



Homes & Communities Agency

HCA WHISTLEBLOWING POLICY

GUIDANCE FOR HCA STAFF WHO HAVE CONCERNS and FOR MANAGERS WHO RECEIVE CONCERNS FROM STAFF

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1.0 INTRODUCTION

The HCA is a complex organisation, we face multiple risks and things can therefore sometimes go wrong. We welcome the opportunity to deal with issues as early as possible and minimise the damage that could be caused. The first people to be aware that something has gone wrong are normally members of staff who are therefore best placed to raise concerns and we must all be prepared to listen when matters are raised.

Whistleblowing is the term used for the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others.

Effective whistleblowing arrangements are a key part of good governance. A healthy and open culture is one where people are encouraged to speak out, confident that they can do so without adverse repercussions, confident that they will be listened to, and confident that appropriate action will be taken. This revised HCA Whistleblowing policy should give all our staff the confidence to speak out, whether to their line managers, to me or to the independent contacts listed within the policy.

There have been a number of public scandals in recent years which have severely damaged the reputation of certain organisations. Many of these could have been dealt with earlier, if the organisations involved had listened to their staff, who were raising concerns that something was fundamentally wrong.

Therefore I encourage all of you to read and implement this policy whatever your role within the organisation. For colleagues in the Regulation function there is an additional policy when receiving concerns about Registered Providers (Whistleblowing About Registered Providers).

Andrew Rose
Chief Executive

2.0 PURPOSE AND AIMS OF THIS POLICY

Why does the HCA have this policy?

The Homes and Communities Agency (HCA) is committed to the highest standards of quality, probity, openness and accountability. As part of that commitment, the Agency encourages employees or others with serious concerns about any aspect of our work to take appropriate action by coming forward and expressing those concerns. In many cases, staff may have concerns that can be dealt with informally, through a discussion with their line manager or another member of staff. If however a staff member has a serious concern it should be dealt with under this policy. What is a serious concern is a matter of judgement, but if either the staff member or the line manager feels the matter is serious, then they should refer to this policy.

The Agency also recognises that staff may wish to come forward on an anonymous basis. We want to make it clear that you can raise a concern internally or externally, by following appropriate procedures, without fear of reprisal or victimisation and the Public Interest Disclosure Act 1998 provides adequate protection for those who voice genuine and legitimate concerns.

This policy underlines our commitment and support for those that come forward to express their concerns. The Agency relies on people coming forward to help the HCA improve our practices and be transparent, open and accountable. All staff should be aware of the importance of preventing and eliminating wrongdoing at work and should be watchful for illegal and unethical conduct.

The Agency understands that sometimes staff may feel unable to raise concerns internally and may want to contact an outside body. However it is expected that most staff will be able to raise concerns internally and they can be dealt with in a satisfactory manner, which is why this policy includes guidance for staff who raise concerns internally and guidance for staff who receive concerns. The term 'Whistleblowing' has been used to cover all instances where staff raise serious concerns, regardless of whether they are raised internally or externally.

Within this policy you will find guidance on what whistleblowing actually is, how you can blow the whistle and how the law can protect you if you are treated badly because you whistleblow. There are also contact details of people you can approach if you want to raise concerns with someone other than your line manager. An Appendix to this policy provides detailed guidance to staff and managers about what to expect when you raise a concern and our procedures for dealing with the issues raised.

The Agency understands that to even consider whistleblowing can be daunting but it can have a hugely beneficial impact on the HCA as an organisation and may genuinely help to protect our staff, as well as others such as tenants and landlords.

The HCA may also receive whistleblowing concerns from members of the public regarding Registered Providers. The HCA has a separate policy to cover this.

For more information about this policy please contact the HCA Head of Risk and Assurance Services.

Aims of this Policy

- a) To deter serious malpractice
- b) To promote a working environment where employees can feel safe to raise concerns without fear of being seen as troublemakers and to encourage freedom of speech without staff being subject to any detriment, including victimisation and disciplinary action up to or including dismissal
- c) To promote the use of effective, internal mechanisms in order to prevent concerns being publicly disclosed with all the resultant negative publicity when the issues could have been resolved at an early stage internally
- d) To encourage staff to report their concerns as soon as possible in the knowledge that their concerns will be taken seriously and investigated appropriately, and that their confidentiality will be respected
- e) To provide staff with guidance as to how to raise those concerns
- f) To provide managers with guidance on what do if they receive concerns from staff
- g) To promote accountability throughout the HCA.

3.0 DEFINITION OF WHISTLEBLOWING

What is whistleblowing?

Whistleblowing is the term used when someone raises a concern about a possible fraud, crime, danger or other serious risk at their place of work, which could affect its staff, the public or the organisation itself.

Some people perceive the term whistleblowing as implying that someone has made such concerns public, or gone to the press. As explained in this policy, the HCA hopes that staff will feel able to raise concerns internally in the vast majority of cases, however this does not mean that matters will be taken any less seriously.

Concerns that staff may have, which would be dealt with under this policy could include the following (please note this list is not exhaustive):

- a) Criminal activity (an offence has been committed or is likely to be committed) which could include Fraud or Attempted Fraud
- b) A failure to comply with a legal obligation, such as the HCA's obligations under Equality and Diversity legislation
- c) A miscarriage of justice
- d) A danger to health or safety
- e) Damage to the environment
- f) Unauthorised disclosure of confidential information
- g) Deliberate breach of delegations
- h) Acting without authority
- i) An attempt to cover up any of the above.

Other words to describe acts that can be the subject of whistleblowing may include 'impropriety', 'malpractice' and 'wrong doing'.

What is not likely to be whistleblowing

Whistleblowing is unlikely to relate to complaints or grievances about an individual's circumstances or the way they have been treated at work, e.g. employment disputes.

In addition a complaint about the service provided by the organisation is unlikely to be whistleblowing.

These concerns are important however and should instead be addressed under the relevant HCA policies. (Please see Appendix 3 'Links with other policies').

4.0 WHO DOES THIS POLICY APPLY TO

This policy is for all individuals working at the HCA including, Board and Committee members, senior managers, officers, directors, employees, consultants, contractors, trainees, home workers, agency workers, volunteers, part time and fixed term workers (collectively referred to as 'staff' in this policy).

5.0 PROTECTION AND SUPPORT FOR WHISTLEBLOWERS

Working arrangements

It is understandable that a whistleblower may be worried about coming forward for fear about possible repercussions. The HCA will help to accommodate any needs that may arise in relation to a whistleblowing disclosure as far as possible. For example you may request special leave, ask to change line manager, request work/information barriers be placed between you and the person(s) you have concerns about or any other suitable option. The most appropriate course of action will vary according to the issue raised and decisions will be made on a case by case basis. Please see section 7 – 'What can you expect if you raise concerns at the HCA' for more information.

Legal protection

If you find that you have been treated badly because you blow the whistle, there is a law which offers protection in certain cases. The Public Interest Disclosure Act 1998 (PIDA) is known in the UK as the 'whistleblowing law'. This Act provides that someone who whistleblows must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes disciplinary action, threats, being isolated or other unfavourable treatment connected with raising a concern. In addition the law provides protection for those that have been dismissed because they have made a whistleblowing disclosure.

If you believe that you have suffered any such treatment, you should first raise it with HR under the appropriate Disciplinary and Grievance Procedures within your terms and conditions.

Protection under PIDA applies where an individual genuinely believes that certain practices (whether past, present or future) fall within any of the following definitions, and the disclosure is in the public interest:

- A criminal offence has been committed or is likely to be committed
- A failure to comply with legal obligations
- A miscarriage of justice
- A danger to health and safety
- Damage to the environment
- An attempt to cover up any of these.

Disclosures will be protected where the person making the disclosure:

- Raises concerns internally
- Raises concerns with the relevant Government Minister
- Makes disclosures to prescribed persons such as the HSE, HMRC, the National Audit Office and certain regulators
- Makes wider disclosures (which could include to the media, MPs or the police) where the matter:
 - is exceptionally serious
 - is not raised internally or with a prescribed regulator, because the person reasonably feared that he/she would be victimised
 - is not raised internally because the person reasonably believed that there would be a cover-up and there is no prescribed person
 - was raised internally or with a prescribed person but was not dealt with properly.

Such wider disclosures must be reasonable in all the circumstances and the whistleblower must be able to show a reasonable belief that the disclosure was made in the public interest.

Support available for whistleblowers

Public Concern at Work (PCAW) is a charity that offers a free and confidential advice line to staff considering whistleblowing.

PCAW offers confidential advice to people who witness wrongdoing at work but are not sure whether or how to raise their concerns. They will help you identify how best to raise your concerns whilst minimising any risk to you and maximising the opportunity for any wrongdoing to be addressed.

Further information can be found in the contacts section.

The HCA also has an Employee Assistance programme, where staff can seek confidential independent advice and support.

6.0 CONFIDENTIALITY

The Agency knows that it is never easy to report a concern, particularly one that may relate to fraud, bribery or corruption. We urge you to come forward with any concerns at an early stage, and before problems have a chance to become serious.

If you prefer, we are happy for you to come forward with another colleague, staff side representative or other advisor to report a concern.

The Agency will support concerned staff members and protect you from reprisals or victimisation. If you come forward with a concern, you can be confident that this will not affect your career, or your enjoyment of your job. This applies equally if you come forward in good faith with a concern that turns out later not to be justified.

If requested to, the Agency will do anything it can to respect your confidentiality; however it cannot guarantee your anonymity.

If anyone tries to discourage you from coming forward to express a concern, it will be treated as a disciplinary offence. In the same way, anyone who criticises or victimises you after a concern has been expressed will also be dealt with under the appropriate policy.

The Agency's procedures require that you do not disclose confidential, false or misleading information. In considering taking a concern outside the Agency you should be aware of your duty of confidentiality and ensure that the matter is raised without confidential information being divulged. There is no official definition of what constitutes confidential information (however a reasonable working practice is whether the information would be withheld under one of the exemptions set out in the Freedom of Information Act 2000). However if staff are unsure about confidentiality they should in the first instance assume that the information is confidential and then seek advice. Such advice can be obtained from the Head of Risk and Assurance Services, the Head of Internal Audit, or the Head of Risk and Procurement.

7.0 WHO TO RAISE CONCERNS WITH

Reporting your concerns internally

In the first instance you should privately approach your line manager or Director and explain what it is that is causing you concern and provide any evidence you have. Alternatively you may wish to put your concerns to them in writing by letter or email.

If you feel unwilling or unable to raise the matter with your line manager, for example because they are unavailable, are the subject of the concern, or you do not feel they will investigate thoroughly and impartially; you can raise your concerns with the Head of Internal Audit, or alternatively the Chief Executive.

A report may also be made to a specific member of the HCA Board who has been designated for the purpose.

Reporting your concerns externally

We would strongly encourage you to raise your concerns with the HCA in the first instance, in order that we can be given an opportunity to put matters right. If you feel unable to do this, you can raise your concerns with an external body, examples of which are provided below.

You should privately approach the external person/organisation and explain what is it that is causing you concern or you could write down your concerns and send it to the person with any evidence you have.

External people/organisations you could approach:

- **DCLG Sponsoring Department** - You may wish to discuss your concerns with the designated official at DCLG.
- **A Government Minister** - As a public sector employee you are entitled to raise your concerns with a government minister.
- **The National Audit Office (NAO)** - The NAO are what is called a 'prescribed body' under the Public Interest Disclosures Act 1998. They have responsibility for responding to concerns about public businesses in England, this includes about value for money, fraud and corruption in providing centrally funded public services.

8.0 WHAT CAN YOU EXPECT IF YOU RAISE CONCERNS?

The disclosure

This section of the policy provides an overview of what to expect if you raise a concern at the HCA, it should be read in conjunction with Appendix 1 - 'Guidance for people receiving concerns'.

If you raise a concern, it will be looked into carefully, thoroughly and in a timely manner. The Agency will be fair to you, but also to any others involved. If someone is potentially being accused of misconduct, they have to be allowed to give their side of the story as well. In any investigation, the Agency will respect any concerns you have expressed about your own safety or your work/career at the HCA.

If you request it, you will be given the results of our investigation, where possible and about any action that is proposed. However, in doing this, the Agency has to respect the confidentiality of other staff as well.

Investigation and report

The action that will be taken by the Agency will depend on the nature of the concern. Management may investigate the matters raised, by internal enquiry or through the disciplinary process. Alternatively, they may be subject to independent enquiry. Relevant matters may also be subject to investigation by the police or other appropriate body. However, in order to safeguard both the Agency and individuals, initial enquiries will be made to determine whether the commitment of resources to any form of investigation would be appropriate. These initial enquiries would also assist in determining the most appropriate process for the consideration of the concern. Any necessary action that is required urgently would be carried out ahead of any assessment/investigation process.

Concerns or allegations raised, which fall within the scope of established procedures, will be referred for consideration under those procedures which are included in an Appendix to this policy. Any concern which relates to

Fraud should always be reported to the Head of Internal Audit and staff should ensure that they also follow the HCA's Fraud policy.

A referral of a concern will be acknowledged within seven days, with an indication of how the Agency proposes to deal with the matter and likely timescale. If it is not possible to complete the initial enquiries within the seven days, the letter of acknowledgement will explain. If a decision is made not to investigate, the reasons will be given.

Some matters may be investigated without the need for initial enquiries to be made. Similarly, some concerns may be capable of resolution by agreed action without the need for investigation.

The level of contact between you and whoever is considering the issues will depend on the nature of the matters raised, the potential difficulties involved as well as the clarity of the information provided. Further information may be sought from you.

The Agency will take appropriate steps to minimise any difficulties that you may experience as a result of using this policy.

You will be given as much information as possible on the outcomes of the investigation, subject to the constraints of the Agency's duty of confidentiality to service users, staff or Board members or any other legal constraint. The objective of the various responses would be to assure you that the matter has been addressed.

If you have abused the whistleblowing process, for instance by maliciously raising unfounded allegations, it will be treated as a disciplinary matter. But no one who comes forward in good faith has anything to fear.

If you are not satisfied

While the Agency cannot always guarantee the outcome you are seeking, it will try to deal with your concern fairly and in an appropriate way. By using this policy you can help achieve this.

If you are not happy with the way in which your concern has been handled, you can make a formal complaint under the HCA's complaints procedures. Alternatively you could consider reporting your concern to an external body as outlined in the Public Interest Disclosure Act.

Your complaint will be considered by a Board sub-committee. They will decide whether or not the issues you have raised have been dealt with appropriately and where possible will make recommendations about redress.

Appendix 1 GUIDANCE FOR PEOPLE RECEIVING DISCLOSURES

It can be very difficult for a member of staff to gather the courage to speak up when something isn't right (whistleblow) about the HCA. If someone raises concerns with you, you should take their concerns very seriously and be responsive to their needs.

It is important that you have read and understood this policy so that you are prepared for anyone that might raise a concern with you.

Receiving a concern

If someone raises a serious concern that falls under this policy to you, make a list of questions that you may wish to ask them to get a clear idea of the situation and remember to be sensitive to the person whilst they make the disclosure. Below is a list of potential questions.

- Who are all the parties involved? (Currently and previously).
- How long has this been an issue?
- How many times has it happened?
- Do they have any relevant documents/communications?
- Do they know who has been affected?
- Is there any immediate risk?
- Does anyone else know about this?

It may be necessary to act quickly to prevent the problem getting worse before investigating the matter further, for example if you receive a report about a chemical spill on HCA owned land, the first priority might be to stop the problem getting worse before investigating how it happened.

After you have received a disclosure write a detailed note of what the person said including relevant dates and names of all the people involved. Then ask the person who made the disclosure to check over this to confirm you have made an accurate note of the disclosure.

If it is necessary to get more information, so that you can investigate the matter thoroughly, then you could arrange a meeting with the person who made the disclosure. When arranging this meeting you must inform the person that they are allowed to bring a work colleague or union representative and please remember to be sensitive in your communications.

If the person raising the concern has decided to remain anonymous, this should be respected and should not affect whether the concerns are investigated. You should do anything you can to respect their confidentiality.

You should reassure the person that they have done the right thing by bringing the matter to your attention.

You should ask whether they have any concerns about what might happen if it is known that they have whistleblown, for example they may request special leave, ask to change line manager, or request work/information barriers be placed between them and the person(s) they have concerns about.

If the person raises these or similar requests you should discuss them with your HR Manager as soon as possible and the Agency should do whatever it can to protect

the whistleblower. The Agency has a statutory obligation to prevent any bullying or harassment of the whistleblower.

What to do with the information you have been told – consultation & investigation

Following this meeting you should consult on the information you have gathered with an appropriate individual/team/someone from HR/someone from the legal team/your line manager. Please remember to be sensitive about the identity of the person(s) who you are investigating and the person who made the allegation: the allegations may not be true, or if true might have a significant impact on the individuals concerned.

If the concerns include an allegation of Fraud, then the Head of Internal Audit must be notified in accordance with the HCA Fraud Policy, who will then determine the process going forward.

The purpose of this consultation is to decide the following:

- Are you the appropriate person to conduct the investigation?
- What team does this affect? Whose assistance might you need to conduct an investigation?
- Who will be the decision maker?
- What realistic timescales can be set?
- Are there any immediate risks?
- What are the potential outcomes of an investigation?
- Is it necessary to enlist the help of an external investigator?
- What may be the cost/resource implications?
- How will the investigation be recorded/administered?
- Does the CEO/CLG/press team need to be informed?

It is strongly recommended that this consultation is documented in writing including who was involved in the consultation.

If following the consultation it is decided not to investigate the matter, you should write a detailed note including the reasons why the issue was not investigated. You should also inform the person who whistleblowed in writing.

If following the consultation it is decided that the matter will be investigated then the terms of the investigation should be set and the investigation should be carried out promptly. It is really important that key decisions and outcomes are documented throughout the investigation process.

Investigation report and actions to be taken

Following the investigation a report should be produced. This should contain:

- An outline of what the issue was,
- How it was investigated (methodology),
- Who investigated it,
- The outcome (including evidence and reasons) and
- Recommended actions resulting from the investigation.

All investigation reports should be sent to the Head of Internal Audit, who will consider how to prevent future recurrences and may refer the matter to the Audit and Risk Committee if appropriate.

The person who made the disclosure should be informed that the matter will be investigated, the outcome of the investigation and what will happen as a result of the disclosure if they request this.

Appendix 2 IMPORTANT CONTACTS

In the first instance the Agency would advise you to raise your concerns with your line manager, however, you may wish to speak to or seek advice from the following:

Internal Contacts

Chief Executive	mail@homesandcommunities.co.uk
Head of Internal Audit	mail@homesandcommunities.co.uk
Designated Board Member (Chair of the Audit and Risk Committee) [Suggested that concerns are also made in writing to prevent emails being lost within a junk folder]	mail@homesandcommunities.co.uk Chair - Audit and Risk Committee Homes and Communities Agency Fry Building 2 Marsham Street London SW1P 4DF

External Contacts

Public Concern at work	020 7404 6609
Employee Assistance Programme	0800 289316
Department for Communities and Local Government	Deputy Director DCLG Fry Building 2 Marsham Street London SW1P 4DF
National Audit Office	The Comptroller and Auditor General 157-197 Buckingham Palace Road Victoria London SW1W 9SP

Appendix 3 LINKS WITH OTHER HCA POLICIES AND PROCEDURES

If your concern is not covered by this policy, it may be covered by one of the following HCA policies and procedures. The HCA's key ethical policies can be found on the HCA's website www.gov.uk/HCA.

Complaints

The HCA's complaints procedure is designed to address any failings in service provided by the HCA. The HCA's full policy can be found on the HCA's website www.gov.uk/HCA.

Grievances

The HCA's grievance procedures provide a mechanism for individuals to resolve any problems or concerns about their work, working environment or working relationships where informal routes have not been successful.

The grievance procedure is included in your terms and conditions of employment.

Fraud Response Plan and Policy

The plan forms the basis of how fraud or suspected fraud cases should be handled from within HCA. All staff should read this document and be aware that we all have a responsibility in fraud prevention.

Anti-bribery and Corruption Policy

The HCA adopts zero tolerance to bribery and corruption.

Receiving whistleblowing about Registered Providers

The HCA has a separate policy for dealing with allegations and whistleblowing from members of the public about Registered Providers.