

Anti-Fraud, Theft & Bribery Policy



Reference:	HS_POL_FIN_AFT_3.1		
Scope:	Housing Solutions	Approved by:	Audit Committee
Legislation: (if required)	Bribery Act 2010 Criminal Justice Act 1987 Fraud Act 2006 Proceeds of Crime Act 2002 Theft Act 1968 Police and Criminal Evidence Act 1984 Public Interest Disclosure Act 1998 Data Protection Act 2018	Date of approval:	15.01.19
Regulatory/ Governance:	NHF Code of Governance	Date of next review:	December 22
Related Policies:	Anti-Money Laundering Policy Data Protection Policy Disciplinary Policy Board Code of Conduct Employee Code of Conduct Financial Regulations Probity Policy Governance Standing Orders & Terms of Reference Standing Orders relating to Purchasing & Contracts Tenancy Fraud Policy Whistle-blowing Policy	Author:	Gareth Pountain

1. Policy Statement

- 1.1 This policy complies with the Regulator's Governance and Financial Viability Standard on reporting of fraud. It endeavours to mitigate Housing Solutions (HS/ the association) exposure to fraud, theft, bribery and corruption and criminal acts committed by Board members, staff (including agency staff), volunteers, contractors, suppliers, tenants and other third parties and to:
- uphold the highest standards of probity, openness and accountability across Housing Solutions;
 - ensure that, as soon as they are identified, any incidents of malpractice or criminal activity are dealt with promptly and appropriate action is taken in order to prevent any loss or damage to the organisation;
 - provide a safe and secure environment in which Board Members, employees, others acting on behalf of the organisation and tenants of the association are encouraged to raise concerns about malpractice at an early stage.
- 1.2 Housing Solutions will seek to prosecute perpetrators of fraud, theft and bribery and will adopt a "zero tolerance" approach to any type of financial malpractice. Housing Solutions will post the policy on both its internal intranet for staff and Board Members and on its website in order to draw it to the attention of its tenants and to all third party contractors entering into a commercial

arrangement with Housing Solutions.

- 1.3 To demonstrate that Housing Solutions has in place sufficient and adequate procedures and to demonstrate openness and transparency, the Board is required to approve and comply with this policy. Board Members are also referred to the Governance Standing Orders and Terms of Reference, Board Code of Conduct, Probity Policy and Whistleblowing Policy for guidance in relation to upholding standards relative to this policy.
- 1.4 It is expected that all staff will lead by example acting with the utmost integrity and ensuring adherence to all relevant regulations, policies and procedures. Where employees have concerns relating to financial malpractice by other staff and as defined by this policy, they should report any concerns or allegations to the appropriate person identified within the Whistleblowing Policy. The Whistleblowing Policy will offer protection to whistle-blowers making report under its provisions.
- 1.5 Any staff employed by the Association (including agency staff and consultants) who are suspected of financial malpractice as defined by this policy may be suspended pending an investigation by HR under the Disciplinary Policy. This will include but is not limited to cases of:
 - theft from colleagues or tenants;
 - committing of fraud by falsification of financial records;
 - accepting payments from tenants, contractors, suppliers and third parties in a commercial relationship;
 - seeking a commercial relationship with Housing Solutions.Proof of fraud, theft or bribery will result in dismissal/termination of contract and prosecution by Housing Solutions where there is evidence of criminal activity.
- 1.6 Tenants of the Association who are found to have committed fraud, theft or bribery in relation to Housing Solutions staff or the organisation, will on information from the relevant Tenancy & Neighbourhood Officer, be investigated by the Housing Manager. If there is a strong likelihood that fraud is being committed the case will be referred to the relevant local authority fraud investigation team to begin a criminal investigation. Any proof of financial malpractice as defined by this policy will result in appropriate enforcement action, including repossession of the property and/or criminal prosecution. *Refer to Tenancy Fraud Policy.*
- 1.7 Housing Solutions expects that all individuals and organisations, e.g. suppliers/contractors, with whom it comes into contact, will act with integrity towards the association and without fraudulent or corrupt intentions. Housing Solutions will require compliance with the Governance Standing Orders relating to Purchasing & Contracts - including vetting and approval. Where any potential fraud, theft or bribery by a contractor or supplier is identified, the association will take steps to suspend contractual relationships with the company or individual concerned. The incident will be investigated fully by the Procurement Manager. Where financial wrongdoing by a supplier or contractor is discovered no further commercial dealings will be entered into, and the contractor will be removed from the approved suppliers register. Consideration will also be given both to

reporting findings to professional bodies and given to prosecution where criminal activity is established.

2. Definitions

- 2.1 **Fraud:** Fraud is committed where a person acts in a manner described below in order either to gain for themselves or another or to cause or expose another to a risk of loss:
- Making or intending to make a false representation
 - Failing to disclose information where there is a legal duty to do so
 - Dishonestly abusing their position.
- Refer to the “Fraud Act 2006” for further information and guidance.
- 2.2 **Theft:** Theft is committed when taking something without the owner’s permission and assuming the right to property belonging to the owner.
- 2.3 **Bribery:** Bribery is inducement by an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other privileges. Bribery is defined as giving or receiving a financial or other advantage in connection with the improper performance of a position of trust.
- 2.3.1 The Bribery Act 2010 repeals existing corruption legislation and has introduced the offences of offering and or receiving a bribe. It also places specific responsibility on commercial organisations to have in place sufficient and adequate procedures to prevent bribery and corruption taking place in order to ensure the ability to invoke a statutory defence. Refer to Section 9 of the Bribery Act and the Guidance to the Bribery Act 2010.
- 2.4 **Corruption:** Corruption is the offering of inducements, gifts or favours, payments or benefit in kind which may influence the improper action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their actions, however, they may be unreasonably using their position to give some advantage to another.
- 2.5 **Money Laundering:** Money Laundering is the process by which a person or persons attempt to conceal the identity, source and destination of money. Refer to regulations published by HMRC October 2014/ updated June 2017 and the policy on Anti-money Laundering.
- 2.6 **Financial Malpractice:** The collective description for fraud, theft, bribery or corruption.

3. Roles & Responsibilities

NOTE: See also section 5 Reporting & Investigating and Appendix 1

- 3.1 **The Board:** The Board has overall responsibility for ensuring that adequate systems of control are in place to enable allegations or actual instances of fraud, theft or bribery to be investigated properly and reported appropriately. The Chair may, in certain circumstances, be directly involved in receiving and commissioning investigations ordinarily on the advice of the Chair of the Audit Committee.

- 3.2 **The Audit Committee:** On behalf of the Board, the Audit Committee will ensure, through report from the Senior Compliance Officer (3.3 below), that matters of financial malpractice as defined by this Policy are investigated and dealt with appropriately.

The Audit Committee is responsible for providing the Board with assurance on the arrangements for risk management, internal controls and governance including those in relation to fraud, theft and bribery – see 4.2.1, and for ensuring their investigation and resolution. The Chair of the Audit Committee may, in certain circumstances, be directly involved in receiving and commissioning investigations.

- 3.3 **Executive Team Members:** The Executive Team is responsible through the departmental roles of its members for supporting the effective implementation of the Anti Fraud, Theft & Bribery Policy.
- 3.4 **Senior Compliance Officer:** The Chief Executive will appoint a Senior Compliance Officer who will be the Director of Finance and Resources or as delegated - and whose chief responsibility will be to act as the main point of contact for Board Members and staff regarding financial malpractice as defined in this policy. He/she will conduct investigations and provide reports into incidents concerning fraud, theft, bribery at the request of the Board or the Executive.
- 3.5 **Managers:** Where reports are received from employees, the responsible manager or any manager receiving the report must advise the responsible executive director (overseeing the department where fraud or theft is suspected) as soon as practicably possible. The Executive Director will then refer the matter to the Senior Compliance Officer (SCO) ensuring all relevant details are provided in order that a thorough investigation can take place.
- 3.6 **Employees:** Employees at all levels are expected to act with integrity and lead by example in the prevention and reporting of fraud, theft, bribery or other criminal activity. Employees have a vital role to play in the identification of incidents and reporting both through this policy and through the Whistle-blowing Policy where appropriate.
- 3.7 **Other Persons & Parties:** Contractors, suppliers, partner organisations and others acting on behalf of the association are required to maintain standards of probity and will be expected to comply with association policies. If found to commit fraud, theft or bribery they will be removed from the suppliers list and legal action will be taken where evidence of criminal activity is identified.

4. Internal Controls

- 4.1 Internal controls are in place to prevent, detect and respond to incidents of fraud, theft, bribery and other criminal activity. These include but are not limited to:

4.2 Risk Assessment & Management

- 4.2.1 The Audit Committee will review a risk register of risks relating to fraud theft or bribery on a quarterly basis and report to the subsequent Board meeting in

response to identified risks and incidents. The Committee will ensure prevention of fraud, theft and bribery by ensuring reporting and resolution of any such activity, ensuring system reviews and ensuring periodic checks by the internal auditors. This review will include consideration as to how the risks and effectiveness of anti-fraud, theft and bribery procedures may change over time.

4.2.2 Unless this is inappropriate or the matter is sufficiently serious, the Senior Compliance Officer will complete or commission and receive reports on the outcomes of any investigations into suspected incidents (see Appendix 1). Following receipt of these reports they will determine the actions to be taken as a result of any recommendations and report to the Audit Committee and Board.

4.2.3 Where a matter under the policy has been drawn directly to the attention of the Chair of the Board or to the Chair of Audit Committee, they may request the SCO to access independent advice from the organisation's internal auditors and/or solicitors.

4.3 Policies and Procedures

Housing Solutions has a comprehensive framework of policies and procedures to prevent fraud, theft and bribery as well as to uphold the organisation's culture of probity, openness and accountability. These include; Board and Staff Codes' of Conduct, Standing Orders Relating to Purchasing & Contracts, Financial Regulations, Probity Policy and Disciplinary Procedure.

4.4 Register of Interests

4.4.1 All Board members and employees, must declare any perceived, potential and actual conflicts of interest in their dealings on behalf of Housing Solutions. *Please refer to the Probity Policy.* The organisation will maintain an electronic form and register of interests which will be updated annually by requesting completion by all staff and Board Members.

4.4.2 Where an interest has been declared, that individual must abstain from any discussion or decision-making where the interest could be perceived to influence the outcome. This will include not only declared interests but any interest which arises from a meeting or formal discussion. Such interest must then be added by the individual concerned to the register.

4.5 Gifts & Hospitality

4.5.1 The Probity Policy covers areas which might be a source of bribery. This includes donations or sponsorship made to HS or outside HS - to an organisation in which an HS employee has an interest whether charitable or not. All gifts over £25 or hospitality over the value of £50 must be declared with a process to deal with their receipt. If there is any uncertainty about the value of the gift it should be recorded on a Hospitality and Gifts Form – see Probity Policy and/ or refer to the Executive Assistant.

4.5.2 Any gifts over £25, or hospitality or entertainment over £50 that are offered, whether accepted or declined, must be declared by the recipient (or intended recipient) at the earliest opportunity and where accepted, recorded in the Gifts, Hospitality and Entertainment Register. Should guidance be required the recipient (or intended recipient) must, without delay, contact the SCO (if they are a member of the Board) or their manager or the SCO (if they are an employee). See the Probity Policy for further details.

4.5.3 Gifts, hospitality and entertainment which are not proportionate or deemed as lavish or extravagant could be perceived as a form of bribery and must not be offered or accepted in any circumstance.

4.5.4 The gifts, hospitality and entertainment register will be reviewed annually by the Executive Team, with regard to existing and potential contractors/third parties and associated persons, to ensure no conflicts have occurred or may occur.

4.6 Background Checks

Prior to recruitment, reference checks, including DBS checks where required by law, are carried out on prospective employees. This will also include Board Members. Checks are also carried out on contractors or other persons acting on behalf of HS. Where appropriate, HS may continually monitor these persons.

4.7 Whistleblowing Policy

Housing Solutions encourages employees, Board Members and other persons acting on behalf of the organisation to come forward and report any suspected instances of malpractice. Where reports are made in good faith they will be handled confidentially and the person making the report will receive support and protection, as detailed in the Whistle-blowing Policy.

4.8 Partnership Working

In suspected cases of fraud, theft, bribery or other criminal activity Housing Solutions will work with the Police, regulatory bodies and local partners to identify incidents and take action against perpetrators to recover any lost assets. They will act on advice regarding preventative actions from such bodies.

5. Reporting & Investigating

5.1 If Housing Solutions employees suspect an incident of fraud, theft or bribery they must report it immediately to their manager who will report it to their Executive Director and to the Senior Compliance Officer as soon as practicable.

5.2 All notifications must be made either in person or in writing. *Please also refer to the Whistleblowing Policy and to Appendix 1 Reporting & Investigating Fraud, Theft, Bribery.*

6. Monitoring

6.1 An annual programme of internal audits is carried out by the internal auditors who are independent of the Association. This is to ensure that the internal controls are effective and being adhered to. Any weaknesses that arise or are highlighted during the internal audit programme will be brought to the attention of the Audit Committee which will ensure that an appropriate action plan is in place.

6.2 The Audit Committee will present an Annual Report to the Board which will include report on the effectiveness of internal control systems for the organisation.

6.3 The Senior Compliance Officer will maintain a fraud and bribery register detailing any incidents of fraud or attempted fraud and any actions that were taken. New

incidents will be reported to the Audit Committee.

7. Equality & Diversity

7.1 HS recognises the needs of a diverse population and always acts within the scope of its own Equality and Diversity Policy, the Human Rights Act 1998, and Equalities Act 2010. HS works closely with its partners to ensure it has a clear understanding of its resident community with clear regularly updated service user profiles. HS will record, analyse and monitor information on ethnicity, vulnerability and disability.

8. Confidentiality

8.1 Under the Data Protection Act 2018, General Data Protection Regulation (GDPR) and the Human Rights Act 1998, all personal and sensitive organisational information, however received, is treated as confidential. This includes:

- anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff or board member
- sensitive organisational information.

8.2 HS employees will ensure that they only involve other agencies and share information where there is a legal basis for processing the information.

9. Review

9.1 This policy will be reviewed on a 3 yearly basis or more frequently in response to changes in legislation, regulatory guidance, good practice or changes in other relevant Housing Solutions' policy.

9.2 Our performance in relation to the delivery of the services and activities set out in this policy will be monitored on an ongoing basis through our established reporting mechanisms to our Senior Management Team, Executive Team, Board and associated committees.

Appendix 1

Reporting & Investigating Fraud Theft or Bribery

1. Reporting

- 1.1. If any employee of Housing Solutions suspects an incident of fraud theft or bribery they must report it immediately to their manager. The manager must report it to the relevant executive director who must report to the Senior Compliance Officer (SCO) and to the Director of Finance. Where the Director of Finance is suspected of financial malpractice the Chair of Audit and the Chairman of the Board must be informed.
- 1.2. All notifications must be made initially either in person or in writing/e-mail.
- 1.3. Employees who act in reporting fraud or their suspicion of fraud, may themselves be subsequently victimised by other employees. It is the organisation's duty to protect the employee who volunteered the information. The Whistleblowing Policy should be referred to for further guidance.

2. Investigation

- 2.1. Unless inappropriate, the Senior Compliance Officer is responsible for leading any initial fact-finding investigation. Investigations will be conducted in a professional manner and will comply with relevant regulatory and statutory requirements.
- 2.2. In no circumstances should staff and/or management conduct an investigation on their own or confront a suspect either internal or external, in relation to an allegation of theft, fraudulent or corrupt action. On witnessing or discovering potential theft, fraud, bribery or corruption they must not take any actions that could affect the subsequent collection of evidence or influence potential witnesses.
- 2.3. The Head of HR, in consultation with the SCO, must make an initial assessment and decide whether any employees should be suspended pending further investigation. Any decision to suspend the staff member concerned should be made in accordance with the Disciplinary Procedure and not under the Anti-Fraud, Theft & Bribery Policy.
- 2.4. On receipt of relevant internal information, the SCO will having regard to the seriousness of an incident of fraud, theft or bribery, decide whether to advise the Chair of the Audit Committee or, in their absence, the Chair of the Board, *and* decide whether external investigation is necessary. An external investigation may be conducted either by internal auditors, company solicitors or, in specialist matters, forensic consultants. Any findings will be reviewed by the Audit Committee in the first instance and reported to the Board to determine any significant or systemic actions.
- 2.5. **Investigation & Reporting Process:**
The Senior Compliance Officer will:
 - Consider the involvement of the Police if criminal activity is at all evident
 - Ensure that strict confidentiality is maintained
 - Document fully the investigation and reporting process to include a case file to record details of telephone conversations, face-to-face discussions, records and any documentation reviewed.
 - Ensure that any person who is the subject of investigation will be informed of

their right to be accompanied by a trade union or other representative at any interview or hearing

- Ensure that interviews conducted are compliant with regulatory and statutory provisions such as the Police and Criminal Evidence Act (PACE) see <http://police.homeoffice.gov.uk/operational-policing/powers-pace-codes>).
- Produce where relevant, interim reports setting out:
 - the details of relevant transactions
 - a summary of the interview(s)
 - any documentary evidence that has been obtained.
- Compile a final report (see appendix 3) concerning the matter including the findings of the investigation. The final report should include details of:
 - how the issue arose
 - the specific nature of the alleged fraud/theft/corruption
 - how the investigation was undertaken
 - who the suspects are and their position and responsibilities within the organisation
 - whether or not there is evidence that a fraud has been committed
 - the facts and evidence identified
 - what the losses or potential losses are and chance of recovery
 - a summary of findings and recommendations including any system weaknesses identified
 - a summary of how to mitigate the threat of future fraud by taking appropriate action to strengthen controls and how to disseminate the lessons learned.
- Ensure that the report is passed to the relevant executive director; the Chief Executive; and Chair/s if appropriate.
- The parties above will, in concert with the SCO, decide what actions are to be taken. If the allegation of theft, fraud or corruption is shown to be validated then HS disciplinary procedures will be used.
- A report of the outcomes will be forwarded to the Audit Committee to enable them to consider whether they should request a review of the relevant procedures.

2.6. Post Investigation

- 2.6.1. The incident will be recorded by the SCO in the fraud register. This register is held within the N Drive (*Board & Company Secretary/HS Governance Documents & Forms/Financial Malpractice Register*). It shall be open to inspection by the Regulator at any time and shall be reviewed at each meeting of the Audit Committee. The Register will contain records of both attempted and detected frauds and the actions taken. The records will also indicate the systems involved in order to assist in the prevention of any recurrences.
- 2.6.2. The SCO is responsible for informing the internal auditors and the Police as appropriate. The Police will be informed once there is clear prima facie evidence of fraud or corruption.
- 2.6.3. Housing Solutions will take appropriate action against staff or Board and Committee Members who perpetrate fraud or corruption and any person whose conduct allows fraud to be committed.
- 2.6.4. Housing Solutions will take action to recover any money that has been lost. The actions taken will be reported to and reviewed by the Audit Committee.
- 2.6.5. If fraud, theft or corruption has occurred due to a breakdown in the Association's

systems or procedures, the appropriate director will ensure that improvements in systems of control are implemented in order to prevent a recurrence. The SCO together will take a view on any follow up actions required.

- 2.6.6. With the approval of the Chair of the Audit Committee any identified cases of material fraud or misappropriation involving executive directors or non-executive directors will be notified to the Regulator by the Chief Executive in a timely manner. The SCO will be responsible for making the annual report on any losses from fraudulent activity to the Regulator.