



## Group

# Whistleblowing Policy

<b>Rural Stirling Housing Association, Stirling Road, Doune, FK16 6AA</b> <b>Registered as a Scottish Charity No. SC037849</b> <b>Venachar Limited, Stirling Road, Doune, FK16 6AA</b> <b>Incorporated under the Companies Acts (Company Number 447415)</b>	
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Appendix A – Scottish Housing Regulator Factsheet: Whistleblowing about a regulated body

## Section 1- Context

We are committed to the highest standards of openness, probity and accountability. We (and others that we deal with) are often the first to realise that there may be something seriously wrong. We expect those who have serious concerns about any aspect of our work to come forward and speak up without fear of reprisal. We recognise that it is an important aspect of accountability and transparency to ensure that no one feels at a disadvantage in raising legitimate concerns.

The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 to provide protection for employees who raise legitimate concerns about specified matters. These are called “protected disclosures”. A protected disclosure is a “qualifying disclosure” which is made in certain ways specified by the Act.

A qualifying disclosure is a disclosure of information made by an employee who has a reasonable belief that disclosure is in the public interest and that it tends to show one of the following is being, has been, or is likely to be, committed:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation (such as confidentiality/data protection); or
- concealment of any of the above.

It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter; it is the responsibility of the Group to ensure that an investigation takes place.

A qualifying disclosure will be a protected disclosure if made to the employee’s employer (and in certain other circumstances laid down in the Act).

The law protects employees (whistle-blowers) from being dismissed for making disclosures and any employee who makes such a protected disclosure has the right not to be subjected to any detriment, or victimisation, because they have made a disclosure.

We encourage employees to raise their concerns under this policy, with their employer within the Group in the first instance. If an employee is not sure whether to raise a concern, they should discuss this with their line manager.

All staff and governing body members have a duty to immediately report any act of attempted, suspected or detected fraud, theft, bribery and corruption, danger to health or exceptionally serious failures.

This can be done in a confidential manner to an appropriate person, for example:

- a senior officer of Rural Stirling Housing Association (RSHA);
- the Chair of the Board of RSHA or Chair of Venachar; or
- a governing body member of either Board.

This policy applies equally to all employees and governing body members of RSHA and Venachar.

## **Section 2 - The law and good practice**

The main legislation relating to this policy includes:

- Enterprise and Regulatory Reform Act 2013;
- Bribery Act 2010;
- Employment Rights Act 1996;
- Public Interest Disclosure Act 1998; and
- Equality Act 2010.

**Enterprise and Regulatory Reform Act 2013** considers the situation where one employee victimises the whistle-blower or subjects them to any detriment. It stipulates that employers may be held liable if victimisation is carried out by an employee in the course of their employment. For example, if an employee victimises a colleague for whistleblowing, it is important to note that the employee carrying out the victimisation can also be held personally liable.

**An employer will not be responsible for victimisation carried out by an employee if all reasonable steps were taken to prevent victimisation.**

**The Bribery Act 2010** forbids all forms of bribery. Bribery includes a financial or other advantage intended to persuade someone to perform improperly a function or activity.

Further information relating to whistleblowing can also be found on the website of the Scottish Housing Regulator (SHR): [www.scottishhousingregulator.gov.uk](http://www.scottishhousingregulator.gov.uk).

The SHR has prepared an advice factsheet for employees (Appendix A). This covers information on the nature and forms of whistleblowing; including a wide range of remedies, both management and legal in nature.

Complaints against the Chief Executive are covered in the Scottish Housing Regulator's Guidance Note and Whistleblowing is a notifiable event to the Scottish Housing Regulator. Occurrences may be reportable to the public Bodies listed at 4.6 below.

## **Section 3 - Policy objectives**

It is important to us that any fraud, misconduct or any other wrongdoing by employees, is reported and properly dealt with. We encourage all individuals to raise

any concerns that they may have about the conduct of others in the business or the way in which the business is run.

This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with. It applies equally to all employees and governing body members. Other individuals performing functions for us, such as agency employees and contractors, are encouraged to use it.

Where an individual reasonably makes a protected disclosure, but the allegation is not confirmed by a subsequent investigation, no action will be taken against that individual. The Group's unequivocal commitment is that employees are encouraged to raise their concerns with us, and no detriment will be imposed on those making protected disclosures to us.

Where allegations are made that are not protected disclosures (for example allegations that the employee knows are untrue) the employee making the allegation may be subject to disciplinary action.

## **Section 4 - Implementing our policy objectives**

### **4.1 – Roles and responsibilities**

All staff and Board members have a duty to immediately report any act of attempted, suspected or detected fraud, theft, bribery, corruption, or any other serious failures. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work.

Employees should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of. If you are not sure whether any activity you are involved in may constitute "bribery" you should always seek advice from your line manager before undertaking such activity.

Accepting or giving bribes will result in disciplinary action up to and including dismissal or removal from the Board. It can also result in criminal prosecution and imprisonment of up to 10 years for individuals found guilty of such acts.

### **4.2 – Protection from Victimisation**

Employees will not be victimised for raising a matter under this policy. Victimisation of an employee for making a protected disclosure is a serious disciplinary offence and could result in the dismissal of any employee who is guilty of harassment.

### **4.3 – Scope of the policy**

This policy is for disclosures about matters which are in the public interest and which tend to show one of the matters listed at Section 1 above. Where your concern relates to your contract of employment, or the way you have been treated, it is likely to be more appropriate to pursue your concerns in terms of the Grievance Procedure. In the event of an allegation being made under the Whistleblowing Policy, the Group reserves the right to deal with it instead under the Grievance Procedure if it is clear that the complaint does not raise any matter amounting to a qualifying disclosure.

#### **4.4 – What should I do if I have a concern**

In the first instance, employees are encouraged to raise concerns with their line manager. Where this may not be appropriate, the employee should report the matter to a senior officer or governing body member, as outlined in Section 1.

#### **4.5 – Investigating concerns**

Following any report of concerns, we will appoint an Investigating Officer to undertake a full and confidential investigation of the matter. The Investigating Officer will report their findings to the appropriate level of management.

They will consider the evidence and information provided to decide on an appropriate course of action.

This may include:

- no action;
- disciplinary action;
- legal action;
- reporting the matter to a government department or regulatory agency; and/or
- other action as deemed appropriate.

The outcome of the investigation will be reported back to the employee who raised the issue. If no action is to be taken, the reason for this will be explained.

The outcome of investigations will also be reported to the governing body. We will respect the confidentiality of any person who does not wish to be identified in any investigation resulting from matters that they have brought to our attention. Individuals wishing to make a disclosure in confidence should be aware that there may be circumstances where the matter cannot be resolved without their identity being revealed, for example, if a matter progresses to court or employment tribunal.

#### **4.6 – What can I do if I am not satisfied with the outcome?**

If, on conclusion of this process, the employee reasonably believes that the appropriate action has not been taken, they should report the matter to the proper authority.

The legislation sets out a number of bodies to which qualifying disclosures may be made.

These include:

- HM Revenue & Customs;
- the Financial Conduct Authority;
- the Office of Fair Trading;
- the Health and Safety Executive;
- the Environment Agency; and

- the Procurator Fiscal.

Alternatively, employees may also raise concerns directly with an appropriate regulator. Any concerns about registered social landlords can be raised with:

- The Scottish Housing Regulator (SHR);
- Audit Scotland;
- The Care Inspectorate; and/or
- Office of the Scottish Charity Regulator (OSCR).

## **Section 5 Development and training**

We will provide training to all existing and new employees to help them understand their rights and responsibilities under the Whistleblowing Policy. This training will also focus on what individuals can do to help create a working environment free from bribery or corruption.

We will provide training to managers and others to enable them to deal effectively with whistleblowing concerns raised by employees or others.

## **Section 6 Dealing with complaints**

Complaints from employees relating to whistleblowing are dealt with in line with this procedure. In terms of our policies complaints can be made if we fail to apply these properly or don't meet our organisational standards.

Complaints by others can be raised through our Complaints Procedure or directly with any of the regulatory authorities mentioned in Section 4.6.

## **Section 7 - Confidentiality and General Data Protection Regulations**

We will treat your personal data in line with our obligations under the current Data Protection Regulations. Information regarding how your data will be used and the basis for processing your data is provided in our employee privacy notice.

Information which we hold in respect of whistleblowing complaints will only be used for the purposes of investigating and dealing with the complaint.

## **Section 8 - Review**

This policy will be reviewed every five years or earlier if required in consultation with our staff.



## Whistleblowing about a regulated body

### Staff concerns about improper conduct within a regulated body

This factsheet provide guidance for staff of a regulated body

In this factsheet the term 'regulated body' means a social landlord that we regulate, including:

- housing associations, co-operatives, housing partnerships and housing companies that are registered with us (registered social landlords); and
- local authorities that provide landlord, homelessness and factoring services.

When a member of staff believes there has been improper conduct within a regulated body they should be able to report this to someone who is in a position to deal with it. It should be possible to raise concerns of improper conduct in confidence with an appropriate person within the regulated body.

Alternatively, it is also possible to raise concerns directly with an appropriate regulator. Any concerns about registered social landlords can be raised with a member of staff of the Scottish Housing Regulator's Support and Intervention team. If concerns are raised with us it is likely we will require to meet with the person raising the concerns, on a confidential basis.

Any concerns about councils can be raised with Audit Scotland, 110 George Street, Edinburgh, EH2 4LH; telephone 0131 477 1234. You can find out more about Audit Scotland at [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk)

We (and Audit Scotland) may investigate any allegations of improper conduct, even if they are referred to us anonymously.

We will respect the confidentiality of any person who does not wish to be identified in any investigation resulting from matters that they have brought to our attention. However, this could sometimes make our investigation more difficult.

Investigating a whistleblowing matter may not be possible where it appears that a criminal offence has occurred, as we may have to pass information on to the police to investigate.