



Anti-Fraud Policy

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Anti-Fraud Policy

1. Introduction and Scope:

1.1 Linthouse Housing Association (LHA) is committed to operating to the highest ethical standards and sound governance arrangements and adopts zero tolerance to fraud and bribery.

In support of its policy statement, the Association will not tolerate fraud or bribery in any form, including any internal action which encourages, implies, bestows, tolerates or promises an unfair, unlawful, improper or unethical advantage to any individual, group or organisation regardless of whether there is financial inducement or not. LHA will not tolerate the acceptance of bribes to induce a favourable decision, transaction or outcome.

Any allegation of fraud or bribery will be thoroughly investigated and may result in disciplinary or other action where substantiated and will be reported to the Police where appropriate.

Any suspicion of fraud, bribery or other irregularity should be reported, as a matter of urgency, to a senior member of staff; or the Chief Executive Officer.

1.2 This Policy outlines the broad principles that the Association will adopt in order to protect the organisation and the public funds it receives, its assets and its services against fraud. It is of relevance to Management Committee Members, staff, tenants and residents, members of the public, contractors, consultants and service providers. In particular it aims to emphasise the importance the Association places on deterring fraud, and the specific responsibilities on all members of staff to identify and report any suspicion of fraudulent activity.

1.3 The Policy also sets out the responsibilities of all staff and Management Committee members regarding the prevention of fraud and the action to be taken where a fraud is suspected or detected. LHA requires all staff and Management Committee members to act honestly and with integrity at all times and to safeguard the resources for which they are responsible. Fraud is an ever-present threat to these resources and hence must be a concern to all staff and Management Committee members.

0. Policy Statement:

LHA will operate a zero tolerance policy towards Fraud by its employees, Management Committee Members, contractors, agents and other associated persons. Breaches of this policy are likely to constitute a serious disciplinary, contractual and/or criminal action for the individual(s) concerned.

3. Application of the Policy:

3.1 LHA will apply the principles set out this Policy fairly, openly and transparently.

3.2 The Policy applies to all employees, shareholders and Committee Members of LHA and its subsidiaries. The Association will also apply the provisions of the Policy to all individuals and organisations having a relationship with LHA including contractors, agents and consultants.

3.3 All the parties listed above are required to familiarise themselves with this Policy and the processes and procedures contained within it and to make sure they follow it at all times throughout their relationship with LHA.

4. Definition of Fraud:

4.1 In law there is no specific offence of fraud. For the purposes of this Policy, it is defined as “*the use of deception with the intention of gaining an advantage, avoiding an obligation or causing loss to another party*”.

4.2 For practical purposes, fraud may include such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. The criminal act is the attempt to deceive; attempted fraud is therefore treated as seriously as accomplished fraud.

5. Examples of Fraud:

5.1 The following list contains some examples of fraudulent acts which should set alarm bells ringing and which should be reported to the Chief Executive Officer or Chairperson of the Management Committee. These are to give you examples of the sort of behaviour which is unacceptable and which could have serious consequences.

5.2 Misappropriation of Assets

- Breach of bank mandates, theft of cash and cheques, use of ‘dummy’ bank accounts;
- Collusion with customers/suppliers;
- Sale of assets at artificially deflated or inflated prices;
- Knowingly submitting false expenses, mileage or other claims;
- Knowingly, or negligently, authorising false expenses, mileage or other claims;
- Misuse of any assets, including Information and Communication Technology (ICT) and/or
- Breach of ICT security (see the relevant ICT policies)

5.3 Corruption:

- Conflicts of interest (e.g. external directorships; engaging in personal transactions which might affect the business);

- Theft or unauthorised circulation/reproduction of confidential organisation documents or information, including financial information;
- Acceptance/payment of inducements/gifts/entertainment outside the relevant Association policy.

5.4 Fraudulent Statements:

- Manipulation of information to improve apparent performance
- Interference with debtors, creditors, ledgers or other financial information

5.5 Third Parties:

This policy extends to include fraud committed by third parties such as tenants and residents, and contractors and suppliers against other third parties such as local authorities, contractors and suppliers.

5.6 Money Laundering:

Money laundering involves the concealment, conversion, disguise and transfer of criminal property. Criminal Property is money or other property that represents a person's benefit from a criminal activity that you know or suspect represents such a benefit. Money laundering should be considered as an activity to which this anti-fraud policy and associated procedures should apply. (NB: A separate Money Laundering policy will be developed by the Association).

6. Strategy and Principles:

6.1 LHA recognises the potential for fraudulent activity taking place within or targeting any area of its business. At a strategic level, the key elements of tackling this risk involve:

- developing and maintaining an anti-fraud culture.
- creating a strong deterrent effect.
- preventing fraud by designing weaknesses out of processes and systems;
- detecting fraud, where it is not prevented.
- investigating suspicions of fraud in an expert, fair and objective manner.
- seeking to apply a range of sanctions where fraud is believed to be present.
- seeking redress and recovery of any losses that are incurred.

6.2 Central to this anti-fraud 'strategy' is a range of operational policies, systems and procedures that are designed to deter, and enable detection and reporting of fraud.

In particular, this includes:

- Financial Regulations, Treasury Management, and Delegated Authority policies and the controls detailed therein.

- Standing Orders and other governance related policies, covering matters including Whistleblowing, Payments and Benefits and Conflict of Interest; and the associated management systems.
 - Service based policies, guidance and operating procedures covering tenancy related matters; repairs, maintenance and development activities; staff recruitment and procurement.
- 6.3 Established Internal Audit arrangements further support the detection of fraud, through testing the appropriateness, adequacy, effectiveness and robustness of relevant policies and systems. Similarly, through the annual examination of the financial statements, the External Auditor identifies any audit and accounting issues and assesses the effectiveness of internal control.

7. Roles and Responsibilities:

7.1 Management Committee:

The Management Committee is responsible for ensuring that the Association (LHA):

- operates an anti-fraud culture.
- maintains effective risk management and internal control systems.
- has relevant policies and systems in place to deter, detect and report suspected fraudulent activity.
- maintains appropriate procedures that ensure reported incidents of suspected fraud are promptly and vigorously investigated; and effective sanctions and redress are applied in instances where fraud is detected.

7.2 The Management Committee is also responsible for ensuring it conducts its own affairs in accordance with the Scottish Housing Regulator's regulatory standards of Governance and Financial Management and recognised principles of good governance. In adhering to the published Code of Conduct, individual Management Committee Members are responsible for reporting any suspicions of fraud or attempted fraud they encounter and otherwise acting with integrity and propriety, within the law, and in accordance with relevant policies and procedures.

7.3 Audit and Risk Sub-Committee:

As detailed within its terms of reference, the Audit and Risk Sub-Committee's role includes:

- monitoring and reviewing the effectiveness of internal, including financial, controls and risk management systems.
- reviewing internal audit reports.
- reviewing findings of external audit.
- monitoring and reviewing the effectiveness of internal audit activities and also in reviewing arrangements for whistleblowing and detection of fraud.

7.4 Chief Executive Officer:

The Chief Executive has the authority to invoke the provisions of the Fraud Response Plan (See Appendix 1). As part of this, the Chief Executive is responsible for:

- convening an initial meeting of the Fraud Response Group.
- appointing an Investigating Officer, where the Group decides that a fraud investigation is the appropriate course of action.
- informing the Chair of the Audit and Risk Sub-Committee that an incident of suspected fraud or attempted fraud has been reported, and is to be investigated.

7.5 Staff Members:

In most situations, employees will be the first to see or suspect serious misconduct and are responsible for:

- being vigilant to possible indicators of fraud or attempted fraud, within their respective areas of work
- reporting any suspicions of fraud or attempted fraud they encounter; and otherwise
- acting with integrity and propriety, within the law, and in accordance with relevant policies, systems and procedures

Similarly, staff members should report to their line manager any areas of weakness they identify in procedures or systems or suggested ways of reducing the possibility of fraud.

8. Reporting Fraud:

8.1 If you believe or suspect that a breach of the Anti-Fraud Policy has taken place, or may occur in the future, as detailed in Section 5 above, you must notify the Chief Executive Officer or the Chairperson immediately.

8.2 You must tell the Chief Executive Officer or the Chairperson if someone tries to involve you in fraud, suspect that this may happen in the future or if you think you are a victim of another form of unlawful activity.

8.3 You must tell the Chief Executive or the Chairperson if you have any concerns or suspicions that any of your colleagues may be involved in fraud or corruption at the earliest opportunity. Alternatively, if you are not comfortable in doing this, you should raise your concerns or suspicions following the procedure set down in the LHA Whistleblowing Policy.

8.4 LHA encourages openness and will support you if you raise genuine concerns (even if they later turn out to be mistaken). The Association wants to ensure no one suffers detrimental treatment (including disciplinary action or dismissal, threats, bullying etc.) because of such reporting or because of a refusal to

become involved in fraud. If you feel you have suffered such treatment contact the Chief Executive Officer or Chairperson immediately.

9. Scottish Housing Regulator:

9.1 LHA acknowledges the requirement to report fraud, the investigation of fraud and instances of whistleblowing to the Scottish Housing Regulator (SHR) as a Notifiable Event. It shall report to SHR without delay, in accordance with the SHR guidance note and LHA's policy on Notifiable Events.

9.2 LHA notes that where SHR is notified and makes regulatory enquiries, SHR will report to the Office of the Scottish Charity Regulator (OSCR), in accordance with legal provisions (The Charities and Trustee Investment (Scotland) Act 2005) and the associated Memorandum of Understanding between OSCR and SHR. In addition to this, auditors have a statutory duty to report matters of "material significance" to OSCR. This includes "matters suggesting dishonesty or fraud involving a significant loss of, or a major risk to, charitable funds or assets."

10. Investigation of Fraud:

10.1 LHA is committed to the rigorous investigation of any suspected fraud. The Chief Executive will invoke the Fraud Response Plan on receipt of an allegation or the identification of suspected fraud. This Plan will provide a consistent framework for investigating and reporting fraud, and is contained within **Appendix 1** to this policy.

10.2 A breach of the Policy by an employee will be treated as a disciplinary matter under the contract of employment and appropriate sanctions applied, which may include instant dismissal. An investigation into any allegation of such a breach made against an employee will be conducted in accordance with the disciplinary procedures contained in the conditions of employment.

10.3 A breach of the Policy by a Management Committee member will be treated as a breach of the duties and obligations to the Association. An investigation into any allegation of such a breach made against a Management Committee member will be conducted in accordance with the Association's relevant policies for such investigations and an appropriate sanction may be applied in accordance with the Association's Committee Members Code of Conduct, Standing Orders and the Rules of Linthouse Housing Association. This may lead to the removal of the Member from the Management Committee.

10.4 Where LHA discovers fraud has taken place, it will make a full disclosure of this to the Serious Fraud Office or Police Scotland and co-operate fully in any investigation carried out by these agencies. The Association acknowledges that

the decision to initiate criminal prosecution rests with the police in conjunction with the Crown Office and Procurator Fiscal Service.

11. Register of Frauds:

LHA will maintain a Register of Frauds which will record:

- the date of entry in the Register
- a description of the alleged, detected, attempted fraud, corruption and/ or malpractice reported
- the action taken, by whom and when
- the outcome of the investigations and actions taken and the decisions made
- a page for the Chair or Vice-Chair of the Board to initial following annual inspection

12. Training:

12.1 The Association through its Business Plan and associated Action Plans is committed to the training and development of staff and Management Committee members to their full potential in order to deliver a high quality of service in all areas of its business.

12.2 The Management Committee induction programme includes an overview of this policy, including responsibilities for the promotion and delivery of openness and confidentiality as relevant to their job descriptions. Committee Members will receive updates on these issues and specific training as required.

0. Equalities:

13.1 This policy will be implemented in line with our Equalities Policy and will be subject to an Equality Impact Assessment to assess the likely or actual effects of the policy on our customers in respect of their disability, age, gender, race, religion/belief, sexual orientation or gender identity to ensure equal and fair access for all.

1. Monitoring and Reporting:

14.1 LHA will use appeals, complaints, comments or suggestions from users of this policy to monitor its effectiveness. These will also be used to prompt a review of the policy where necessary.

2. Review:

15.1 This Anti-Fraud Policy will be approved by the Management Committee. It will be reviewed every three years unless amendment is prompted by a change in

legislation, or monitoring and reporting reveals that a change in Policy is required sooner.

16. Distribution:

16.1 This policy will be made available to every employee and Management Committee member and will be made freely available to any tenant or interested party.

17. Legal Framework:

- The Fraud Act 2006
- The Bribery Act 2010
- Section 72 of the Housing (Scotland) Act 2010
- Rules of Linthouse Housing Association

18. Related Policies:

- Standing Orders
- Whistleblowing Policy
- Anti-Bribery Policy
- Code of Conduct for Staff
- Code of Conduct for Committee Members
- Notifiable Events Regulatory Guidance February 2016
- Terms and Conditions of Employment
- Financial Regulations

Appendix 1

Fraud Response Plan

1. Introduction:

1.1 The purpose of this Plan is to outline the steps to be followed in the event of a suspected fraud. It provides a consistent framework for investigating and reporting fraud by defining authority levels, responsibilities for action and lines of reporting. This Plan should be read in conjunction with LHA's Anti-Fraud Policy, Anti-Bribery Policy and Whistleblowing Policy.

2. Initiating Action:

2.1 Suspicion of fraud may be captured through a number of means. This includes anonymous allegations, internal audit work, external audit, or incidences of whistleblowing. In all cases the Chief Executive Officer (CEO) should be alerted to the matter without delay. In the Chief Executive's absence, another member of the Senior Management Team should be informed, and they will inform the Chair of the Management Committee.

2.2 The CEO (or in their absence, another member of the Senior Management Team) shall, as soon as possible and normally within 24 hours, convene a meeting of the Fraud Response Group. This Group shall normally comprise the CEO, Director of Finance and Director of Customer Services. The Fraud Response Group has the task of deciding on initial action to be taken. This action will normally involve:

- engaging the internal auditor to act as Investigating Officer and undertake an investigation;
- informing external auditors of the matter, and agreeing arrangements for keeping the external auditors informed about the work of the Association;
- considering how to secure records/assets and prevent further loss;
- considering the membership of the Fraud Response Group, and the need to involve other members of the Management Team. This will typically be determined by the area of business where the alleged or suspected fraud has taken place
- seeking expert legal advice from the Association's solicitors, as required
- confirming responsibilities and arrangements for submitting relevant regulatory notifications
- confirming requirements and arrangements for notifying funders

2.3 The CEO should advise the Chair of the Management Committee as soon as an investigation under this procedure has been initiated.

3. Preliminary Investigations

3.1 The Investigating Officer must conduct an initial information gathering exercise to enable the circumstances to be investigated rigorously, confidentially and without undue delay. They should thereafter report their initial findings to the Fraud Response Group, any interim conclusions and provide an action plan to guide the full investigation if this is the recommended course of action.

3.2 The Fraud Response Group will consider the Investigating Officer's report, but the information will not be disclosed or discussed with anyone else who does not have a legitimate need to know. In cases where an individual is suspected of fraud, which a subsequent investigation does not substantiate, every effort must be made to minimise potential damage to the individual's reputation.

3. Involving the Police

4.1 Where preliminary investigations establish that there are reasonable grounds to suspect that fraud has taken place, it is the Association's policy to pass details directly to the police, normally without undue delay and prior to any further internal investigation. The Chief Executive will notify the Chair of the Management Committee of this action.

4.2 The police will lead any further investigations from this stage. All employees are required to co-operate fully with police enquiries in this regard. The CEO will establish and maintain appropriate lines of communication with the police.

4.3 The provisions of this Fraud Response Plan apply in full in cases where external frauds, perpetrated by third parties, are identified or suspected and there is any suspicion of collusion of staff members.

4.4 In all other cases of suspected external fraud the Chief Executive, in consultation with the Fraud Response Group and Chair of the Management Committee shall normally report the matter to the police without delay.

4.5 A major objective in any fraud investigation will be the punishment of any perpetrator, to act as a deterrent to other potential perpetrators. The Association will follow its Disciplinary Policy and Procedures in dealing with any member of staff who has committed fraud; and will normally pursue the prosecution of any such individual.

4. Subsequent Investigations

5.1 Where preliminary investigations provide reasonable grounds for suspecting a member or members of staff of fraud, the Fraud Response Group will decide whether there is a requirement to suspend the suspect(s). It will do so, with

reference to the Association's Disciplinary Policy and Procedure. It may be necessary to plan the timing of suspension to prevent the suspect(s) from destroying or removing evidence that may be needed to support disciplinary or legal action.

- 5.2 In these circumstances, the suspect(s) should be approached unannounced. They should be supervised at all times before leaving the Association's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the Association. Any keys to premises, offices and furniture should be returned.
- 5.3 The IT Consultant should be instructed to withdraw, without delay, access permissions to the Association's computer systems. The suspect(s) should be requested to hand over all IT and communications equipment provided to them by the Association, including laptops, mobile telephones and other devices.
- 5.4 If no suspension takes place following preliminary investigations, the Fraud Response Group should review this at subsequent stages of the ensuing investigation.
- 5.5 The Investigating Officer shall consider whether it is necessary to investigate systems other than that which has given rise to suspicion, through which the employee may have had opportunities to misappropriate the Association's assets. In consultation with the Fraud Response Group they will also determine whether there is a need to collect additional information in order to provide an appropriate level of evidence.
- 5.6 Dependent on the nature of the suspected fraud, the investigation may require technical expertise that the Investigating Officer does not possess. In these circumstances, the Fraud Response Group has responsibility for the appointment of external specialists to lead or contribute to the investigation.
- 5.7 Any requests for information from the press or other external agency concerning any fraud investigation must be referred to the CEO. Under no circumstances should the Investigating Officer or any other employee provide statements or information to the press or external agencies.

6. Recovery of Losses

- 6.1 The Investigating Officer shall ensure that the amount of any loss is quantified wherever possible. Repayment of losses will be sought in all cases. Where the loss is substantial, legal advice should be obtained without delay about the need to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice should also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment. LHA will normally expect to recover costs in addition to losses.

6.2 The Investigating Officer, in discussion with the CEO, with the advice of the Director of Finance, should also decide whether any of the losses warrant a claim under any of the Association's insurance policies. Action to recover losses via insurance will normally only be taken as a last resort.

7. Investigation Report:

7.1 On completion of a fraud investigation, the Investigating Officer will submit a written report to the Fraud Response Group. If a fraud has been established, the report shall contain:

- a description of the incident, the people involved, and the means of perpetrating the fraud;
- the measures taken to prevent a recurrence;
- quantification of losses;
- progress with recovery action;
- progress with disciplinary action;
- progress with criminal action;
- actions taken to prevent and detect similar incidents.

7.2 The report will normally be submitted to the next meeting of the Management Committee. Where the fraud is significant, in terms of losses incurred, or particularly novel, unusual or complex, a special meeting of the Management Committee may be convened.

8. Review of the Fraud Response Plan:

8.1 As a minimum, the Plan will be reviewed every three years to ensure fitness for purpose. It will also be reviewed after any fraud incident in order to identify any need for change.