



Fraud, Theft & Antibribery Policy

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CONTENTS

1. Introduction.....	Page 3
2. Definitions & Examples.....	Page 3
3. Fraud Prevention.....	Page 4
4. Fraud Detection.....	Page 5
5. Fraud Investigation & Reporting.....	Page 5
6. Fraud Register.....	Page 7
7. Responsibilities.....	Page 7
8. Risk Management.....	Page 9
9. Internal Controls.....	Page 9
10. Staff Training.....	Page 10
11. Bribery Act 2010.....	Page 10
12. Policy Review.....	Page 11
13. Appendix 1: Fraud Response Plan.....	Page 12
14. Appendix 2: Fraud Register.....	Page 16

1. INTRODUCTION

Ardenglen Housing Association recognises the importance of protecting the organisation including its operations, its employees, suppliers, and its assets, tenants and residents against financial risks, operational breaches and unethical activities.

Losses due to fraud, theft or corrupt practices could have a direct effect on the level and quality of service provision. The Association plays an important role in the local area and any instances of fraud or corruption could be damaging for its reputation. It is wrong to assume therefore that actual financial losses are the only negative outcome of frauds. The full cost is usually much greater than the amount stolen, as the costs associated with correction may be material. Staff morale and the level of confidence of tenants, owners, partners, suppliers, our lenders and The Scottish Housing Regulator may decline as a result of fraud.

Ardenglen Housing Association has a responsibility to its tenants, owners, staff, partners, suppliers and other stakeholders in general to take all reasonable steps to prevent the occurrence of fraud. This policy sets out in more detail procedures for:

- fraud prevention and detection
- the investigating and reporting of fraud
- recording of fraud
- responsibilities

Information is also provided on risk management, internal controls, management checks, staff training and the Bribery Act 2010.

This policy applies to all employees and to temporary workers, consultants, contractors, agents and subsidiaries acting on Ardenglen Housing Association's behalf. Breaches of this policy are likely to constitute a serious disciplinary, contractual and or criminal action for the individual(s) concerned.

2. DEFINITIONS AND EXAMPLES

Fraud: The definition of fraud is set out in the Fraud Act 2006. The Act gives a statutory definition of the criminal offence of fraud defining it in three classes - fraud by false representation, fraud by failing to disclose information, and fraud by abuse of position.

Some examples of fraud that may be perpetrated against the Association are:

- Theft of cash or other assets
- False accounting and /or making fraudulent statements with a view to personal gain or gain for another
- Bribery and corruption – offering, giving, soliciting or accepting an inducement or reward that may influence the actions taken by the Associations staff, for example in the procurement of goods or services.
- Claims for payment of works of maintenance that haven't been completed / don't exist / exaggerated / excessive.
- Claims for payment of supplies that have not been provided.

- Falsification of expenses and invoices
- Alteration or falsification of records (computerised or manual)
- Failure to account for monies collected
- Tenancy Fraud-including false applications and illegal sub letting
- Acceptance of bribes for access to housing
- Payroll fraud
- Property sales fraud-including incorrect valuations/application of discount
- Development fraud-may include inflating land prices
- Housing benefit fraud
- Procurement fraud
- Bank mandate fraud
- Online fraud

The above list is not exhaustive.

Theft: The definition of theft is set out in the Theft Act 1968 (repealed in 1978). The basic definition of theft is defined in the Act as:

“A person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it”.

Bribery: The Bribery Act 2010 defines four new criminal offences:

- offering or paying a bribe.
- requesting or receiving a bribe.
- bribing a foreign public official. (A specific offence required to comply with the OECD Convention).
- a corporate offence of failing to prevent bribery being undertaken on its behalf.

Computer Misuse: Sections 1-3 of the Computer Misuse Act 1990 introduced the following three criminal offences:

- Unauthorised access to computer material,
- Unauthorised access with intent to commit or facilitate commission of further offences,
- Unauthorised modification of computer material.

3. FRAUD PREVENTION

Ardenglen Housing Association has established a system of internal controls, policies and procedures, in an effort to deter, prevent and detect fraud and corruption, these include:

- Fraud, Theft and Anti-Bribery Policy
- Standing Orders, Financial Regulations and Scheme of Delegation;
- Code of Conduct for Members;
- Financial Procedures;
- Complaints Procedures;
- Disciplinary Procedure;
- IT Acceptable Use Policy
- Procurement Policy

All new employees (including temporary and contract) are asked to verify details provided in their application form including references and educational checks. All staff must demonstrate their eligibility to work in the UK.

All suppliers and contractors must be in good standing and subject to screening by the Association in line with the Association's Procurement policy.

4. FRAUD DETECTION

The primary responsibility for detecting fraud lies with the Board and the Senior Management Team through the implementation, documentation and operation of effective systems of internal control. However, all staff have a responsibility to be aware of the potential for fraud and take the necessary steps to minimise the risk to the Association. The Senior Management Team should ensure staff in their areas of operation are familiar with the common types of fraud.

The Association is not advocating the creation of an overtly suspicious environment, but expects staff to be alert to the potential for fraud in areas where they operate.

The Association's internal auditors, through their evaluation of the control framework, also have a role to play in preventing and detecting fraud; however this is not the main remit of internal audit.

5. FRAUD INVESTIGATION AND REPORTING

Staff will often be the first to notice the potential for, or actual, fraud. Staff suspicious of fraud should report their concerns to their Line Manager or a member of the Senior Management Team who will determine the most appropriate investigation route, depending on the extent of the suspected loss. As a matter of course the CEO will be notified immediately of any instance of suspected fraud. As a general rule:

- losses of between £10 and £250 will be investigated by the Line Manager
- losses of between £250 and £500 will be investigated by the Association's Finance Department
- losses of more than £500 will be referred to the Association's Internal Auditor for investigation.

This requirement to alert is not confined to suspicions about other members of staff, but includes any misgivings staff may have about contractors, suppliers etc. If for any reason it is felt reporting in the manner outlined above is inappropriate staff may report confidentially to the Chair of the Audit & Risk Sub Committee or contact our internal or external auditors directly.

The contact details for the auditors are:

Internal Auditors: Wylie & Bisset LLP

Contact Person: Graeme Gillespie

Contact Tel: 0141 556 7000

Contact Email: graham.gillsepie@wyliebisset.com

External Auditors: RSM UK Audit LLP
Contact Person: Jennifer Lewis
Contact Tel: 0141 285 3900
Contact Email: Jennifer.lewis@rsmuk.com

Where it appears that the fraud may have involved the CEO, the Chair of the Audit & Risk Sub Committee should be notified immediately, who shall then contact either or both the internal and external auditors who will guide them accordingly.

A member of staff may choose to report their concerns anonymously and such anonymity will be respected. It should be noted that, if the report suggests criminal activity and the case is to be pursued by police, the identity of the person reporting the details will be needed at a later date if criminal proceedings are to be pursued effectively; identification is preferred and will assist the investigation.

Provided the allegations have been made lawfully, without malice and in the public interest, the employment position of the person will not be disadvantaged for reasons of making this allegation. The Associations' Whistleblowing Policy contains further information on this.

Any action to prevent the reporting or any attempts at intimidation will be treated seriously and the Association will immediately report such action to the police. Fraudulent or corrupt activity by a staff member is regarded as a breach of contract and where there are grounds for suspicion then suspension, pending the outcome of enquiries, is likely. Where there are grounds to suspect that criminal fraud has occurred the Association's policy in all such cases is to immediately advise the Police. The Police and Procurator Fiscal will be solely responsible for deciding whether a criminal investigation is required. In all cases the Association will co-operate fully with the Police and pursue prosecutions where possible.

The Association may start its own investigation while any Police investigation is ongoing. The Association will follow its own disciplinary procedure if required.

Where dishonesty is detected then disciplinary procedures will be instigated and this may lead to dismissal of the individual concerned. The Association's auditors or any other appointed independent investigator will be called in to carry out a fuller investigation and to provide independence in the investigation. In all cases the Association will co-operate fully with those carrying out the investigation.

Line managers should note that suspects have certain rights under the law and no action (such as interviewing staff) should be taken without prior legal or Employers in Voluntary Housing (EVH) consultation. Failure to follow established procedures in relation to investigating fraud and interviewing the staff involved can invalidate disciplinary action and compromise the success of any future investigation and/or prosecution.

The Association will require that any staff member who is convicted of a fraudulent act whilst employed by the Association is required to inform the CEO. The

Association will take a view on whether or not the offence committed will result in the staff member being able to continue in their current post.

Should there be clear evidence of fraud/theft, the CEO will ensure that the police are advised together with the Internal and External Auditors (if not already involved), the Scottish Housing Regulator (SHR), and the insurers. as appropriate.

Investigation results will not be disclosed to or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected, but subsequently found innocent of wrongful conduct, and to protect the Association from potential civil liability.

A fraud response plan is attached at Appendix 1.

6. FRAUD REGISTER

All frauds, suspected or actual, will be recorded in the Association's Fraud Register. This will be reviewed annually by the Audit & Risk Sub Committee. The CEO will have the responsibility of maintaining this register which will show the following information:

- Scope and circumstances arising; summary of what happened
- Action taken by the Association & Police (if involved)
- Outcome
- Any control action required as a result of the fraud
- Estimate of Loss / Potential Loss
- Extent of / potential for recovery of loss
- Date reported to the Scottish Housing Regulator (all suspected or actual fraudulent activity is to be reported)

Should any loss through fraud be sustained by the Association all reasonable steps will be taken to recoup the loss if the loss is of a material amount. The loss may be recouped from the perpetrator of the fraud or through an insurance fidelity guarantee claim.

An extract of the Fraud Register is attached at Appendix 2.

7. RESPONSIBILITIES

The Senior Management Team are responsible for ensuring that this procedure is communicated and implemented.

Board

- The Board is responsible for ensuring adequate systems of internal control exist and for ensuring that these are regularly reviewed for effectiveness and compliance.
- It is acknowledged that there can never be any 'absolute' guarantees that internal checks and systems and procedures established will always prevent fraud, corruption or malpractice occurring.

- The SFHA Model Code of Conduct for Governing Body Members (Section C: Honesty, ref C.5) states that you must report any concerns or suspicions about possible fraud, corruption or other wrongdoing to the appropriate senior person within the organisation in accordance with our whistleblowing policy.
- The external auditors Management Letter will also be considered by the Board who will reply to any points raised.

The Audit & Risk Sub Committee

- The Audit & Risk Sub Committee is responsible for establishing the internal control system designed to counter the risks faced by the Association and is accountable for the adequacy and effectiveness of these arrangements.
- The Audit & Risk Sub Committee is responsible for receiving reports of potential or actual fraud and satisfying itself of the appropriateness of the investigation and action taken following the investigation in terms of strengthening of control mechanisms.
- It is not the Audit & Risk Sub Committee's responsibility to decide on the appropriate action against the perpetrator of fraud. This will either be subject to a Police Investigation or the Association's disciplinary process.
- The Audit & Risk Sub Committee will also review the Fraud Register on an annual basis
- The Audit & Risk Sub Committee will consider Internal Audit reports and recommendations and decide what recommendations it will accept. The Senior Management Team will be responsible for implementing the recommendations

Senior Management Team

The Senior Management Team has a responsibility for preventing fraud through:

- identification of risks to which systems and procedures are exposed
- developing and maintaining effective internal controls to prevent fraud
- establishing an environment that promotes compliance with internal controls
- promoting fraud awareness amongst staff
- fostering an 'anti- fraud' culture
- ensuring that if a fraud or attempted fraud occurs a vigorous and prompt investigation takes place without regard to position held or length of service
- take appropriate disciplinary and legal action in all cases where justified
- reviewing systems and procedures to prevent similar frauds arising

Managers/Senior Roles

- Managers are the first line of defence against fraud and theft. They should be alert to the possibility that unusual events may be symptoms of fraud and theft, or attempted fraud and theft, and that fraud may be highlighted as a result of management checks or be brought to attention by a third party. They are responsible for:
 - being aware of the potential for fraud and theft;
 - ensuring that an adequate system of internal control exists within their area of responsibility, appropriate to the risk involved and those controls are properly operated and complied with; and
 - reviewing and testing control systems to satisfy themselves the systems continue to operate effectively.

- Managers should inform the CEO if there are indications that an external organisation (such as a contractor or customer) may be trying to defraud (or has defrauded) the Association or its staff carrying out their duties.
- They should also inform the CEO if they suspect their staff may be involved in fraudulent activity, impropriety or dishonest conduct.

Staff

- Staff must have, and be seen to have, the highest standards of honesty, propriety and integrity in the exercise of their duties. Staff are responsible for:
 - acting with propriety in the use of official resources and in the handling and use of public funds whether they are involved with cash or payment systems, receipts or dealing with contractors or suppliers;
 - reporting details of any suspected fraud and theft, impropriety or other dishonest activity immediately to their line manager or the responsible manager. More guidance on how to report concerns can be found in the Whistleblowing policy; and
 - assisting in the investigation of any suspected fraud and theft including providing all details of the suspected or potential fraud
- Staff reporting or investigating suspected fraud and theft should take care to avoid doing anything which might prejudice the case against the suspected fraudster.

Human Resources

A key measure in the prevention of fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees in terms of their propriety and integrity. Written references for potential employees are obtained as part of the recruitment process.

8. RISK MANAGEMENT

While the Senior Management Team are responsible for assessing and controlling the level of risk within their areas of authority, it is the responsibility of all staff to be aware of fraud and take the necessary steps to minimise the risk to the Association.

Managing the risk of fraud is the same in principle as managing any other business risk. It is best approached systematically both at corporate and operational level. Managers should identify risk areas, assess the scale of risk, allocate responsibility for managing specific risks and implement and test controls to minimise the risks.

Management also have a responsibility to familiarise themselves with common fraud techniques in areas for which they have control. This should include being alert to signs which indicate that fraud is taking place.

9. INTERNAL CONTROLS

Internal controls are the key element in preventing fraud. They should be documented, communicated to all staff and the importance of compliance regularly reminded to staff. It is the responsibility of each line manager to ensure controls within their areas of responsibility have been documented and communicated and operate effectively.

Managers should assess the types of risk involved in the operations for which they are responsible; to review and test the control systems for which they are responsible regularly; to ensure that controls are being complied with; and to satisfy themselves that their systems continue to operate effectively.

Senior management should periodically monitor compliance with controls and may also ask the Internal Auditors to test compliance. It should be emphasised that the main remit of internal audit is to evaluate the effectiveness of the overall framework of internal control, with senior management being responsible for ensuring implementation and monitoring of the framework.

10. STAFF TRAINING

Staff often provide the best protection against fraud and corruption. It is important therefore that the policy on fraud prevention and investigation is fully communicated to all staff. The lack of clear guidance and ignorance of procedures will often be the first excuse used by offenders.

The recruitment of suitable staff is the first defence in preventing fraud. Best practice recruitment policies such as detailed application forms including communication with referees and past employers and educational and professional qualifications will be strictly adhered to.

Staff awareness of policy and procedures is fundamental to the effective operation of systems. Best practice includes:

- instruction and discussion on control and probity issues as part of staff induction;
- formal staff training on operational procedures;
- desktop instructions for specific tasks;
- publication of the policy on fraud and corruption; and
- staff updates regarding changes to control systems, policies and procedures.

11. BRIBERY ACT 2010

The Bribery Act 2010 codifies the law relating to bribery and corruption. Corruption is the misuse of office or power for private gain. Bribery is a form of corruption and means that it falls within the scope of this policy. Under the Bribery Act 2010 it is illegal to:

- Offer, promise to give or to pay a bribe
- Request, agree to receive or accept a bribe
- Bribe a foreign public official
- Fail to have adequate procedures in place to prevent bribery

The Bribery Act is one of the widest-ranging pieces of legislation in the field. It covers: bribery which occurs in the UK or abroad; any corrupt act by a UK business (or by a foreign country carrying on any part of its business here) whatever it occurs. A corrupt act committed abroad may well result in a prosecution in the UK. Nor does it matter whether the act is done directly or indirectly.

If the Association or anybody acting on the Association's behalf is found guilty of bribery – or even of failing to have adequate procedures in place to prevent bribery – they will be subject to large fines. Any person guilty of bribery will be subject to fines and/or imprisonment.

Reference to the Bribery Act shall be contained in all relevant policies and contracts with suppliers.

12. POLICY REVIEW

This policy will be subject to review at three yearly intervals or sooner if there are changes to legislation, case law or good practice that may impact on it.

Fraud Response Plan

Introduction

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 Association's Fraud Policy and Whistleblowing Policy.

Initiating Action

Suspicion of fraud may be captured through a number of means. This includes internal audit work, external audit, or incidences of whistleblowing. In all cases the CEO should be alerted to the matter without delay. In the CEO's absence, another member of the Senior Management Team should be informed, and they will inform the Chair of the Audit & Risk Sub Committee. In the case where the CEO is suspected, the Chair of the Audit & Risk Sub Committee must be advised immediately.

The CEO (or in their absence, another member of the Senior Management Team) shall, as soon as possible, convene a meeting of the Fraud Response Group. This Group shall normally comprise the CEO, Director of Finance, Digital & Corporate and Chair of the Audit & Risk Sub Committee. The Group has the task of deciding on initial action to be taken. This action will normally involve:

- engaging the internal auditor and/or external 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 Group;
- 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 Senior 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.

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

Preliminary Investigations

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.

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.

Involving the Police

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

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.

The provisions of this 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.

In all other cases of suspected external fraud the CEO, in consultation with the Fraud Response Group and Chair of the Board shall normally report the matter to the police without delay.

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 of any member of staff who has committed fraud; and will normally pursue the prosecution of any such individual.

Subsequent Investigations

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.

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.

The Association's IT providers 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.

If no suspension takes place following preliminary investigations, the Fraud Response Group should review this at subsequent stages of the ensuing investigation.

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 Association 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.

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.

Investigation results will not be disclosed to or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected, but subsequently found innocent of wrongful conduct, and to protect the Association from potential civil liability.

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.

Recovery of Losses

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. The Association will normally expect to recover costs in addition to losses.

The Investigating Officer, in discussion with the CEO should also decide whether any of the losses warrant a claim under any current insurance policy. Action to recover losses via insurance will normally only be taken as a last resort.

Investigation Report

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.

The report will normally be submitted to the next meeting of the Audit & Risk Sub Committee. Where the fraud is significant, in terms of losses incurred, or particularly novel, unusual or complex, a special meeting of the Audit & Risk Sub Committee may be convened. The Audit & Risk Sub Committee will consider all matters and relevant management responses. This will include details of lessons learned or recommendations to improve controls.

Fraud Response Plan review

As a minimum, this 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.

FRAUD REGISTER

Description	Response
Please provide a summary of the actual / suspected fraud:	
Please state the action taken by: <ul style="list-style-type: none"> • The Association: • The Police: 	
Please state the outcome of the detected / suspected fraud:	
Please state any control action required as a result of the fraud / suspected fraud:	
If financial loss has incurred please state how much this loss / estimated loss or potential loss was and the action taken to recover it:	
Date reviewed by the Audit & Risk Sub Committee:	
Signature - Chair of Audit & Risk Sub Committee	Signature: Print Name: Date:
Signature - CEO	Signature: Print Name: Date:
Date reported to The Scottish Housing Regulator (where applicable):	