

## SDS Policy on the Control of Fraud

Reviewed by Board – February 2022

### Introduction

Fraud is an ever-present threat to the Association's resources and must be a concern to all members of staff. This policy explains responsibilities for the control of fraud and the procedures to be followed when a fraud is identified or suspected. SDS is committed to developing an anti-fraud culture and asks all staff and Directors to be alert to the possibility of fraud and the role they can play in its prevention.

### Scottish Disability Sport's Policy

SDS requires all staff to act honestly and with integrity and to safeguard the public resources for which they are responsible. All reasonable measures will be taken to prevent fraud. Any attempt at fraud (whether by staff, contractors, agents acting on behalf of SDS, or others) is viewed with the utmost seriousness and SDS will investigate any reported incidents or suspicions. Where appropriate, disciplinary and/or legal action will be taken and SDS will co-operate fully with any police enquiries. Steps will be taken to recover losses suffered through fraud.

This policy applies to all persons working for SDS in any capacity, including employees at all levels, directors, officers, agency workers, seconded workers, volunteers, interns, agents, contractors, external consultants, third-party representatives and business partners. This policy does not form part of any employee's contract of employment and may be amended it at any time.

### What is fraud?

No precise legal definition of fraud exists but for practical purposes it may be defined as "the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party".

Many other terms may also be used to describe fraud, including bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. Many of the offences referred to as fraud are covered by common law and statutory legislation in Scotland.

### Examples of fraud

Fraud can be perpetrated by individuals within or outside an organisation. Examples of the type of fraud which could arise in an SDS context are:

- theft of cash or equipment or fraudulent encashment of cheques;
- falsification of claims for payment or reimbursement;
- irregularities in purchasing of goods and services on behalf of SDS, such as making or accepting payment as an inducement to award a contract;
- unauthorised use of SDS property such as computer hardware or software;
- providing information about an object (whether with a view to its acquisition by SDS or for any other purpose) knowing it to be false.

This list is by no means exhaustive and it might not always be obvious what constitutes fraud. Advice on conflicts of interest and codes of conduct are also given in the SDS HR Handbook, and in some circumstances breaches of those parts of the Handbook could constitute fraud. If there is any doubt over the propriety of a proposed course of action, the SDS HR Handbook should always be consulted.

The following are among the warning signs that fraud **might** be occurring:

- staff working exceptional hours or under apparent stress unexplained by workload
- reluctance to take leave
- refusal of promotion
- sudden change of lifestyle/unexplained wealth
- new staff resigning quickly
- suppliers who insist on dealing with one particular member of staff
- inappropriate relationships with suppliers e.g. frequent receipt of hospitality

## External Fraud

Should SDS be aware of its name, status or logo being used for fraudulent purposes in an external environment, the matter and any supporting information will be forwarded to the police for further action.

## Responsibilities

Individual members of staff are responsible for:

- acting with propriety in the use of SDS resources and in handling and use of SDS funds;
- complying with the SDS Purchasing and Procurement Policy and Financial Procedures, which have been designed with the risk of fraud in mind;
- reporting details immediately to the CEO or Chair if they suspect that a fraud has been committed or see any suspicious acts or events.
- co-operating with those investigating any actual or suspected fraud

Staff and Directors are also encouraged to suggest improvements to procedures which could help to reduce the risk of fraud.

The Public Interest Disclosure Act 1998 provides certain rights and protections for a member of staff who “blows the whistle” by raising concerns. SDS’s Public Interest Disclosure (Whistleblowing) Policy describes the protection the Act gives and which disclosures qualify.

Staff and Directors are responsible for:

- identifying the risks to which systems and procedures are exposed;
- developing and maintaining effective controls to prevent and detect fraud;
- ensuring that SDS-wide controls are being complied with;
- acting on the advice of those investigating an actual or suspected fraud e.g. to ensure that evidence is secured. To ensure compliance with the Criminal procedures (Scotland) Act 1985, **staff and Directors should not interview suspects** without taking advice;
- maintaining appropriate confidentiality.

CEO is responsible for:

- carrying out vigorous and prompt investigations if fraud occurs;
- taking appropriate legal and/or disciplinary action against perpetrators of fraud;
- taking disciplinary action against supervisors where supervisory failures have contributed to the commission of the fraud;

Board is responsible for:

- keeping under review the policy on the control of fraud and advising of new threats and new preventive measures to be taken;
- managing tender processes in such a way as to minimise the risk of fraud or collusion;
- liaising with External Audit on both policy and individual cases;

### **Reporting and investigation of suspected frauds**

SDS has developed a fraud response plan which acts as a checklist of actions in the event of a fraud being suspected. (Attached at Appendix 1).

### **Disciplinary action**

SDS's disciplinary procedures are described in the SDS HR Handbook, Section 5.

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## **Appendix 1: FRAUD RESPONSE PLAN**

### **What to do if you suspect that a fraud has occurred, or believe that inappropriate behaviour is putting SDS at risk of fraud**

You should report the matter at the earliest opportunity to the CEO or Chair.

Apart from reporting to one of these officials, you should be discreet to ensure that other staff are not harmed by allegations which may prove unfounded and that the (possible) perpetrator is not forewarned of any investigation which may follow.

### **What an informant can expect**

The Public Interest Disclosure Act 1998 provides certain rights and protections for a member of staff who “blows the whistle” by raising concerns. (See Appendix 2 for details of what disclosures are protected).

An informant has the right to have his/her identity protected if they so wish. None of the officials to whom you are asked to report a fraud will reveal the source of information, unless you give them permission.

You can also expect to be kept informed of subsequent action. This will not be at a detailed level (e.g. if your concerns were general, it might not be appropriate to tell you who is being investigated) but you have the right to know:

- whether an investigation is still underway (and if so whether there is any further role you might play in this);
- whether your concerns were ill-founded or there has been insufficient evidence to follow them up;
- whether disciplinary/legal action was taken as a result;
- whether changes have been made to procedures as a result.

### **What to do if you feel your concerns are not being taken seriously**

If you feel that your concerns have not been investigated seriously enough, the following actions are open to you.

- report the matter to another of the senior managers named as fraud investigators
- report the matter to the Chief Executive
- report the matter to a Director/Board Member
- report the matter to the National Audit Office/External Auditors

SDS would generally expect you to “escalate” in the order indicated, i.e. to give the opportunity for your concerns to be investigated internally before raising matters externally. When it is reasonable for matters to be raised externally, and whether you will be protected if you do, is covered in the Public Interest Disclosure Act 1998 which is summarised at Appendix 2.

### **How suspected frauds will be investigated**

SDS is committed to investigating any case of suspected fraud. The manner of investigation and responsibility for it will be discussed and agreed between the above officials and, where appropriate, the line manager. The External Audit service will be involved at this stage if this has not already happened. Any proposal to engage other consultants to assist in the investigation must be approved by the Board. They will have regard to the severity of the case, whether specialist expertise is required to investigate it and the extent to which such expertise is already available within the organisation.

In the case of unsubstantiated allegations the aim of the initial investigation will be to assess as

quickly as possible whether there is prima facie evidence of the need for further investigation.

The Board will be responsible for notifying. Such notification will take place when there is reasonable suspicion: unsubstantiated allegations will not normally be reported. In reporting to the CEO, his/her approval will be sought for continued investigations.

Any other reporting or internal discussion of the case should be strictly on a "need to know" basis only and must be specifically authorised by one of the above. Where information has been provided by an informant, that person's identity will not be disclosed without their permission.

### **Subsequent action**

Staff involved in or suspected of being involved in impropriety will be subject to the provisions of SDS's Disciplinary Procedure. In addition, SDS will report the matter to the police if that is appropriate.

Any decision on suspension of individuals from duty will be taken by the CEO in consultation with the other officials named above. Individuals suspended from duty will not be permitted access to the building or communication with other staff. They will be required to hand in allocated equipment.

If an employee under suspicion of fraud is not suspended from duty, the Management Board will give consideration to restricting and/or monitoring their access to financial and other systems as appropriate. Arrangements will be made to safeguard evidence.

During the investigation further reports will be made to the CEO as appropriate, but not less than quarterly, and his/her approval sought for continued investigation.

### **Malicious/reckless allegations**

Allegations made maliciously or recklessly without reasonable grounds for believing them to be true, may constitute harassment and as such are covered by SDS's code of Conduct.

## Appendix 2: PUBLIC INTEREST DISCLOSURE ACT 1998

The Act is intended to encourage people to raise concerns about malpractice (including fraud) and to encourage organisations to respond by investigating concerns and not being tempted to “cover up”. It applies to people at work (including agency staff and contractors) raising genuine concerns about crime, civil offences (including negligence), danger to health and safety or the environment, miscarriage of justice, or the covering up of any of these.

Disclosures (often referred to as “whistleblowing”) are protected if made in good faith to a manager or responsible third party (i.e. External Audit) if the whistleblower has a reasonable suspicion that malpractice is occurring or is likely to occur. Disclosures to the sponsoring body are also protected if made in good faith.

Wider disclosures (to third parties, police, media, MPs etc.) are protected if the allegations are substantially true, they are not made for personal gain, are reasonable in the circumstances and meet one of the following conditions:

- The whistleblower reasonably believed (s)he would be victimised if (s)he raised the matter internally;
- The whistleblower reasonably believed that a cover-up was likely
- The matter had already been raised internally.

Whether external disclosure is reasonable will depend on to whom it was made, the seriousness of the concern, whether the risk remains, and whether it breached a duty of confidence owed by x to a third party. Where the concern had first been raised internally, the reasonableness of the response will be relevant in deciding whether further disclosure was reasonable.

“Protected” means that an individual cannot be victimised for making such disclosures. Where victimisation does occur in breach of the Act, a whistleblower can bring a claim to an employment tribunal for compensation.

The above is a brief summary of the provisions of the Act. If you are unsure whether or how to use this procedure or want confidential advice, you may contact the independent charity Public Concern at Work. Their lawyers can give you free confidential advice at any stage on how to raise a concern about serious malpractice at work. The helpline **(020 7404 6609)** is staffed between **9am to 6pm**, and there is a 24 hour answerphone. Further information is available on their website, <http://www.pcaw.co.uk>