

# THE FERGUSLIE GROUP

## Whistle Blowing Policy



**Ferguslie Group**

Approved by FPHA Board on 26 September 2018	Signed by Chair
Adopted by NTC Executive Committee on 1 October 2018	Signed By Chair
Date of next Review	October 2021

# WHISTLE-BLOWING POLICY

## 1 INTRODUCTION

1.1 The Ferguslie Group is committed to the highest standards of openness, probity and accountability. Employees are often the first to realise that there may be something seriously wrong but Ferguslie Park Housing Association and the New Tannahill Centre (the Ferguslie Group organisations) encourage anyone who has serious concerns about any aspect of the Group organisations' activity to come forward and speak up without fear of reprisal. The Group organisations recognise that it is an important aspect of accountability and transparency to provide this policy as a mechanism to ensure that no employee, governing body member or other stakeholder feels at a disadvantage in raising legitimate concerns.

## 2 DEFINITION

2.1 Whistle-blowing is the term commonly used to describe a situation where an employee raises a concern about improper conduct, wrongdoing, risk or malpractice with someone in authority, either internally or externally. A whistle-blowing claim is also known as a *protected disclosure*. The term is also used to describe any person e.g. an applicant, a tenant, a contractor, consultant or a representative from any outside agency, who believes that there have been instances of improper conduct or malpractice.

2.2 Whistle-blowing is about conduct that affects others: for example fraud or failure to comply with health and safety standards, and is distinct from grievances and complaints. The grievance or complaints approach is not appropriate for members of staff or governing body members who have serious concerns about conduct or practices.

- A Grievance is when a member of staff has a personal complaint about their own employment situation.
- The Complaints Policies are for members of the public to express dissatisfaction about the Group organisations' action or lack of action or about standards of service.
- Governing Body members cannot use this Policy to complain about governing body decisions which have been properly made but they do not personally agree with.

## 3 STATUTORY & REGULATORY FRAMEWORK

3.1 These are the relevant statutes and regulations:

Public Interest Disclosure Act 1998  
Public Interest Disclosure (Prescribed Persons) Order 2014  
Enterprise and Regulatory Reform Act 2013  
Bribery Act 2010  
Small Business, Enterprise and Employment Act 2015  
Notifiable Events Scottish Housing Regulator, 2015

Whistle-blowing about a regulated body – Information for regulated bodies about how the Scottish Housing Regulator deals with whistle-blowing, April 2015

Whistle-blowing about a regulated body: Scottish Housing Regulator's Information for potential whistle-blowers, April 2015

3.2 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 serious concerns. These concerns must be made in the 'public interest' in line with the Enterprise and Regulatory Reform Act 2013. If a disclosure is not made in 'good faith' i.e. it is made frivolously, maliciously or for personal gain, an employee can still complain to an employment tribunal but compensation can be reduced by up to 25% in such circumstances.

3.3 Employers may also be held vicariously liable for workers who victimise colleagues for making a disclosure. The Group organisations will take all reasonable steps to protect workers from being victimised.

3.4 Other policies related to this subject are the;

Standing Orders

Codes of Conduct – staff and Governing Body members

Entitlements, Payments and Benefits Policy

Gifts and Hospitality Policy

Equalities and Human Rights Policy

## **4 POLICY SCOPE**

4.1 All employees, governing body members and stakeholders working for, or acting on behalf of, the Ferguslie Group organisations are covered by this Policy. It also applies to suppliers and those providing services under a contract. It is intended to enable everyone covered by this Policy to raise concerns and to disclose information when necessary, at a high level. 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 instigation of other procedures including disciplinary and grievance procedures.

## **5 SAFEGUARDS**

### **5.1 Protection**

This Policy offers protection to anyone who discloses concerns provided the disclosure is made:

- in the public interest;
- to an appropriate person/body;
- not for personal gain;
- and that the individual making the disclosure has reasonable belief in the validity of the concerns being raised

Ferguslie Group organisations will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action where feasible to protect a whistle-blower when they raise a concern. If an individual makes an allegation in good faith that is not confirmed by the subsequent investigation, no action will be taken against him/her.

## **5.2 Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal an individual's identity if they so wish. The Group organisations recognise that individuals may not feel comfortable about raising concerns to line managers and that external parties may not feel comfortable informing or involving members of staff. Therefore, a person may raise a matter directly with the Chair of their Governing Body or with the Scottish Housing Regulator (FPHA) or OSCR (NTC).

## **5.3 Anonymous Allegations**

This policy encourages individuals to put their name to any disclosure they make because concerns expressed anonymously are much less robust. However, these will be considered as far as possible. This is consistent with information circulated in April 2015<sup>1</sup> by the Scottish Housing Regulator (SHR) which confirms that the SHR 'will take all concerns seriously, even if they are reported...anonymously'. In considering anonymous concerns, THE Group organisations will have regard to whether such concerns are new, how recently any similar concerns have been raised and the outcome.

## **5.4 Untrue Allegations**

If an employee/governing body member makes an allegation that is deemed to be in 'bad faith' i.e. made frivolously, maliciously or for personal gain; disciplinary action may be taken against him/her and this may be up to and including dismissal/removal from the governing body. However, the Group organisations recognise that the Enterprise and Regulatory Act 2013 provides that if a disclosure is not made in 'good faith' an employee's dismissal claim may still be considered by an employment tribunal, but compensation can be reduced by up to 25% in such circumstances.

# **6 RAISING A CONCERN**

6.1 Ferguslie Group organisations hope people will feel confident that they can raise concerns internally; normally with a line manager in the case of staff, and with the Group Chief Executive or with their Chair in the case of external concerns or governing body concerns. However, as set out in section 5.2, it is also recognised that there may be instances where concerns are raised externally with the Scottish Housing Regulator/OSCR or directly with the Chair of the governing body.

6.2 Concerns might include:

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<sup>1</sup> Whistle blowing about a regulated body, SHR 2015

- Financial malpractice, impropriety or fraud
- Failure to comply with a legal obligation or statute or regulatory requirement
- Dangers to health and safety or the environment
- Criminal activity involving Ferguslie Park, its staff, governing body members or stakeholders
- Professional malpractice
- Improper conduct or unethical behaviour
- Abuse of power or status
- Falsifying records
- Breaches of confidentiality
- Harassment, bullying or violence of any kind in the workplace
- Offering or accepting bribes or other inducements
- Non-disclosure or non-management of interests
- Deliberate attempts to conceal any of the above

6.3 The list is not exhaustive but is intended to indicate the types of behaviour and action the Ferguslie Group organisations find unacceptable and within the scope of this policy.

#### 6.4 First Steps

Staff. The employee should normally raise concerns with their immediate line manager. This information must be passed on as soon as possible to the Group Chief Executive unless the Group Chief Executive is the subject of the concern. Any concerns will be investigated by a member of staff designated by the Group Chief Executive unless the matter is against the Group Chief Executive or is in any way related to his/her actions.

Where the concern is related to the Group Chief Executive, it must be addressed to the Chair of the FPHA Management Board, who will in turn appoint an independent person to investigate the allegations.

Governing Body members. Governing body members who are concerned about malpractice or wrong doing should report this to the FPHA Chair or Vice Chair. Concerns can be raised verbally or in writing, setting out the reasons for concern as clearly as possible. If the concern is about the Chair, then this should be raised initially with the Group Chief Executive and the Scottish Housing Regulator for FPHA or with the Group Chief Executive for NTC.

Concerns involving the Group Chief Executive and the Chair. If concerns involve both the Group Chief Executive and the Chair of either governing body, those who would normally arrange investigations cannot be approached and so an individual may raise the matter directly with the Scottish Housing Regulator (FPHA) or OSCR (NTC).

## 6.5 Professional Advisers

Ferguslie Group auditors (internal and external) and solicitors are aware of this Policy and can also be contacted by governing body members or the Group Chief Executive, in confidence, for advice on raising concerns or starting investigations. Contact details are included in **Appendix A**.

## 7 PROCESS

### 7.1 Investigation

The person designated by the Group Chief Executive or FPHA Chair will undertake an investigation and will have an initial meeting with the person raising the concerns. Appropriate action will be taken in accordance with existing policies and procedures if these are relevant.

The Group Chief Executive will normally advise the FPHA Chair of any allegations of whistle-blowing. As part of the Notifiable Events requirements, the Scottish Housing Regulator/OSCR must be notified about the allegations and how the organisation is responding to them in accordance with the Notifiable Events Protocol.

Although the whistle-blower is not expected to prove beyond 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 take action. The amount of contact between the person investigating the issues and the whistle-blower will depend on the nature of the matter raised, the potential difficulties involved and the clarity of the information provided.

If necessary, the investigator will seek further information from the individual concerned. The individual, if a staff member, can be accompanied to meetings by a trade union representative, or by a colleague unconnected to the investigation. Others may bring a witness unconnected to the investigation. Attendees at meetings will be reminded of the need to maintain confidentiality during any investigation. The Group organisations will not accept the individual being accompanied by a legal representative or anyone whose main focus is to bring legal knowledge to the meeting. If anyone involved wishes it, the meeting may be held off site. A record of the meeting will be taken and shared with those involved.

### 7.2 Timescales

The investigation will be completed as quickly as possible. Where possible the whistle-blower will be given an idea of timescales and kept informed of progress. Following the initial meeting, the investigator will give the whistle-blower details of organisations who may be contacted for guidance/support. If this is a staff member s/he will also be advised of which staff member within their group organisation may be contacted for support.

Once the investigator has completed the investigation, they will give their report to whoever instructed the investigation. This person will then normally meet with the whistle-blower or, failing this, write to them as soon as possible and:

- Acknowledge that the concern has been raised;
- Indicate how the matter has been dealt with;
- Give an estimate of how long it will take to provide a final response;
- Again supply the whistle-blower with information on staff support mechanisms and whether further investigations will take place and, if not, explain why.

### **7.3 Outcome of Investigation**

If there are reasonable grounds to substantiate the concern, an appropriate procedure, e.g. further investigation, disciplinary procedures will be initiated. Feedback must also be given to the whistle-blower, advising what action is being considered and where none is to be taken, the reason for this.

If the whistle-blower feels that his/her concern has not been dealt with appropriately they can raise the issue with the appropriate external regulatory body as outlined in Appendix A.

## **8 TRAINING**

8.1 The Group is committed to training and developing staff and governing bodies. Staff will be briefed on this Policy, with all new staff also being briefed and provided with a copy as part of the induction programme. The Governing Body induction programmes and handbooks will include this Policy. Governing body members will receive updates on this issue and specific training as required.

8.2 Learning from any whistle-blowing concern raised, either within Ferguslie Park, or the housing and social enterprise sector more generally, will be reported to the governing bodies for information and action where required.

## **9 EQUALITIES AND DIVERSITY**

This Policy will be implemented in line with the Group's Equality and Human Rights Policy.

## **10 REVIEW**

This policy will be reviewed every three years, unless amendment is prompted by a change in legislation, guidance or monitoring and reporting reveals that a change in policy is required sooner.

## **12 DISTRIBUTION**

Each staff member and governing body member will receive an individual copy of this policy and be required to sign confirming it has been received. The Policy will also be publicised on the group organisations' websites and in newsletters with copies being made freely available to any interested party.

## APPENDIX A

### List of Prescribed Persons and Bodies and Professional Advisers

Scottish Housing Regulator

Buchanan House

58 Port Dundas Road

GLASGOW

G4 0HF

Tel 0141 242 5642

E mail [shr@scottishhousingregulator.gsi.gov.uk](mailto:shr@scottishhousingregulator.gsi.gov.uk)

Renfrewshire Council: Environmental Protection

Tel 0300 300 0380

[e-prot.es@renfrewshire.gov.uk](mailto:e-prot.es@renfrewshire.gov.uk)

Tel 0845 345 0055

Health and Safety Executive

Tel 0845 300 9923 (Fatal and specified injuries)

### Further Sources of Information

ACAS

Helpline 0300 1231100

[www.acas.org.uk](http://www.acas.org.uk)

Public Concern at Work

Whistle-blowing Advice Line 0207 404 6609

UNITE

Unite the union, John Smith House, 145/165 West Regent Street, Glasgow G2 4RZ

Tel: 0141 404 5424

Fax: 0845 384 9396

### Professional Advisers

TC Young solicitors

7 West George Street

Glasgow G2 1BA

0141 221 5562 [Mail@tcyoung.co.uk](mailto:Mail@tcyoung.co.uk)

External Auditors

Alexander Sloan

38 Cadogan Street

Glasgow G2 7HF

0141 204 8989 [Info@alexandersloan.co.uk](mailto:Info@alexandersloan.co.uk)

Internal Auditors

Wylie & Bisset

168 Bath Street

Glasgow G2 4TP

0141 566 7000 [info@wyliebisset.com](mailto:info@wyliebisset.com)