

## Whistleblowing Policy

<b>Purpose</b>	How we will investigate and deal properly and sensitively with allegations of wrongdoing raised
<b>Owner</b>	Emma Palmer - CEO
<b>Related documents</b>	Standing Orders, Probity Policy, Code of Conduct, Dealing with Fraud Policy
<b>Approved by</b>	Shadow Board
<b>Date approved</b>	June 2020
<b>Resident involvement</b>	N/A
<b>Performance Monitoring</b>	As and when legislation changes
<b>Review frequency</b>	Every 3 years
<b>Last review</b>	May 2020
<b>Next review</b>	May 2023
<b>Version</b>	V1.1
<b>Author</b>	Director of Governance

# Contents

1. POLICY STATEMENT .....	3
2. SCOPE .....	3
3. POLICY DETAILS .....	3
4. WHAT IS WHISTLEBLOWING .....	4
5. STATUTORY AND REGULATORY REQUIREMENTS .....	5
6. POLICY DETAILS.....	6
7. EQUALITY AND DIVERSITY .....	7
8. REVIEW.....	7

## **1. POLICY STATEMENT**

- 1.1 Eastlight Community Homes Limited (hereafter 'Eastlight') is committed to conduct business at the highest standards of equality, probity, integrity and propriety. We believe that effective communication among people at all levels promotes better business practice. As part of this commitment, Eastlight will not tolerate wrongdoing by employees at any level. To assist in this, we look to have an open and supportive culture and encourage you to report any serious concern in a timely manner relating to one of the areas listed in this policy, in the way set out in this procedure, without fear of reprisals.
- 1.2 Whistleblowing should only be used to report major ethical or criminal matters when all other forms of communication have failed. i.e. Line Manager, Executive Director, Head of Service, HR, Union Representative
- 1.3 This policy and procedure sets out how Eastlight will investigate and deal properly and sensitively with allegations of wrongdoing raised. It is not intended to replace the Grievance Procedure, which continues to be the appropriate way for an employee to raise personal issues relating to their job or employment.

## **2. SCOPE**

- 2.1 This policy applies to:
  - employees or former employees (hereafter called employees)
  - apprentices, agency workers, trainees, any third-party contractor whose work is controlled by the company (other than a genuinely self-employed person) and those working under training contracts (hereafter called workers)
  - other people involved in Eastlight, for example, Board members or involved residents.

## **3. POLICY DETAILS**

- 3.1 This policy provides those listed at 2.1 with an avenue to raise concerns internally and receive feedback on any action taken. It also allows them to take the matter further if they are dissatisfied with the outcome and reassures employees that they will be protected from harassment or victimisation for raising concerns
- 3.2 The employee has a responsibility to report any wrongdoing at work. Workers should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of. If you do not report any wrongdoing, you will be in breach of this policy.

- 3.3 Any person may raise a concern of wrongdoing or omissions. Eastlight encourages individuals to raise any concern they have at the earliest available opportunity.
- 3.4 Any person should raise a concern if they genuinely believe that anyone connected with Eastlight has taken, is intending to take or has failed to take action that they reasonably believe will lead to fraud, misconduct or 'wrongdoing'.
- 3.5 If misconduct is discovered as a result of any investigation under this policy, Eastlight' procedures will be used, in addition to any appropriate external measures.
- 3.6 The continued employment and opportunities for future promotion or training of the person will not be prejudiced because an individual raises a qualifying disclosure.
- 3.7 Victimisation of an employee for raising a qualified disclosure is a disciplinary offence and any form of victimisation of that person will not be tolerated by Eastlight.

#### **4. WHAT IS WHISTLEBLOWING**

- 4.1 In this policy 'Whistleblowing' means the reporting of suspected misconduct, illegal acts or failure to act within Eastlight standards of behaviour, standards and policies, i.e. Code of Conduct, Probity.
- 4.2 Whistleblowing is covered by the Public Interest Disclosure Act 1998 and provides protection for people who raise legitimate concerns about the following specified areas:
  - a criminal offence
  - a miscarriage of justice
  - an act creating risk to health and safety
  - an act causing damage to the environment
  - a breach of any other legal obligation or
  - concealment of any of the above

#### **These might relate to:**

- fraud and financial irregularities
- serious maladministration arising from deliberate wrongdoing
- unethical activities which may be of a criminal nature
- a safeguarding concern
- accepting and not declaring gifts/hospitality received and given
- failure to comply with a legal obligation
- a miscarriage of justice

- business malpractice
- dangerous acts or omissions which create a risk to health, safety or damage to the environment
- a bullying culture (across a team / department rather than individual instances of bullying)
- the deliberate concealment of information tending to show any of the matters listed above.

**This list is not exhaustive:**

4.3 It is not necessary for the employee or worker to have proof that such an act is being, has been, or is likely to be, committed – a reasonable belief is sufficient.

**5. STATUTORY AND REGULATORY REQUIREMENTS**

5.1 Before making a whistleblowing allegation, this policy should be read in conjunction with other relevant policies and procedures published by Eastlight, in particular:

- Dealing with Fraud Policy
- Dealing with Harassment and Bullying Policy
- Disciplinary Procedure
- Grievance Procedure

**Legislation**

5.2 This policy has been written to take account of the Public Interest Disclosure Act (PIDA) 1998, which protects workers making disclosures about certain matters of concern, when these disclosures are made in accordance with the Act's provision and in the public interest.

5.3 Other relevant legislation to be aware of:

- Employment Rights Act 1996
- The Enterprise and Regulatory Reform Act (ERRA) 2013

5.4 Further information can be found at:

- <https://www.gov.uk/whistleblowing>
- <http://www.acas.org.uk/index.aspx?articleid=1919>
- <http://www.pcaw.org.uk/law-policy/whistleblowing-commission>

**Public Whistleblowing**

5.5 This policy does not override workers' legal rights to make a protected disclosure to certain prescribed persons or bodies under the Public Interest Disclosure Act 1998.

5.6 As such, if on conclusion of the stages above the worker reasonably believes that the appropriate action has not been taken, he/she should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include the:

- Environment Agency
- Financial Conduct Authority (formerly the Financial Services Authority)
- Health and Safety Executive
- Regulator of Social Housing
- HM Revenue and Customs (HMRC)
- Independent Police Complaints Commission
- Serious Fraud Office.

### **Protection for workers – Public Interest Disclosure Act 1998**

5.7 There are very specific criteria that need to be met for an individual to be covered by the Act when they raise a concern (to be able to claim the protection that accompanies it).

5.8 Employees or workers who make a disclosure anonymously under the Act must demonstrate a reasonable belief that they are acting in the public interest which means that personal grievances and complaints are not covered by the Act.

5.9 An employee or worker will have to show three things to claim protection:

- that he or she made a disclosure
- that they followed the correct disclosure procedure (i.e. the whistleblowing procedure, Appendix 1)
- that they were dismissed or suffered a detriment as a result of making the disclosure.

5.10 Should an individual decide to disclose anonymously, it can be more difficult for them to qualify for protection as a whistle-blower. This is because there is not likely to be evidence to link any detriment they may suffer to the disclosure of information. If during the investigation their identity was disclosed, then they would be protected, subject to 4.9 criteria.

5.11 If an employee / worker goes to the media and does not deal with the matter as described above, they are unlikely to retain their protection rights except in exceptional circumstances.

5.12 Although a Whistleblower has protection under the law, they may not be protected against any action taken from their own wrongdoing.

### **6. POLICY DETAILS**

6.1 The internal procedures as set out in this document should be followed. If the person is unsure whether to raise a concern, he/she should discuss the issue

with their line manager, the Human Resources team, the Director of Governance, Executive Team or a member of the Board.

- 6.2 Any matter raised under this policy will be investigated thoroughly, fairly, consistently, promptly and professionally, and the outcome of the investigation reported back to the person who raised the issue as appropriate.
- 6.3 The rights of people will be safeguarded and all parties will be given the opportunity to act professionally and with propriety.
- 6.4 Maliciously making a false allegation is a disciplinary offence.
- 6.5 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, the whistleblower should not agree to remain silent. They should report the matter to the Chief Executive, or, if not appropriate, another member of the Executive Management Team or a member of the Board.
- 6.6 Other means of reporting cover ups of wrongdoing can be done via our other whistleblowing channels of communication:
  - Email – [concerned@eastlighthomes.co.uk](mailto:concerned@eastlighthomes.co.uk)
  - Telephone – 01376 535417 and leave a voicemail message
- 6.7 The reporting lines for the email and telephone are managed and accessed by the two different Executive Directors. This ensures that at least two people have responsibility for the monitoring and reporting of whistleblowing allegations.

## **7. EQUALITY AND DIVERSITY**

- 7.1 An equality analysis has been completed for this policy. No positive or negative impacts were identified.
- 7.2 People raising concerns will be treated in a fair manner free from discrimination on any grounds.

## **8. REVIEW**

- 8.1 The Board is responsible for monitoring progress, producing and publishing results and undertaking periodic revisions.
- 8.2 The Board will receive information every six months even if a 'nil' return or when a whistleblowing allegation occurs on the numbers and types of cases arising from this policy. The confidentiality and anonymity of people will be preserved when reporting such data.
- 8.3 The Chief Executive is the Whistleblowing Policy holder and is responsible for reviewing the policy and communicating changes as required.

- 8.4 The policy holder will review this policy every three years, or as legislation, current thinking or best practice change or following the raising of a concern to ensure any lessons learned are reflected in this policy as appropriate.

# Whistleblowing Procedure

## Contents

1	WHISTLEBLOWING PROCEDURE.....	9
A1	RAISING CONCERN.....	9
A2.	INVESTIGATION.....	10
A3	OUTCOME.....	11
A4	REPORTING.....	12

## 1. Whistleblowing Procedure

1.1 Eastlight' Whistleblowing Procedure identifies:

- how individual people can raise what they consider to be genuine and legitimate concerns
- how Eastlight will investigate the concerns and take appropriate action.

1.2 The internal procedures as set out in this document should be followed. If the person is unsure whether to raise a concern, he/she should discuss the issue with their line manager, the Human Resources team, the Chief Executive, or, if not appropriate, another member of the Executive Management Team or a member of the Board.

1.3 Any matter raised under this procedure will be investigated thoroughly, fairly, consistently, promptly and professionally, and the outcome of the investigation reported back to the person who raised the issue as appropriate.

### A1 – Raising a Concern

A1.1 To raise your whistleblowing concern, you should raise your concerns in the first instance at the earliest available opportunity with the Chief Executive, or, if not appropriate, another member of the Executive Management Team or a member of the Board.

A1.2 Other means of reporting a concern is via

- Email – [concerned@eastlighthomes.co.uk](mailto:concerned@eastlighthomes.co.uk)
- Telephone – 01376 535417 and leave a voicemail message

- A1.3 When you make a disclosure, you should provide as much detail as you can, and you may be asked to confirm the details in writing including, where possible, supporting evidence.
- A1.4 There may be circumstances, i.e., suspected wrongdoing by a member Executive Management Team, where it would be more appropriate to do so, in which concerns should be raised directly with the Chair of the Board, Senior Independent Director or the Chair of the Audit & Risk Committee. In such circumstances, the Chair of the Board or Chair of the Audit and Risk Committee will decide on the appropriate action to be taken in conjunction with the Chief Executive or another appointed person. If none of these actions are appropriate, under exceptional circumstances, the concern in question should be raised with 'Public Concern at Work' ([www.pcaw.org.uk](http://www.pcaw.org.uk))
- A1.5 All concerns raised using the above procedures will be taken seriously whether or not the person raising the concern wishes to have their confidentiality maintained. Eastlight commits to taking all reasonable steps to maintaining the confidentiality of the whistle blower where this is requested (unless it is required by law to break that confidentiality).
- A1.6 Eastlight recognises that an individual may prefer to provide anonymous information, and this is will be just as important for Eastlight to act upon. Should this be the approach taken, as much information as possible should be provided. Eastlight' ability to ask follow-up questions, clarify matters or provide feedback will be limited if the whistle-blower cannot be contacted.

## **A2. Investigation**

- A2.1 Eastlight will promptly investigate the allegation in accordance with the relevant policy. Action will be taken in accordance with the policy.
- A2.2 The Chief Executive or Executive Director (or where the circumstances outlined in A1.4 apply, the Chair of the Board, Senior Independent Director or the Chair of the Audit & Risk Committee) will conduct an initial meeting to discuss the concerns raised and seek to establish the facts. This will usually take place within 3 working days of the concern being raised. Following this initial meeting the Chief Executive or Executive Director may appoint someone to conduct an investigation of the facts of the case who may be internal to the organisation or an external investigator may be appointed. The investigation will involve the person and other individuals involved giving a written statement and / or having an investigatory interview with the investigating manager if required.
- A2.3 Any investigation will be carried out in accordance with the principles set out above. The person's statement will be taken into account, and he/she will be asked to comment on any additional evidence obtained.
- A2.4 When investigating a disclosure, Eastlight will:

- Provide support to the person raising the concern, during what can be a difficult or anxious time with access to mentoring, advice and counselling
- Provide the offer of a buddy, so that they have additional support
- Reassure the whistle-blower that their disclosure will not affect their position at work
- Explain that some colleagues may still speculate about who has raised the concern whether or not it has been raised in confidence but reiterate that confidentiality will be retained (if requested) on the part of Eastlight.
- Where appropriate, provide information on what action and/or feedback they can expect as well as timescales for providing updates
- Allow the worker to be accompanied by a trade union representative or colleague at any meeting about the disclosure, if they wish to do so

A2.5 It is expected that under most circumstances, an investigation will be concluded within 12 weeks, and feedback re: information regarding the process, will be provided to the whistle-blower. Should the process take, or be expected to take longer, the whistle-blower will be updated on the likely length of the investigation. Any other feedback will be limited due to issues of confidentiality

### **A3 - Outcome**

- A3.1 On conclusion of any investigation, the person raising the concern will usually be informed of the outcome of the investigation and what Eastlight has done or proposes to do about it as soon as possible. If no action is to be taken, the reason for this will be explained. If the disclosure was anonymous then there will be a limited ability to notify them of any outcomes.
- A3.2 If disciplinary action is required, the investigator will report the matter to the Director of Governance to start the Disciplinary Procedure.
- A3.3 In cases of suspected fraud, the investigation and reporting procedures in the Dealing with Fraud Policy should be followed.
- A3.4 People who speak out and follow the procedures will be protected from victimisation. If you reasonably believe that the nature of your concern relates to the areas set out above and you disclose this information to the appropriate person under this procedure, no action will be taken against you for making this disclosure.
- A3.5 Eastlight will take appropriate action against any person (which could result in disciplinary action up to and including dismissal):

- found to be victimising, treating detrimentally, bullying or harassing another person for using this procedure, or deterring any person from reporting genuine concerns under it
- making the disclosure/allegation maliciously or vexatiously, or where there were no reasonable grounds for believing that the information supplied was accurate.

#### **A4 - Reporting**

- A4.1 The Chief Executive / an appropriate individual will present a report, as a confidential item, to the next meeting of the Board or Audit & Risk Committee following any reports of whistleblowing.
- A4.2 The report should enable the Board or Committee to assess whether appropriate action has been taken and whether or not internal controls are satisfactory.
- A4.3 The Chief Executive's report will provide the Board or Committee with information on:
- the specific circumstances of the case
  - any loss sustained by Eastlight
  - action taken
  - the adequacy of internal controls, systems and procedures
  - recommendations on further action to be taken, as appropriate, including changes in systems and procedures and any reporting of the matter to any appropriate government department or regulatory agency
  - entry made into the Fraud Register.
- A4.4 Eastlight will normally take action to recover any money that has been lost. Eastlight may inform the police, the Regulator of Social Housing and the external auditors if at first examination fraud appears to be self-evident from the facts.