



OAK TREE HOUSING ASSOCIATION LTD

Whistleblowing Policy

Adopted April 2004 Last Reviewed August 2021
Next Review Due September 2024

Introduction

Oak Tree 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, OTHA expects those who have serious concerns about any aspect of OTHA work to come forward and speak up without fear of reprisal. Therefore, OTHA recognises that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee, committee/board member or stakeholder of OTHA feel 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. OTHA will take all reasonable steps to protect workers from being victimised.

All employees, Committee/Governing Body and Stakeholders working for or acting on behalf of OTHA are covered by this policy. The policy also applies to suppliers and those providing services under a contract within OTHA.

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 (Job Share) or in writing marked 'Private and Confidential' FAO Chief Executive Officer (Job Share).

General Data Protection Regulation:

OTHA will treat your personal data in line with our obligations under the current data protection regulations and our own Privacy Policy. Information regarding how your data will be used and the basis for processing your data is provided in OTHA's employee fair-processing notice.

Scope of Policy

This policy is designed to enable employees of OTHA 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, which are included within the Statement of Terms and Conditions of Employment. 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 OTHA, its staff, Committee/Governing Body 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

Safeguards

Protection

This policy is designed to offer protection to those employees of OTHA 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.

OTHA 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 OTHA.

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 possible to the Chief Executive Officer (Job Share).

Any complaints will be investigated by the Chief Executive Officer (Job Share) unless the complaint is against the Chief Executive Officer (Job Share) or is in any way related to their

actions. Where the complaint is related to the Chief Executive Officer (Job Share), it should be addressed to the Chairperson of the Management Committee/Governing Body 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, OTHA will seek further information from the individual concerned.

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**

On receipt of a disclosure the appropriate person will launch an investigation.

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

- **Timescales**

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

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.

Where an individual feels that their concern has not been dealt with appropriately, they can raise the issue with the appropriate external regulatory body as outlined in Appendix 1.

Appendix 1

List of Prescribed Persons

- **The Scottish Housing Regulator**
Tel: 0141 242 5642
- **Safer and Inclusive Communities** (Inverclyde Council)
Tel: 01475 717171
- **Health and Safety Executive**
Tel: 0345 300 9923 (incident contact centre)
Tel: 0300 003 1647 (report a H&S issue)

Further Sources of Information

- **ACAS**
Helpline: 0300 123 1100
www.acas.org.uk
- **Protect – Speak up/Stop Harm**
Tel (general): 0207 404 6609
- **Unite**
Tel: 0141 404 5424