

CS057 - Whistleblowing Policy and Procedure

| MONITORING FORM | |
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| Department | Human Resources |
| Department Director | Human Resources Director |
| This policy is applicable to | All employees |
| Author | Human Resources Director |
| Original Version approved by & date | Chief Executive - April 2015 |
| Date of last review | 31 May 2016 |
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| Date of review | August 2019 Board |
| Period of Review | 3 Years |
| Date of next review | August 2022 |
| Internal /external consultees (if required). | n/a |

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.
- 1.2 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 they have made a protected disclosure. This Policy and Procedure ensure that the requirement set out in the Act are met.
- 1.3 It is important to the business that any fraud, misconduct or wrongdoing by individuals or officers of the company is reported and properly dealt with.
- 1.4 Scottish Housing Regulatory Standards (2019) guidance 5.6 states, '*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 by the RSL*' .
- 1.5 Weslo therefore encourages all individuals to raise any concerns that they may have about the conduct of others in the business or the way in which the business is run. If individuals are not sure whether or not to raise a concern, they should discuss the issue with their line manager or the Human Resources Director or alternatively seek independent advice as outline under section 7.5.
- 1.6 An individual who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure.

2. SCOPE

- 2.1 For the purposes of this policy it is deemed to include the following: Weslo Housing Management and its subsidiary, Weslo Property Management, all employees (permanent, temporary or contracted) and any other stakeholder if relevant to the Policy.

3. PROTECTED DISCLOSURES

- 3.1 The law defines clearly what types of disclosure qualify the person making them for protection against dismissal and detriment. These are known as "protected disclosures". The list covers disclosures alleging:
 - a. criminal offences;
 - b. failure to comply with a legal obligation
 - c. miscarriages of justice;
 - d. risks to health and safety;
 - e. danger to the environment;
 - f. a breach of any other legal obligation; or
 - g. a deliberate attempt to conceal any of the above.

- 3.2 A disclosure will not be protected unless it is made in the public interest. In effect, there is a distinction between disclosures that serve the personal interest of an individual and those that serve a wider interest.
- 3.3 Disclosures are protected whether they concern:
- a. An action or omission that took place in the past;
 - b. Improper conduct occurring in the present; or
 - c. The prospect or likelihood of an action or omission occurring in the future.

4. PRINCIPLES

- 4.1 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Individuals should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
- 4.2 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the individual who raised the issue.
- 4.3 Individuals will not be victimised for raising a matter under this policy. This means that the continued employment and opportunities for future promotion or training will not be prejudiced because they have raised a legitimate concern.
- 4.4 Victimisation of an individual for raising a qualified disclosure will be a disciplinary offence.
- 4.5 If misconduct is discovered as a result of any investigation under this policy Weslo's disciplinary procedure will be used, in addition to any appropriate external measures.
- 4.6 Maliciously making a false allegation is a disciplinary offence.
- 4.7 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, individuals should not agree to remain silent. They should report the matter to their Director.
- 4.8 This policy/procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that their own contract has been, or is likely to be, broken, they should use the Weslo's grievance policy/procedure.

5. HOW TO RAISE A CONCERN INTERNALLY

- 5.1 Individuals should initially raise concerns with the company, however, if the individual feels that they cannot use the procedure as outlined below, please refer to section 7 below.

- 5.2. In the first instance, the individual should report the matter to their line manager, unless the individual reasonably believes his/her line manager to be involved in the wrongdoing, or if for any other reason the individual does not wish to approach his/her line manager, the individual should escalate to their Director.
- 5.3 The line manager/Director should contact the Human Resources Director to discuss the procedure and an investigating officer will be appointed. Investigating Officers will be required to follow Investigations Procedure.
- 5.4 The individual's statement will be taken into account, and he/she will be asked to comment on any additional evidence obtained. The line manager (or the person who carried out the investigation) will then report to the Executive team, which will take any necessary action, including reporting the matter to the Board and externally thereafter if required.
- 5.5 If disciplinary action is required, the line manager (or the person who carried out the investigation) will report the matter to the Human Resources Director and invoke the disciplinary procedure.
- 5.6 On conclusion of any investigation, the individual who raised the concern will be told the outcome of the investigation and what action is proposed. If no action is to be taken, the reason for this will be explained. The individual has the right of appeal (Refer to 6 below).
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6. APPEALS

- 6.1 An individual can appeal for two reasons (a) where a concern is rejected on the basis that it does not fall within the scope of the whistleblowing policy (b) if following investigation they disagree with the decision and the proposed action.
- 6.2 Appeals must be made in writing with the reason for the appeal clearly stated and submitted to the Chief Executive within 5 working days of the individual being notified of the decision. In the event that the decision was made by the Chief Executive, the appeal should be heard by the Chair of Weslo Housing Management.
- 6.3 The Chief Executive (or the Chair) will invite the individual to attend an appeal meeting. The individual may be accompanied by a work colleague or trade union official. The Chief Executive (or the Chair) will arrange for a note taker to be present.
- 6.4 The Chief Executive (or the Chair) will question the individual to obtain any additional information or clarification they require in relation to the initial allegation or the circumstances giving rise to the appeal. The individual will be given the opportunity to present any substantiating evidence.

- 6.5 Following the meeting, the Chief Executive (or Chair), will communicate their decision to the individual in writing within 5 working days. This will be Weslo's final position on the matter.

7. RAISING EXTERNALLY

- 7.1 Public Interest Disclosure Act (1998) provides protection for staff who make a whistleblowing claim to a prescribed person whether or not they have raised the matter internally first.
- 7.2 Governing body members are not covered by the Public Interest Disclosure Act but the SHR will handle concerns raised by governing body members in the same way as qualifying disclosures from staff.
- 7.3 In terms of how the SHR would deal with a concern raised information can be found on the SHR website.
- 7.4 If the individual has raised the matter internally and reasonably believes that the appropriate action has not been taken, they should report the matter to the Scottish Housing Regulator.

Scottish Housing Regulator [SHR]

Buchanan House

58 Port Dundas Road

Glasgow

G4 0HF

Email: shr@scottishhousingregulator.gsi.gov.uk

Phone: 0141 242 5642

- 7.5 Further advice on Whistleblowing can be obtained from a solicitor, trade union or the Citizens Advice Bureau. Alternatively Public concern at Work (PcaW) is an independent charity who gives confidential advice to people who witness wrongdoing at work but are not sure whether or how to raise the concern.

Public concern at Work (PcaW)

0207 404 6609 (Open Monday to Friday)

Email: helpline@pcaw.co.uk

Website: www.pcaw.co.uk

8. PROCEDURES FOR BOARD MEMBERS

- 8.1 As a first step, Board Members should raise concerns with Weslo's Chair. Concerns can be raised verbally or in writing. Additionally in such circumstances Board Members can contact the Scottish Housing Regulator.
- 8.2 Board members are required to use the Whistleblowing Policy responsibly. For example, all governing body members are required, under the Code of Conduct for Board Members, to act in Weslo's best interests at all times and

to take shared responsibility for upholding decisions which have been properly made. Board members cannot use the Whistleblowing Policy simply because they do not personally agree with decisions which have been properly made by the Board.

9. CONTACTING THE MEDIA OR USING SOCIAL MEDIA

9.1 The only designated press and media spokesperson of Weslo is the Chief Executive. The Chief Executive may delegate his/her spokesperson function to a specified member of staff. No individual is permitted to enter into any communication with the press or media without first having received written approval from the Chief Executive or his designated spokesperson.

10. DATA PROTECTION

10.1 When an individual makes a disclosure, the organisation will process any personal data collected in accordance with its data protection policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

11. EQUALITY & DIVERSITY

11.1 This Policy will always be carried out in accordance with Weslo's Policy of Equality & Diversity which aims to promote diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures.

12. MONITORING & REPORTING

12.1 This policy will be reviewed regularly to ensure compliance with applicable legislative changes, changes within the organisation and best practice.