

FRAUD RESILIENCE REVIEW

Report of the Director & Company Secretary

1. SUMMARY

- 1.1 This report proposes two new policies - anti fraud & corruption policy and an anti money laundering policy and documents the Company's fraud response plan.
- 1.2 This follows recommendations from a Derby City Council Internal Audit report in November 2011 on governance within Derby Homes and a Fraud Resilience Report from the external auditors PKF in May 2012.

2. RECOMMENDATION

- 2.1 To recommend to the Board that the anti fraud & corruption policy along with the anti money laundering policy is adopted.

3. MATTER FOR CONSIDERATION

- 3.1 The November 2011 Internal Audit report into Governance included three low risk control issues that were accepted. These were:-
 - There was not a documented anti fraud and corruption policy and strategy in place.
 - There was not an anti money laundering policy in place
 - There was not a documented fraud response plan in place.

These documents have now been drafted – see Appendix 1, 2 and 3.

- 3.2 These are new policies for Derby Homes and have been developed from existing policies in Derby City Council and adapted for Derby Homes, using reference to "The resilience to fraud of the UK social housing sector" from the external auditors PKF and also the "Guidance on anti money laundering" from the National Housing Federation (NHF).
- 3.3 The NHF will be publishing a "Guide to Social Housing Fraud" in December 2012, which will need to be reviewed to incorporate any current best practices into these proposed policies and plan.
- 3.4 Results from a 2012 PKF, Fraud Resilience Report on Derby Homes indicated that the company scored 29 out of 50 in its current risk rating. This is deemed by PKF to be "a respectable score" given that Derby Homes runs a major operation to manage and maintain almost 14,000 homes in a complex and rapidly changing climate. This is just below the average score for social housing providers.

- 3.5 PKF provides five key recommendations in the report. They are :
1. understanding the nature and cost of fraud as a business problem;
 2. designing a counter fraud strategy which is tailored to address the problem;
 3. ensuring that DHL has access to its own specialist counter fraud resource;
 4. undertaking fraud awareness training to build on existing efforts to develop an antifraud culture; and
 5. commissioning data analytics work to identify potential fraud.
- 3.6 An update on each of these recommendations is below:
1. This will be developed by adding fraud to the company's Risk Register to more accurately appreciate the financial and reputational risk that fraud and corruption represents, to record this systematically and consider how to mitigate such risks. This will include measures to estimate the total economic cost of fraud on the company which can then assist in identifying the level of resources required to counter fraud and corruption.
 2. The adoption of and implementation of an anti fraud & corruption and an anti money laundering policy will provide a framework where this can be embedded into day to day practices and procedures across the organisation.
 3. This is available through Internal Audit who has access to specialists in the Derbyshire Economic Crime Unit to assist with any large scale fraud investigation. A number of private sector options and Derby University are available if a specialist counter fraud resource is required.
 4. By introducing a structured training programme for managers on awareness of and practical implications of the new policies and the action plan this will help to develop an anti fraud culture. Importantly these needs to be cascaded across the organisation into day to day procedures.
 5. Derby Homes in conjunction with Derby City Council participates in the National Fraud Initiative (NFI), which the Audit Commissions runs every two years. This is a computerised data matching exercise, designed to detect fraud in public bodies.

4. FINANCIAL AND BUSINESS PLAN IMPLICATIONS

Although the current level of any fraud has not been estimated, there are no known material fraud cases at present or any known material weaknesses in current controls.

5. POLICY REVIEW

- 5.1 It is proposed to seek Board approval to adopt an Anti Fraud and Corruption policy, an Anti Money Laundering policy and a documented fraud response plan to be presented to the Board for approval in November 2012.
- 5.2 This is a key policy of Derby Homes and is/will be included in the Key Policy Review Schedule. In accordance with minute 10/51 this policy will be reviewed no later than 3 years from the date of this meeting.

6. LEGAL AND CONFIDENTIALITY IMPLICATIONS

The Committee is responsible for overseeing and making decisions, as defined in Standing Order 3.85 of Part VI of the Derby Homes Governance Arrangements on “policies for the supervision, regulation and control of the finances, accounts, income, expenditure and assets”.

The areas listed below have no implications directly arising from this report:

- Consultation
- Council
- Personnel
- Environmental
- Equalities Impact Assessment
- Health & Safety
- Risk

If Board Members or others would like to discuss this report ahead of the meeting please contact:

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Background Information: None

Supporting Information: None

DERBY HOMES
ANTI-FRAUD AND CORRUPTION POLICY AND
STRATEGY

NOVEMBER 2012

Foreword

Over recent years, there has been a growing awareness among local authorities and social housing providers of an increasing level of fraud, and the publicity given to discovered frauds. There are also indications that fraud is becoming more organised.

In the Social Housing sector the National Fraud Authority estimates that housing tenancy fraud costs local authorities in England £900m in 2011. Main areas of fraud include:

1. Tenancy fraud,
2. Illegal sub-letting
3. Non occupation
4. False Information
5. Repairs & Procurement
6. Supplier bank account changes

Derby Homes is committed to the prevention, detection and investigation of all forms of fraud and corruption. Derby Homes aims to prevent theft, fraud and corruption by:

- developing an anti-fraud and corruption culture among staff and tenants to deter such acts;
- encouraging the reporting of reasonably held suspicions;
- designing and operating systems, procedures and policies which minimise the risk of fraud, theft, corruption, misappropriation and misuse of assets ; and
- assisting other government bodies, where appropriate, in their investigations into theft, fraud and corruption.

Derby Homes will treat each case on its own merits, but where appropriate, will (in conjunction with Derby City Council where applicable) seek to prosecute persons who:

- operate corrupt practices against the Derby Homes; or
- steal from Derby Homes; or
- defraud Derby Homes;

and will seek to recover the proceeds of any such activity from identified offenders.

1. INTRODUCTION

- 1.1 Derby Homes aims to make sure all of its services are of the highest possible quality; provide value for money, and that it is fully accountable, honest and open in everything it does. As with any organisation, the size and nature of our services puts us at risk from fraud, corruption, theft, irregularity, improper use or misappropriation of property or resources.
- 1.2 Derby Homes is committed to making sure that the opportunity for fraud and corruption is reduced. Where there is the possibility of fraud, corruption and theft, it will be dealt with in a firm and controlled manner.
- 1.3 An important part of this approach is the existence of an anti-fraud and corruption strategy, to advise and guide Board Members and staff on the organisations approach to the serious issues of fraud and corruption. This document provides an overview of the policy and includes a fraud response plan on how to deal with fraud and corruption.
- 1.4 The main message is that Derby Homes expects all Board Members, employees, consultants, contractors, partnering organisations and service users, to be fair and honest, and to provide the help, information and support the organisations needs to deal with fraud and corruption.

2. CORPORATE FRAMEWORK AND CULTURE

- 2.1 Derby Homes, recorded within its “Governance Arrangement” document has a wide range of interrelated policies, codes, rules and procedures and other guidance documents that provide a corporate framework to counter the possibility of fraudulent and / or corrupt activity. These have been developed taking account of appropriate legislative requirements and expected standards relating to public sector life.
- 2.2 The expectation is that Board Members and employees of all levels will adopt the highest standards of propriety and accountability and demonstrate that Derby Homes is acting in a transparent and honest manner. Compliance with this Policy, along with adherence to the requirements of the related Codes of Conduct, Protocols and Procedures referred to in the Governance Arrangements, should ensure such standards are achieved.

Consequently, any Board Member who commits a fraudulent or corrupt act against Derby Homes will be subjected to actions as detailed in the Code of Conduct for Board Members.

Any employee committing a fraudulent or corrupt act against Derby Homes will be subjected to disciplinary procedures as detailed in their contract of employment.

- 2.3 Derby Homes believes that the maintenance of a culture of honesty and openness, based on values such as fairness, trust and integrity is a key element in tackling fraud and corruption. In this respect, each Board Member and employee is under a duty to report any reasonable suspicions and is encouraged to raise concerns about fraud and corruption, regardless of rank, seniority or status, in the knowledge that such concerns will be properly investigated. To this end, the Derby Homes has a Whistle-blowing Code (including an independent phone line) to protect anyone who wishes to raise concerns about behaviour / practice.
- 2.4 When fraud and / or corruption has occurred due to an identified breakdown in controls, the relevant Executive Director will be responsible for ensuring appropriate improvements in systems of control are implemented in order to minimise the risk of re-occurrence.

3. PREVENTION

- 3.1 Fraud and corruption is costly, both in terms of reputational risk and financial losses (either directly through the loss of cash / assets and / or through the utilisation of resources in dealing with and resolving any identified cases).
- 3.2 Derby Homes recognises that the successful implementation of an anti-fraud and corruption culture is dependent on the commitment and involvement of Board Members, senior and other levels of management, all employees, workers and stakeholders in the wider community. Specific responsibilities are detailed below. Collectively these actions promote an anti fraud culture and minimise the organisations exposure to the risk of fraud and corruption.
- 3.3 The prevention of fraud and corruption is therefore a key objective of Derby Homes and respective roles and responsibilities are outlined below:

Board Members

Board Members have a duty to protect Derby Homes from any act of fraud or corruption. Board Members discharge their duty by complying with the Code of Conduct for Board Members. This includes procedures to review any complaints received about Board Members conduct. Board Members play an active part in ensuring good corporate governance and a commitment to and support of the organisations approach to anti fraud

and corruption. They provide a key link to the tenants of the City and have a wider role in promoting the organisations ethics and values within the community.

Audit Committee

The Audit Committee's Terms of Reference outlined in Derby Homes Governance Arrangements include an obligation to "keep under review the company's internal financial control system and risk management system" this would include the management of identified fraud risks. Members of the Audit and Accounts Committee receive regular updates from the Director & Company Secretary and where appropriate Internal Audit in relation to any fraud cases and the action taken. Members of the Audit Committee challenge management where significant risks are identified in Internal Audit reports.

Director and Company Secretary

The Director and Company Secretary is responsible for ensuring proper governance of Derby Homes, support for its Board and compliance with statutory requirements. The Director and Company Secretary also has a key role in promoting and maintaining high standards of conduct amongst Board Members of the authority, through supporting Board Members to help them to follow the Code of Conduct for Board Members.

Executive Directors and Heads of Service

Executive Directors and Heads of Service are responsible for promoting and implementing this document. This includes a clear programme of actions to develop a stronger anti-fraud culture and training on fraud awareness for their areas.

All managers should encourage employees to raise any concerns they may have about fraud or corruption, in line with the Whistle Blowing Code. Managers are responsible for the identification, analysis and prioritising of risk, including fraud risk, in their service areas. Managers must have sufficient controls in place, including separation of duties, to safeguard assets and reduce losses through error or fraud and corruption. Managers should ensure that employees and other workers, e.g. agency staff and volunteers, are aware of and regularly reminded about the organisations anti fraud and corruption policy.

All employees

All employees must operate the systems of internal control established by management. Employees are governed in their work by the various policies, protocols, codes, rules and procedures, particularly regarding conduct issues and are responsible for ensuring that they follow any instructions given to them by management, particularly in relation to the safekeeping of assets.

Internal Audit

The Internal Audit function in Derby Homes independently monitors the existence, appropriateness and effectiveness of internal controls as a service to management and thereby plays a vital preventative role. Internal Auditors are empowered to:

- Enter at all reasonable times any premises or land.
- Have access to all records, documentation and correspondence relating to any financial and other transactions as considered necessary.
- Have access to records belonging to third parties such as contractors when required (dependent on rights of access clauses within individual contracts / agreements).
- Require and receive such explanations as are regarded necessary concerning any matter under examination.
- Require any employee of Derby Homes to account for cash, stores or any other Derby Homes property under their control or possession.

Internal Audit work results in a liaison / reporting process whereby changes in procedures are recommended / agreed with management with a view to reducing risks and preventing losses. Internal Audit also follows up and informs management as to the extent that such agreed action has been implemented through attendance at the Audit Committee meetings. Internal Audit has reporting lines to the highest levels of authority within Derby Homes, enabling any failure to implement agreed action to be appropriately challenged. Internal Audit contributes to deterring fraud by working with other Local Authorities, the police and professional bodies. This ensures that Derby Homes' anti fraud arrangements are in line with current best practice.

Derby Homes in conjunction with Derby City Council participates in the National Fraud Initiative (NFI), which the Audit Commissions runs every two years. This is a computerised data matching exercise, designed to detect fraud in public bodies.

Housing & Council Tax Benefit staff

Derby Homes will support Derby City Council in this area. The Council administers the Housing and Council Tax Benefit scheme on behalf of the Department of Work and Pensions. It is responsible for the following:

- To pay Housing and Council Tax Benefit in line with legislation
- Secure the gateway to Housing and Council Tax Benefit by having sound processes in place to verify evidence used to support an application.
- Investigate Housing and Council Tax Benefit fraud

The Council has a detailed Housing Benefit Anti Fraud Procedure, which provides guidance on Benefit investigation processes. There is a dedicated team of Benefit Fraud investigators and they work closely with other Authorities and agencies to reduce Benefit fraud. They provide a Benefit Fraud Hotline number (01332 367635) and encourage the reporting of allegations or suspicions of Benefit fraud. The Authority's strict requirement to repay fraudulently obtained monies is also a major deterrent to fraud, and may be additional to any other Benefit fraud sanctions that are applied. The Council has formal Sanction and Prosecution Guidance relating to benefit fraud and the sanctions they can apply, i.e. Formal Caution; Administration Penalty; Overpayment Recovery and Civil Recovery Action; or Prosecution.

Legal Services

Derby Homes will use Derby City Council's legal services to provide advice and support during fraud investigations where required and any subsequent civil action taken to recover losses.

Legal Services are responsible for maintaining details of authorisations under the Regulation of Investigatory Powers Act 2000 (RIPA), where surveillance of persons is intended. RIPA guidance is available on the Intranet.

Money Laundering Reporting Officer (MLRO)

Derby Homes will use Derby City Council's nominated Money Laundering Reporting Officer (MLRO). They will review all reported money laundering allegations and decide whether the transaction / circumstances are suspicious and whether to make a report to the Serious Organised Crime Agency. There is no clear definition of what constitutes suspicion and the

MLRO will apply common sense in making their decision. The MLRO will review the Anti-Money Laundering policy and communicate this policy to relevant staff.

Personnel

Personnel maintain and promote the Employee Code of Conduct and related policies and procedures. They have a responsibility to ensure effective 'gateway' controls are in place for the recruitment of new employees, including pre-employment checks and relevant Criminal Record Bureau (CRB) checks. Personnel will inform the Executive Team of all disciplinary issues, financial or otherwise and will work together with Internal Audit to improve controls and ensure the effectiveness of disciplinary action.

Head of Procurement

The Head of Procurement is responsible for the maintenance and monitoring of compliance with the organisations Contract Procedure Rules. The Head of Procurement will ensure effective antifraud and corruption processes are in place for contracting. Any non compliance of the Contract Procedure Rules can be reported through to the Audit Committee and the Resources, Remuneration and Regeneration Committee.

External Audit and Audit Commission

Independent external audit is an essential safeguard of the stewardship of the organisation. External Audit as part of their annual audit undertake specific reviews that are designed to test (amongst other things) the adequacy of the organisations financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditors' function to prevent fraud and irregularities, but external auditors are always alert to the possibility of fraud and irregularity, and will act without undue delay if grounds for suspicion come to their notice.

Public / Tenants

Whilst this policy is primarily aimed at those within or directly associated with Derby Homes, tenants and the public have a role to play in that they should be honest in their dealings with Derby Homes and inform Derby Homes if they feel that fraud, corruption or other wrong-doing may have

occurred. The Derby Homes website offers contact details for the public / tenants to contact Derby Homes with fraud concerns / allegations.

4. DETERRENCE

- 4.1 Whilst many of the issues outlined within Section 3 on prevention will act as a deterrent, there are specific ways in which we seek to deter potential wrongdoers from committing or attempting fraudulent or corrupt acts. These include:
- Publicising that Derby Homes is firmly against fraud and corruption at appropriate opportunities and will take stern action against perpetrators (e.g. dismissal of employees, prosecution of offenders, termination of contracts etc).
 - Acting robustly and decisively when fraud and / or corruption are suspected and, if proven, being committed to viewing cases seriously and taking action as appropriate bearing in mind all relevant factors of each case.
 - Always seeking to maximise recoveries for Derby Homes, through agreement, repayment, court action, penalties, insurance, superannuation benefits etc.
 - Referring any investigative cases to the Police as soon as there is sufficient evidence that criminal offences are likely to have occurred (As per the Fraud Response Plan).
 - Liaising with the press or otherwise publicising any anti-fraud and corruption initiatives undertaken by Derby Homes and subsequent results, where deemed appropriate.
 - Where appropriate, publicising the results stemming from investigations into suspected cases of fraud and corruption.

5. DETECTION

- 5.1 Whilst it is not an Internal Audit responsibility to detect fraud and corruption (this is the responsibility of management), Internal Audit plays an important role in such detection. Internal Audit plans include reviews of systems of internal controls, specific fraud and corruption tests, spot checks and unannounced visits. Such work may directly detect instances of fraud and corruption and invariably contributes to improved controls / procedures that aid detection of fraud and corruption or otherwise deter it from happening.
- 5.2 Management have responsibility for preventing and detecting fraud and corruption, but it is often the alertness of staff or members of the public, to the possibility of fraud and corruption, which aids detection. Allegations and complaints are key sources of detection regarding fraud and corruption and as such Derby Homes treats this type of information

seriously and in line with procedures detailed within the Governance Arrangements for investigations.

- 5.3 Awareness of the key indicators of fraud and corruption is also advantageous to the detection of these offences and Derby Homes is committed to training and communication routines whereby Board Members, managers and employees can be informed of or updated with the relevant facts that will aid their vigilance regarding the identification of fraud and corruption.

6. AWARENESS AND TRAINING

- 6.1 The key to introducing a successful anti-fraud and corruption strategy and making sure it continues to apply will depend on effective communication of the strategy and appropriate awareness training for employees. This will include keeping up to date with best practice guidance from the relevant authorities.

7. CONCLUSION

- 7.1 Derby Homes is committed to tackling fraud and corruption whenever it happens. The response will be effective and organised and will rely on the principles included in this document.
- 7.2 We will continue to review our rules and procedures and will make sure that this strategy document is regularly reviewed to make sure it stays effective.

Document Implementation Date – Nov 2012

Document Review Date – Nov 2015

DERBY HOMES

ANTI-MONEY LAUNDERING POLICY

November 2012

1. Introduction

- 1.1 The Money Laundering Regulations 2007 have updated the position for organisations in terms of the legal responsibilities concerning money laundering. These regulations, together with the Proceeds of Crime Act 2002 (POCA) and the Terrorism Act 2000 (TA) as amended by the Anti-Terrorism and Security Act 2001 and the Terrorism Act 2006), outline the preventative measures intended to eliminate the funding of terrorism and crime.
- 1.2 Although as a Registered Provider is not legally obliged to apply the Money Laundering Regulations 2007, Derby City Council as the parent undertaking is bound by the provisions of both the Proceeds of Crime Act and the Terrorism Act. It is good practice to comply with the main measures of the Regulations as part of the governance process. As such, Derby Homes has established this policy to ensure compliance.

2. Scope of the Policy

- 2.1 This policy applies to all employees and members of and aims to maintain the high standards of conduct, which currently exist within by preventing criminal activity through money laundering. The Policy sets out the procedures that must be followed (for example the reporting of suspicions of money laundering activity) to enable, its members and employees to comply with its intention to voluntarily comply with the legal requirements of the Regulations
- 2.2 Further information is set out in the accompanying Procedures Guidance document. Both the policy and the procedural guidance document sit alongside the Whistleblowing Policy and the Anti-Fraud and Corruption Policy.
- 2.3 Failure by a member of staff to comply with the procedures set out in this policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Disciplinary and Dismissal Procedure Policy. Failure by a Member to comply with the procedures set out in this policy may be referred to the Standards Committee.

3. What Is Money Laundering?

- 3.1 Money laundering is any attempt to use the proceeds of crime for legitimate purposes. Anyone who becomes involved with an activity which they know, or have reasonable grounds to suspect, is related to the proceeds of crime may be guilty of money laundering.
- 3.2 The term money laundering is often used to refer to the complex and large scale procedures used by organised crime and terrorist groups to conceal the illegal nature of their assets by the careful and staged introduction of the proceeds of crime into legitimate financial and commercial streams. The legislation, however, is very broad, and applies to the proceeds of any crime no matter how large or small.

- 3.3 Any Member or employee who, in the course of business, becomes aware that criminal property or funds could be involved should report their suspicions promptly, in accordance with the Policy set out in this document. Failure to do this may inadvertently result in an offence, for example relating to concealing, or assisting an arrangement connected with, criminal property.
- 3.4 The risk of contravening the legislation is, however, relatively low and some aspects of the legal and regulatory requirements do not apply to public authorities.
- 3.5 The Terrorism Act 2000 (TA) and the Proceeds of Crime Act 2002 (POCA) place obligations on all of us. The statutory provisions relating to money laundering, in so far as they affect are summarised in Appendix A to this policy, together with references to further information.

4. The policy

- 4.1 This policy is complemented by the Anti Money Laundering Procedures which set out the details of how the policy is to be applied. The aims of the Policy and Procedures, taken together, are to:
 - assist the staff and Members of to understand money laundering and their personal legal obligations and responsibilities arising from the requirements of the legal and regulatory provisions
 - prevent services being used for money laundering purposes, and
 - set out the procedures which must be followed to enable Derby Homes and its staff to comply with their legal obligations.
- 4.2 Derby Homes will do all it can to:
 - prevent Derby Homes and its staff being exposed to money laundering;
 - identify the potential areas where it may occur; and
 - comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases of money laundering.
- 4.3 All employees are required to:
 - report promptly all suspicions of money laundering activity to the Money Laundering Reporting Officer (MLRO) or Deputy MLRO. This may initially be by a direct discussion or by using the form provided in the Anti- Money Laundering Procedures.
 - follow any subsequent directions of the MLRO or Deputy.
- 4.4 The nominated officers for reporting issues are:
 - MLRO: Director & Company Secretary
 - Deputy MLROs: Head of Internal Audit
- 4.5 The MLRO or Deputy must promptly:
 - evaluate all concerns raised by staff to determine whether it is appropriate to make a report to the Serious and Organised Crime Agency (SOCA)
 - if appropriate, ensure that an internal report is completed; using the form provided in the Anti- Money Laundering Procedures.

- if appropriate, submit a Suspicious Activity Report to SOCA using SOCA's standard form (available at www.soca.gov.uk).

4.6 Those receiving, or arranging to receive, cash on behalf of Derby Homes must ensure they are familiar with Derby Homes' Anti-Money Laundering Procedures.

4.7 No payment to Derby Homes will be accepted in cash if it exceeds £13,000.

4.8 Although there is no legal requirement for Derby Homes to have formal procedures for evidencing the identity of those they do business with, staff should be alert to potentially suspicious circumstances. Where there may be doubt and in particular, when forming a new business relationship or considering a significant one-off transaction, the identification procedures in Derby Homes' Anti- Money Laundering Procedures should be followed.

4.9. Derby Homes will:

- make all staff aware of the obligations placed on Derby Homes, and on themselves as individuals, by the anti-money laundering legislation
- give targeted training to those most likely to encounter money laundering activity.

5. Summary

5.1 Members and staff of Derby Homes need to be vigilant for signs of money laundering. Derby Homes has a mechanism for reporting suspicious activity, will provide appropriate training and has procedures for identification checks.

Appendix A

Money Laundering: Legal and Regulatory Framework**The Terrorism Act 2000**

This Act applies in full, as it does to all individuals and businesses in the UK. If, in the course of business or employment, you become aware of information which provides knowledge or gives reasonable grounds for belief or suspicion that proceeds have come from or are likely to be used for terrorism, it must be reported. This will prevent commission of the money laundering offence relating to being implicated in illegal activity.

The Proceeds of Crime Act 2002

This Act defines six principal money laundering offences, only the first four of which are likely to apply to Derby Homes:

- a) concealing, disguising, converting, transferring, or removing from the UK, any criminal property (S327)
- b) becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use, or control of criminal property (S328)
- c) acquiring, using, or possessing criminal property (S329)
- d) doing something that might prejudice an investigation (for example, falsifying a document) (S342)
- e) failing to disclose known or suspected money laundering offences (S330-332)
- f) “tipping off”, by giving information to someone suspected of money laundering in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation (S333A).

The offences of failing to disclose and tipping off will not apply so long as the Council does not undertake activities which might be interpreted, under POCA, as falling within the regulated sector. The regulated sector refers to activities which should be regulated under the Financial Services and Markets Act 2000.

The Money Laundering Regulations 2007

The Regulations are not legally binding on public authorities because they are neither ‘relevant persons’ (as defined in the MLR) nor part of the ‘regulated sector’ (as defined in POCA 2002). There is, however, a distinct reputational risk for any authority that does not have adequate policies and procedures in place. Following CIPFA’s guidance, a “prudent and responsible” council will adopt “appropriate and proportionate” policies and procedures designed to “detect and avoid involvement in the crimes described in the legislation and regulations”.

DERBY HOMES

ANTI-MONEY LAUNDERING PROCEDURES

November 2012

1. What are the obligations on Derby Homes?

1.1 Company law and the law applicable to registered social housing providers advise that Registered Providers should:

- Maintain robust record keeping procedures.
- Make those members and employees who are likely to be exposed to or suspicious of money laundering activities to be aware of the requirements and obligations placed on Derby Homes and on themselves as individuals, by the Proceeds of Crime Act and related legislation.
- Provide targeted training to those considered most likely to encounter money laundering activities e.g. how to recognise and deal with potential money laundering offences.
- Implement formal systems for members and employees to report money laundering suspicions to the MLRO.
- Establish internal procedures appropriate to forestall and prevent money laundering and make relevant individuals aware of the procedures.
- Report any suspicions of money laundering to Serious Organised Crime Agency (SOCA) (this is a personal legal obligation for the MLRO).
- Put in place procedures to monitor developments in the 'grey' areas of the legislation and to keep abreast of further advice and guidance as it is issued by relevant bodies.

1.2 The safest way to ensure compliance with the requirements of these legislations is to apply them to **all areas** of work undertaken by Derby Homes; therefore, **all members and employees** are required to comply with the policy and these procedural guidance notes.

2. The Money Laundering Reporting Officer

2.1 The officer nominated to receive disclosures about money laundering activity within Derby Homes is the [Director & Company Secretary](#), who can be contacted as follows:

<p style="text-align: center;">Director & Company Secretary Derby Homes Cardinal Square 10 Nottingham Road Derby DE1 3QT Telephone: 01332 888523</p>
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- 2.2 Disclosures by staff to the MLRO should, where appropriate, be made through the Chief Executive, Executive Director or Head of Service.
- 2.3 In the absence of the MLRO, the Head of Internal Audit can deputise.
- 2.4 The MLRO will determine whether the information or other matters contained in the report he has received give rise to a *knowledge* or *suspicion* that a person is engaged in money laundering.
- 2.5 In making this judgement, he will consider all other relevant evidence (information) available to Derby Homes concerning the person or business to who the initial report relates. This may include reviewing other transaction patterns and volumes, the length of the business relationship, and referral to identification records held.
- 2.6 If after completing this review, he is *satisfied* with the suspicions that the *suspect* is engaged in money laundering, and then the MLRO must ensure that the information is disclosed to the SOCA.

3. Disclosure Requirements

Reporting to the Money Laundering Reporting Officer

- 3.1 Where you know or suspect that money laundering activity is taking / has taken place or is about to take place or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as possible to the MLRO.
- 3.2 The disclosure should ideally be made within “hours” of the information coming to your attention wherever practicable, not weeks or months later.
- 3.3 Your disclosure should be made to the MLRO using the *proforma* attached at Appendix A of these guidance notes. The report should enclose copies of any relevant supporting (evidence) documentation and must contain as much detail as possible which should include the following:
 - Full details when known of the people involved (including you, if relevant), i.e. name, address, company names, directorships, phone numbers, etc.
 - Full details of the nature of their/your involvement:
 - If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 or s342 of the 2002 Act, (explained in the Anti-Money Laundering Policy) then your report must include all relevant details, as you will need consent from the SOCA, via the MLRO, to take any further part in the transaction - this is the case even if the party giving rise to concern gives instructions for the matter to proceed before such consent is given.
 - You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.

- The types of money laundering activities involved:
 - if possible, cite the section number(s) under which the report is being made e.g. a principal money laundering offence under the 2002 Act (or 2000 Act), or
 - general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act), or both.
- The dates of such activities and a note stating whether the activity has happened, on-going or imminent.
- Location where the activity took place i.e. department, section, depot etc.
- How the activities were undertaken.
- The (likely) amount of money/assets involved (if known).
- Why, exactly, you are suspicious of the activity– the SOCA will require full reasons.
 - along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering.
 - to enable him to prepare his report to the SOCA, where appropriate. You should also enclose copies of any relevant supporting documentation.

4. Recognition of Suspicious Transactions

- 4.1 As the types of transactions which may be used by money launderers are almost unlimited, it is difficult to define a suspicious transaction.
- 4.2 Sufficient guidance will be given to staff to enable them to recognise suspicious transactions. Derby Homes will also consider monitoring the types of transactions and circumstances that have given rise to suspicious transaction reports, with a view to updating internal instructions and guidelines from time to time.
- 4.3 Derby Homes has set a general transaction limit of £13,000 (in line with the 2007 Regulations) over which any transaction or group of transactions from the same source should automatically be classified or deemed as suspicious. This does **not** however mean to say that any transactions under these limits on which you have suspicions should not be reported. All suspicious transactions irrespective of their values should be reported.

5. Reporting of Suspicious Transactions

- 5.1 Derby Homes has a clear obligation to ensure that members and employees know to which person(s) they should report suspicions and that there is a clear reporting chain under which those suspicions will be passed without delay to the MLRO. Once a member or an employee has reported his/her suspicions to the MLRO, he/she has fully satisfied their own statutory obligation.

6 Record Keeping Procedures

- 6.1 Each section of Derby Homes conducting relevant business (Accountancy, Audit and certain Legal Services) must maintain appropriate records of:
- Client identification evidence obtained; and
 - Details of all relevant business transactions carried out for clients for at least five years. This is so that they may be used as evidence in any subsequent investigation into money laundering.
- 6.2 The precise nature of the records to be held is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the party giving rise to concern and the relevant transaction and recording in what form any funds were received or paid.
- 6.3 In practice, the business units of Derby Homes will be routinely making records of work carried out for various parties, customers and clients in the course of normal business and these should suffice in this regard.

7. Conclusion

- 7.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. The policy and these procedural guidance notes have been written so as to enable Derby Homes to meet the legal requirements in a way that is proportionate to Derby Homes' risk of contravening the legislation.
- 7.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO or their deputy.

STRICTLY CONFIDENTIAL

**Report to: Money Laundering Reporting Officer (MLRO)
Re: money laundering activity suspicion**

To:, DCC Money Laundering Reporting Officer or Deputy MLRO

From: Name.....Post.....
[Insert name of member, or employee and post title]

Team: Ext/Tel No:
[Insert department, business unit and contact details]

DETAILS OF SUSPECTED OFFENCE:

Name(s) and address (s) of person(s) involved:

[If a company/public body please include details of nature of business]

[Please continue on a separate sheet if necessary]

Nature, value and timing of activity involved:

[Please include full details e.g. what, when, where, how]

[Please continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

Have you discussed your suspicions with anyone else?

[Please tick the relevant box]

☐ Yes☐ No

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

[Please continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)?

[Please tick the relevant box]

☐ Yes☐ No

If yes, please include details below:

[Please continue on a separate sheet if necessary]

Have you consulted any supervisory body guidance re money laundering (e.g. the Law Society)?

[Please tick the relevant box]

☐ Yes

☐ No

If yes, please specify below:

[Please continue on a separate sheet if necessary]

Do you feel you have a reasonable excuse for not disclosing the matter to the SOCA? (E.g. are you a lawyer and wish to claim legal professional privilege?)

[Please tick the relevant box]

☐ Yes

☐ No

If yes, please set out full details below:

[Please continue on a separate sheet if necessary]

Are you involved in a transaction which might be a prohibited act under sections 327- 329 or 342 of the Act and which requires appropriate consent from the SOCA?

[Please tick the relevant box]

☐ Yes

☐ No

If yes, please enclose details in the box below:

[Please continue on a separate sheet if necessary]

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

[Please continue on a separate sheet if necessary]

DECLARATION:

Signed:.....Dated:.....

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

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

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE:

Action Plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a report be made to the SOCA?

[Please tick the relevant box]

☐ Yes ☐ No

**If yes, please confirm date of report to SOCA:and
complete the box below:**

Details of liaison with the SOCA regarding the report:

Notice Period: To

Moratorium Period: To

**Is consent required from the SOCA to any ongoing or imminent transactions which
would otherwise be prohibited acts? ☐ Yes ☐ No**

If yes, please confirm full details in the box below:

Date consent received from SOCA:

Date consent given by you to employee or member:

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the SOCA, please set out below the reason(s) for non-disclosure:

[Please set out any reasonable excuse for non-disclosure]

Date consent given by you to member or employee for any prohibited act transactions to proceed:

Other relevant information:

Signed:.....Dated:.....

THIS REPORT IS TO BE RETAINED FOR AT LEAST FIVE YEARS

DERBY HOMES

Fraud Response Plan

November 2012

1. Introduction

1.1 Why Do We Need A Fraud And Corruption Response Plan?

- 1.1.1 The prevention of fraud, and the protection of the public purse is in everyone's interest. It is important that all staff know what to do if they come upon fraud.
- 1.1.2 Good Corporate Governance requires that Derby Homes is strongly committed to dealing with fraud and corruption. All instances will be viewed seriously and investigated.
- 1.1.3 Derby Homes, through the Chief Executive, will consider each case on its merits and undertake legal proceedings and disciplinary action in consultation with the appropriate legal advisers. Although not bound by it, reference may be made to Derby City Councils "Corporate Prosecution Policy" in establishing an outcome from the investigation.

2. Fraud and Corruption – Investigation Process

2.1 Introduction

- 2.1.1 Suspicion of fraud, corruption or irregularity may be raised through a number of means, including the following:
 - Requirement on all staff under financial procedure rules to report fraud, corruption or irregularity.
 - The Confidential Reporting Code (whistle-blowing policy).
 - Planned internal and external audit work.
 - Operation of proper procedures.
- 2.1.2 There are a number of facets to the management of a suspected case of fraud, which may involve officers from a number of disciplines, including audit, finance, human resources, and police. Additionally there are a number of specific legislative requirements. Therefore, it is vitally important that the response plan is followed by all concerned in order to ensure that the situation is handled professionally and to safeguard against the case being compromised.
- 2.1.3 Once fraud or corruption is suspected, there are four immediate issues to be addressed:
 - The proper internal investigation of the matter.
 - What action, if any, should be taken in relation to the officer or officers concerned.
 - The facilitation and management of the investigation; and subsequently.
 - Whether to involve the police and if so at what stage.
- 2.1.4 It is important that all investigations are conducted promptly.

2.2 Requirements of the Derby Homes Financial Procedure Rules

2.2.1 Financial Procedure Rules H6 requires the Director & Company Secretary –

To investigate promptly any fraud or irregularity identified by or notified to the Director & Company Secretary by automatically including and notifying internal audit. To report the issue immediately, and again at the point of receiving a report into the outcome of any internal investigation including internal audit findings and recommendations to the Chief Executive of Derby Homes who will consider any legal proceedings and disciplinary action in consultation with the appropriate legal advisers.

2.2.2 Financial Procedure Rule H13 requires the Chief Executive –

To notify the Director & Company Secretary immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of Derby Homes' property or resources and to automatically involve internal audit. Pending investigation and reporting, Senior Officers should take all necessary steps to prevent further loss and to secure records and documentation against removals or alteration.

2.2.3 The Chief Executive or Director & Company Secretary will then determine, after consultation with all appropriate officers, what action should be taken. This could be the resolution of the issue within the department, or a full investigation carried out by Internal Audit. An Investigating Officer must be appointed by the Chief Executive or Director & Company Secretary.

2.3 Initial Action

2.3.1 If you have any suspicions whatsoever that a fraud is taking or has taken place, then the first step is to formally raise this concern. Try to keep notes of the relevant details including dates, times and names. Report your concerns to:

- Your line manager, or
- Your Head of Service, or
- An Executive Director or the Chief Executive or,
- The Head of Internal Audit
- Through the Whistleblowing policy, including Safe Call.

2.3.2 The officer that you raised the issue with should ensure that the matter is reported confidentially to the Director & Company Secretary and the Head of Internal Audit.

2.3.3 Care should be taken, by both the officer who suspects fraud, and the officer to whom this suspicion is reported, to retain any evidence and make immediate note of the issues and concerns. All records relating to the issue under investigation should be secured as soon as suspicions arise to ensure they are not destroyed or amended.

2.3.4 Before any investigation begins the Head of Internal Audit should be consulted. He will advise you on the best course of action to take and whether Internal Audit needs to be involved in the investigation.

2.3.5 You should not:

- Contact the person you suspect of committing fraud
- Investigate the issue yourself
- Discuss the case with anyone outside of Derby Homes unless specifically asked to by the Investigating Officer or
Discuss the case with anyone within Derby Homes other than those persons listed at 2.3.1

2.3.6 If you are a manager and receive a report of suspected fraud you must:

- Listen to the concerns of your staff seriously and sensitively
- Take their concerns seriously
- Get as much information as you can from the member of staff and secure any notes they give you
- Do not try to investigate the issue yourself.
- Report the matter immediately to the Director & Company Secretary or Head of Internal Audit.

2.4 Management Process

2.4.1 The process must be co-ordinated by an Investigating Officer or if Internal Audit are wholly carrying out the investigation, by the Head of Internal Audit.

2.4.2 There are three distinct aspects that will need to be managed:

- Issues concerning members of staff or independent contractors.
- The actual investigation.
- The external environment i.e. the media.

2.5 Managing the Investigation

2.5.1 Provided that the Head of Internal Audit is satisfied that sufficient concern or evidence exists to indicate that a fraud may have been committed, the Investigating Officer will manage the investigation. It is probable that the investigation will be performed by internal audit staff on behalf of the Investigating Officer. However, there could be circumstances where the assistance of the external auditors may be requested, or a member of staff with key skills.

2.5.2 The Head of Internal Audit may engage the Derbyshire Economic Crime Unit who can be consulted at an early stage to provide informal advice on the conduct of the investigation.

2.5.3 The Investigating Officer will agree the terms of reference, its scope of operations and an initial time allocation with specific monitoring points. The Head of Internal Audit must be consulted on this.

2.5.4 Where Internal Audit performs the investigation, it will be carried out in accordance with best practice as laid down in the Code of Practice for Internal Audit in Local Government and the relevant International Standards of Auditing. The Head of Internal Audit will report back to the Investigating Officer at agreed points during the investigation or earlier, should the results of the investigation dictate. Decisions will need to be made regarding:

- Involvement of the police.
- Action to be taken (if any) against the suspected perpetrator.
- Communications with external bodies.
- Proposed action regarding recovery of losses.
- The level of any additional routine or ad hoc investigations required in related areas.
- Producing and issuing of reports.

Regardless of who undertakes the investigation, following an examination of records and / or the conduct of interviews with relevant persons, findings will be documented and a report made to management for appropriate action to be taken. A copy of these findings will be given to Internal Audit who may comment on the results of the investigation and advise management accordingly.

3. Derby Homes Policies and Guidelines

3.1 Where does the Fraud Response Plan fit in?

- 3.1.1 Derby Homes has many policies and procedures, which are designed to regulate behaviour, and ensure that systems (particularly financial) are in place.
- 3.1.2 It is important that all staff are aware of these policies and procedures, and of their content. Reference of the most important documents in respect of fraud and corruption must be issued to all senior managers and staff involved in financial procedures. These are:
- Financial Procedure Rules (Financial Regulations).
 - Contracts Procedures Rules.
 - Code of Conduct for members and officers.
 - Anti-Fraud and Corruption Policy & Strategy.
- 3.1.3 Staff and Members should also be aware of:
- Grievance Procedures.
 - Disciplinary and Dismissal Procedures.
 - Whistle-blowing Policy.
 - Anti-Money Laundering Policy.
 - Anti Fraud & Corruption policy
- 3.1.4 A full copy of the Constitution which includes Financial Procedure Rules, Contracts Procedures Rules, Members' and Officers' Codes of Conduct and the Confidential Reporting Code is available to view on the Derby Homes intranet site.
- 3.1.5 Derby Homes has an overall approach to ensuring that fraud and corruption is minimised and that probity is upheld. This includes, in addition to the above:

- Effective systems and controls which are monitored by both Internal and External Audit.
- An environment of openness and trust.
- The Anti-Fraud and Corruption Policy & Strategy.

3.1.6 Internal Audit assesses risk, review procedures, and carries out specific tests to detect fraud and error and also strengthen the Company's preventative arrangements.