



Aberdeenshire *housing partnership*

Anti Fraud and Corruption Policy

October 2005

This policy is intended to assist the development and operation of controls that will aid in the detection and prevention of fraud against Aberdeenshire Housing Partnership. It is the intent of Aberdeenshire Housing Partnership to promote consistent organisational behaviour by providing guidelines and assigning responsibility for the development and operation of controls, and the conduct of investigations.

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1. Policy Aims

- 1.1 This Anti Fraud and Corruption Policy sets out AHP's policy in respect of fraud and corruption. It provides direction and help to Board members and employees of AHP who may find themselves having to deal with cases of suspected or detected fraud and corruption.

2. Scope of Policy

- 2.1 This policy applies to any fraud or irregularity (actual or suspected) involving Board members (acting in the capacity of AHP Director), employees, agents of AHP, external consultants, suppliers, contractors and any other entities conducting business with AHP. Investigations will be conducted without regard to the length of service, position, title or relationship to AHP of the person suspected.
- 2.2 Management has overall responsibility for the detection and prevention of fraud.

3. Definitions of Fraud

- 3.1 No precise legal definition of fraud exists; many of the offences referred to as fraud are covered by the Theft Acts and the Forgery and Counterfeiting Act. The term may be used to describe deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.
- 3.2 The following definitions will apply for the purpose of this Policy:

Fraud

The intentional distortion of financial statements or other records by persons internal or external to the company which is carried out to conceal the misappropriation of assets or otherwise for gain.

Corruption

The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.

- 3.3 For simplicity, all such offences are hereafter referred to as "fraud", except where the context indicates otherwise.

4. Actions Constituting Fraud

- 4.1 A general definition of fraud has been provided at paragraph 3.2 above. However, AHP has reviewed the fraud risks that are particular to its organisation and business. These, together with more general examples of fraudulent conduct, are set out in the following paragraphs. The expressions "forgery", "stealing", "obtaining by deception", "unauthorised access" and "unauthorised modification" have the meaning given to them by currently applicable legal definitions.

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4.2 These examples are not intended to be exhaustive but are provided for the illustration and guidance purposes:

- forgery or alteration of any document or account belonging to the company;
- forgery or alteration of any cheque, bankers draft or other financial document;
- stealing, obtaining by deception or misusing funds, securities, equipment or other assets;
- impropriety in the handling or reporting of money or financial transactions;
- profiting as a result of insider knowledge of the activities of the company or as a result of any undisclosed relationship with any third party entering into any transaction with the company;
- disclosing without authority trading activities engaged in or contemplated by the company for personal gain;
- disclosing without authority confidential and proprietary information
- accepting or soliciting anything of material value (£10 and above) from any third party providing goods or services to the company or acting directly or indirectly on behalf of the company or any other person or entity involved in any transaction with the company;
- giving anything of material value to any third party providing goods or services to the company or acting directly or indirectly on behalf of the company or any other person or entity involved in any transaction with AHP;
- destruction, removal or unauthorised use of records, furniture, fixtures and equipment belonging to AHP;
- unauthorised access to or unauthorised modification of any computer system or computer program belonging to or used AHP for the purpose of diverting or misusing assets or for the purpose of obtaining confidential information.

5. Policy Statement

5.1 AHP is committed to the elimination of fraud and corruption and to the rigorous investigation of any such cases which may occur. A range of measures has been put in place to reduce the likelihood of any such irregularities occurring. These include Standing Orders, Standing Financial Instructions, procedural guidance and systems of internal control. This Policy is intended to support these measures and to promote a general awareness of the risks posed by fraud and corruption.

5.2 AHP wishes to encourage anyone having reasonable suspicions of fraud or other irregularity to report them. Therefore it is the AHP's policy that no employee will suffer in any way as a result of reporting reasonably held suspicions. For these purposes, "reasonably held suspicions" will mean any suspicions other than those which are known to be groundless and/or raised maliciously.

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5.3 The ways to report suspicions are set out in section 7 of this policy.

6. Roles and Responsibilities

6.1 All Staff

All staff have a responsibility to protect the assets of AHP from fraud, corruption and other forms of loss.

The Code of Conduct and Gifts and Hospitality policies provide guidance on maintaining strict ethical standards in the conduct of AHP business.

6.2 Finance and Business Support Manager

The Finance and Business Support Manager is responsible for investigating fraud and will maintain a register of fraud. The Manager will be responsible for the security of the register and will promptly report additions to the Audit Committee. They are also responsible for communications with third parties such as, the police, Communities Scotland and external audit.

The Finance and Business Support Manager will appoint an appropriate person, normally from internal audit, to lead any investigation which is required while retaining overall responsibility herself.

The Finance and Business Support Manager will ensure that once the circumstances of fraud are known, action is taken to prevent further fraud and/or loss occurring in the same way.

The Finance and Business Support Manager will report annually to the Audit Committee on the level of suspected and detected fraud and corruption, and on arrangements for prevention and detection.

The Finance and Business Support Manager will also liaise as necessary with Employers in Voluntary Housing (EVH) where a member of staff is to be interviewed and disciplinary action may result.

6.3 Chief Executive

Where the suspicions of fraud relate to the Finance and Business Support Manager, the Chief Executive will assume responsibility for those actions required of the Finance and Business Support Manager by this Policy.

6.4 Absence of Chief Executive /Manager

Where a Chief Executive or manager is identified in this policy as having a specific role or responsibility, an authorised nominee will be empowered to discharge that role or responsibility in the absence of the Chief Executive or Manager.

7. Reporting Fraud and Corruption

7.1 These procedures are intended to reassure members of staff who might be worried about their concerns not being properly investigated or being discriminated against

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for having raised their concerns. In additions reference should be made to AHP's Whistleblowing policy.

- 7.2** Where an employee of AHP has grounds to suspect that fraud or corruption has occurred, they should report their concerns without delay. Time may be of the utmost importance; delay may result in further loss to AHP or may allow evidence to be destroyed.
- 7.3** In the first instance employees should report their concerns or suspicions to their manager. If the suspicions seem well founded, the manager will inform the Finance and Business Support Manager or nominated officer in the absence of the Finance and Business Support Manager.
- 7.4** Where the employee's suspicions concern their manager, they should report them to the Finance and Business Support Manager. Where the employee's suspicions concern the Finance and Business Support Manager, they should report them to the Chief Executive.
- 7.5** Where in the legitimate course of their duties, an employee has access to documents or other evidence which supports their suspicions, they should if possible make these available to the officer to whom they is reporting their concerns. Employees should not jeopardise their own position or risk alerting a suspected fraudster by attempting to obtain evidence which is not normally and/or readily available to them.
- 7.6** The investigation of fraud usually requires specialist skills and training. Under no circumstances therefore, should employees attempt to carry out any investigations before reporting their suspicions.
- 7.7** Where suspicions of fraud arise in the course of internal audit work, the Internal Auditor will immediately notify the Finance and Business Support Manager or nominated officer in their absence. If the nature of the suspicions is such that it is not appropriate to report to the Finance and Business Support Manager, the Internal Auditor will advise the Chairman of the Audit Committee.
- 7.8** The external auditor should report suspected fraud to the Finance and Business Support Manager or nominated officer in their absence. Suspicions of corruption should be reported to the appropriate body for further investigation e.g. the Finance and Business Support Manager, Communities Scotland or the police.

8. Response to Fraud and Corruption

8.1 Register of Fraud

The Finance and Business Support Manager will maintain a Register of Fraud which will contain details of all reported suspicions, including those dismissed as being unfounded. The Register will also contain details of the actions taken in respect of each matter reported and the conclusions reached. Additions to the Register will be reported to the Audit Committee promptly on a regular basis. The Finance and Business Support Manager will ensure that the Register is held securely at all times, with access restricted to the Finance and Business Support

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Manager, Chief Executive, Convenor of the Audit Committee and the Chairman of AHP.

8.2 Investigation

The Finance and Business Support Manager will ensure that an appropriate investigation is carried out into every case where the suspicions appear to be well founded. While the ultimate responsibility remains with them, the Finance and Business Support Manager will appoint a suitable person to oversee the investigation, normally, the Internal Auditor. The person so appointed must be independent of the area under investigation. Guidance on the investigation of fraud is contained in Section 9 of this Policy.

8.3 Reporting to the Police

8.3.1 It is essential that preliminary enquiries are carried out in strict confidence and with as much speed as possible. At the very early stages of a case of suspected fraud, the police should be contacted to seek their advice on the steps which might be taken.

8.3.2 Where preliminary investigations suggest that prime facie grounds exist for thinking that a criminal offence has been committed, the Police must be notified without delay and given all material assistance. Where there is a doubt that a prime facie case exists, the Finance and Business Support Manager or nominee will contact the Police for advice.

8.3.3 It may be the case that preliminary enquiries do not reveal prima facie grounds for believing that a criminal offence has occurred and that such grounds only emerge at a later stage of an investigation.

8.3.4 Restitution of funds or property is not a reason for withholding information or failing to report the facts.

8.4 Communication

8.4.1 At all stages, the Chief Executive should be kept informed of developments in cases of fraud, particularly those of a sensitive nature.

8.4.2 All referrals to the Police must be copied to the External Auditor.

8.4.3 It is not appropriate for AHP or its officers to decide whether a suspected person should be prosecuted. The question of whether proceedings should be taken in any particular case is a matter solely for the Crown authorities. It follows that no suspected person should ever be told that whether or not they will be prosecuted, except where a decision has already been made by the Crown authorities.

8.4.4 While normally there is no requirement to report individual cases to Communities Scotland, there may be occasions where the nature or scale of the alleged offence, or the position of the person(s) involved could give rise to national or local controversy and/or publicity. Moreover, there may be cases where the alleged fraud appears to have been of particularly ingenious nature or concerns an

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organisation with which other registered social landlords may also have dealings. In all such cases, Communities Scotland should be notified of the circumstances.

8.5 Response to Media Enquiries

8.5.1 Where a particular case of fraud attracts enquiries from the media, all employees of AHP should be fully aware of the importance of avoiding issuing any statements which may be regarded as prejudicial to the outcome of criminal proceedings.

8.5.2 Under no circumstances should an employee speak to the media about an alleged fraud or irregularity without the express authority of the Chief Executive, or Chairman of AHP. Statements to the media in respect of alleged fraud or corruption will normally be made via AHP's Chief Executive.

8.6 Management Action

8.6.1 Whether or not the Crown authorities determine that there are sufficient grounds on which to institute criminal proceedings, it remains open to AHP to consider invoking disciplinary or other relevant procedures. The need to take action to remedy system weaknesses and invoke disciplinary procedures must be balanced against the need to avoid prejudicing or compromising any possible criminal investigation and proceedings. If necessary, the advice of the police should be obtained.

8.6.2 The advice of the Employers in Voluntary Housing (EVH) must be obtained before invoking disciplinary procedures as the result of a suspected fraud.

8.6.3 In order to facilitate a thorough and fair investigation into fraud, corruption or other irregularity, it may be necessary to suspend an employee(s) from work. Where this is the case, suspension will be on full pay and AHP's disciplinary procedure will apply. A suspended employee(s) may be required to attend work at pre-arranged times in order to co-operate with investigations.

8.6.4 Whether or not criminal proceedings are taken, or a criminal conviction is obtained, all reasonable means of recovering any identified loss should be pursued. Where recovery is not possible, the Finance and Business Support Manager in accordance with Standing Financial Instructions should write off losses.

8.6.5 As with all categories of loss, once the circumstances of a case are known, the Finance and Business Support Manager will require to take immediate steps to ensure that further loss does not occur. It will be necessary to identify any defects in the control system which may have enabled the initial loss to occur and to decide on any measures to prevent recurrence.

8.6.6 The Finance and Business Support Manager will consider the treatment of any claim(s) for payment which arise from organisations or individuals who are under investigation, or against whom proceedings are being taken for suspected fraud. In doing so, it may be appropriate to distinguish between claims similar to those which may have given rise to the suspicions of fraud and those made by the same person or organisation under different circumstances. The existence of contractual obligations is a significant factor and in cases of doubt, the Finance and Business Support Manager will consult AHP's legal advisors.

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9. Investigation of Fraud and Corruption

9.1 Introduction

The nature of fraud can vary considerable and each investigation may require its own unique approach to meet the particular circumstances which prevail. This Policy does not therefore set out to prescribe a detailed programme of action which should be applied in every investigation into suspected fraud. Instead, it highlights the issues which need to be considered when planning an investigation.

9.2 Managing the Investigation

The investigation of fraud can quickly consume significant resources. It is important therefore to ensure that the investigation is properly managed.

- (i) The Finance and Business Support Manager should approve the objectives of the investigation.
- (ii) The Finance and Business Support Manager should agree the scope and timing of the investigation.
- (iii) The Audit Committee should approve the resources which will be available for the investigation. These should be appropriate to the nature of the fraud and the likelihood of a positive outcome.
- (iv) The Finance and Business Support Manager should ensure that the resources used are monitored against the agreed budget.

9.3 Gathering Evidence

9.3.1 The person appointed by the Finance and Business Support Manager to oversee the investigation should maintain a diary of events. This should give a detailed explanation of each action and event in the course of the investigation. In particular,

- details should be recorded of all telephone calls, faxes, electronic mail and communication by any other means;
- a formal record should be made of all interviews and meetings;
- there should be a clear record of where, when and how documents and other evidence were obtained.

9.3.2 The successful criminal prosecution of a fraudster can depend on details which in another context would appear unimportant. In addition, a considerable time can elapse between the start and conclusion of an investigation and between, the completed investigation and any criminal trial. It is important therefore that to aid recall, all relevant details are recorded timeously in the diary of events.

9.3.3 The originals of relevant documents and records should be impounded at the start of the investigation to prevent them being altered to conceal the fraud. These

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should be logged in such a way to facilitate the identification of the source, nature and purpose of each.

9.4 Interviews

9.4.1 All interviews must be conducted fairly. If required an employee may be accompanied at the interview by a colleague or representative. Employers in Voluntary Housing (EVH)The Human Resources Department must be consulted before any members of staff are interviewed, whether as potential witnesses or as suspects.

9.4.2 Under criminal law, any individual has the right to refuse to answer questions on the grounds that they might incriminate themselves. However, where a member of staff chooses to exercise this right at work, it should be made clear that refusal to co-operate with a workplace investigation could lead to disciplinary action.

9.5 Prevention of Further Fraud

The Finance and Business Support Manager will ensure that any lessons learned from a case of fraud are converted into an action plan to prevent a similar occurrence in future.

10. Theft

10.1 Although it is a different offence, it is appropriate to include some reference to theft in this Policy. Theft can be defined as:

Dishonesty appropriating the property of another with the intention of permanently depriving them of it.

This may include the removal or misuse of funds, assets or cash.

10.2 Where an employee of AHP discovers a clear case of theft of AHP property, they should report the matter to the Police immediately and then inform the Finance and Business Support Manager of the circumstances.

10.3 Where it is not certain that theft of AHP property has occurred but an employee of AHP suspects that such theft may have occurred, they should report the matter to the Finance and Business Support Manager, following the guidance contained in section 7 of this Policy - Reporting Fraud and Corruption.

10.4 The Finance and Business Support Manager has specific responsibility for co-ordinating action where there are reasonable grounds for thinking that an item of property, including cash, has been stolen. They will report details to the police and notify the circumstances to the Internal Auditor.

10.5 The police will normally undertake any investigation into theft. If however, the police leave the investigation to AHP, then the guidance contained in section 9 of this Policy should be followed.

10.6 Where an individual's personal property is stolen, it is that individual's responsibility to report the matter to the police.

11. Review

11.1 This Policy will be reviewed every three years, or in the light of any legislative changes, or Communities Scotland requirements.

12. Other Related Documents

- Code of Conduct
- Employment Manual
- Whistleblowing Policy
- Articles of Association