

## Policy & Procedure for CESSA Charity & Housing Staffs

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### **B 12 - WHISTLEBLOWING**

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Approved: CEO<sup>1</sup>

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#### **Policy**

**Introduction.** Staff members and tenants are often first to spot concerns regarding malpractice, illegal acts, work omissions or abuse. However, they can be deterred from 'blowing the whistle' if they are fearful of repercussions and/or that speaking up would appear disloyal to their colleagues or fellow tenants. This policy is intended to encourage and enable anyone to raise serious concerns discreetly rather than 'turning a blind eye' or speaking to someone outside the organisation.

**Definition.** The term 'whistleblowing' in this policy refers to the disclosure, by staff or tenants, of malpractice, illegal acts, work omissions or abuse.

**Legal Background.** The Public Interest Disclosure Act 1998, which came into force on 2 July 1999, introduced protection against dismissal and other detriments for those who disclose information in the public interest in prescribed circumstances to prescribed persons provided that the disclosure is made in good faith. The Act does not introduce a general right for 'whistleblowers' to receive special protection.

**Policy Statement.** Malpractice is taken very seriously, and the Organisation is committed to the highest possible standards of openness, probity and accountability. In line with that commitment staff members or tenants who have serious concerns about any aspect of the Organisation's work are encouraged and expected to come forward and voice those concerns, and may do so without fear of victimisation, subsequent discrimination or disadvantage.

**Aims.** This policy aims to:

- i. Encourage staff members and tenants to feel confident in raising serious concerns and to question and act upon concerns about malpractice, illegal acts, work omissions or abuse;
- ii. Ensure that staff members and tenants understand their responsibility for reporting malpractice, illegal acts, work omissions or abuse;
- iii. Provide avenues for staff members and tenants to raise concerns and receive a response on any action taken;
- iv. Allow staff members and tenants to take the matters further if they are dissatisfied with the Organisation's response;
- v. Reassure staff members and tenants that they will be protected from reprisals or victimisation if they have reasonable belief that they have made any disclosure in good faith and that the disclosure falls within the categories set out below.

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<sup>1</sup> The addition of the Director was agreed at the meeting on 7 Sep 22.

**Scope.** This policy applies to all staff members and tenants of CESSAC and CESSA Housing Association ('The Organisation').

The Whistleblowing Policy is intended to cover concerns that fall outside the scope of other procedures and therefore does not replace the Complaints Procedure or procedures that enable a member of staff to lodge a grievance relating to his/her own employment.

Thus, serious concerns about any aspect of the service provided by the Organisation or conduct of staff members or tenants can be reported under this policy. This may be about something that:

- i. is unlawful, fraudulent, corrupt; or
- ii. is against, or fails to comply with, the Organisation's Policies, including Financial Controls, codes of conduct, legal obligations; or
- iii. falls below established standards of practice; or
- iv. amounts to improper conduct; or
- v. constitutes physical, psychological/emotional, sexual or financial abuse or neglect or discrimination against members of staff or tenants; or
- vi. endangers the health and safety of any individual; or
- vii. is causing, or is likely to cause, damage to the environment; or
- viii. is a miscarriage of justice; or
- ix. is an attempt to cover up any of the above examples.

**Safeguards.** Harassment or victimisation:

- i. The Organisation recognises that the decision to report a concern can be a difficult one to make not least because of the fear of reprisal from those responsible for the issue of concern. If an allegation is made in good faith staff members and tenants should have nothing to fear as they will be doing their duty to their employer and colleagues.
- ii. Harassment or victimisation of staff who have raised concerns, including informal pressures, will not be tolerated and will be treated as a serious disciplinary offence which will be dealt with under the disciplinary procedure.
- iii. Any investigation into allegations will not influence or be influenced by any discipline or redundancy procedures that may already affect staff members. Nor does it mean that any disciplinary or redundancy procedures to which staff members are already subject will be halted as a result of raising concerns.

**Allegations:** This policy advises staff members and tenants to put allegations in writing and to sign the written allegation. Concerns expressed anonymously are much less persuasive. If staff members and tenants do not reveal their identity it will be more difficult to protect their position or give them feedback.

**False Allegations:** If an allegation is made in good faith, but is not confirmed by the investigation, no action will be taken against staff members or tenants. If, however, an allegation is made frivolously, maliciously or for personal gain by a staff member then disciplinary action may be taken in accordance with the Organisation's Disciplinary Procedure.

If an allegation is made frivolously, maliciously or for personal gain by a tenant legal action will be taken against that tenant.

**Confidentiality:** All disclosures will be treated in confidence and every effort will be made not to reveal the identity of staff members or tenants if they so wish. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement may be required as part of the evidence.

**How To Raise A Concern.** If a staff member or tenant has a concern, he/she should not approach or accuse individuals directly or attempt to investigate the matter themselves.

Concerns should be raised in the first instance with the relevant Manager or Head Office member. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice, illegal acts, work omissions or abuse. It may be more appropriate to approach the Chief Executive Officer (CEO). Alternatively, a Director has been nominated as Council/COM lead on any issues associated with whistleblowing. They can be contacted, in confidence, with a new concern by email at:

[whistblowingcessa@gmail.com](mailto:whistblowingcessa@gmail.com).

If staff members or tenants do not initially feel they can put their concerns in writing, they may telephone or meet the appropriate responsible person. However, staff members and tenants are advised to confirm their concerns in writing setting out the background and history of the concern, giving names, dates and places where possible and the reason why they are particularly concerned about the situation. The earlier concerns are expressed the easier it is to act.

Although staff members and tenants are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable and sufficient grounds for the concern. Advice and guidance on how matters of concern can be pursued can be obtained from the Directors of Housing/Operations or CEO. A staff member may invite trade union representative to raise the matter on his/her behalf.

In addition, if a staff member or tenant is unsure whether to use this policy or want independent advice at any stage, he/she may contact the independent charity *Public Concern at Work* on 020 3117 2520. Their lawyers give free confidential advice at any stage about how to raise concerns about malpractice, illegal acts, work omissions or abuse.

**How the Organisation Will Respond.** Action taken by the Organisation will depend on the nature of the concern. The matters raised may:

- i. be investigated internally
- ii. be referred to the Police
- iii. be referred to Social Services
- iv. form the subject of an independent inquiry.

In order to protect individuals and the Organisation, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation.

Within 10 working days of a concern being received, the relevant officer will write to:

- i. acknowledge that the concern has been received
- ii. indicate how it is proposed to deal with the matter
- iii. give an estimate of how long it will take to provide a final response
- iv. tell the staff member or tenant whether any initial enquiries have been made, and
- v. tell the staff member or tenant whether further investigations will take place, and if not, why not.
- vi. tell the staff member or tenant that he/she will be given as much feedback as possible, but sometimes precise action will not be set out where this would infringe on a duty of confidence owed to the Organisation by someone else.

The parties may, on occasion and by mutual agreement, modify the time limits referred to in this policy. The amount of contact between the staff member and tenant and the officers considering the issues will depend upon the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from the staff member or tenant.

When any meeting is arranged, the staff member or tenant has the right, if they so wish, to be accompanied by a colleague who is not involved in the area of work to which the concern relates or in the case of tenants a selected relative or friend.

Steps will be taken to minimise any difficulties which may be experienced as a result of raising a concern. For instance, if the staff member or tenant is required to give evidence in criminal or disciplinary proceedings, the Organisation will arrange for the staff member or tenant to receive advice about the procedure.

It is accepted that the staff member or tenant needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, he/she will be informed of the outcome of any investigation.

If the staff member or tenant is unhappy with the Organisation's response to concerns raised under this policy and procedure, he/she can contact the other levels and bodies detailed in this policy. While the Organisation cannot guarantee that it will respond to all matters in the way that you might wish, it will endeavour to handle the matter fairly and properly. By using this policy staff members and tenants will help the Organisation to achieve this.

**Responsible Officer.** The Director of Housing has overall responsibility for the maintenance and operation of this policy for Housing and the Director of Operations for the charity. That officer will maintain a record of concerns raised and the outcomes (but in a form that does not endanger confidentiality) and will report as necessary.

**How the Matter Can Be Taken Further.** This policy is intended to provide an avenue to raise concerns within the Organisation. The Organisation hopes staff members and tenants will be satisfied with any action taken. If not, and if he/she feels that it is right to take the matter outside the Organisation the following are potential contact points (depending on the issue):-

- i. District Audit Office
- ii. National Audit Office (020 7798 7999)
- iii. Relevant professional bodies or regulatory organisations e.g.

- a. Housing - Social Services, the National Housing Federation (NHF) or the Regulator of Social Housing (RSH)
  - b. Charity Commission: <https://www.gov.uk/guidance/report-serious-wrongdoing-at-a-charity-as-a-worker-or-volunteer>
- iv. Trade unions
- v. The Police
- vi. The Health and Safety Executive.

If a staff member or tenant does take the matter outside the Organisation, he/she should ensure that confidential information is not disclosed.

Staff members and tenants should be aware that disclosures made other than in accordance with the internal procedure require certain conditions to be satisfied to offer full protection. Anyone wishing to resort to such disclosure should seek independent legal advice.

**Any Relevant Documents:** This should be read in conjunction with the Organisation's Employee Code of Conduct (B 16), Employee Handbook (for Grievance) & B22 (Dishonesty).

**Distribution:** All staff, TP, File