



ANTI FRAUD, BRIBERY AND MONEY LAUNDERING POLICY

DOCUMENT CONTROL

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Rochdale Boroughwide Housing Limited is a charitable community benefit society.

FCA register number 31452R.

Registered Office: Sandbrook House, Sandbrook Way, Rochdale OL11 1RY.

Registered as a provider of social housing. HCA register number: 4607



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1. Introduction

- 1.1 Rochdale Boroughwide Housing (RBH) has a commitment to high legal, ethical and moral standards. All employees are expected to share this commitment. This policy is established to facilitate the development of procedures, which will aid in the investigation of fraud, bribery, money laundering and/or related offences.
- 1.2 RBH is committed to countering fraud, bribery and money laundering. This includes procedures covering the creation of an anti-fraud and corruption culture; deterrence, prevention and detection of such activities; investigation of suspicions which arise; the application of appropriate sanctions; and the seeking of redress in respect of monies obtained by fraudulent or corrupt activities.
- 1.3 The Board already has controls in place that reduce the likelihood of fraud, bribery or money laundering occurring. These include financial limits and policies, documented procedures, and documented systems of internal control and risk assessment. RBH also carries out regular audits and has a whistleblowing hotline so that cases can be detected after the event. In addition, the Board is committed to ensuring that a risk (and fraud) awareness culture exists across the organisation.
- 1.4 **All Board members, employees, customers, contractors and suppliers should be in no doubt that RBH as an organisation has a zero tolerance approach to any illegal activity, including fraud, bribery and money laundering.**

2. Statement of policy

- 2.1 This policy applies to all Board members, employees, involved tenants and residents, consultants, suppliers, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with RBH.
- 2.2 Fraud in relation to unlawful sub-letting and occupancy is dealt with under the Tackling Unlawful Subletting and Occupancy Policy.

3. Fraud

- 3.1 The 2006 Fraud Act means it is no longer necessary to prove a person or organisation has been deceived. The focus is now on the dishonest behaviour of the suspect, and their intent to make a gain or cause a loss. Fraud is a criminal and civil law violation and can be defined as simply the intentional distortion of financial statements or other records by persons internal or external to the organisation which is carried out to conceal the misappropriation of assets or otherwise for gain.

3.2 The 2006 Act introduces the following three ways in which fraud can be committed:

Fraud by False Presentation

3.2.1 Lying about something using any means, e.g. by words or actions, running a fake website.

Fraud by Failing to Disclose

3.2.2 Not saying something when you have legal duty to do so, e.g. not declaring information on an application for insurance.

Fraud by Abuse of a Position of Trust

3.2.3 Abusing a position where there is an expectation to safeguard the financial interests of another person or organisation, e.g. insider employee fraud .

3.3 In addition the Act makes the following an offence:

Possession of Articles Intended for the use in Fraud

3.3.1 Applies anywhere, and includes any article found, e.g. cloned credit cards, software, electronic data.

Making or Supplying Articles for use in Fraud

3.3.2 The individual must know or intend the article to be used to commit or facilitate fraud.

Fraudulent Business Carried Out by a Sole Trader

3.3.3 Now includes individuals, partnerships or trusts.

Obtaining Services Dishonestly

3.3.4 E.g. using a stolen credit card on the internet.

3.4 All these offences occur where the act or omission is committed dishonestly, and with the intent to cause gain or loss. Crucially, as long as there is intent, the gain or loss does not have to succeed.

4. Bribery

4.1 The 2010 Act was introduced to replace existing legislation which had become outdated and draw together the various criminal offences. Crucially the Act created a new offence which can be committed by a commercial organisation which fails to prevent persons associated with them from bribing another person on their behalf meaning that RBH can be held liable for their misconduct. Bribery can be defined as the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.

4.2 There are 4 key offences under the 2010 Act:

Offences Related to Bribing Another Person

4.2.1 Offering, promising or giving a financial or other advantage, intending to provoke or as a reward for improper performance of a function or activity.

Offences Related to Being Bribed

4.2.2 Requesting, agreeing to receive or accepting a financial or other advantage to improperly perform a function or activity.

Failure of a Commercial Organisation to Prevent Bribery

4.2.3 RBH will be corporately liable if an associated person bribes another to obtain or retain business or a business advantage.

Bribery of a Foreign Official

4.2.4 Offering, promising or giving a financial or other advantage intending to influence the foreign official in their official capacity to obtain or retain business or a business advantage.

Penalties

- For individuals – 10 years in prison, unlimited fine or both.
- For RBH – Unlimited fine

4.3 Government guidance directs that an organisations response to this risk of bribery should be based upon the following six principles:

Proportionality

4.3.1 RBH has procedures in place to prevent bribery by persons associated with it. These are proportionate to the bribery risks faced by RBH and to the nature, scale and complexity of our activities. They are also clear, practical, accessible, effectively implemented and enforced.

Top Level Commitment

4.3.2 The Chief Executive and Directors are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.

Risk Assessment

4.3.3 The nature and extent of RBH's exposure to potential external and internal risks of bribery on its behalf by persons associated with it is periodically assessed. This includes financial risks but also other risks such as reputational damage.

Due Diligence

4.3.4 RBH takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

Communication (Including Training)

4.3.5 RBH seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

Monitoring and Review

4.3.6 Procedures designed to prevent bribery are monitored and reviewed and improvements are made where necessary.

Corporate Hospitality

4.4 The Bribery Act 2010 'Quick Start Guide' provides that *'As a general proposition, hospitality or promotional expenditure, which is proportionate and reasonable given the sort of business you do is very unlikely to engage the Act'*.

Anti Fraud, Bribery and Money Laundering Policy

- 4.5 However, RBH's Code of Conduct goes further and directs that the receipt of personal gifts should be discouraged. Where an employee does receive a personal gift during the course of, or as a result of their official duties, this must be reported to the Governance Manager.
- 4.6 Hospitality must only be given or accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant. Colleagues should consider the impact of accepting hospitality and how this may be construed by an outside party. When receiving hospitality, employees should be particularly sensitive as to its timing in relation to decisions which RBH may be taking affecting those providing the hospitality.
- 4.7 For further guidance colleagues should refer to the Code of Conduct for Employees or discuss the matter with their line manager.

5. Money Laundering

5.1 Over recent years there have been significant changes to the legislation concerning money laundering with the introduction of the Proceeds of Crime Act 2002 (POCA) and the Money Laundering Regulations 2007, which have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the new obligations require that all businesses establish internal procedures to prevent the use of their services for money laundering.

5.2 Money laundering is simply the process of concealing the illegal source or existence of income derived from criminal activity in an attempt to make that income appear legitimate.

5.3 This can include:

Concealing, disguising, converting, transferring criminal property or removing it from the UK.

5.3.1 For example setting up a sham business which traditionally deals in high volumes of cash to give cover for regular cash payments into a legitimate bank account, or an unexplained large cash payment on a rent account claimed to be from the death of a relative or lottery win.

Entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person

5.3.2 This is the actual involvement in helping to cover up an act – e.g. a Housing Officer becoming suspicious that a tenant on benefits is buying valuable items when they are on limited income and failing to report this)

Acquiring, using or possessing criminal property, accepting stolen items knowingly or knowingly taking advantage of them or accepting items paid for by the proceeds of crime

5.3.3 This could be paying significantly less than the value of an item with the suspicion or knowledge that it may be stolen

Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorism property

5.3.4 This is about hiding income or other items which are being used to fund or carry out terrorist activities)

5.4 There are also two ‘third party’ offences:

- Failing to disclose one of the primary offences outlined above, and
- *‘Tipping-off’* - where someone informs a person or people who are, or are suspected of being, involved in money laundering, so as to reduce the likelihood of their being investigated, or prejudice an ongoing investigation.

6. Requirements of Employees and RBH

6.1 Individuals can be found to be criminally liable for failing to report fraudulent, corrupt or money laundering activity where it is known or suspected. This could result in serious criminal charges and/or sanctions being imposed on RBH and/or its employees.

It is therefore important that policies and procedures exist to establish internal reporting arrangements and ensure compliance with the guidance and the law.

6.2 RBH’s Whistle-blowing Policy is designed to protect individuals when making a disclosure from any fear of victimisation or harassment.

6.3 RBH has appointed a nominated officer – the Fraud and Money Laundering Reporting Officer (FMLRO). The purpose of this role is to act as a point of contact to receive and investigate reports about suspected and known instances of money laundering activity involving the RBH’s operations. The officer nominated to receive disclosures about such activity within RBH is the Head of Legal and Compliance or, in the absence of the FMLRO, the Head of Finance and Procurement or the Deputy Head of Finance and Procurement.

- 6.4 Reports could be made by employees, Board members, contractors, the public, the Police, or any other related party or partner. Once this is received, it is then for the FMLRO to investigate where necessary and decide whether there are reasonable grounds for suspicion. Should the FMLRO feel it is warranted a report will be made to the Serious Organised Crime Agency (SOCA) by way of a Suspicious Activity Report (SAR) form found on the SOCA website.
- 6.5 Submitting a SAR to SOCA is a statutory requirement if there are grounds to do so. However, if there is no actual knowledge that money laundering is taking place, or there are no reasonable grounds for suspicion, then the nominated officer (FMLRO) does not commit an offence by not making a report to SOCA.
- 6.6 Whilst the risk to RBH of contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities. For those employees affiliated to a professional body (e.g. accountants and lawyers) there is also the risk of disciplinary action being taken by the respective body's Disciplinary Committee.

7. The Fraud & Money Laundering Reporting Officer (FMLRO)

- 7.1 The role of the Fraud & Money Laundering Reporting Officer (FMLRO) is to act as a point of contact to receive and investigate reports of suspected and known instances of fraudulent, corrupt or money laundering activity involving RBH, our partners or the services we provide. RBH's nominated FMLRO is:-

<p>Stephen Wigley Head of Legal and Compliance Tel 01706 273775</p>
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- 7.2 In the absence of the FMLRO the following officers will act as deputies:-

<p>Ian Metcalfe Head of Finance and Procurement Tel 01706 273802</p>	<p>Jo Reed Deputy Head of Finance and Procurement Tel 01706 869523</p>
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8. Procedure and guidance on responding to suspected fraud, bribery and money laundering

- 8.1 Employees are an important element in our stance on any form of corruption. All employees are positively encouraged to raise any concerns that they may have on these issues where they are associated with RBH's activity. All such concerns will be treated in confidence, wherever possible, and properly investigated.
- 8.2 If an employee has reason to suspect a colleague, contractor or other person of fraud or an offence against RBH or an infringement of RBH rules, they have a responsibility to inform one of the appointed contacts. In the first instance they should raise their concerns verbally either in person or by phone.
- 8.3 The report must include as much detail as possible, for example: -
- Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc.
 - Full details of the nature of their/your involvement.
 - The types of fraudulent/money laundering activity involved. The FMLRO can help identify this.
 - The dates of such activities, including whether the transactions have happened, are ongoing or are imminent.
 - Where they took place.
 - How they were undertaken.
 - The (likely) amount of money/assets involved.
- 8.4 If an employee is concerned that their involvement in itself could amount to a prohibited act under the guidance, i.e. that further actions could make them complicit in the illegal act being undertaken, then they will need consent from the Serious Organised Crime Agency (SOCA) to take any further part in the transaction. They should, therefore, make it clear whether there are any such issues and the deadlines when notifying the FMLRO so that they can liaise with SOCA to obtain this authority. Examples could include a pending right to buy completion date, or processing a bank transfer or refund.
- 8.5 Following the initial contact an employee should promptly complete the Fraud, Bribery and Money Laundering Referral Form attached as Appendix 1. They should also enclose copies of any relevant supporting documentation.
Managers or employees should NOT seek to initiate enquiries or investigations, and once reported they must NOT make any further enquiries into the matter themselves.

- 8.6 In considering whether or not, and how to raise concerns about potentially fraudulent or corrupt matters, reference should also be made to RBH's Whistleblowing policy.
- 8.7 The overt investigation of all actual or suspected instances of fraud and the prosecution of offenders provides an effective deterrent. Therefore, all known or suspected incidences of fraud will be thoroughly and impartially investigated.
- 8.8 The Anti Fraud, Bribery and Money Laundering Policy and the associated Fraud Response Plan will be reviewed at the conclusion of all formal fraud investigations to measure the effectiveness and to highlight changes required for future occurrences.

9. Seeking Financial Redress

- 9.1 The seeking of financial redress or recovery of losses will always be considered in cases of fraud or corruption that are investigated by the society where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator will always be sought. The decisions must be taken in the light of the particular circumstances of each case. Financial redress allows resources that are lost to fraud and corruption to be returned for use as intended.
- 9.2 In cases of serious fraud and corruption, it is recommended that parallel sanctions are applied. For example: disciplinary action relating to the status of the employee; use of civil law to recover lost funds, use of criminal law to apply an appropriate criminal penalty upon the individual(s).
- 9.3 Actions which may be taken when considering seeking redress include:
- No further action
 - Penalty charges
 - Criminal investigation
 - Civil recovery
 - Disciplinary action
 - Confiscation order under Proceeds of Crime Act (POCA)
 - Recovery sought from ongoing salary payments or pensions.
- 9.4 In some cases (taking into consideration all the facts of a case), it may be that the society decides that no further recovery action is taken.

- 9.5 Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the criminal courts (Magistrates' court and Crown court). Depending on the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under POCA.
- 9.6 The civil recovery route is also available to the society if this is cost-effective and/or desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court and/or recovery through debt collection agencies.
- 9.7 The appropriate senior manager, in conjunction with the HR department, will be responsible for initiating any necessary disciplinary action in accordance with the society's Disciplinary policy. Arrangements may be made to recover losses via payroll if the subject is still employed by the society. In all cases, current legislation will be complied with.
- 9.8 Action to recover losses will be commenced as soon as practicable after the loss has been identified. Given the various options open to the Society, it may be necessary for various departments to liaise about the most appropriate option.
- 9.9 In order to provide assurance that the policy is adhered to, the Head of Legal and Compliance will maintain a record highlighting when recovery action was required and issued and when the action was taken. This will be reviewed and updated upon the conclusion of each case.

10. Links to Other RBH Strategies, Policies and Procedures

- Fraud Response Plan
- Code of Conduct (including Whistleblowing Policy)
- Disciplinary Policy

11. Monitoring and Review

- 11.1 All RBH policies and procedures are reviewed on a regular basis in order to ensure that they are 'fit for purpose' and comply with all relevant legislation and statutory regulations.
- 11.2 This policy, including any other related policies and procedures will be reviewed annually in order to ensure its continued appropriateness and formally reviewed and submitted to the appropriate 'approving body' every three years.

11.3 The policy will be monitored by the Audit Committee and Board who will receive notification of all reported or identified instances of fraud whether these are successful or not.

12. Equality & Diversity

12.1 An Equality Impact Assessment relevance test has been carried out for this policy and the outcome was found not to warrant a full Equality Impact Assessment.

Report to Fraud and Money Laundering Reporting Officer

Re: Suspicion of fraudulent or corrupt activity

To: Fraud and Money Laundering Reporting Officer

From:
[name of employee]

Post title:

Service Area:

Ext/Tel:

DETAILS OF SUSPECTED OFFENCE:

Name(s) and address(es) of person(s) involved:
[if a company/public body please include details of nature of business]

Nature, value and timing of activity involved:
[Please include full details eg what, when, where, how. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)? Yes/No

If yes, please include details below:

Have you discussed your suspicions with anyone else? Yes/No

If yes, please specify below, explaining why such discussion was necessary:

Is any aspect of the transaction(s) outstanding and requiring consent to proceed? Yes/ No

If yes, please enclose details in the box below:

Please set out below any other information you feel is relevant:

Signed _____ **Date** _____

Please do not discuss the content of this report with anyone you believe to be involved in the suspected activity described. To do so may constitute a tipping-of offence, which carries a maximum penalty of 5 years imprisonment.

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE FMLRO

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting fraudulent/money laundering activity?

Other relevant information:

Signed _____ **Date** _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS

Guidance to employees

What should you do if you suspect fraud, corruption or money laundering is taking place?

Do make an immediate note of your concerns.

Make a note of all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.

Do convey your suspicions to someone with the appropriate authority.

Tell the FMLRO immediately in person or over the phone, or one of their deputies if they are not available.

Do deal with the matter promptly.

Any delay could cost RBH money or reputational damage. If in doubt, report your suspicions anyway.

Do not be afraid of raising your concerns.

Your concerns will be dealt with in confidence. You will not be ridiculed and will not suffer any recriminations as a result of voicing a reasonably held suspicion. RBH will treat any matter you raise sensitively and confidentially. We will ensure you receive appropriate support.

Do not accuse any individuals directly.

Do not try to investigate the matter yourself.

There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may compromise the case.

Do not tell anyone about your suspicions other than those with the proper authority.

All reported incidents will be investigated and if appropriate the police may be involved

Guidance to managers

Do be responsive to employee concerns.

RBH needs to encourage employees to voice any reasonably held suspicions as part of developing an anti-fraud culture. As a manager you should treat all employee concerns seriously and sensitively.

Do note details.

Note all relevant details. Get as much information as possible from the reporting employee. If the employee has made any notes, obtain these also. In addition, note any documentary evidence that may exist to support the allegations made. But DO NOT interfere with this evidence in any way.

Do advise the appropriate person.

Head of Legal and Compliance

- Stephen Wigley: 01706 273775

Head of Finance & Procurement

- Ian Metcalfe: 01706 273802

Chair of the Audit Committee

Do deal with the matter promptly.

Any delay may cause RBH to suffer further financial loss or reputational damage.

Do not ridicule suspicions raised by employees.

RBH cannot operate effective anti-fraud and whistleblowing policies if employees are reluctant to pass on their concerns to management.

Do not approach or accuse any individuals directly.

Do not convey your suspicions to anyone other than those with the proper authority.

Do not try to investigate the matter yourself.

Remember that poorly managed investigations by employees who are unfamiliar with evidential requirements are highly likely to jeopardise a successful criminal prosecution.