



Gofal a Thrwsio ym Mhowys  
Care & Repair in Powys



TAI CANOLBARTH CYMRU  
MID-WALES HOUSING

Yn barod **amdani** Equal to the challenge



# Mid-Wales Housing Group

## Whistleblowing Policy

<b>Strategic Aim:</b>	To promote the Association's core value of EXCELLENCE. <i>"We believe in positively changing the attitude towards social housing and promise to provide affordable homes to a high standard and through making the best use of our resources."</i> To promote the Agency's value of QUALITY <i>"We aim to provide the highest quality service and demonstrate honesty, integrity and transparency"</i>
<b>Reference No:</b>	Group Whistleblowing Policy (v2) May 2019
<b>Date of Issue:</b>	July 2015
<b>Review Date</b>	May 2019
<b>Next Review Date:</b>	May 2023
<b>Departments Affected:</b>	All Departments
<b>Approved By/Date:</b>	Organisational Development Committee June 2019
<b>Lead Officer:</b>	Charles Brotherton, Director of Finance
<b>Statutory Compliance:</b>	<ul style="list-style-type: none"> <li>- CHC Code of Governance – March 2018</li> <li>- Public Interest Disclosure Act 1998</li> <li>- Schedule 1 of Housing Act 1996</li> </ul>
<b>Related Policies and Procedures</b>	<ul style="list-style-type: none"> <li>- Procedures for making a disclosure</li> <li>- Equal Opportunities and Dignity at Work</li> <li>- Confidentiality Procedures Disciplinary and Grievance Procedures</li> <li>- Customer Services Standards Policy, including Complaints and Compensation</li> <li>- Code of Conduct Policy</li> <li>- Regulatory Procedure Statement April 2018</li> </ul>
<b>Performance Standards</b>	<ul style="list-style-type: none"> <li>- PS.7 Compliance with regulatory requirements, statutory and other guidance</li> </ul>

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**Title:            WHISTLEBLOWING POLICY**

**1. Introduction**

The Mid-Wales Housing Group strives for excellent governance. A key element of that excellence in governance is in having the highest standards of openness, probity and accountability. The adoption of a Whistleblowing Policy is a demonstration of that commitment to integrity, openness, probity and accountability.

Whistleblowing is the term used to describe a situation where an individual raises concern about improper conduct, wrongdoing, risk or malpractice with someone in authority.

The Group has adopted the CHC Code of Governance and the Board has approved a Code of Conduct. The Board expects the highest standards of conduct amongst Board Members, Executives, employees and volunteers. The Whistleblowing Policy is a key element in upholding those high standards.

**2. Policy Statement**

The Group is committed to the highest standards of integrity, openness, probity and accountability. It expects all Board Members, Executives, employees and volunteers to act with the same high standards and observe the Group's Code of Conduct.

Where an individual discovers something which they believe shows serious malpractice or wrongdoing within the Group, then this should be disclosed internally. This can be done without fear of reprisal, and there are arrangements to enable this to be done independently of line management or senior management.

This policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by the Group nor should it be used to reconsider any matters which have already been addressed under bullying and harassment, complaint, disciplinary, grievance or other procedures.

**3. Why is Whistleblowing important**

Whistleblowing is an important part of good governance. Problems can arise in any organisation and the people best placed to identify them are often employees or those who work closely with the organisation.

Whistleblowers mostly act because they have an ethical or professional concern about something they believe is happening in an organisation.

Having a clear Whistleblowing policy and procedure is important to Mid-Wales Housing Group as it:

- Demonstrates good business and risk management practice and good corporate governance. Demonstrating a commitment to good governance can enhance an organisation's reputation.

- Protects employees, tenants, stakeholders and the public
- Deters malpractice and avoids wrongdoing, thus maintaining or improving performance.
- Encourages employees to raise matters internally, reducing the potential for external disclosure
- Lets employees know that wrong doing is not tolerated, supporting improved morale
- Can reduce financial losses; avoiding costly detrimental cases or fines.
- Meets the expectation of the Regulator.

#### **4. Disclosures in the Public Interest (Whistleblowing)**

The Public Interest Disclosure Act 1998 protects employees who raise legitimate concerns about specified matters from being dismissed by the organisations within the Group or from being subjected to detrimental treatment or victimised by either the organisation or work colleagues as a result, provided certain criteria are met.

The Act makes provision about the kinds of disclosure which may be protected and the circumstances in which disclosures are protected. This policy is therefore intended to comply with the Act by encouraging employees and others to make disclosures about fraud, misconduct, bribery or other wrongdoing to the organisation, without fear of reprisal, so that problems can be identified, dealt with and resolved quickly.

The Group's policy is to support workers and others who raise protected disclosures. Employees must not victimise, subject to detrimental treatment or retaliate against another employee who has made a protected disclosure.

Employees making a protected disclosure are protected provided they reveal information of the right type (known as a "qualifying disclosure") and they reveal that information to the right person and in the right way (known as making a "protected disclosure"). Board members are not covered by the Public Interest Disclosure Act 1998. However, Mid-Wales Housing Group and the Regulator will handle concerns raised by Board Members in the same way as qualifying disclosures from employees.

##### **4.1 Qualifying disclosures**

Certain kinds or the 'right type' of disclosure qualifies for protection. These are disclosures of information which an individual reasonably believes are made in the public interest and tend to show one or more of the following relevant failures is either currently happening, took place in the past, or is likely to happen in the future:

- a criminal offence, including offences such as theft, fraud or acts of bribery;
- 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 tending to show any of the above five matters.

The Public Interest Disclosure Act 1998 states that, only disclosures of information that fall within one or more of these six categories qualify for protection. The belief must be reasonable, but it need not be correct. It might be discovered subsequently that an individual was, in fact, wrong or mistaken in their belief, but they must be able to show that they held the belief and that it was a reasonable belief to hold in the circumstances at the time of disclosure. Note that it is not an individual's responsibility to investigate the matter. That is the Group's responsibility.

An individual must also reasonably believe that the disclosure is made in the public interest. It will therefore not include disclosures which can properly be characterised as being of a personal, rather than a wider public interest, for example, a disclosure about a breach of the terms of a contract of employment.

The Welsh Government Regulatory Procedure Statement April 2018 states that disclosures that are malicious or knowingly untrue are not protected under the Public Interest Disclosure Act 1998 and to qualify for protection a disclosure must be made in the public interest and must relate to possible:

- Financial malpractice, impropriety or fraud
- Failure to comply with a legal obligation or Statutes
- Dangers to health and safety or the environment
- Criminal activity
- A miscarriage of justice
- Professional malpractice
- Improper conduct or unethical behavior
- Significant relationship failures, including those between Board, staff and management team
- Attempts to conceal any of the above

## 4.2 Protected disclosures

For a qualifying disclosure to be a **protected disclosure**, an individual needs to make it to the right person and in the right way. There are a number of methods by which a protected disclosure can be made, but the Group always encourages all employees and others to raise any disclosure internally in the first instance.

Employees are protected if they make a qualifying disclosure to either:

- Their employer (see procedures section below); or
- An individual designated as an independent point of contact (see list of contacts); or
- If they feel unable to use the employer's procedure the disclosure should be made to a **prescribed external body or person**, so that employment rights are protected.

The provisions of the Act set out a number of **prescribed external bodies or persons** which qualifying disclosures may be made to. Details can be accessed at

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

If you decide to blow the whistle to a prescribed person rather than your employer, you must make sure that you've chosen the correct person or body for your issue.

### **4.3 Anonymous Allegations**

This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the employer or Prescribed Person/Body.

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised;
- The credibility of the concern;
- The likelihood of confirming the allegation from attributable sources.

### **4.4 Untrue Allegations**

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against that individual.

### **4.5 General principles**

All employees and other individuals should be aware of the following general principles:

- be aware of the importance of eliminating fraud, misconduct, bribery or other wrongdoing at work. Report anything that you become aware of that is illegal or unlawful;
- you will not be victimised, subjected to a detriment or dismissed for raising a protected disclosure ;
- victimisation of an employee or worker, or subjecting them to any form of detrimental treatment or retaliation (including bullying and harassment), for raising a protected disclosure will not be tolerated by the Group. This is a disciplinary offence and will be dealt with under the Group's disciplinary procedure.
- be aware that you can also be held personally liable for any act of victimisation or detrimental treatment of an employee or worker on the ground that they made a protected disclosure;

- you should immediately draw the attention of your line manager to suspected cases of victimisation or detrimental treatment related to either you or another employee or worker having made a protected disclosure.
- covering up someone else's wrongdoing is also a disciplinary offence. Never agree to remain silent about a wrongdoing, even if told to do so by a person in authority, such as your line manager;
- your right to make a protected disclosure overrides any confidentiality provisions in your contract of employment;
- finally, maliciously making a false allegation is a disciplinary offence.

Please refer to the 'Procedures for making a disclosure' for further guidance.

## 5. Key Performance Areas:

The Director of Finance, as Company Secretary, in conjunction with the Governance Officer and HR Manager, are responsible for ensuring excellence in Governance and acting as the contact points for 'raising a concern'.

The Association will consult the Welsh Government Regulator concerning the Whistleblowing Policy and Procedure.

The Director of Finance, unless implicated in the disclosure, as Company Secretary, and in conjunction with the Governance Officer and HR Manager, will instruct any external investigations concerning inappropriate actions or malpractice.

Strategic Risk Factors	Without a robust and secure Whistleblowing Policy and procedure there is a risk of poor and inappropriate practises arising which are not tackled.	
Equality Impact Assessment	<i>How does/will this policy ensure needs are met fairly, particularly with regard to race, gender, disability etc.?</i>	The policy aims to address concerns of inappropriate action or malpractice regardless of who raises the concern.
	<i>Is it felt that this policy might affect different groups adversely. If so, what is the justification for this and is it legally permissible?</i>	No groups or individuals are expected to be adversely affected.
	<i>Have any representative groups in the locality been asked for their opinion and if so, what was the outcome?</i>	No.
Tenant Engagement	<i>How does/will this policy ensure the needs of tenants are met?</i>	N/A.
	<i>How is it felt this policy will impact on the rights and obligations of tenants?</i>	It is not envisaged that this policy will adversely affect tenants' rights and obligations.
	<i>Have tenants been consulted and were the outcomes of that consultation taken into account when considering the introduction of this policy?</i>	At this time, tenants have not been consulted on this policy.

## **Procedures for Making a Qualifying Disclosure**

This procedure applies to all permanent and temporary employees, workers, volunteers and Board Members. In addition, third parties such as agency workers, consultants and contractors and any others who perform functions in relation to the Group may use it.

The Welsh Government Social Housing Regulator will be notified of all qualifying disclosures and informed of how the disclosure will be dealt with.

### **The procedure is as follows:**

1. If you wish to make a qualifying disclosure, you should, in the first instance, report the situation in writing to your line manager, setting out in detail the nature of your disclosure. If you do not wish to contact your line manager, you can instead contact an alternative manager or director, the HR Manager, the Chief Executive or the Chair of the Board of Management.
2. Should the above route not be suitable or acceptable to you, an alternative internal route is to contact the Chair of Audit and Scrutiny Committee who has been designated as an internal point of contact under this procedure.
3. Should none of the above internal routes be suitable or acceptable to you, then you may approach one of the following individuals who have been designated as independent points of contact under this procedure. They can advise on the avenues of disclosure open to you:
  - Relationship Director Internal Auditor - TIAA
  - Relationship Director External Auditor - Whittingham Riddell

Details of contacts are provided in appendix 2 attached to this procedure

4. If you have concerns relating to the Chief Executive and/or Chair of the Board of Management, or where the issues may involve multiple parties at a senior level in the organisation and/or at Board level, where you are not confident regarding how the matter will be dealt with, you have the right to contact the Welsh Government Social Housing Regulator. This approach should only be used where you feel a matter is so serious, involving multiple parties which may be impaired to treat the investigation independently.
5. Such disclosures should be made promptly so that investigation may proceed and any action taken expeditiously.
6. All qualifying disclosures will be treated seriously. The disclosure will be promptly investigated and, as part of the investigatory process, you will be interviewed and asked to provide a written witness statement setting out the

nature and details of your qualifying disclosure and the basis for it. Confidentiality will be maintained during the investigatory process to the extent that this is practical and appropriate in the circumstances. However, in order to effectively investigate a disclosure, the employer must be able to determine the scope of the investigation and the individuals who should be informed of, or interviewed with regard to the disclosure. The employer reserves the right to arrange for another manager to conduct the investigation other than the manager with whom you raised the matter.

7. In the event of a disclosure to an external contact, a Board sub-group will be appointed to oversee the investigation of the concerns. The sub-group will be formed of the Chair of Audit and Scrutiny Committee (subject to the individual not being the Whistleblower or named in the disclosure) and two further Board Members, to be appointed by the Chair of the Board of Management or the Regulator as deemed appropriate.
8. Once the investigation has been completed, you will be informed in writing of the outcome, conclusions and decision within seven calendar days. The organisations within the Group are committed to taking appropriate action with respect to all qualifying disclosures which are upheld.
9. You will not be penalised for raising a qualifying disclosure even if it is not upheld, unless the concerns raised were, in the opinion of the person/body investigating, both untrue and made with malice.
10. Once the Group's conclusions have been finalised, any necessary action will be taken. This could include either reporting the matter to an appropriate external government department or regulatory agency and/or taking internal disciplinary action against relevant employees. If no action is to be taken, the reasons for this will be explained to you.
11. If, on conclusion of the above stages, you reasonably believe that appropriate action has not been taken, you may then report the matter externally to the proper authority in accordance with the provisions of the Act. The Act sets out a number of prescribed external bodies or persons to which qualifying disclosures may be made and you can access these at:  
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.

## **The Investigating Procedure**

The aim of this procedure is to provide employees who are involved in the whistleblowing investigation process with guidance to ensure that any action taken is fair and consistent with the Mid-Wales Housing Association Group principles.

Once a disclosure has been made, the person to whom the disclosure is made should consider the information on face value and decide if, on the face of the information available, the concerns raised fall within the Mid-Wales Housing Group Whistleblowing Policy.

Provided that the concerns are not frivolous, malicious or simply too vague to investigate, an appropriate investigation officer will be identified. The investigation officer should be someone with the appropriate expertise of investigations and/or knowledge of the subject matter.

The investigation should be conducted as sensitively and speedily as possible, within 4 weeks unless otherwise agreed, having regard to the nature and complexity of the concerns.

### **The investigating officer should follow these steps:**

1. Full details and clarifications of the concerns should be obtained. Where practicable to do so, this will include holding a formal meeting with the individual who raised the disclosure (the Whistleblower) to discuss the matter.
2. The investigating officer should inform the individual(s) against whom the accusation is made, within one week or as soon as is practically possible, of the nature of the accusation and the procedure to be followed. The individual will be informed, as appropriate, of their right to be accompanied by a companion at any interview or hearing held under the provision of these procedures.
3. The investigating officer should consider the involvement of the Company auditors and should consult with the Chair/Chief Executive or Board sub-group if necessary at this stage.
4. Where criminal activity is suspected, the investigation officer should obtain advice from the HR Manager as to whether it is necessary to report the matter to the Police at this stage.
5. The allegations should be fully investigated by the investigating officer with the assistance, where appropriate, of other individuals/bodies.
6. The investigation officer will arrange individual interviews with relevant witnesses or individuals, informing individuals that they may be accompanied at any investigation meeting.

7. The investigation officer will establish the facts, obtain statements and collect documentary evidence.
8. The investigation officer will maintain detailed records of the investigation.
9. The investigation officer must write up their investigation findings of fact in a brief report within two weeks of concluding the investigation, which will be provided to the Chief Executive, Chair or Board Sub-group as appropriate. The investigation officer may recommend specific further investigation or action but only insofar as this may assist the Chief Executive, Chair or Board Sub-group, whose responsibility it is to take decisions about further investigation or action.

### **Determining the Outcome of the investigation**

Using the information obtained through the investigation and depending upon the nature of the matter raised, the Chief Executive/Chair/Board sub-group will decide on the course of action to be taken, after obtaining advice from the HR Manager where appropriate. This may be one or more of the following;

- Not to proceed any further with the matter
- To refer the matter for further internal or external investigation
- To refer the matter to be dealt with under another Group policy/procedure
- To refer the matter to the Police
- To notify the Regulator and/or other external bodies as appropriate
- To notify the Group internal auditors to enable a review of the procedures as appropriate
- To refer the matter to an independent external review
- To uphold or partially uphold the concerns

The decision will be recorded in writing and will include reasons for that decision. A record of the decision will kept by the HR department.

The Whistleblower should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.

Details of Contacts as at June 2019

*(NB: personal/work contact details to be included following approval of contacts and consent from individuals)*

**Internal:**

Chief Executive, Mid-Wales Housing Association  
Director, Care & Repair in Powys  
Managing Director, EOM

Company Secretary  
HR Manager  
Governance Officer

Mid-Wales Housing Association, Chair of Board of Management  
Care & Repair in Powys, Chair of Board of Management  
EOM Ltd, Chair of Board of Management

**Designated independent contacts:**

(Relationship Director) Internal Auditor - TIAA  
(Relationship Director) External Auditor - Whittingham Riddell  
Chair of Audit and Scrutiny Committee

**External Contacts:**

Welsh Government Social Landlord Regulator

Prescribed external bodies

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.