

Financial Crime Prevention Policy

Policy ref:

Policy author /holder Senior Legal Counsel and Legal Services Manager

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1 Introduction

- 1.1 This policy applies to all entities within the LiveWest Group (**LiveWest**). LiveWest Homes Limited is the parent company within the group structure.
- 1.2 LiveWest has a zero-tolerance policy to financial crime. This policy sets out a framework of preventative measures, including internal controls, designed to prevent financial crime in the first instance.
- 1.3 For the purposes of this policy, **financial crime** refers to fraud, tax evasion and foreign tax evasion (and its facilitation), bribery, corruption and money laundering. A summary of the law relating to fraud, tax evasion and its facilitation, bribery and corruption, money laundering is set out at paragraph **2** below:
- 1.4 This policy sets out LiveWest's approach toward:
- (a) fraud prevention;
 - (b) anti-facilitation of tax evasion;
 - (c) anti-bribery and corruption; and
 - (d) mitigating against money laundering and terrorist financing risks in respect of non-regulated activities only.
- 1.5 LiveWest's approach toward anti-money laundering in respect of specific activities which are classed as "regulated" under money laundering legislation is set out separately in the **Anti-Money Laundering Policy and Procedure for Regulated Activities**. For the purposes of the legislation, this includes the regulated activity of "estate agency work" where LiveWest acts in resales of shared ownership properties and "lending activities" where LiveWest administers historic equity loans.
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- 1.6 The financial crimes listed at paragraph **1.33** may be committed or facilitated by cybercriminals via LiveWest's computer systems. LiveWest's approach toward mitigating against the risk of and responding to potential incidents of cybercrime is set out in the policies and procedures noted within the **Information and Cyber Security Handbook**.
- 1.7 This policy applies to all entities within the LiveWest group and to all employees, officers and Board members.
- 1.8 LiveWest will uphold all laws relevant to countering financial crime, including the Criminal Finances Act 2017. However, we remain bound by UK laws, including the Bribery Act 2010, in respect of our conduct both at home and abroad.

2. Legal Framework

2.1 Fraud

- (a) The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing such an offence:
- (b) Fraud by false misrepresentation i.e., dishonestly making an untrue or misleading representation. This could be made verbally, in writing or by electronic means.
- (c) 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.
- (d) 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.
- (e) The term "person" includes an organisation.
- (f) 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.
- (g) Fraud carries a maximum sentence of 10 years' imprisonment.

2.2 Tax Evasion

- (a) For the purposes of this policy:
 - (i) Tax evasion means the offence of cheating the public revenue or fraudulently evading UK tax and is a criminal offence. The offence requires an element of fraud, which means there must be deliberate action, or omission with dishonest intent;
 - (ii) Foreign tax evasion means evading tax in a foreign country, provided that conduct is an offence in that country and would be a criminal offence if committed in the UK. As with tax evasion, the element of fraud means there must be deliberate action, or omission with dishonest intent; and
 - (iii) Tax evasion facilitation means being knowingly concerned in, or taking steps with a view to, the fraudulent evasion of tax (whether UK tax or tax in a foreign country) by another person, or aiding, abetting, counselling or procuring the commission of that offence. Tax evasion facilitation is a criminal offence, where it is done deliberately and dishonestly.

- (b) Under the Criminal Finances Act 2017, a separate criminal offence is automatically committed by a corporate entity or partnership where the tax evasion is facilitated by a person acting in the capacity of an "associated person" to that body. For the offence to be made out, the associated person must deliberately and dishonestly take action to facilitate the tax evasion by the taxpayer. If the associated person accidentally, ignorantly, or negligently facilitates the tax evasion, then the corporate offence will not have been committed.
- (c) LiveWest does not have to have deliberately or dishonestly facilitated the tax evasion itself; the fact that the associated person has done so creates the liability for LiveWest, unless LiveWest can show that it has in place 'reasonable preventative procedures' to prevent the criminal facilitation. This policy and the associated measures set out in the Framework aims to help prevent tax evasion and the facilitation of tax evasion by any person associated with us.
- (d) Tax evasion is not the same as tax avoidance or tax planning. Tax evasion involves deliberate and dishonest conduct. Tax avoidance is not illegal and involves taking steps, within the law, to minimise tax payable (or maximise tax reliefs).
- (e) In this policy, all references to tax include national insurance contributions.

2.3 Bribery and Corruption

- (a) Bribery is offering, promising, giving or accepting any financial or other advantage, to induce the recipient or any other person to act improperly in the performance of their functions, or to reward them for acting improperly, or where the recipient would act improperly by accepting the advantage.
- (b) A bribe does not have to be money. An advantage includes money, gifts, loans, fees, hospitality, services, discounts, the award of a contract or anything else of value.
- (c) A recipient of a bribe does not need to benefit personally.
- (d) A person acts improperly where they act illegally, unethically, or contrary to an expectation of good faith or impartiality, or where they abuse a position of trust. The improper acts may be in relation to any business or professional activities, public functions, acts in the course of employment, or other activities by or on behalf of any organisation of any kind.
- (e) Corruption is the abuse of entrusted power or position for private gain.
- (f) The Bribery Act 2010 reformed the criminal law of bribery, making it clearer and easier to tackle this offence and prosecute. It introduced a corporate offence of failing to prevent bribery by "associated persons". These are persons providing services for us or on our behalf and include, for example, colleagues, agents, subcontractors and joint venture partners.
- (g) Penalties for individual offenders under the Bribery Act are severe and include up to 10 years' imprisonment and an unlimited fine. LiveWest face an unlimited fine if we fail to prevent bribery and do not have "adequate procedures" in place to do so.

- (h) Colleagues found to have consented to or connived in an active, passive or public offence by LiveWest may be personally guilty of an offence under the Bribery Act. It is a criminal offence to offer, promise, give, request, or accept a bribe. Individuals found guilty can be punished by up to ten years' imprisonment and/or a fine.

2.4 Money Laundering

- (a) Money laundering is the process by which money derived from criminal activity is given the appearance of being legitimate. That means that the proceeds of crime are 'cleaned up' by various means and then fed back into the financial system to disguise the original source of the funds. It also covers money which is used to fund terrorism.
- (b) Money laundering can take a number of forms:
 - (i) Handling the proceeds of crime;
 - (ii) Being directly involved with criminal or terrorist property;
 - (iii) Entering into arrangements to facilitate laundering of criminal or terrorist property; and/or
 - (iv) Investing the proceeds of crime into other financial products, property purchase or other assets.
- (c) The principal money laundering offences are found in the Proceeds of Crime Act 2002 and are as follows:
 - (i) Section 327: concealing, disguising, converting, transferring criminal property.
 - (ii) Section 328: entering into or becoming concerned in an arrangement which facilitates another's retention, use or control of criminal property.
 - (iii) Section 329: acquiring, using or possessing criminal property.
- (d) The offences contained in the Terrorism Act 2000 are as follows:
 - (i) Section 15: providing funds with reasonable cause to suspect that they will be used for terrorism.
 - (ii) Section 16: uses or possesses money or other property with reasonable cause to suspect that they will be used for the purposes of terrorism.
 - (iii) Section 17: entering into or becoming concerned in an arrangement as a result of which money or other property is made available with reasonable cause to suspect that it is or may be used for terrorism.
 - (iv) Section 18: entering into or becoming concerned in an arrangement which facilitates another's retention or control of terrorist property.
- (e) Potentially any colleague could be caught by the money laundering rules if they know about or suspect money laundering and either become involved with it in some way and/or do nothing about it. Serious criminal sanctions will apply to those convicted of an offence under these rules. For conviction of a principal money laundering offence a person could be liable for up to 14 years imprisonment, a fine or both.

- (f) The terrorism legislation also includes a duty to disclose information if a colleague becomes aware of it during their employment (s. 19 Terrorism Act 2000). Disclosure must be made in respect of any belief or suspicion that a person has committed an offence as set out above at paragraph **(d)**. Failure to do so carries liability of up to 5 years imprisonment, a fine or both.

3. Responsibilities

- 3.1 The Board has overall responsibility for ensuring this policy complies with LiveWest's legal and ethical obligations.
- 3.2 The Executive Team (**ET**) is responsible for the implementation of this policy and monitoring its use and effectiveness.
- 3.3 The Head of Governance and Legal Services has responsibility for the day-to-day administration of this policy and will deal with any queries.

4. Scope

- 4.1 The purpose of this policy is to:
 - (a) set out LiveWest's responsibilities, and the responsibilities of those working for it, in observing and upholding its position on preventing financial crime; and
 - (b) provide information and guidance to those working for LiveWest on how to recognise, avoid and respond to financial crime.
- 4.2 As an employer, LiveWest recognises that it can face criminal sanctions where it is found to have failed to prevent financial crime, for example:
 - (a) if it fails to prevent its colleagues, workers, agents or service providers facilitating tax evasion, it can face criminal sanctions including an unlimited fine, as well as exclusion from tendering for public contracts and damage to its reputation; and/or
 - (b) if it fails to prevent bribery it can face an unlimited fine, exclusion from tendering for public contracts, and damage to its reputation,LiveWest therefore takes its legal responsibilities seriously.
- 4.3 LiveWest undertakes regular risk assessments in relation to financial crime. The activities or areas of operation within LiveWest that have been identified as being particularly vulnerable to the financial crime (together with the controls and mitigations we have in place) are set out in the **Financial Crime Prevention and Response Framework** (the **Framework**).
- 4.4 LiveWest expects colleagues to read, understand and comply with this policy. This policy should be read in conjunction with the **Financial Crime Colleague Guide** (the **Guide**).

5. Assurance

- 5.1 ET is responsible for the operation and effectiveness of this policy and the Framework and for ensuring that all relevant risk areas have been identified and all reasonable controls and mitigations are in place and will provide assurance annually to Board on this basis.
- 5.2 A report on the number of incidents of financial crime across the business, including lessons learned and consequent changes made to controls, will be provided to the Board on a regular basis by the Head of Governance and Legal Services or their delegate.

6. Prevention

- 6.1 LiveWest has operational policies and procedures in place within the business to mitigate the risks of financial crime to the business. These are set out in the Framework.
- 6.2 LiveWest's approach in respect of preventing, identifying and reporting potential incidents of financial crime is set out in the Guide.
- 6.3 All colleagues need to be aware that prevention and detection go hand in hand to tackle financial crime within the business and are an effective way to manage the risk of financial crime.

7. Training and Communication

- 7.1 Training on this policy forms part of the induction process for all individuals who work for LiveWest, and regular training will be provided.
- 7.2 The detail of any roll specific training is set out in the Framework.
- 7.3 LiveWest will communicate the requirement to comply with relevant legislation and regulations, have adequate controls in place and report any concerns of financial crime to report.fraud@livewest.co.uk to all suppliers, contractors and business partners at the outset of its business relationship with them and as appropriate after that.
- 7.4 All preferred suppliers to the business are required to also provide confirmation that they comply with the Bribery Act 2010 before they are able to provide goods or services to the business.

8. Breaches of this Policy

- 8.1 Any allegation that a colleague has breached this policy will be subject to LiveWest's disciplinary procedure and could result in dismissal for misconduct or gross misconduct.

- 8.2 LiveWest may terminate its relationship with other individuals and organisations working on its behalf if they breach any relevant legislation.
- 8.3 Breaches of this policy may be reported to regulatory or statutory authorities, or other third parties, in accordance with the relevant legislation.

9. Review

- 9.1 This policy and the associated procedures will be reviewed once every three years or more frequently if required by changes in regulation, legislation or as a result of any relevant incident.

10. Associated documents

10.1 Policies and Procedures

- Modern Slavery Policy
- Financial Crime Prevention Framework
- Financial Crime Colleague Guide
- Information and Cyber Security Handbook
- Anti-Money Laundering Policy for Regulated Activities
- Anti-Money Laundering Procedure for Regulated Activities