

CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY

1. INTRODUCTION

Islington and Shoreditch Housing Association (ISHA) is committed to the highest possible standards of openness, probity and accountability and to tackling any malpractice within the organisation at all levels. In even the best run organisation, things can go wrong. Employees and staff are often the first to realise this, however, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimisation. In these circumstances it may seem easier to ignore the concern rather than report what may just be a suspicion of wrongdoing or illegality.

It is important to ISHA that serious concerns are reported, investigated, and dealt with appropriately. The Board, the Leadership Team and all managers have an important role to play in encouraging each other, as well as the rest of the workforce 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.

2. AIMS

The aim of this policy is to encourage staff and others to raise their concerns about any incidents of malpractice in the organisation at the earliest possible stage, without fear of disadvantage, discrimination, or victimisation and to ensure that such concerns are properly investigated and appropriate action taken in line with ISHA policies.

3. SCOPE

In this policy, whistleblowing means the reporting of actual or suspected malpractice, wrongdoing or dangers occurring within the organisation. This includes reporting to ISHA, or the relevant authority.

Examples of the types of actual or suspected malpractice, wrongdoing or dangers that might be reported under this policy include, but are not limited to:

- wrongdoing at work including the commission of any criminal offence
- financial irregularities including theft, fraud (including tenancy fraud) or corruption
- financial fraud or mismanagement
- facilitating tax evasion

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- a failure to comply with legal or professional obligations or breach of any statutory Code of Practice (however, note that any complaint relating to an alleged breach of an employee's colleague contract should be raised under our Grievance Procedure)
- a failure to comply with appropriate professional standards
- a failure to comply with existing legal or regulatory obligations such as health and safety and safeguarding obligations
- conduct which poses a danger to the health and safety of an employee or member of the public
- damage to the environment
- an act of bribery or showing undue favour over a contractual matter or to a job applicant or the inappropriate acceptance of a gift or hospitality
- malpractice, ill treatment, negligence or violence towards a client/customer or other individual by a member of staff
- a miscarriage of justice
- negligence
- any conduct which is, or may be, in conflict with the organisation's interest such as involvement with a business competitor
- falsifying records
- a failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income to the organisation or would otherwise seriously prejudice the organisation
- abuse of authority
- any dishonesty or other irregularities in dealing with customers and suppliers
- concerns that information is being withheld, misrepresented or deliberately untrue
- unauthorised disclosure of confidential information
- using the power and authority of ISHA for any unauthorised or ulterior purpose
- human rights violations including matters covered by the Modern Slavery Act 2015
- deliberate concealment of any of the above

This list is not exhaustive. In deciding whether a concern or suspicion needs reporting under this policy, one could consider:

- whether it appears to breach laws, rules, procedures or normal practice
- whether it constitutes a breach of accepted standards of conduct or the values of ISHA
- whether thinking about the matter it feels uncomfortable, awkward or unnerving

In cases where fraud, bribery or money laundering is suspected, the processes set out in ISHA's Fraud Policy or Anti-Money Laundering Policy should be followed first. If the issue has not been dealt with satisfactorily, then a concern should be raised under this policy.

This policy is not intended to be used by employees who have a complaint about matters relating to their working arrangements, employment or personal situation. These issues should be raised under the Grievance Procedure. This policy should not be used as a means of reconsidering any

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matters that have already been addressed under our grievance, disciplinary or other procedures. This policy also does not apply to concerns or issues relating to any personal or contractual dispute a stakeholder may have with ISHA.

This policy is not contractual. It does not form part of any employee's contract of employment and may be amended at any time.

See section 9 of this policy if you are uncertain whether something is within the scope of this policy, and you require further advice.

4. WHO CAN RAISE CONCERNS UNDER THIS POLICY

The following may use this policy to confidentially report concerns:

- employees or former employees
- apprentices, agency workers, trainees, any third-party contractor whose work is controlled by the company (other than a genuinely self-employed person).
- other people involved with ISHA, for example, volunteers, Board/Committee members or involved residents; and
- contractors and suppliers and their employees where the concern relates to ISHA's business

5. PROTECTIONS FOR WHISTLEBLOWERS

ISHA wants to ensure that concerns can be raised without fear of victimisation, subsequent discrimination, disadvantage, or dismissal, so the following safeguards have been put in place to protect the whistleblower:

- they will not suffer detriment for having raised a concern, unless it is later proved that they provided information that they knew to be false, raised the concern maliciously or for personal gain
- harassment or victimisation of a whistleblower (including informal pressure) will not be tolerated. Any person found to be unfairly treating a whistleblower, including attempts to discourage an individual from raising a concern, will be subject to disciplinary action.

If there are concerns in relation to repercussions as result of a malpractice being reported, this should be reported to the People Manager (staff) or the Senior Independent Director of the Board (board members and involved residents).

A case might arise where the whistleblower has participated in the action causing concern. In such a case it is in the whistleblower's interest to raise a concern as soon as possible. ISHA cannot promise not to take appropriate action against the whistleblower, but the fact that they came forward may be taken into consideration during any potential disciplinary procedures relating to the matter.

Where a whistleblower is already the subject of disciplinary, capability, or redundancy proceedings, blowing the whistle does not mean that those proceedings will be halted.

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ISHA will take all reasonable steps to keep the whistleblower's identity confidential, however, this may not always be possible as part of the investigation and any further proceedings. In such circumstances, the whistleblower will be informed and offered advice and support.

5.1 Legal protections for 'workers'

Those defined as 'workers' under the Employment Rights Act 1996 (see Appendix A) are protected from suffering detrimental action by their employer when making disclosures in accordance with the Public Interest Disclosure Act (PIDA) 1998.

There are very specific criteria that need to be met for a worker to be covered by PIDA when they raise a concern and to be able to claim the protection that accompanies it. For a disclosure to be protected the whistleblower must have a reasonable belief that the disclosure is in the "public interest"; it must be a qualifying disclosure and made to a prescribed body (i.e. employer, legal advisers, government ministers). See Appendix A for definitions and further information. Independent advice is also available (see section 9 below).

6. HOW TO RAISE A CONCERN

Although whistleblowers are not expected to prove an allegation, it is expected that in raising a concern or suspicion, they are acting in good faith and can demonstrate sufficient grounds for their concern. Concerns can be raised verbally, in writing or anonymously. The following information should be provided:

- The nature of the concern and why it is believed to be true
- The background and history of the concern (giving relevant names, dates, and places where possible)

Staff – staff members should report their concern to the CEO. In case of an absence of the CEO, staff members may report to another member of the Leadership Team. If the matter concerns the CEO, it should be raised with the Senior-Independent Director (SID) of the Board.

Board Members - should raise concerns with the Senior Independent Director of the Board. If they feel they are unable to raise a concern with the SID, for whatever reason, they should raise the concern with the CEO.

Involved residents – should raise concerns with the CEO in the first instance. If the concern relates to the CEO, concerns should be reported to the SID.

Other stakeholders and individuals outside of ISHA - should raise concerns with the CEO in the first instance. If the concern relates to the CEO, concerns should be reported to the Chair of the Board or SID.

Contact details are in section 10 below.

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We do not encourage whistleblowers to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from you, or others. It is also more difficult to establish whether any allegations or concerns are credible.

7. DEALING WITH CONCERNS

ISHA will treat all concerns raised under this policy confidentially and investigate them in a timely manner. We hope that all will feel able to voice whistleblowing concerns openly under this Policy. However, if you want to raise your concern confidentially, we will make every effort to keep your identity secret. If it is necessary, or inevitable, for anyone investigating your concern to know your identity, we will discuss this with you before taking any action.

Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to contact one of the contacts listed in section 6 above and appropriate measures can then be taken to preserve confidentiality. If you are in any doubt, you can seek advice from Protect, the independent whistleblowing service.

Records will be kept on matters dealt with through this Policy. These records will be handled with the utmost discretion and will, as far as practicable, be kept confidential to those involved with the investigation and any follow up action.

The CEO will be responsible for leading whistleblowing investigations except where concerns are raised with the SID or Chair. For concerns raised with the SID or Chair, the SID or Chair may refer them to the CEO for investigation, if deemed appropriate, or lead their own investigation.

The CEO, SID or Chair may appoint an investigating officer which could be an ISHA director, manager or an independent third party.

Within ten working days of a concern being reported, the person raising the concern will be contacted by the investigating officer in writing to:

- Acknowledge that their report has been received
- Inform them of how ISHA proposes to deal with the matter
- Whether further information is needed

If a meeting is arranged to discuss the concern in further detail, the person reporting the concern may also invite a colleague (or trade union representative in the case of employees) to be present. The investigating officer will write a summary of any meetings which will be agreed by both parties. Once the internal investigation is concluded, the investigating officer will submit a written report to the person responsible for leading the investigation (CEO, SID or Chair) who will determine what action, if any, should be taken. This may include referral to the police or another external agency for further investigation.

In the event that the investigation results in criminal or disciplinary proceedings, the whistleblower may be required to attend a hearing and ISHA will offer support with this.

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Where reasonably practical, the internal investigation should be concluded within one month. ISHA will keep the whistleblower informed of any delays. Subject to any legal constraints, the whistleblower will be informed of the overall outcome, which they will be required to keep confidential. If the outcome relates to disciplinary action of a colleague, the whistleblower may not be provided with specific details of the outcome.

Anyone found to raise a concern maliciously, vexatiously, in bad faith or with a view to personal gain may be subject to disciplinary action, which could result in dismissal.

8. RAISING CONCERNS EXTERNALLY

The aim of this policy is to provide whistleblowers with assurance to raise concerns with ISHA directly. In most cases the whistleblower should not find it necessary to alert anyone externally. The law recognises that in some circumstances it may be appropriate for the whistleblower to report concerns to an external body such as the police, or a regulator.

If the whistleblower does not feel that this is appropriate, or if they feel the issue has not been dealt with satisfactorily, they may raise concerns with ISHA's prescribed contacts which are:

- ISHA's external auditor
- The police
- Trade union
- The Health & Safety Executive
- HMRC
- Financial Conduct Authority
- Other relevant bodies prescribed by legislation – such as the Regulator of Social Housing

This policy does not override workers' legal rights to make a disclosure to certain prescribed persons or bodies under the Public Interest Disclosure Act 1998.

For further information on making a disclosure to a prescribed body, it is recommended that whistleblowers contact the charity Protect first for advice.

9. INDEPENDENT ADVICE

If any individual is unsure whether to raise a concern under this policy or if they want independent advice at any stage, they should contact:

- their trade union (if applicable), or
- Protect, an independent charity, <https://protect-advice.org.uk/> e-mail: whistle@protect-advice.org.uk Tel: 020 3117 2520. Protect will be able to advise on how and with whom to raise a concern about malpractice.

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10. CONTACT DETAILS

CEO: Ruth Davison ruthd@isha.co.uk

Chair: Mervyn Jones mervynj@isha.co.uk

SID: Justin Fisher justinf@isha.co.uk

PRESCRIBED BODIES

External Auditors:
Beever & Struthers
150 Minories
London EC3N 1LS

Regulator of Social Housing:
www.gov.uk/government/organisations/regulator-of-social-housing
enquiries@rsh.gov.uk
Tel: 0300 124 5225

The Health & Safety Executive (HSE)
Tel: 0300 003 1647
Online: <https://www.hse.gov.uk/contact/index.htm>

HMRC
Tel: 0800 788 887
www.gov.uk/government/organisations/hm-revenue-customs/contact/reporting-tax-evasion

The Financial Conduct Authority
Tel: 020 7066 9200
Email: whistle@fca.org.uk

A full list of prescribed bodies and contact details can be found on the [gov.uk website](http://gov.uk).

11. MONITORING AND REPORTING

The CEO (or SID or Chair where relevant) will inform the Audit & Risk Committee or Board of any concerns raised under this policy which are under investigation at the next Board/Committee Meeting, or sooner by email for serious concerns.

The CEO will be responsible for advising the Board if the incident is reportable to the Regulator of Social Housing. The decision will consider the amount of financial or reputational damage to the

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association that could arise as well as whether there has been a material breach of the Governance and Financial Viability Standard.

Following the investigation, a confidential report (excluding the names of any individuals raising concerns) will be presented to the next Board/Committee meeting to assess whether appropriate action has been taken and whether internal controls are satisfactory. The report should include:

- The circumstances of the concern
- Any loss sustained by ISHA
- Action(s) taken
- The adequacy of internal controls, systems, and procedures
- Recommendations on further action(s) to be taken including any changes in systems and procedures
- Any reporting of the matter to appropriate government bodies or regulatory agency

An annual summary and any learnings from whistleblowing concerns raised will also be included in the CEO's Annual Internal Controls report.

12. HEALTH AND SAFETY

Failure to comply with existing legal or regulatory obligations on health and safety as well as conduct which poses a danger to the health and safety of an employee or member of the public has been considered in this policy. Contact details for the Health and Safety Executive as a prescribed body for external reporting have been included.

13. EQUALITY AND DIVERSITY

ISHA is committed to equal opportunities and fair treatment of all its stakeholders. Individuals raising concerns under this policy will be treated fairly and free from discrimination or victimisation.

14. TRAINING

ISHA will ensure that all staff, board members and involved residents are made aware of this policy and that managers understand how to recognise and report disclosures. The policy will be made available through staff inductions and through ISHA's intranet and website. Training for all staff will be provided on an annual basis. ISHA will ensure that any staff leading whistleblowing investigations are suitably trained.

15. DATA PROTECTION CONSIDERATIONS

All records relating to concerns raised and any investigations conducted under this policy will be held confidentially by the CEO.

16. STATUTORY AND REGULATORY FRAMEWORK

Public Interest Disclosures Act 1998

Employment Rights Act 1996

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17. REVIEW

The Audit & Risk Committee is responsible for reviewing and approving this policy every three years, or sooner if legislation changes.

18. ASSOCIATED DOCUMENTS

Fraud Policy

Anti-Money Laundering Policy

Financial Regulations

Safeguarding Policy

Health & Safety Policy

Code of Governance

Code of Conduct

Gifts, Benefits and Hospitality Policy

Harassment at Work and Bullying at Work Policy

Data Protection Policy

Disciplinary Procedure

Grievance Procedure

Department for Business, Innovation and Skills, Whistleblowing Code of Practice (2015)

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Appendix A

Definition of “Worker”

A "worker" is defined by section 230(3) & 43K(1)(a)(ii) Employment Rights Act 1996 as: "an individual who has entered into or works under (or, where the employment has ceased, worked under):

- a contract of employment; or
- any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or personally perform any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual; or
- agency workers and individuals supplied via an intermediary, provided that the terms of engagement are not substantially determined by the workers themselves but instead by the person for whom they work."

Public Interest Disclosure Act

This act, sometimes known as the “Whistleblowers Act”, came into effect on 02 July 1999. It protects workers who raise concerns in a responsible way and encourages employers to respond appropriately. Its main purpose is to protect employees who disclose information about their employer, which might otherwise be regarded as confidential, from detrimental action. It is aimed at encouraging people to raise concerns about malpractice in the workplace.

The Act provides for compensation for whistleblowers, who have been unfairly dismissed; it uses the term workers rather than employees and covers third parties such as sub-contractors and agency staff. Board members who are remunerated and have a board services agreement are generally considered workers for employment law purposes. However, this has never been confirmed by a court or Tribunal.

The Act does not presently extend to volunteers such as involved residents. However, ISHA considers as a matter of policy that volunteers should also have a mechanism available to them whereby, they can raise concerns about possible malpractice or wrongdoing without leaving themselves open to possible victimisation (see section 5 of this policy).

Section 103a of the Employment rights Act 1996 makes it automatically unfair to dismiss a worker for making a ‘protected disclosure’, even if they have less than 12 months’ service.

A disclosure must be made in the public interest to be protected under the PIDA.

Protected disclosures must be:

- Disclosures of information (facts, not allegations)
- Qualifying’ disclosures
- Made in accordance with the permitted methods of disclosure (to a prescribed body)

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Qualifying disclosure

This is a disclosure that – in the reasonable belief of the individual making it- reveals genuine concerns about:

- An actual or potential criminal offence
- A failure to comply with a legal obligation, such as negligence, breach of a contract or breach of administrative law
- A miscarriage of justice
- Danger to the health and safety of any individual
- Damage to the environment
- Deliberate concealment of any matter falling within any one of the above

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