



## **SHA Anti-Fraud Policy**

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## 1. INTRODUCTION

- 1.1 Southside Housing Association (SHA) is committed to operating as a social landlord and a business in line with the highest standards of openness and accountability and probity in the way SHA conducts its affairs. SHA strives to maintain its own reputation and that of the wider Scottish social housing sector.
- 1.2 In order to ensure that SHA remains a viable concern in line with its strategic objectives and Business Plan, SHA takes appropriate and effective actions to identify and protect against adverse financial and business risks. This includes reducing SHA's exposure to fraud or criminal activity, and putting in place mitigating actions to reduce the risk of fraudulent activity
- 1.3 This policy aims to set out SHA's position and to provide a set of organisational principles in relation to reducing the risk of fraudulent activity and to respond effectively when fraudulent activity does occur. The policy also aims to set out specific responsibilities within SHA at all levels for the identification and reporting of suspected or actual fraudulent or other criminal activity
- 1.4 The SHA Anti-Fraud Policy also applies to SHA's wholly owned subsidiary Southside Factoring and Related Services (SFARS), and any reference to SHA throughout this policy is also taken to refer to SFARS.

## 2. DEFINITIONS

- 2.1 Fraud is a common law crime in Scotland defined as "*when someone achieves a practical result by the means of a false pretence...where someone is caused to do something they would not otherwise have done, or vice versa, by the use of deception*"
- 2.2 The National Audit Office, the United Kingdom's independent public spending watchdog defines 'fraud' in the following way: "*The term 'fraud' covers a wide range of criminal activity, but at its heart, relates to an act of dishonesty, normally through deception or breach of trust, with the intent to either make a gain or cause a loss of money or other property*<sup>1</sup>".
- 2.3 In practical terms fraud may include: - forgery, extortion, theft, conspiracy and/or embezzlement. Examples of fraud may include, but are not limited to;
  - False accounting, interference with debtors, creditors or ledgers;
  - Collusion with customers and/or suppliers;
  - Falsification of expenses or benefits e.g. overtime or travel allowance, and;
  - Knowingly or negligently authorising such false claims

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<sup>1</sup> National Audit Office – Progress Combatting Fraud (November 2022)

### **3. POLICY PRINCIPLES**

3.1 SHA recognises that the potential for fraudulent activity taking place within or targeting the various business areas e.g. finance, repairs and maintenance within the Association. The following key organisational principles guide SHA's position in relation to fraud and our response to incidences of fraud:

- Development, maintenance and promotion of an anti-fraud culture;
- Fraud prevention built into our systems and processes;
- Identification of weaknesses within our systems and processes;
- Detection of fraud where prevention has not been effective;
- Clear and effective processes for reporting and investigation of suspected fraud;
- Application of a range of sanctions where fraud is found to have occurred;
- Seeking redress and recovery of any losses that are incurred as a result of fraudulent activity, and;
- Dealing with fraud openly, directly and transparently

3.2 In addition to the principles which guide this policy, SHA has a range of operational systems, policies and procedures in place which assist on the delivery of our policy principles and in the deterrence, detection and reporting of fraud. These include:

- Finance Team internal controls;
- SHA Financial Regulations;
- SHA Treasury Management Strategy and Policy;
- SHA Standing Orders and Scheme of Delegated Authority;
- Delegated Authority Policy
- Group Policy on Entitlements, Payments and Benefits
- Whistleblowing Policy
- Declaration of Interests Policy
- Governing Body and Staff Code of Conducts
- SHA Registers including Payments and Declaration of Interests and the monitoring of those registers
- Guidance and procedures for specific business areas e.g. housing services, repairs and maintenance, development and Human Resources
- Internal audit and external audit processes

3.3 Any donation made or received by SHA does not represent a conflict of interest, and is not made in order to obtain any improper business benefit. The SHA process for the receipt or payment of donations is set out in the SHA Donations Policy.

### **4. LEGISLATIVE AND REGULATORY CONTEXT**

4.1 This policy has been informed by and has relevance to the following legislation:

- Housing (Scotland) Act 2010 – Section 72
- Bribery Act 2010
- Charities and Trustee Investment (Scotland) Act 2005

- Co-operative and Community Benefits Act 2014
- 4.2 The Scottish Housing Regulator’s (SHR) Standards of Governance and Financial Management are set out at Chapter 3 of *The Regulation of Social Housing in Scotland: Our Framework*<sup>2</sup> (the Regulatory Framework). All Scottish registered social landlords (RSL) must comply with the seven Regulatory Standards.
- 4.3 The following Regulatory Standards are particularly relevant to this Policy:
- 3.1 *The RSL has effective financial and treasury management controls and procedures, to achieve the right balance between costs and outcomes, and control costs effectively. The RSL ensures security of assets, the proper use of public and private funds, and access to sufficient liquidity at all times.*
  - 4.3 *The governing body identifies risks that might prevent it from achieving the RSL’s purpose and has effective strategies and systems for risk management and mitigation, internal control and audit.*
  - 5.6 *There are clear procedures for employees and governing body members to raise concerns or whistleblow if they believe there has been fraud, corruption or other wrongdoing within the RSL.*
- 4.4 The SHR have also published Statutory Guidance<sup>3</sup> on reporting of items of material significance in line with Section 72 of the Housing (Scotland) Act 2010 by statutory auditors and accountants in relation to RSLs. This includes where incidents of fraud have been discovered by auditors and/or accountants.
- 4.5 This policy also takes account of advice for RSLs in relation to fraud protection issued By the SHR in December 2019 and again in April 2020.

## 5. ROLES AND RESPONSIBILITIES

### Management Committee

- 5.1 The SHA Management Committee is responsible for ensuring that SHA:
- Operates within an anti-fraud culture;
  - Maintains effective risk management and internal control processes
  - Has relevant policies in place to assist in the deterrence, detection and reporting of suspected fraudulent activity, and;
  - Maintains appropriate procedures that ensure reported incidents of suspected fraud are promptly investigated and effective sanctions and redress are applied in instances where fraud is detected.
- 5.2 SHA’s Management Committee is also responsible for ensuring that it conducts its own affairs in accordance with the SHR’s Standards of Governance and Financial

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<sup>2</sup> Scottish Housing Regulator – The Regulation of Social Housing in Scotland: Our Framework, Chapter 3 (February 2019)

<sup>3</sup> Scottish Housing Regulator – Section 72: Reporting Information of Material Significance Statutory Guidance (February 2019)

Management set out in the Regulatory Framework and other recognised principles of good governance.

- 5.3 Members of the Management Committee must adhere to the Code of Conduct for Governing Body Members and are responsible for reporting any suspicions of fraud or attempted fraud which they encounter. They must also act with integrity and propriety, within the law and in accordance with relevant SHA policies and procedures

#### **SHA Audit Committee**

- 5.4 As set out within the Committee Remits and Terms of Reference which form part of the SHA Standing Orders, the Audit Committee are responsible for:
- Monitoring and review of the effectiveness of internal audit processes, including financial controls and risk management systems;
  - Review of internal audit reports;
  - Review the findings of external audit, and;
  - Monitoring and review of the effectiveness of internal audit activities in review of arrangements for whistleblowing and detection of fraud.

#### **Chief Executive Officer**

- 5.5 The Chief Executive Officer (CEO) is responsible for:
- Appointment of an investigating officer where an investigation into suspected fraud is appropriate;
  - Informing the Chair of the Management Committee that an investigation will take place, and;
  - Receipt and oversight of whistleblowing allegations unless the allegations are about the CEO, and;
  - Reporting any suspected or actual fraud incidents to the Police, SHR and any other relevant authority e.g. National Cyber Security Centre

#### **Leadership Team**

- 5.6 The SHA Leadership Team have a collective responsibility to:
- Develop and maintain effective systems, policies and processes for the deterrence, detection and reporting of fraud and in ensuring that they are working, and monitoring of their on-going effectiveness;
  - Ensure that the Management Committee and sub-committees are provided with up to date and accurate information with regard to regulatory requirements in relation to good governance and financial management.;
  - Foster a culture of honesty and transparency among our staff and volunteers and ensuring that everyone is aware of expectations relating to their professional conduct;
  - Ensure all staff and volunteers have the required knowledge and understanding of the range of policies, procedures and system which are relevant to anti-fraud;

- Implement any optional anti-fraud measures including segregation of duties;
- Ensure that staff and volunteers receive appropriate training that enables them to identify any suspected fraud;
- Ensure that the notification requirements of the SHR are met in line with the SHR statutory guidance on Notifiable Events, and;
- Maintain the SHA Fraud Register (Director Of Finance).

### **Staff and Volunteers**

- 5.7 All SHA staff and volunteers have a responsibility to adhere to the SHA Staff Code of Conduct, and through this must:
- Be vigilant to any possible indicators of fraud or attempted fraud within their respective business areas;
  - Act with integrity and propriety, within the law, and in accordance with relevant policies, procedures and systems;
  - Report to their line manager any areas of weakness they identify in procedures or systems, and suggest ways of reducing the possibility of fraud, and;
  - Report any suspicions of fraud or attempted fraud to the Chief Executive Officer.

## **6. REPORTING FRAUD OR SUSPECTED FRAUD**

- 6.1 If it is suspected that an incidence of fraud has taken place or may take place in the future e.g. if a contractor offers an inducement to a staff member in return for business, then a staff member or volunteer must notify their line manager who will in turn notify the CEO (or Depute Director in their absence) immediately. If a governing body member suspects an incidence of fraud has taken place or may take place in the future, then they should inform the Chair of the Management Committee immediately.
- 6.2 The CEO, Director of Finance or the Chair must also be informed immediately by any staff member, volunteer or governing body member if someone attempts to involve them in fraud, suspect that this may happen in the future or if they think they are a victim of unlawful activity.
- 6.3 If a staff member or volunteer has concerns or suspicions that any of their colleagues may be involved in fraud then they must notify their line manager who will in turn notify the CEO, or Depute Director immediately. Any governing body member who has concerns or suspicions that someone may be involved in fraud must notify the Chair immediately.
- 6.4 SHA is committed to the highest standards of openness, probity and accountability and encourages and supports staff, volunteers and governing body members in raising genuine concerns, even if they turn out to be mistaken. SHA aims to ensure that no staff member, volunteer or governing body member suffers detrimental treatment including disciplinary action or dismissal, threats or bullying as a result of reporting suspicions or because of a refusal to become involved in fraud. If a staff

member, volunteer or governing body member feels that they have suffered detrimental treatment as a result of reporting suspected fraud then they should contact the CEO/Depute Director or Chair respectively.

- 6.5 If a staff member, volunteer or governing body member suspect fraud has been committed or may be committed in the future and it concerns the CEO or the Chair then they may ‘whistleblow’ directly to the SHR in line with the SHA Whistleblowing Policy
- 6.6 As set out at Section 6.4 of this policy, SHA will support staff, volunteers or governing body members in reporting genuine concerns even when they turn out to be mistaken. Where an individual however makes an allegation which is deemed to be in ‘bad faith’ i.e. frivolously, maliciously or for personal gain then disciplinary action may be taken against them.
- 6.7 The CEO will report suspected or actual fraud to the Police and the SHR.
- 6.8 Failure to report suspected or actual fraud may be considered to be gross misconduct.

## **7. NOTIFICATION TO THE SHR**

- 7.1 SHA will notify the SHR of any incidences of fraud, investigation into suspected instances of fraud, and incidences of whistleblowing in line with the SHR’s Statutory Guidance on Notifiable Events and the SHA Notifiable Events Policy.
- 7.2 Where a Notifiable Event in relation to fraud has been reported to the SHR. The SHR will also report to the Office of the Scottish Charity Regulator (OSCR) in line with legal provisions set out in the Charities and Trustee Investment (Scotland) Act 2005, and the Memorandum of Understanding between the SHR and OSCR.
- 7.3 Section 72 of the Housing (Scotland) Act 2010 places a duty upon auditors and reporting accountants to disclose information of “material significance” to the SHR. In line with the Memorandum of Understanding between the SHR and OSCR, the SHR will notify OSCR within five working days where it considers the circumstances of a disclosure made under Section 72 of the Housing (Scotland) Act 2010 constitutes a serious matter around financial mismanagement or poor governance.

## **8. INVESTIGATION AND RECORDING**

- 8.1 An actual or suspected incidence of fraud by a governing body member, or a breach of obligations in relation to fraud set out within this policy, will be treated as a breach of the SHA Governing Body Member Code of Conduct. An investigation into a breach of the Code of Conduct will be carried out in line with the provisions for investigation set out in the SHA Protocol for Investigating a Breach of the Code of Conduct.
- 8.2 In the event that an investigation finds the breach to be upheld an appropriate sanction may be applied in line with the SHA Rules and Standing Orders. This may include removal of the individual from membership of the Governing Body

- 8.3 An actual or suspected incidence of fraud, or a breach of obligations in relation to fraud set out within this policy by a staff member will be treated as a disciplinary matter under the contract of employment. An investigation into any allegation of fraud or a breach of obligations under this policy will be conducted in line with the SHA Disciplinary Procedure as set out in the terms and conditions of employment.
- 8.4 In the event that an investigation finds that the allegations are upheld an appropriate sanction may be applied in line with the SHA Disciplinary Procedure. This may include dismissal.
- 8.5 SHA will ensure that all staff involved in conducting an investigation have received appropriate training and guidance in relation to carrying out an investigation, and that any investigation is conducted in complete confidence, with professional standards being strictly observed in the collation and recording of evidence.
- 8.6 All reports of suspected or attempted fraud must be recorded within the SHA Fraud Register, and where notified to the SHR recorded in the SHA Notifiable Events Register.
- 8.7 Where SHA discovers that an incidence of fraud has taken place, SHA will make a full disclosure to Police Scotland and co-operate fully with any criminal investigation carried out by Police Scotland.
- 8.8 Where appropriate, SHA will also notify the National Cyber Security Centre of any attempted or suspected fraud carried out via a cybercriminal attack on SHA's systems.
- 8.9 The Investigation procedure when a suspected incidence of fraud occurs is set out in detail at Appendix 1.

## **9. RECOVERY OF LOSSES**

- 9.1 SHA will always pursue recovery of any losses incurred as a result of fraud. The amount of any loss will be quantified wherever possible. Where the level of loss is substantial, legal advice should be obtained without delay with regard to the possibility of freezing a suspect's assets through court proceedings, pending conclusion of an investigation. Legal advice should also be obtained with regard to the prospects for recovering any losses through civil proceedings where a perpetrator of fraud refuses repayment. SHA will normally pursue recovery of legal costs in addition to losses
- 9.2 Any monies offered towards the recovery of a loss are accepted without prejudice to any other action SHA may wish to take, and that acceptance is only in respect of such losses identified to date. SHA reserves the right to pursue recovery of any further losses identified which may be found in the future.
- 9.3 A claim under SHA's insurance arrangements in cases of fraud should be regarded as a 'last resort', and are only to be initiated once all other avenues of recovery have been fully explored and exhausted

## **10. MONITORING AND REVIEW OF THIS POLICY**

- 10.1 The Director of Finance will be responsible for maintaining the SHA Fraud Register. The SHA Fraud Register will be reported to Management Committee annually as part of annual reporting of SHA's Registers
- 10.2 This Policy will be subject to review every three years, or sooner in the event of significant legal or regulatory developments which materially affect the policy.

## **11. EQUALITY AND HUMAN RIGHTS**

- 11.1 This policy reflects the Association's commitment to meeting our Equality obligations in advancing equality, promoting good relations and eliminating discrimination in the way we provide our services.
- 11.2 It also aims to reflect our commitment to considering the Equality and Human Rights impacts of what we do as a registered social landlord, including how we communicate and provide access to information to tenants and other service users.
- 11.3 An Equality Impact Assessment has been completed in relation to this Policy at Appendix 2.

## **12. DATA PROTECTION**

- 12.1 SHA handles the personal data we use in line with our obligations under data protection legislation and the Association's Privacy Policy and Data Retention Schedule. Information about how we handle personal data and the legal basis for processing personal data is available through the Association's Fair Processing Notices.

## **Procedure for Investigation of suspected Fraud**

### **1. INITIAL ACTION**

- 1.1 Suspicion of fraud may arise through a number of different ways e.g. internal audit work, external audit, whistleblowing incidents. In all cases of suspected fraud the CEO should be informed immediately, or in their absence another member of the SHA Leadership Team. They will then inform the Chair of the Audit Committee.
- 1.2 The CEO will convene a meeting of the Leadership Team as soon as is practically possible and usually within twenty four hours of the suspected fraud initially being discovered. The Leadership Team will decide on the initial action/s to be taken. This will normally involve the following:
  - Engaging SHA’s internal auditor to act as Investigating Office and to undertake an investigation;
  - Informing SHA’s external auditors of the matter, and agreeing arrangements for keeping the external auditors informed as the investigation progresses;
  - Considering how to secure SHA assets and prevent further loss from occurring;
  - Seeking expert legal advice as required;
  - Confirming responsibilities and arrangements for submitting any relevant regulatory notifications, and;
  - Confirming requirements and arrangements for notifying funders.
- 1.3 The CEO will advise the Chair of the Audit Committee as soon as an investigation has been initiated.

### **2. PRELIMINARY INVESTIGATIONS**

- 2.1 The Investigating Officer must conduct an initial information gathering exercise to enable the circumstances of the suspected fraud to be investigated, confidentially and without unnecessary delay. Their initial findings will be reported to the CEO/Leadership Team, including any interim conclusions and provision of an action plan to guide a full investigation if this is recommended following preliminary investigation.
- 2.2 The CEO/Leadership Team will consider the Investigation Officer’s initial report. The details of this will be kept confidential to the Investigating Officer and CEO/Leadership Team. It is important to retain this confidentiality as where an individual is suspected of fraud, which a subsequent investigation does not substantiate, every effort must be made to minimise any potential damage to the individual’s reputation.

### **3. INVOLVING THE POLICE**

- 3.1 Where a preliminary investigation has established that there are reasonable grounds to suspect that fraud has taken place, the Police will be notified without unnecessary

delay and prior to any further internal investigation. The CEO will notify the Chair of the Audit Committee when this action has been taken.

- 3.2 The Police will lead any further investigation from this stage. All SHA staff are required to co-operate fully with police enquiries. The CEO will establish and maintain appropriate lines of communication with the Police.
- 3.3 This procedure will apply in full also to cases of suspected fraud where external fraud, perpetrated by a third party are identified or suspected and there is a suspicion of collusion of SHA staff members.
- 3.4 In all other cases of suspected external fraud, the CEO in consultation with the Chair of the Audit Committee will normally report the matter to the Police without unnecessary delay.
- 3.5 Application of an appropriate and effective sanction to a perpetrator of fraud when an investigation has found that fraud has occurred is an important part of the fraud investigation process, and acts as a deterrent to other potential perpetrators of fraud. SHA will follow the SHA Disciplinary Procedure with regard to any SHA staff member or volunteer who has committed fraud, and will normally pursue the criminal prosecution of any such individual.

#### **4. SUBSEQUENT INVESTIGATIONS**

- 4.1 Where preliminary investigation provides reasonable grounds for suspecting an SHA staff member/s of fraud, The CEO/Leadership Team will decide whether there is a requirement to suspend the staff member/s in question. This will be done in line with the SHA Disciplinary Procedure. It may be necessary to plan the timing of any suspension to prevent a suspect from destroying or removing evidence that may be needed to support disciplinary or legal action.
- 4.2 In the circumstance outlined at 4.1 the suspect/s should be approached without prior warning. They should be supervised at all times before leaving SHA premises. They should be allowed to remove any personal property under supervision, but should not be able to remove any property belonging to SHA. Any keys to SHA premises, fobs, and identification badges should be returned to SHA.
- 4.3 The Depute Director should arrange for the withdrawal, without delay of access permissions to SHA's IT systems. The suspect/s should be requested to hand over all IT and communications equipment including laptops, mobile telephony and any other devices which have been provided by SHA.
- 4.4 If no suspension is applied following preliminary investigation, the CEO/Leadership Team should review this at subsequent stages of any ensuing investigation.
- 4.5 The Investigating Officer shall consider whether it is necessary to investigate systems other than that which has given rise to suspicion, through which any suspect may have had opportunities to misappropriate SHA assets. In consultation with the

CEO/Leadership Team they will also determine whether there is a need to collect additional information in order to provide an appropriate level of evidence.

- 4.6 In the event that the suspected fraud case is of a particularly complex nature, the investigation may require specific expertise or skills which the Investigating Officer does not possess. In such a circumstance, the CEO/Leadership Team has responsibility for the appointment of external specialists to lead or augment the investigation.

#### **Access to Information**

- 4.7 Any requests for information from media or any other external organisation or individual concerning any investigation into fraud or suspected fraud must be referred to the CEO. Under no circumstances must the Investigating Officer or any other SHA staff member provide statements or information to the press or external agencies

### **5. INVESTIGATION REPORT**

- 5.1 On completion of the fraud investigation, the Investigating Officer will submit a report to the CEO/Leadership Team. If 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/s;
- Progress with disciplinary action/s;
- Progress with criminal action, and;
- Recommendations/actions to prevent and detect similar incidents.

- 5.2 The report will normally be submitted for consideration at the next scheduled meeting of the Audit Committee. Where the fraud is significant, in terms of losses incurred or where the fraud has been unusual or complex, a special meeting of the Audit Committee may be convened. Audit Committee will report fully to the next meeting of the SHA Management Committee.



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