consider the concern and notify an appropriate person of the receipt of the complaint following the same process as outlined in para 3.13. In all cases, the relevant Executive Director must be notified of the report who may advise on the most appropriate course of action, appoint a lead to perform an investigation and agree the scope of the investigation (unless the relevant Executive Director is involved in the concern, then the Chief Executive should be notified). In the event of a financial irregularity, the Executive Director of Business Support must be informed who will determine whether the allegation should be investigated and the method of investigation.
- 3.17 Where an individual has made a report against someone in their line management, line management arrangements will be reviewed.
- 3.18 The Chair of Risk and Assurance Committee will be notified of the receipt of all whistleblowing allegations by the Company Secretary and will be provided with regular updates regarding the investigation.
- 3.19 The Chair of the Board will be notified where there a significant allegation is made which may be substantiated.

### **Response Plan**

- 3.20 Investigations will be dealt with consistently, fairly and professionally and will normally be coordinated by the relevant Executive Team member. The Company Secretary may provide any additional advice that is necessary in the circumstances.
- 3.21 The action taken by the Group will depend on the nature of the concern. Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Some concerns may be resolved by agreed action without the need for investigation. The Chief Executive in consultation with the Chair will approve the agreed action to be taken. If the complaint is against the Chief Executive or Chair, the Chair of Risk and Assurance Committee and Company Secretary will approve the action to be taken.
- 3.22 Matters of fraud will be investigated in line with the anti-fraud, bribery and corruption policy and procedure.
- 3.23 If the allegation discloses evidence of a criminal offence, it will immediately be reported to the Board of Trustees and a decision will be made as to whether to inform the Police. If the allegation concerns suspected harm to children or vulnerable adults, the Chief Executive has the authority to report to the appropriate authorities immediately. In these cases, the Group's safeguarding policies should be referred to.
- 3.24 The progress of an investigation will be documented and held confidentially by the People and Culture Adviser/Company Secretary. A report will be compiled and forwarded to the relevant member of the Executive Team, Company Secretary and Chair of Risk and Assurance Committee.

- 3.25 Where necessary in consultation with the Chair of the Board of Trustees, the Chief Executive may notify the Scottish Housing Regulator (notifiable event) and any other relevant regulatory body of a reported concern and provide a copy of the report on the outcome of the investigation.
- 3.26 If disciplinary action is required, the investigating manager will report the matter to the People and Culture Adviser and relevant Executive Team member to initiate the disciplinary procedure.
- 3.27 Someone making an allegation may be accompanied by another person of their choosing during any meetings or interviews in connection with the allegation. However, if the matter is subsequently dealt with through another procedure the right to be accompanied will at that stage be in accordance with the relevant procedure.
- 3.28 BHA accepts that individuals need to be assured that the matter has been properly addressed and, subject to legal constraints, the action taken, including the outcome of any investigation, will be reported to the individual making the disclosure. In the event that no action is taken, the individual will be given an explanation.

### **Timetable**

- 3.29 Allegations should be responded to within the following timeframes:
- An acknowledgement of the allegation in writing within 10 working days with
  - An indication of how BHA propose to deal with the matter
  - An estimate of how long it will take to provide a final response
  - An indication of whether any initial enquiries have been made
  - Information on whistle-blower support mechanisms
  - Indication whether further investigations will take place and if not, why not
- 3.30 Where the allegation has been made internally and anonymously, BHA will be unable to communicate what action has been taken.

### **Monitoring**

- 3.31 The Company Secretary will maintain a register of all whistleblowing complaints, recording:
- the date of the allegation
  - summary nature of the allegation
  - whether the allegation is anonymous or not
  - the person leading the investigation
  - date that Chair of Risk and Assurance Committee was notified
  - date reported to the SHR and Board
  - date investigation complete
  - summary of outcome and date closed



3.32 The Register will be confidential and only available for inspection by the Board of Trustees. The CEO will report annually to the Risk and Assurance Committee on the operation of the Procedure and on the whistleblowing allegations made during the period covered by the report. The report will be in a form which does not identify whistle-blowers.

#### **4. Related Documents**

There are no related documents applicable to this policy and procedure

The Policy will be reviewed every 3 years