Community Counts
Milnbank
Housing Association
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| AGENDA ITEM: | 5h |
| TO: | Management Committee |
| PREPARED BY: | Linda Sichi (Deputy CEO) |
| SUBJECT: | REVIEW WHISTLEBLOWING POLICY |
| DATE OF MEETING: | 08 April 2025<br>(Updated 22.06.26) |
| APPROVED BY: | Paul Martin (CEO) |

# WHISTLEBLOWING POLICY

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Registration No. HCB 161 SC Registered: Financial Conduct Authority - 1818 R(S).
Registered under the Co-operative and Community Benefit Societies Act 2014.

## 1. INTRODUCTION

1.1 Milnbank Housing Association (MHA) 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, MHA expects those who have serious concerns about any aspect of the Association's work to come forward and speak up without fear of reprisal. Therefore, MHA recognises that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee, committee member or other customer of MHA feel at a disadvantage in raising legitimate concerns.

1.2 It is important to clarify the difference between Whistleblowing, a Complaint and a Grievance.

- *Whistleblowing* is the disclosure of information which is related to a genuine suspicion of serious wrongdoing or dangers at work (e.g. fraud or failure to comply with health & safety requirements) which is disclosed for public interest.

- A *Complaint* is generally made by an individual (E.G. a tenant) who feels that they have been wronged in some way or MHA's practice is wrong in some way. This would be dealt with under our Complaints Procedures.

- A *Grievance* is where an employee has a personal complaint about their own employment situation, such as the way they are being treated at work. In these cases, employees should use the Grievance Procedure.

1.3 Legal & Regulatory Requirements - The Public Interest Disclosure Act, 1998, gives legal protection to employees against being dismissed or penalised by their employers because of disclosing certain serious concerns. These concerns must be made in the reasonable belief that it is in the 'public interest' and that the information disclosed tends to show a relevant failure as per the Enterprise and Regulatory Act 2013.

The Employment Rights Act 2025 has extended whistleblowing protection to include disclosures of sexual harassment (subject to the usual requirements, including reasonable belief and public interest). In response to this, MHA ensures that staff are aware of the reporting routes, managers know how to respond, and that whistleblowing, harassment and grievance processes align so that concerns are handled promptly and consistently across the Association.

Whistleblowing is a Notifiable Event therefore when a protected disclosure is received it should be reported to the Scottish Housing Regulator (SHR) (bearing in mind any necessary confidentiality requirements from the whistleblower's perspective). The SHR has issued guidance on potential whistleblowers.

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

1.5 All employees, committee members and other customers working for or acting on behalf of MHA are covered by this policy. The policy also applies to

suppliers and those providing services under a contract within MHA.

1.6 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 Officer, or in writing marked 'Private and Confidential' FAO the Chief Executive Officer (CEO).

## 2. SCOPE OF POLICY

The policy is designed to enable employees of MHA to raise concerns internally and at a high level to disclose information that the individual believes shows malpractice or impropriety. Several policies are already in place, including Unacceptable Actions, and disciplinary and grievance procedures.

## 3. SAFEGUARDS

3.a Protection – To qualify for protection a qualifying disclosure must be about a possible:

- Criminal offence
- Failure to comply with a legal obligation
- Miscarriage of justice
- Threats to an individual's health and safety
- Danger to the environment or
- A deliberate attempt to conceal any of the above

To qualify the disclosure must also be made:

- In the public interest.
- To an appropriate person/body; and
- With reasonable belief in the validity of the concerns being raised.

MHA will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect the individual when they raise concern with the above provisions acknowledged.

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

3.c Anonymous Allegations - The policy encourages individuals to put their names to any disclosures they make. Concerns expressed anonymously are much less robust, but may, nevertheless, be considered at the discretion of MHA.

3.d Untrue Allegations – We aim to encourage openness and will support those who raise genuine concerns, even if they turn out to be mistaken. So, if an individual makes a genuine allegation that is not confirmed by the subsequent investigation, no action will be taken against them. However, if it is considered that the individual made an allegation frivolously, maliciously or for personal gain, (and did so without a reasonable belief that they were disclosing wrongdoing, and without a reasonable belief they were doing so in the public interest) disciplinary action (or equivalent) may be taken against them and this may be up to and including dismissal.

In addition, it should be noted that under the provisions of legislation, if a disclosure is not made in 'good faith' this can subsequently be considered by an

employment tribunal when considering what compensation (if any) should be awarded in any whistleblowing protection claims.

## 4. EQUAL OPPORTUNITIES

MHA is committed to ensuring equal opportunities and fair treatment for all people in its work. In implementing the Whistleblowing Policy, MHA will ensure that it achieves fairness towards all staff and committee members, in accordance with the Equality Act 2010.

## 5. HOW THE ASSOCIATION WILL RESPOND TO CONCERNS

MHA will respond to all concerns raised under the Whistleblowing Policy. **Appendix A** describes the procedure in detail.

## 6. OUTCOME OF INVESTIGATION

6.1 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.

6.2 Where an individual feels that their concern has not been dealt with appropriately, they can appeal the decision internally to the Chair of the MC. If, after appealing internally the individual is still not satisfied with the outcome, they can raise the issue with the appropriate external regulatory body (e.g. SHR, Health & Safety Executive, ACAS, and Public Concern at Work etc.).

## 6. POLICY MONITORING & REVIEW

All instances of whistleblowing and associated investigations will be recorded and documented with the relevant details reported to the MC. The Whistleblowing Policy is under the auspices of the MC and will be reviewed every 3 years or as otherwise determined by legislation and/or regulation changes.

## 7. DATA PROTECTION

MHA controls the personal information that we collect, this means that we are legally responsible for how we collect, hold, and use personal information. It also means that we are required to comply with the General Data Protection Regulations (GDPR) when collecting, holding, and using personal information.

**APPENDIX A**

## W H I S T L E E B L O W I N G  P R O C E D U R E S

### a) Guidance for staff or committee members who are notified of concerns

1. If the person raising concerns is a staff member, ask whether they have sought independent advice. If they have not, you should still be prepared to listen to their concerns.

2. If you have a conflict of interest, you should suggest a more relevant person to speak to and advise that person of your initial contact.

3. You should respect the confidentiality of the person raising the concern but also advise them that they may have to speak up if the matter is to be dealt with properly.

4. You should be mindful of legitimate concerns the whistleblower may have about their own safety and/or career.

5. You should offer to report back on the outcome of the investigation and, where possible, on any action that is proposed.

7. You should notify and seek advice from MHA's CEO or Chairperson who will arrange for the concerns to be investigated.

8. If you are a committee member and the concerns that have been relayed to you concern the conduct of a member of staff, you should notify the CEO. If the concerns relate to the CEO, you should contact the Chairperson and/or MHA's solicitors for advice about how to proceed.

9. Victimising or deterring employees from raising concern about malpractice is a disciplinary offence.

10. Anonymous complaints should not be ignored. If necessary, you should offer the whistleblower the opportunity to speak to somebody outside MHA in confidence.

### b) Investigation procedures

11. Initial enquiries will be made by the CEO (or a senior manager acting on the instructions of the CEO) to determine what needs to be done to investigate concerns raised under the whistleblowing Policy. The CEO will be responsible for informing the Chairperson and/or MC of any concerns raised under the Policy.



12. Upon completion of initial enquiries, the matters raised may be:
    - Further investigated by management, internal audit or through the disciplinary process.
    - Referred to the Police
    - Referred to MHA's external auditor or solicitors
    - Subject to an independent inquiry



13. During any investigations, contact with the person who expressed concern will depend on the nature of the matters raised. If necessary, MHA may seek further information from the person who has expressed concern.



14. Where meetings are arranged with an employee who has raised concerns, MHA will:
    - Hold meetings away from the workplace if this is preferred by the employee(s) who has raised concerns.
    - Allow the employee(s) to bring a TU or professional representative or a friend if they wish.

    MHA will do whatever it can to minimise any difficulties that individuals may face because of raising concern. (E.g. if somebody is required to give evidence in subsequent criminal or disciplinary proceedings, MHA will arrange for them to receive advice about the procedures involved).



15. A senior manager or office-bearer will write to the person who has raised the concern. Wherever possible, they will do this within 10 working days of a concern being raised. Their letter will acknowledge the concern, and insofar as is reasonability possible in the circumstances, and subject to legal constraints:
    - Indicate how MHA proposes to deal with the matter.
    - Give an estimate of how long it will take to provide a final response.
    - State whether further investigations will take place and, if not, why not.



16. Subject to any legal constraints, MHA will inform the person who has expressed concern of the outcome of any investigations.

## c) Committee Information Note

c.1 MHA hopes you will never need to use the advice provided in this note. But it is recognised that employees need clear guidance about how to report any concerns they might have about malpractice or wrongdoing in any aspect of MHA's work. MHA's Policy on whistleblowing states its commitment to:

- Tackling malpractice and wrongdoing
- Ensuring that people with serious concerns can report these without fear of victimisation or discrimination, and in the knowledge that their concerns will be taken seriously and acted upon.

c.2 **This note provides practical guidance about what MC Members should do, if ever approached directly by staff members with serious concerns, or if a Committee Member has serious concerns about malpractice or wrongdoing.**

c.3 If you are approached by staff members expressing serious concerns

- Never ignore concerns which are expressed to you.
- Notify the CEO and/or Chairperson immediately.
- If the concerns are about the CEO, notify the Chairperson who will contact MHA's solicitors for advice.
- Respect the confidentiality of the staff member who has spoken to you - make sure they know you intend to pass the information on to the CEO and/or Chairperson and are comfortable with you doing this.

c.4 If you are concerned about malpractice or wrongdoing

- Talk to MHA's Chairperson and/or CEO – You can raise your concerns verbally or in writing. If you raise your concerns in writing, set out the reasons for your concerns as clearly as you can.

- Professional Advisers **-** MHA's auditors and solicitors are aware of our whistleblowing Policy. They can also be contacted in confidence for advice and as contact for raising concerns or starting investigations.

c.5 Raising your concerns outside the Association

The Whistleblowing Policy allows you to raise your concerns within MHA, and to have them dealt with effectively. MHA's preference is that you tried the above steps before speaking to external parties. However, it is recognised that in some circumstances, concerns could merit immediate reporting to the Police or to a regulatory body. MHA respects the fact that somebody with very serious concerns could wish to contact one of these external parties in the first instance.

c.6 Malicious or frivolous allegations

We aim to encourage openness and will support those who raise genuine concerns under this policy, even if they turn out to be mistaken. So, if an individual makes a genuine allegation that is not confirmed by the subsequent investigation, no action will be taken. However, anyone who abuses this procedure by making allegations which are malicious, frivolous or for their own personal gain (and made without a reasonable belief that they were disclosing wrongdoing, and a reasonable belief they were doing so in public interest) may be subject to action under the Code of Conduct. If you choose to report matters to the media without making any attempt to raise your concerns internally or to one of the external parties described above, this may be deemed to be a serious breach of the Code of Conduct, unless the MC is satisfied that it was reasonable for you to adopt that course of action.

## d) Staff Information Note

d.1 MHA hopes you will never need to use the advice provided in this note. But it is recognised that employees need clear guidance about how to report any concerns they might have about malpractice or wrongdoing, in any aspect of MHA's work. MHA's Policy on whistleblowing states its commitment to:

- Tackling malpractice and wrongdoing
- Ensuring that people with serious concerns can report these without fear of victimisation or discrimination, and in the knowledge that their concerns will be taken seriously and acted upon.

This note provides practical guidance about what staff members should do, if ever in the position of needing to report suspected malpractice or wrongdoing.

d.2 If you are concerned about malpractice or wrongdoing
Five possible courses of action are set out below. It is anticipated that employees would raise any concern, based on the sequence of events shown.

1. Seek advice - MHA recommends that you should speak to your TU representative or official before raising concern under the whistleblowing Policy. They will provide you with advice about how to raise your concern, and any implications for your own position. Alternatively, you can discuss your concern with a colleague first. You may find it is easier to raise the matter if there are two (or more) of you who have had the same experiences or concerns. You may invite your TU representative or a friend to be present during any meetings or interviews about the concerns you have raised.

2. Talk to your line manager - As a first step, you should normally raise concerns with your immediate manager or their superior. In some cases, you may be reluctant to do this (e.g. depending on the seriousness and sensitivity of the issues involved, and who is suspected of the malpractice). If you wish to speak to another member of staff in the first instance, you can raise your concerns in confidence with the CEO or any other section head. You can raise your concerns verbally or in writing. If you wish to do so in writing, please set out the reasons for your concerns as clearly as you can.

3. MC or Audit & Risk Sub-Committee - If you feel that you cannot raise your concerns within MHA's staff structure, you may contact the Chairperson of either the MC or the Audit & Risk Sub-Committee.

4. Professional Advisers - MHA's auditors and solicitors are aware of the whistleblowing Policy and our wish to be open and accountable for our actions. They can also be contacted in confidence for advice and as contact for raising concerns or starting investigations.

5. Raising concerns outside MHA - The whistleblowing Policy is intended to allow you to raise concerns within MHA, and to have them dealt with effectively. MHA's preference is that you have tried the above steps before speaking to external parties. However, it is recognised that in some circumstances, concerns could merit immediate reporting to the Police or to a regulatory body. MHA respects the fact that somebody with very serious concerns could wish to contact one of these

external parties in the first instance, or if they felt that their concerns had not been taken seriously or investigated within MHA. If you intend to refer concerns to an external party because you are dissatisfied with the outcome of an internal investigation or inquiry, it is recommended that you should first take advice.

### d.3 Malicious or frivolous allegations

We aim to encourage openness and will support those who raise genuine concerns under this policy, even if they turn out to be mistaken. So, if an individual makes a genuine allegation that is not confirmed by the subsequent investigation, no action will be taken against them. However, if it is considered that the individual made an allegation frivolously, maliciously or for personal gain (and did to without a reasonable belief that they were disclosing wrongdoing, and a reasonable belief they were doing so in public interest) disciplinary (or equivalent) action may be taken against them and this may be up to and including dismissal.

In addition, it should be noted that under the provisions of legislation, if a disclosure is not made in 'good faith' this can subsequently be considered by an employment tribunal when considering what compensation (if any) should be awarded in any whistleblowing protection claim.

### d.4 Anonymous allegations

MHA encourages you to put your name to your allegation whenever possible. Anonymous allegations may still be investigated, but it may be more difficult for the Association to examine them fully.

## e) Complaint against the Chair

1.1 **Internal Reporting**

- Complaints against the Chairshould be made in writing to the Vice-Chairperson.
- If the Vice-Chairperson is implicated or if the complainant lacks confidence in the MC, the complaint may be reported to an independent third party, such as an external auditor or consultant appointed for governance matters.
- Complaints from staff should be made in accordance with MHA's whistleblowing policy.

1.2 **External Reporting**

If internal resolution is not appropriate or effective, the complainant may report concerns to:

- The SHR (if the matter affects tenants, governance, or financial well-being).
- The Police (if a criminal offence is suspected).
- Protect (formerly Public Concern at Work) for independent advice on whistleblowing.

Complaint Assessment

**2.1 Initial Review**

The Vice-Chairperson will form an investigation working group comprised of members of the MC and (with the assistance of a suitable advisor if required) will conduct an initial review of the complaint within 10 working days to determine the appropriate course of action.

The review will focus on the following key areas:

Nature of the Complaint, Seriousness and Risk Assessment, Preliminary Evidence Review and Jurisdiction and Responsibility

**6.2 Referral and Investigation Pathway**

Based on the initial review, the Vice-Chairperson and investigation group will decide on the appropriate course of action:

| Outcome | Description | Next Steps |
|---|---|---|
| No Further Action | The complaint lacks evidence, is frivolous, or does not involve governance issues. | The complainant is informed with a written rationale. |
| Internal Investigation | The complaint relates to governance concerns, improper conduct, or a breach of duties by the Chairperson. | The MC appoints an independent investigator (e.g., external consultant, legal advisor). |
| Mediation or Internal Resolution | The complaint involves personal disputes or misunderstandings rather than serious misconduct. | A neutral party facilitates discussions to resolve the issue. |
| Regulatory Referral | The complaint involves tenant welfare, financial mismanagement, or governance failures that require regulatory scrutiny. | The issue is escalated to the SHR. |
| External Investigation | The complaint involves serious financial irregularities, legal breaches, or governance failures. | The MC appoints external auditors, governance experts, or legal advisors to investigate. |
| Police Referral | There is evidence of fraud, corruption, or criminal wrongdoing. | The case is referred to Police Scotland for investigation. |

### 6.3 Notification and Next Steps

Investigation Process

- Appointment of an Investigation, Evidence Gathering Findings and Recommendations

Confidentiality and Protection

- The identity of the complainant will be kept confidential, unless disclosure is necessary for a fair investigation.
- Whistleblowers are protected under the Public Interest Disclosure Act 1998 (PIDA) and must not face retaliation.
- Malicious or knowingly false complaints may lead to disciplinary action.

Outcome and Reporting

- The complainant will be informed of the outcome within 10 working days after the investigation concludes, where legally permissible.
- Where appropriate, a summary of the complaint and actions taken may be reported to the SHR.

Appeals

- If the complainant or Chairperson disputes the outcome, they may submit an appeal in writing within 10 working days of notification.
- The appeal will be reviewed by an independent reviewer, whose decision will be final.