

THE FERGUSLIE GROUP

ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY



Ferguslie Group

Date Approved by the
Management Board

22 April 2020

Signed:

Chairperson

Date of Next Review

APRIL 2023

1. Introduction

- 1.1 The Ferguslie Group is committed to the principles of good corporate governance and sustainability and will endeavour to develop fair and consistent policies, procedures and practices. This policy applies to staff, consultants, contractors, agency staff, casual workers, and Board members (collectively referred to as “workers”).
- 1.2 The Group is responsible for significant amounts of finance and other resources. There is a high overall value of organisational assets. There is always a risk that dishonest people will try to defraud the Group. This policy aims to raise awareness of the risks and the need to manage, monitor and control processes, mitigate risks and prevent fraud, bribery and corruption.
- 1.3 The Board and staff are committed to preventing fraud, bribery and corruption by persons associated with the Group. They will foster a culture within the Group where fraud and bribery are never acceptable.

2. Definitions

- 2.1 Various definitions of fraud, bribery & corruption exist, for the purposes of this policy, the following is provided:
 - Fraud – any intentional act, or omission, designed to deceive others - resulting in the victim suffering a loss and/or the perpetrator achieving a gain; (e.g. request for supplier bank account details to be changed from a genuine supplier to a fraudster);
 - Bribery – as in giving, or receiving, a financial or other advantage, in connection with improper actions (e.g. a supplier or contractor give a member of staff or Board member hospitality or money in order to be awarded a contract); and
 - Corruption – includes bribery - which is the offering, promising, giving, requesting or accepting of a bribe.

3. Accountability

- 3.1 The Board has ultimate responsibility for directing the affairs of the Group. Members of the Board are charitable trustees, with responsibility to ensure

the Group is solvent, well run and delivers the charitable outcomes for the beneficiaries for which it has been set up.

3.2 Trustees also have a legal duty to safeguard the charity's money and assets, and to act prudently at all times.

3.3 The Group Chief Executive is responsible for ensuring that the Group's assets are protected by the implementation of this policy. To demonstrate accountability, the Board and Group Chief Executive will therefore:

- Ensure there are appropriate internal and financial controls in place to make sure all funds are accounted for;
- Keep proper and adequate financial records;
- Take appropriate actions to protect funds, and
- Act responsibly.

4. Legal Requirements

4.1 The Bribery Act 2010 came into effect on 1 July 2011 and creates the following offences:

- offence of bribing another person – this can occur where a person offers, promises or gives a financial or other advantage to another individual to perform improperly a relevant function or activity;
- offence of being bribed – this is where a person receives or accepts a financial or other advantage to perform a function or activity improperly. It does not matter whether the recipient of the bribe receives it directly or through a third party;
- corporate offence of failure to prevent bribery – the Group could be guilty of bribery where a person associated with the Group, such as an employee, or even sub-contractor, bribes another person to obtain, or retain business, with or for the Group.

4.2 It will, however, be a defence if the Group has 'adequate procedures' in place to prevent bribery.

4.3 The 'adequate procedures' defence puts the onus on the Group to prove, on the balance of probabilities, that it had 'adequate procedures. Adequate

procedures are not defined and would be considered on a case by case basis in court. However, these would be expected to include an appropriate Bribery Policy, training for staff, and policies and procedures covering areas where an increased risk of bribery and corruption was identified.

- 4.4 There are various legislative documents that are targeted at fraud. In Scotland, criminal fraud is mainly dealt with under the common law and a number of statutory offences. The main fraud offences in Scotland are: common law fraud; defamation; embezzlement; and statutory frauds. Conviction may result in a fine or imprisonment or both.

5. Risk Assessment

- 5.1 The Group will assess the nature and extent of its exposure to potential external and internal risks associated with this policy.

6. Proportionate Procedures

- 6.1 Procedures will be proportionate to the risks to the Group and will recognise the nature, scale and complexity of the Group's activities. The procedures will be clear, practical, accessible, effectively implemented and enforced.

7. Due Diligence

- 7.1 The Group will undertake due diligence processes; taking a proportionate and risk-based approach in respect of persons who perform, or will perform, services on our behalf.

8. Communication

- 8.1 The Group will aim to ensure that its fraud, bribery and corruption prevention policy and procedures are embedded and understood throughout the Group through internal and external communication and training that is proportionate to the risks it faces.

9. Prevention

- 9.1 The Group aims to prevent fraud, bribery and corruption, by adhering to the following policies, processes and procedures:

- Recruitment and Selection;
- Code of Conduct for Employees and Board Members;

- Declaration of Interest Processes and Register;
- Whistleblowing;
- Entitlements, Payments and Benefits Policy;
- ICT Policy;
- Standing Orders;
- Financial Regulations;
- Financial Procedures;
- Internal and External Audit;
- Risk Assessments, Management & Control;
- Procurement, including procurement procedures related to contractors, consultants and suppliers;
- Privacy Policy, including data sharing agreements with contractors and consultants;
- Disciplinary procedures.

10. Breach of this Policy

- 10.1 Any actual or attempted fraud, bribery or corruption on the part of workers is in breach of this policy and is likely to amount to gross misconduct. It is impossible to give exhaustive examples or guidance as to what would be included or precluded under this policy.
- 10.2 The Group's Codes of Conduct offer some further guidance to individuals as to what is not acceptable and examples of situations which might give cause for concern. All workers are required to avoid any acts or omissions that might amount to a breach of this policy and, if in doubt, first refer the matter to the Group Chief Executive before taking any action.

11. Reporting & Investigation

- 11.1 All workers must report any suspected acts of fraud, bribery or corruption in the first instance to the Group Chief Executive, unless the allegation is against the Group Chief Executive, in which case contact should be made with the Chair. Reference should be made to the Group's Whistleblowing Policy and the Fraud Response Plan at Appendix 1 to this policy.
- 11.2 An Investigating Officer will be appointed by the Fraud Response Group (Group CEO, Finance & Corporate Services Manager and the Chair of the

Board), and the action outlined in the Fraud Response Plan should be followed. Where appropriate, action will be taken after an investigation. This may involve:

- Disciplinary action against workers, which could result in dismissal;
- Civil legal action against third parties; and/or
- Reference to the Police for further investigation.

12. Fraud Register

12.1 All frauds, suspected or actual, will be recorded in the Fraud Register, held by the Group Chief Executive. This will be reviewed on a six-monthly basis by the Audit & Risk Committee.

12.2 The Group Chief Executive will have the responsibility of maintaining this register which will show the following information:

- Scope and circumstances arising; summary of what happened
- Action taken by the Group & the Police
- Outcome
- Any control action required as a result of the fraud
- Estimate of Loss / Potential Loss
- Extent of / potential for recovery of loss
- Date reported to the Scottish Housing Regulator (all suspected or actual fraudulent activity is to be reported)

12.3 Should any loss through fraud be sustained by the Group, the Board shall take all reasonable steps to recoup the loss if the loss is of a material amount. The loss may be recouped from the perpetrator of the fraud or through any insurance arrangements it may have in place.

12.4 An extract of the Fraud Register is attached at Appendix 2.

13. Reporting to the Scottish Housing Regulator and Other Agencies

- 13.1 All concerns of potentially fraudulent activity will be notified by the Group Chief Executive to The Scottish Housing Regulator as soon as possible in accordance with the regulatory guidance regarding Notifiable Events.
- 13.2 Where required and depending on the particular case, notification will also be provided to relevant funders or other relevant agencies (Police Scotland, Office of the Scottish Charity Regulator, etc).

14. Responsibilities for Compliance

- 14.1 Awareness of this policy will be covered as part of the organisational induction programme. All existing workers will receive regular training in respect of this policy and related policies.
- 14.2 It is not the responsibility of internal auditors or external auditors to find fraud during their audit work, but they must have regard to fraud, bribery and corruption risk and if any such instances are noted, they must raise them with the Group.

15. Complaints

- 15.1 Stakeholders who are unhappy with our management of fraud, bribery and/or corruption can raise their complaints through the Group's Complaints Policy.

16. Equal Opportunities

- 16.1 The Group is committed to ensuring equal opportunities and fair treatment for all people in its work. In implementing this policy, our commitment to equal opportunities and fairness will apply irrespective of factors such as gender or marital status, race, religion, colour, disability, age, sexual orientation, language or social origin, or other personal attributes.

17. Review

- 17.1 This policy will be reviewed every three years from the date of implementation.

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 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 Group's Anti-Fraud, Bribery and Corruption Policy and the Whistleblowing Policy.

2. Initiating Action

- 2.1 Suspicion of fraud may be captured through a number of means. This includes internal audit work, external audit, or incidences of whistleblowing. In all cases, the Group Chief Executive should be alerted to the matter without delay. In the Group Chief Executive's absence, another member of the Senior Management Team should be informed, and they will inform the Chair of the Board. In the case where the Group Chief Executive is suspected, the Chair must be advised immediately.
- 2.2 The Group Chief Executive (or in her absence, another member of the Management Team) shall, as soon as possible and normally within 24 hours, convene a meeting of the Fraud Response Group. This Group shall normally comprise the Group Chief Executive, the Finance & Corporate Services Manager and the Chair of the Board. The Group has the task of deciding on initial action to be taken. This action will normally involve:
- Engaging the internal auditor to act as Investigating Officer and undertake an investigation;
 - Informing external auditors of the matter, and agreeing arrangements for keeping the external auditors informed about the work of the Group;
 - Considering how to secure records/assets and prevent further loss;
 - Considering the membership of the Fraud Response Group, and the need to involve other members of the Senior Management Team. This will typically be determined by the area of business where the alleged or suspected fraud has taken place;

- Seeking expert legal advice from the Group's solicitors, as required;
- Seeking employment advice from EVH;
- Confirming responsibilities and arrangements for submitting relevant regulatory notifications; and
- Confirming requirements and arrangements for notifying funders.

The Group Chief Executive should advise the Chair of the Board 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 Fraud Response Group, any interim conclusions and provide an action plan to guide the full investigation if this is the recommended course of action.
- 3.2 The Fraud Response Group will consider the Investigating Officer's report, but the information will not be disclosed or discussed with anyone else who does not have a legitimate need to know. 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 Group policy to pass details directly to the police, normally without undue delay and prior to any further internal investigation. The Group Chief Executive will notify the Chair of the Board 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 Group Chief Executive will establish and maintain appropriate lines of communication with the police.

- 4.3 The provisions of this Plan 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 Group Chief Executive, in consultation with the Fraud Response Group and Chair of the Board, shall normally report the matter to the police without delay.
- 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 Group will follow its Disciplinary Policy and Procedures 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 or members of staff of fraud, the Fraud Response Group will decide whether there is a requirement to suspend the suspect(s). It will do so, with reference to the Group's Disciplinary Policy and Procedure. It may be necessary to plan the timing of suspension to prevent the suspect(s) from destroying or removing evidence that may be needed to support disciplinary or legal action.
- 5.2 In these circumstances, the suspect(s) should be approached unannounced. They should be supervised at all times before leaving the Group's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the Group. Keys to office premises should be returned.
- 5.3 The IT consultants should be instructed to withdraw, without delay, access permissions to the Group's computer systems. The suspect(s) should be requested to hand over all IT and communications equipment provided to them by the Group, including laptops, mobile telephones and other devices.

- 5.4 If no suspension takes place following preliminary investigations, the Fraud Response Group should review this at subsequent stages of the ensuing investigation.
- 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 Group assets. In consultation with the Fraud Response Group they 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 Fraud Response Group has responsibility for the appointment of external specialists to lead or contribute to the investigation.
- 5.7 Any requests for information from the press or other external agency concerning any fraud investigation must be referred to the Group Chief Executive. 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. Legal advice should also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment. The Group will normally expect to recover costs in addition to losses.
- 6.2 The Investigating Officer, in discussion with the Group Chief Executive and the Finance & Corporate Services Manager, should also decide whether any of the losses warrant a claim under any current insurance policy. Action to recover losses via insurance will normally only be taken as a last resort.

7. Investigation Report

7.1 On completion of a fraud investigation, the Investigating Officer will submit a written report to the Fraud Response Group. 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;
- Quantification of losses;
- Progress with recovery action;
- Progress with disciplinary action;
- Progress with criminal action; and
- Actions taken to prevent and detect similar incidents.

The report will normally be submitted to the next meeting of the Audit and Risk Committee. Where the fraud is significant, in terms of losses incurred, or particularly novel, unusual or complex, a special meeting of the Audit and Risk Committee may be convened. The Audit and Risk Committee will report fully to the next meeting of Management Board on matters considered and relevant management responses. This will include details of lessons learned or recommendations to improve controls.

8. Review of the Fraud Response Plan

8.1 As a minimum, the Plan will be reviewed every three years to ensure fitness for purpose. It will also be reviewed after any fraud incident in order to identify any need for change

APPENDIX 2

FERGUSLIE PARK HOUSING GROUP FRAUD REGISTER

Please provide a summary of the actual / suspected fraud

Please state the action taken by:

The Group

The Police

Please state the outcome of the detected / suspected fraud

Please state any control action required as a result of the fraud / suspected fraud

If financial loss has incurred please state how much this loss / estimated loss or potential loss was and the action taken to recover it.

Date reviewed by the Audit and Risk Committee

Signature - Chair of Audit and Risk Committee

Date:

Signature – Group Chief Executive:

Date:

Date reported to The Scottish Housing Regulator (where applicable):