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## Fraud, Money Laundering and Bribery Policy

**Policy Number – G17**

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<b>Prepared By</b>	Corporate Services
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## **1. Introduction**

- 1.1. The Clyde Valley Group (CVG) incorporating Clyde Valley Housing Association and its subsidiaries are committed to eliminating corruption and bribery and achieving the highest standards of good governance in all our activities.
- 1.2. We wish to carry out our business transparently and fairly and therefore we operate a zero tolerance policy towards bribery, fraud and any form of dishonesty in all of our transactions by our employees, Board Members, co-optees, contractors, agents and other associated persons. Incidences of fraud, bribery or dishonesty could lead to our reputation being damaged and also lead to deterioration in our relationship with our tenants, customers, business colleagues and other stakeholders.
- 1.3. As explained below, personal conduct can lead to prosecutions being brought against us and can impact directly on our public reputation.
- 1.4. We are committed to avoiding working with other organisations or individuals who do not commit to doing or conducting business without bribery, fraud or dishonesty.
- 1.5. CVG will uphold all laws relevant to countering bribery, fraud and corruption in all the jurisdictions in which it operates. However, no matter where the Group, its staff, members or agents operate, it and they must abide by the laws of the UK, including the Bribery Act 2010, in respect of conduct both at home and abroad.
- 1.6. Bribery and corruption are punishable for individuals by up to ten years' imprisonment and or an unlimited fine, and if CVG is found to have taken part in corruption it could also face a fine and be excluded from tendering for public contracts, as well as suffering damage to its reputation.
- 1.7. CVG could also attract liability under the Bribery Act 2010 if a person associated with it is found to have paid a bribe on its behalf, and CVG did not have adequate procedures in place to prevent such conduct. CVG therefore takes its legal responsibilities very seriously. Likewise, fraud may lead to civil and/or criminal proceedings.
- 1.8. The Policy also takes cognisance of money laundering and associated legislation.
- 1.9. Any allegation that a member of CVG has acted in a manner that is illegal or inconsistent with this Policy will be treated seriously, regardless of the seniority of those involved. Disciplinary action up to and including dismissal may result. Where it is believed that a criminal offence has been committed, the police and other relevant bodies will be informed.

## 2. Fit with Legislation, Corporate Policy and Strategy

2.1. The fit between this policy and procedure and the Group's corporate policy and strategy is considered below in the context of links to other relevant policies and legislation:

- This policy seeks to comply with Regulatory Standards on Risk Management.
- Equality Strategy: The policy and procedure does not discriminate against current or future individual staff or board members as it is applied to all.
- Customer Engagement Strategy: complements this by ensuring that conflicts of interest can be declared and managed.
- Risk Strategy: policy complements the strategy by addressing and minimising risks arising from fraud, dishonest or bribery involving competitor organisations or contractor's/consultants performance or charges, also contributes to protecting the Group's good reputation.
- Access to Information (G05): policy complies with commitment to openness with Board interests being available to public.
- Code of Conduct for Staff and Code of Conduct for Board members.
- Procurement Strategy.
- Whistleblowing Policy.
- Payments and Benefits Policy.
- Bribery Act 2010.
- The Proceeds of Crime Act 2002
- The Terrorism Act 2000; and The Money Laundering Regulations 2007

## 3. Policy Objectives

3.1. The aims of this Policy are to:

- a. Promote a culture of honesty, integrity and professionalism;
- b. Set out CVG's responsibilities, and of those working for or on behalf of CVG, in observing and upholding the Group's position on bribery, fraud and corruption;
- c. Prevent criminal activity through money laundering; and
- d. Provide information and guidance to those working for the Group on how to recognise and address bribery, fraud and corruption issues.

## 4. Definitions

4.1. For the purpose of this policy, we define **fraud** as:

"an intentional act by one or more individuals involving the use of deception to obtain an unjust or illegal advantage".

4.2. **Theft** is defined as:

"a person is guilty of theft if he/she dishonestly appropriates property or resources belonging to another with the intention of permanently depriving the other of it"

4.3. **Bribery** is defined as:

“a gift or reward given, offered or received to gain any business, commercial or personal advantage”.

4.4. **Money Laundering** can be defined as:

“any attempt to use the proceeds of crime for legitimate purposes”.

## 5. **Assessing Risk**

5.1. As part of our Risk Management Strategy we will assess the risks of bribery and fraud occurring, particularly with regard to the:

- Awarding of contracts for new-build, planned maintenance, cyclical maintenance and major repairs works;
- Awarding of contracts for the supply of goods and services;
- Payments to Board, staff, tenants, consultants, contractors and suppliers;
- Receipt of income;
- Receipt of gifts and hospitality etc. by Board or staff;
- Allocating properties to new tenants.

## 6. **Responsibilities**

6.1. All Board Members and employees have a responsibility to act honestly and to follow the procedures and controls that have been implemented to mitigate bribery, fraud and theft. They must not bypass or avoid using those procedures or controls. They must immediately report identified weaknesses or loopholes in control that could facilitate an act of bribery, fraud or theft. They must also report immediately any incident of fraud or theft whether it is suspected or actual following the procedure in paragraph 10 below.

6.2. The responsibility for ensuring the existence of a framework for the prevention, detection and management of fraud, bribery and theft rests with the Audit and Risk Committee and ultimately the Board. The Leadership Team is responsible for the adherence to the framework in their areas of operation. The responsibility for ensuring the effective investigation of fraud and theft rests with the Finance and Corporate Services Director or, if inappropriate, the Chief Executive.

6.3. The Audit and Risk Committee will review the results of any fraud, bribery and theft risk assessment across the organisation as part of their work programme.

## 7. **The Bribery Act 2010 (‘the Act’)**

7.1. The Government passed the Act to simplify the law and assist the UK to combat bribery. The Act came into force in 1 July 2011 and it fully applies to us.

7.2. The Act contains four principal bribery offences:

- 1) Bribing someone to encourage or reward “improper performance” of a function or activity – this includes offering, promising or actually giving a bribe;
- 2) Being bribed resulting in an activity or function being “improperly performed” or resulting from an activity or function being “improperly performed” – this includes requesting, agreeing to receive or receiving a bribe;

- 3) Bribing a foreign public official; and
- 4) The corporate offence (see below).

### 7.3. The corporate offence

7.4. The Act introduces a *strict liability* offence for commercial organisations where someone associated with an organisation (including Board Members, co-optees, employees, agents or sub-contractors) commits an act of bribery to obtain or retain business or a business advantage.

7.5. *Strict liability* means that we may be liable in law without the finding of fault. At court, it need only be proved that a bribe was made by someone associated with us with the intention of giving us a business advantage, whether or not we encouraged such action or were aware of it. The responsibilities under the Act therefore need to be taken extremely seriously.

### 7.6. Adequate procedures – the six management principles

7.7. There is a defence to the corporate offence if we can show we had “adequate procedures” in place, designed to prevent bribery.

7.8. The Ministry of Justice has issued guidance which sets out six broad management principles to assist organisations to put in place proper anti-bribery procedures.

7.9. We will be following these principles to show that we are committed to eliminating bribery. The management principles we need to follow are:

**Proportionality** – anti-bribery policies and procedures should be proportionate to our activities and size, the sector in which we operate and the risks we face;

**Top level commitment** – establishing a clear culture, from the highest level, which makes it absolutely clear that bribery is unacceptable;

**Risk assessment** – understanding and keeping up to date with the bribery risks we face by carrying out regular and comprehensive risk assessments as circumstances demand;

**Due diligence** – we need to maintain awareness as to whom we do business with, to whom we are our paying money and why – and make sure that our business partners also have reciprocal anti-bribery agreements in place;

**Communication** – we must raise awareness of our policies so that employees, Board Members, co-optees and business partners all know the procedures to follow in situations which may be sensitive to bribery. We must ensure that our anti-bribery policies are embedded into our culture and not just part of a “box-ticking” exercise; and

**Monitoring and review** – through audit and other internal controls we must regularly review and monitor our anti-bribery procedures to prevent and detect bribery – to make sure our procedures are working!

7.10. This Policy is designed to address these principles having clear, practical and accessible policies and procedures properly communicated to people and organisations associated with us. This Policy complements the other procedures we already have place to avoid bribery and corruption.

7.11. This Policy must be read in conjunction with our Payments and Benefit Policy, as contained in the Standing Orders, Financial Regulations and guidance notes to members, in particular in relation to approval of levels of gifts and hospitality and the need to record gifts and hospitality.

- 7.12 This Policy does not prohibit the giving or receiving of reasonable, proportionate and appropriate hospitality or gifts to or from people and organisations that we deal with. There are, indeed, circumstances where the acceptance of hospitality or gifts is in accordance with established business practice, or where the acceptance of gifts or hospitality is difficult to avoid without causing offence.
- 7.13 Hospitality and/or gifts cannot be given or received if done so with the intention of influencing someone to give us business, influencing us to award business or to reward the provision or retention of business or business advantage.
- 7.14 Any hospitality or gifts given should be reasonable and proportionate and designed to:
- Cement or improve relationships;
  - Show genuine appreciation for services;
  - Improve our image; and/or
  - Market products or services.
- 7.15 Recipients should never be given the impression that they are under an obligation to confer a business advantage on us because of the gifts or hospitality offered.
- 7.16 If it is suspected that hospitality is being offered or provided with an expectation that a business advantage will be provided us in return, then one must not accept it and you must report this to the Chief Executive or the Finance and Corporate Services Director immediately.
- 7.17 Any hospitality or gifts offered or received should be declared appropriately and entered into our gifts and hospitality register. Unofficial payments or “kickbacks” should not be offered or accepted under any circumstances.
- 7.18 Dealings with third parties
- 7.19 If payments are made to third parties, details of such payments must be properly recorded and receipted.
- 7.20 In making any such payments, we must consider what these payments are for and whether they are reasonable and proportionate.
- 7.21 In terms of major suppliers, business partners and contractors who are likely to fall within the scope of this policy, we are committed to making them aware that we take bribery and corruption very seriously and that it will not be tolerated.
- 7.22 No hospitality or gifts should be offered to any organisation for which we are tendering for a contract during the tender process.
- 7.23 Examples of Bribery
- 7.24 The following list contains some examples of acts which should set alarm bells ringing and which should be reported to the Chief Executive or the Finance and Corporate Services Director. These are to give an idea of the sort of behaviour which is unacceptable and which could have serious consequences. Please note this list is not exhaustive:

- It is learnt that one of the contractors regularly dealt with has a reputation for paying bribes or requiring that bribes are paid to them;
- A supplier asks to provide an invoice or receipt when no money is payable or has been paid;
- A supplier insists on being paid in cash and/or refuses to sign a formal agreement;
- A contractor offers to pay cash to provide employment for a friend or relative;
- We have been invoiced for a payment which seems large given the service/goods which have been provided;
- We are offered an unusually generous gift or lavish hospitality;
- We are offered substantially discounted fees for supply of goods, through an individual as a private person; or
- We are offered a payment in cash if a contract is awarded to the contractor/supplier.

## **8. Money Laundering**

- 8.1. The UK anti-money laundering regime has evolved over a number of years and includes legislation intended to counteract not only criminal money laundering but also terrorist financing. The offences of failing to report knowledge or suspicion of money laundering carry severe penalties including heavy fines and prison sentences of up to five years. Money laundering reporting officers and staff have a legal obligation to report such knowledge or suspicion to the Serious Organised Crime Agency.
- 8.2. The number of these reports from the providers of social housing has been historically low and it is important that management and staff alike are aware of the risk factors in order to ensure that the legislation is not breached.
- 8.3. Housing associations are only required to comply with the Regulations where they carry out a 'regulated' activity as defined by the Regulations. In practice, it will boil down to whether housing associations perform specific activities under the Consumer Credit Licence legislation or conduct estate agency work as defined in the Estate Agents Act 1979.
- 8.4. Irrespective of the above, it is important to understand that there are substantial money laundering risks associated with housing management and the everyday course of business in any housing association. Therefore, we should ensure that we conduct an assessment of the money laundering and terrorist financing risks which we face, and embrace the underlying principles of the UK's anti-money laundering regime.
- 8.5. Money laundering is the process by which funds derived from criminal activity are given the appearance of being legitimate by being exchanged for clean money. That means that the proceeds of any acquisitive crime are 'cleaned up' by various means and then fed back into the financial system after a transaction or series of transactions designed to disguise the original source of the funds. It also covers money, however come by, which is used to fund terrorism. Money laundering can take a number of forms:
- Handling the proceeds of crime
  - Being directly involved with criminal or terrorist property

- Entering into arrangements to facilitate laundering of criminal or terrorist property
  - Investing the proceeds of crime into other financial products, property purchase or other assets.
- 8.6. The housing association sector has a significant role to play in tackling the problems caused by crime and will have benefits for communities not only in the disruption of criminal activity but may also help in reducing related antisocial behaviour.
- 8.7. Criminals will target any sector which they see as a soft target and where those working in the sector may not be as aware of the methods used to launder funds as those employed in financial services. Money launderers are opportunists and will exploit a situation which affords them the opportunity to give their funds the appearance of coming from a legitimate source. As the awareness of the problem within the sector is raised, and the number of reports of suspicious transactions increases, it will be more difficult for criminals to target social housing providers.
- 8.8. Many criminals use property purchase as a means of laundering the proceeds of their crimes. As a result, the sector suffers in a number of ways from the activities of money launderers who misuse properties, often causing serious damage and illegally sub-letting or occupying properties thereby reducing available housing stock. Organised crime, street crime and antisocial behaviour adversely affect us all in our daily lives. The funds which criminals launder are generated by crime, and the resultant blight on communities is apparent to us all. Although money laundering is often viewed as an abstract concept, clearly it is a problem which, when seen in the context of how the funds are sourced, undermines every community.
- 8.9. The Regulations, which came into force on 15 December 2007, list certain business activities which include some types of business undertaken by housing associations which, in turn, makes associations 'relevant persons' to whom the Regulations apply. This also includes credit institutions, financial institutions, auditors, accountants, estate agents, trust or company service providers, independent legal professionals and others. These are examples of 'regulated sectors'. How this directly affects housing associations is detailed below.
- 8.10. The Regulations appoint supervisors for various sectors and give those supervisors a number of powers in relation to registration requirements on 'relevant persons' and enforcement of the Regulations. Those supervisors include the Financial Services Authority (FSA), Her Majesty's Revenue & Customs (HMRC), The Law Societies, and the OFT. Housing associations are 'relevant persons' in some circumstances and will be supervised for compliance with the Regulations by the OFT. The OFT supervises consumer credit financial institutions (CCFIs) who are not authorised by the FSA or supervised by HMRC as a money service business. The following are examples of the types of business where a housing association would be supervised by the OFT for compliance with the Regulations:
1. Where an association requires a Category 'A' consumer credit licence (CCL) for aspects of their business such as the granting of second charge shared equity mortgages (shared ownership schemes).
  2. Where an association acts on behalf of another association in the sale of a property or in respect of the sale of a property on behalf of the occupier who is the co-owner. In these circumstances an association would be acting pursuant to instructions from another and this would fall within the definition of estate agency work.

3. Where an association instructs a third party, such as an estate agent, to sell property on its behalf those actions may also fall into the description of estate agency work where there is shared equity with the resident.
- 8.11. The letting and management of properties does not require supervision under the terms of the Regulations.
- 8.12. Some other activities would also result in associations being classed as 'relevant persons', an example being where they engage in activities such as audit work for smaller associations or other businesses. The provision of those services may mean that the association would fall into an area supervised under the Regulations by HMRC.
- 8.13. Registration
- 8.14. The Regulations impose an obligation on businesses to register with an appropriate supervisor where the supervisor requires registration (Regulation 26). The OFT, as a supervisory authority, requires housing associations that conduct estate agency or CCFI business to register. In July 2009, the OFT announced that 'relevant persons' engaged in regulated activity need to register with the OFT under the Regulations. The supervisor registered for CVG is the Chief Executive. Any incidences where it is felt that there may be money laundering activity should be raised in line with Paragraph 9 below.
- 8.15. Property purchase, right to buy and shared ownership schemes
- 8.16. Involvement in property sales or shared ownership schemes carries an increased risk of money laundering. When conducting a property transaction, we should ensure that our Solicitor carries out the appropriate money laundering checks.
- 8.17. The following situations may indicate that a customer or transaction is suspect. The risk assessment template at Appendix 1 gives some examples of categorising and dealing with such risks:
- Checking a new customer's identity is difficult.
  - There is reluctance from a new customer to provide details of their identity.
  - The size of the transaction is not consistent with previous activity. For example, a customer on housing benefit suddenly has the funds for a deposit to fund a house purchase.
  - The financial circumstances of an existing customer have changed dramatically.
  - Money is paid by a third party who has no obvious link with the transaction. Money launderers often use front buyers to enter into transactions on their behalf. The money for a deposit or even to pay a mortgage may have come from someone other than the customer and could very well be the proceeds of crime.
  - The customer wants to pay a large sum in cash (where a customer wishes to pay over £500 in cash, then the Cash Check Declaration template at Appendix 2 should be used).
  - A customer who puts pressure on you to accept his or her business before you can carry out the necessary checks.
  - A customer makes an approach to purchase a property then backs off on realising his or her identity will be checked for anti-money laundering purposes.
- 8.18. There are a number of other criminal acts which have a direct impact on the sector and some examples are:

- Vulnerable tenants being targeted by loan sharks (illegal lending).
- Identity theft allowing criminals to perpetrate other crimes.
- Criminals exploiting the lack of adequate financial systems to obtain refunds after making overpayments in cash.

## **9. Cyber Crime**

9.1. Cybercrime is criminal activity done using computers and the Internet. This includes anything from downloading illegal music files to stealing millions of pounds from online bank accounts. Cybercrime also includes non-monetary offenses, such as creating and distributing [viruses](#) on other computers or posting confidential business information on the Internet.

9.2. Perhaps the most prominent form of cybercrime is identity theft, in which criminals use the Internet to steal personal information from other users. Two of the most common ways this is done is through [phishing](#) and [pharming](#). Both of these methods lure users to fake websites (that appear to be legitimate), where they are asked to enter personal information. This includes [login](#) information, such as usernames and passwords, phone numbers, addresses, credit card numbers, bank account numbers, and other information criminals can use to "steal" another person's identity.

9.3. Because cybercrime covers such a broad scope of criminal activity, the examples above are only a few of the thousands of crimes that are considered cybercrimes. While computers and the Internet have made our lives easier in many ways, it is unfortunate that people also use these technologies to take advantage of others.

9.4. Therefore, in order to protect CVG we use antivirus and spyware blocking software which is regularly tested and updated. We provide information to all staff on potential viruses and actions through the IT Security Policy. We also appoint an annual 'penetration test' on our systems by a third party consultant and report any findings to the Audit and Risk Committee.

## **10. Reporting Incidents**

10.1. If our employees suspect an incident of money laundering, bribery, fraud or theft they must report it immediately to their relevant Director who must always notify the matter immediately to the Finance and Corporate Services Director and advise the Chief Executive.

10.2. Suspected frauds involving the Chief Executive or the Finance and Corporate Services Director must be reported immediately to the Chair of the Board who will investigate as per the Group's Whistleblowing Policy.

10.3. The investigation may result in immediate suspension and staff members being escorted off site. Desks will be subject to search and all keys and off site property retrieved as soon as practically possible. All access to data will be closed off, with any potential evidence scanned into a secure drive. Staff will be advised that they will not be able to access any CVG offices or talk to staff involved during the investigation process.

## **11. Post Investigation**

- 11.1. The incident will be recorded by the Finance and Corporate Services Director in the Fraud Register. This Register shall be open to inspection by the Public and Scottish Housing Regulator at any time and entries in it shall be reviewed by the Audit & Risk Committee following any bribery, fraud or theft. The Register will contain records of both attempted and detected bribery, frauds and theft and the actions taken.
- 11.2. The Finance and Corporate Services Director is responsible for informing our internal auditors, insurers and the Police (the latter if deemed appropriate). The Police and external auditors will be informed if there is clear evidence of serious fraud or theft.
- 11.3. We will take appropriate action against staff or Board Members who perpetrate fraud or theft and any person whose conduct allows fraud or theft to be committed. We will also take action to recover all money that has been lost. The actions taken will be reported to and reviewed by the Audit & Risk Committee.
- 11.4. When fraud or theft has occurred due to a breakdown in our systems or procedures, the Executive Team will ensure that improvements in systems of control are implemented in order to prevent a re-occurrence. The Finance and Corporate Services Director will take a view on any follow up actions required and update the Association's Risk Register accordingly.
- 11.5. The Finance and Corporate Services Director will notify the Scottish Housing Regulator as required through Notifiable Events Policy.

## **12. Equality**

- 12.1. We are an equalities employer and will treat any staff or Board or Committee members involved in fraud, bribery or theft investigations fairly, regardless of factors such as race, ethnicity, gender (including transgender), disability, age, sexual orientation, religion or belief, language or other personal attributes.

## Money Laundering Risk Assessment Template

Customer profile	Explain how the risk factor applies	Procedures in place to manage and mitigate the risks
New customer	Checking a new customer's identity is difficult	Establish reasons for problem and refer to MLRO if necessary. Obtain verification from other source such as the Department for Work and Pensions, HMRC etc.
New customer	There is reluctance from a new customer to provide details of their identity	Establish reasons for reluctance. Do not conduct business with customer and submit internal suspicious activity report to MLRO
Existing customer	The size of the transaction is not consistent with previous activity, for example, a customer on housing benefit suddenly has the funds for a deposit to fund a house purchase	Enquiries as to source of funds, establish who is financing the transaction. Obtain bank statements as proof of source of funding for transaction. Ensure all payments made through customer's bank account
Existing customer	The financial circumstances of an existing customer has changed, for example, the customer wishes to accelerate the purchase of ABC Housing Association's interest in a shared ownership property	As above
New or existing customer	Money is paid by a third party who has no obvious link with the transaction	Establish nature of relationship between customer and third party. Confirm reason for third party involvement in transaction. Ensure payment from third party is made through bank account
New or existing customer	The customer wants to pay a large sum in cash	Inform customer of cash limit (£500). Enquire as to reason for wishing to pay in cash and source of funds. Consider reporting to MLRO in order to obtain consent to proceed with transaction
New or existing customer	A customer makes an approach to purchase a property then decides not to proceed on realising his or her identity will be checked for anti-money laundering purposes	Report to MLRO. Do not undertake any business for customer

Customer profile	Explain how the risk factor applies	Procedures in place to manage and mitigate the risks
Existing customer/ shared ownership purchase	Property purchase (medium risk)	Confirm that customer identification data held is current and update as necessary. Establish source of funds and obtain proof of income
New customer/ shared ownership purchase	Property purchase (high risk)	Identify customer using documents/ electronic check. Establish source of funds and obtain copy bank statements as verification. Ensure all transactions conducted through customer's bank account
Existing customer/ right to buy purchase	Property purchase (low/medium risk)	Confirm that customer identification data held is current and update as necessary. Enquire as to source of funds and obtain evidence
New customer/ new property purchase	Property purchase (high risk)	Identify customer using documents/ electronic check. Establish source of funds and obtain copy bank statements and wage slips. Ensure all transactions conducted through customer's bank account
New customer/ non-UK national/ new property purchase	Property purchase (high risk)	Identify customer using documents/ electronic check. Verify source of funds and obtain evidence in documentary form. Check if customer fits the definition of a PEP. Check the Treasury sanctions list. Ensure all transactions conducted through UK bank account. Verify status of customer as to UK residence. Refer to line manager before proceeding





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**Money Laundering Policy**

**Cash Check Declaration**

This declaration should be used where payments of over £500 are received by the Association.

Name	
Address	
Amount Paid	
Source of Cash	
Housing Officer Authorisation	
Housing Manager Authorisation	
Payee Confirmation Signature	