

Date Issued	December 2007
Last Review Date	February 2025
Department	Corporate
Title	Fraud and Theft Policy
Objective	To describe our Policy for dealing with instances of suspected fraud or theft within the Group
Responsible	Chief Executive
Next Review Date	February 2030

1.0 Introduction

- 1.1** We are committed to the highest standards of corporate governance and have a robust system of internal financial controls in place to minimise the potential for fraud or theft.
- 1.2** We continually monitor our internal controls to ensure they remain effective. Our Risk & Audit Committee is responsible for reviewing the key risks inherent in the affairs of the Group and the systems of control necessary to manage such risks. We have a Code of Conduct for ELHA Board Members and a Director's Responsibilities Guidance Note for R3 Board Directors along with a Code of Conduct which deals with Governance issues and the conduct of individual members. We also have a Code of Conduct for our staff which sets out the standards of conduct expected from all staff in relation to their work within the Group.

2.0 Internal Financial Control

- 2.1** It is ELHA and R3 Board responsibility to establish and maintain systems of internal financial control. These systems can only provide reasonable assurance against material financial misstatement or loss. The systems include making sure that:
- We have formal policies and procedures in place which allow the monitoring of controls and which aim to prevent the unauthorised use of our assets. These policies include documenting of key systems and rules relating to the delegation of authorities
 - We identify risks that might prevent us from achieving our purpose and have effective strategies and systems for risk management and mitigation

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- Staff are suitably qualified and experienced. Staff performance reviews take place to maintain high standards of performance
- We prepare forecasts and budgets so that the ELHA Board, R3 Board and management can monitor:
 - a. Key business risks
 - b. Financial objectives
 - c. Progress towards financial plans set for the year and the longer term
- We prepare monthly management accounts for ELHA and R3, which provide relevant, reliable and up to date financial information, and investigate significant variances from budget as appropriate
- All significant initiatives, major commitments and investment projects are subject to formal authorisation procedures, through relevant committees which are controlled by ELHA Board Members
- ELHA Board, Audit & Risk Committee, R3 Board and Management Team review reports (from management, internal and external auditors) in order to ensure that we have reasonable assurance that the control procedures are in place and are being followed. This includes a general review of the major risks facing the Group.
- We have established formal procedures to institute action needed to correct weaknesses identified in the above reports.

3.0 Definition of Fraud and Theft

3.1 There is no precise legal definition of fraud. For the purposes of this policy, we define it as ‘the intentional use of dishonesty, to get an unfair or illegal financial advantage’. It may be used to describe acts such as deception, bribery, forgery, extortion, corruption, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

3.2 Theft may be defined as the dishonest appropriation of property or value.

4.0 Application of Policy

4.1 We will apply this policy to proven or admitted cases of fraud/theft perpetrated either:

- Against the Group
- Against a third party with a connection to the Group, for example, a resident, service user, supplier or contractor by someone over whom the Group can exercise control such as an employee, volunteer, ELHA Board Member, R3 Board Director, supplier or contractor

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As well as to instances where there is evidence which can reasonably be interpreted as a suspected case of fraud/theft.

4.2 In all cases, we will conduct an investigation in relation to each incident. This will be to determine whether the loss to us or a third party as defined in 4.1 has been caused by error or fraud/theft.

4.3 If a current employee is convicted of fraud/theft, but it is not connected to their employment with us, then we will consider the matter in accordance with our disciplinary procedures.

5.0 Guiding Principles on Fraud & Theft

5.1 We will not tolerate fraud/theft carried out by our suppliers and contractors, staff, ELHA Board Members or R3 Board Directors. In all cases, we will investigate allegations of fraud/theft and take appropriate action if an allegation is substantiated.

5.2 The form of action that we take will depend on the level of fraud/theft and the circumstances in each case. In most instances we will consider disciplinary action against employees, prosecution and/or recovery of the missing assets and funds.

5.3 We will apply our disciplinary procedures to any employee whose conduct is negligent to the extent that it allows fraud/theft to be committed.

5.4 We consider that fraud/theft by employees to be gross misconduct. Our terms and conditions of employment state that gross misconduct will normally result in instant dismissal.

5.5 We expect the highest standards of integrity and conduct from our ELHA Board Members and R3 Board Directors. Each ELHA Board Member is issued with a copy of the Code of Conduct for ELHA Board Members and each R3 Director a Director's Responsibilities Guidance Note and Code of Conduct, which details the standards of behaviour that we expect.

5.6 We expect the highest standards of integrity and conduct from our employees. Each member of staff is issued with a copy of the staff Code of Conduct which details the standards of behaviour that we expect.

6.0 Responsibilities of the ELHA Board

6.1 The ELHA Board and R3 Board are ultimately responsible for (in their respective areas):

- Developing and maintaining effective controls to prevent fraud and theft
- Carrying out thorough and prompt investigations if it occurs

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- Ensuring appropriate legal and/or disciplinary action is taken against those who commit acts of fraud and theft
- Ensuring appropriate disciplinary action is taken where supervisory failures have led to acts of the fraud or theft

7.0 Responsibilities of the Management Team

7.1 Each member of the Management Team is responsible for ensuring that an adequate system of internal control exists within their areas of responsibility and that such controls operate effectively.

7.2 Managers should assess the types of risk involved in the operations for which they are responsible. They should review the control systems for those areas on an on-going basis in order to satisfy themselves that their systems continue to operate effectively.

7.3 Our internal and external auditors are available to offer advice and assistance on control issues if needed.

7.4 When setting up and maintaining effective controls the following should be included:

- Wherever possible, there is a separation of duties so that control of a key function is not vested in one individual
- Backlogs, for example, processing rent payments etc, should not be allowed to happen
- Consideration is given to building in safeguards against internal and external fraud when new systems are implemented

7.5 Line managers should be alert to the possibility that unusual events or transactions could be signs of fraud or attempted fraud. Fraud or theft may also be highlighted as a result of specific management checks or be brought to management's attention by a third party.

8.0 Responsibilities of Employees

8.1 Each of our employees has a duty to ensure that the Group's, and, where relevant, residents'/clients' funds and assets are safeguarded. Staff should alert their line manager (or the next most senior person) where they believe the opportunity for fraud or theft exists because of poor procedures or lack of effective controls.

8.2 If an employee suspects that fraud or theft has taken place or sees anything suspicious, they must report the details to their line manager immediately. If the suspicion involves the line manager then staff should report it to the next most senior person.

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8.3 Employees should assist in any investigations by making available all relevant information and by co-operating in interviews.

8.4 It is important that all staff are able to report their concerns without fear of reprisal or victimisation and are aware of the means to do so. Our Whistleblowing policy provides further guidance to staff on how to report any concerns in areas of possible misconduct such as fraud or theft.

9.0 Investigation and Response to Fraud or Theft

9.1 If staff suspect that fraud or theft has happened, the Fraud or Theft Procedure must be followed (**Appendix 1**).

10.0 Gifts and Hospitality

10.1 We expect our employees to be honest and fair, and to act in accordance with our policies on “Gifts and Hospitality” and “Anti-Bribery and Corruption”, which aim to place them above suspicion of bribery and similar dishonest acts.

11.0 Reporting

11.1 We will report all cases of actual or suspected cases of fraud and theft to the Risk and Audit Committee. This will be after all stages of the investigation and any disciplinary action have been completed. The Reporting Officer as defined in **Appendix 1** will prepare a full report detailing the incident, the action taken and the appropriateness of the internal controls.

11.2 If there is reasonable evidence of a suspected act of fraud or theft, we will also notify:

- Our Internal Auditors
- The Scottish Housing Regulator, in accordance with its Notifiable Events Guidance
- The police
- Our insurers
- Our pensions provider in accordance with its Annual Notification Procedures
- Our funders where required by the terms and conditions of our loan agreements
- The Financial Conduct Authority (FCA) if the fraud or theft relates to any activities we provide in relation to our Registration with the FCA (this is a requirement under the Payment Services Regulations 2017, Regulation 99)

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11.3 We maintain a Fraud Register which is open to inspection by our regulators and our internal and external auditors at any time. We keep records of both suspected and detected acts of fraud and theft and of the actions taken. Where the outcome of an investigation is inconclusive and/or does not result in a criminal prosecution, we will make an entry recording that an investigation has taken place and no conclusions reached. No individuals will be named although reference will be made to supporting documentation held by the Reporting Officer for further information. The Risk & Audit Committee will report on the Fraud Register as part of its annual report to the ELHA Board . The Chair of the Risk & Audit Committee shall sign the Fraud Register annually, normally in June.

12.0 Implementation

12.1 The ELHA Board, R3 Board and Management Team are responsible for ensuring that this policy is communicated and implemented.

12.2 It is the responsibility of all employees to ensure that their work is carried out in line with this policy and the procedures attached to it.

12.3 We will ensure that all of our employees are made aware of this policy and the procedures attached to it.

12.4 The Risk & Audit Committee and the Chief Executive are responsible for monitoring this policy to ensure that it is correctly applied.

12.5 We will work with our insurers and solicitors to try to recover any losses resulting from fraud or theft.

13.0 Policy Review

13.1 The Chief Executive will ensure that this policy is reviewed every five years or earlier, if there is a change in legislation, case law or good practice. If any material changes are required, they will be submitted to the ELHA Board for approval, otherwise the review will be signed off by the Senior Management Team.

Fraud & Theft Policy Appendix 1

Procedure on Investigating Fraud & Theft

1. If you suspect or discover an act of fraud/theft by another member of staff you should report it to the **Reporting Officer**. The Reporting Officer is dependent on the role of the person suspected of committing an act of fraud or theft and will **normally be the relevant Director** except in the following cases:

Person Suspected of Act of Fraud / Theft	Reporting Officer
Director	Chief Executive
Chief Executive	Chair of the ELHA Board
Management Committee Member	Chair of the ELHA Board
R3 Board Director	Chair of the R3 Board
Chair of the Association	Chair of the Risk & Audit Committee
Chair of the R3 Board	Chair of the Risk & Audit Committee

2. If you suspect or discover an act of fraud/theft against the Group which has been committed by a supplier, contractor or any other third party over whom the Group can exercise control, you should report it to your line manager who will in turn report the matter to the appropriate Director (the Reporting Officer).
3. The person who has received the report (the Reporting Officer) shall appoint an Investigating Officer who will carry out an initial enquiry to find out the facts. This enquiry should be carried out as soon as possible, to confirm or repudiate the suspicions, so that further investigation may be carried out if necessary. Prompt action is therefore essential.
4. The Investigating Officer should determine the factors which led to the suspicion. He/she will aim to find out whether a genuine mistake has been made or an irregularity has occurred. Initial examination may involve discreet enquiries with staff or a review of documents.
5. If the Investigating Officer confirms that an act of fraud/theft has occurred, he/she should take steps to ensure that all original documentation is kept in a safe place for further investigation. This is to prevent the loss of evidence which may be essential for subsequent disciplinary action or prosecution.
6. The Investigating Officer will prepare a written report outlining the findings of the initial investigation. This will be presented to the Reporting Officer who will decide whether to call the Police or to await the outcome of a further, more comprehensive internal investigation.
7. Based on the particular circumstances of the case, the Reporting Officer will determine whether a further investigation is required and may involve the use of external agencies such as internal audit. If the Reporting Officer decides that no further investigation is necessary, the matter will be concluded, with relevant information stored safely.

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8. If, after the second investigation there appears to be clear evidence of fraud/theft, we will advise the Police. At this time the Reporting Officer will advise the Group's internal and external auditors, the insurers, the Scottish Housing Regulator (see Notifiable Events Guidance), the Pension provider and where required, its funders, if they have not done so already.
9. We will normally suspend the alleged perpetrator suspected of committing an act of fraud/theft until the outcome of the investigation is known. This is so as to prevent the removal or destruction of evidence. Suspension does not imply that they are guilty of the suspected act of fraud/theft.

Suspension of employee

If an employee is suspected of theft/fraud we will suspend them on full pay until the outcome of the investigation is known. We will consult with EVH and/or our solicitors in any suspension of an employee. If after full investigation it is determined that an employee has committed fraud/theft we will commence our disciplinary procedures and will aim to recover any assets that have been lost.

Suspension of ELHA Board Member or R3 Board Director

If an ELHA Board Member or R3 Board Director is involved, we may consider suspending them from the ELHA Board or R3 Board, until the outcome of the investigation is known. Once the investigation has been concluded and where there is sufficient evidence to suggest that fraud/theft has been committed by a ELHA Board Member or R3 Board Director, it will be for the next meeting of the ELHA Board / R3 Board to consider removing them from the ELHA Board or R3 Board and to consider whether to report the incident with a view to prosecution with the aim of recovering any assets that have been lost.

Suspension of a supplier/Contractor

If we suspect any supplier or contractor of committing fraud/theft against us, we will suspend them from our list of approved suppliers and contractors until the outcome of our investigations is known.

10. If after any investigation it is found that there has been an act of fraud/theft we will consider whether to prosecute and will aim to recover any assets that have been lost.
11. The Investigating Officer will prepare a full report on the outcome of the investigations and present it to the next meeting of the Senior Management Team and subsequently to the Risk & Audit Committee.
12. We maintain a Fraud Register in which we will keep records of both suspected and detected acts of fraud/theft and of the actions taken. Where the outcome of an investigation is inconclusive and/or does not result in a criminal prosecution, we will make an entry recording that an investigation has taken place and no conclusions reached.

No individuals will be named although reference will be made to supporting documentation held by the Reporting Officer for further information. We will report all suspected acts of fraud or theft which have been investigated to the Risk & Audit Committee.

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The Risk & Audit Committee will report on the Fraud Register as part of its annual report to the Management Committee. The Chair of the Risk & Audit Committee shall sign the Fraud Register annually, normally in June. The Fraud Register is open to inspection by our regulators and our internal and external auditors at any time

13. All supporting documentation relating to a fraud or theft investigation will be held securely by the Reporting Officer.