



THE ATRIUM GROUP

Whistleblowing Policy

Atrium Group Whistleblowing Policy

Compliant with Scottish Housing Regulator's Regulatory Framework:	Regulatory Standards 2.2, 2.5, 4.1, 5.1, 5.6 Guidance issued by SHR in February 2019
Compliant with Tenant Participation Strategy :	N/A
Compliant with Equal Opportunities:	Yes
Compliant with Business Plan:	Yes
Date Approved	May 2023
Date for Review:	May 2028 or earlier if updated guidance issued
Responsible Officer:	Chief Executive

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The Atrium Group comprises **Atrium Homes** a Registered Social Landlord with charitable status, and **Atrium Initiatives** a wholly owned commercial subsidiary.

1. Introduction and purpose

The Atrium Group is committed to the highest standards of openness, probity and accountability and has developed policies and practices that help guide our actions. Particularly relevant in this area, are our Codes of Conduct for Board and Staff, and our policies on gifts and hospitality, tendering, housing management, finance, equality and diversity and dignity at work.

The Atrium Group wishes to highlight to our tenants, our staff, local communities and various partners, that those who attempt to defraud us or who are reckless about our good reputation will be held to account.

The Atrium Group considers that our employees have a considerable contribution to make in the development of our organisation and ensuring a constantly improving quality of service. Their contribution can be ensured by good communications throughout the organisation enabling them to raise good ideas and concerns without fear or favour.

As employees are often the first to realise that there may be something seriously wrong, the Atrium Group expects those who have serious concerns about any aspect of the Atrium Group's work to come forward and speak up without fear of reprisal. Therefore, the Atrium Group recognises that it is an important aspect of accountability and transparency to provide a mechanism to ensure that no employee, Board member or stakeholder of the Atrium Group feels at a disadvantage in raising legitimate concerns.

The Public Interest Disclosure Act, 1998, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. These concerns must be made in the 'public interest' as per the Enterprise and Regulatory Act 2013.

Employers may also be held vicariously liable for workers who victimise colleagues for making a disclosure. The Atrium Group will take all reasonable steps to protect workers from being victimised.

All employees, Board members and stakeholders working for or acting on behalf of the Atrium Group are covered by this policy. The policy also applies to suppliers and those providing services under a contract within the Atrium Group.

If you are a customer, member of the public or other service user, you should raise any concerns regarding "Whistleblowing" directly with the Chief Executive, or in writing marked 'Private and Confidential' FAO the Chief Executive.

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2. Scope of policy

This policy is designed to enable employees of the Atrium Group to raise concerns internally and at a high level to disclose information that the individual believes shows malpractice or impropriety.

A number of related policies are already in place, including Dignity at Work, and Disciplinary and Grievance procedures and staff and Board codes of conduct. We also have a Notifiable Events policy in place and guidance from the Scottish Housing Regulator.

This policy is intended to cover concerns that are in the public interest and may (at least initially) be investigated separately, but may lead to the instigation of other procedures. These concerns might include:

- Financial malpractice, impropriety or fraud
- Falsifying records
- Failure to comply with a legal obligation or statutes
- Actions taken or planned that might seriously affect tenants
- Dangers to health and safety or the environment
- Breaches of confidentiality, including non-compliance with the General Data Protection Regulations (GDPR)
- Criminal activity involving the Atrium Group, its staff, Board members or stakeholders
- Professional malpractice
- Improper conduct or unethical behaviour
- Harassment, bullying and violence of any kind in the workplace – if it relates to public interest (personal grievances are not covered by whistleblowing law, unless the matter relates to public interest. These grievances may however be covered under other legislation such as the Equalities Act, etc)
- Failure to meet legal obligations
- Abuse of power or status
- Deliberate attempts to conceal any of the above

The above is not an exhaustive list but is intended to indicate types of behaviour and action that would be deemed unacceptable and relating to 'public interest'.

3. Legal framework

- Public Interest Disclosure Act 1998
- Enterprise & Regulatory Act 2013

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4. Safeguards

4.1. Protection

This policy is designed to offer protection to those employees of the Atrium Group who disclose such concerns provided the disclosure is made:

- In the public interest;
- To an appropriate person/body; and
- That the individual has reasonable belief in the validity of the concerns being raised.

The Atrium Group will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect the individual when they raise a concern with the above provisions acknowledged.

If an allegation is made in the belief that it is in the public interest to do so, but it is not confirmed by the subsequent investigation, no action will be taken against the whistleblower.

Given that a whistleblowing matter can be stressful for all involved, the whistleblower / relevant staff / Board member will be offered access to a counselling service.

Throughout any investigation, the whistleblower will be expected to continue the duties of their role as normal unless deemed inappropriate. If, however, continuing in their role may have a detrimental effect on the whistleblower or other staff, or the investigation, legal advice will be sought on the best course of action which complies with HR legislation.

4.2. Confidentiality

Any concerns raised will be treated in a sensitive manner. It is recognised that the whistleblower may wish to raise a concern in confidence.

Information / evidence in document form will have restricted access to it. We will ensure that all electronic documents are held securely in a cloud storage environment with restricted access.

The investigation approach will ensure that confidentiality is maintained as far as possible and all endeavours made to protect the identity of the whistleblower that raised the concern. This should be possible in the majority of cases. Thus, any document, report or recommendation prepared in relation to the matter will not identify the whistleblower unless:

- The whistleblower has consented to their identity being exposed in writing; or
- There is evidence to show that the whistleblower who raised the concern has acted maliciously; or
- There is a legal obligation to do so; or
- The information is already in the public domain; or

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- It is necessary for the matter to be dealt with properly or fairly; or
- It is on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

4.3. Anonymous allegations

A whistleblower may choose to raise concerns anonymously. It is preferable however that allegations are not made anonymously as it enables the matter to be investigated more fully.

This is however a matter of choice and depending on the concern raised, there may be occasions where a whistleblower may feel uncomfortable revealing their identity when making an allegation. Raising a concern anonymously is preferred to silence about potential wrongdoing.

If a concern is raised anonymously, it will be treated as credible unless it is obviously a hoax, and investigated as far as possible. The allegation will be considered at the discretion of the Chief Executive and / or the Chair. In exercising this discretion, factors we would take into account would be:

- The seriousness of the concern raised;
- The credibility of the concern; and
- The likelihood of confirming the allegations from an attributable source other than the anonymous source.

4.4. Untrue allegations

If an individual makes an allegation that is not confirmed by the subsequent investigation, it is probable that no action will be taken against them. However, if the individual makes an allegation that is deemed to be made 'in bad faith' i.e. frivolously, maliciously, vexatiously or for personal gain, disciplinary action may be taken against them and this may be up to and including dismissal.

It should also be noted that under the provisions of the Enterprise and Regulatory Act 2013, if a disclosure is not made in 'good faith' this will still be considered by an employment tribunal, but compensation can be reduced by up to 25% in such circumstances.

5. The process

5.1. Raising a concern

On receipt of a disclosure, the appropriate person will launch an investigation in line with the timescales set out below at 5.2.

Note: a whistleblower might not use the term "whistleblowing" however the individual who has been notified of the concern has a responsibility to define whether it is a whistleblowing matter (i.e. in the public interest) and if so, needs to be clear to the whistleblower that this is the case.

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The individual should raise concerns with their immediate line manager. This information will be passed immediately to the Chief Executive. Note that confidentiality will be maintained, provided that the concern does not relate to a senior officer – if the concern relates to a senior officer, the Chair will be informed. Where the concern relates to the whistleblower's line manager, the individual should speak directly to the Chief Executive.

Where a concern from a Board member has been reported directly to the Chief Executive, the Chief Executive will inform the Chair. If the concern relates to the Chair, the Chief Executive will advise the other office bearers. Any concerns will be investigated by the Chief Executive unless the allegations are against the Chief Executive or is in any way related to their actions. Where the concern is related to the Chief Executive, it should be addressed to the Chair of the Board who will in turn appoint an independent person to investigate the allegations.

Although the individual is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate that there are reasonable grounds for their concern.

The earlier the individual expresses their concern, the easier it is to action. The amount of contact between the persons considering the issues and the individual will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Atrium Group will seek further information from the individual concerned.

A meeting may be held with the whistleblower prior to full investigation. See Appendix 1 for an example of how a meeting note might look. Where any meeting is arranged, the individual can be accompanied by a representative and also have the meeting off-site if they wish.

From the start, all information relating to the concern will be recorded within a timeline report to ensure a robust record of the management of the concern has been fully documented. Access to this timeline report will be appropriately restricted. An example timeline report is at Appendix 2.

5.2. Timescales

Once a concern has been raised it will be formally acknowledged in writing within **3 working days** direct to the whistleblower by the Chief Executive (or the Chair if applicable).

A decision will be made by the Chief Executive (or Chair) on whether or not the concern warrants further investigation under the Whistleblowing Policy or any other policy as appropriate. It may also be decided that the matter should:

- Be referred to the police and / or the Scottish Housing Regulator; and / or
- Be referred to the external auditor; and / or

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- Be the subject of an independent external enquiry; or
- Have no further action taken.

In making a decision on the next step, it may be necessary (and advisable) to take legal advice.

In line with the Scottish Housing Regulator's Notifiable Events guidance, the regulator must be advised that a whistleblowing concern has been raised. Legal advice should be sought on what should, or should not, be divulged to the regulator and at what stage of the investigation the regulator should be apprised of this.

Within **10 working days** the Chief Executive (or Chair) will confirm in writing:

- How it is proposed that the matter will be dealt with;
- Whether investigations will take place, or if not deemed appropriate, and why this decision has been made;
- Give an estimate of how long it might take to provide a final response; and
- What support can be offered to the whistleblower raising the concern.

The aim will be to update the whistleblower on the progress of the concern within **20 working days** of it being raised, where possible. However, in the event of a formal investigation or the involvement of the police / external scrutiny, the whistleblower will receive sufficient information about the outcome of any investigation to enable them to be informed that the concern is being dealt with.

5.3. Reports to the Board

The Board as a whole will be advised that there is a whistleblowing concern that is being investigated, but no detail, only a summary, will be given. The level of information regarding the concern given to the Board and the timing of such information will be confirmed by our legal advisor.

5.4. Other considerations

- 5.4.1. A whistleblower might raise a concern and then 'back off' / change their mind / withdraw their allegation. In this instance, all evidence will be gathered and secured, and the investigation will continue to assess whether or not there is validity regarding the concern raised. After a concern has been raised, some whistleblowers decide that the investigation process might be too demanding or emotionally draining, etc. This however does not mean that the concern will be ignored; it will still need to be investigated, albeit without assistance or input from the whistleblower.
 - 5.4.2. It might be appropriate to secure evidence off-site. Legal advice should be sought regarding the removal of evidence, taking GDPR and other legislation into consideration.
 - 5.4.3. When assessing the evidence presented, consideration should be given to whether or not the evidence might have been tampered with.
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- 5.4.4. Who should be involved / told about the concern? An 'investigation communication protocol' will be agreed by the Chief Executive (and / or the Chair).
- 5.4.5. A concern relating to fraud (with the appropriate level of evidence) turns the matter into a criminal matter.
- 5.4.6. All meetings and discussions must be fully documented. All records of meetings must be signed by all attendees, to confirm that the document is a true record of the meeting. Consider using Appendix 1 attached. All documents should be stored securely.
- 5.4.7. Whistleblowing allegations may not be simple. For example, a situation could arise where a whistleblowing allegation is made by a member of staff or a Board member who is the subject of a disciplinary or investigatory hearing. The whistleblowing allegation may, or may not be, spurious. In this example the original action against the staff or Board member must still proceed, at the same time as the whistleblowing allegation is being considered or investigated. A whistleblowing allegation in itself should not prevent the original matter from being investigated and appropriate action taken.
- 5.4.8. In each whistleblowing case we will check if the risk register requires to be updated with the concern and consider how lessons can be learned and managed.

6. Outcome of investigation

Once the investigation has concluded, the whistleblower will receive an explanation of how the matter has been addressed.

If no further action is proposed, the Chief Executive (and / or the Chair) will inform the whistleblower of the reasons for this in writing.

If the investigation is not completed in 3 months or the time originally estimated, the Chief Executive (and / or the Chair) will provide regular updates as agreed with the whistleblower.

Where an individual feels that their concern has not been dealt with appropriately, they can appeal the decision internally to the Chair of the Finance, Audit & Staffing Sub-Committee (who should not be an office bearer). If, after appealing internally the individual is still not satisfied with the outcome, they can raise the issue with the Scottish Housing Regulator or the appropriate regulatory body. Contact details for the regulator are detailed in the Prescribed Persons & Further Information Sources list below.

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Prescribed Persons & Further Information Sources

- **Scottish Housing Regulator**
Telephone 0141 242 5642
Email shr@shr.gov.scot
- **External Auditor**
Wylie & Bissett LLP
Telephone 0141 566 7000
- **The Health & Safety Executive advisory service**
Telephone 0300 003 1747
- **Office of the Scottish Charity Regulator**
Telephone 01382 220446
Email info@oscr.org.uk
- **ACAS**
Helpline 0300 123 1100
- **Protect (formerly Public Concern at Work)**
Helpline 020 3117 2520

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Appendix 1

Record of Meeting Template

1. Line Manager job title
2. Meeting date and place
3. Attendees
4. Checklist during the meeting:
 - Reassurance should be given to the whistleblower that they will not be penalised for raising the concern if they genuinely have a reasonable belief that the matter is in the public interest.
 - Does the whistleblower want their identity to remain confidential?
 - If yes, the whistleblower should be advised that we will not generally disclose their identity without their consent but that there may be circumstances where we are not able to protect their identity as this could make it difficult to fully investigate the matter.
 - Would the whistleblower like to make a written or verbal statement? If the whistleblower is making a written statement, you will not need to go into as much detail after you have determined whether the concern falls under the whistleblowing policy.
 - If they are making a verbal statement, the record of the meeting will act as the statement.
 - Facts discussed with the whistleblower and supporting evidence must be stored securely.
5. Whistleblower to read the record of the meeting and re-phrase / add any comments as necessary to ensure the concern(s) have been fully and accurately documented.

Whistleblower signature _____ Date _____

Line manager's signature _____ Date _____

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Appendix 2

Timeline report

Whistleblowing – checklist	Detail	Date	Time
Allegation / concern raised			
Raised by whom			
Person(s) who can corroborate			
Evidence given (list)			
Evidence securely stored (location)			
Details of initial meeting with whistleblower (ref App 1)			
Chief Executive advised			
Chair advised			
Office Bearers advised			
Internal investigation team formed			
Legal advice sought			
