

PREVENTING BRIBERY AND FRAUD POLICY

(Ref: G/02)

Purpose of Policy: This policy has been produced to comply with the requirements of the Bribery Act 2010 and good practice regarding the prevention of fraud.

Policy Monitoring Details	
Department:	Governance
Author:	Kathryn Miller
Status:	Group Policy
Date Approved by Management Committee:	February 2023
Updated:	
Planned Review Date:	February 2026
Regulatory Outcomes being achieved:	<p>Charter: Getting good value from rents and service charges (managing all resources effectively)</p> <p>Regulatory Standards: The RSL manages its resources to ensure its financial well-being and economic effectiveness (standard 3). The RSL conducts its affairs with honesty and integrity (standard 5).</p>
Relevance to Association's Values	<ul style="list-style-type: none"> ▪ Committed ▪ Agile we endeavour to ensure that our policies are up to date and reflect best practice ▪ People-Focussed ▪ Professional we comply with all regulatory and legislative requirements.
Tenant Consultation Required:	No

Content List:

- 1.0 Introduction
- 2.0 Definitions
- 3.0 Responsibilities
- 4.0 Whistleblowing
- 5.0 Assessing Risk
- 6.0 Minimising or preventing risk
- 7.0 Fraud Response plan

- 8.0 Implementation and Review**
- 9.0 Publicising this document**
- 10.0 Other relevant or related policies**
- 11.0 Appendix 1 (Audit Response Plan)**

1. Introduction

1.1 This document describes the measures the Association will take to ensure, so far as is possible, that:

- The organisation assesses the risk of bribery or fraud that could involve Board Members, staff, tenants, consultants, contractors or suppliers;
- The organisation implements policies and procedures to minimise or prevent the risk of bribery or fraud actually occurring.

1.2 This policy has been produced to comply with the requirements of the Bribery Act 2010 and good practice regarding the prevention of fraud. It should be read in conjunction with the Financial Regulations (CS/01) and Risk Management Strategy (G/16).

2. Definitions

Fraud:

2.1 The term 'fraud' is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

Fraud may be defined as:

“The use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party.”

The criminal act is the attempt to deceive, and attempted fraud will therefore be treated as seriously as accomplished fraud.

2.2 Computer fraud is where information technology equipment is used to manipulate programmes or data dishonestly (for example by altering, substituting or destroying records, or creating false records), or where the use of an IT system is a material factor in the carrying out of fraud. Theft or fraudulent use of computer time and resources, including unauthorised browsing on the internet, that breaches our policies on Acceptable Use Policy (CS/05) and ICT Security (CS/04), is included in this definition.

2.3 Tenancy Fraud is where a tenant lets out their home without the Association's knowledge or permission (unlawful subletting); where a tenant obtains a tenancy by providing false information (obtaining a house by deception); where a tenant dies and someone who is not eligible tries to succeed the tenancy (tenancy succession by deception); or the legal tenant is paid a one-off payment to pass on their keys

(key selling). Such matters that are in breach of the Scottish Secure Tenancy Agreement would be dealt with through the relevant legal processes.

Bribery:

2.4 The Bribery Act defines a bribe as a “financial or other advantage” which is offered, promised or given to induce a person to perform a relevant function or activity improperly, or to reward them for doing so.

2.5 It is a criminal offence to offer, promise, or give a bribe, and to request, agree to receive or accept a bribe. Board Members or staff may be prosecuted individually for giving or receiving a bribe, and the Association may be prosecuted for failing to prevent bribery being committed by a Board or staff member.

3. Responsibilities

3.1 The Board is responsible for ensuring that Manor Estates HA assesses the level of risk relating to bribery or fraud, and that there is in place a comprehensive policy which outlines the measures in place to prevent or minimise the risks, and the action that will be taken should bribery or fraud be suspected or discovered.

3.2 The CEO is responsible for ensuring that effective governance arrangements, including Codes of Conduct and policies and procedures with clear and effective checks and balances, are in place covering all activities where there is or may be a risk of bribery or fraud occurring, and that all Board Members and staff are aware of their role and responsibilities with regard to the prevention of bribery and fraud.

3.3 Directors are responsible for ensuring that:

- the staff they manage have been trained in all relevant policies and procedures;
- ‘refresher’ training is carried out at regular intervals;
- compliance with policies and procedures is regularly monitored;
- they report promptly any suspicion or occurrence of bribery or fraud; and
- they regularly assess the need to revise policies or procedures to make them more effective.

3.4 All staff are responsible for ensuring that:

- they comply with all policies and procedures relevant to their duties;
- they act in such a way as to prevent the risk of bribery or fraud;
- they report promptly any suspicion or occurrence of bribery or fraud; and
- they suggest revisions to policies and procedures to make them more effective.

4. Whistleblowing

4.1 Manor Estates HA's Whistleblowing policy implements the requirements of the Public Interest Disclosure Act 1998, as amended by the Enterprise and Regulatory Reform Act 2013.

It gives Board Members and staff the assurance that they can raise any concerns they may have about possible bribery or fraud without the fear of action being taken against them.

4.2 Should a Board or staff member have any concerns about reporting suspected or actual bribery or fraud they may do so in accordance with the Whistleblowing policy (G/20).

5. Assessing Risk

5.1 As part of the Association's Risk Management Strategy (G/16) the risks of bribery and fraud occurring will be assessed, with particular regard to:

- awarding contracts for new build, planned maintenance, cyclical maintenance and major repairs works;
- awarding contracts for the supply of goods and services;
- payments to Board members, staff, tenants, consultants, contractors and suppliers;
- receipt of income;
- receipt of gifts and hospitality etc. by Board members or staff;
- allocating properties to new tenants, exchanges or transfers.

5.2 These risks will be assessed and reviewed by the Senior Management Team as part of the regular review of the current risk matrix, and reviewed by the Board at least twice each year as part of their overall review of the risk matrix and Audit Committee on a quarterly basis.

6. Minimising or preventing risk

6.1 The Association recognises that ultimately it depends on the integrity and honesty of Board members and staff to ensure that bribery or fraud do not occur.

6.2 The SFHA Code of Conduct (G/17), the Standing Orders (G/18), the SFHA & EVH Code of Conduct (for Staff Members, HR/16) and the Financial Regulations (CS/01) describe the Association's overall arrangements for ensuring that Board members and staff carry out their responsibilities and duties in compliance with current legislation, statutory regulations and codes of practice.

6.3 Manor Estates HA's policies and procedures give detailed guidance on the processes all staff, and Board Members must follow in carrying out their duties and responsibilities.

6.4 The Association will actively encourage tenants to report suspected incidents of subletting and / or fraud. Housing Management staff will undertake unannounced visits to tenants with whom we have not had contact for some time, for example, where no repairs have been reported; where relevant information has been received from neighbours or other sources; or where contractors have highlighted potential concerns.

Gifts and hospitality:

6.5 The Entitlements, Payments and Benefits Policy (G/07) describes how the Association seeks to ensure that:

- Board members and staff are fully aware of their responsibilities and the Association's requirements regarding gifts and hospitality;
- Board members and staff report all offers made or actual gifts etc. received;
- arrangements for accepting or rejecting offers of gifts or hospitality comply with all current guidance, especially guidance relating to the Bribery Act 2010;
- arrangements protect Board members and staff from the possibility of being influenced by excessive offers of gifts of hospitality.

7. Fraud Response Plan

7.1 The Fraud Response Plan (Appendix 1) sets out how anyone suspecting fraud may report their suspicions, and how investigations will be conducted and concluded. The Tenancy Fraud Action Plan (Appendix 2) sets out the specific steps for this type of fraud.

7.2 As stated in the Financial Regulations (CS/01) all suspected fraud should be reported to the Corporate Services Director (failing whom, the CEO), as soon as the matter comes to light.

Where the suspicion involves the CEO, the report may be made directly to the Chair of the Board.

7.3 Where the suspected fraud involves a staff member, consideration will be given to suspending the individual in accordance with the Association's Disciplinary procedures, to ensure that relevant records, documentation etc. are not tampered with and are preserved and available for any investigation.

Role of Internal Audit:

7.4 The role of internal audit is to:

- provide an opinion to the Board on the adequacy of the arrangements for managing the risk of fraud;
- assist in the deterrence and prevention of fraud by examining and evaluating the effectiveness of control arrangements;

- be aware of the risk of fraud in the audit planning cycle;
- as stated in the Financial Regulations, assist management in the investigation of suspected fraud,

Disciplinary Action:

7.5 The SFHA Code of Conduct (for Governing Body Members: G/17) and the staff Disciplinary Procedure (HR/06) describe the action that may be taken in the event of any breaches of the Association's Codes, policies or procedures, including dealing with any behaviour or actions which are directly connected to bribery or fraud.

8. Implementation and Review

8.1 The CEO is responsible for ensuring that this policy is implemented.

8.2 Should fraud occur, the Senior Management Team will ensure that any changes necessary are made to systems and procedures to ensure that similar frauds do not re-occur, and will report to the Board on all action taken.

8.3 The CEO will ensure that the Board reviews this policy at least every 3 years, unless further changes in legislation or regulations require an earlier review.

9. Publicising this policy:

9.1 This policy will be made available to all staff in the staff handbook.

10. Other relevant or related policies:

10.1 The relevant or related policies have been listed within the policy, but are also listed here:

- Financial Regulations (CS/01)
- Risk Management Strategy (G/16)
- Acceptable Use Policy (CS/05)
- ICT Security (CS/04)
- Whistleblowing policy (G/20)
- Protocol for managing an alleged/suspected breach of Code of Conduct (G/17),
- Standing Orders (G/18)
- Code of Conduct (for Staff Members, HR/16)
- Entitlements, Payments and Benefits Policy (G/07)
- Disciplinary Procedure (EVH Terms and Conditions June 2021)

11.0 FRAUD RESPONSE PLAN

1.0 INTRODUCTION

1.1 This fraud response plan provides a checklist of actions and a guide to follow should fraud or bribery be suspected or discovered. It covers:

- notifying suspected fraud etc.;
- the investigation process;
- liaison with Police, internal and external audit;
- initiation of recovery action;
- reporting process.

1.2 The purpose of the Plan is to define authority levels, responsibilities for action and reporting arrangements in the event of suspected fraud, bribery, theft or other similar irregularity.

2.0 NOTIFYING SUSPECTED FRAUD ETC.

2.1 The Association recognises that it is important to ensure that all staff are able to report their concerns without fear of reprisal or victimisation, and that they are aware of how to do so.

Where a staff member feels unable to use normal reporting channels they should use our Whistleblowing policy, which, so long as the matter being 'disclosed' (reported) meets the requirements of the policy and current legislation, will provide appropriate protection for those who wish to raise genuine and legitimate concerns.

2.2 Any suspicion of fraud, bribery, theft or other irregularity should in the first instance be reported to the Corporate Services Director or CEO and they will inform the Chair. The Scottish Housing Regulator (SHR) should also be informed of any activities that are believed to be fraudulent via the SHR notifiable events process. . If the suspicion or concern is about the CEO the staff member may report directly to the Chair of the Board.

2.3 If requested, every effort will be made to protect an informant's anonymity. However individuals will be encouraged to allow themselves to be identified to add validity to the allegations and allow investigations to be more effective.

Where, in order to investigate the matter, anonymity cannot be maintained, the informant will be advised before any information is released.

3.0 THE INVESTIGATION PROCESS

3.1 Suspected fraud etc. will be investigated in an independent, open-minded and professional manner with the aim of protecting the interests of both the Association and the suspected individual(s).

As part of this process, suspicion will not be regarded as guilt to be proven.

- 3.2 The investigative process will vary according to the circumstances in each case, and will be decided by the CEO (or the Chair where the CEO is personally involved).
- 3.3 An 'Investigating Officer' will be appointed to take charge of enquiries on a day-to-day basis. This will normally be a member of the Senior Management Team who has no direct involvement in the matter(s) under investigation.
- 3.4 As required, the Investigating Officer may appoint others to assist in the investigation. This may include other members of the Senior Management Team, other staff or personnel from outwith the Association.
- 3.5 Where initial investigations indicate that there are reasonable grounds for suspicion, and to facilitate the ongoing investigation, it may be appropriate to suspend a staff member against whom an accusation has been made. This decision will be taken by the CEO (or Chair) in consultation with the Investigating Officer.

Any suspension will be carried out in accordance with the principles of the Disciplinary policy and procedure, however suspension in itself will not be regarded as disciplinary action nor will it imply any guilt.

- 3.6 It will be important to ensure from the outset that evidence is not contaminated, lost or destroyed. The investigating team will therefore take immediate steps to secure physical assets, including computers and any records they contain, and all other documents that may be potential evidence.

They will also ensure, in consultation with relevant Directors, that appropriate controls are introduced to prevent further loss.

- 3.7 The Investigating Officer will ensure that a detailed record of the investigation is made at every stage. This should include a file listing in chronological order details of:
 - all telephone conversations, discussions, meetings and interviews (including the date, time, location and names of the interviewee(s), anyone else present and what was said by whom);
 - documents reviewed;
 - tests and analyses undertaken, the results and their significance.

Every detail should be recorded, irrespective of how insignificant it may appear at the time.

- 3.8 All interviews will be conducted in a fair and proper manner. Where there is a possibility of criminal action having occurred, the Police will be contacted without delay.
- 3.9 While every effort will be made to conclude the investigation as quickly as possible, it will also be important to ensure that it is not rushed and that it is as thorough and comprehensive as possible, given the nature and circumstances of the allegations.

- 3.10 The results of the investigation will be reported to the CEO (or Chair), who will determine in consultation with the Investigating Officer what further action, if any should be taken. Where the matter involves a Board Member the CEO will discuss the investigation results with the Chair.

4.0 LIAISON WITH THE POLICE & INTERNAL OR EXTERNAL AUDIT

- 4.1 The Police generally welcome early notification of suspected fraud, bribery etc., especially that of a serious or complex nature. Some types of fraud will automatically be reported to the Police, e.g. theft by a third party. For more complex cases the CEO (or Chair) and Investigating Officer will decide if and when to contact the Police.

- 4.2 The CEO or Corporate Services Director will report suspected fraud to the internal and/or external auditors at the appropriate time in the investigation.

- 4.3 All staff will co-operate fully with any Police or internal/external audit enquiries, which may have to take precedence over any internal investigation or disciplinary process.

However, wherever possible teams will co-ordinate their enquiries to maximise the effective and efficient use of resources and information.

5.0 INITIATION OF RECOVERY ACTION

- 5.1 We will take appropriate steps, including legal action if necessary, to recover any losses arising from fraud, theft or other misconduct. This may include action against third parties involved in the fraud etc. or whose actions contributed to it.

6.0 REPORTING PROCESS

- 6.1 Throughout any investigation the Investigating Officer will keep the CEO (or Chair) informed of progress and any developments.

- 6.2 If the investigation is long or complex, interim confidential reports will be submitted to the Board, either verbally or in writing.

- 6.3 On completion of the investigation the Investigating Officer will prepare a full written report detailing:

- the background circumstances that resulted in the investigation;
- the initial action taken in response to the allegations;
- how the investigation was carried out and the areas it covered;
- the facts that were established and the supporting evidence;
- the action taken against any party where the allegations were proved;
- the action taken to recover any losses;
- recommendations to and/or action taken by the Senior Management Team (or recommended by them to the Board for approval) to reduce further exposure and to minimise any recurrence.

A copy of the report will be submitted as a confidential item to the Board.

- 6.4 A copy of the report will be added to the Fraud Register. This register is available for review by the Board and is also open to inspection by the Scottish Housing Regulator and any other relevant regulatory authority.

The external auditor will also review this register as part of their normal audit work.

- 6.5 To keep all staff informed and where appropriate to act as a 'deterrent' to other staff, a brief and anonymised summary of the circumstances will be discussed at an all-staff meeting.

12.0 TENANCY FRAUD RESPONSE PLAN

1.0 INTRODUCTION

- 1.1 This fraud response plan provides a checklist of actions and a guide to follow should tenancy fraud be suspected or discovered. It covers:
- notifying suspected fraud etc.;
 - the investigation process;
 - liaison with Police, internal and external audit;
 - initiation of recovery action;
 - reporting process.
- 1.2 The purpose of the Plan is to define authority levels, responsibilities for action and reporting arrangements in the event of suspected fraud or other similar irregularity.

2.0 NOTIFYING SUSPECTED FRAUD ETC.

- 2.1 Any suspicion of tenancy fraud other irregularity should in the first instance be reported to the Housing Management Director/Depute CEO. If the suspicion or concern involves a staff member, then the procedure outlined in Appendix 1 should be followed.

3.0 THE INVESTIGATION PROCESS

- 3.1 Suspected fraud etc. will be investigated in an independent, open-minded and professional manner with the aim of protecting the interests of both the Association and the suspected individual(s).

As part of this process, suspicion will not be regarded as guilt to be proven.

- 3.2 The investigative process will vary according to the circumstances in each case, and will be decided by the Housing Management Director/Depute CEO.
- 3.3 An 'Investigating Officer' will be appointed to take charge of enquiries on a day-to-day basis. This will normally be a member of the Senior Management Team who has no direct involvement in the matter(s) under investigation
- 3.4 As required, the Investigating Officer may appoint others to assist in the investigation. This may include other members of the Senior Management Team, other staff or personnel from outwith the Association.
- 3.5 The Investigating Officer will ensure that a detailed record of the investigation is made at every stage. This should include a file listing in chronological order details of:

- all telephone conversations, discussions, meetings and interviews (including the date, time, location and names of the interviewee(s), anyone else present and what was said by whom);
- documents reviewed;
- tests and analyses undertaken, the results and their significance.

Every detail should be recorded, irrespective of how insignificant it may appear at the time.

- 3.6 All interviews will be conducted in a fair and proper manner. Where there is a possibility of criminal action having occurred, the Police will be contacted without delay.
- 3.7 If the evidence provided by the tenant does not counter the evidence collated, legal action to recover the property will be undertaken. Where legal action to recover the possession of a property is successful, court costs will be sought against the tenant.
- 3.8 Staff conducting investigatory visits should be sensitive to the fact that any sub tenants may not be aware of their unauthorised status and may need support and advice on their housing options.

4.0 LIAISON WITH THE POLICE & INTERNAL OR EXTERNAL AUDIT

- 4.1 The Police generally welcome early notification of suspected fraud, bribery etc., especially that of a serious or complex nature. Some types of fraud will automatically be reported to the Police, e.g. theft by a third party. For more complex cases the CEO (or Chair) and Investigating Officer will decide if and when to contact the Police.
- 4.2 The CEO or Housing Management Director will report suspected fraud to the internal and/or external auditors at the appropriate time in the investigation.
- 4.3 All staff will co-operate fully with any Police or internal/external audit enquiries, which may have to take precedence over any internal investigation or disciplinary process.

However, wherever possible teams will co-ordinate their enquiries to maximise the effective and efficient use of resources and information.

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The external auditor will also review this register as part of their normal audit work.

6.5 To keep all staff informed a brief and anonymised summary of the circumstances will be discussed at an all staff meeting.