

# **Counter Fraud Policy**

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# 1. Introduction

## 1.1 Purpose

The Counter Fraud Policy ("the Policy") is designed to help the SSSC to minimise the risk of fraud, bribery and corruption and dealing with any identified or suspected instances of fraud and/or corruption. The policy and procedure comprise the framework. The key objectives of the policy are to reduce the opportunity for fraud and corruption and to create a culture where fraud and corruption is unacceptable.

It is important to have strong and effective arrangements in place for managing the risk of fraud, bribery and corruption and ensuring the interests of the SSSC are safeguarded, including its reputation.

We recognise that there is a strong correlation/relationship between good governance and good counter fraud operations. Excellent conduct and high standards of behaviour are essential to ensure we reduce the risk of fraud, bribery or corruption.

We are committed to the highest possible standards of openness, probity and accountability. We expect that employees and Council and Panel Members all levels will protect the SSSC and its resources and lead by example, ensuring high standards of personal conduct and adherence to our policies, procedures and rules.

We expect the same level of honesty from our partners, agents, contractors, suppliers and the public in all interactions.

The Policy outlines our approach to dealing with detected and reported instances of fraud, bribery, and corruption and how this fits with our other policies and procedures. It also outlines our commitment to seek remedy and take action/prosecute those responsible for fraudulent or corrupt acts.

The Policy forms part of our wider governance arrangements that are designed to make sure that we conduct our business effectively and properly, including safeguarding our resources and effectively meeting our responsibility for the safe stewardship of public money.

We will not tolerate fraud. Employees found to be committing fraud or corrupt acts can face dismissal under the disciplinary process.

We will take criminal and/or civil action against those responsible for fraudulent or corrupt acts if it is in the public interest to do so.

## 1.2 Scope

This policy applies to all temporary and permanent Scottish Social Services Council employees, Council Members, Panel Members, secondees, agency staff, contractors, consultants, suppliers, registrants and partner organisations.

## 1.3 Definitions

### **Fraud**

In Scotland fraud offences are mainly dealt with under common law, although there are also some statutory offences of fraud. There are three types of fraud:

- Common law fraud
- Uttering
- Embezzlement.

Each of the above has a slightly different fraud definition. The three main definitions are given below.

- **Common Law Fraud:** Fraud is committed when someone is caused to do something they would not otherwise have done by use of deception. In order for a fraud to have taken place, there must be an intention to deceive. The range of conduct held by Scottish Courts to amount to fraud is very wide.
- **Uttering:** Uttering occurs when someone tries to pass off a forged document as being genuine to the prejudice of another person. There must be an intention to defraud or to cause prejudice for an offence to have been committed.
- **Embezzlement:** Embezzlement is the appropriation of property without the consent of the owner by a person in a position of trust, such as an employee. In most cases, embezzlement involves the appropriation of money.

Put simply, fraud offences are a dishonest act where an individual deliberately does something dishonest or abuses their position with the intent of gaining a benefit/advantage for themselves or to cause someone else a disadvantage. Benefits can be cash, the avoidance of a fine or penalty or the receipt of goods and services.

Some examples of fraud include:

- dishonest action by staff to obtain a benefit eg working whilst on sick leave, false expenses, false overtime, false annual leave/flexi recording, embezzlement of cash or goods and procurement fraud

- account fraud eg fraudulent account transfers to employee account, fraudulent account transfer to third party account and fraudulent account withdrawal
- employment application fraud eg false qualifications, false references or use of false identity
- unlawfully obtaining or disclosure of personal data by staff or third party eg fraudulent use of customer/payroll data, modification of customer payment instructions and contravention of our Digital Security Policy with intent to facilitate the commission of a criminal offence
- unlawfully obtaining or disclosure of commercial data eg contravention of our Digital Security Policy with intent to facilitate the commission of a criminal offence.

## Theft

Fraud is different to theft. In Scotland theft offences are mainly dealt with under common law. A definition of theft is the taking of the goods or property of another without consent and with the intention of depriving the owner of them.

Put simply, theft offences are again a dishonesty offence where an individual deliberately and dishonestly takes something (this can be something physical such as cash or an item or an intellectual property item such as an idea or design), that is not theirs to take and uses it for their own purposes without permission.

Examples of theft include the stealing of assets/goods/stocks, misuse of public funds for purposes other than they were made available or theft of cash or equipment.

## Bribery

Bribery is defined in the Bribery Act 2010 ("the Act"). Broadly, the Act defines bribery as *"giving or receiving a financial or other advantage in connection with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith"*.

Put simply, bribery is the offering or acceptance of an incentive to do something that you know that you shouldn't or not do something that you know you should. Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event.

The Act created four main bribery offences:

- bribing another person
- requesting or accepting a bribe

- bribing a foreign official
- failure of a commercial organisation to prevent bribery.

Whilst the SSSC is not normally considered to be a “commercial organisation”, the term is used to describe any organisation in the UK that engages in commercial activities regardless of whether it pursues charitable, education aims or purely public functions. For the purposes of applying the Act, the SSSC is treated as a commercial organisation and, therefore, needs to take appropriate steps, including the provision of appropriate procedures, to prevent bribery taking place.

Examples of bribery would include: the offering or acceptance, by any those to whom this Policy applies and listed at 1.2, of any incentive for them to do something that they should not such as: make a decision contrary to policies or procedures or disclose information that they should not. This could be offering tickets to a football match to gain advantage or information on the awarding of a contract but there are many other possibilities.

Previously, the term ‘corruption’ was used to describe fraudulent acts and bribes. This term is now used collectively to refer to dishonest acts covered by the outlined acts.

### **Monitor and review**

We continually review our counter fraud, bribery and corruption arrangements. We will review this policy every three years (or earlier if legislation changes or circumstances change or to incorporate current best practice). We will outline minor amendments in the change log and update the version control. Where there are major changes, we will consult more widely and follow the consultation cycle.

In assessing the effectiveness of our arrangements, we will consider:

- the extent to which key personnel are trained in detecting and investigating fraud and corruption
- fraud, bribery and corruption risks and new areas of fraud/bribery/corruption – fraud, bribery and corruption are ever developing risks and arrangements need to continually evolve to maintain a robust response
- identified incidents of fraud and corruption
- action taken against perpetrators and attempts to recover losses
- our response to identified weaknesses in our systems and controls
- opportunities arising from developments in technology affecting our ability to prevent and detect fraud, bribery and corruption
- how we use data sharing and joint working initiatives to prevent and detect fraud.

We produce an Annual Counter Fraud Report showing the outcomes of our work in this area.

We keep abreast of developments. We obtain information from a range of sources and used it to keep our plans up to date, including from Audit Scotland, Scottish Government and our Internal Auditors.

## 2. Principles

All parties treat any information communicated to them in connection with an investigation as confidential. Involvement and awareness of suspected cases being dealt with under this policy will be restricted appropriately.

No action will be taken without a full investigation being carried out, where possible, and where appropriate a formal Disciplinary Hearing being held where instances involve staff.

We will refer all matters to Police Scotland which involved suspected criminal conduct.

Staff are expected to comply with the SSSC Code of Conduct and Members are also expected to comply with their Code of Conduct and the ethical standards set out in the Ethical Standards in Public Life etc. (Scotland) Act 2000.

The SSSC align to the five internationally recognised counter fraud principles:

1. **There is always going to be fraud** - It is a fact that some individuals will look to make gains where there is opportunity, and organisations need robust processes in place to prevent, detect and respond to fraud and corruption.
2. **Finding fraud is a good thing** - If you don't find fraud you can't fight it. This requires a change in perspective, so the identification of fraud is viewed as a positive and proactive achievement.
3. **There is no one solution** - Addressing fraud needs a holistic response incorporating detection, prevention, enforcement and redress, underpinned by a strong understanding of risk. It also requires cooperation between organisations under a spirit of collaboration.
4. **Fraud and corruption are ever changing** - Fraud, and counter fraud practices, evolve very quickly and organisations must be agile and change their approach to deal with these evolutions.
5. **Prevention is the most effective way to address fraud and corruption** - Preventing fraud through effective counter fraud practices reduces the loss and reputational damage. It also requires less resources than an approach focused on detection and recovery.

## 3. Roles and responsibilities

### 3.1 Audit and Assurance Committee

Responsible for:

- approving this policy and procedure
- making sure that the application of this policy does not breach any statutory requirement placed upon the SSSC
- reviewing the risk management arrangements for the SSSC and the effectiveness of the Internal Audit function
- monitoring, via Internal Audit reports and the annual report on counter fraud, bribery and corruption prepared by the Fraud Liaison Officer, the implementation of agreed management actions to improve the control environment and take action where management do not implement these actions
- providing support to the SSSC arrangements including appointing a Counter Fraud Champion from the membership of the Committee
- noting the Fraud Liaison Officer's annual report on counter fraud and endorsing progress taken.

### 3.2 Fraud and Liaison Officer (FLO)

Responsible for:

- working with EMT to ensure there are strong and effective arrangements in place for managing the risk of fraud, bribery and corruption and ensuring the interests of the SSSC are safeguarded, including its reputation
- developing and maintaining a Counter Fraud Policy
- raising awareness with aim of reducing risk of fraud, corruption and bribery
- working with Organisational Development to make sure we provide sufficient resources and sufficiently train staff to fulfil our counter fraud, bribery and corruption aims and properly investigate suspicions of fraud, bribery and corruption
- advising on legal proceedings where there have been legal breaches
- advising on the recovery of assets and losses where appropriate
- providing advice to employees wishing to raise concerns

- working with HR to make sure recruitment and selection policy and procedures delivers high quality personnel with suitable levels of integrity into the SSSC's employment
- facilitating investigations under SSSC procedures
- briefing EMT on specific cases
- keeping the Audit and Assurance Committee informed which includes making regular reports and/or presentations.

Our Fraud Liaison Officer is Anne Stewart, Head of Legal and Corporate Governance. In the absence of the FLO, EMT will nominate someone to carry out their duties under the Policy.

### 3.3 Counter Fraud Champion

Responsible for:

- working with the FLO to promote an anti-fraud culture and raise the profile of counter fraud and bribery initiatives and publicity
- having oversight of and, where possible be involved in, any initiatives for deterring and disabling fraud and bribery
- supporting and liaising with the FLO.

Our Counter Fraud Champion is David Heaney, Member of the Audit and Assurance Committee.

### 3.4 Executive Management Team

Responsible for:

- the implementation of the Policy
- delegating responsibilities related to the Policy to Operational Management Team (OMT) and line managers
- making sure that managers and staff receive appropriate development, support and training to implement the Policy appropriately
- promoting an organisational culture that accords with the principles of public life and this policy
- providing leadership by advocating and promoting the SSSC arrangements and supporting action when the arrangements are ignored

- working with the FLO to ensure there are strong and effective arrangements in place for managing the risk of fraud, bribery and corruption and ensuring the interests of the SSSC are safeguarded, including its reputation.

## 3.5 Operational Management Team

Responsible for:

- making sure their managers and staff are aware of the processes to be followed within this policy and procedure
- designing and operating systems and procedures that will minimise losses due to fraud, bribery, and other dishonest action
- providing leadership by advocating and promoting the SSSC arrangements and supporting action when the arrangements are ignored.

## 3.6 Managers

Responsible for:

- designing and applying controls in their area as appropriate to prevent and detect fraud, bribery and corruption
- making sure all their staff are adequately trained on procedures and controls they need to comply with and they follow them
- assisting those charged with the investigation of a concern and providing evidence to support any investigation or to investigate concerns, where agreed
- reporting all suspected financial irregularities or financial impropriety brought to their attention.

## 3.7 Employees, Panel Members, Council Members, secondees, agency staff, contractors, consultants, suppliers, registrants and partner organisations

Responsible for:

- promptly reporting suspected concerns or irregularities through the arrangements in our procedures "What to do if you suspect fraud, bribery or corruption"
- co-operating fully and promptly with an investigation

- upholding a positive counter fraud, bribery and corruption culture
- undertaking counter fraud, bribery and corruption training as arranged
- complying with Codes of Conduct as appropriate together with any additional code of conduct or ethics relating to their professional qualifications or status
- acting in accordance with Financial Regulations and procurement policy and rules
- declaring any interests and offers of gifts and hospitality that are in any way related to the SSSC.

## 3.8 Internal Audit

Responsible for:

- supporting the SSSC in preventing and detecting fraud, bribery and corruption
- providing assurance on the appropriateness and effectiveness of systems and procedures by carrying out reviews designed to test (amongst other things) the adequacy of SSSC's internal financial and other controls and arrangements for preventing and detecting fraud and corruption
- working with SSSC to support the prevention of and investigation of fraud or corruption and as appropriate, liaising with the FLO to recommend changes in procedures to prevent further losses to the SSSC
- referring and liaising with SSSC when a fraud referral is received directly.

## 3.9 External Audit

Responsible for:

- reviewing the SSSC's accounts to ensure they are free from significant fraud and error
- referring and liaising with SSSC when a fraud referral is received directly.

# 4. Policy

## 4.1 Counter fraud measures

We take our responsibilities to protect the public purse very seriously and we are committed to the highest standards of openness and accountability to ensure the proper use and protection of public funds and assets. We will not tolerate fraud, bribery or corruption in any area of our activity and we will take all reasonable

steps to prevent fraud (where possible), investigate fraud where it is detected or reported and pursue appropriate formal action against those involved in fraudulent or corrupt activities. We may publish cases where prosecutions are successful to act as a further fraud and corruption deterrent.

Our approach to this is based on three key themes:

Prevent	Detect	Investigate
Preventing and detecting more fraud	Acknowledging and understanding fraud and fraud risks	Being stronger in punishing fraud and recovering losses
<ul style="list-style-type: none"> <li>• Making better use of information technology.</li> <li>• Enhancing fraud controls and processes.</li> <li>• Developing an effective anti-fraud culture.</li> </ul>	<ul style="list-style-type: none"> <li>• Assessing and understanding fraud risks.</li> <li>• Committing support and resources to tackling fraud.</li> <li>• Maintaining a robust anti-fraud response.</li> </ul>	<ul style="list-style-type: none"> <li>• Prioritising fraud recovery and the use of civil sanctions.</li> <li>• Developing capability and capacity to punish fraudsters.</li> <li>• Effective collaboration across the public sector and with law enforcement.</li> </ul>

The SSSC will pursue a range of options, as appropriate to each case, including:

- pursuit of civil or criminal sanctions through the courts
- internal disciplinary action against any employee committing fraudulent or corrupt acts using the SSSC’s Disciplinary Policy
- applying for sequestration where an individual has a poor history of paying
- recovery from any current salaries or by way of an earnings arrestment
- referral of any detected fraudulent or corrupt acts to the relevant professional bodies as appropriate.

## 4.2 Key elements – Detect

The Policy is part of the wider governance framework which includes other key policies such as the Codes of Conduct, financial and contract procedure rules, Whistleblowing Policy etc.

Recognising that fraud and/or corruption exists is key to tackling fraud and corruption in any organisation.

We manage fraud, bribery and corruption risk through the existence, and application, of appropriate policies and procedures and through the introduction of relevant control systems.

Managers have overall responsibility for acknowledging, assessing, and managing the individual fraud risks relevant to their service areas. The FLO can provide advice and assistance to managers.

Internal audit will acknowledge and seek to include the review of fraud risks on any internal audit work carried out.

Key to detection is the development and maintenance of a counter fraud and corruption culture. Key counter fraud and corruption deterrent measures include:

- disciplinary and grievance arrangements
- a commitment to pursue actions against those who commit fraud, bribery and corruption and use of internal disciplinary arrangements
- publication of an annual fraud report to publicise activity undertaken and its results
- counter fraud, bribery and corruption training
- awareness of fraud risks
- confidential reporting (whistleblowing) procedures. Our Whistleblowing Policy sets out our procedures and we report annually on the number of whistleblowing reports
- cyber risk measures
- deep dive risk interrogation.

In addition to the above, proactive fraud, bribery and corruption detection and assurance activities both increase awareness and overall fraud detection levels.

Examples include:

- participation in the National Fraud Initiative (NFI) which is a counter fraud exercise led by Audit Scotland, assisted by the Cabinet Office. It uses computerised techniques to compare information about individuals held by different public bodies, and on different financial systems and databases, to identify circumstances (matches) that might suggest the existence of fraud or error. The NFI allows public bodies to investigate these matches and, if fraud or error has taken place, to stop payments and attempt to recover the amounts involved.

- auditors to assess the arrangements that the bodies have put in place to prevent and detect fraud, including how they approach the NFI exercise itself. The SSSC participates in this exercise which is carried out every two years.
- periodic checks on systems, processes and areas by internal audit
- process/procedure compliance checks
- provision of advisory services by the Legal, Finance and HR teams and internal audit.

## 4.3 Key elements – Prevent

We have a Code of Corporate Governance, Scheme of Delegation and Financial Regulations which identify responsibilities for decision making and includes various contract and financial procedure rules. Everyone listed at 1.2 must comply with these rules and requirements where they apply.

We aim to have in place efficient and effective systems of control that as far as possible prevent potential fraud. The prime responsibility for maintaining such systems lies with managers. Support is given by our Internal Auditors who provide an independent appraisal of the integrity of internal control systems.

Key internal procedural and control initiatives in place to prevent fraud include:

- this Policy
- Scheme of Delegation
- Financial Regulations
- compliance by staff, Council and Panel Members with respective codes of conduct
- a Register of Interests to enable Council and Panel Members and employees to record any financial or non-financial interests that may bring about conflict with the SSSC's interests
- a Register of Gifts and Hospitality to enable employees to record gifts and hospitality either received, or offered and declined
- a Risk Management Policy, strategy and procedures
- suitable and enforced procurement rules
- robust recruitment and selection procedures including referencing and criminal records checked and reviewed every three years
- internal audit review of our internal controls.

## 4.4 Key elements – Investigate

Pursuing suspected fraud and error is also a key factor in the success of counter fraud, bribery and corruption activities across any organisation. The SSSC has procedures which detail our fraud and corruption response arrangements to enable us to properly and effectively deal with any information gained or allegations made as set out in the Policy.

Details on how to refer suspected fraud, bribery or corruption for investigation can be found in 4.5 of this Policy and within our procedure “What to do if you suspect fraud, bribery or corruption”, or Whistleblowing Policy. These are available on our intranet and website.

In addition to the above, it is recognised that the complaints against the SSSC’s procedures also have a part to play. Complaints against the SSSC can be the first port of call for non-employees wishing to raise a concern. It is important that we deal with concerns about fraud, bribery or corruption through the Policy rather than as a complaint against the SSSC.

## 4.5 Reporting and investigating suspected fraud or wrongdoing

If you suspect fraud or wrongdoing, you should report this via one of the following routes.

- Contact the FLO – Anne Stewart, Head of Legal and Corporate Governance [anne.stewart@sssc.uk.com](mailto:anne.stewart@sssc.uk.com).
- Contact the Counter Fraud Champion, David Heaney, Council Member, [david.heaney@sssc.uk.com](mailto:david.heaney@sssc.uk.com).
- Contact Crimestoppers on 08000 151628. This offers access 24 hours a day and seven days a week, with complete anonymity and confidentiality.
- Contact our Internal Auditors, David Archibald, 01382 200055 or [David.Archibald@hlca.co.uk](mailto:David.Archibald@hlca.co.uk).

## 4.6 Investigation

The procedure sets out how we will deal with the investigation of any suspected fraud or other wrongdoing.

The FLO will carry out initial checks and if the suspicion seems well founded, they will consult with senior management to decide on next steps in the investigation and who to notify eg Police Scotland, Scottish Government Sponsor, the Chair of Audit and Assurance Committee, the Internal Auditors, the

reporting individual and others including the subject of the allegation if appropriate.

The FLO will appoint an investigating officer. The circumstances of each case will dictate who we will involve and when and the sequencing of any investigations.

Where the case involves an employee, we will refer to the Head of Human Resources to oversee the investigation and take any appropriate action under our Disciplinary Policy.

Where the case involves a contractor, we will refer the matter to the Procurement Team to take any appropriate action.

Where the case involves a Council Member, we will refer the matter to the Ethical Standards Commissioner to take any appropriate action.

Where the case involves an allegation of criminal activity, we will refer the matter to Police Scotland to take any appropriate action.

## 4.7 Post-investigation review

It is important for the FLO in conjunction with the Internal Auditors and senior management, to consider actions to minimise the risk of a potential repeat of the incident. The actions will include implementation of any recommendations, review of lessons learned and completion of a risk assessment.

Where recovering a loss is likely to require a civil action, we must seek legal advice. Such action should only be progressed under the authority of the FLO.

We seek to work with our partner agencies and other government agencies to take action against those that commit fraudulent or corrupt acts. We share information as appropriate with partner agencies wherever there is a clear and legal path for doing so.

The FLO will report to the Audit and Assurance Committee.

## 5. Further information

### 5.1 Related documents

- Financial Regulations
- The Whistleblowing Policy
- The Employee Code of Conduct
- The Council Members Code of Conduct
- Panel Members Code of Conduct
- Disciplinary Policy and procedures

- Digital Security Policy
- Gifts and Hospitality Register
- Conflict of Interests Registers

## 5.2 Legislation and guidance

- Bribery Act 2010
- Audit Scotland bulletins
- [Counter Fraud, bribery and corruption intranet page](#)



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