

Fraud, Tax Evasion and Bribery Prevention, Detection and Response Policy

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Applicable to	Colleagues, board/ committee members, agency staff, involved residents, volunteers, consultants, contractors and agents	
Policy Owner	Head of Governance and Risk	
Policy Author	Name: Charlotte Burnham	Job Title: Head of Governance and Risk
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	<ul style="list-style-type: none"> For the full version history of this policy, click HERE (see back page) Please avoid referring to printed versions of this policy or saving it on shared/ individual drives. All policies and supporting resources can be found under 'Policy and Procedures' on the intranet. Printed and saved versions may quickly go out of date- contact policy@homegroup.org.uk for support and advice 	

1.0 Anti-Fraud, Tax Evasion & Bribery policy statement

Home Group is committed to the highest ethical standards and sound governance arrangements and adopts a zero tolerance to fraud and the criminal facilitation of tax evasion (collectively referred to as 'fraud'), and bribery. All instances of fraud or bribery will be investigated rigorously and promptly and appropriate action will be taken. This Policy applies across the whole of Home Group, including Home in Scotland, Home Group Developments, North Housing and Home Group Repairs Partnership Board. .

It is important that we use our income and resources in the most effective way to deliver high quality services. We require all colleagues and persons acting in a similar capacity at all times to act honestly and with integrity and to safeguard the resources for which they are responsible.

We will not tolerate fraud or bribery in any form, including any internal action which encourages, implies, bestows, tolerates or promises an unfair, unlawful, improper or unethical advantage to any group or organisation, regardless of whether there is any financial inducement or not. We will not tolerate the acceptance of bribes to induce a favourable decision, transaction or outcome. We will uphold all laws relevant to fraud and countering tax evasion, including the Fraud Act 2006 and Criminal Finances Act 2017.

Key measures designed to eliminate or reduce the likelihood of fraud and bribery include existing financial controls, procurement, recruitment and tenancy allocation policies, procedures and supporting resources and internal and external auditing procedures.

Additional controls include policies and procedures and associated resources relating to gifts & hospitality & payments and benefits, anti-money-laundering, whistle-blowing and the enforcement of disciplinary procedures where appropriate.

2.0 Purpose and Scope

2.1 Purpose

The purpose of this policy is to set out individual responsibilities with regard to the prevention of, detection of and response to fraud and bribery, including what to do in the event of a suspected fraud or instance of bribery and what action will be taken by Home Group in the event that an offence has been committed.

The policy is based on five key principles of a fraud and bribery risk management process:

- Principle 1: A fraud and bribery policy based on risk should be written to convey to Home Group the expectations of the Home Board regarding managing fraud and bribery risks;

- Principle 2: Fraud and bribery risk exposure should be assessed by Home Group to identify specific potential events that it needs to mitigate;
- Principle 3: Prevention techniques and controls to avoid potential key fraud and bribery risk events should be established, where feasible, to mitigate potential impacts to the Group;
- Principle 4: Detection methods and controls should be established to uncover fraud and bribery events when preventative measures fail or unmitigated risks are realised; and
- Principle 5: A response process, including reporting, should be in place to solicit inputs on potential fraud and bribery events and a coordinated investigation approach should be used to ensure potential fraud and bribery are dealt with in a timely manner.

It is the responsibility of the Home Board to establish controls and procedures to prevent and detect fraud and bribery and, therefore, safeguard the assets of the Group and the public revenue. This responsibility is delegated to management to apply on a day to day basis.

2.2 Scope

This policy applies to:

- Home Group Ltd;
- Home Group's subsidiaries; and
- All other parties who are given access to Home Group's information and premises.

This policy covers all persons whether:

- Home Group employees;
- Board/committee members;
- Temporary agency staff, involved residents or volunteers; and
- Consultants, contractors and agents (whether employed or on a casual or freelance basis or otherwise).

Whilst the Fraud Act 2006 does not apply in Scotland, where fraud is a common law crime, for the avoidance of doubt, this policy applies in full to Home in Scotland. This policy does not cover tenancy fraud. For guidance on how to deal with suspected unlawful subletting, please refer to the [Tenure Policy](#) and supporting resources. For guidance on how to deal with other types of tenancy fraud, such as obtaining a tenancy by deception, please contact Legal Services.

3.0 Legal and Regulatory Framework

3.1 Fraud

Historically, there has been no formal definition of 'fraud' until the Fraud Act 2006 became law in January 2007. Many of the offences previously referred to as fraud were covered by the Theft Acts 1968 and 1978. For the purposes of this policy, fraud also includes theft.

The Fraud Act broadly defines three main types of fraud:

- Fraud by false representation – where an individual dishonestly and knowingly makes a representation that is untrue or misleading.
- Fraud by wrongfully failing to disclose information – where an individual wrongfully and dishonestly fails to disclose information to another person where they have a legal duty to disclose it, or where the information is of a kind that they are trusted to disclose it, or they would be reasonably expected to disclose it.
- Fraud by abuse of position – where an individual who has been given a position in which they are expected to safeguard another person's financial interests dishonestly and secretly abuses that position of trust without the other person's knowledge.

The Fraud Act also creates new offences of obtaining services dishonestly and of possessing, making and supplying articles for use in frauds. It also contains an offence of fraudulent trading applicable to non-corporate traders.

For fraud to be committed under the legislation, there will need to be an identifiable intent by the individual to make a gain or to cause a loss or to expose another to the risk of loss.

Also, because Home Group and Home in Scotland are exempt charities, board members must comply with Charity Law and take all necessary steps to ensure there is no misuse of charity funds or assets.

From a regulatory perspective in England, the Regulator of Social Housing (RSH) requires providers to make an annual report on any losses from fraudulent activity during the year. In addition, the RSH also requires providers to inform them at the earliest opportunity about any material issues that indicate there has been or may be a breach of the Regulatory Standards e.g. material frauds.

The Fraud Act 2006 does not apply in Scotland, where 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 – where someone is caused to do something they would not otherwise have done by use of deception. Common law fraud is the common 'catch all' for most fraud prosecutions in Scotland.
- Uttering – forging documents.

- Embezzlement – the felonious appropriation of property (usually money) without the consent of the owner.
- Statutory frauds.

From a Regulatory perspective in Scotland, frauds are classified as 'Notifiable Events' and require reporting to the Scottish Housing Regulator by the Director of Scotland as soon as is reasonably practical.

For UK- wide frauds, both the English and Scottish authorities will have concurrent jurisdiction and it will depend on the nature of the crime and the level of local involvement as to who leads the investigation.

For the avoidance of doubt, this policy applies in full to Home in Scotland. Fraud is punishable by up to 10 years' imprisonment and/or a fine. Penalties in Scotland are up to life imprisonment and/or an unlimited fine.

3.2 Criminal facilitation of tax evasion

Under the Criminal Finances Act 2017, an organisation is criminally liable if it fails to prevent an associated person (employee, agent, sub-contractor etc.) from deliberately and dishonestly facilitating the evasion of tax. If the associated person is proved to have accidentally, ignorantly or even negligently facilitated tax evasion the offence is not committed by the organisation.

The following stages must have taken place before an organisation can be guilty:

1. Criminal tax evasion by a tax payer (individual or legal entity) under existing law.
2. The criminal facilitation of tax evasion by an associated person of the organisation acting in that capacity.
3. The organisation failed to prevent its associated person from committing the act.

Home Group has a defence provided it can show that it had 'reasonable prevention procedures' in place at stage 2, or if it is unreasonable to expect it to have such procedures.

HM Revenue & Customs has provided guidance on what procedures organisations can put in place to prevent persons associated with them from carrying out the criminal facilitation of tax evasion. The guidance is formulated in line with the six key principles (similar to Bribery, Section 3.3):

1. **Proportionate procedures** – procedures which are proportionate to the risks faced, and the size and nature of the organisation and its activities.
2. **Top level commitment** – fostering a culture where the criminal facilitation of tax evasion is never acceptable.

3. **Risk assessment** – periodically assessing the nature and extent of its exposure to the risks of associated persons carrying out criminal facilitation of tax evasion.
4. **Due diligence** – applying due diligence procedures in respect of others who perform services on an organisation's behalf in order to mitigate identified risks.
5. **Communication (including training)** – communicating policies and procedures to staff and others providing training where necessary.
6. **Monitoring and review** – regularly monitoring and reviewing criminal facilitation of tax evasion prevention procedures as the business develops and external circumstances change.

Penalties to corporate organisations committing a crime under the Criminal Finances Act include an unlimited fine, public record of the conviction and reputational damage. For the avoidance of doubt, this policy applies in full to Home in Scotland. Penalties in Scotland include a fine not exceeding the statutory maximum, public record of conviction and reputational damage.

3.3 Bribery

The Bribery Act 2010 came into force on 1 July 2011, repealing and replacing the old laws on bribery with a new comprehensive anti-bribery code. The legislation applies to England, Scotland and Wales. Bribery is a criminal offence and is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so. There are four offences:

- Active bribery - offering, promising or giving bribes.
- Passive bribery - requesting, agreeing to receive or accepting bribes.
- Bribery of a foreign public official.
- Failure of a commercial organisation to prevent bribery.

Some actions, such as abuse of position could be classed as either fraud or bribery or both, depending on the circumstances.

An organisation has a full defence to the offence of failing to prevent persons associated with it from committing bribery on its behalf, provided that it can show that it had 'adequate procedures' in place to prevent bribery.

The Ministry of Justice has provided guidance on what procedures organisations can put in place to prevent persons associated with them from bribing. The guidance is formulated around the following six key 'principles' (similar to the criminal facilitation of tax evasion, Section 3.2):

1. **Proportionate procedures** – procedures which are proportionate to the bribery risks faced and the size and nature of the organisation and its activities.

2. **Top level commitment** – fostering a culture where bribery is never acceptable.
3. **Risk assessment** – periodically assessing the nature and extent of its exposure to risks of bribery.
4. **Due diligence** – applying due diligence procedures in respect of others who perform services on an organisation's behalf in order to mitigate identified bribery risks.
5. **Communication (including training)** – communicating policies and procedures to staff and others providing training where necessary.
6. **Monitoring and review** – regularly monitoring and reviewing bribery prevention procedures as the business develops and external circumstances change.

Penalties for individuals committing a crime under the Bribery Act are a maximum of 10 years' imprisonment, along with an unlimited fine. The maximum penalty for a corporate body will be an unlimited fine, together with collateral consequences including directors' disqualification, company debarment from public procurement and asset confiscation.

3.4 Examples of Fraud and Bribery

In the context of Home Group, some examples of actions that could be considered to be fraud or bribery are as follows, although the list is by no means exhaustive:

Fraud

- Theft of any company property;
- Theft of petty cash / bankings;
- Theft of customer money (eg rent/deposits);
- Fraudulent use of Payment Cards;
- Forgery or alteration of any document, for example a cheque;
- Destruction or removal of records;
- Falsifying expense claims;
- Receiving incorrect salary overpayments and not informing or reimbursing Home Group;
- Use of the Group's assets and facilities for personal use;
- Fraudulent use of computer time and resources, including unauthorised personal browsing on the Internet.

These last two examples would obviously exclude any reasonable, occasional but limited personal use, for example phone calls home when away on company business or personal use of the computer in accordance with the Group's IS Usage Policies.

In addition, fraudulent behaviour can also result in the criminal facilitation of tax evasion. For example, becoming aware in the course of working for/with Home Group that:

- A third party has deliberately failed to register for VAT or failed to account for VAT;
- A third party working for Home Group has asked to be treated as a self-employed contractor, but the worker is more akin to an employee and should be on payroll;
- A third party requests payment in cash and/or refuses to provide an invoice or receipt for a payment made;
- A third party has made or intends to make a false statement relating to tax, or has set up a structure to try to hide income, gains or assets from a tax authority; and
- A third party to whom we have provided services asks us to change the description of services rendered on an invoice in a way that seems designed to obscure the nature of the services provided.

Bribery

Money does not have to be exchanged for bribery to take place. Bribes take many forms, such as gifts, favours, perks, offers of employment, free trips or accommodation, lavish hospitality. Some examples relevant to the nature of Home Group's business might be:

- Allocation of property without following approved allocations policies and procedures, in return for a reward; e.g. a Housing Manager receives a gift in exchange for moving an applicant further up the waiting list for housing;
- Offering employment without following approved recruitment policies and procedures, in return for a reward; e.g. a manager offers an old friend employment without following the usual recruitment procedures, in return for a favour;
- Acceptance of goods and services as an inducement to giving work to any supplier, e.g. a procurement manager secures a maintenance contract for a particular company, in exchange for the company carrying out work to his own home for free or at a reduced cost; and
- Disclosing confidential information to outside parties without authority for personal gain.

Can hospitality be a bribe?

The Bribery Act does not prohibit reasonable and proportionate hospitality and promotional or other business expenditure, provided it is not intended to influence and secure business or a business advantage. Genuine hospitality and promotional or other business expenditure which seeks to improve the image of a commercial organisation or establish cordial relations, is recognised as an established and important part of doing business and is not classed as bribery. Hospitality should be authorised and recorded in accordance with Home Group's policy on Gifts & Hospitality & Payments & Benefits.

4.0 Roles and responsibilities

The Audit Committee is responsible for:

- satisfying the Home Board that Home Group has in place a clear and well communicated policy which defines fraud and bribery and covers prevention,

detection and reporting mechanisms, together with expectations on the recovery of assets; and

- monitoring any instances of fraud and bribery and reviewing Home Group's Annual Fraud report to the RSH.

The Head of Audit is responsible for:

- investigating actual or suspected fraud and bribery (this may be delegated to operational colleagues in some circumstances e.g. straightforward theft);
- ensuring that appropriate disciplinary and/or legal action is taken against perpetrators of fraud and bribery;
- ensuring that disciplinary action is taken against managers where their failures have contributed to the commission of the fraud or bribery;
- completing a review of control systems once an investigation has been completed;
- offering advice and assistance to colleagues on risk and control issues;
- reporting **all** instances of fraud or bribery or attempted fraud or bribery and the outcome of any investigation to the Audit Committee (only the detail for those thefts with a value over £500 will be reported along with a total of loss of all thefts regardless of value to each Audit Committee. In addition, all instances of the criminal facilitation of tax evasion will be reported to each Audit Committee);
- submitting (in conjunction with the Head of Governance and Risk) an annual report to the RSH on any material losses from fraudulent activity during the year; and
- reporting at the earliest opportunity any material fraud to the RSH (in conjunction with the Head of Governance and Risk). What is classed as 'material' to be agreed between the Head of Audit and the Head of Governance and Risk and approved by the Chief Executive beforehand.

The Head of Governance and Risk is responsible for:

- reviewing the Fraud, Tax Evasion and Bribery Prevention, Detection and Response Policy and supporting guidance on a regular basis; and
- submitting (in conjunction with the Head of Audit) an annual report to the RSH on any material losses from fraudulent activity during the year.

Senior Management Team (SMT) Members are responsible for:

- the prevention and detection of fraud and bribery by ensuring that an adequate system of internal control exists within their areas of responsibility, and these controls operate effectively – as a result of this all SMT members must:
 - identify and assess the risks involved in the operations for which they are responsible;
 - develop and maintain effective controls to prevent and detect fraud and bribery;
 - ensure compliance with controls; and
 - ensure that agreed procedures are followed.

All colleagues are responsible for:

- ensuring that Home Group's reputation and assets are safeguarded;
- alerting their line manager where they believe the opportunity for fraud or bribery exists because of poor procedures or lack of effective supervision;
- reporting details of any suspected or actual fraud or bribery or any suspicious acts or events, to their line manager, the Head of Audit or via the Whistleblowing Policy; and
- assisting in any investigation by making available all relevant information and by co-operating in interviews.

5.0 Prevention and detection of fraud and bribery

Home Group has in place a framework of preventative measures, including internal controls, designed to prevent fraud and bribery occurring in the first instance. These consist of rules, regulations, policies and procedures within which employees, board/committee members, agency staff, consultants and contractors are expected to operate and include:

- A Code of Conduct;
- A Register of Interests;
- Registers of gifts and hospitality;
- Disciplinary procedures for employees;
- Delegated authorities;
- A Confidential Reporting (Whistleblowing) Policy;
- Financial Principles and Regulations; and
- Working Professionally policy.

It is the responsibility of managers to actively deter, prevent and detect fraud and bribery by maintaining good control systems and ensuring that their staff are familiar with them.

The most common control weaknesses that management should be aware of include:

- Too much trust being placed in employees;
- Lack of proper procedures for authorisation;
- Lack of adequate segregation of duties;
- Lack of independent checks on employee activities;
- Lack of clear line of authority;
- Infrequent reviews of departmental authority; and
- Inadequate documents and records (leading to a loss of a 'management trail').

Prevention is preferable to detection and, therefore, preventative controls should be applied as appropriate, bearing in mind, the risk of fraud and bribery and the potential for loss to Home Group. However, preventative controls may not be sufficient to guard against determined individuals and detective controls are therefore important. Detective controls are established to detect errors, omissions and fraud or bribery after the event has taken place.

Preventative and detective controls (PC and DC) include but are not restricted to:

- Physical security (PC);
- Logical (computer) access security (PC);
- Organisational (PC);
- Supervision and checking of outputs (PC & DC);
- Management trail (DC);
- Monitoring (PC & DC);
- Asset accounting (DC);
- Budgetary and other financial controls (DC);
- Systems development (PC & DC); and
- Staffing (PC).

Further guidance on this area can be obtained from Assurance Services.

Management should be alert to the factors which might indicate that fraud or bribery is taking place. These include:

- Opportunity (e.g. where there is a lack of separation of duties so that one person has control over all aspects of a transaction, for example, over a purchase order, purchase invoice and purchase payment authorisation);
- Over-ride (e.g. where a manager over-rides the normal control system/procedure. In practice this may be necessary, however, if done frequently it may be indicative of non-compliance); and
- Situational pressure (e.g. personal factors, which may be indicative of a tendency/temptation to fraud/bribery).

Colleagues need to be vigilant to the warning signs and indicators of fraud, bribery and tax evasion. Additional information about these warning signs can be obtained from Assurance Services.

Essential learning for all colleagues on Fraud Prevention and Anti-Bribery is available on ihasco - app.ihasco.co.uk/homegroup

6.0 What to do in the event of fraud or bribery

In the event of fraud or bribery being discovered, colleagues should follow the processes set out in the supporting Fraud, Tax Evasion and Bribery Response Plan (G202a) and the Fraud, Tax Evasion and Bribery Risk Management (G202b).

7.0 Review of policy

This policy will be kept under regular review by the Head of Governance and Risk. In addition:

- The effectiveness of the policy will be reviewed immediately following a major incident (for example, an incident which needs to be reported to Home Group's regulators); and

- The policy will be reviewed following changes in regulation or guidance from the Government, the RSH or other relevant body.

The policy will be subject to review by the Audit Committee, the Governance Committee and Home Group Board every three years.

8.0 Key definitions

Word / phrase	Definition
Fraud	Wrongful or criminal deception intended to result in financial or personal gain
Bribery	Giving or receiving a financial or other advantage in connection with the 'improper performance' of a position of trust, or a function that is expected to be performed impartially or in good faith
Criminal facilitation of tax evasion	Deliberately and dishonestly taking action to facilitate tax evasion by a taxpayer
Tax evasion	The illegal non-payment or under-payment of taxes, usually as a result of making a false declaration (or no declaration) of taxes due to the relevant authorities. Includes both UK and foreign taxes (provided it is an offence to evade tax in that country and would be a criminal offence if committed in the UK)
Associated person	An employee, agent or other person who performs services for or on behalf of the organisation (e.g. a contractor)

9.0 Supporting documents

In order to comply with Home Group's approach to **Fraud, tax evasion and bribery prevention, detection and response**, and achieve the standards set out above, the relevant processes and policy compliance notes must be followed in line with stated roles and responsibilities. Colleagues should refer to our internal index for the full list of supporting documents.

10.0 Version history

Version Number	Effective Date	Amendment made by (name & job title)	Version approved by (name & job title)	Description of Changes
1.0	February 2013	Kath Armstrong (Senior Corporate Lawyer)	Board	Original version approved by the Board on 27 February 2013
2.0	April 2017	Kath Armstrong (Senior	Board	Separate out the policy from the processes to align with the policy

		Corporate Lawyer)		framework across Home Group, following an audit by Risk and Assurance Services
2.1	January 2018	Beth Bishop (compliance business partner)	N/A	Re-branded
2.2	July 2019	Kath Armstrong (Senior Corporate Lawyer)	N/A	Minor changes to references to HCA and Director of Assurance and Corporate Services
3.0	30 July 2020	Rachel Farrar (Group Tax Accountant) and Kath Armstrong (Senior Corporate Lawyer)	Board	Include Criminal Finances Act 2017 and general update
4.0	27 July 2023	Megan Hume (Governance Business Partner) Victoria Reed (Risk and Compliance Business Partner)	Board	Updated to reflect organisational changes, policy and Committee name changes.