

Date of Publication - August 2017

Date for Review – August 2020

Introduction

Abbeyfield Scotland 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, we expect those who have serious concerns about any aspect of Abbeyfield Scotland's work to come forward and speak up without fear of reprisal. Therefore, Abbeyfield Scotland recognises that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee, Board member or stakeholder feels at a disadvantage in raising legitimate concerns.

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 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.

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

All employees, Board members and stakeholders working for or acting on behalf of Abbeyfield Scotland are covered by this policy. The policy also applies to suppliers and those providing services under a contract within Abbeyfield Scotland.

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 the Chief Executive".

Scope of Policy

This policy is designed to enable employees of Abbeyfield Scotland 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
- Criminal activity involving Abbeyfield Scotland, its staff, board member 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

- Public Interest Disclosure Act 1998
- Enterprise & Regulatory Act 2013

Regulatory Framework

The Regulatory Standards published by the Scottish Housing Regulator in its Regulatory Framework set a clear expectation that registered social landlords have effective ways for employees and governing body members to raise concerns.

The expectations of the Scottish Housing Regulator as regards registered social landlords and whistleblowing are summarised at the Appendix. Further detail is available on its website www.scottishhousingregulator.gov.uk

Safeguards

Protection

This policy is designed to offer protection to those employees of Abbeyfield Scotland 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.

Abbeyfield Scotland 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

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

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 Abbeyfield Scotland.

Untrue Allegations

If an individual makes an allegation that is not confirmed by the subsequent investigation, it is probable that no action will be taken against them. 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 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

The individual should raise concerns with their immediate line manager. This information will be passed on as soon as possible to the Chief Executive.

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 Chair of the Board who will in turn appoint an independent person to investigate the allegations.

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.

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, Abbeyfield Scotland will seek further information from the individual concerned.

Where any meeting is arranged, the individual can be accompanied by a trade union representative if they have one and also have the meeting off-site if they so wish.

Process

On receipt of a disclosure the Chief Executive will launch an investigation, or where the complaint is related to the Chief Executive, the Chair will appoint an independent person to investigate the allegations

Depending on the circumstances surrounding the investigation appropriate action will be taken in accordance with Abbeyfield Scotland's existing policies and procedures.

Timescales

Once the investigator, Chief Executive or independent person appointed by the Chair, has completed the investigation a report will be given to the individual who instructed the investigation. That person 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

Once the investigation has been completed, the report will be given to the Chair. The Chair will decide what action is to be taken. 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.

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 Committee (who should not be an office bearer). 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 below:

List of Prescribed Persons

- **Scottish Housing Regulator**
www.scottishhousingregulator.gov.uk/contact-us
- **Care Inspectorate**
<http://www.careinspectorate.com/index.php/contact-us>
- **Environmental Health** (of your local authority)
For contact details of relevant local authority see www.gov.uk/find-local-council
- **Health and Safety Executive**
www.hse.gov.uk/contact

Further Sources of Information

- **ACAS**
Helpline: 0300 123 1100
www.acas.org.uk
- **Public Concern at Work**
Tel (general): 0207 404 6609
<http://www.pcaw.org.uk/about/contact-us>

SCOTTISH HOUSING REGULATOR GUIDANCE

Whistleblowing about a regulated body

Staff concerns about improper conduct within a regulated body (the term 'regulated body' means a social landlord that we regulate, including housing associations)

When a member of staff believes there has been improper conduct within a regulated body they should be able to report this to someone who is in a position to deal with it. It should be possible to raise concerns of improper conduct in confidence with an appropriate person within the regulated body.

Alternatively, it is also possible to raise concerns directly with an appropriate regulator. Any concerns about registered social landlords can be raised with a member of staff of the Scottish Housing Regulator's Support and Intervention team. If concerns are raised with us it is likely we will require to meet with the person raising the concerns, on a confidential basis.

We may investigate any allegations of improper conduct, even if they are referred to us anonymously.

We will respect the confidentiality of any person who does not wish to be identified in any investigation resulting from matters that they have brought to our attention. However, this could sometimes make our investigation more difficult.

Investigating a whistleblowing matter may not be possible where it appears that a criminal offence has occurred, as we may have to pass information on to the police to investigate.

(Scottish Housing Regulator)