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Fraud Policy and Fraud Response Plan

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FRAUD POLICY

1 Introduction

- 1.1 West Kent has a zero-tolerance policy to fraud and as a business is committed to preventing fraud and corruption from occurring and to developing an anti-fraud culture.
- 1.2 West Kent requires all staff at all times to act honestly and with integrity and to safeguard West Kent's resources.
- 1.3 Fraud is an ever-present threat to these resources and hence must be a concern to all members of staff and persons employed in a similar capacity. Fraud may occur internally or externally and may be perpetrated by staff, consultants, suppliers, contractors, development partners, or residents, individually or in collusion with others.
- 1.4 The purpose of this document is to set out responsibilities with regard to fraud prevention, what to do if fraud is suspected and the action that will be taken by management. When a fraud takes place or a potential fraud is reported we have a Fraud Response Plan in place which can be found **in Appendix 2**. This policy should be read in conjunction with the Fraud Response Plan.
- 1.5 This policy applies to all persons working for West Kent or on our behalf in any capacity, including staff at all levels, agency workers, seconded workers, apprentices, Board and Committee Members, volunteers, contractors, external consultants, third-party representatives and joint venture partners with whom we collaborate on projects, or any other person associated with us, wherever located.
- 1.6 This policy does not form part of any employee's contract of employment and we may amend this policy at any time.

2 What is Fraud?

- 2.1 The term fraud is used to describe a whole range of activities such as bribery, deception, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. Generally, however, fraud involves the intention to deceive a person or organisation in order to obtain an advantage, avoid an obligation or cause loss.
- 2.2 The Fraud Act 2006 Act provides for a general offence of fraud with three ways of committing it, which are by:
 - 2.2.1 False representation;
 - 2.2.2 Failing to disclose information; and
 - 2.2.3 Abuse of position.
- 2.3 Occupational fraud and abuses fall into four main categories:

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- 2.3.1 theft, the misappropriation or misuse of assets for personal benefit;
- 2.3.2 bribery and corruption;
- 2.3.3 false accounting and/or making fraudulent statements with a view to personal gain or gain for another: for example falsely claiming overtime, travel and subsistence, sick leave or special leave (with or without pay); and
- 2.3.4 externally perpetrated fraud against an organisation.

3 Legal and Regulatory Framework

- 3.1 The Fraud Act 2006 gives a statutory definition of the criminal offence of fraud. It defines three ways of committing such an offence:
 - 3.1.1 fraud by false representation i.e. dishonestly making an untrue or misleading representation. This could be made verbally, in writing or by electronic means;
 - 3.1.2 fraud by failing to disclose information i.e. dishonestly failing to disclose information to another person, where there is a legal duty to do so; and
 - 3.1.3 fraud by abuse of position i.e. where a person occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person, and they dishonestly abuse that position.
- 3.2 The Fraud Act also created offences of obtaining services dishonestly and of possessing, making and supplying articles for use in frauds.
- 3.3 The term "person" includes an organisation.
- 3.4 For fraud to occur the offender's conduct must be dishonest and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. Dishonesty is an element of fraud and this has been judicially described as requiring knowledge by the defendant that what s/he was doing would be regarded as dishonest by honest people, although s/he should not escape a finding of dishonesty because s/he sets his or her own standards of dishonesty and does not regard as dishonest what s/he knows would be the normal standard of honest conduct.
- 3.5 Fraud carries a maximum sentence of 10 years' imprisonment.
- 3.6 The Bribery Act 2010 creates a new corporate offence of failing to prevent bribery. The Prevention of Social Housing Fraud Act 2013 came into force on 15 October 2013. It was a direct response to reports of ever-growing numbers of unlawfully occupied properties. We have a separate **Anti-Bribery Policy** which can be found on Bettie.
- 3.7 The Regulator of Social Housing (RSH) states that registered providers shall provide accurate and timely returns to the RSH, including an annual report on any losses from fraudulent activity.

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- 3.8 Although the RSH expect an annual return they would also expect to be notified earlier should a significant event occur, either in terms of size or the people involved.
- 3.9 The RSH have also stated that specific areas may prompt increased regulatory engagement which include allegations or whistleblowing about a provider and evidence of significant fraud or attempted fraud with potential questions about risk and control issues, warranting further assurance. The RSH will want to be satisfied that potential criminal activity has been appropriately investigated and that, where necessary, internal controls have been reviewed and strengthened.

4 Fraud Risks

- 4.1 There are many ways fraud can occur within a business. We undertake regular risk assessments (minimum annually) in relation to preventing fraud and a template risk assessment can be found at **Appendix 1**. The Assistant Company Secretary maintains a fraud register where any reported incidences of fraud (suspected or actual) are recorded and periodically reported to the Board and the Audit Committee.
- 4.2 We have identified that the following activities or areas of operation within could be particularly vulnerable to the risk of fraud:
- 4.2.1 Finance (including the making and receiving of payments from third parties);
 - 4.2.2 Procurement;
 - 4.2.3 Colleague fraud (including payroll);
 - 4.2.4 Sales and disposals;
 - 4.2.5 Sub-letting and housing management;
 - 4.2.6 Housing Benefit Fraud .
- 4.3 A notification system is attached to all emails received from external sources to ensure all of those who work for West Kent are able to identify an email from an external source in an attempt to mitigate the risk of fraud.

Danger signs of external fraud:

- Photocopies of documents when originals would be expected
- Lack of evidence of orders/requests
- Inability to provide original documents
- Discrepancies in information e.g. signatures and dates
- Unexpected queries from stakeholders or suppliers e.g. bank account detail changes
- Requests for non-standard types of payment
- Unexpected trends or results e.g. from reconciliations

- Large cash payments

Danger sign of internal fraud:

- Evidence of excessive spending by an employee
- Unusually close or inappropriate relationships with suppliers or tenants
- Possessiveness of or anomalies between work records
- Pressure from colleagues to avoid normal control procedures
- Abnormal expenses claims, overtime or work patterns

5 Prevention

- 5.1 West Kent is committed to preventing fraud and we have policies and procedures in place within the business to attempt to mitigate the risks of fraud to the business. This includes the **Fraud Response Plan, the Anti-Bribery Policy and the Whistleblowing Policy and Procedure.**
- 5.2 Furthermore, The Economic Crime and Corporate Transparency Act 2023 (ECCTA 2023) introduced a corporate failure to prevent fraud offence, which captures a wide range of fraud offences committed for the benefit of our organisation, including:
- 5.2.1 fraud by false representation;
 - 5.2.2 fraud by failing to disclose information;
 - 5.2.3 fraud by abuse of position;
 - 5.2.4 obtaining services dishonestly;
 - 5.2.5 participation in a fraudulent business;
 - 5.2.6 fraudulent trading; and;
 - 5.2.7 cheating the public revenue.
- 5.3 There is only one relevant defence to the corporate offence of failure to prevent fraud: when the fraud offence was committed, West Kent had reasonable prevention procedures in place, or that it was not reasonable to have any such procedures in place (eg if the risk of fraud being committed was extremely low). The government has published detailed guidance on the failure to prevent fraud offence and reasonable prevention measures it expects organisations to adopt, and we have factored this guidance into this policy and related procedures. This policy is central to those prevention procedures.

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- 5.4 To ensure consistency in approach, any suspected or alleged fraud reported via the **Whistleblowing Policy** will be dealt with in accordance with the procedure set out in the **Fraud Response Plan**.
- 5.5 All staff need to be aware that fraud prevention and fraud detection go hand in hand to tackle fraudulent activity within the business and are an effective way to manage the risk of fraud.
- 5.6 The fraud prevention measures that are currently in place within the business include, but are not limited to:
 - 5.6.1 Ensuring all colleagues are aware and trained on fraud prevention and the mechanisms of reporting fraud;
 - 5.6.2 Payments to suppliers are made only following the production of an invoice and an internal approval process;
 - 5.6.3 Payments to suppliers are made via Online Banking and are subject to Confirmation of Payee checks;
 - 5.6.4 Regular suppliers are subject to an onboarding process including ID checks and bank validation with further bank validation taking place whenever a supplier's bank details are changed;
 - 5.6.5 Bank details for one-off suppliers (who are not formally onboarded) are subject to validation checks prior to any payment being made;
 - 5.6.6 Customers' bank details are subject to validation checks at the outset of any relationship (and whenever a customer's bank details are changed) and refund payments are only made to a customer's known and verified bank details;
 - 5.6.7 Any changes to employee details which impact payroll will only be made if updated and approved via the employee's MyHR login; and
 - 5.6.8 Fraud risks are considered by West Kent on a business wide basis as part of West Kent's Risk Register, which is maintained by the Governance Team (and reported into the Audit and Risk Committee).

6 Reporting

- 6.1 If staff become aware of, or suspect, any fraudulent activity, it should be reported in accordance with the procedure set out in the **Fraud Response Plan**.
- 6.2 West Kent has agreed an information sharing protocol with Sevenoaks District Council in relation to benefit fraud. The Sevenoaks District Housing Register Policy covers the provision of false information in support of an application for housing.
- 6.3 West Kent are committed to ensuring no one suffers any detrimental treatment as a result of refusing to take part in bribery or corruption, or because of reporting in good faith their suspicion that an actual or potential bribery or other corruption offence has

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taken place, or may take place in the future. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform your line manager or the Company Secretary immediately or, if you do not feel comfortable doing this, follow Stage Three of the Whistleblowing Policy, as set out in paragraph 2.10 of Appendix 2 below.

7 Responsibilities

- 7.1 The Executive Director of Finance has overall responsibility for ensuring this policy complies with our legal and ethical obligations, and that all those under our control comply with it.
- 7.2 The Head of Risk and Governance has primary and day-to-day responsibility for this policy. Responsibility includes the implementation of the policy and monitoring its use and effectiveness and dealing with any queries.
- 7.3 Managers at all levels are the first line of defence against fraud and are responsible for ensuring those reporting to them understand and comply with this policy and are given adequate and regular training on it. They should be alert to the possibility that unusual events may be indicators of fraud or attempted fraud and that fraud may be highlighted as a result of management checks or be brought to attention by a third party. If you are made aware of fraud or corruption as a line manager, you should listen to the concerns of the employee and treat every report you receive seriously and sensitively. Get as much information as possible from the employee, including any notes and any evidence they have that may support the allegation. Do not interfere with any evidence and make sure it is kept in a safe place. Under no circumstances should a line manager attempt to investigate any matter themselves and they should, once a report has been made to them, follow the Fraud Response Plan.
- 7.4 West Kent staff are responsible for acting with propriety in the use of West Kent resources, reporting details of any suspected fraud, impropriety or other dishonest activity immediately in accordance with the Fraud Response Plan and, where required, assisting in the investigation of any suspected fraud.

8 Training and Communication

- 8.1 Training on this policy forms part of the induction process for all individuals who work for us, and regular training via the MyLearning platform will be provided.
- 8.2 Training resources are also provided as part of our business banking relationship with NatWest, which can be accessed via the following link: <https://protect-eu.mimecast.com/s/dPAiCyPAMTJDmggfZOr9s> and which will be incorporated into regular staff training.
- 8.3 This policy and the Fraud Response Plan must be communicated to all suppliers, contractors and business partners at the outset of our business relationship with them and as appropriate after that.

9 Breaches of this Policy

- 9.1 Any member of staff who breaches this policy will face disciplinary action, which could result in dismissal for misconduct or gross misconduct.
- 9.2 We may terminate our relationship with other individuals and organisations working on our behalf if they breach this policy.

10 Review

- 10.1 We will formally review this policy and the associated procedures once every three years or more frequently if required by changes in regulation, legislation or as a result of any relevant incident.

APPENDIX 1 FRAUD POLICY – TEMPLATE RISK ASSESSMENT

Risk Assessment Methodology

- Step 1: Determine underlying risk – consider the scope and risk profile of the business activity, including internal and external factors.
- Step 2: Assess red flags and controls – consider the factors which increase the risk threat and the measures which can be implemented to reduce the risk profile.
- Step 3: Evaluate residual risk – can the risk profile be revised following the implementation of controls?
- Step 4: Sign off – evidence senior level involvement in assessing risk and implementing controls. Set a date for the risk type to be reviewed further.

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Risk Assessment

Carried out by	[]
Date	[]
Next Assessment Date	[]
Related Documents	[]
Department / Location	[]

1 Introduction

- 1.1 We have performed a [department-specific] [business-wide] assessment of the risk of fraud to our services and how we operate *[tailor this section to the purpose of the risk assessment being undertaken]*.
- 1.2 The review included consideration of *[to be amended as appropriate depending on the purpose of the risk assessment being undertaken – some examples are set out below]*:
- 1.2.1 [country risk;
 - 1.2.2 sectoral risk;
 - 1.2.3 transaction risk;
 - 1.2.4 business opportunity risk;
 - 1.2.5 business partner / supplier risk;
 - 1.2.6 product / service risk; and
 - 1.2.7 customer risk.]

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Risk Type	Risk Profile	Red Flags	Control Steps	Date for Further Review
<p><i>Provide a summary of business activities and nature of the risk.</i></p> <p><i>Consider which area of the business the risk type applies, be as specific as possible</i></p>	<p><i>High/ Medium / Low</i></p> <p><i>Provide reasoning for assessing risk profile</i></p>	<p><i>Identify, with examples, any areas of higher risk, or which may increase the risk profile.</i></p>	<p><i>Can any further steps be taken by the business to reduce the risk profile? (E.g. measures, policies, procedures, and other controls)</i></p> <p><i>Give specific examples and person/team responsible for actioning such steps.</i></p>	<p><i>When does this risk type need to be reviewed and the level of risk reassessed?</i></p>

APPENDIX 2 FRAUD RESPONSE PLAN

1 Introduction

- 1.1 The objective of this Fraud Response Plan is to enable all staff to understand the process for responding quickly and efficiently to fraud to minimise potential loss and damage caused by fraud.
- 1.2 This fraud response plan covers:
 - 1.2.1 how staff should report fraud;
 - 1.2.2 the investigation process;
 - 1.2.3 West Kent's response to fraud;
 - 1.2.4 follow on action.
- 1.3 You must ensure that you read, understand and comply with this response plan, which should be read in conjunction with the **Fraud Policy**.
- 1.4 This plan does not form part of any employee's contract of employment and we may amend it at any time.

2 Reporting Fraud

- 2.1 We depend on all of our persons working for us or on our behalf in any capacity, including staff at all levels, agency workers, seconded workers, apprentices, Board and Committee Members, volunteers, contractors, external consultants, third-party representatives and joint venture partners with whom we collaborate on projects, or any other person associated with us, wherever located to ensure that the highest standards of ethical conduct are maintained in all of their dealings. All staff are requested to assist the business and to remain vigilant in preventing, detecting and reporting fraud and corruption.
- 2.2 Issues that should be reported include any suspected or actual attempts to commit fraud or concerns that other staff or associated third parties may be committing fraud. By way of non-exhaustive example:
 - 2.2.1 Actions of staff or tenants which should be reported include:
 - (a) Any dishonest or fraudulent act
 - (b) Forgery or alteration of documents or accounts
 - (c) Misappropriation of funds, supplies or other assets
 - (d) Impropriety in the handling or reporting of money or financial transactions
 - (e) Profiting from an official position
 - (f) Disclosure of official activities or information for advantage

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- (g) Accepting or seeking value from third parties by virtue of official position or duties
- (h) Theft or misuse of property, facilities or services.

2.2.2 Actions of external organisations which should be reported include:

- (a) being offered a bribe or inducement by a supplier
- (b) receiving fraudulent (rather than erroneous) invoices from a supplier
- (c) reported allegations of corruption or deception by a supplier.

2.2.3 Actions of residents which should be reported include:

- (a) Providing false information or withholding information in relation to their housing or application for housing.
- (b) Subletting all or part of a property without West Kent's knowledge in breach of the terms of a tenancy agreement.
- (c) Being offered a bribe or inducement by a tenant.
- (d) Any dishonest or fraudulent act committed against West Kent.

2.3 Once a report has been received it will be thoroughly and promptly investigated in the strictest confidence or may be reported to the Police as appropriate. Staff will be required to assist in any investigation into possible or suspected fraud as appropriate.

2.4 In line with our Whistleblowing Policy, staff who report instances of fraud in good faith will be supported by West Kent. We will ensure that the individual is not subjected to detrimental treatment as a consequence of their report. Any instances of detrimental treatment by a fellow officer or member because an officer or member has made a report will be treated as a disciplinary offence. An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, staff should not agree to remain silent.

Why should I report my concerns?

2.5 Concerns should be raised about any irregularities that are believed to be occurring. Staff, including managers, are also encouraged to report any concerns they have in respect of other people or organisations that the business deals with such as suppliers, contractors and external third parties.

2.6 It will be helpful to provide as much information as possible. Do not delay reporting your concern to gather evidence. Gathering evidence or investigating yourself may destroy evidence, jeopardise the investigation and alert the person or organisation that the concern related to. This may prejudice further investigation.

When should I report my concern?

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- 2.7 Please report any suspicions as soon as possible and certainly no later than 24 hours of learning of the information.

Who should I report my concern to?

- 2.8 It is your responsibility to report any concerns that you may have to the Company Secretary by email to companysecretary@wkha.org.uk and, if you feel comfortable doing so, to a line manager / department manager as soon as possible in the first instance.
- 2.9 If, for any reason, you do not feel comfortable reporting the matter to your line manager / department manager or you have reason to believe the manager is implicated in the wrongdoing, concerns should be reported only to the Company Secretary (Head of Risk and Governance).
- 2.10 If you are concerned that the Company Secretary is involved in wrongdoing, concerns should be reported in accordance with Step Three of the Whistleblowing Policy and Procedure, as follows:
- 2.10.1 If you are concerned that the Company Secretary is involved in the wrongdoing, you should inform a West Kent Executive director. A list of all directors and board members is available on Bettie or from Human Resources.
- 2.10.2 If you do not wish to approach a director, you should contact one of the following members of West Kent's board of management:

Piers White (Chair of Board)	Email: piers.white@wkha.org.uk
Janet Eilbeck (Chair of Audit and Risk Committee and Vice Chair of the Board)	Email: Janet.Eilbeck@wkha.org.uk

- 2.11 Where the suspected wrongdoing is covered by the information sharing protocol with Sevenoaks District Council in relation to benefit and housing application fraud, it should be reported via this Fraud Response Plan.
- 2.12 We will also accept concerns raised anonymously and will investigate them in the same way.
- 2.13 Human Resources will also report any concerns in respect of suspected fraudulent or corrupt activity to the Head of Governance and Risk which arise out of any other internal investigation such as under the Disciplinary Policy or otherwise.

3 Invoking the Fraud Response Plan

- 3.1 All reports will be treated in confidence and will be investigated promptly and fully in a professional manner. It should be noted that an allegation does not mean an individual person or company is guilty of any wrongdoing, and so they will not be treated as such until

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the case is proven or until sufficient evidence has been gathered to justify action to prevent further loss to the business.

- 3.2 We want people to report concerns but expect colleagues to treat this process seriously and with respect. If a concern is raised frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against the person making the allegation. This will be determined by Head of Human Resources or the Review Panel which is detailed further below.
- 3.3 Once a concern is raised, the Finance Director will commission an appropriate investigation with any other senior officers as deemed appropriate.
- 3.4 Suspected fraud will be investigated in an independent, open-minded and professional manner with the aim of protecting the interests of both West Kent and the suspected individual(s).
- 3.5 The objective of any investigation is to prove or disprove the initial suspicion or allegation of fraud or corruption by thoroughly evaluating all material evidence so to establish the facts of the matter. If the suspicions appear to be well founded, the investigation must:
 - 3.5.1 Identify all those involved;
 - 3.5.2 Support the findings of the investigation by the production of all relevant evidence;
 - 3.5.3 Present that evidence in an appropriate form for any subsequent disciplinary, civil and/or criminal proceedings.
- 3.6 Investigations into suspected fraud or corruption will be conducted in a professional manner in accordance with the relevant statutory provisions and local protocols to ensure any actions are carried out both fairly and lawfully. This will include but is not limited to in compliance with the Data Protection Act 2018.

4 Procedure

Initial Assessment

- 4.1 Once an allegation of fraud has been made (verbal, written or anonymous) the Head of Governance and Risk will appoint a relevant Executive Director or other senior officer as deemed appropriate to lead the Initial Assessment (the **Initial Assessment Officer**) The objective of this stage is to determine if a formal investigation into the allegation is required.
- 4.2 The Initial Assessment is intended to take no longer than seven days and shall seek to determine if evidence exists to support the allegation, concern or suspicion.
- 4.3 The Initial Assessment Officer will assess the findings and will determine if a Formal Investigation is required and notify the Police or other relevant authority immediately if an obvious criminal offence has taken place.

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- 4.4 A Formal Investigation under this policy will be required where the actual or potential loss from corrupt activity is significant¹ or the incident is complex and/or involves a non-executive or an Executive Director or a direct report. The Initial Assessment Officer can, in their discretion, require a Formal Investigation under this policy where the actual or potential loss falls below the significant threshold but nevertheless requires further investigation in the circumstances.
- 4.5 Where a Formal Investigation under this policy is required, the Initial Assessment Officer will:
- 4.5.1 take immediate steps to secure West Kent's physical assets, including computers, records or relevant evidence;
 - 4.5.2 check the requirements of West Kent's insurers and consider whether a notification is required;
- 4.6 where necessary, notify banks² and other holders and consider whether any further steps are required (such as suspending outgoing payments or cheques, withdraw or suspend signing authorities and changing passwords). Where a Formal Investigation under this policy is not required, the Initial Assessment Officer will conclude the Initial Assessment and either determine that no further action is required or refer the matter to be dealt with in accordance with the **Disciplinary Policy**.
- 4.7 If it is appropriate to suspend one or more colleagues from work whilst the Formal Investigation takes place, it would be advisable for solicitors to have early involvement, if necessary. It may also be necessary to inform the Police at this stage if they have not already been informed. Suspension is not a disciplinary sanction and is without prejudice on full pay. It is essential that the period of suspension is kept as brief as possible. Any suspension must be done in accordance with the **Disciplinary Policy**.
- 4.8 The use of external expertise such as Internal Audit will be considered at both the initial assessment and the formal investigation stage.

5 Formal Investigation

Who will investigate concerns?

- 5.1 The Executive Director of Finance (or a specified delegate) will oversee all formal investigations with the Head of Governance and Risk having day-to-day responsibility.
- 5.2 The Executive Director of Finance is responsible for deciding who will conduct the investigation and will appoint an Investigating Officer. If the Investigating Officer considers that an investigation team needs to be assembled, this will be from Members of the West Kent Board of Management and/or the Audit and Risk Committee, directors of departments

¹ Significant means any act of fraud or bribery which would need to be reported to the RSH. The current financial trigger is any actual or potential loss exceeding £5,000

² Fraud can be reported to NatWest via the following link: <https://www.natwest.com/business/security/report-fraud.html>

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related to the investigation and any appropriate external organisations as deemed appropriate.

- 5.3 In the case of allegations involving the Executive Director of Finance, the Chief Executive, will oversee and undertake all aspects of the investigation.
- 5.4 Where the suspected fraud is required to be reported to the RSH (see section 7.1.4 below relating to external reporting), the Executive Director of Finance (or the Chief Executive if paragraph 5.3 is relevant) will consult with the Chair of the Board and the Chair of the Audit and Risk Committee with regard to the investigation process and the appointment of the Investigating Officer.
- 5.5 Whilst the investigation process is in progress, the Executive Director of Finance (or the Chief Executive if paragraph 5.3 is relevant) in conjunction with the Chair of the Audit and Risk Committee will decide when and what is communicated to the Board.

How does the investigation process work?

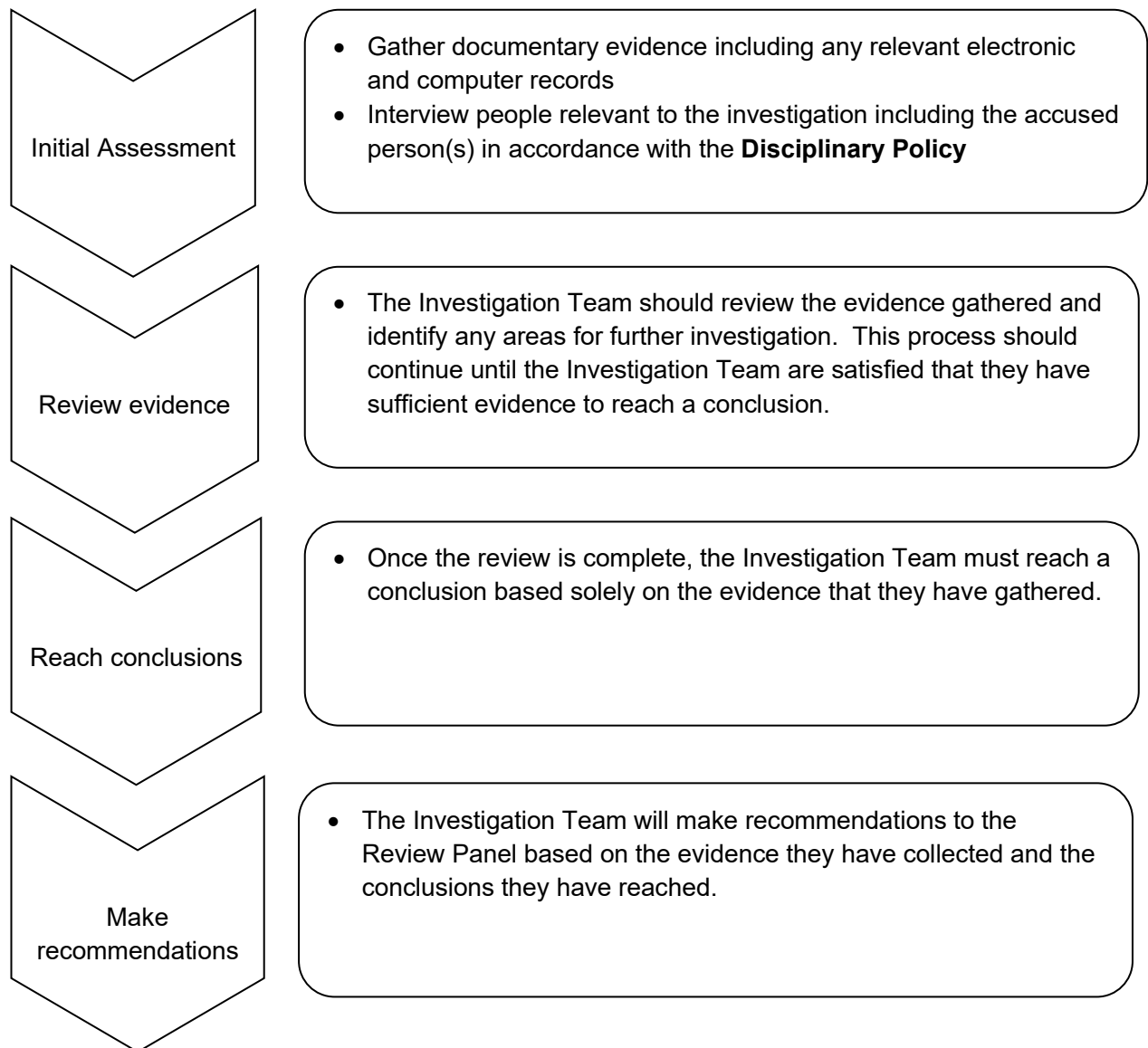
- 5.6 All staff should be aware that we may monitor and review IT usage where necessary to investigate suspected irregularities in accordance with our **IT Acceptable Use Policy** which can be found on Bettie.
- 5.7 All investigations will be unique due to the nature of fraud, however the key elements to remember are that the investigation must answer the following questions:
 - 5.7.1 is the allegation true or not?
 - 5.7.2 (if appropriate) is there sufficient evidence to prove it was done?
 - 5.7.3 if proven, what financial damage or otherwise has occurred?
 - 5.7.4 have we stopped further losses?
 - 5.7.5 how was the fraudulent act perpetrated?
 - 5.7.6 what changes could be made to stop this happening again?
- 5.8 The Investigation Officer / Team must keep a record of all investigation actions including but not limited to telephone conversations, formal interviews, reviews and analysis of documents or computer files.

Investigation Process

- 5.9 The process for investigating allegations of fraud, bribery or corruption will have the following general steps:

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5.10 The output of the investigation will be a written report to the Board and Audit and Risk Committee.

5.11 The format of the final written report will exhibit all relevant documents and statements relied upon during the investigation procedure and will usually contain details of:

5.11.1 how the investigation arose;

5.11.2 the staff concerned, their position in the business and their responsibilities;

5.11.3 how the investigation was undertaken;

5.11.4 the facts and evidence which were identified; and

5.11.5 the findings and recommendations both regarding the irregularity itself and any changes to systems arising from weaknesses identified during the course of the investigation.

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- 5.12 All records of the investigation must be factual, objective and complete to support the investigation in the event of any and all potential future action.
- 5.13 Investigators must be aware that any documentation relating to the investigation may have to be disclosed under Freedom of Information Act 2000 or Data Protection Act 2018 (as the UK's implementation of the General Data Protection Regulations) or in connection with any subsequent criminal or civil legal proceedings. Neither of these Acts prevents or hampers an investigation into potential criminal activity, but investigators should be aware that any and all information they commit to writing may be the subject of a Freedom of Information request.
- 5.14 It is recognised that each investigation will be different and specific timescales cannot be given. The key principle is that investigations are conducted thoroughly, rather than quickly.
- 5.15 The report shall be the property of West Kent and we have the authority to provide that report to external organisations on request.

Fraud Register

- 5.16 A copy of the final written report should also be provided to the Governance Officer who will then ensure that the incident is recorded on West Kent Fraud Register as appropriate.
- 5.17 The Fraud Register has been set up to contain records of both attempted and detected frauds and the actions taken.
- 5.18 This register shall be open to inspection at any time and shall be reviewed annually by West Kent's Audit and Risk Committee. The records will also indicate the systems involved in order to assist in the prevention of any recurrences.

6 Review Panel

Who will decide what happens next?

- 6.1 A Review Panel, including, where appropriate, an external Solicitor, will be established to consider the results of the investigation process. The Executive Director of Finance (or another member of the Executive Team if the investigation involves the Executive Director of Finance) with the assistance of the Solicitor, where appropriate, will determine the membership of the Review Panel based on:
- 6.1.1 the severity of the allegation;
 - 6.1.2 the position in the business of those being investigated; and
 - 6.1.3 the possible outcomes of the decision (for example, if a possible next step is seeking Police involvement, the panel may be different than for a matter than can be managed within our disciplinary procedures).
- 6.2 The number of people on the Review Panel will be determined by the severity of the allegations. The panel will ordinarily consist of three to five people.

What are the timescales for the Review Panel to make its decision?

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- 6.3 There are no specific timescales; however the Review Panel will be expected to meet in person or virtually in a timely manner to avoid unnecessary delay in reviewing the investigation's findings.

7 Follow on Action

- 7.1 The following options are possible outcomes of the decision process:
- 7.1.1 No further action is taken - meaning that there is no evidence or insufficient evidence that an irregularity took place;
 - 7.1.2 Invoke the **Disciplinary Procedure** meaning that there is sufficient evidence of an irregularity for our Disciplinary Procedure to consider an appropriate sanction;
 - 7.1.3 **Police involvement** - meaning that there is evidence of a serious irregularity that, in the judgment of the Review Panel, should be referred to the Police for further investigation. This will mean that the Police will need to be consulted before any internal disciplinary action is taken. However the outcome of any Police involvement will not prejudice our internal disciplinary process. Care will need to be taken not to prejudice any civil or criminal investigation or procedure by tipping-off those who may be subject to investigation;
 - 7.1.4 The Review Panel will determine whether it is necessary for other people/groups to be informed. These include:
 - (a) External Legal Team;
 - (b) Regulator of Social Housing;
 - (c) Department for Work and Pensions (in the case of potential housing benefit fraud);
 - (d) Local Authority;
 - (e) Financial Conduct Authority;
 - (f) Action Fraud (the UK's national reporting centre for fraud);
 - (g) Insurers; and
 - (h) Internal / External Auditors.
 - 7.1.5 Recovery Action – meaning commencing legal proceedings as appropriate to recover any losses arising from fraud or bribery or other corrupt activity. Action may be taken against third parties involved in the incident or who contributed to it through their negligence.

8 Managing Contractors

In circumstances where a contractor used by West Kent is implicated in corrupt activity, the Director responsible for the contractor relationship and the service the contractor provides,

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escalated where necessary to the Executive Director of Finance (or the Chief Executive in accordance with paragraph 5.3 above), will decide how to deal with the contractor and whether to involve the contractor in any investigation.

9 Conclusion

9.1 This response plan only provides assistance to West Kent with the assistance and cooperation of its staff. As set out above, fraud can have significant impact on an organisation and West Kent is determined to ensure that a zero tolerance culture to fraud exists within the business.

9.2 This response plan will be reviewed every three years.

Fraud Response Plan Flow Chart

