



## Fraud, Theft and Anti-Bribery Procedures

### 1. PURPOSE

The aim of this anti-fraud procedure is to establish rules which clarify that fraud will not be tolerated and spell out the consequences of fraud. It also sets out the framework to ensure a fast and appropriate response to instances of alleged fraud. The overall objective is to limit the Association's exposure to fraud and to minimise financial loss and the potential adverse effects on its image and reputation in the event of its occurrence.

The purpose of this statement is to demonstrate and set out the procedures to be followed by Maryhill Housing's staff and Board where a fraud, theft or irregularity is suspected or detected. This procedure forms part of the Association's overall Anti-Fraud Policy and applies to all Board members and all staff whether employees of the Association, freelance, casual or temporary agency staff.

### 2. STATEMENT OF INTENT

Maryhill Housing expects the highest standards of integrity and conduct from its Board members and staff.

Maryhill Housing will not tolerate fraud carried out by its suppliers, staff or Board members. All allegations of fraud will be investigated thoroughly and appropriate action will be taken if an allegation is substantiated. The form of action that is taken will depend on the level of fraud and the circumstances in each case. In most instances, however, the action considered will involve disciplinary action (against staff members), prosecution and recovery of the Association's assets and funds.

Maryhill Housing staff should be aware that fraud, corruption and theft may exist in the workplace and be able and prepared to share their concerns about it. The Association has a **Whistleblowing Policy** which encourages staff and Board members to raise concerns about malpractice without fear of suffering any discrimination or victimisation as a result of their actions.

Maryhill Housing will:

- Institute and maintain cost effective measures and procedures to deter fraud.

- Take firm and vigorous action where appropriate against any individual or organisation perpetrating fraud against the Association.
- Encourage employees to be vigilant and to report any suspicion of fraud
- Provide suitable channels of communication and ensure sensitive information is treated appropriately.
- Rigorously investigate instances of alleged fraud and pursue perpetrators to seek restitution of any asset fraudulently obtained together with the recovery of costs.
- Report all suspected fraud to the appropriate authorities
- Assist the police and all other appropriate authorities in the investigation and prosecution of those suspected of fraud.
- Developing a culture where whistleblowing is encouraged and whistleblowers are supported – in line with the Association’s Whistleblowing Policy
- Adhere to its Sustainable Procurement Policy and scheme of delegation for payment approvals
- Ensure staff are fully trained in the Association’s Fraud Policy, Procedures, Sustainable Procurement Policy and Scheme of Delegation.

### **3. SCOPE**

#### **3.1 General**

This procedure applies to all staff, whether employees, freelance, casual or temporary, and Board members of Maryhill Housing. It is the responsibility of all employees to report immediately any act of attempted or detected fraud.

It is important that all staff are able to report their concerns without fear of reprisal or victimisation and are aware of the means to do so. The Public Interest Disclosure Act 1998 (the "Whistle-blowers Act") provides appropriate protection for those who voice genuine and legitimate concerns through the proper channels.

#### **3.2 Culture**

The Association’s culture is intended to foster honesty and integrity, and to support the seven principles of public life. These are selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Both Board Members and employees are expected to lead by example in adhering to the principles as well as all regulations, procedures and practices.

Equally, members of the public, clients and external organisations (such as suppliers and contractors) are expected to act with integrity and without intent to commit fraud against the Association in any dealings they may have with the Association.

Senior management are expected to deal promptly, firmly and fairly with suspicions and allegations of fraud or corrupt practice.

### **4. DEFINITIONS**

#### **4.1 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*.

Examples are:

- false accounting and/or making fraud and fraudulent statements with a view to personal gain or gain for another: for example falsely claiming overtime, travel and subsistence, other expenses, sick leave or special leave (with or without pay);
- externally perpetrated fraud and theft against an organisation.

#### 4.2 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”.*

#### 4.3 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.

#### 4.4 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.

Two further offences were introduced in the Serious Crimes Act 2015:

- Unauthorised acts causing serious damage,
- Implement the EU Directive on Attacks against Information Systems.

## 5. PREVENTION

The Association has a series of comprehensive and inter-related policies and procedures to ensure proper conduct of its affairs, which comprise:

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

The following internal control measures are also in force:

- The Director of Resources has the responsibility to ensure the proper administration of the Association's financial affairs.
- Operational systems and procedures incorporate efficient and effective internal controls, both financial and non-financial. Directors are required to ensure that such controls, including those in a computerised environment, are properly maintained and documented. The existence and appropriateness of controls is independently monitored by Internal Audit and the Audit & Risk Committee.

Further information on prevention is given in Section 14.2 under specific responsibilities.

## 6. RAISING CONCERNS

### 6.1 Introduction

Members, employees and the general public are an important element in the Association's stance on fraud and corruption. They are encouraged to raise any concerns they may have in respect of fraud and corruption. A number of different channels for communication are available, including:

- Through line managers, auditors, senior officers, and members.
- The Association's ***Whistleblowing Policy*** gives further guidance on how to raise concerns and the support and safeguards available to those who do so. These safeguards offer a framework of protection against victimisation or dismissal and may include identity concealment and protection from harassment.
- Members of the public may also use the Association's Complaints Procedure for this purpose where appropriate.

Line managers and directors are responsible for following-up any allegations of irregularity; it is their responsibility to inform the Director of Resources immediately of such allegations and the results of their investigations. The Association and its senior management are committed by this policy to deal firmly with any proven financial malpractice. Where, after a proper audit investigation carried out by or on behalf of the Director of Resources, there is evidence that financial impropriety has occurred, the Association will normally expect the circumstances to be referred to the

Police for advice, further investigation, and prosecution of the offender if considered appropriate by the Crown Prosecution Service.

Where the outcome of audit or Police investigation indicates improper conduct by an employee, the Association's ***Disciplinary Procedures*** will normally be applied. The recovery of defrauded funds is an essential part of the Association's strategy. However, the instigation of any Disciplinary Procedure will take account of any police investigation and subsequent criminal prosecution.

When it is found that fraud or corruption has occurred due to a breakdown in the Association's systems or procedures, Directors, in consultation with the Director of Resources, are responsible for ensuring that appropriate improvements in systems of control are implemented in accordance with audit recommendations.

## 6.2 Reporting a suspected fraud

Any suspicion of fraud will be treated seriously and will be reviewed and analysed in accordance with the Public Interest Disclosure Act and the Association's Fraud Policy and this Fraud Procedure.

Concerns which should be reported include, but are not limited to, staff, suppliers or Board Members committing or attempting to commit:

- any dishonest or fraudulent act;
- forgery or alteration of documents or accounts;
- misappropriation of funds, supplies or other assets;
- impropriety in the handling or reporting of money or financial transactions; profiting from an official position;
- disclosure of official activities or information for advantage;
- accepting or seeking value from third parties by virtue of official position or duties; and
- theft or misuse of property, facilities or services.

External organisations' actions which should be reported include:

- being offered a bribe or inducement by a supplier or contractor;
- receiving fraudulent (rather than erroneous) invoices from a supplier or contractor;
- receiving fraudulent changes to a supplier/contractor bank details from an external party;
- reported allegations of corruption or deception by a supplier or contractor.

## 6.3 Action by employees

The Association's Fraud Policy and Procedures require that awareness or suspicion of fraud, theft or irregularity is reported to the Director of Resources, who will in turn report this to the Audit & Risk Committee.

If you become aware of a suspected fraud or irregularity whether by a member of staff, a supplier or third party, write down your concerns immediately. Make a note of

all relevant details, such as what was said on the phone or in other conversations, the date, the time and the names of anyone involved.

Report the matter immediately to either:

- your Line Manager, *or*
- your Director, *or*
- the Chief Executive or Director of Resources, *or*
- through the Association's Whistleblowing facility.

Exceptions to this are where the person suspected of fraud is the Chief Executive or Director of Resources, or a member of the MHA Board. In these cases, this must be reported to the Chair of the MHA Board. Where the person suspected of fraud is the Chair of the MHA Board, this must be reported to the Chair of the Audit & Risk Committee.

When you report your concerns, arrange to handover your notes and any evidence you have gathered to the appropriate investigator. You must **not** do any of the following:

- Contact the suspected perpetrator in an effort to determine facts or demand restitution.
- Discuss the case facts, suspicions, or allegations with anyone outside of the Association (including the Press) unless specifically asked to do so by the Chief Executive.
- Discuss the case with anyone within the Association other than the people listed above.
- Attempt to personally conduct investigations or interviews or question anyone unless asked to do so by the Director of Resources.

Confidentiality for all parties will be maintained over reports made in good faith which cannot be substantiated following investigation.

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.

#### 6.5 Action by Managers

If you have reason to suspect fraud or corruption in your work area, you should do the following:

- Listen to the concerns of your staff and treat every report you receive seriously and sensitively.
- Make sure that all staff concerns are given a fair hearing. You should also reassure staff that they will not suffer because they have told you of their suspicions.

- Get as much information as possible from the member of staff, including any notes and any evidence they have that may support the allegation. Do not interfere with any evidence and make sure it is kept in a safe place.
- Do not try to carry out an investigation yourself. This may damage any Internal Audit or criminal enquiry.
- Report the matter immediately to the Director of Resources, or appropriate person if an exception is in place.
- Minimise staff involvement to prevent unauthorised disclosure of information.

## **7. MALICIOUS ALLEGATIONS**

If an allegation is made frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against the person making the allegation.

## **8. INVESTIGATION PROCEDURE**

### **8.1 Investigation Guidelines**

The Director of Resources in consultation with the Chair of the Audit & Risk Committee will determine the most appropriate investigation route, depending on the extent of the suspected loss. As a general rule:

- losses of between £10 and £100 will be investigated by the Line Manager
- losses of between £100 and £250 will be investigated by the Association's Finance Department
- losses of more than £250 will be referred to the Association's Internal Auditor for investigation.

The Director of Resources (reporting to the Audit & Risk Committee) is responsible for initiating and overseeing all suspected fraud investigations and for subsequent follow-up work to be completed. The Director of Resources will comply with the Fraud Policy and Procedure to ensure that all investigations conform to the same standard and in accordance with legislation.

The Director of Resources will notify the Chief Executive and Director of Operations (except where allegations involve these individuals) and appoint an investigator immediately the suspected fraud is brought to her attention. Where there is a need to appoint the Internal Auditors, they should be on-site at the earliest opportunity. It is crucial that documentary and electronic records are secured at the earliest opportunity. This will also ensure that statements and evidence collection is carried out in line with current legislation before either of these degrade.

Should there be clear evidence of fraud/theft, the Director of Resources is to 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.

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.

Where the investigation does not find any evidence of wrongdoing, whoever originally reported the suspected fraud or irregularity will be informed that the investigation has revealed no wrongdoing.

Any necessary investigative activity will be conducted without regard to any person's relationship to the Association, position or length of service.

## 8.2 Conduct of investigation

All suspected fraud, theft or irregularity investigations will be carried out in accordance with this Fraud Procedure.

All investigations will be carried out with discretion and sensitivity. Those carrying out the investigation will confine themselves to investigating those matters which are the subject of, or are relevant to, the suspected fraud.

A key aspect of the investigation will be to shutdown opportunities for the fraud to continue and to strengthen controls as appropriate and consequently every line of enquiry must be followed to ensure the full extent of the situation is identified.

The Investigating Officer must be experienced in securing evidence in a legally admissible form and acting as an expert witness in the disciplinary and/or criminal process, where necessary.

The Investigating Officer must recognise that the fraud and subsequent investigation should not disrupt the continued delivery of the services offered by Maryhill Housing and extra care needs to be taken with regards to managing the sensitivity of service users' needs. This will be particularly relevant should the fraud involve a service user's personal monies.

The Investigating Officer will be responsible for keeping the Director of Resources updated with progress of the investigation. The Director of Resources will subsequently be responsible for keeping senior management and the Audit & Risk Committee continually updated on progress.

It is important that any likely financial loss is established at the earliest opportunity in order that management can take decisions regarding informing insurers, Police, External Audit etc. It is also important that the investigation is completed in as short a time as is reasonable taking account of the need to carry out a thorough, fair investigation.

The need to provide assurance at the earliest opportunity to senior management on potential 'damage exposure' that could arise as a result of the fraud should also be considered by the Investigating Officer.

Once the investigation has been completed, a written report will be prepared which states the facts discovered by the investigation. The report will avoid speculation and no statement shall be made that cannot be supported by the facts. All records of suspected and detected acts of fraud/theft will be recorded in the Fraud Register with a note of the actions taken. The fraud register can be found here: F:\DIRECTORS TEAM AND BOARD MEETINGS\Registers\Fraud register The Register will be open to inspection by the SHR and the Internal and External Auditors at any time. All information held on the Fraud Register or any supporting documents will be handled within the Data Protection Act and General Data Protection Regulations.

### 8.3 Learn from past experience

Where a fraud has occurred, management must make any necessary changes to systems and procedures to ensure that similar frauds will not recur. The investigation may highlight where there has been a failure of supervision or a breakdown/absence of control. Advice and assistance will be sought from the Association's Internal Auditor on matters relating to internal control, if considered appropriate.

## 9. **DISCIPLINARY PROCEDURE**

The alleged fraudster will normally be suspended until the outcome of the investigation in order to prevent the removal or destruction of evidence. Suspension does not imply that the person concerned is guilty of the suspected act of fraud/theft. If it is an employee, the suspension will be on full pay. Should the fraud/theft relate to a Board member, the member will be suspended on the initial allegation and a report taken to the next Board meeting.

Where a supplier is alleged to have committed fraud/theft the organisation will consider suspension of commissioning services from the supplier until the outcome of the investigation is known, or working with the supplier to carry out an investigation, depending on the materiality of the allegation.

As for other cases of misconduct, matters of alleged fraud will be dealt with under the procedure laid down in the Association's **Disciplinary Procedures**.

## 10. **RECOVERY OF LOSS**

Where the Association has suffered loss, restitution will be sought of any benefit or advantage obtained and the recovery of costs will be sought from individual(s) responsible for fraud.

As a first step the individual concerned will be asked to make good the loss. It may be appropriate to consider recovering the loss from any monies due to the individual on termination if the perpetrator is an employee. Legal advice should be sought before attempting to make recovery.

If the individual will not make good the loss consideration should be given to taking civil action to recover the loss, subject to legal advice received.

## 11. **MANAGEMENT OF EXTERNAL AFFAIRS**

Dependent on the size of the suspected fraud and the extent of the investigation, the Director of Resources will consider whether to:

- Involve the relevant Social Services department or other relevant organisations;
- consult the Chief Executive or Chair of the Audit & Risk Committee;
- Involve the police;

All external communications should be managed by the Chief Executive and the Chair of the Board informed (unless the allegations concern them).

## **12. WITNESS SUPPORT**

The Association appreciates that fraud investigations may place witnesses in a stressful situation, both during the course of the investigation and during any subsequent disciplinary or court appearance where they may be required to give evidence. The Association will attempt to support witnesses, in accordance with the following principles as discussed below:

- **Support at Work**  
In serious circumstances, the Association will consider redeploying managers or witnesses where a difficult relationship would result out of allegations being made. If circumstances result in a member of staff being suspended then tensions may be temporarily eased.
- **Support at a Disciplinary/Court hearing**  
Crown Courts have their own Witness Support Scheme. However, if a witness was appearing at a disciplinary or a Court hearing, the Association may also be able to provide help and support in such situations.

## **13. DETECTION AND INVESTIGATION**

The operation of preventive systems, particularly internal control systems, within the Association, help to deter any fraudulent activity. However, such activity may nevertheless occur. It is often the alertness of Members, staff and the general public to the possibility of fraud and corruption that leads to detection of financial irregularity. In such a situation the Association has in place arrangements to enable any such information to be properly dealt with, investigation and detection to occur, and appropriate action to be taken.

Maryhill Housing's Fraud procedures set out the actions that should be taken by management when a suspected or discovered fraud is reported.

Maryhill Housing's suite of data Protection Policies sets out the circumstances under which officers of the Association may examine the use and content of all data/information processed and/or stored by the staff member on the Association's systems and be permitted access to lockers and work station drawers.

## **14. RESPONSIBILITIES**

#### 14.1 Introduction

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

It is the responsibility of all of Maryhill Housing's members and employees to ensure that their work is carried out in line with this policy and the procedures attached to it. Maryhill Housing will ensure that it trains all of its employees so that they fully understand the Fraud, Theft and Anti-Bribery Policy and Fraud Procedure.

#### 14.2 Specific responsibilities

- The Audit & Risk Committee
  - The 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 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 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 Director of Resources
  - The Director of Resources will be responsible for enforcing anti-fraud and theft policies and procedures, including:
    - instigating disciplinary and legal action (both civil and criminal) against the perpetrators of fraud and theft;
    - receiving the report of the investigating officer and recommending the appropriate response
    - reporting the potential or actual fraud to the: Chief Executive and Director of Operations (unless the allegations are against them); the Audit Committee; Internal Auditors; External Auditors; Police; Scottish Housing Regulator.
    - leading disciplinary action against Managers where supervisory failures have contributed to the commission of fraud and theft;
    - providing confidential advice to staff who suspect a member of staff of fraud and theft.
  
- Appointed Investigator
  - The appointed senior member of staff will be responsible for investigating allegations of fraud and theft including:
    - carrying out a thorough investigation if fraud and theft is suspected, with the support of auditors, where necessary;

- gathering evidence, taking statements and writing reports on suspected fraud and thefts;
  - liaising with the Director of Resources and Chief Executive where investigations conclude that a fraud and theft has taken place;
  - identifying any weaknesses which contributed to the fraud and theft; and
  - if necessary, making recommendations for remedial action.
- To carry out these duties the appointed member of staff will have unrestricted access to Director of Resources, Board Members, the Chief Executive and the Management Team, the Internal and External Auditors, and Maryhill Housing's legal advisers.
- Managers
  - Managers are the first line of defense 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 Director of Resources if there are indications that an external organisation (such as a contractor or customer) may be trying to defraud (or has defrauded) Maryhill Housing or its staff carrying out their duties.
  - They should also inform the Chief Executive 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.
- Board & Committee Members
 

Members are expected to adhere to and to operate within:

- Standing Orders and Financial Regulations
- The Code of Conduct for Members
- Entitlements, Payments & Benefits Policy
- Rules of Maryhill Housing

- 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. Due to the nature of the work that Maryhill undertakes, employees who visit customers in their homes and have access to their personal information are required to have a basic CRB (Criminal Records Bureau) disclosure undertaken prior to them being confirmed in post.

## **15. REPORTING RESPONSIBILITIES**

All frauds and attempted frauds will be reported to the Audit & Risk Committee at the earliest opportunity and will be recorded in the Association's Fraud Register.

## **16. REVIEW**

The Association's Senior Management Team will be responsible for ensuring that reviews of this procedure are carried out at three yearly intervals or sooner if there are changes to legislation, case law or good practice that may impact on it.

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