

## CLYDESDALE HOUSING ASSOCIATION LIMITED

<b>Policy:</b>	Whistleblowing
<b>Date:</b>	28/09/22 (Updated 14/06/2023)
<b>Lead Officer:</b>	Chief Executive
<b>Review Date:</b>	24/09/25
<b>Regulatory Requirement:</b>	RSLs must have effective arrangements and a policy for whistleblowing by staff and governing body/elected members which it makes easily available and which it promotes.
<b>Regulatory Standard:</b>	<b>Standard 5</b> The RSL conducts its affairs with honesty and integrity.

### **Regulatory Guidance:**

- 5.6 There are clear procedures for employees and governing body members to raise concerns or whistleblow if they believe there has been fraud, corruption or other wrongdoing within the RSL.
- 5.8 Where a severance payment is accompanied by a settlement agreement the RSL does not use this to limit public accountability or whistleblowing. The RSL has taken professional legal advice before entering into a settlement agreement.

**Clydesdale Housing Association will provide this policy on request at no cost, in large print, in Braille, in audio or other non-written format, and in a variety of languages.**



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## **Introduction**

1. Clydesdale Housing Association is committed to the highest standards of openness, probity and accountability. As employees are often the first to realise that there may be something seriously wrong, Clydesdale Housing Association expects those who have serious concerns about any aspect of Clydesdale Housing Association's work to come forward and speak up without fear of reprisal. Therefore, Clydesdale Housing Association recognises that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee, Committee member or stakeholder feel at a disadvantage in raising legitimate concerns.
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 certain serious concerns. These concerns must be made in the 'public interest' as per the Enterprise and Regulatory Reform Act 2013, in addition if a disclosure is not made in 'good faith' this will still be considered by an employment tribunal but compensation can be reduced by up to 25% in such circumstances.
3. Where an employment contract is terminated and is accompanied by a settlement agreement this will not be used to limit public accountability or whistleblowing. Clydesdale Housing Association will always take professional legal advice before entering into a settlement agreement.
4. Employers may also be held vicariously liable<sup>1</sup> for workers who victimise colleagues for making a disclosure. Clydesdale Housing Association will take all reasonable steps to protect workers from being victimised.
5. All employees, Committee members and stakeholders working for or acting on behalf of Clydesdale Housing Association are covered by this policy. The policy also applies to suppliers and those providing services under a contract within Clydesdale Housing Association.
6. If you are a customer, member of the public or other service user, you should raise any concerns regarding "Whistleblowing" directly with the Chief Executive, or in writing marked 'Private and Confidential' FAO Joe Gorman.

## **Scope of Policy**

7. This policy is designed to enable employees of Clydesdale Housing Association to raise concerns internally and at a high level to disclose information that the individual believes shows malpractice or impropriety. A number of policies are already in place, including dignity at work, and disciplinary and grievance procedures. 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 the instigation of other procedures. These concerns might include:
  - Financial malpractice, impropriety or fraud;
  - Failure to comply with a legal obligation or Statutes;
  - Dangers to health and safety or the environment;

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<sup>1</sup> Liability that a supervisory party (such as an employer) bears for the actionable conduct of a subordinate or associate (such as an employee) based on the relationship between the two parties.

- Criminal activity involving Clydesdale Housing Association, its staff, Committee members or stakeholders;
- Professional malpractice;
- Improper conduct or unethical behaviour;
- Failure to meet legal obligations;
- Abuse of power or status;
- Deliberate attempts to conceal any of the above.

## **Legal Framework**

8. The legal framework covering this policy relates to the following legislation:
- Public Interest Disclosure Act 1998;
  - Enterprise & Regulatory Reform Act 2013.

## **Safeguards**

### Protection

9. This policy is designed to offer protection to those employees of Clydesdale Housing Association who disclose such concerns provided the disclosure is made:
- In the public interest.
  - To an appropriate person/body; and
  - That the individual has reasonable belief in the validity of the concerns being raised.
10. Clydesdale Housing Association will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect the individual when they raise a concern with the above provisions acknowledged.

### Confidentiality

11. All concerns will be treated in confidence and every effort will be made not to reveal the individual's identity if they so wish. However, at the appropriate time the individual may need to come forward as a witness.

### Anonymous Allegations

12. This policy encourages individuals to put their names to any disclosures they make. Concerns expressed anonymously are much less robust, but may never the less be considered at the discretion of Clydesdale Housing Association.

### Untrue Allegations

13. Action will probably not be taken against a whistleblower where a subsequent investigation fails to confirm their allegations. However, if the individual makes an allegation that is deemed to be made 'in bad faith' i.e., frivolously, maliciously or for personal gain, disciplinary action may be taken against them

and this may be up to and including dismissal. It should also be noted that under the provisions of the Enterprise and Regulatory Reform Act 2013, if a disclosure is not made in 'good faith' this will still be considered by an employment tribunal but compensation can be reduced by up to 25% in such circumstances.

## **Raising a Concern**

### **First Step**

14. The individual should raise concerns with their immediate line manager. This information will be passed on as soon possible to the Chief Executive.
15. Any complaints will be investigated by the Chief Executive unless the complaint is against the Chief Executive or is in any way related to their actions. Where the complaint is related to the Chief Executive, it should be addressed to the Chairperson of the Management Committee who will in turn appoint an independent person to investigate the allegations.
16. The Chief Executive/Chairperson should also notify the Scottish Housing Regulator in accordance with the Notifiable Events Policy that a whistleblowing allegation has been made.
17. Although the individual 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.
18. The earlier the individual expresses their concern, the easier it is to action. The amount of contact between the persons considering the issues and the individual will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, Clydesdale Housing Association will seek further information from the individual concerned.
19. Where any meeting is arranged, the individual can be accompanied by a trade union representative and also have the meeting off-site if they so wish.

### **Process**

20. On receipt of a disclosure the appropriate person will launch an investigation.
21. Depending on the circumstances surrounding the investigation appropriate action will be taken in accordance with Clydesdale Housing Association's existing policies and procedures.

### **Timescales**

22. Once the investigator has completed the investigation it will be given to the individual who instructed the investigation. They will then write to the person who raised the concern as soon as possible and:
  - Acknowledge that the concern has been received;
  - Indicate how the matter will be dealt with;
  - Give an estimate of how long it will take to provide a final response;
  - Supply the individual with information on staff support mechanisms; and inform the individual whether further investigations will take place and if not, explain why.

### **Outcome of Investigation**

23. Once the investigation has been completed and the report is received by the Chairperson, a decision on what action to take will be considered. If there are reasonable grounds to substantiate the complaint, an appropriate procedure will be initiated. This may also include referral to an external body or regulator.
24. Where an individual feels that their concern has not been dealt with appropriately, they can appeal the decision internally to the Chair of the Audit and Risk Sub-Committee. If, after appealing internally the individual is still not satisfied with the outcome, they can raise the issue with the appropriate external regulatory body as outlined in Appendix 1.

### **Policy Review**

25. This Whistleblowing Policy was adopted by the Governing Body on 28 September 2022. It will be reviewed every three years or immediately following a whistleblowing event, whichever is the earlier.

<b>Approved by the Committee of Management on:</b>	
<b>Signed:</b>	<b>Signed:</b>
<b>Secretary/Chairperson</b>	<b>Staff Member</b>

## Appendix 1 - List of Prescribed Persons

- **The Scottish Housing Regulator**  
Tel: 0141 271 3810  
Email: [shr@scottishhousingregulator.gsi.gov.uk](mailto:shr@scottishhousingregulator.gsi.gov.uk)
- **The Scottish Charity Regulator (OSCR)**  
Tel: 01382 220446  
Email: [info@oscr.org.uk](mailto:info@oscr.org.uk)
- **Environmental Services – South Lanarkshire Council**  
Tel: 0303 123 1015  
Email: [customer.services@southlanarkshire.gov.uk](mailto:customer.services@southlanarkshire.gov.uk)
- **Health and Safety Executive**  
Tel: 0845 300 9923  
[www.hse.gov.uk](http://www.hse.gov.uk)
- **External Auditors - Alexander Sloan Chartered Accountants**  
0141 204 8989  
Email: [info@alexandersloan.co.uk](mailto:info@alexandersloan.co.uk)
- **Internal Auditors – Wylie + Bisset**  
0141 566 7700  
Email: [graham.gillespie@wyliebisset.com](mailto:graham.gillespie@wyliebisset.com)

## Further Sources of Information

- **ACAS**  
Helpline: 0300 123 1100  
[www.acas.org.uk](http://www.acas.org.uk)
- **Public Concern at Work**  
Tel (general): 020 3117 2520
- **UNITE Trade Union**  
Tel: 0141 404 5424  
[www.unitetheunion.org/how-we-help/listofregions/scotland](http://www.unitetheunion.org/how-we-help/listofregions/scotland)
- **Protect Advice**  
Tel: 020 3117 2520  
[www.protect-advice.org.uk/advice-line/](http://www.protect-advice.org.uk/advice-line/)