

Whistleblowing Policy and Procedure

1. Policy

(Whistleblowing: revealing misconduct in the public interest)

- 1.1 Homes for Haringey (HfH) is committed to the highest standards of openness, probity and accountability; acting honestly, decently and being responsible is at the heart of everything we do.
- 1.2 HfH has to meet not only the requirements of regulators and funding bodies, but also the ethical standards published by the **Committee on Standards in Public Life** (2019), with an emphasis on integrity and transparency when serving local communities:

“Local government impacts the lives of citizens every day, providing front-line services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain the public’s confidence.” (Lord Evans, Chair of the Committee on Standards in Public Life, 2019).

- 1.3 Key to every contract of employment is the need to observe confidentiality where appropriate to do so.
- 1.4 However, where an individual discovers something, which they believe shows malpractice or wrongdoing within HfH, then this information should be disclosed. This should be without fear of reprisal and may be made independently of line management.
- 1.5 The **Public Interest Disclosure Act 1998**, gives legal protection to employees against being dismissed, victimised or suffering any other detriment, from their employers or other employees, as a result of making a ‘qualified disclosure’. That is revealing information deemed to be in the public interest, where and at least one ‘relevant failure’ is currently happening, has taken place in the past, or is likely to happen in the future.
- 1.6 The **Enterprise and Regulatory Reform Act 2013** updates the **Public Interest Disclosure Act 1998** with three key changes:
 - disclosures do not have to be made ‘in good faith’
 - even a self-interested disclosure may qualify as a protected disclosure
 - an employer (e.g. HfH) can be vicariously liable (held responsible for an act or failure to act on the part of another person) for the actions of a worker who subjects a colleague making a protected disclosure to any detriment (e.g. harm, injury, hurt, loss, wrong, etc.).

However, a tribunal could reduce any compensation by up to 25% if the disclosure is made ‘in bad faith’ (for example, if it goes against violating basic standards of

honesty in dealing with others or where someone has given the wrong idea to another about a legal matter).

- 1.7 The Bribery Act 2010 makes it a criminal offence where an organisation fails to prevent bribery. As part of its approach to compliance, HfH encourages anyone with suspicions that bribery might be happening to raise their concerns via this Whistleblowing Policy.

2. Scope

- 2.1 This policy covers you as an employee of HfH, whether you work part- or full-time, on a fixed-term or a permanent contract, and whether you are agency, self-employed, a contractor or even a volunteer (including a Board member).
- 2.2 This procedure explains how you as an employee (or you if you are affiliated by membership of HfH) may raise concerns or disclose (reveal) information where you have discovered malpractice (wrongdoing) or impropriety (corruption, lapses, immorality, misconduct, dishonesty, etc.) and that is in the interest of HfH, or of the public, to be investigated.
- 2.3 These will usually include one or more of the following taking place:
- a criminal offence
 - a miscarriage of justice (punishment for a wrong not committed)
 - a breach of a legal or regulatory obligation
 - danger to the health and safety of any individual
 - damage to the environment
 - professional malpractice, improper conduct or unethical behaviour
 - a serious breach of governance, Financial Regulations, Contract Regulations or HfH policies
 - Fraud
 - Bribery
 - Falsification of records
 - Unauthorised absence from work
 - Theft
 - Abuse or neglect
 - any deliberate attempt to conceal any of the above.

3. General Principles

3.1 Protection

- 3.1.1 This policy is designed to protect you as employee if you reveal concerns (see 2.3), provided the disclosure is made:
- in the public interest
 - in 'good faith' (within the principles of 'fair play' and fair and open dealing)

- in the reasonable belief that what you reveal tends to show malpractice or impropriety
- in the reasonable belief that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the above categories
- to an appropriate person (see 4.1).

3.2 It is important to note that:

- malicious or wild allegations may give rise to legal action on the part of the persons complained about
- victimisation (unfair treatment) of any individual who has made a qualified disclosure using this procedure will be treated as a disciplinary offence irrespective of whether the allegations raised are subsequently upheld.

3.2 Confidentiality

3.2.1 HfH treats all disclosures in a confidential and sensitive manner and will protect your identity, as far as is possible, if you make an allegation, keeping your details confidential, for as long as it does not hinder or frustrate any investigation.

3.2.2 The investigation itself may reveal your identity as the source of the information and you may also need to provide a statement as part of the evidence required.

3.3 Anonymous Allegations

3.3.1 In the spirit of transparency and openness this policy encourages you to put your name to any disclosure you make. However, it may be possible to make contact by using telephone appointments or through an anonymised email. Concerns expressed anonymously may be seen as less credible, but they will still be considered at the discretion of HfH.

3.3.2 In exercising this discretion, the factors HfH will take into account will include the:

- likelihood of confirming the allegation from attributable sources
- seriousness of the issues raised by you
- credibility of your concern.

3.3.3 It is important to note:

- that making a disclosure anonymously means it can be more difficult for an employee to qualify for protection as a whistle-blower. This is because there would be no documentary evidence linking an employee to the disclosure for the employment tribunal to consider.

3.4 Untrue Allegations

- 3.4.1 If you make an allegation in good faith, not confirmed by any subsequent investigation, no action will be taken against you. However, you should exercise due care to ensure the accuracy of any information you provide by way of disclosure.
- 3.4.2 If you make malicious (intended to cause harm or upset) or vexatious (having little chance of success but merely intended to cause problems) allegations, and particularly if you then persist in making such malicious or vexatious allegations, disciplinary, or other appropriate, action may be taken against you.
- 3.4.3 This procedure is intended to assist you and HfH if you believe you have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by HfH, nor may it be used to reconsider any matters that have already been addressed under grievance or disciplinary procedures.
- 3.4.5 HfH expects that employees will use this procedure to raise any concerns internally in the first instance, rather than with agencies external to HfH in line with established principles and guidelines. It will rarely, if ever, be appropriate for you to alert the media if you feel there is a whistle-blowing matter to be addressed.
- 3.4.6 It is strongly recommended that you seek proper advice before reporting any concerns you may have to any external person or body. The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline and their contact details can be found online at www.pcaw.org.uk.
- 3.4.7 HfH commits to conducting any investigation required as a result of a disclosure by you in an effective and sensitive way and normally within **20 working days**.

4. Making a Disclosure

- 4.1 Disclosures should normally be made in writing to the Council's Head of Audit and Risk Management who will inform HfH's:
- a) Managing Director or, where the allegation concerns the Managing Director, the Chair of the Board, who will become the **designated person** for the purpose of this procedure
 - b) Standing Orders will govern these procedures if the allegation concerns a member of the HfH Board
 - c) Audit and Risk Committee
 - d) Head of Human Resources
 - e) Designated Safeguarding Officer (if the allegation relates to Safeguarding).
- 4.2 The Council's Head of Audit and Risk Management, in consultation with the Managing Director or other appropriate Officer, will decide how best to investigate the disclosure.

5. Investigating a Disclosure

- 5.1 Any complaint of malpractice and impropriety will be sent to the appropriate **designated person**, who will then consider, within ten working days, the information disclosed by you and write to you indicating how they propose to deal with the disclosure that has been made.
- 5.2 If the designated person decides an investigation is merited, they will tell you, in writing, the form of investigation to be undertaken, which may include:
- a) investigating the matter internally
 - b) referring the matter to the Council's Fraud team
 - c) referring the matter to the Metropolitan Police
 - d) arranging for an independent inquiry; and
 - e) provide an estimate of how long it will take to provide a final response; and
 - f) provide information on staff support mechanisms
- 5.3 If the decision is that investigations should be conducted by more than one of the above means, the designated person should satisfy him/herself that such a course of action is warranted.
- 5.4 Where the disclosure is to be subject to an internal inquiry, the designated person will then determine:
- a) who should undertake the investigation
 - b) the procedure to be followed
 - c) the scope of the concluding report.
- 5.5 In deciding who should undertake the investigation the designated person will check that the proposed investigator is:
- a) not responsible for, or substantially connected to, the matter raised
 - b) able and willing to conduct the investigation in a timely manner
 - c) adequately experienced/knowledgeable to conduct the investigation required
 - d) Not conflicted or compromised in any other respect.
- 5.6 Where the allegation concerns a breach of HfH's Financial or Contract Regulations and/or procedures, the Council's Head of Audit and Risk Management will normally undertake the investigation as the **investigating officer**.
- 5.7 Where the allegation does not involve a breach of HfH's Financial or Contract Regulations and/or procedures the investigation will be conducted by the investigating officer appointed by the designated person.
- 5.8 A member of Human Resources (HR) will be nominated to keep you, as the person who made the disclosure, advised of progress and likely timescales.

- 5.9 The investigating officer will hold a meeting with you, as the person who made the disclosure, to gather all the information needed to understand the situation. You will be informed of your right to be accompanied by a trade union or work colleague. A written summary of the meeting will be given to you.
- 5.10 Where a disclosure is made, the person or persons against whom any disclosure is made will be informed of the nature of the allegation, the evidence supporting it and will be given the opportunity to comment on the evidence and present any explanation before any conclusions are reached.
- 5.11 Where individuals are invited to meetings and/or hearings they will be informed of their right to be accompanied by a trade union representative or work colleague. At the discretion of the investigating officer and dependant on the circumstances of the complaint, after having sought advice from the Head of HR, an alternative representative may be allowed, for example the individual's legal representative. A written summary of meetings/hearings will be provided to the persons interviewed.
- 5.12 In instances where there is a reasonable belief that any individual implicated by the allegation raised through disclosure could jeopardise the progress of an investigation, for example by destroying records, then that individual may be temporarily suspended from duty, and any such suspension will be:
- a) without prejudice (it will not imply or assume any actual or potential wrongdoing on part of that or any other individual)
 - b) confirmed in writing to the individual in question, setting out the reason(s) for the suspension and the practical arrangements for the duration of suspension
 - c) on full pay
 - d) of the shortest duration possible and reviewed on a regular basis.
- 5.13 As a result of any investigation other procedures may be invoked, such as HfH's Disciplinary Policy and Grievance Policy, which may then form the basis of a separate investigation. In such an event any investigation report arising from the application of this procedure may be used as the investigation stage under the former policies referred to. In some instances it may be necessary to refer the matter to an external authority for further investigation.
- 5.14 The validity of the disclosure and conclusion(s) reached will be made by the investigating officer. The evidence will be detailed in a written report containing the findings of the investigations and reasons for the conclusion(s). The report will then be passed to the appropriate designated person.

6. Reporting of Outcomes

- 6.1 After the investigation's conclusion, the designated person will inform you, as the individual making the disclosure and normally within **5 working days**, of

what action is to be taken, but only where this does not breach the confidentiality of other individuals concerned. For example, if an outcome is that disciplinary action is to be instigated against another individual, then it is unlikely that this will be disclosed to you.

- 6.2 If the allegation is not upheld, following the investigation of the information you have disclosed, you will be informed of the reason for this.
- 6.3 In any event, the designated person will submit a report of all disclosures and any subsequent action taken to the Audit and Risk Committee. Where the issue falls within the purview (scope of influence) of the Audit and Risk Committee, a detailed report will be submitted. In all other cases a summary report will be submitted, in order to allow the Committee to monitor the effectiveness of the procedure, with copies of the report being retained for a minimum of 3 years by the designated person.

7. Appeal

- 7.1 As the individual who has made the disclosure you will be given the opportunity to remake the disclosure, in writing, stating in full the grounds of your appeal, within **10 working days** of receipt of the written outcome of the investigation. An appeal can be made on the grounds that the:
- procedure was applied incorrectly
 - action taken was inappropriate in the circumstances.
- 7.2 Any disclosure you make as part of an appeal should be remake by you to a **second designated person** (as advised by the Head of HR or other appropriate Officer).
- 7.3 This second designated person will consider all the information presented, the procedure that was followed before and during the investigation and the reasons why the allegations arising as part of the disclosure were not upheld. The outcome of this process will be either to:
- confirm that no further action is required
 - decide that further investigation is required.
- 7.4 In the event that further investigation is required, the second designated person will, independently of the initial investigation, follow the procedures referred to in Section 5, as well as impartially considering the initial investigation and its conclusions.
- 7.5 In the event that you disclose further evidence as part of remaking your disclosure to the second designated person, then you, as the individual making the disclosure, will not subsequently have access to further HfH policies or procedures for the continued pursuance of the same matter.
- 7.6 If, on conclusion of the appeal, the investigation finds the allegations unsubstantiated but you, as the complainant, are still not satisfied with the

outcome of the investigation, HfH recognises your lawful right, as an employee (or even as an ex-employee) to make disclosures to prescribed persons or bodies.

- 7.7 A full list of prescribed people and bodies can be found on the Government Website www.gov.uk

8. Review

- 8.1 The Audit and Risk Committee may review this policy following the conclusion of any investigation if any procedural or other problems were experienced during the course of an investigation, or if there is a change to best practice, or national guidance, in respect of public interest disclosures. Further, HfH's trades' unions will normally be consulted on any substantive changes proposed.

9. Equality and Diversity

- 9.1 Managers and employees have a responsibility to promote HfH's Equality and Diversity policies and standards of conduct by treating others with respect, valuing diversity and maintaining and preserving dignity at work. Managers are required to recognise and consider any relevant issues whilst operating the whistleblowing process and during the course of day-to-day interactions with colleagues and employees.
- 9.2 Wherever possible panel members and investigating officers should be chosen to represent the diversity of employees at HfH.