



# WHISTLEBLOWING POLICY

## AUGUST 2021

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## 1. Introduction

- 1.1 SW9 is committed to ensuring that it, and the people working for it, comply with the highest standards of openness, honesty, and accountability.
- 1.2 SW9 encourages its people to whistleblow within the context of this policy and will support and protect those who do.
- 1.3 There is an onus on staff who wish to whistleblow to bring issues of concern to the attention of the organisation as soon as possible so that the necessary actions may be taken immediately.
- 1.4 SW9 recognises that it is important to address potential whistleblowing issues quickly in order resolve matters as soon as possible. As a result, we will ensure that all whistleblowing matters are dealt with promptly and without unreasonable delay.
- 1.5
- 1.6 This policy is written in the context of the Public Interest Disclosure Act 1998 and other legislation which protects employees who 'blow the whistle'.
- 1.7 The U.K. Government defines you as a whistleblower if:
- You're a worker and you report certain types of wrongdoing. This will usually be something you've seen at work - though not always.
  - The wrongdoing you disclose must be in the public interest. This means it must affect others, for example the general public.
  - As a whistleblower you're protected by law - you should not be treated unfairly or lose your job because you 'blow the whistle'.
  - You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future.
- 1.8 This policy may also be used by officers of SW9 such as Board/Committee members and other individuals performing functions on behalf of SW9 (such as agency workers, contract staff, contractors, and volunteers), to report issues of concern.
- 1.9 This policy covers the actions of third parties such as suppliers, service providers, and clients, as well as our staff. Should you have concerns about a third party, you are encouraged to raise them with us before approaching anyone else.

## 2. What is whistleblowing?

- 2.1 Whistleblowing is the disclosure of information which relates to suspected wrongdoing; generally, unethical, immoral behaviour or a breach of a legal, statutory or regulatory requirement. This could include incidences of fraud, malpractice and corruption, the definitions of which are included at Appendix 1.
- 2.2 Personal grievances (e.g. bullying, harassment, discrimination) are not covered by whistleblowing law, unless your case is in the public interest. These should be reported to the Chair or Vice Chair in the first instance.

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2.3 If, you wish to make a complaint about your own employment or treatment at work, please refer to the following policies:

- Grievance Policy
- Dignity at Work Policy
- Equality & Diversity Policy

2.4 A list of examples of concerns that fall within the scope of this policy are detailed in Appendix 2.

2.5 Personal grievances (e.g. bullying, harassment, discrimination) are not covered by whistleblowing law, unless your case is in the public interest.

2.6 If you are uncertain about whether something is within the scope of this policy, you should seek advice from the Company Secretary. If you wish to seek confidential advice about this policy, please contact HR.

2.7 It is not necessary for individuals to prove the alleged wrongdoing has occurred or is likely to occur, but they must believe that it is in the public interest to raise their concern(s). However, if it is concluded that an individual knowingly or maliciously has made false allegations or with a view to personal gain, SW9 will take appropriate disciplinary action against them. It may constitute gross misconduct.

## 2.8 What are your responsibilities?

2.8.1 SW9 is committed to running the organisation in the best way possible and to do so we need your help. This policy is designed to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you have about the issues mentioned above at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern. All employees are expected to report the following:

- Any breaches of the code of conduct or policies
- Any actions which might call into question the integrity of SW9
- Any potential fraud or misuse of SW9's assets
- Abuse or neglect of vulnerable people
- Bullying, discrimination, harassment or victimisation in the workplace, or
- Any other impropriety

2.8.3 Former employees may also use this process to raise concerns about the matters set out above.

2.8.4 You may also seek general advice about the policy from HR.

2.8.5 Staff are expected to understand their obligations under the Code of Conduct Policy (Employees) when using this policy.

## 3. Protection

### Protected Disclosures

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- 3.1 An individual member of staff making a ‘protected disclosure’ is given protection from victimisation under the UK Public Interest Disclosure Act 1998 (PIDA), provided the disclosure is in the public interest.
- 3.2 For a disclosure to be protected by the Act’s provisions it must relate to matters that qualify for protection under the Act. Qualifying disclosures are disclosures which the individual reasonably believes show that one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:
- a criminal offence;
  - the breach of a legal obligation;
  - a miscarriage of justice;
  - a danger to the health and safety of any individual;
  - damage to the environment; and
  - deliberate concealment of information relating to any of the above.
- 3.3 A qualifying disclosure to SW9 or the Regulator will be a ‘protected’ disclosure provided the individual has made the disclosure:
- in good faith;
  - in the reasonable belief that information and allegations are substantially true;
  - not for personal gain;
  - in the belief that evidence may be concealed;
  - in all the circumstances, is made reasonably.
- 3.4 Certain instances of wrongdoing, as described in Appendix 2, may not constitute a protected disclosure.
- 3.5 Staff are encouraged to raise their concerns with SW9CH in the first instance. Although SW9 CH recognises that staff may feel more comfortable raising their concern with an external body.
- 3.6 If you are unsure on this point you can seek independent advice. (See ‘Who to contact outside of SW9 Community Housing to raise a concern’ section below.)
- 3.7 The legislation protecting individuals who make a protected disclosure applies to employees and also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them.

#### 4. How to raise a concern

- 4.1 As a first step, you should normally raise concerns with your immediate line manager or his/her manager. This depends, however, on the seriousness and sensitivity of the issues involved. For example, if you are not able to approach your manager or his/her manager because you believe they are involved, you should report your concern in confidence to any of the people named below directly.
- Executive Director
  - Chair of the Board

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- Nominated Board Member
- Company Secretary

4.2 On receiving a report any of the above people have a duty to inform the Executive Director or Company Secretary who will also report any such concerns to the Finance, Risk and Audit Committee. The Executive Director and the Finance, Risk and Audit Committee have a strategic responsibility for overseeing this policy and for ensuring that a central log of concerns raised (in a form which does not endanger confidentiality) are created and maintained.

4.3 In all cases, the earlier the concern is raised the easier it is to take action. Concerns may be raised verbally or in writing. If you wish to make a written report it is suggested that you use the following format:

- provide information on the background and history of the concern (giving relevant dates)
- explain the reasons why you are particularly concerned about the situation
- provide any evidence to support your disclosure

## 5. How we will respond

5.1 All concerns raised will be treated in confidence and will be managed fairly and impartially.

5.2 Where more details may be required to determine if an investigation is required, we may ask follow up questions.

5.3 Where additional support is required (for example HR input), we may delegate this assessment to another department.

5.4 We will maintain your anonymity or confidentiality in this instance.

5.5 Where there is enough information to determine that an investigation shall be opened, we will inform the whistleblower within 48 hours.

5.6 Where there is not enough information to warrant an investigation or where the assessment finds no wrongdoing has occurred, the whistleblower will be notified within 48 hours and the concern closed.

5.7 If any urgent action is required, this will be taken before any investigation is conducted.

5.8 In some circumstances, the allegations may need to be referred to law enforcement agencies or regulators.

5.9 Where an investigation is initiated, it will be assigned to an appropriate internal resource (such as HR or Legal) or may be outsourced to an external investigator.

5.10 SW9 wherever possible, will seek to advise the whistleblower of the progress and outcome of the investigation. We are bound by the Data Protection Act 2018 and the Human Rights Act 1998 in respect of allegations relating to individuals and may not always be able to disclose information.

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- 5.11 If the concern involves the behaviour of a member of SLT, the Board Chair or Vice Chair, he or she should raise it with HR or the Company Secretary.
- 5.12 If your concern is reported to any of the nominated people listed within this policy, they may choose to delegate the matter to another manager within the organisation.

## 6. Investigation

- 6.1 Where an investigation is initiated, it will be assigned to an appropriate internal resource (such as management, internal audit, HR or Legal) or may be outsourced to an external investigator. Where appropriate the matters raised may:
  - be referred to the police
  - be referred to the external auditor
  - be referred to Network Homes as our parent company
  - form the subject of an independent inquiry.
- 6.2 You may wish to invite a work colleague to support you during any meetings or interviews you are required to attend after your concern has been raised.
- 6.3 Current employees are expected to co-operate with any investigation and to work constructively with those investigating. Failure to do so may mean that SW9 CH is unable to progress an investigation into concerns raised. Former employees may be invited to assist in any investigation.

## 7. Confidentiality

- 7.1 You may wish to whistleblow anonymously or in confidence. All concerns raised will be treated in a confidential and sensitive manner. The identity of the staff member making the allegation will be kept confidential so long as it does not hinder or frustrate any investigation. In some cases, the investigation process may require that the source of information is revealed or that the staff member making the disclosure provides a statement. If this is necessary, this be discussed with the staff member.
- 7.2 Raising concerns anonymously is not encouraged as proper investigation may be more difficult if further information cannot be obtained. Anonymous concerns will nevertheless be taken seriously and investigated as fully as possible. In exercising discretion to take anonymous concerns forward the factors to be taken into account include: the seriousness of the issues raised; the credibility of the concern; and the likelihood of confirming the allegation from attributable sources.
- 7.3 As well as the possibility that we may not be able to fully investigate the allegations, we will not be able to provide any feedback or ask follow-up questions and we may not be able to protect you from retaliation.
- 7.4 Where blowing the whistle in confidence, we will only share your identity with prior consent and will remove any identifiable characteristics (such as name, job title, sex, age). Where required by law we may have to share your information with law enforcement officials. In this case we will notify you in advance when able to.

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7.5 You are protected from reprisals under this policy (see section 9) but if you are still worried, we encourage you to discuss this with us.

## 8. Data Protection

8.1 Where an individual makes a disclosure, SW9 will process any personal data in accordance with its Data Protection Policy. Data collected from the point at which the individual makes the report will be held securely and accessed by (and disclosed to) individuals only for the purposes of investigating and dealing with the disclosure and any related performance management or disciplinary action.

## 9. How we protect and support whistleblowers

9.1 If you raise a concern in good faith under this policy, we will support you fully even if we find through our investigations that your concern does not constitute a whistleblowing matter. However, if you feel you have been treated detrimentally as a result of raising a concern, you must tell us at once. First inform your manager and, if the matter remains unresolved, you must follow the formal process in our grievance procedure.

9.2 SW9 takes a zero-tolerance approach towards any form of retaliation.

9.3 If you feel you are, or have been, retaliated against, inform your whistleblowing contact immediately.

9.4 Any employee who victimises a whistleblower could:

- be subject to an internal investigation and potential disciplinary action, including potential dismissal;
- face a civil claim personally, as the affected whistleblower could be entitled to directly issue a legal claim against the culprit

9.5 Where you have chosen to remain anonymous it may be more difficult to protect you.

9.6 SW9 subscribes to an Employee Assistance Programme (EAP) provided by Perkbox. Should you need any additional support, then Perkbox can offer expert advice, invaluable information, specialist counselling and support.

9.7 If you seek external guidance or support, you can contact Protect - An independent authority which seeks to ensure that concerns about malpractice are properly raised and addressed in the workplace. Contact details are on their website at <https://protect-advice.org.uk/> or you may also wish to contact your local Citizens Advice Bureau

## 10. Managers' role in the whistleblowing process

10.1 Managers who receive information under this policy will ensure they:

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- accept the initial approach from you in good faith, and never speak in a way that might lead you to believe they are defending the individual about whom the suspicions are raised or make threats, criticise or ridicule you
- make confidential and private surroundings available to receive your report or hear the concern
- give you a fair opportunity to explain your concerns
- write down the information you provide, including the date and time
- ask if your name can be recorded or if you wish to remain anonymous
- immediately consult with one of the people named in section 4 above as appropriate, depending on the situation, who may arrange for the matter to be brought to the Executive Director's, Board Chair/Vice Chair or Company Secretary's attention (if not already), as well as to be investigated
- provide you with a copy of notes from any meetings you attend
- put you in touch with a member of the HR team who will be able to offer you support whilst your concerns are investigated.

10.2 Never approach or accuse any individual about whom allegations are made (other than as appropriate as part of any investigation process).

## 11. Outcomes

11.1 Within 10 days of a concern being raised, the responsible person will write to you:

- acknowledging that the concern has been received, indicating how we propose to deal with the matter
- giving an estimate of how long it may take to provide a final response
- telling you whether any initial enquiries have been made
- telling you whether further investigation will take place and, if not, why not
- supplying you with information on employee support mechanisms.

11.2 The amount of contact between you and the person considering the issues will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, we may seek further information from you.

11.3 At the end of the process, subject to legal and confidentiality restraints, we will inform you of the outcome of any investigation. Sometimes however, we may be unable to give you details about the investigation (or any action it leads to) as we need to protect confidentiality. We understand this may be frustrating and may give you concerns about whether we have actually done anything and, if this happens, we will do our best to sit down with you and explain why we are acting in the way that we are. Your concerns will be addressed fairly, but we cannot guarantee the outcome of our investigations will be the one you want.

11.4 Where any meeting is arranged, this may take place away from your usual place of work if you wish.

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11.5 We will take steps to minimise any difficulties you may experience because of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, we will arrange for you to receive support and advice about the procedure.

## 12. Who to contact outside of SW9 Community Housing to raise a concern

12.1 SW9 would ask that all concerns are raised internally at first.

12.2 There may be urgent and exceptional circumstances, where you may feel it necessary to go to an external body — an industry regulator, for example. The following is a list of bodies to which protected disclosures may be made as set out in legislation in accordance with 9.1 above:

- By contacting the Charities Commission at: [whistleblowing@charitycommission.gov.uk](mailto:whistleblowing@charitycommission.gov.uk)
- Via: [government's prescribed persons list.](#)
- ACS – Company Secretary and Legal Advisors: [info@anthonycollins.com](mailto:info@anthonycollins.com)

## 13. Review

This policy will be reviewed every 2 years or sooner if any legislation changes occur.

## 14. Related documents

- Code of Conduct Policy
- Anti-Fraud; Bribery and Corruption Policy
- Gift and Hospitality Policy
- Dignity at Work Policy
- Equality & Diversity Policy
- Grievance Policy
- Disciplinary Policy
- Contract Procedure Rules
- Declaration of Interest
- Safeguarding Policy

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**WHISTLEBLOWING POLICY & PROCEDURE**

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March 2019	Anthony Collins	draft	Updated to ensure relevance to SW9 CH
February 2020	Anthony Collins	V1	Further updates after recommendations by HR & R Committee
August 2021	Sandra Brown, HR Advisor, Lisa Rae, Governance and Compliance Officer, ASC	Final.v2	Further recommendations from HR Committee Chair and ASC.

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## **Appendix 1 – Definitions of fraud, corruption and malpractice**

'Fraud': for the purpose of this policy refers to where an individual has undertaken, or intends to undertake, actions in order to obtain gain for him/herself or another, or cause loss to another, or expose another to risk of loss.

The term 'fraud' encompasses:

- i) Fraud by false representation;
- ii) Fraud by failing to disclose information;
- iii) Fraud by abuse of position.

Descriptions of the above can be found within the Fraud Act 2006.

'Corruption' for the purpose of this policy refers to an individual who has given or obtained advantage through means which are illegitimate, immoral, and/or inconsistent with their duty to the organisation or the rights of others. Examples include accepting bribes or incentives during procurement processes, seeking to influence others.

'Malpractice' for the purpose of this policy refers to actions which may be:

- iv) illegal, improper, or unethical;
- v) in breach of a professional code;
- vi) possible maladministration, fraud or misuse of public funds;
- vii) failure to comply with a legal obligation;
- viii) endangering of an individual's health and safety;
- ix) damage to the environment;
- x) deliberate concealment of information relating to any of the above; or
- xi) acts which are otherwise inconsistent with SW9's Code of Conduct, policies and procedures as relevant.

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## **Appendix 2: List of examples of concerns that fall within the scope of the policy**

- Theft of cash and other assets
- Any form of abuse of vulnerable adults, children or non-vulnerable adults e.g. abuse at work or at resident's property
- Fraud involving the conversion of SW9's funds for personal gain
- Staff or resident involvement or collusion in the illegal occupation or letting of the residential properties managed on behalf of Network Holmes (e.g. key selling)
- Corruption and/or collusion with contractors and other third parties to give or obtain a financial gain or other advantage
- Significant cases of unauthorised personal use of SW9's assets
- Malicious damage to SW9's assets including deliberate corruption or destruction of computer programmes and data
- Acceptance or payment of bribes
- Deliberate actions which are outside the authority of SW9 or SW9's Board or its committees to make
- Manipulation or falsification of reported information of performance, in order to mislead SW9 management, the Board or third parties
- False accounting (deliberate misstatement of statutory financial statements)
- Misuse or theft of intellectual property of SW9's (e.g. disclosure of sensitive information to third parties or competitors)
- Non-disclosure of conflicting interests and resulting gain
- Presentation of false qualifications and other personal information
- Breaches of health and safety regulations (e.g. not reporting serious incidents / falsifying safety records)

These are just examples and not an exhaustive list.

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