



## ANTI-FRAUD POLICY

### Incorporating Fraud Response and Investigation Plan

This policy is reviewed every two years by the Audit and Finance Committee

To be read in conjunction with but not limited to:

- SENDAT Staff Code of Conduct
- SENDAT Acceptable Use of IT policy
- SENDAT Whistleblowing policy
- SENDAT Disciplinary policy

#### History of Document

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## Introduction

SENDAT requires all Staff and members of governance (members, trustees and advisors) to act honestly and with integrity at all times and to safeguard the public resources for which they are responsible. SENDAT will not accept any level of fraud or corruption; consequently, any case will be thoroughly investigated and dealt with appropriately. SENDAT is committed to ensuring that opportunities for fraud and corruption are reduced to the lowest possible level of risk. Recognising a potential fraud and being able to report it is just as important as the measure to prevent and detect.

## What is Fraud?

“Fraud is deception carried out in order to gain an unfair advantage or to disadvantage another. It may involve the misuse of funds or other resources, or the supply of false information.”

a. The Fraud Act 2006, came into force on 15th January 2007, and fraud has been given a legal definition. The act introduces the provision for a general offence of fraud which is broken into three sections

- Fraud by false representation
- Fraud by failing to disclose information
- Fraud by abuse of position

b. Fraud by false representation

Representation must be made dishonestly, and is made with the intention of making a gain or causing a loss or risk of loss to another.

A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. Representation can be stated by words or communicated by conduct i.e. written, spoken or by electronic means.

c. Fraud by failing to disclose information

Fraud by failing to disclose information details that a fraud will have been committed if a person fails to declare information which he/she has a legal duty to disclose. There is a requirement that the person acts dishonestly and intends to make a gain for himself/herself, cause a loss to another or expose another to a risk of loss.

d. Fraud by abuse of position

Fraud by abuse of position requires a person who is in a privileged position to act dishonestly by abusing the position held; and by doing so, fails to disclose to another person, information which he/she is legally required to disclose. The dishonest act must be with the intention of making a gain for himself/herself or another.



Alternatively it may be with the intention of causing a loss or risk of loss to another. The offence may be committed by mitting to make a declaration as well as by an act.

e. The introduction of the Fraud Act 2006, does not prevent the prosecution of offences under the various Theft Acts and Forgery and Counterfeiting Act, e.g. theft counterfeiting and falsification of documents.

f. Corruption

Corruption is a specific type of fraud and involves:-

“The offering, giving, soliciting or acceptance of any inducement or reward which may influence the action of any person”.

Corruption involves two or more people. Corruption does not always result in a loss, indeed the corrupt person may not benefit directly from their deeds. The Trust’s Gift and Hospitality policy has clear guidelines to help judge what sort of gift and what level of hospitality is acceptable.

g. Irregularity

An irregularity may be any significant matter or issue, other than fraud or corruption, which is so defined and prescribed by the governing body as to fall within the general principles of this policy and may warrant consideration or investigation under the fraud response procedure.

For example, an irregularity may be where a member of staff makes a genuine error or mistake in the course of their duties/responsibilities, but where this error or mistake is subsequently hidden from the governors, perhaps to the on-going detriment of the academy. Additionally, an irregularity may also involve consideration of the possible inappropriate use of academy funds or assets, which may not technically constitute fraud or corruption.

h. Cyber Crime and Security

Trusts should be vigilant and proactive in relation to cyber crime and have cyber security measures in place. Cyber crime is criminal activity committed using the internet and can include Email hacking, Phishing and Malvertising.

## **Procedure for Reporting Fraud**

The Academies Financial Handbook confirms trusts must notify ESFA of any instances of fraud, theft and/or irregularity exceeding £5,000 individually, or £5,000 cumulatively in an academy’s financial year. Any unusual or systematic fraud (eg regular occurrences of low value theft), regardless of value, must also be reported. Paragraph 4.8.2 of the handbook details the reporting procedures.

All allegations of suspected fraud and irregularities are to be brought to the attention of the CFOO and also referred to the CEO / Headteacher, unless this individual is involved in the irregularity in which case the Chair of Trustees should be informed. Vigorous and prompt investigations will be carried out into all cases of actual or suspected fraud discovered or reported in accordance with the Trust’s Whistleblowing Procedure. All matters will be dealt with in confidence and in strict accordance with the terms of the Public Interest Disclosure Act 1998 which protects the legitimate personal interests of staff.

## **Fraud Response and Investigation Plan**

The Trust has a Fraud Response and Investigation Plan that sets out how to report suspicions, how investigations will be conducted and concluded. This plan forms part of the Trust’s Fraud Policy (Appendix 1).



## Responsibilities

- a. The CEO/Headteacher as the **Accounting Officer** is accountable for establishing and maintaining a sound system of internal control that supports the achievement of the Trust's policies, aims and objectives. The system of internal control is designed to respond to and manage the whole range of risks that the school faces. The system of internal control is based on an on-going process designed to identify the principal risks, to evaluate the nature and extent of those risks and to manage them effectively. Managing fraud risk will be seen in the context of the management of this wider range of risks.
- b. Overall responsibility for managing the risk of fraud has been delegated to the **Chief Finance & Operations Officer (CFOO)**

The responsibilities of the CFOO therefore include:

- Developing a risk management plan as part of the risk management process and undertaking a regular review of the fraud risks associated with each of the categories in order to keep the risk management plan current;
  - Establishing and maintaining an effective Anti-Fraud Policy and Fraud Response and Investigation Plan, commensurate to the level of fraud risk identified in the risk management plan;
  - Designing an effective control environment to prevent fraud commensurate with the risk management plan;
  - Establishing appropriate mechanisms for:
    - reporting fraud risk issues;
    - reporting significant incidents of fraud to the Accounting Officer;
    - external reporting in compliance with Company Law, Accounting Standards and Charity Commission expectations;
  - Coordinating assurances about the effectiveness of Fraud policies to support the Statement of Internal Control;
  - Liaising with the Audit and Finance Committee on issues of fraud prevention, detection, and management;
  - Making sure that all staff are aware of the Trust's Fraud Policy and know what their responsibilities are in relation to combating fraud;
  - Taking appropriate action to recover assets;
  - Ensuring that appropriate action is taken to minimise the risk of similar frauds occurring in future.
- c. All **members of the Leadership Group** are responsible for:
    - Ensuring that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively;
    - Preventing and detecting fraud;
    - Assessing the types of risk involved in the operations for which they are responsible;
    - Regularly reviewing and testing the control systems for which they are responsible;
    - Ensuring that controls are being complied with and their systems continue to operate effectively;
    - Implementing new controls to reduce the risk of similar fraud occurring where frauds have taken place.
  - d. The **Internal Auditor** and the **External Auditor** are responsible for:



- Delivering an opinion to the Accounting Officer on the adequacy of arrangements for managing the risk of fraud and ensuring that the Trust and its composite schools and provisions promote an anti-fraud culture;
- Assisting in the deterrence and prevention of fraud by examining and evaluating the effectiveness of control commensurate with the extent of the potential exposure/risk in the various segments of the Trust's operations;
- Ensuring that the Leadership Group has reviewed its risk exposures and identified the possibility of fraud as a business risk;
- Assisting the Leadership Group in conducting fraud investigations;
- Reporting to the Audit and Finance Committee on the efficiency of controls for the prevention, detection and management of fraud.

e. **Every member** of staff is responsible for:

- Acting with propriety in the use of official resources and the handling and use of public funds whether they are involved with cash or payments systems, receipts or dealing with suppliers or the Trust's decision-making bodies;
- Conducting themselves in accordance with the seven principles of public life set out in the first report on Standards in Public Life by the Nolan Committee. They are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
- Being alert to the possibility that unusual events or transactions could be indicators of fraud;
- Reporting details immediately through the appropriate channel if they suspect that a fraud has been committed or see any suspicious acts or events;
- Cooperating fully with whoever is conducting internal checks or reviews or fraud investigations.

f. **The Trust Board**

- **The Chair** is responsible for ensuring that an adequate system of internal control exists and that controls operate effectively;

**All Trustees and LAB members** are responsible for:

- Abiding by the Trust/school's policies and regulations and the guidance on Codes of Practice for Board Members of Public Bodies.
- Being alert to the possibility that unusual events or transactions could be indicators of fraud;
- Reporting details immediately through the appropriate channel if they suspect that a fraud has been committed or see any suspicious acts or events;
- Cooperating fully with whoever is conducting internal checks or reviews or fraud investigations

**Links with other Policies**

- Whistleblowing Procedure
- Finance Regulations
- Disciplinary Policy
- Gifts and Hospitality Policy



## Appendix 1 to Anti-Fraud Policy

### Fraud Response and Investigation Plan

#### Contents

1. Introduction
2. Procedure
  - 2.1 Action by employees
  - 2.2 Malicious allegations
  - 2.3 Action by the Trust
3. Suspension pending investigation
4. Investigation of suspected fraud
5. Recovery of losses

#### 1 Introduction

The purpose of this plan is to define the responsibilities for action in the event of a suspected fraud. Its focus is to:

- establish responsibilities for taking appropriate action in the event of a suspected fraud or irregularity
- establish and secure evidence for disciplinary and/or criminal action
- prevent further loss
- recover losses
- establish lines of communication with the police.

#### 2. Procedure

##### 2.1 Action of employees/trusteess/members/LAB members –

- a. If you become aware of a suspected fraud or irregularity, you should write down your concerns immediately. Make a note of all relevant details, such as what was said on the telephone or during other conversations, the date, the time and the names of anyone involved. Report the matter immediately to the CFOO or in their absence the CEO/Headteacher or Head of Centre. When you report your concerns you must be prepared to hand over any notes or evidence you have already gathered. Confidentiality is of paramount importance throughout the process.
- b. A member of staff or Trustee may choose to report concerns anonymously and such anonymity will be respected. It should be noted that if the report suggested criminal activity and the case is referred to the police, the identity of the person reporting the details will be needed at a later date if criminal proceedings are to be pursued effectively. Identification is preferred and will assist the investigation.
- c. You must not do any of the following:
  - contact the suspected perpetrator in an effort to determine the facts and demand answers
  - discuss the case facts, suspicions or allegations with anyone other than members of the Resources Committee and their nominated investigators.
  - attempt to personally conduct an investigation of your own.



## **2.2. Malicious allegations**

If an allegation is made frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against the person making the allegation.

## **2.3 Action by the Trust**

- a. The Trust has incorporated the role of an Audit Committee into the responsibilities of the Audit and Finance Committee as outlined in the ESFA Academy Trust nHandbook.
- b. Members of the Leadership Group must immediately inform the CEO/ Headteacher of any concerns reported to them.
- c. Any member of staff who reports a suspected fraud should feel confident they will be listened to seriously and sensitively. They should be given a fair hearing and they should feel reassured that they will not suffer because they have voiced their suspicions.
- d. If any of the core membership of the Audit and Finance Committee are personally implicated in the suspected fraud, it should be reported instead directly to the Chair of Trustees and Chair of the Audit and Finance Committee. In such circumstances, the Chair of Trustees will determine, in consultation with the Chair of the Audit and Finance Committee, the procedure for examining the facts of the suspected fraud, any subsequent investigation and for deciding action.
- e. The CFOO/Headteacher will immediately invoke the Trust Disciplinary Policy and Procedures which will include consideration of the suspected fraud and decide:
  - whether to instigate an investigation to establish the facts of what has taken place
  - whether to recommend to the CEO/Headteacher that the matter is reported to the police
  - whether to recommend to the CEO/Headteacher to suspend the individual(s) suspected pending further investigation (see 3. below).
- f. Where further evidence is required before deciding whether to instigate an investigation, the gathering of further evidence will be carried out as a matter of urgency in order to make a decision.

## **3. Suspension pending investigation**

- a. Within the Trust disciplinary process, in some circumstances it will be appropriate to suspend a member of staff temporarily. Suspension pending investigation of suspected fraud does not imply that it has been established that fraud has taken place and does not represent disciplinary action. Members of staff will remain on full pay during the period of suspension.
- b. The prime consideration in this respect is to prevent further loss and/or the destruction or removal of evidence.
- c. Where an individual is to be suspended they should be approached unannounced and asked to attend a meeting, where the suspension is confirmed and explained. Wherever possible, they should be given the opportunity to be accompanied at the meeting by a trade union representative or work colleague. If it is not possible for them to be accompanied, the meeting may proceed nonetheless so that action can be taken to prevent further loss and/or the destruction or removal of evidence. Following suspension, the individual(s) will be supervised at all times before leaving the premises. Only personal property may be removed and all keys must be surrendered. Access to School IT systems will be denied immediately. The individual will be sent confirmation of the suspension, in writing.



#### **4. Investigation of suspected fraud**

Investigation of the suspected fraud will take place as per the Trust Disciplinary Policy and procedures.

In addition, a report will be prepared by the investigator for the Audit and Finance Committee to give the outcome of the investigation. If a fraud is deemed to have been committed, the report will include:

- Description of the fraud, value of loss, people involved and the means by which the fraud was perpetrated;
  - Measures already taken or to be taken to prevent recurrence; and
  - Any recommendations for action to strengthen future responses to fraud
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- If the report recommends improvements to the Trust's control systems, the CFOO will ensure that these are implemented at the earliest opportunity.

#### **5. Recovery of losses**

The Resources Committee will assess the opportunity for recovering any losses, including taking legal action through the Courts, where appropriate. The CEO/Headteacher will be responsible for ensuring that any legal action is pursued.