

SHG FRAUD POLICY 2021-24

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1 INTRODUCTION

- 1.1 Stockport Homes Group (SHG) has a proactive and robust approach to the management of fraud and the associated risks in order to protect the company from loss and minimise reputational damage that could arise from fraudulent activity.
- 1.2 SHG takes a zero-tolerance approach to fraud and irregularities and has in place a strong anti-fraud culture and a range of robust policies and procedures, controls and oversight mechanisms in place to prevent fraud from occurring.
- 1.3 This Policy details SHG's approach to prevention of fraud, money laundering, bribery and corruption. It sets out the roles and responsibilities that everyone at SHG performs as well as the procedures to be followed should fraud (actual or attempted) be detected or suspected. Implementation of this Policy will ensure that SHG is alert to fraud, has proactive anti-fraud measures in place and is able to react promptly if irregularities are detected to ensure the resilience of the business overall.
- 1.4 This has been of particular importance during the Covid 19 pandemic with both a rise of working from home and people adapting to new ways of working and fraudsters seeing an opportunity to attempt fraud.
- 1.5 The Regulator of Social Housing (RSH)'s Governance and Financial Viability Standard requires providers to ensure:
 - That they manage their affairs with an appropriate degree of skill, independence, diligence, effectiveness, prudence and foresight, and
 - That they have an appropriate, robust and prudent business planning, risk and control framework

2 FRAUD & CORRUPTION

- 2.1 The Fraud Act 2006 defines the criminal offence of fraud into three classes: fraud by false representation, fraud by failing to disclose information and fraud by abuse of position.
- 2.2 For the offence of fraud to have been committed, a person must have acted dishonestly with the intent of making a gain for themselves or a third party or by inflicting a loss (or the risk of a loss) on a third party.
- 2.3 Corruption occurs where the integrity of a person, government or a company is manipulated and compromised for somebody's own personal gain. Often, this involves entering into a secret agreement with another party to gain an advantage.
- 2.4 There are a number of ways in which fraud could be committed. Below are some examples:
 - False housing applications
 - False expenses / mileage / overtime claims

- Misuse of time recording system / falsifying of timesheets
 - Misuse of company assets / resources
 - Theft of cash or property
 - Alteration of financial / other records
 - Misuse of computer systems including manipulating systems or data
 - Tenancy / application fraud
- 2.5 Fraud risk will present itself from both internal and external sources. Stockport Homes has a range of internal controls, policies and procedures in place to ensure that systems and processes are not vulnerable to fraudulent activity. These controls are developed and maintained across the business.
- 2.6 Key aspects of the internal control system include the Financial Regulations, Financial and Governance Scheme of Delegation, Contract Procedure Rules and regular and ongoing internal and external audit activity.

3 MONEY LAUNDERING

- 3.1 Money laundering is a way of concealing the identity, source, and destination of money which has been illicitly-obtained (via crime). It is a process by which funds derived from criminal activity are given the appearance of being legitimate.
- 3.2 The Proceeds of Crime Act (POCA) 2002 defines money laundering as “all forms of handling or possessing criminal property, including possessing the proceeds of one's own crime, and facilitating any handling or possession of criminal property”.
- 3.3 In addition to the POCA legislation, there are also the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and the Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020 in place to address money laundering risk.

Property Related Transactions

- 3.4 Registered housing providers are required to comply with the Money Laundering Regulations where they perform specific activities including carrying out estate agency work.
- 3.5 To complement these regulations, the National Housing Federation (NHF) has produced guidance for registered providers on anti-money laundering to ensure that member organisations are compliant with the legislation and protect members from the effects of money laundering. SHG has taken account of this guidance in producing this Policy. More information is available at Appendix One and Two.
- 3.6 The following transactions are ones where SHG could be targeted by people involved in money laundering include:

- Purchase of a property via Right to Buy / Acquire
 - Purchase of a shared ownership property
 - Shared ownership sales and resales
 - Staircasing of shared ownership properties
 - Private rented housing via Three Sixty Living
 - Misuse of property for criminal activity
 - Misuse of rental payments systems to launder money (credits)
 - Claiming Housing Benefit / Universal Credit illegitimately
- 3.7 Relevant checks on sources of funds are undertaken to gain assurance that there is no risk of money laundering activity. This happens in RTB applications and shared ownership transactions. Thorough checks are also undertaken on applicants applying for private rented housing via Three Sixty Living. This is to ensure SHG satisfies itself that it isn't being targeted by money launderers. In some circumstance, there is an onus on another party to perform the check (for example, in a shared ownership sale, it is the responsibility of the purchaser's solicitor to check the sounds of fund, however, SHG also obtains their own assurance in this area). Despite this, SHG will still undertake its own due diligence.
- 3.8 Colleagues should inform their line manager if they have concerns about the source of funds and / or question their legitimacy. The Assistant Chief Executive is the Group's Money Laundering Reporting Officer (MLRO). Any suspicious transactions¹ should be reported to the MLRO. The MLRO will consider whether it is necessary to report this to HM Revenues & Custom (HMRC) / National Crime Agency (NCA) and / or Action Fraud.

4 BRIBERY

- 4.1 Bribery can be described as the giving or receiving of something of value to influence a transaction. The Bribery Act 2010 is the criminal law relating to bribery.
- 4.2 Stockport Homes will not tolerate bribery or corruption from employees or Board Members of the company or anyone working on its behalf, including contractors, consultants and partners. SHG is committed to carrying out its business transparently and fairly and, therefore, a zero-tolerance policy towards bribery operates.
- 4.3 Stockport Homes will adopt the guidance issued by the Ministry of Justice with regard to bribery. This guidance sets out six broad prevention principles when designing anti-bribery processes. These are:
- Proportionate procedures – linked to size and activities of the company
 - Top level commitment – culture where bribery is never acceptable

¹ Please see the Money Laundering Procedure (available on the HOG) for further guidance on what constitutes a suspicious transaction.

- Risk assessment – assess the nature and extent of the risks which exist
- Due diligence – checking who the organisation does business with
- Communication – ensuring all employees are aware of the processes
- Monitoring and review – ensuring processes and controls work

Procurement

- 4.4 SHG carries out its business in an open and transparent manner and undertakes due diligence checks on all suppliers / contractors wishing to supply goods and / or services to it.
- 4.5 Anti-bribery practices are also detailed within the corporate procurement guidance and must be followed by those colleagues engaged within purchasing goods and / or services. This includes declaring any actual / potential conflicts of interest before a procurement exercise begins.
- 4.6 When procurement exercises have been undertaken and SHG enters into an arrangement with a supplier, colleagues have a responsibility to ensure that the supplier is bona fide, and that the arrangement is legitimate. All SHG tender processes require tenderers to complete a certificate of bona fide tendering, which must be submitted with the completed tender document. Furthermore, all tendering must be undertaken in accordance with the SHG Contract Procedure Rules.
- 4.7 The use of the standard Supplier Questionnaire ensures that companies bidding for SHG work are required to disclose information about previous convictions related to a range of fraud related offences² and if declarations are made, SHG can exclude them from tender processes on that basis.
- 4.8 Furthermore, by utilising the Pro Contract system for as much procurement activity as possible, including three quote processes, will provide a more robust mechanism by which to complete tender exercises, with a fully auditable history of actions and controls built in (e.g. all tenders opened at same time after the closing date reduces risk of corruption / bribery).

5 PREVENTION AND DETECTION

- 5.1 SHG has a strong internal controls framework in place which consists of a range of processes and procedures designed to prevent and detect fraudulent activity, should it be attempted or actually committed.

These include:

- Thorough recruitment procedures and vetting of employees
- Induction and training to communicate key policies and expectations
- Employee Code of conduct
- Disciplinary and Misconduct Policies
- Whistleblowing and Grievance Policies
- Financial Regulations

² Including fraud, money laundering, corruption, terrorist activity and organised crime.

- Financial Scheme of Delegation
- Governance Scheme of Delegation
- Segregation of Duties built into systems
- Contract Procedure Rules for tendering
- Internal Controls Framework
- Risk Management Strategy
- Risk Based Internal Audit Plan
- Risk Assessments
- ICT Security Policy & robust systems management
- Acceptable Use Policies and system controls
- Transparency agenda
- Register of interests and conflicts
- External Audit function
- Management tools and oversight
- A range of other policies, procedures and processes

5.2 Detection of actual or attempted fraud, corruption, bribery and / or money laundering, would be detected in the following way:

- Having an open culture where colleagues feel comfortable raising concerns about unusual or suspicious activity (either to their Manager or formally via the Whistleblowing Policy should that be required)
- Management oversight of fraud risks which exist and the controls which are in place which would identify irregularities (e.g. management authorisation of expenses in the HR System)
- Regular reporting and investigation of anomalies in performance
- Robust Finance and HR control processes which would identify irregularities to be investigated
- Customer feedback process for customers to raise concerns
- Use of internal audit to verify controls are working and perform random sample testing

5.3 Where fraud, corruption, bribery and / or money laundering is reported, suspected or detected, the incident will be investigated in line with the Fraud / Money Laundering Investigation Procedure. See Appendix Three and Four.

5.4 The incident will be added to SHG's Fraud Register. The Head of Assurance is responsible for maintaining the Fraud Register. consideration will be given to commencing disciplinary action, civil or court proceedings including steps to recover any losses incurred. Legal advice may be sought to identify the most effective way to recover lost monies. The Fidelity Guarantee Insurance Policy will only be used as a last resort once other attempts to recover losses have been exhausted.

5.5 By taking positive action against any fraudulent activity, SHG is reinforcing its zero-tolerance approach and promoting a strong anti-fraud culture.

6 ROLES AND RESPONSIBILITIES

- 6.1 In order to ensure that there is an effective response to the risks posed by fraud, corruption, bribery and money laundering, there are clear roles and responsibilities which have been set out for all employees.
- 6.2 SHG requires that Board Members and colleagues to act with honesty and integrity at all times and safeguard company assets (both financial and non-financial). This requirement is clearly set out in the Financial Regulations, Code of Conduct and the Disciplinary Policy.
- 6.3 **SHG Board** has overall responsibility to ensure there is an anti-fraud approach in place across the whole company. In the Governance Scheme of Delegation, it is noted that all Boards have a responsibility for the “identification and management of risk, including the prevention of fraud and bribery”.
- 6.4 The **Senior Leadership Team (SLT)** are delegated the strategic responsibility of ensuring that they “ensure policies and procedures are in place to protect the organisation against fraud, bribery and money laundering”. SLT must set the tone and culture of zero tolerance and ensure there is a robust internal controls framework in place and that employees are able to raise concerns.
- 6.5 **Managers** have the day to day, operational responsibility for preventing and detecting any kind of fraudulent activity and ensuring there is a strong anti-fraud culture across all teams. This includes:
- Identifying risks to which systems, operations and processes are, or could become, exposed to fraud, corruption, bribery and / or money laundering
 - Developing and maintaining effective internal controls to prevent and detect fraud, corruption, bribery and / or money laundering
 - Ensuring controls are complied with at all times, improving and strengthening these wherever possible
 - Reviewing the effectiveness of controls and regularly reporting / monitoring their effective operation
 - Effectively inducting and training colleagues to work in line with agreed processes
 - Role modelling an anti-fraud culture at all times
 - Being alert to changes or unusual behaviour / irregularities in their service area
 - Escalating issues which require further attention
- 6.6 **Employees** are required to:
- Comply with all internal controls that are in place
 - Actively contribute to managing and minimising fraud, corruption, bribery and / or money laundering risks
 - Ensure that company resources (both financial and non-financial) are used appropriately, and as directed by management
 - Utilise internal systems, for example procurement / petty cash, in line with operational procedures

- Raise any concerns they have with their line manager
- 6.7 All Board Members and colleagues are required to act with honesty and integrity and to report any incidents of fraud, corruption, bribery and / or money laundering (actual or suspected) using confidential reporting mechanisms, as detailed in the **Whistleblowing Policy**³.
- 6.8 Colleagues can also contact Protect (formerly Public Concern at Work)⁴ for free, confidential and independent advice on how to proceed with raising concerns, or “whistleblowing”.
- <https://protect-advice.org.uk/>
 - 020 3117 2520
- 6.9 All reports of fraud, corruption, bribery and / or money laundering (actual or suspected) will be considered carefully and fully in line with SHG policies and procedures.
- 6.10 The culture at SHG is one of zero tolerance to fraud, corruption, bribery and money laundering. Awareness raising of the anti-fraud regime takes place, including promotion of what constitutes fraud, corruption, bribery and money laundering and the confidential reporting process. Sessions can be held with individual teams as needed and information will be periodically included in the employee newsletter: Insight, to ensure all colleagues are aware of the processes to follow and the existence of the Whistleblowing Policy.
- 6.11 It may be necessary for the company to inform the Regulator / Police / HMRC / National Crime Agency about instances relating to fraud, corruption, bribery and / or money laundering and / or to invoke disciplinary procedures. This will be considered on a case by case basis, as determined by the Investigation Process (detailed in Appendix Three and Four).

7 LINKS TO OTHER POLICIES AND STRATEGIES

- 7.1 This policy links with other organisational policies and strategies, including:
- Risk Management Strategy
 - Corporate Finance Strategy
 - Housing Fraud Policy and Procedure
 - Money Laundering Procedure
 - Bribery Statement
 - Disciplinary Policy
 - Whistleblowing Policy
 - Code of Conduct
 - Gifts and Hospitality Policy

³ This is available to all employees on the intranet or via the People and OD Team

⁴ Protect is the whistleblowing charity which supports people to raise concerns and provides free, confidential advice

- DBS Policy
- Safeguarding Policy
- Financial Regulations
- Financial Scheme of Delegation
- Credit Card Procedure
- Contract Procedure Rules
- Governance Scheme of Delegation
- ICT Security Policy
- Digital Strategy

8 EQUALITY IMPACT ASSESSMENT

- 8.1 An Equality Impact Relevance Screening has been carried out and the results have determined that an Equality Impact Assessment is not required.

9 OWNERSHIP, MONITORING AND REVIEW

- 9.1 This policy has been developed by the Head of Assurance. This policy will be monitored on an ongoing basis to ensure it reflects best practice and remains fit for purpose. It will undergo a full review every three years.
- 9.2 Any instances of fraud will be reported to the Audit and Risk Committee in line with their Terms of Reference. When Stockport Homes owns more than 1,000 units in their own right and move to become a “Large Provider” under the Social Housing Regulatory Framework, an annual Fraud Report⁵ will be required to be developed and submitted to the Regulator as part of the annual reporting returns.

⁵ No later than six months from financial year end and to detail any losses from fraudulent activity

Appendix One: Corporate Fraud – Background Information for Stockport Homes Group

The following documents have been used as reference material in developing the Fraud Policy. These are the most up to date versions of these documents:

NHF COUNTERING FRAUD 2017

The National Housing Federation (NHF) published a book in 2017 entitled “Countering Fraud”, which was aimed at housing organisations specifically.

The book acknowledges the increasing sophistication of fraudsters and the diverse opportunities for fraud which are created by technological advances and changes in housing policy context.

The NHF summarised the fraud risk as being across seven main areas:

- Payroll fraud
- Procurement fraud
- Fraud within the finance function
- Cash handling
- Recruitment
- Development fraud
- Estates and maintenance fraud

In addition, reference was made to tenancy fraud (including Right to Buy / Right to Acquire fraud) and cyber risk. For information, SHG has separate housing fraud policies and procedures and cyber risk management falls within the SLA for ICT services that the Group has with Stockport Council.

ANNUAL FRAUD INDICATOR 2017

The Annual Fraud Indicator has been published for a number of years and was previously issued by the National Fraud Authority. Since this was closed in 2014, the publication has since been developed by the newly formed UK Fraud Costs Measurement Committee (UKFCMC). This is made up of Experian, PKF Littlejohn and the University of Portsmouth’s Centre for Counter Fraud Studies.

The Indicator raises the awareness of fraud risk and the cost of fraud to the UK annually. Key findings of the 2017 publication include:

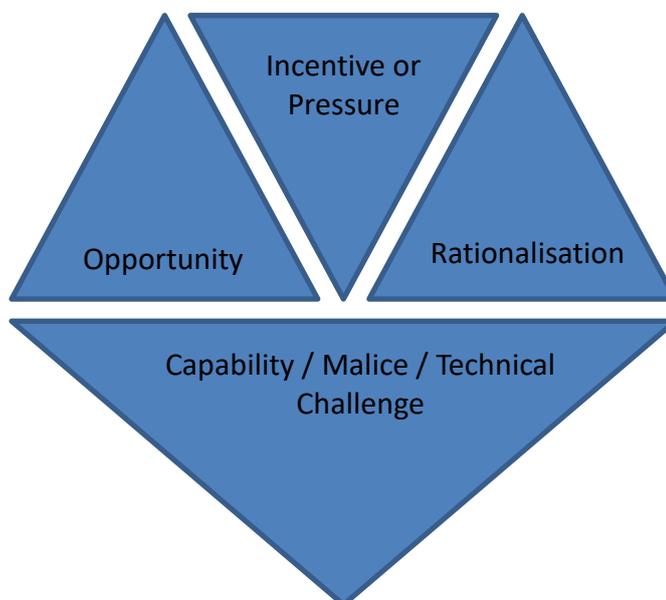
- Annual loss in the UK to fraud is £190billion
- £40.4billion of this was in the public sector (representing 21%)
- Figures for local government include:
 - £1.83billion lost to housing / tenancy fraud
 - £4.44billion lost to procurement fraud
 - £1.08billion lost to payroll fraud

Appendix Two: Fraud Risk Factors

Stockport Homes holds financial and other assets which could be deemed to be attractive to fraudsters, whether that is the physical social housing asset, or cash / opportunities. There are also a diverse range of moveable assets which have a value to other people. Dishonest people could therefore attempt to defraud the company in a number of ways.

The “four elements of fraud” diagram below describes the factors that cause someone to commit fraud. It contains four components, which if the fraudster perceives that they exist, could give rise to criminal behaviour.

The range of internal controls in place within SHG work together to minimise the risk of these four fraud factors coming together and leading to SHG incurring losses from fraudulent activity.



The most crucial element is the **opportunity** to commit fraud. It is therefore important that the opportunities to undertake fraud are eradicated, by both systems and processes and also that a strong anti-fraud culture exists.

A fraudster may feel **pressurised** by someone else to commit fraud or may feel pressure from elsewhere (e.g. unmanageable financial commitments at home, or a gambling addiction) which may lead them to seek out opportunities to commit fraud. In addition, there may be an **incentive** associated with committing fraud (e.g. organised crime group paying people to launder money).

Furthermore, where a fraudster can **justify / rationalise** their behaviour then there is a high risk that fraud will be undertaken. It is important to ensure good employee and customer relations exist to reduce the opportunities to rationalise fraud.

The final element relates to a person's **capability** to circumvent internal controls in a fraudulent manner. Corporate internal controls may be difficult to circumvent but there has been a national rise in cyber related / computer generated fraud, and it is important that IT systems remain tightly controlled. Access to systems will be tightly controlled to ensure unauthorised system access does not happen.

Signs that fraud could be being attempted include:

- Reluctance for someone to provide information to SHG
- Sudden changes in personal / financial circumstances
- Payments being offered from third parties
- Attempts to pay large sums of money (potentially in cash)
- Pressure to expediate business outside of normal timescales

Appendix Three: Investigation Procedure for suspicions of fraud, corruption or bribery

Stage 1: A suspicion is raised

There are a number of ways in which a suspected act of fraud, corruption or bribery becomes apparent.

When somebody has a suspicion, this may be raised verbally, but it is preferable for this to be in writing. This is order for a factual account of their suspicions, from their perspective, to exist in written form.

Anonymous reports are accepted but can be difficult to investigate and the reliability of the information may be questionable. Should colleagues have concerns, they encouraged to make these personally and will be supported to do so.

For colleagues, it is expected that they will inform their Manager or Head of Service where they have concerns in order that they can be raised at the relevant level.

If this is not possible or appropriate, then they can inform any Manager / Head of Service within the company and if needed can report concerns directly to the Head of Assurance. All reports will be dealt with confidentially.

Board Members would be expected to raise concerns with the Chief Executive or the Chair of the Board.

An employee raising a suspicion **must not**:

- Approach / accuse the individual directly
- Discuss their suspicions to other colleagues
- Attempt to investigate the matter themselves
- Make false accusations

The person receiving the report of suspected fraud **will**:

- Treat the issue seriously and confidentially
- Familiarise themselves with the Whistleblowing Policy and provide a copy to the employee if required
- Reassure the employee and explain the next steps
- Obtain / prepare written records of concerns, which may include
 - Background and nature of the suspicion
 - Details of those suspected to be involved
 - Reason why employee has concerns
 - Description of systems / controls / processes which exist in that area at present
- Not attempt to collect any further evidence or commence an investigation but retain evidence provided by the employee securely

- Report the issue to the Assistant Chief Executive immediately

The Assistant Chief Executive **will**:

- Be responsible for the immediate security and containment of physical assets and evidence which may be required in the investigation.
- Undertake further initial enquires, including reviewing key documents and examining key factors, if required
- Establish if the concerns raised provide reasonable grounds for an investigation to be commenced
- If an investigation is required, they will appoint a suitable and competent person⁶ to undertake the investigation (the Investigating Officer), including
 - Agreeing a terms of reference, objective and scope for the investigation
 - Considering communication with other organisations such as the Regulator, Internal Audit, External Audit, Legal Advisers, Insurers or the Police
 - Consider whether any additional resources are required to support the investigation
- Inform the Chair of the Board if a concern relates to a Board member
- Inform internal and / or external audit, as required
- Inform the Regulator, if required
- Decide how to prevent further losses, including liaising with:
 - The Group Head of People and Organisational Development to determine whether suspension of employee(s) is required
 - The Group Head of IT regarding system access and any vulnerabilities that need addressing
 - The Corporate Support Manager to disable access to particular buildings / locations.
- Immediately inform the Chair of the Audit and Risk Committee where a suspected fraud event / loss is considered to be suspicious and provide a report to the next Committee meeting

Stage 2: Conducting an investigation

The Investigating Officer **will**:

- Undertake the investigation as per the agreed scope
- Identify the possible culprit(s)
- Establish facts in an independent, objective and professional manner
- Ascertain total losses (where applicable)
- Deal promptly with the matter (ideally within ten working days)
- Record all evidence used / obtained
- Ensure evidence is sound and adequate
- Keep all evidence secure
- Interview relevant parties, including the employee(s) making the allegation, any witnesses and the alleged person(s)

⁶ The Investigating Officer may be an internal manager or Head of Service, or an external person, for example a manager from either internal or external audit

- Consider whether covert surveillance is required, and if so obtain the relevant authorisation and then undertake surveillance
- Keep the Assistant Chief Executive updated throughout
- Produce an Investigation Report, which is provided to the Assistant Chief Executive, detailing the outcome of the investigation

If there is no evidence of criminal activity, the Investigating Officer will continue with an internal investigation. If there is a suspicion of criminal activity, the Investigating Officer must consult with the Police. The Police may decide that they wish to conduct their own criminal investigation.

If this is the case, SHG will assist with their enquiries and will consider whether a disciplinary investigation should be undertaken at the same time. If the Police want the organisation to continue with an internal investigation this will be carried out in line with internal processes and the Police will be kept up to date.

Stage 3: Reporting on the investigation

The Investigating Officer **will**:

- Produce an Investigation Report for the Assistant Chief Executive. This will cover the following points:
 - Description of the incident
 - Value of the losses
 - People involved
 - Action taken
 - Assessment of the reliability of the evidence
 - Means by which the irregularity was perpetrated
 - Measures to prevent a reoccurrence
 - Action needed to strengthen controls in the area

If the conclusion is that fraud, corruption or bribery has been committed then the matter will be referred to the Group Head of People and Organisational Development to invoke the relevant disciplinary procedures. This may also be the case where misconduct is evident but not fraud, corruption or bribery. If the case relates to a Board Member, the Board Code of Conduct will be followed, led by the Chair of the Board.

If there is no evidence of an irregularity, the case will be closed.

A major objective of the investigation is to quantify and recover losses. The Assistant Chief Executive will lead the recovery process.

Appendix Four: Investigation Procedure for suspicions of money laundering

Where an employee has a money laundering concern, they should raise this with their line manager or Head of Service. If necessary, the employee can contact the Head of Assurance or the MLRO (the Assistant Chief Executive) directly. All information related to a suspicion of money laundering will be kept in a secure, confidential file.

The person receiving the report will secure any information provided to them and will write down the suspicions which have been raised. If the report hasn't been made directly to the MLRO, they must contact the MLRO immediately. They must not start an investigation or undertake disciplinary action without first seeking direction / guidance from the MLRO.

The MLRO will contact the person raising the suspicion. The MLRO will undertake a risk analysis and identify background information. If there are reasonable grounds for suspecting a money laundering offence has occurred, the MLRO will complete a Suspicious Activity Report and send this to the National Crime Agency (NCA) for assessment.

This can be done by following this link:

<http://www.nationalcrimeagency.gov.uk/contact-us/reporting-suspicious-activity-sar>

Where a particular transaction or activity raises suspicions of money laundering or terrorist financing, consent is required from the NCA before proceeding with the transaction. The NCA will respond within seven days of receiving the Suspicious Activity Report

If a decision isn't received from the NCA within seven working days from when they received the Suspicious Activity Report, SHG can proceed with the transaction or activity. An offence won't be being committed because consent is automatically assumed in law if no decision has been received after seven working days.

If SHG receives a decision within seven days but the NCA doesn't give permission to proceed, the NCA has a further 31 calendar days to take action. If after that further 31 days SHG has not heard anything from the NCA, the transaction can be proceeded with. An offence won't be being committed.

If the NCA do not allow a transaction to continue, the MLRO will be responsible for identifying the process / system / control weaknesses which led to an attempt to commit money laundering being made against the organisation. Improvements to processes / systems / controls will be identified and implemented as a matter of urgency.

A report will be provided to the next Audit and Risk Committee where the NCA has not allowed a transaction to proceed.