

# The BCHA Group

## Raising Serious Concerns Policy

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<p><b>SUBJECT:</b> Raising Serious Concerns (Whistleblowing)</p> <p><b>SECTIONS:</b> All Departments</p> <p><b>REVIEWED BY:</b> BCHA Company Secretary</p>	<p><b>Policy No:</b> 135</p>	<p><b>HCA Reg Standard</b> <i>Governance</i></p>
	<p>Draft issued: 13 May 2009  Reviewed: 24 March 2014  Reviewed 30 October 2014  Staff Consultation Group : N/A  Reviewed: March 2019</p>	
	<p><b>Effective Date:</b> 1 April 2019</p>	<p><b>Review Date:</b> March 2022</p>

## 1.0 INTRODUCTION

- 1.1 The Organisation wishes to ensure the highest standards of probity in all areas of its work. BCHA is therefore keen to create an open, transparent and safe working environment where staff and others feel able to speak up if these standards are not being maintained.
- 1.2 BCHA also aims to create a supportive culture where people are able to raise concerns with management..

## 2.0 SCOPE

- 2.1 This policy applies across the entire organisation, including Board members, staff and volunteers.
- 2.2 For the purposes of this policy, organisation can be taken to mean BCHA and any of its subsidiaries.

## 3.0 DEFINITION

- 3.1 A “Whistleblower” is a person who becomes aware of a serious problem within an organisation and raises the matter so it may be investigated and, if appropriate, corrected.
- 3.2.1 Whistleblowing can be defined as raising a concern about **serious wrongdoing** within an organisation. The concern must be a genuine concern about:
- a criminal offence,
  - serious negligence,
  - breach of a legal obligation,
  - a miscarriage of justice,
  - a danger to health & safety
  - a risk to the environment, and
  - the genuine belief that there would be a cover up if the matter were reported through normal channels

Issues that may fall into the above categories could include, but are not limited to:

- fraud (e.g. claiming false expenses or stealing petty cash)
- corruption (e.g. buying or leasing property through the organisation from a friend, at an inflated price)
- bribery (e.g. moving someone up a waiting list in return for a gift or money)
- malpractice (e.g. changing or forging records to cover up a mistake, or to give a misleading impression of a situation)
- attempts to cover up earlier problems, (e.g. shredding documents or deleting files)
- institutional abuse (e.g. abuse or neglect of customers that happens

- because of the poor way the organisation works),
- ignoring or playing down neglect or exploitation of customers by staff or others,
- failure to deliver safe standards of service which puts staff or members of the public at serious risk of harm or injury.

This list is not exhaustive.

- 3.3 Any disclosure of serious wrongdoing made by a worker (note: not volunteers or the self-employed) will count as a 'qualifying disclosure' for protection under the Public Interest Disclosure Act 1998 as amended in June 2013, if the worker reasonably believes that the disclosure is made both '**in the public interest**' and fits into the categories set out in the legislation (as in 3.2 above)
- 3.3 This policy is not intended to replace policies and procedure relating to routine complaints or grievances, allegations of bullying, discrimination or harassment (unless this is a direct result of having made a complaint). Whistleblowing is also not to be used as a mechanism for disagreeing with legitimate policies or procedures or with legal or contractual requirements.

#### **4.0 POLICY**

- 4.1 Staff and volunteers, Board members and committee members are encouraged to report serious concerns promptly in order to minimise any subsequent damage to the organisation. All concerns will be dealt with fairly and consistently.
- 4.2 Individuals wishing to report concerns do not need to do so in writing initially but may be requested to do so at a later date. Individuals may be accompanied by another member of staff, if they choose to do so.
- 4.3 Anonymous whistleblowing is available but it should be recognised that this may not always lead to an effective outcome. However, whistleblowers may withhold their identity provided that there is sufficient factual information given in the reported concern to allow an investigation to take place.
- 4.4 Ordinarily, where someone has a concern, this should be reported through line management or other channels laid out in the organisation's policies, such as Grievance procedure or Dignity at Work. However, where there are genuine concerns about failure to act or previous failure to act, staff may approach the organisation's Staff Co-ordinator/Deputy Co-ordinator. The Staff Co-ordinators will liaise directly with each other where necessary. For the purposes of this policy, the nominated Staff Co-ordinators will be :-

**Staff Co-ordinator:** Head of Strategy and Governance

**Deputy Staff Co-ordinator:** HR Business Partner

Staff raising concerns initially under whistleblowing will be informed as to whether their concern is of a whistleblowing nature or falls into a different category, such

as a disciplinary investigation.

- 4.5 Proper records will be kept of all contacts between the individual and the Staff Co-ordinators. All contact will be confidential unless the internal disciplinary or grievance procedures are used or legal action is commenced. Where action is taken, the whistleblower will be kept informed, subject to any confidentiality constraints.
- 4.6 The nominated Co-ordinators will inform the Chief Executive and the Chair of the organisation in writing of an individual's concern before communicating that with any third party, unless their issue is of a confidential nature. The nominated Co-ordinators will then decide which person will be responsible for the investigation. This may include:
- The Chief Executive or
  - The Company Secretary, Director of Finance and Corporate Resources or
  - The Director/Assistant Director of the business area concerned or
  - The Director/Assistant Director of another business area if a greater degree of independence is required in the investigation or
  - An external body such as the internal auditors, the Police, Social Services or the social Housing Regulator

Any referral to an external body will be taken in agreement with the Chief Executive or Chair, unless inappropriate to do so for example, if these individuals are implicated in any wrong doing over cover up.

- 4.7 The nominated Co-ordinators will ensure investigations are carried out within an appropriate and reasonable timescale and that the whistleblower is protected from victimisation and is given appropriate feedback.
- 4.8 In situations where an individual feels it necessary to bypass the Coordinator/Deputy Coordinator for whatever reason, they have a right of direct access to the Chief Executive, Chair, Vice Chair or any other Board member of their choice to air their concerns. As these may change from time to time, confidential contact details can be obtained from the PA to the Chief Executive or sealed, confidential mail can be left with the PA for forwarding without opening.

## 5.0 REPORTING CONCERNS TO OTHER ORGANISATIONS

- 5.1 Although concerns should always be raised internally in the first instance, whistleblowers have the right to contact an **external regulatory agency** directly (for example the police, and see also Appendix 1) where their concerns are of a very serious nature and there is reason to believe the organisation would either fail to act or there are wider implications.
- 5.2 Wider disclosures (for example to the media or other bodies) may be made within the protection of the Public Interest Disclosure Act in most cases, provided that the disclosure is **reasonable**, for example:

- the disclosure is not made for personal interest or gain and relates to a very serious matter and
- the whistleblower fears victimisation if the matter were to be raised internally or to an external regulator or
- the whistleblower feels that a cover up would be likely if the matter were investigated internally and there is no regulator to undertake the investigation or
- the matter has been reported internally or to an external regulator and has not been followed up.

It is strongly recommended that advice be sought from one of the advice lines stated in 6.5 in order that the person raising their concern does not risk losing their legal rights to raise the concerns.

## **6.0 SUPPORT FOR WHISTLEBLOWERS**

- 6.1 Whistleblowers will be protected from reprisals or victimisation from their line managers. Employees have the legal right to
- Not to be subjected to any detriment by any colleague or their employer as a result of their whistleblowing
  - take a case to an Employment Tribunal against such a colleague or employer, or any agent of the employer
- 6.2 The organisation will take all reasonable steps to prevent other employees from victimising the whistleblower. Appropriate action, including disciplinary action, will be taken against anyone who tries to unjustly discourage concerns from being made or who subsequently victimises an individual for having expressed concerns.
- 6.3 The organisation will endeavour to keep whistleblowers informed about the outcome of any investigation providing it does not breach the duty of confidentiality owed to a third party.
- 6.4 Every support will be offered to whistleblowers by the Co-ordinators throughout all stages of the process. All staff members have access to the organisation's employee welfare scheme, Care First, a free and confidential advice service available 24/7.
- 6.5 External advice can be sought by staff at any time from the independent whistleblowing charity Public Concern at Work, Suite 306, 16, Baldwin Gardens, London EC1 7RJ. Telephone 0207-404-6609. Email: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk). The office is staffed from 09.00-18.00 weekdays. There is an answering machine out of hours. Alternatively, the arbitration and conciliation service ACAS may be contacted for guidance on 0800 810 8765. Staff may also contact their Trades Union (if a member) or general advice services such as CAB.

## **7.0 MISUSE OF POLICY**

- 7.1 Any deliberate, mischievous or malicious misuse of the Whistleblowing policy or breaches of confidentiality may lead to disciplinary procedures being invoked.

## 8.0 REFERENCES

POLICY	PGN
Confidentiality and Privacy	806
Harassment and Discrimination	854
Equalities and Diversity	880
Fraud and Corruption	207
Health and Safety	701
Payments, Benefits and Interests	131
Safeguarding Adults at risk	313
Safeguarding Children	312
PROCEDURE	
Complaints and Compliments	
Disciplinary and Dismissal	
Grievance	

LEGISLATION	REFERENCE
Bribery Act 2010	2010 C 23
Public Interest Disclosure Act 1998	as amended June 2013
Data Protection Act 2010	
Freedom of Information Act 2000	

## 9.0 INTERNAL CONTACT DETAILS

**Company Secretary:** 01202 410531 or [companysecretary@bcha.org.uk](mailto:companysecretary@bcha.org.uk)  
**HR Business Partners:** 01202 559199 (Rebecca Spain) or 01202 410649 (Lorraine Hunt)  
**Chief Executive:** 01202 410510 or [martinhancock@bcha.org.uk](mailto:martinhancock@bcha.org.uk)  
**Chair of the Board:** [boardchair@bcha.org.uk](mailto:boardchair@bcha.org.uk)  
**Chair of Audit Committee:** [artchair@bcha.org.uk](mailto:artchair@bcha.org.uk)  
**Internal Auditors:** SWAP Internal Audit Services (Moya Moore) - 01935 848 540

## APPENDIX ONE

### REGULATORY ORGANISATIONS TO WHICH STAFF HAVE A LEGAL RIGHT TO MAKE DISCLOSURES

(Please note: this is not a complete list of prescribed regulators)

**Please refer to section 5 of the policy in the first instance**

<b>Financial Conduct Authority</b>	<b>The Charity Commission</b>
25 North Colonnade	P O Box 1227
Canary Wharf	Liverpool
London	L69 3UG
E14 5HS	0845 300 0218
Tel: 0845-606-1234	
consumer.queries@fca.org.uk	
<b>HM Revenue and Customs</b>	<b>Health and Safety Executive</b>
Customs Confidential	Rose Court
Freepost SEA 9391	2 Southwark Bridge
PO Box 100	London
Gravesend Kent DA12 2BR	SE1 9HS
Tel: 0800 595 000	Tel: 0300 003 1647
Customs.hotline@hmrc.gsi.gov.uk	concerns@hse.gsi.gov.uk
<b>Director of the Serious Fraud Office</b>	<b>Homes &amp; Communities Agency</b>
2-4 Cockspur Street	Fry Building
London	2 Marsham Street
SW1Y 5BS	London
Tel: 020 7239 7272	SW1P 4DF
Public.enquiries@sfo.gsi.gov.uk	Tel: 0300 1234 500
	mail@homesandcommunities.co.uk
<b>Environment Agency</b>	<b>Information Commissioner's Office</b>
National Customer Contact Centre	Wycliffe House
PO Box 544	Water Lane
Rotherham	Wilmslow
S60 1BY	Cheshire SK9 5AF
Tel: 03708 506 506	Tel: 0303 123 1113
Enquiries@environment-agency.gov.uk	casework@ico.org.uk

<b>The Pensions Regulator</b>	<b>Care Quality Commission</b>
Napier House	Citygate
Trafalgar Place	Gallowgate
Brighton	Newcastle upon Tyne
BN1 4DW	NE1 4PA
0845 600 7060	Tel: 03000-616161
helpdesk@opra.gov.uk	Enquiries@cqc.org.uk
<b>Office of Fair Trading</b>	
Fleetbank House	
2-6 Salisbury Square	
London	
EC4 8JX	
Tel: 0207-211-8000	
Enquiries@oft.gov.uk	

In addition, Local Authorities may also be approached where they have statutory responsibilities for the enforcement of:

- Food hygiene standards
- Consumer protection
- Health and Safety
- Delivery of housing related or other support
- The protection of children and vulnerable adults