

FAILURE TO PREVENT FRAUD POLICY



Policy Title	Failure to Prevent Fraud Policy		
Version	001	Status	Draft
Date	15 July 2025	Author	Head of Governance
Next Review Date:	15 July 2028	Approved by	ELT
Responsible Officer:	Head of Governance	Date Approved	5 August 2025
Associated documents	N/A	EIA Completed by	N/A

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1. BACKGROUND AND PURPOSE

Cornwall Housing Limited (CHL) is committed to conducting its business with integrity and transparency. It has zero tolerance for fraud and is dedicated to preventing fraudulent activity by implementing robust internal controls and promoting a culture of honesty and accountability.

The new legislation is clamping down on those who turn a blind eye to fraud. CHL could be held liable if it fails to prevent fraud from happening within its operations. This puts the responsibility on everyone.

This policy is designed to ensure compliance with the Failure to Prevent Fraud Offence introduced by the Economic Crime and Corporate Transparency Act 2023, which holds large organisations criminally liable if they fail to prevent fraud committed by associated persons intending to benefit the organisation. For clarification, an “associated person” could be an employee, agent, subsidiary or contractor.

In certain circumstances, the offence will also apply where the fraud offence is committed with the intention of benefitting a client of the organisation. It does not need to be demonstrated that directors or senior managers ordered or knew about the fraud.

There will be a greater emphasis on organisations proactively taking steps to identify and mitigate fraud risks. Reactive measures are no longer enough.

CHL could face criminal prosecution and unlimited fines if it fails to prevent fraud. The legislation means that CHL must understand its’ fraud risk exposure and have an effective framework to help to prevent, detect and respond to the identified fraud risks.

Although CHL does not currently sit within scope for the new offence, this policy is being adopted for good governance and future proofing.

The offence will come into effect on 1 September 2025.



2. WHAT TYPES OF FRAUD DOES THIS CAPTURE?

The scope of what is considered fraud is broadening to include new types of scams and deceptive practices. This means CHL needs to expand its understanding of what fraud looks like.

Criminals are becoming more sophisticated, using technology to exploit vulnerabilities. This new legislation is a direct response to emerging threats like online scams, identity theft, and complex financial schemes.

The offence applies to the fraud and false accounting offences which the government considers are most likely to be relevant, including:

- fraud by false representation (Section 2, Fraud Act 2006)
- fraud by failing to disclose information (Section 3, Fraud Act 2006)
- fraud by abuse of position (Section 4, Fraud Act 2006)
- obtaining services dishonestly (Section 11, Fraud Act 2006)
- participation in a fraudulent business (Section 9, Fraud Act 2006)
- false statements by company directors (Section 19, Theft Act 1968)
- false accounting (Section 17, Theft Act 1968)
- fraudulent trading (Section 993, Companies Act 2006)
- cheating the public revenue (common law)

The types of conduct are wide ranging.

To name a few examples, offences could arise out of annual reports and insurance claims; false statements by directors to shareholders; or by third parties misrepresenting the quality of products or services to improve the financial outlook of CHL.

Below are some potential scenarios setting out what would be included in the scope of the offence.

Potential Scenario	Explanation
Performance figures are sent to Government in return for less inspections or increased subsidies.	In scope – Inflating performance figures to gain an advantage for the organisation is in scope. It's fraud by false representation.
Understating of assets for reduced premiums (insurance).	In scope – potentially a false statement or maybe false accounting, with a view to obtaining a benefit for the organisation.



Net Zero targets or recycling targets where the organisation is reimbursed for achieving targets (sometimes these services are outsourced to private companies).	In scope – If false data is supplied with a view to obtaining a benefit for the organisation, this would be in scope.
Licences - IT deliberately conceals to a software provider the number of active licences used by the organisation – it may be done to protect the IT budget, but the software supplier loses out and the organisation benefits.	In scope – False statements on returns or contractual documents.

Crucially, there would have to be dishonest intent for an offence to be committed.

3. WHAT DOES CHL NEED TO DO?

Accurately Identify Risks: Assess vulnerabilities by conducting thorough regular risk assessments to identify potential fraud risks within the organisation.

Create and Maintain a Strong Culture: Foster a culture of integrity and transparency to deter fraudulent activities and ensure staff feel comfortable reporting suspected fraud without fear of reprisal. This includes providing regular training to staff.

Take Action to Tackle the Problem: Implement robust policies and procedures to prevent, detect, and respond to fraud. Seeking redress where both necessary and appropriate.

Define Success: Establish clear metrics to measure the effectiveness of the fraud prevention programme.

4. RESPONSIBILITIES

Board of Directors: Ensure top-level commitment to fraud prevention.

Senior Management: Implement and oversee fraud prevention procedures.

All Staff and Contractors: Comply with this policy and report any suspected fraud.



Under the new legislation, you have a legal duty to report any suspected fraud to the relevant authorities. This includes internal fraud within CHL, as well as external fraud targeting tenants. Failure to report can have serious consequences, including fines and imprisonment. Familiarise yourself with CHL's reporting procedures and ensure you know who to contact and when.

5. REASONABLE FRAUD PREVENTION PROCEDURES

In line with government guidance, CHL's procedures are based on six key principles:

Top-Level Commitment - Senior leadership is committed to preventing fraud and fostering a culture of integrity by providing regular updates to the Board on fraud risk and prevention.

Risk Assessment – CHL conducts regular fraud risk assessments to identify and evaluate potential vulnerabilities.

Proportionate Procedures - Controls are tailored to the nature, size, and complexity of operations and fraud risks.

Due Diligence - CHL performs due diligence on third parties and associated persons to assess fraud risk, for example by vetting suppliers, onboarding checks, contract clauses).

Communication and Training – CHL provides regular training and clear communication to ensure awareness and understanding of fraud risks and responsibilities.

Monitoring and Review – CHL continuously monitors and reviews its fraud prevention framework to ensure effectiveness and compliance.

6. REPORTING AND WHISTLEBLOWING

All employees and associated persons are encouraged to report suspected fraud through CHL's confidential whistleblowing channels. Reports will be investigated promptly and thoroughly. Whistleblowing guidance can be found here: [Speaking Up](#).



7. ENFORCEMENT AND DISCIPLINARY ACTION

Any breach of this policy may result in disciplinary action, including dismissal, termination of contract, and legal action.

8. WHAT DEFENCE IS AVAILABLE?

The only defence available to CHL is that reasonable counter fraud defences and procedures were in place at the time the fraud offence was committed. Organisations will have a defence if they have reasonable procedures in place to prevent fraud, or if they can demonstrate to the satisfaction of the court that it was not reasonable in all the circumstances to expect the organisation to have any prevention procedures in place.



DIVERSITY & INCLUSION

We are committed to treating all people with fairness and respect. We aim to create an inclusive environment where people are treated with dignity, inequalities are challenged, and we anticipate and respond positively to different needs and circumstances to enable individuals to achieve their potential and foster good relations within the communities we serve. We want to be recognised as an organisation delivering fair, inclusive, accessible services and an employer and partner of choice.

When applying this policy, we act sensitively towards the diverse needs of individuals and to reduce discrimination and harassment by making reasonable adjustments such as:

- eliminating discrimination – by providing support to those who need it and information in accessible formats and languages on request.
- tailoring the policy to meet both the specific needs of the individual, including those with additional support needs, and the diverse needs of the wider community.
- advancing equality of opportunity – treating all tenants fairly.
- fostering good relationships – listening to customers and responding appropriately.
- compliant with all aspects of Equality & Diversity legislation, and specifically the Equality Act 2010.



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Alternative formats:

If you would like this information on audio CD, audio tape, Braille, large print, any other format or interpreted in a language other than English, please contact info@cornwallhousing.org.uk

