

## GROUP CONFIDENTIAL REPORTING- WHISTLEBLOWING POLICY

### Responsible Officer

Director of Finance

### 1.0 WHAT IS WHISTLEBLOWING OR CONFIDENTIAL REPORTING?

Whistleblowing or confidential reporting can be defined as:

***“A disclosure to those in authority of mismanagement, corruption, illegality or some other wrongdoing”***

Or in simple terms- the reporting of suspected wrongdoings or dangers in relation to our activities. This includes:

- Bribery
- Facilitation of tax evasion
- Fraud or other criminal activity
- Miscarriage of justice
- Health and Safety risks
- Damage to the environment
- Breach of legal or professional obligations
- Covering up any of the above.

It is usually carried out by an employee but does not have to be. It can be anyone and or be anonymous.

Internal disclosures are usually made to people in authority. External disclosures are usually made to a third-party organisation.

Phoenix encourages people to report anything they are worried about and use this policy or other relevant policies to their report concerns. We are committed to supporting and protecting individuals who make disclosures in good faith.

## 2.0 LEGAL AND REGULATORY BACKGROUND

### 2.1 Legal

The Public Interest Disclosure Act 1998 aims to protect employees and workers (see definition of employees and workers below) making disclosures about matters of concern. To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe two things.

**One-** they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.

**Two-** the staff member must reasonably believe that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- Criminal offences (this may include, for example, types of financial impropriety such as fraud).
- Failure to comply with an obligation set out in law.
- Miscarriages of justice.
- Endangering of someone's health and safety.
- Damage to the environment.
- Covering up wrongdoing in the above categories.

Staff who make a disclosure of wrongdoing can complain to an employment tribunal if they are dismissed or victimised for doing so. An employee's dismissal (or selection for redundancy) is automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure.

This policy legally applies to employees and workers in the following categories:

- Employees of the Phoenix Group
- Agency and contract workers
- Self-employed contractors
- Persons on work experience or training within Phoenix, either under contract, or as part of a training programme agreed by Phoenix
- Employees of any third-party service provider (contractors, support providers, agency staff, etc.).

The Public Interest Disclosure Act 1998 covers "employees and workers". Phoenix chooses to also include board members and co-optees within the scope of this policy. However, board members and co-optees are not employees and so they cannot rely on the legal protection afforded to workers by the Public Interest Disclosure Act.

Residents who are not board members are expected to follow Phoenix's complaints policy in the first instance if they wish to raise matters of concern.

## 2.2 Regulatory

The Regulator of Social Housing has published a governance standard that Phoenix must comply with. Every year the Board must formally state how it complies with this standard in its statutory accounts.

As part of meeting this standard and working towards the highest standards of governance Phoenix has adopted the National Housing federation (NHF) 2015 Code of Governance. This includes maintaining and being seen to maintain the highest ethical standards of probity and conduct and operating in an open and transparent manner having dialogue with and accountability to tenants and other key stakeholders.

A clear confidential reporting or Whistleblowing Policy supports our code of governance and enables individuals to raise issues.

## 3.0 AIM AND INTRODUCTION TO THE POLICY

It is important that anyone who has concerns about fraud, bribery, corruption or any other wrongdoing by anyone working for or with the Phoenix Group, (board members, co-optees, involved residents, staff, volunteers, individuals, partners, consultants, sub-contractors, agents and contractors), can report those concerns and they are dealt with.

Phoenix is committed to providing excellent services and maintaining the highest standards of conduct and governance so we can deliver our vision “Together- building a better future for our Phoenix community”. We aim to create a culture and ways of working to uphold the highest standards of governance and conduct. We also have policies, procedures and codes of conduct to support this. However, sometimes malpractice and wrongdoing may occur.

We encourage openness and the opportunity for people to raise genuine concerns. By genuine we mean they have a reasonable belief that something is wrong even if later they turn out to be mistaken. Phoenix is committed to ensuring no one suffers detrimental treatment (such as threats, disciplinary action etc.) because of such reporting.

This policy aims to encourage people to question and act upon concerns and feel confident in raising them. It will set out:

- How any individual can raise a concern.
- How concerns will be dealt with and learnt from and how they can be pursued further.
- Phoenix’s commitment and reassurance that concerns can be raised without fear of reprisal or victimisation.
- How we will learn from concerns raised.

This policy is not intended to replace the Dignity at Work Policy or Grievance Procedure, which should be used if members of staff are concerned about themselves being personally disadvantaged by the action or failure of action by Phoenix. This means any complaints about breaches of an employees’ own contract of employment or about how they are being treated should be raised through the Dignity at Work Policy or as a grievance.

## **4.0 POLICY DETAIL**

### **4.1 How can any individual raise a concerns**

#### Informally- Stage 1

We hope in most cases, staff will raise concerns with their immediate line manager or someone from People Services.

#### Formally- Stage 2

If this is not possible or the line manager has not dealt appropriately with concerns staff should speak to the Company Secretary (the Finance Director) or, in their absence, or if this is inappropriate the Chief Executive.

If the concern is in respect of the Chief Executive or a Board member, then the staff member should report their concerns to the Chair of the Audit Committee.

#### Formally- Stage 3

If the staff member is concerned that the Company Secretary or Chief Executive has failed to make a proper investigation or has failed to report the outcome of the investigations, he/she should inform the Chair of the Audit Committee directly.

The Chair of the Audit Committee will review the investigation carried out, make any necessary enquiries or commission an independent investigation and make their own report to the Board.

#### **External disclosures**

The aim of this policy is to provide an internal process for reporting, investigation and remedying any wrongdoing in the work place. In most cases staff should not find it necessary to alert anyone externally. The law recognises that in some circumstances it may be appropriate for staff to report their concerns to an external body such as:

- The Regulator of Social Housing.
- HM Revenue & Customs.
- The Financial Conduct Authority.
- The Health and Safety Executive.
- The Environment Agency.
- The Local Authority Designated Officer.

We strongly encourage staff to seek advice before reporting a concern to anyone externally.

Protect, the independent whistleblowing charity operates a confidential helpline and their contact details are in section 6 of this policy.

### **4.2 How concerns will be dealt with and learnt from and how they can be pursued further**

The Company Secretary or Chief Executive will register the report and where appropriate arrange an investigation of the matter (either by investigating the matter themselves or immediately passing the issue to a senior manager).

Any investigation will be carried out in accordance with the aims of this policy or where more appropriate other policies and by working in partnership with other agencies or external advisors where appropriate.

The staff member who raised the concern may be asked to provide a written statement, and or attend a meeting to discuss their concern. They may also be asked to comment on any additional evidence obtained. Staff members may bring a colleague or union representative to any meetings under this policy. Companions must respect the confidentiality of the disclosure and any subsequent investigation.

The Company Secretary (or the person who carried out the investigation) will then report to the Chief Executive, who will take any necessary action, including reporting the matter to the Executive Team, the Chair of the Audit Committee or any appropriate government department, the police or regulatory agency.

If disciplinary action is required, the Company Secretary or Chief Executive will report the matter to the People Services Team to start the disciplinary procedure.

Phoenix will usually keep the staff member who made the disclosure informed of the investigation processes and proceedings, however they may not be informed of the eventual outcomes if this raises any data protection or confidentiality issues. The outcome and update to the staff member will also be noted in the register.

The investigation will be completed within a reasonable time period. We will aim to conduct the investigation within 28 days though the time taken to conduct an enquiry may take longer depending on the nature of the concern and its complexity.

#### **4.3 Phoenix's commitment and reassurance that concerns can be raised without fear of reprisal or victimization.**

To encourage people to make good faith disclosures in confidence and without fear of retribution, Phoenix will take all reasonable steps to try and ensure that individuals that make disclosures are not victimised, bullied, or otherwise disadvantaged because they have made the disclosure, under this policy, even if the individual turns out to be mistaken.

Phoenix requires all staff to be open to concerns regarding allegations of malpractice. Victimising, bullying or any other action by an individual/s intending to deter a colleague from making a disclosure, or by way of revenge following a disclosure will be regarded as serious disciplinary offences, as will making false (known to be untrue) and malicious allegations.

##### Anonymity

An individual may request that their disclosure is dealt with anonymously. If this is the case every effort will be made to protect an individual's anonymity. The individual should be made aware that if anonymity is preserved, this may inhibit the proper investigation of the alleged malpractice and, in particular, where the individual/s may be required as witnesses to take the investigation further.

Phoenix will make every effort to protect an individual or group, but this may not be possible in all circumstances, particularly when third party agencies are involved in investigating or taking further action with regards to the alleged malpractice. If it is necessary to reveal the individual's identity Phoenix will discuss this with the individual.

#### Legal protection

Members of staff (including temporary staff, trainees and agency workers) disclosing information will be 'protected' if:

- They believe the allegation they are making is true.
- It is not made for personal gain.

The Public Interest Disclosure Act 1998 provides statutory protection for disclosures, protecting individuals against dismissal, employer reprisals short of dismissal and victimisation as a result of making a disclosure.

### **5.0 MONITORING AND REPORTING**

Any allegations, reported either internally or externally, will be confidentially monitored by the Company Secretary on behalf of the Audit Committee. The Company Secretary will maintain a confidential register of whistleblowing allegations, investigations and outcomes in line with best practice guidelines and report on these at least once annually to the Audit Committee.

### **6.0 FURTHER INFORMATION AND SUPPORT**

In reporting concerns staff have the right to be accompanied by a trade union representative, a colleague or friend.

Anyone considering making a disclosure to an external body is strongly advised to contact Protect.

Protect aims to help make whistleblowing work so that dangers, wrongdoing and serious risks that threaten the public good are deterred or at least detected before serious damage is caused. It pursues this aim through its free confidential advice line, the support and services it provides to organisations, its policy work and public education activities. It can also provide advice to help individuals to protect themselves when making a disclosure. Protect' details are below:

#### **Protect:**

Whistleblowing advice line: 0203 1172520  
General enquiries: 0203 1172520  
Fax : 020 74038823  
Email : [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk)  
Web : <https://protect-advice.org.uk/>

If a whistle-blower believes that they have been unfairly treated because they have blown the whistle, they may decide to take their case to an employment tribunal. The process for this

would involve attempted resolution through the **Advisory, Conciliation and Arbitration Service (ACAS)** early conciliation service. Information can be found at: [www.acas.org.uk/conciliation](http://www.acas.org.uk/conciliation). The ACAS helpline can provide further advice. The helpline details are:

Telephone: 0300 123 1100  
Text phone: 18001 030 0123 1100

## 7.0 EQUALITY AND DIVERSITY IMPLICATIONS

There are no specific equality and diversity implications for this policy. We will monitor the effectiveness and implications of this policy to ensure that our equality duties are met.

## 8.0 POLICY MONITORING AND REVIEW

This Policy will be reviewed every three years to ensure that it continues to take account of legislative changes and regulatory guidance; or sooner if required.

## 9.0 REFERENCE TO OTHER DOCUMENTS AND ASSOCIATED POLICIES AND PROCEDURES

Documents which provide additional helpful information:

- Reporting suspected Fraud and Bribery - Guidance and Procedure.
- Payments and Benefits to staff and Board Members Policies.
- Code of Conduct.
- Code of Governance.
- Financial Regulations and Standing Orders.
- Anti-money laundering policies.
- Complaints Policy.
- Grievance Policy.
- Dignity at Work Policy.
- Safeguarding Policy.
- Disciplinary Policy.

## Definitions

Term/acronym	Description
Resident	Includes tenants and leaseholders.
Phoenix	Phoenix Community Housing.

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