ANTI-FRAUD POLICY
&
RESPONSE PLAN
## Published Document Version Control

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ANTI-FRAUD POLICY

1. Introduction

1.1 The Agency requires all staff at all times to act honestly and with integrity and to safeguard the public resources for which the Agency is responsible. It is relevant to note that incidence of fraud traditionally rises in times of recession and significant change.

1.2 Fraud is an ever-present threat to these resources and hence must be a concern to all members of staff and persons employed in a similar capacity. Fraud may occur internally or externally and may be perpetrated by staff, consultants, suppliers, contractors or development partners, individually or in collusion with others.

1.3 The purpose of this document is to set out your responsibilities with regard to fraud prevention, what to do if you suspect fraud and the action that will be taken by management.

2. Definitions of Fraud

2.1 The most recent piece of fraud related legislation in the UK is the Fraud Act 2006, in addition to the existing common law offence of conspiracy to defraud, the Fraud Act 2006 provides for a general offence of fraud with three ways of committing it. These are:

- Fraud by false representation
- Fraud by failing to disclose information
- Fraud by abuse of position

HM Treasury include the following in their definition of fraud: theft, false accounting, bribery and corruption, deception and collusion.

2.2 Computer fraud is where information technology equipment has been used to manipulate programs or data dishonestly (for example, by altering, substituting or destroying records, or creating spurious records), or where the use of an IT system was a material factor in the perpetration of fraud. Theft or fraudulent use of computer time and resources, including unauthorised personal browsing on the internet, is included in this definition.

2.3 The UK Bribery Act 2010 is due to come in to force in April 2011 and consolidates and updates all previous bribery legislation.

The new Act contains four primary offences:

(1) a general offence of offering, promising or giving a bribe in order to obtain an advantage through the improper performance of a function;

(2) a general offence of requesting, agreeing to receive or accepting a bribe in order to perform a relevant function improperly;

(3) a specific offence of bribery of a foreign public official;

(4) a new offence of failure by a commercial organisation to prevent a bribe being paid to obtain or retain business or a business advantage.
3. **Homes and Communities Agency's Responsibilities**

3.1 When requested, HCA forwards to DCLG a report on fraud and thefts and also notifies DCLG of any unusual or major incidents as soon as possible. The Framework Document also states that HCA must adopt and implement policies and practices to safeguard itself against fraud and theft, in line with Treasury's guidance; *Managing the Risk of Fraud*.

3.2 Annex 4.7 of Managing Public Money states that an ‘organisation’s response to fraud risk should be customised to the risks it faces’. In accordance with its recommendations HCA has:

- Developed and maintained a Fraud Risk Assessment
- Developed an Anti-Fraud Policy and Fraud Response Plan
- Developed an anti-fraud culture
- Allocated responsibilities for the overall management of fraud risk
- Established well publicised avenues for staff to report their suspicions of fraud
- Established a suite of controls designed to mitigate the risk of fraud to acceptable levels (NB whilst these controls can never eliminate the risk of fraud the Agency has a zero tolerance approach to fraudsters and will discipline appropriately anyone found committing a fraudulent act)
- Reports internal fraud to DCLG and the Treasury where appropriate

3.3 The Accounting Officer has overall accountability for managing the risk of fraud, but overall responsibility for the design of the arrangements to manage HCA’s fraud risks is delegated to the Director of Finance and Corporate Services.

4. **Manager’s Responsibilities**

4.1 The day to day responsibility for the prevention and detection of fraud rests with line managers who are responsible for

- Identifying the risks to which systems, operations and procedures are exposed;
- Developing and maintaining effective controls to prevent and detect fraud; and
- Ensuring that controls are being complied with.

4.2 Staff from Corporate Assurance are available to offer advice and assistance on control issues and managers are encouraged to make use of this service.

5. **Staff Responsibilities**

5.1 All staff, including managers, are responsible for:
• Acting with propriety in the use of HCA’s resources and in the handling and use of public funds whether they are involved with cash or payment systems, receipts or dealing with contractors, suppliers or customers;
• Reporting details immediately to the Head of Internal Audit if they suspect or believe that there is evidence of irregular or improper behaviour or that a fraud may have been committed.

6. Fraud Response Plan

6.1 The Agency has prepared a Fraud Response Plan (see Annex A), which should act as a checklist of actions and a guide to follow in the event that fraud is suspected. It covers:

- Notifying suspected fraud;
- The investigation process;
- Liaison with police and the NAO;
- Initiation of recovery action;
- Reporting process;
- Communication with DCLG.

7. Disciplinary Action

7.1 In the case of proven fraud, or suspected fraud of a serious nature, HCA will always refer the matter to the police and seek prosecution at the earliest possible juncture and recover any losses resulting from fraud, if necessary through civil action;

7.2 Notwithstanding this, and following appropriate investigations, the Chief Executive will determine whether to invoke action in accordance with established disciplinary procedures.

8. Personal Conduct

8.1 As stewards of public funds all staff must have, and be seen to have, high standards of honesty, propriety and personal integrity. Staff are required to report any potential conflict of interest to their Director and the Chief Executive (see separate Personal Interests Disclosure Policy). Staff should not accept gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement and integrity (see separate Corporate Hospitality and Gifts Policy). Further guidance on all aspects of personal conduct is contained in current procedures and, specifically, the Terms and Conditions of Service.
9. Conclusion

9.1 Homes and Communities Agency views fraud very seriously. All instances will be investigated rigorously and promptly and appropriate action will be taken including seeking prosecution in all cases of proven fraud.

9.2 Further advice may be obtained from the Head of Risk & Assurance Services based in Cambridge, or the Head of Internal Audit based in Gateshead or the Head of Risk & Procurement based in London using the following contact method:

HCA switchboard 0300 1234 500
ANNEX A: FRAUD RESPONSE PLAN

1. Introduction

1.1. This fraud response plan provides a checklist of actions and a guide to follow in the event that fraud is suspected. It covers:

- Notifying suspected fraud;
- The investigation process;
- Liaison with police and NAO;
- Initiation of recovery action;
- Reporting process;
- Communication with DCLG.

1.2 Its purpose is to define authority levels, responsibilities for action and reporting lines in the event of suspected fraud, theft or other irregularity.

2. Notifying Suspected Fraud

2.1. 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. See the separate Whistle Blowing and Information Security Risk Policy for further details.

2.2 In the first instance, any suspicion of fraud, theft or other irregularity should be reported, as a matter of urgency, to your line manager. If such action would be inappropriate, your concerns should be reported upwards to one of the following persons:

- Head of Function or Head of Team
- Any Director
- Director of Finance and Corporate Services
- Chief Executive.

2.3 Additionally, all concerns must be reported to the Head of Internal Audit (HCA switchboard 0300 1234 500).

2.4. Every effort will be made to protect an informant's anonymity if requested. However, the Agency will always encourage individuals to be identified to add more validity to the accusations and allow further investigations to be more effective. In certain circumstances, anonymity cannot be maintained. This will be advised to the informant prior to release of information.
3. The Investigation Process

3.1. Suspected fraud must be investigated in an independent, open-minded and professional manner with the aim of protecting the interests of both the Agency and the suspected individual(s). Suspicion must not be seen as guilt to be proven.

3.2. The investigation process will vary according to the circumstances of each case and will be determined by the Chief Executive in consultation with the Director of Finance and Corporate Services, the appropriate Director and the Head of Internal Audit. An “Investigating Officer” will be appointed to take charge of the investigation on a day-to-day basis. This will normally be the Head of Internal Audit or, exceptionally, another independent manager.

3.3. The Investigating Officer will appoint an investigating team. This will normally comprise staff from within the Internal Audit team but may be supplemented with other resources from within the Agency or from outside.

3.4. Where initial investigations reveal that there are reasonable grounds for suspicion, and to facilitate the ongoing investigation, it may be appropriate to suspend an employee against whom an accusation has been made. This decision will be taken by the Chief Executive and/or Director of Finance and Corporate Services, in consultation with the Head of Human Resources and Organisational Development and the Investigating Officer. Suspension should not be regarded as disciplinary action nor should it imply guilt. The process will follow the guidelines set out in Homes and Communities Agency’s Terms and Conditions of Service relating to such action.

3.5. It is important, from the outset, to ensure that evidence is not contaminated, lost or destroyed. The investigating team will therefore take immediate steps to secure physical assets, including computers and any records thereon, and all other potentially evidential documents. They will also ensure, in consultation with management, that appropriate controls are introduced to prevent further loss.

3.6. The Investigating Officer will ensure that a detailed record of the investigation is maintained. This should include a chronological file recording details of all telephone conversations, discussions, meetings and interviews (with whom, who else was present and who said what), details of documents reviewed, tests and analyses undertaken, the results and their significance. Everything should be recorded, irrespective of the apparent significance at the time.

3.7. All interviews will be conducted in a fair and proper manner. Where there is a possibility of subsequent criminal action, the police will be consulted and interviews may be conducted under caution in compliance with the Police and Criminal Evidence Act (PACE), which governs the admissibility of evidence in criminal proceedings.

3.8. The findings of the investigation will be reported to the Chief Executive, Director of Finance and Corporate Services and Head of Human Resources and Organisational who will determine, in consultation with the Investigating Officer, what further action (if any) should be taken.
4. Liaison with Police & NAO

4.1. The police generally welcome early notification of suspected fraud, particularly that of a serious or complex nature. Some frauds will lend themselves to automatic reporting to the police (such as theft by a third party). For more complex frauds the Chief Executive, following consultation with the Director of Finance and Corporate Services, Head of Human Resources and Organisational Development and the Investigating Officer will decide if and when to contact the police. The Director of Finance and Corporate Services will report suspected frauds to the NAO at an appropriate time.

4.2. All staff will co-operate fully with any police or NAO enquiries, which may have to take precedence over any internal investigation or disciplinary process. However, wherever possible, teams will co-ordinate their enquiries to maximise the effective and efficient use of resources and information.

5. Initiation of Recovery Action

5.1. The Agency will take appropriate steps, including legal action if necessary, to recover any losses arising from fraud, theft or misconduct. This may include civil action against third parties involved in the fraud, or whose negligent actions contributed to the fraud, to recover any losses.

6. Reporting process

6.1. Throughout any investigation, the Investigating Officer will keep the Chief Executive, Director of Finance and Corporate Services and Head of Human Resources and Organisational Development informed of progress and any developments. These reports may be verbal or in writing.

6.2. On completion of the investigation, the Investigating Officer will prepare a full written report setting out:

- Background as to how the investigation arose;
- What action was taken in response to the allegations;
- The conduct of the investigation;
- The facts that came to light and the evidence in support;
- Action taken against any party where the allegations were proved;
- Action taken to recover any losses;
- Recommendations and/or action taken by management to reduce further exposure and to minimise any recurrence.

6.4. In order to provide a deterrent to other staff a brief and anonymised summary of the circumstances may be published on HCAnet.
## ANNEX B: DOs & DON’Ts

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<th>DO</th>
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<tr>
<td><strong>Make a note of your concerns</strong></td>
<td><strong>Be afraid of raising your concerns</strong></td>
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<td>Record all relevant details, such as the nature of your concern, the names of parties you believe to be involved, details of any telephone or other conversations with names dates and times and any witnesses.</td>
<td>The Public Interest Disclosure Act provides protection for employees who raise reasonably held concerns through the appropriate channels – whistle blowing.</td>
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<td>Notes do not need to be overly formal, but should be timed, signed and dated.</td>
<td>You will not suffer discrimination or victimisation as a result of following these procedures and the matter will be treated sensitively and confidentially.</td>
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<td>Timeliness is most important. The longer you delay writing up, the greater the chances of recollections becoming distorted and the case being weakened.</td>
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<td><strong>Retain any evidence you may have</strong></td>
<td><strong>Convey your concerns to anyone other than authorised persons</strong></td>
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<td>The quality of evidence is crucial and the more direct and tangible the evidence, the better the chances of an effective investigation.</td>
<td>There may be a perfectly reasonable explanation for the events that give rise to your suspicion. Spreading unsubstantiated concerns may harm innocent persons.</td>
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<td><strong>Report you suspicions promptly</strong></td>
<td><strong>Approach the person you suspect or try to investigate the matter yourself</strong></td>
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<td>In the first instance, report your suspicions to your line manager. If this action would be inappropriate, further guidance on disclosure can be found in the Fraud Response Plan and Whistle-blowing Policy.</td>
<td>There are special rules relating to the gathering of evidence for use in criminal cases. Any attempt to gather evidence by persons who are unfamiliar with these rules may destroy the case.</td>
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<tr>
<td>Additionally, all concerns must be reported to the Head of Internal Audit.</td>
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Report your concerns promptly to the Head of Internal Audit based in Gateshead via the HCA switchboard 0300 1234 500.