Counter Fraud, Bribery and Corruption Policy and Response Plan

1 Introduction

1.1 Fraud, bribery and corruption present significant risks to Highways England, not only in terms of the potential for financial loss, but also because of the reputational damage that can occur where cases are proven. Highways England is determined to manage this risk across the Company and its supply chain and endorses a zero tolerance approach to fraud, bribery or corruption. Highways England fully supports the ongoing development of an anti-fraud, anti-bribery and anti-corruption culture throughout the organisation.

1.2 The Company requires all staff to act honestly, with integrity, to safeguard and ensure propriety and regularity in the handling of the public funds for which they are responsible. Highways England views fraud, bribery and corruption as an extremely serious matter. It is defined as gross misconduct in the Staff Handbook and constitutes a criminal offence. As a government-owned company, we are expected to follow the requirements in HM Treasury Guidelines.

1.3 All staff and our supply chain should be very clear that any behaviour that supports or involves an act of fraud, bribery or corruption is unacceptable and will not be tolerated. All cases will be investigated thoroughly and dealt with through the appropriate channels.

1.4 Other policies and documents that should be read in conjunction with this policy are:

- *Raising Concerns at Work (whistleblowing)* policy
- *Managing Conduct* policy
- *Sanctions and Redress* policy
- *Anti-money laundering* policy
- *IT user* policy
- *Conflict of Interest* policy
- *Declarations of Interest* policy
- *Gifts and Hospitality* policy
- *Anti-Economic Crime Strategy*

1.5 We will consider all appropriate sanctions as set out in our sanctions and redress policy whenever appropriate to do so. In proven instances of fraud, bribery and corruption, Highways England will take appropriate action, legal or otherwise, to recover any financial losses that have been incurred as either a direct or indirect result of fraud. This includes seeking redress through the civil court process by utilising the *Proceeds of Crime Act 2002*.

2 Definitions

2.1 Fraud, bribery and corruption all have specific, but similar characteristics as determined within law. For practical purposes the following definitions are used:

- Fraud - the dishonest use of deception with the intention of obtaining an advantage, causing loss to another or exposing another to a risk of loss
- Bribery – a financial or other advantage that is offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of such an advantage would constitute the improper performance of such a function or activity
- Corruption - the misuse of private or public office to obtain a financial advantage

3 Scope

3.1 This policy relates to any form of known or suspected fraud, bribery or corruption. It applies to all staff, including employees, contractors, sub-contractors or any other party with a business relationship with Highways England. This policy sets out staff responsibilities regarding both the prevention of fraud, bribery or corruption and the procedures to be followed where they are detected or suspected. It also sets out arrangements in place to manage the risk of fraud, bribery or corruption within the supply chain.

3.2 This policy will be brought to the attention of all employees within Highways England and will form part of the induction process for new starters. The policy will also form part of Highways England's on-going counter-fraud, bribery and corruption awareness training programme.

4 Responsibilities

4.1 Responsibility for the prevention and detection of fraud, misappropriation of assets, and other irregularities rests with all Highways England staff. However, certain roles carry a greater level of responsibility for ensuring that:

- Effective controls are in place to prevent and detect fraud

- A framework for investigating incidents when they occur, is established and working to professional and legal standards
- Regular reporting on the outcome of all allegations is undertaken to the Highways England Board.

These roles are:

- Chief Executive (as the Accounting Officer)
- Chief Financial Officer
- Executive Director Human Resources & Organisational Development
- Executive Director Commercial and Procurement
- Corporate Assurance Director
- Corporate Counter-fraud Manager (CCFM)
- General Counsel
- Company Secretary

4.2 Any suspicions of fraud must be reported to the senior management will be familiar with the types of fraud that might occur within their area of responsibility; they should be alert for any indication of irregularities or misconduct and report it immediately, when detected. Line managers should be alerted where staff believe that the opportunity for fraud exists because of poor procedures, or lack of effective supervision and should report details immediately.

4.3 Any suspicions of fraud must be reported to the Confidential Reporting helpline or email address immediately, in accordance with the Fraud Response Plan within the Appendix.

4.4 The CCFM is responsible for coordinating and progressing all criminal investigations in accordance with due process and the rule of law.

5 Managing the risk of fraud, bribery and corruption

5.1 This policy falls within the domain of the Company's Anti-Economic Crime Strategy. The Strategy adopts a risk-based approach to identifying, preventing and tackling attempted fraud, bribery and corruption. The approach addresses the Company and its key business relationships, recognising that economic crime within the supply chain could be costly to Highways England, and that significant economic crime within our supply chain would inevitably have an impact on the Company's reputation.

Appendix

Fraud, Bribery and Corruption Response Plan

1 Reporting Procedures

1.1 Anybody who discovers or suspects fraud, bribery or corruption that targets or involves Highways England should use the confidential reporting mechanism by telephone or email as follows:

Whistle_blowing@highwaysengland.co.uk

Telephone: 0300 470 3680

1.2 An employee or member of the public can raise concerns of fraud, bribery or corruption anonymously. Staff may exercise their right to raise their concerns in accordance with the Highways England *Raising Concerns at Work* (whistleblowing) policy.

1.3 Any individual raising concerns of fraud will be asked not to:
- Contact the subject of the investigation, or
- Discuss the case, any facts, suspicions, or allegations with anyone unless specifically required to do so by the Corporate Counter Fraud Manager (CCFM) or a member of Highways England's General Counsel.

1.4 Under no circumstances will employees of Highways England communicate the details of a live fraud investigation within the organisation to the media without the prior written authorisation from the CCFM and the Highways England communications team.

1.5 Investigators and managers need to ensure that everyone with a need to know is kept suitably briefed throughout the investigation and at the reporting, acting on findings and debriefing stages. Communication with any person(s) about whom concerns are raised needs to be conducted in accordance with the Company's HR policies. The person who raised concerns should be kept up to date, with due regard to confidentiality.

1.6 There will always be a balance to be struck between communication and confidentiality, therefore those persons or categories of persons who need to know should be clearly identified at each stage of the investigation plan, so that assurances on confidentiality can be given where required.

1.7 Should individuals be required to attend court and give evidence as a result of their part in a fraud, bribery or corruption related investigation, Highways England will take all necessary steps to inform them of their court appearance and will take necessary steps to support them throughout the trial process.

2 Important information for those reporting fraud, bribery or corruption

2.1 Things to do:

2.1.1 Bring the matter to the attention of the Corporate Counter Fraud team by use of the reporting mechanisms at 1.1 above without delay.

2.1.2 Write down your concerns immediately – make a note of all relevant details such as what was said in phone or other conversations, the date, the time and the names of anyone involved.

2.1.3 Retain any evidence, particularly if there is a risk that it can be lost or destroyed.

2.1.4 Make sure your suspicion is supported by facts, rather than speculation.

2.1.5 Stay calm – remember you are a witness not a complainant

2.2 Things NOT to do:

2.2.1 Do NOT confront the suspect(s)

2.2.2 Do not convey your concerns to anyone other than those authorised to deal with the matter.

2.2.3 Never attempt to question a suspect yourself; this could alert the perpetrator, or lead to an innocent person being unjustly accused. It could also lead to the loss of crucial evidence or lines of enquiry.

2.2.4 Do not use the process to pursue a personal grievance or agenda.

2.3 Important points to note:

2.3.1 You may be mistaken or there may be an innocent or good explanation – this will come out in the investigation.

2.3.2 If you have made a report in good faith and there turns out to be no foundation to your concerns, don't worry – there will be no impact on those suspected and in most circumstances they will not be aware that allegations were made against them.

2.3.3 The process may be complex and you may not be thanked immediately. This might lead to a period of disquiet or distrust in the organisation despite your having acted in good faith – please be patient.

3 Investigating Responsibilities

3.1 The CCFM has primary responsibility for the investigation of all suspected cases of fraud, bribery and corruption as defined by this policy.

3.2 Under no circumstances, are employees of managers of Highways England to conduct their own enquiries into allegation of fraud, misappropriation of assets or suspected misconduct.

3.3 On discovery of potential fraud, bribery or corruption, managers or staff must not knowingly or recklessly take any action that could prejudice the subsequent collection of evidence or influence potential witnesses or the outcome of a potential criminal investigation.

3.4 The Counter Fraud team check the reporting email and telephone voicemail daily. All referrals are brought to the attention of the CCFM within two working days of receipt and a triage process is undertaken to determine whether the matter needs to be passed to another team or agency. Where this is the case, this is done without delay.

3.5 In all cases the referral will be treated in a pragmatic and proportionate way. Investigations will never be avoided because they are difficult, however where there are clearly no grounds for an investigation, other more appropriate responses will be considered and the reasons for them documented.

3.6 Where the referral requires an investigation or initial fact-finding by the Corporate Counter Fraud team, it is assigned to one of the investigation team and an investigation plan is developed. This is signed-off by the CCFM and the investigation begins.

3.7 The referral is given a unique reference number and logged in a tracker database to which only the Corporate Counter Fraud team have access.

3.8 In certain circumstances, depending on the nature of the allegation, immediate action may be required to prevent harm, damage or loss. In these circumstances the CCFM will discuss the matter with the Corporate Assurance Director to ensure that decisions and actions are taken without delay.

3.9 Where, as a result of an investigation suspicions of fraud, bribery or corruption are substantiated, the CCFM will issue a report to the appropriate designated personnel for action. A summary report will be provided to the Highways England Counter-fraud Group and to the Board, for information via the Highways England Audit and Risk Committee.

3.10 law enforcement and regulatory agencies for independent investigation will be made in conjunction with Highways England General Counsel and senior managers. Any appropriate sanctions or redress will be considered and progressed in accordance with the Highways England Sanctions and Redress Policy.

3.11 Any reactive investigation as a result of concerns of fraud, bribery or corruption will be conducted in a professional and objective manner. There will be no regard to the subject's length of service, position, title or relationship with Highways England.

3.12 Any matter involving potential fraud, bribery or corruption involving Highways England should be referred to the Corporate Counter Fraud team for further investigation, as set out at 1.1 above. These matters are taken seriously and additional action, such as disciplinary proceedings and prosecution, will be taken where evidence of offences is found.

3.13 All investigations work will be carried out in line with legislative requirements. Use of the *Police and Criminal Evidence* legislation is rigidly adhered to by Highways England investigators, ensuring that all investigations are conducted in line with the *Human Rights Act 1998*. In addition, all investigations are conducted in accordance with the *Data Protection Act* and the *General Data Protection Regulations.*

4 Authorisation for investigating suspected fraud, bribery or corruption

4.1 The Highways England Corporate Counter-fraud team will have:

4.1.1 Free and unrestricted access to all Company records and premises, whether owned or rented.

4.1.2 The authority to examine, copy, and or remove all or any documents, files, or material(s), whether in electronic format or otherwise, that is or are deemed as evidence of fraud, bribery or corruption, with the written authority of the Corporate Assurance Director.

4.1.3 The authority to search any desks, cabinets and or other Highways England storage facilities on Highways England property or premises without the prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation with the written authority of the Corporate Assurance Director**.**

4.2 All criminal investigations will be progressed in an ethical and timely manner so that the pursuit of potential sanctions is not compromised.

5 Prevention of further losses

5.1 Once actual or potential losses have been identified it is important that effective and timely action is taken to prevent further losses. It may however be decided that a better standard of evidence can be obtained by allowing limited further losses.

5.2 The CCFM should, at an early stage in the process, complete a preliminary assessment of the potential for further losses and how best to prevent them. The CCFM should make recommendations to senior management as to what, if any, immediate actions are necessary.

5.3 Actions taken at an early stage may have to be circumspect so as not to alert suspects who have yet to be suspended or cautioned. It may also be important not to lose or compromise the forensic value of data by precipitate action. It may nevertheless be necessary to act quickly e.g. to stop salary payments to suspects who are to be dismissed.

5.4 As the investigation continues, and more information emerges, further recommendations for action may be needed. At the end of the investigation the Corporate Counter Fraud team should review all the actions taken to prevent further losses and to report on this in the final report.

The following are examples of actions that would constitute fraud. These examples are not exhaustive.

Fraud is broadly defined as dishonestly providing false, inaccurate or misleading information in order to gain a financial benefit. This could include, but is not limited to, the following examples:

- Submitting false time sheets
- Submitting false invoices
- Providing false information in job application forms
- Providing false information in relation to work claimed to have been completed
- Falsely reporting material information that would form the basis of a legal contract
- Failing to declare material information that an individual is under a legal duty to disclose
- Working for an alternative employer whilst reporting sick from Highways England
- Abusing a position of responsibility for personal gain or to the detriment of the Company

The following are examples of actions that would constitute bribery and corruption. These examples are not exhaustive.

Corruption is defined as the misuse of private or public office to obtain a financial advantage. Bribery is when a person offers, gives or promises to give a "financial or other advantage" to another individual in exchange for "improperly" performing a "relevant function or activity". Examples could include:

- Hiring an unqualified relative to get a contract
- Paying an individual ***not*** to do their job, or to turn a blind eye to illegal or immoral acts
- Paying an individual to award a contract or make an offer of employment to a relative or friend
- Giving an individual extravagant gifts in order to win a contract or gain preferential treatment
- Accepting money or an extravagant gift to by-pass the job rules
- Continuing with a business arrangement that is not in the best interest of the organisation because it benefits the individual who is receiving a financial benefit either in money terms or by way of gifts
- facilitation payment is a payment made to a government official to facilitate approval of some type of business transaction or activity. Facilitation payments are regarded by the Bribery Act 2010 as a bribe and are viewed as such by the Company. They will not be tolerated.