



Report to Resources Committee

5 November 2013

Title: Whistleblowing Policy

Report of: Head of Corporate Services

Purpose of Report

1. To provide the committee with an updated Whistleblowing Policy for approval.

Background

2. The Human Resources Committee approved an updated Whistleblowing Policy at its meeting held on 21 October 2009. The Policy has not been reviewed since then.
3. A recent Internal Audit review of counter fraud highlighted that the current policy needed updating, particularly in respect of changes introduced as a result of the Enterprise and Regulatory Reform Act 2013.

Whistleblowing Policy

4. The Act made a number of changes to the present whistleblowing legislation. These changes took effect from 25 June 2013 and are now reflected in the policy.
5. An updated policy is attached at the Appendix to this report. All changes are highlighted in blue.
6. The key changes to the Policy are as follows: -
 - Disclosures must be in the 'public interest' but no longer in 'good faith' – currently workers may pursue a 'whistleblowing' claim even if the disclosure relates to a breach of their own contract of employment. The Act has introduced a requirement that in order to gain protection, the disclosure must be made in the 'public interest' and the requirement that a disclosure must be made in 'good faith' has been removed.

- Vicarious Liability – the law previously only protected workers if they had been subjected to a detriment by their employer after making a disclosure. The Act now protects whistleblowers from any detriment, suffered at the hands of co-workers as well as their employer. However, if an employer can show that it took reasonable steps to prevent the detrimental treatment then it will not be held liable for the actions of the co-workers.
- Publicising of Policy – staff must feel confident that where someone, however senior, is found to be in breach of the policy that appropriate action will follow. Consideration must be given to regularly communicating the channels employees can use if they have concerns about malpractice in the organisation and this communication must be well documented.
- Increased detail about how to raise a concern and how it will be dealt with.
- All references relating to the former Chief Executive, Head of Finance and Resources & Audit Committee have now been removed. The policy has been updated to reflect the new structures now in place. Other minor amendments have also been made.

Link to Values

7. This report links to the following Company values: -
- Being honest, accountable and transparent
 - A commitment to all our employees.

Impact on tenants

11. There is no impact on tenants as a result of this report.

Risk Management Implications

12. Effective whistleblowing policies provide employees with the opportunity to report any malpractice. The policy contributes to reducing the risk of malpractice.

Consultation

13. The trade unions have been consulted on the updated Whistleblowing Policy and agree with the proposed changes.

Financial Implications

14. There are no financial implications arising directly from this report.

Equality and Diversity Implications

15. The objectives of the Whistleblowing Policy are to encourage employees to raise valid issues of concern and to ensure that necessary measures are in place to ensure their protection.
16. We recognise that employees who become aware of malpractice or issues of concern may experience personal stress and anxiety. We have therefore provided a variety of employee support mechanisms and alternative methods of raising concerns.

Recommendation

16. The committee is asked to recommend approval of the updated Whistleblowing Policy to the Board.

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The Gateshead Housing Company

Working with Gateshead Council

Whistleblowing Policy

Introduction

1. The Gateshead Housing Company (TGHC) is committed to the highest possible standards of openness, honesty, transparency and accountability. We encourage employees and others with serious concerns about any aspect of TGHC business to come forward and voice those concerns. The Whistleblowing Policy is intended to encourage and enable TGHC staff and staff of firms, companies or other organisations providing goods and services to TGHC to raise serious concerns within TGHC rather than overlooking a problem or communicating the information to external sources.
2. The Public Interest Disclosure Act 1998 aims to promote greater openness in the workplace and, by amending the Employment Rights Act 1996, protects "whistleblowers" from inappropriate treatment, i.e. victimisation or dismissal, for raising concerns about matters in the public interest.
3. The Act also makes it clear that everyone employed by TGHC must not reveal any trade secrets or confidential information they have access to during their employment unless what they reveal is linked to one of the issues of concern covered by the Whistleblowing Policy.

What is a whistleblower?

4. The term 'whistleblower' is often used to describe someone in an organisation who witnesses behaviour that is either contrary to the mission of the organisation, or threatening to the public interest, and who decides to speak out publicly about it.
5. Although the term is not used in the Public Interest Disclosure Act the above definition describes in simple terms what the Act refers to as 'protected disclosures of information'. The term 'Whistleblowing' is therefore used by most organisations to describe the policies and procedures that cover the terms of the Act.
6. For some people the term 'whistleblower' does not have a good image and suggests that someone is a 'tell tale', or in some way disloyal to their employer. However, in practice most people who report serious concerns do so because they are loyal to the organisation that employs them - they do it to protect the organisation.

Aims of this Policy

7. This Whistleblowing Policy aims to:
- ♥ encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
 - ♥ provide avenues for you to raise concerns and receive feedback on any action taken;
 - ♥ allow you to take the matter further if you are dissatisfied with the company's response;
 - ♥ reassure you that you will be protected from reprisals or victimisation for Whistleblowing in good faith [and/or the public interest](#); and
 - ♥ [protects you if have been subjected to a detriment at the hands of your employer or a co-worker](#)

What types of issues are covered by the policy?

8. The policy is intended to deal with **serious or sensitive concerns about wrongdoings such as the following:**
- ♥ Fraud or corruption
 - ♥ Customers being mistreated
 - ♥ Unauthorised use of TGHC money
 - ♥ A criminal offence or an unlawful act
 - ♥ Any danger to health and safety
 - ♥ The environment being damaged (for example, by graffiti or pollution)
 - ♥ A person abusing their position for any unauthorised use or for personal gain
 - ♥ A person deliberately not keeping to a TGHC policy, an official code of practice or any law or regulation
 - ♥ A person failing to meet appropriate professional standards
 - ♥ A person being discriminated against because of their race, colour, religion, ethnic or national origin, disability, age, sex, sexuality, class or home life
 - ♥ Attempts to hold back or hide any information relating to any of the above.
9. Please note however that the above list is not exclusive or exhaustive.
10. Your concern may be about members of staff, people who work directly for TGHC, suppliers, or people who provide services to the public for us.

What is not covered?

11. The Whistleblowing Policy does not cover matters that are covered by other procedures and policies. Such procedures and policies include the following:

- ♥ Staff complaints about their employment. These complaints are dealt with through our Grievance Procedure.
- ♥ Customer complaints about our services. These complaints are dealt with through our Corporate Complaints Procedure.
- ♥ Staff allegations of bullying or harassment that are not as a result of raising concerns under the Whistleblowing Policy. These allegations are dealt with through our Bullying and Harassment Procedure.
- ♥ [Allegations of Bribery. These allegations are dealt with through our Prevention of Bribery Policy. Allegations can, however, be made to the Whistleblowing Officer.](#)
- ♥ Allegations against Board Members. These are dealt with through the Procedure for Dealing with Complaints Against Board Members.

Safeguards

Harassment or Victimisation

12. TGHC recognises that the decision to report a concern can be a difficult one to make, not least, because of the fear of reprisal from those responsible for the alleged malpractice. TGHC will not tolerate harassment or victimisation and will take action to protect you when you raise a concern that you believe is true.
13. You should also know that any allegation you make will not influence, or be influenced by, any unrelated disciplinary action against you or any redundancy procedures that may affect you.

Confidentiality

14. TGHC will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. In other words we will not reveal your name or position without your permission or unless we have to do so by law. We would explain this at the time you raise a concern so you can decide whether or not to proceed.
15. It should be appreciated, however, that if an investigation is conducted as a result of Whistleblowing, the investigation may reveal the source of the information and a statement by you may be required as part of the evidence.

Anonymous Allegations

16. Because we will protect you (as explained above), TGHC encourages you to give your name when you make an allegation. Concerns raised anonymously tend to be far less effective and if, for example, we do not have enough information, we may not be able to investigate the matter at all.
17. If you feel that you cannot give your name, our Whistleblowing Officer will decide whether or not to consider the matter. This will depend on:

- ♥ The seriousness of the matter;
- ♥ Whether your concern is believable; and
- ♥ Whether we can carry out an investigation based on the information you have provided.

18. Allegations which do not appear to be motivated by personal animosity and which, if true, would have serious implications for TGHC or the Council are more likely to be considered, even though they are made anonymously.

Untrue Allegations

19. This policy encourages employees to report concerns to the Whistleblowing Officer whenever possible. It should be noted that employees must: -

- ♥ Disclose information in ~~good faith~~ the public interest;
- ♥ Believe it to be substantially true.

20. Employees must not: -

- ♥ Act maliciously or make false allegations;
- ♥ Seek any personal gain.

21. Where it is found that an allegation has been malicious, vexatious or there has been personal gain then appropriate action, including disciplinary, may be taken against the employee reporting the concern.

How to raise a concern

22. If you work for TGHC, you should first raise your concern with your immediate supervisor, line manager, or Service Manager (but obviously this will depend on the seriousness and sensitivity of the matter, and who is suspected of the wrongdoing). If the relevant manager cannot deal with the matter, he or she will refer the concern to our Whistleblowing Officer.

23. The person receiving the concern will: -

- (a) record it;
- (b) ensure confidentiality, so far as may be possible in dealing properly with it;
- (c) investigate promptly and respond to the employee concerned, under paragraphs 32 to 43 below. The person receiving the concern will also have a right of access to the Management Team and to appropriate company records and documents;
- (d) report to the Whistleblowing Officer where the investigation identifies a serious cause for concern. Where a concern involves theft, fraud or financial irregularities, or bribery or corruption which involves the company's finances, the Head of Corporate Services should be notified before proceeding with any further investigation. The Head

of Corporate Services shall take such steps as he/she may consider necessary by way of investigation and will report to the Managing Director as to any further action to be taken;

- (e) recommend appropriate action to resolve the concern;
- (f) provide the Whistleblowing Officer with details of the concern and action taken to resolve it.

24. If your concern involves your immediate supervisor, line manager, or Service Manager, or if you would prefer not to contact them, you should contact the Whistleblowing Officer direct. You should also do this if you do not work for TGHC.
25. If the issues relate to a member of the [GMT Management Team](#), you should contact the [Chief Executive Managing Director](#). If the issue relates to the [Chief Executive Managing Director](#), you should contact the Chair of the Board.
26. You can also contact our Whistleblowing Officer directly in any of the following ways:

- ♥ By writing to the Whistleblowing Officer at:

The Gateshead Housing Company
Keelman House
Fifth Avenue Business Park
Fifth Avenue
Team Valley Trading Estate
Gateshead
NE11 0XA

Please write 'Personal, Private and confidential' on your envelope.

- ♥ By phoning the Whistleblowing Officer on 0191 433 [6155](#). You can leave a voice-mail message 24 hours a day. Only the Whistleblowing Officer (or the [HR and Admin Team](#) if the Whistleblowing Officer is not at work) can pick up the messages.

- ♥ By sending an e-mail to: whistleblowing@gatesheadhousing.co.uk (Do not send an e-mail if you want to remain anonymous.)

27. It is best to put your concerns in writing and give the Whistleblowing Officer as much information as possible - including any relevant names, dates, places and so on. The earlier you raise a concern, the easier it will probably be to take effective action.
28. Although you will not have to prove beyond the shadow of a doubt that your allegation is true, you will have to show the Whistleblowing Officer that there are good reasons for your concern.

Help for you

29. You can get confidential, independent advice from the charity Public Concern at Work on 0207 404 6609. Their website is at www.pcaaw.co.uk.
30. Alternatively, you may want to discuss your concern with a friend or colleague first. You may then find it easier to raise a concern if others share the same experiences or concerns.
31. If you work for TGHC, your trade union representatives can give you general support and advice, or act for you if this would help. This could be useful, particularly if you do not want the Whistleblowing Officer to know who you are.

How we respond to your concerns

32. The way we deal with the concern will depend on what it involves.
33. We will first make enquiries to decide whether we should carry out an investigation and, if so, how we should go about it. Throughout all our enquiries and any investigation, our main concern will be to put the interests of the public first.
34. Your concern may be investigated by TGHC management, our internal auditors, or through the disciplinary process, or we may refer it to:
 -  the police;
 -  other agencies (for example, if it involves the abuse of children or vulnerable adults it may be referred to Gateshead Council's [Group Director Community Based Services](#));
 -  our external auditor; or
 -  an independent investigator.
35. If your concern or allegation can be handled under any other procedure or policy, we will pass it on to the relevant person and let you know.
36. We may be able to settle some concerns without carrying out an investigation but by taking action agreed by you.
37. If we need to take urgent action, we will do this before carrying out any investigation.
38. Within 10 working days of you raising a concern, the Whistleblowing Officer will
 -  acknowledge that we have received your concern;
 -  explain how we will handle the matter; and
 -  tell you what support is available to you.
39. It is difficult to set further timescales as they depend on the nature of the allegation and the type of investigation we need to carry out.

40. The amount of contact you have with the Whistleblowing Officer will depend on the nature of your concern, the potential difficulties involved, and how clear the information you have given is.
41. If you need to have a meeting, you can be accompanied by a representative from a trade union, professional association or other appropriate person. Meetings with the Whistleblowing Officer will normally take place at the company's headquarters but can be arranged elsewhere, but not in your home unless there are exceptional circumstances.
42. We will take steps to reduce any difficulties you may experience as a result of raising a concern. For instance, if you need to give evidence in criminal or disciplinary proceedings, we will arrange for you to get advice on the procedure.
43. The company accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

The officer responsible for this Whistleblowing Policy

44. The [HR Manager](#) is our Whistleblowing Officer. The [HR Manager](#) is a senior officer in TGHC who can take an independent view of any concerns raised. That officer keeps a confidential record of all concerns raised and the outcomes and gives the Resources [and Audit](#) Committee a [quarterly](#) summary of all cases without revealing any specific details.

What if a concern involves an officer involved in the Whistleblowing procedure?

45. If a concern involves the Whistleblowing Officer, or if you are concerned the Whistleblowing Officer may be biased, the matter should be referred directly to the Managing Director.
- ~~46. If a concern involves the Company Secretary it should be referred directly to the Chief Executive.~~
47. If a concern involves the [Chief Executive Managing Director](#), the matter should be referred to the Chair of TGHC Board (or the Deputy Chair if the Chair is not available).
48. If there are exceptional circumstances, which make any of these routes uncomfortable, get advice from the [charity Public Concern at Work](#) (paragraph 29 above).

Monitoring and Review

49. The Whistleblowing Officer will maintain records of all matters raised through the Whistleblowing Policy in order that an assessment may be made of the effectiveness of the policy and any emerging patterns.

50. The Whistleblowing Officer will give a summary of all cases without revealing any specific details **at every meeting of the Resources Committee.**
51. The Resources and Audit Committee will be responsible for undertaking a formal assessment of the effectiveness of the policy and any emerging patterns and reporting this to the **Chief Executive Managing Director.**
52. Each Service Manager is responsible for divisional monitoring arrangements applicable to Whistleblowing.
53. The **Chief Executive Managing Director** has overall responsibility for the Whistleblowing Policy.

Publicising of Policy

54. **In order for employees to feel confident that where someone, however senior, is found to be in breach of the Policy that appropriate action will follow, the channels employees can use if they have concerns about malpractice in the organisation (and other policies relating to probity) will be regularly publicised.**

This policy was ~~developed in 2009~~ updated in 2013. It is not intended to discriminate against any groups in terms of its application and accessibility.