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### Whistleblowing Policy and Procedure

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External References	Scottish Housing Regulator (SHR), Care Inspectorate, SSSC Code of Practice, Pensions Act 2004,
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## Whistleblowing Policy and Procedure

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# Whistleblowing Policy

## 1. Introduction

- 1.1 The [Public Interest Disclosure Act](#) was passed in 1998, with the aim of protecting individuals who make certain disclosures of information in the public interest. This is referred to as whistleblowing. Under the Act a worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by their employer on the grounds that the worker has made a protected disclosure. Blackwood's Whistleblowing Policy and Procedure ensures that the requirements set out in the Act are met.

## 2. Policy Statement

- 2.1 Whistleblowing can be defined as reporting the misconduct of a third party on either a collective or individual basis. Blackwood wishes to maintain the highest standards of conduct, probity and accountability. 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.

## 3. Aims Of The Policy

- 3.1 Blackwood wishes to encourage individuals to feel confident in raising serious concerns and to question and act upon these concerns where these fall below what might be reasonably expected.
- 3.2 We recognise that in any organisation, situations can arise from time to time where Board members or employees feel that something is happening which is wrong, but they are not sure what to do about it. The aim is therefore to provide an avenue for such concerns to be raised.
- 3.3 Confidentiality will be respected where it is possible and reasonable to do so.
- 3.4 Blackwood will investigate all concerns thoroughly.
- 3.5 A response to the concern(s) will be given, respecting any confidentiality requirements, and information will be provided as to how to pursue the matter further if the person raising the concern is still unsatisfied.

3.6 Individuals will be protected from reprisals or victimisation when they raise concerns under this policy when they have acted in good faith and legitimate concern.

## **4. Principles and Scope of the Policy**

### **4.1 Application**

4.2 The policy applies to all Blackwood employees (paid or voluntary), Board Members, temporary agency staff and consultants working under contracts for service.

### **4.3 Definition**

4.3.1 The policy is designed to enable individuals to raise serious concerns internally or, in specific circumstances, externally. Examples of the types of issue that might come within the scope of the Whistleblowing Policy may include suspicion of:

- Fraud or corruption
- Negligence
- Bullying, harassment or abuse of customers
- Professional malpractice
- Unethical or improper conduct
- Covering up improper behaviour
- Knowingly breaching health and safety at work legislation/endangering the health and safety of other employees or customers
- Gaining or conferring financial or other advantage by failing to follow rules and procedures
- Failing to disclose information on employment or subsequently, which may have an effect on employment
- Serious conflicts of interest which have not been disclosed
- Failure to comply with the requirements of the SSSC Code of Practice
- Attempts to conceal any of the above

4.3.2 Thus, any serious concerns about any aspect of the conduct of any individual employed by Blackwood on either a direct, indirect or voluntary basis can be reported under the Whistleblowing Policy. This may be about something that:

- Makes individuals feel uncomfortable in terms of known standards, their own experience or the standards that they believe that Blackwood, or its governing bodies, expects
- Is against Blackwood's Code of Conduct, policies or procedures
- Falls below established standards of practice
- Amounts to improper conduct

4.3.3 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.

4.3.4 The policy will not cover things which individuals disagree with but which do not involve wrongdoing or unethical practice. This policy is not designed for the questioning of the financial and other decisions taken by Blackwood as a whole; nor may it be used to reconsider any matters which have already been addressed under harassment, complaint, grievance or disciplinary procedures.

4.3.5 Neither is the policy for use where individuals feel aggrieved about something affecting them, unless malpractice is involved. The Whistleblowing Policy is not a substitute for the Grievance or Bullying and Harassment policy. These are the procedures that should be used when an employee is aggrieved by their own personal situation.

4.3.6 The Whistleblowing Procedure especially refers to situations where an individual not in a position to start disciplinary action, perhaps because they are not in a position of management, and when the grievance procedure does not seem the right way to raise something.

4.3.7 Individuals must use this policy in the first instance, rather than air their complaints outwith Blackwood.

#### **4.4 Untrue Allegations**

4.4.1 If an individual makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against that individual. If, however, an individual makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken.

#### **4.5 Anonymous Complaints**

4.5.1 This policy encourages individuals to put their name to any disclosure that they make. This allows a full and proper investigation to take place.

Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of Blackwood.

4.5.2 In exercising this discretion, the factors that will be taken into account include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

#### **4.6 Confidentiality**

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

### **5. Key Operational Framework**

5.1 The Whistleblowing procedure forms the main part of the operational framework.

5.2 This policy and procedure will be discussed at induction and will be available on the LOOP.

5.3 Trade Union Representatives shall also be advised of the procedure.

5.4 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 Blackwood 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.

5.5 The Chair of Blackwood shall review the reports received under this procedure and the action taken at least annually.

# Whistleblowing Procedure

## 1. Introduction

1.1 Public Interest Disclosure, more commonly known as Whistleblowing, means drawing attention to misconduct, malpractice or illegal or unethical practices. Sometimes when individuals become aware of such things, they are unsure how to deal with them, especially when they think that to do so might show their colleagues in a poor light. As a publicly funded organisation, however, Blackwood has a duty to maintain the highest standards, and everyone has a duty to play a part in doing so. This can mean having to report that something is wrong.

## 2. Reporting a Concern

2.1 If you believe that something is happening or has happened which comes within the scope of this policy, you should report it. The earlier that a concern is expressed the easier it is for Blackwood to take action.

2.2 In the first instance the employee's manager, or Chair of the Board in the case of Board Members will be the right person to speak to.

2.3 Sometimes, you may not want to report it to this person or feel that it is inappropriate to do so. This will obviously be the case if you believe that your line manager is either involved in improper practice, or is covering up for someone who is.

2.4 In this case, you should report it to someone else. This may be a senior manager, the Head of HR & OD or the Chief Executive. If your complaint is about the Chief Executive, you should complain to the Chair of the Board. And if you believe the Board are involved in malpractice, you should complain to the Scottish Housing Regulator (SHR), the government body responsible for regulating our organisation. When you report something in this way, you should do so in writing and mark the envelope or email "private and confidential".

2.5 All individuals do, however, have the right to bypass the line management structure and take their concerns directly to the Chair of the Board. The Chair has the right to refer the complaint back to senior management if he/she feels that this is appropriate and that there is no conflict of interest.

2.6 Concerns may be expressed verbally or in writing and should contain the background and history and the reason for the concern. Where a verbal concern is raised, this will be written up and the person raising the concern asked to sign and date this as a true and accurate record. This is to ensure we are acting upon clearly understood concerns. The individual is not

expected to prove beyond doubt the truth of the concern but will need to demonstrate that there are reasonable grounds for the concern.

- 2.7 There may be times when you are not sure of your facts. It is in the nature of malpractice that people try to cover it up, and this can mean that it is hard to know for sure that something wrong is being allowed to happen. In this event, you may prefer to speak to someone informally, to explain your suspicions before making them known on a formal basis. The HR Team can provide confidential advice but if you want to speak informally to someone outside the organisation, you could approach the charity Public Concern at Work.
- 2.8 If your concerns are about the Pension Scheme you should contact NEST Pensions directly.

### **3. Investigating the Allegation**

- 3.1 When a manager receives a report from someone under the whistleblowing policy, they should record the fact. Initial enquiries will then be made to determine whether the concerns can be resolved without further investigation or whether they are best dealt with using a different policy such as the Grievance Policy.
- 3.2 Discretion should be taken when completing such enquiries as in some cases the action of checking can in itself warn staff that their actions are under scrutiny (for example where fraud is suspected). Care should be taken not to alert people to this where there is a possibility that evidence could be destroyed.
- 3.3 Sometimes, the manager receiving the complaint will not be sure how to proceed. In this case, they may need to consult senior staff.
- 3.4 If the complaint is not resolved by initial enquiries, an Investigating Officer(s) should be appointed to formally investigate the matter further. The purpose of this investigation at this stage is to define whether the concerns raised have foundation and to draw conclusions based on this as to what the appropriate next steps are.
- 3.5 The person or persons against whom a concern has been made will be informed and they will be allowed to make representations to the Investigating Officer(s) as part of the investigation. The person will have the right to be accompanied or represented at any investigation meetings.
- 3.6 The person who has reported concerns will receive a letter within 10 working days acknowledging the concerns, informing them of progress made and providing the anticipated timescale of the investigation. They will be informed of their anticipated involvement in the investigation. In some situations it may be appropriate to encourage other employees to come forward with concerns under the Whistleblowing policy (for example where an initial concern has been raised by one person but further investigation is



required and the sensitive nature of the issues mean that people have to be encouraged to come forward by offering confidentiality). In these cases, the people can be interviewed as part of the Whistleblowing investigation on an anonymous basis for the purposes of ensuring that the investigation is as thorough as possible. Whilst they can not be coerced, they should be encouraged to put their name to concerns raised in the interests of ensuring the correct application of any future action taken as a result of the investigation, such as disciplinary action.

- 3.7 Where the conclusion of the investigation is that the complaint has foundation, options to be taken may include the initiation of the disciplinary process. The disciplinary process is initiated by means of a formal disciplinary investigation, however, it may not be necessary to complete a further disciplinary investigation in full, it may be possible to simply review the whistleblowing investigation that has been undertaken and to produce an investigation report based on this. Reference should be made to the Disciplinary Policy.
- 3.8 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 whistleblowers policy.
- 3.9 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.

#### **4. Reporting of Outcomes**

- 4.1 The designated person to whom the concern was raised will make a report of all concerns and subsequent actions taken.
- 4.2 The Investigating Officer should sign this report.
- 4.3 The person raising the concern will be given as much information as possible on the outcomes of the investigation, subject to the constraints of Blackwood's duty of confidentiality to service users, staff or any other legal constraint. The objective would be to ensure that a person expressing a legitimate concern can be assured that the matter has been addressed.
- 4.4 Such reports will normally be retained for at least three years. In all cases a report of the outcome will be made to the Executive Management Team.
- 4.5 In accordance with Blackwood's continuous improvement approach, any other areas of learning should be identified from any Whistleblowing investigation.

## 5. Monitoring

5.1 All allegations received which come into the scope of the whistleblowers policy should be reported to the Chief Executive by the manager receiving the allegation. There are several reasons for this:

- The complainant will want to be reassured that action has been taken. In some cases, for example where disciplinary action falling short of dismissal has resulted, the complainant would not be aware that anything has been done, and they may fear that a cover-up has taken place. This fear can be alleviated if the Chief Executive writes to complainants confirming that a report has been made and action taken, without going into details which should properly remain confidential.
- Complaints involving whistleblowing are potentially some of the most serious issues facing the organisation, and it is important that the Chief Executive is able to monitor the implementation of the policy and is aware of the number and extent of allegations made.
- Some complaints may raise corporate or wider issues which are out with the remit of other managers, and the Chief Executive will need to be sure of having these things brought to his or her attention.
- The Chief Executive should keep records of all complaints received under the whistleblowing policy and action taken, and these records should be made available to the Board.

## 6. Equality and Diversity

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

## 7. Contacts

Chief Executive of Blackwood Homes and Care

Chair of the Board of Blackwood Homes and Care

NEST Pensions [www.nestpensions.org.uk](http://www.nestpensions.org.uk)

Scottish Housing Regulator 0141 271 3810

Care Inspectorate 0845 600 9527

UNITE the union 0845 345 0145

Public Concern at Work 020 7404 6609 / [www.pcaw.org.uk](http://www.pcaw.org.uk)

## Related Policies, Legislation & Guidance

### Blackwood Policies & Procedures

- [Bullying and Harassment Policy](#)
- [Complaints Policy](#)
- [Data Protection Policy](#)
- [Discipline Procedure](#)
- [Equalities and Diversity Policy](#)
- [Fraud Policy](#)
- [Grievance Disputes Procedure](#)
- [Human Rights Policy](#)
- [Openness and Confidentiality](#)
- [Redundancy Policy](#)
- [Staff Appraisal Policy](#)

### Legislation

Noted below are key pieces of legislation linked to this policy. Examples are provided as an indicative (but not exhaustive) range of legislation that provide legal protection of individuals and employees who act to support them.

<http://www.legislation.gov.uk>

- Public Interest Disclosure Act 1998
- Enterprise and Regulatory Reform Act 2013
- Data Protection Act 1998
- Human Rights Act 1998
- Equal Opportunities Act 2010
- Bribery Act 2010