# Oak Tree Housing Association

# Fraud, Bribery and Corruption Policy

We can produce this document on different formats such as in larger print or audio-format; we can also translate the document into various languages, as appropriate.

Adopted – 1 November 2014

Previously updated – August 2021

Updated – August 2024

Next Review Due – August 2027

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## 1. Introduction

1.1 Oak Tree Housing Association (referred to as the Association throughout the policy), is committed to protecting its assets against financial risks, operational breaches and unethical activities. The Association is aware the current operating environment attempts at fraud are becoming more sophisticated.

1.2 Losses due to fraudulent, bribery or corrupt practices could have a direct impact on the level and quality of service provision. The Association plays an important role in the local area and any instance of fraud, bribery or corruption could be damaging from a reputational perspective. Financial loss is not the only negative outcome of fraud with other potential impacts including reputation, staff morale and levels of confidence from tenants, partner organisations, suppliers, lenders and the Scottish Housing Regulator.

1.3 The Association has a responsibility to its tenants, staff, partners, suppliers and other stakeholders to take all reasonable steps to prevent the occurrence of fraud. This policy therefore sets out how the Association will prevent, detect and respond to fraud, bribery and corruption.

## 2. Policy Statement

2.1 The Policy sets out the responsibilities of all members of its Management Committee and staff members, including temporary staff regarding the prevention and detection of fraud, bribery or corruption and the action to be taken where these situations are suspected or detected.

2.2 This policy applies to all employees, Management Committee and staff members and any other 'associated persons' including temporary workers, consultants, contractors, suppliers and any other person or body or subsidiary organisations engaged to act for us, or on our behalf.

2.3 Every employee, Management Committee member and associated person is responsible for maintaining the highest standards of personal, ethical and business conduct. Any breach of this policy is likely to constitute a serious disciplinary, contractual and criminal matter for the individual concerned and may cause serious damage to our reputation and standing.

2.4 This policy extends to include fraud, bribery or corruption committed by third parties such as tenants, residents, contractors and suppliers against other third parties such as local authorities, contractors and suppliers.

## 3. Legal and Regulatory Framework

3.1 Fraud

In Scotland fraud is a Common Law crime defined as *"when someone achieves a practical result by means of false pretence. In other words, where deception is used for personal gain".*

For the purpose of this policy this statement also applies *"The intentional distortion of financial statements or other records by persons internal and external to the Association, which is carried out to conceal the misappropriation of assets or otherwise for personal gain".*

For practical purposes this may include forgery, extortion, theft, conspiracy or embezzlement. Examples include but are not limited to.

- False accounting / interference with debtors, creditors or financial ledgers.
- Collusion with customers / suppliers.
- Falsification of expenses / benefits e.g. overtime or travel allowance; or
- Knowingly or negligently authorising such false claims.

3.2 Bribery

Bribery is a specific form of corruption which is subject to the Bribery Act 2010. Bribery, for the purposes of the policy is "*to offer, promise or give advantage, directly, or indirectly, to another person. Intending that a person is rewarded for, or induced to, perform a relevant function or activity improperly"*.

The four main offences under the Bribery Act 2010 are

- An offence of bribing another person (offering, promising or giving a financial or other advantage to a person to induce or reward a person to perform a relevant function or activity improperly).
- An offence of being bribed (accepting, receiving or requesting a financial or other advantage as a reward for performing a relevant function or action improperly).
- An offence of bribery of foreign public officials (using a bribe to influence a foreign public official to obtain or retain business or a business advantage).
- A corporate offence of failing to prevent bribery.

3.3 Corruption

The Criminal Justice (Scotland) Act 2003 sets out a definition of corruption as *"Every person who shall by themselves or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for themselves, or for any other person, any gift, loan, fee, reward or advantage".*

For the purposes of this policy this statement will apply *"The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person"*.

Examples are, but not limited to

- The acceptance of payment or gifts out with the associations Entitlements, Payments and Benefits Policy.
- Engaging in personal transactions which may affect the business.
- Improper allocation of housing; or
- Improper awarding of contracts.

The Association is regulated by the Scottish Housing Regulator (SHR). Within their Regulatory Framework 2019 there are seven Standards of Governance and Financial Management. Relevant to this policy are:

Regulatory Standard 3 – The RSL manages its resources to ensure its financial well-being, while maintaining rents at a level that tenants can afford to pay:

- 3.1 The RSL has effective financial and treasury management controls and procedures, to achieve the right balance between costs and outcomes, and control costs effectively. The RSL ensures security of assets, the proper use of public and private funds, and access to sufficient liquidity at all times.

Regulatory Standard 4 - The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.

- 4.4 The governing body identifies risks that might prevent it from achieving the RSL's purpose and has effective strategies and systems for risk management and mitigation, internal control and audit.

Regulatory Standard 5 – The RSL conducts its affairs with honestly and integrity.

Any breach of this policy would be considered a Notifiable Event and therefore reportable to the SHR. The SHR would further notify the Office of the Scottish Chairty Regulator (OSCR) under the provisions set out in The Charities and Trustee Investment (Scotland) Act 2005.

## 4. Prevention and Detection

4.1 The Association recognises the potential for fraudulent activity taking place within or targeting any area of the business. The Association has in place procedures covering prevention, detection and reporting of fraud, bribery or corruption, that are designed to reduce the likelihood of these events occurring. The Association also has in place procedures that will facilitate dealing with fraud, including the preservation and recovery of assets.

4.2 At a strategic level, the key elements of tackling this risk involve:

- developing and maintaining an anti-fraud culture.
- creating a strong deterrent effect.
- preventing fraud by designing weaknesses out of processes and systems.
- detecting fraud, where it is not prevented.
- investigating suspicions of fraud in an expert, fair and objective manner.
- applying a range of sanctions where fraud is believed to be present.
- seeking redress and recovery of any losses that are incurred.
- providing relevant information and guidance to tenants and service users.

4.3 Central to this anti-fraud strategy is a range of operational policies, systems and procedures that are designed to deter, and enable detection and reporting of fraud. This includes, but is not limited to:

- the Financial Regulations, the Treasury Management and Borrowing Policy, the ICT Disaster Recovery Policy, ICT Password Policy, ICT Acceptable Use Policy and the IT Delivery Plan.
- the Standing Orders and other governance related policies, covering matters including Whistle Blowing, Code of Conduct and Disclosure of Interest, Entitlements, Payments and Benefits Policy; and their associated systems.
- service based policies, guidance and operating procedures covering tenancy related matters, repairs, maintenance, development activities, staff recruitment and procurement.

4.4 Prevention of fraud, corruption and bribery is assisted by the following controls:

- A clear and detailed understanding of fraud.
- Clear statements of the roles and responsibilities of each post in the relevant job description.
- Thorough recruitment processes, including a criminal declaration form and Right to Work checks.

- Effective financial controls, including segregation of duties, control of signatories and custody of valuable assets, as documented in the Financial Regulations and supporting policies and procedures.
- Robust ICT network security and ICT access controls, including to banking, cash collection, payroll, HR, purchasing and repair systems, and controls within systems on users' ability to create and record transactions.
- Internal and external audit and oversight of all the relevant internal controls.
- Insurance policies are also in place to mitigate the impact of fraud, e.g. cyber and management liability insurance; and
- Training on fraud prevention, in particular cyber frauds.

4.5 Established Audit programmes support the detection of fraud, through testing the appropriateness, adequacy, effectiveness and robustness of relevant policies and systems. Internal audit tests internal controls to ensure they are adequate, highlighting any areas where improvements can be made. The annual external audit, of the financial statements, focuses on risk and assesses the effectiveness of the Associations internal controls.

4.6 Fraud can have a considerable impact on our tenants and service users. The Association will use all communication channels to provide information and guidance on fraud prevention and known fraud activity in the local area, where applicable.

## 5. Roles And Responsibilities

5.1 Management Committee

The Management Committee are responsible for ensuring that the Association:

- maintains effective risk management and internal control systems.
- monitors and reviews the effectiveness of all internal controls and risk management systems.
- monitors and reviews the effectiveness of all audit activities.
- operates an anti-fraud culture.
- has relevant policies and systems in place to deter, detect and report suspected fraudulent activity; and
- Maintains appropriate procedures that ensure reported incidents of suspected fraud are promptly and vigorously investigated; and effective sanctions and redress are applied in instances where fraud is detected.

The Management Committee is also responsible for ensuring it conducts its own affairs in accordance with the Scottish Housing Regulator's regulatory

standards of governance and financial management and recognised principles of good governance. In adhering to the published Code of Conduct individual management committee members are responsible for reporting any suspicions of fraud or attempted fraud they encounter; and otherwise acting with integrity and propriety, within the law, and in accordance with relevant policies and procedures.

5.2 Chief Executive Officer

The Chief Executive Officer has a responsibility to:

- convene an initial meeting of the Management Team and appointing an Investigating Officer, where the Management Team decides that a fraud investigation is the appropriate course of action; and
- inform the Chair of the Management Committee that an incident of suspected or attempted fraud has been reported and is to be investigated.

5.3 Management Team

The Management Team of the Association have a collective responsibility to:

- Develop and maintain effective policies and procedures and control systems for deterring, detecting and reporting fraud and ensuring that these are working effectively; and
- Ensure the Management Committee has up to date and accurate information on Regulatory requirements in relation to governance and financial management, governance and good practice.
- Imbed a culture of honesty and openness amongst all staff ensuring staff are aware of expectations relating to their professional conduct.
- Ensure all staff have the required level of knowledge and understanding of the range of policies, procedures and systems that are relevant to the Fraud, Bribery and Corruption Policy.
- Implement any optional anti-fraud measures including segregation of duties.
- Ensure that staff receive appropriate training that enables them to identify suspected fraud; and
- Ensure that the notification requirements of the Scottish Housing Regulator are met.

5.4 Staff Members

In most situations, employees will be the first to see or suspect misconduct. Staff have a responsibility to adhere to the Code of Conduct and therefore are responsible for:

- being vigilant to possible indicators of fraud or attempted fraud, within their respective areas of work.

- reporting any suspicions of fraud or attempted fraud they encounter to the Chief Executive Officer or Director of Finance.
- acting with integrity and propriety, within the law, and in accordance with relevant policies, systems and procedures.
- report to their line manager any areas of weakness they identify in procedures or systems, and to suggest ways of reducing the possibility of fraud where possible.

## 6. Reporting

6.1 If you believe or suspect that a breach of this Policy has taken place or may occur in the future – for example if a contractor offers you something in return for business – you must notify the Chief Executive Officer or Director of Finance immediately.

6.2 You must tell the Chief Executive Officer or Director of Finance if someone tries to involve you in fraud, you suspect that this may happen in the future or if you think you are a victim of another form of unlawful activity.

6.3 You must tell the Chief Executive Officer or Director of Finance if you have any concerns or suspicions that any of your colleagues may be involved in fraud or corruption at the earliest opportunity.

6.4 Concerns about a Management Committee member or member of the Management Team must be raised with the Chief Executive Officer, and concerns about the Chief Executive Officer with the Chair of the Management Committee. Concerns may be raised personally or confidentially as detailed in the Whistle Blowing policy.

6.5 The Association encourages openness and will support you if you raise genuine concerns (even if they later turn out to be mistaken). The Association wants to ensure no one suffers detrimental treatment, (including disciplinary action or dismissal, threats, bullying etc.), because of such reporting or because of a refusal to become involved in fraud. If you feel you have suffered such treatment contact the Chief Executive Officer or Director of Finance immediately.

## 7. Investigating and Recording

7.1 The Association is committed to the rigorous investigation of any suspected fraud. It has in place a Fraud Response Plan, which the Chief Executive Officer can invoke on receipt of an allegation or the identification of suspected fraud.

This Plan provides a consistent and controlled framework for investigating and fully documenting reported fraud and can be found at Appendix 1 to this policy.

7.2 A breach of the Policy by an employee will be treated as a disciplinary matter under the contract of employment and appropriate sanctions applied, which may include instant dismissal. An investigation into any allegation of such a breach made against an employee, will be conducted in accordance with the disciplinary procedures contained in the conditions of employment.

7.3 A breach of the Policy by a Management Committee member will be treated as a breach of the duties and obligations to the Association. An investigation into any allegation of such a breach made against a Management Committee member will be conducted in accordance with the Association's relevant policies for such investigations and an appropriate sanction may be applied in accordance with the Association's Committee Members Code of Conduct, Standing Orders and the Rules of the Association. This may lead to the removal of the member from the Management Committee.

7.4 Where it is discovered that a fraud has taken place, it will make a full disclosure of this to the Serious Fraud Office or Police Scotland and co-operate fully in any investigation carried out by these agencies. The Association acknowledges that the decision to initiate criminal prosecution rests with the Police in conjunction with the Procurator Fiscal Service.

7.5 All suspected, attempted or confirmed fraud will be recorded within the Associations Fraud Register by the Director of Finance or Senior Finance Officer and within the Notifiable Events Register by the Chief Executive Officer.

## 8. Training

8.1 The Association through its Internal Management Plan and Business Plan are committed to training and developing staff and Management Committee members to their full potential, in order to deliver a high quality of service in all areas of its business.

8.2 The Management Committee induction programme includes an overview of this policy, including responsibilities for the promotion and delivery of openness and confidentiality as included in the Code of Conduct. Governing body members will receive updates on these issues and specific training as required.

8.3 Regular training will be given on fraud prevention and cyber fraud to both staff and committee.

## 9. Monitoring

9.1 The Association will use appeals, complaints, comments or suggestions from users of this policy to monitor its effectiveness. These will also be used to prompt a review of the policy where necessary.

9.2 The Director of Finance or Senior Finance Officer will be responsible for maintaining the fraud register.

9.3 The register should be signed off by the Chair of the Finance, Staffing and General Purposes Sub-Committee in advance of the external audit taking place.

9.4 The Management Committee will be provided with an annual update on the fraud register.

## 10. Review

10.1 This Policy and the Fraud Response Plan will be approved by the Finance, Staffing and General Purposes Sub-Committee. It will be reviewed every three years unless there is a change in legislation or monitoring and reporting requirements, that result in a review being required sooner.

## 11. Complaints and Appeals

11.1 Any complaints regarding the operation of this policy should be made in the first instance to the Chief Executive Officer. Given its linkages with other policies within the Association it would be determined whether to utilise the disciplinary, whistleblowing or other relevant policies to manage any complaint or appeal. Ensuring all legal requirements are met.

## 12. Equality

12.1 This policy has been assessed with law, regulatory standards and good practice. This covers all relevant protected characteristics. The policy is therefore likely to have a positive effect in respect of equality issues.

## 13. Related Policies

- Standing Orders, Remit & Delegated Authorities Disclosure of Interest Policy
- SFHA Model Code of Conduct Staff
- SFHA Model Code of Conduct Committee
- Risk Management Strategy
- Complaints Handling Procedure
- Disclosure of Interest
- Whistle Blowing Policy
- Treasury Management and Borrowing Policy
- Allocations Policy
- Committee Member Recruitment Policy
- ICT Acceptable Use Policy
- Committee Expenses
- Equal Opportunity and Diversity Policy
- Business Continuity Policy
- Entitlements, Payments and Benefits
- Financial Regulations
- ICT Disaster Recovery Policy
- IT Delivery Plan
- ICT Password Policy
- Terms and Conditions of Employment
- Recruitment & Selection Policy
- Procurement Strategy
- Committee Induction
- Property Management and Care Policy
- Rules of the Association

**--- End of Policy ---**

## Appendix 1 - Fraud Response Plan

### 1. Introduction

1.1 The purpose of this Plan is to outline the steps to be followed in the event of a suspected or alleged 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 the Association's Fraud, Bribery and Corruption Policy.

### 2. Initiating Action

2.1 Suspicion of fraud may be captured through several means. This includes, but is not limited to; internal audit work, external audit, incidences of whistle blowing. In all cases the Chief Executive Officer should be alerted to the matter with immediate effect. In the Chief Executive Officer's absence please inform the Director of Finance. In the absence of both the CEO and DoF, contact another member of the Senior Management Team. The person informed should inform the Chair of the Management Committee of the incident. The Chief Executive Officer may delegate to the Director of Finance where appropriate.

2.2 The Chief Executive Officer (or in their absence, whoever has received the report) shall, as soon as possible and normally within 24 hours, convene a meeting of the Management Team (MT). The MT will decide on initial action to be taken. The action will include, but is not limited to:

- engaging the internal auditor to act as Investigating Officer and undertake an investigation.
- informing insurers of the matter, confirming we are not yet claiming on the insurance, just informing them an incident has taken place.
- informing external auditors of the matter and agree arrangements for keeping the external auditors informed about the investigation.
- consider how to secure records/assets and prevent any further loss.
- consider the need to involve other members of the Management Team. This will typically be determined by the area of business where the alleged or suspected fraud has taken place.
- seek expert legal advice from the Association's solicitors, as required.
- confirm responsibilities and arrangements for submitting relevant regulatory notifications; and
- confirm requirements and arrangements for notifying lenders.

2.3 The Chief Executive Officer should advise the Chair of the Management Committee as soon as an investigation under this procedure has been initiated.

## 3. Preliminary Investigations

3.1 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 Chief Executive Officer and Chair of the Management Committee, including any interim conclusions and an action plan to guide the full investigation, if this is the recommended course of action.

3.2 The Chief Executive Officer and Chair of the Management Committee will consider the Investigating Officer's report, along with the MT, as required. 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.

## 4. Involving the Police

4.1 Where preliminary investigations establish that there are reasonable grounds to suspect that fraud has taken place, it is the Association's policy to pass details directly to Police Scotland, normally without undue delay and prior to any further internal investigation. The Chief Executive Officer will notify the Chair of the Management Committee of this action.

4.2 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 Chief Executive Officer will establish and maintain appropriate lines of communication with the Police.

4.3 The provisions of this Plan also 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.

4.4 In all other cases of suspected external fraud the Chief Executive Officer, in consultation with the Director of Finance and Chair of the Management Committee shall report the matter to the Police without delay, where appropriate.

4.5 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 Terms and Conditions of Employment policy in dealing with of any member of staff who has committed fraud and will normally pursue the prosecution of any such individual.

## 5. Subsequent Investigations

5.1 Where preliminary investigations provide reasonable grounds for suspecting a member(s) of staff of fraud, the MT will decide whether there is a requirement to suspend the staff member(s). It will do so, with reference to the Association's Terms and Conditions of Employment. It may be necessary to plan the timing of suspension to prevent the staff member(s) from destroying or removing evidence that may be needed to support disciplinary or legal action.

5.2 In these circumstances, the staff member(s) should be approached unannounced. They should be supervised at all times before leaving the 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.

5.3 Access permissions to computer systems should be withdrawn immediately. The staff member(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.

5.4 If no suspension takes place following preliminary investigations, the MT should review the actions taken.

5.5 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 the Association's assets. In consultation with the MT the investigating officer will also determine whether there is a need to collect additional information in order to provide an appropriate level of evidence.

5.6 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 MT has the power to appointment external specialists to lead or contribute to the investigation, in line with the financial regulations.

5.7 Any requests for information from the press or other external agency concerning any fraud investigation must be referred to the Chief Executive Officer. Under no circumstances should the Investigating Officer or any other employee provide statements or information to the press or external agencies.

## 6. Recovery of Losses

6.1 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.

6.2 Any monies offered towards the recovery of a loss are accepted *"without prejudice to any other action the Association may wish to take"* and that acceptance is only in respect of losses identified to date. The Association reserves the right to seek recovery of any further losses that may come to light in the future. Legal advice should also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment.

6.3 The Investigating Officer, in discussion with the Chief Executive Officer and or Finance Director should also decide whether any of the losses warrant a claim under any insurance policy. Action to recover losses via insurance will normally only be taken as a last resort after all other avenues of recovery have been exhausted.

## 7. Investigation Report

7.1 On completion of a fraud investigation, the Investigating Officer will submit a written report to the MT. 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 and detect similar incidents.
- quantification of losses.
- progress with recovery action.
- progress with disciplinary action.
- progress with criminal action; and

7.2 The report will normally be submitted to the next meeting of the Management Committee. Where the fraud is significant, in terms of losses incurred, or particularly novel, unusual or complex, a special meeting of the Management Committee may be convened.