Scottish Funding Council: Counter Fraud and Financial Conduct Policy

Introduction

1. This document details the SFC's policy on Counter Fraud and financial conduct. The Scottish Public Finance Manual (SPFM) is issued by the Scottish Ministers to provide guidance to the Scottish Government (SG) and other relevant bodies on the proper handling and reporting of public funds.

2. The Criminal Finances Act 2017 is the UK Government's risk-based approach to combat corruption, money laundering and tax evasion. The Act came into force on 30 September 2017, with two new corporate offences for companies and other bodies corporate, which includes SFC:

    - The failure to prevent the facilitation of tax evasion offences by an associated person
    - The failure to prevent the facilitation of foreign tax evasion offences by an associated person.

3. SFC considers if other associated persons have the opportunity, motivation or means to criminally facilitate tax evasion offences and if so, how this risk might be managed.

4. SFC works closely with its Internal and External Auditors in the deterrence, prevention and detection of fraud and other irregularities to safeguard its assets and to mitigate the likelihood of fraud.

5. The National Fraud Initiative (NFI) in Scotland is a counter-fraud exercise led by Audit Scotland and overseen by the Cabinet Office for the UK as a whole. It uses computerised techniques to compare information about individuals held by different public bodies, and on different financial systems that might suggest the existence of fraud or error. It means that public bodies can act if any fraud or error has taken place, and it allows auditors to assess fraud prevention arrangements which those bodies have in place.

6. The SFC follows the regulatory requirements and applicable legislation on the prevention, detection, investigation and enforcement of Counter Fraud, Bribery and Corruption including the Bribery Act 2010 and the Criminal Finances Act 2017.

7. The SFC also adheres to the guidance set out in the Scottish Public Finance Manual and participates in the National Fraud Initiative. This policy is closely aligned to the Scottish Government's counter fraud strategy, which outlines the approach for the prevention, detection, reporting and handling of fraud. Such that the Scottish Public Finance Manual (SPFM) and SFC Financial Regulations are directly applicable.

Purpose

8. This policy is to help prevent fraud and to develop a counter-fraud culture within the Scottish Funding Council (SFC). The policy sets out SFC's approach to deter, prevent, detect and investigate fraud, and enforce appropriate and effective sanctions.

9. The SFC is committed to the highest standards of openness, probity and accountability. We seek to conduct our activities fairly, honestly and openly, in accordance with relevant legislation, and to the highest standards of integrity.

10. We require all our employees, including our Board and Committee members, and anyone working on our behalf, to always act with honesty and integrity and to safeguard the public resources for which they are responsible.

11. We will not tolerate fraud and all instances of irregularity will be investigated and dealt with appropriately, and where proven a criminal sanction may apply in addition to disciplinary action undertaken by SFC.

12. We will not disadvantage any individual who raises concerns in good faith, even if the allegations turn out to be unfounded (please refer to our Whistleblowing Policy).

Scope

13. This policy is for:

    - Board members;
    - Committee members;
    - All members of staff and others directly involved in delivering SFC's business activities (including retained consultants or contracting third parties acting on behalf of SFC).

This policy does not form part of any contract of employment or other contract to provide services, and we may amend it at any time.

Definitions

Fraud

14. Fraud is committed when someone achieves a practical result by the means of an intentional false pretense or dishonest misrepresentation (where a deliberate deception is used to cause someone to do something they would not otherwise have done). The deception must have caused the practical result. Fraud can be used to describe a wide variety of dishonest behaviour such as forgery, false representation and the

concealment of material facts. The fraudulent use of IT resources is included in this definition, where its use is a material factor in conducting a fraud.

15. There are three common types of fraud:

- Fraud by false representation – lying about something, for example by words or actions. For example, falsification of documents or accounting records or providing false qualifications when applying for jobs.
- Fraud by failing to disclose – omitting a transaction or information when you have a duty to disclose it.
- Fraud by abuse of position – abusing a position of trust, where there is an expectation to safeguard the monetary interests of individuals or the organisation. For example, misuse of confidential information or failure to declare an interest in a supplier and subsequently involved in a contract for the award/purchase of goods or services.

16. Fraud can be committed internally by a member of staff, or externally against the organisation.

17. The Bribery Act 2010 requires organisations to demonstrate that they have 'adequate procedures' in place to prevent bribery. See our Anti-bribery and corruption policy.

Roles and responsibilities

18. The Chief Executive, supported by the Executive Team, is responsible for:

- Promoting a zero-tolerance approach to fraud, corruption and bribery.
- Overseeing the investigation of any cases of known or suspected fraud.
- Taking appropriate legal and disciplinary action against perpetrators of fraud.
- Co-operating fully with any relevant investigating bodies.
- Taking action to recover funds or assets lost through fraud.

19. Directors are responsible for:

- Designing and maintaining effective systems of control to prevent and detect fraud and other financial losses.
- Formally reviewing key or high-risk systems for effectiveness on at least an annual basis and ensuring that policies and procedures are being complied with.

20. The Director of Finance is responsible for:

- Overseeing a system of internal audit on systems, particularly those identified as vulnerable to the risk of fraud, and to make recommendations to improve systems of internal control.

- Reporting on fraud risk to the Audit and Risk Committee, including details of actual or attempted fraud, investigations conducted and control weaknesses that have been identified.
- Ensuring that our policy on gifts, hospitality and fees does not lead to unacceptable levels of risk.
- Ensuring that all suspicions of fraud and financial misconduct are investigated.
- Ensuring that anyone found to be involved in fraud is considered for disciplinary action.
- Supporting law enforcement and regulatory bodies in any prosecutions by investigating and reporting promptly.

21. Managers are responsible for:
    - Ensuring counter fraud, and financial conduct is considered as part of their day-to-day work.
    - Ensuring that:
        - Analysis takes place for new work or funding allocations to identify potential risks and develop ways to mitigate them.
        - Colleagues are aware of danger signs and how to report fraud.
        - Effective management controls, including separation of key operational functions and oversight are in place.
        - Delivery partners and finance colleagues work together to minimise the risks of fraud.
        - Colleagues are aware of their fraud responsibilities as per the Scottish Public Finance Manual and understand the types of fraud risks that might be present in the area that they work.

22. Employees, including Board and Committee members are responsible for:
    - Ensuring they are aware of the counter fraud and Financial conduct policy and procedures.
    - Following procedures and always acting with integrity.
    - Being alert to the possibility that unusual events, transactions or behaviours could be indicators of fraud and immediately reporting details if malpractice is suspected in line with the counter fraud procedure.
    - Awareness of their fraud responsibilities as per the Scottish Public Finance Manual.
    - Report any suspicious acts immediately.

Prevention

23. Managers and staff must always be alert to the risk of fraud and other forms of theft or financial loss. Danger signs of internal fraud include evidence of excessive spending by staff engaged in contract work, inappropriate relationships with suppliers and requests for unusual patterns of overtime for example. A key preventative measure is at the recruitment stage where written references will always be taken up and independent confirmation of professional qualifications will be obtained before employment offers are made.

24. SFC is committed to ensuring effective IT systems are implemented and maintained to ensure effective and efficient internal controls are in place to avoid the risk of hacking, virus infections and fraud arising from the use of IT systems.

Reporting concerns

25. In the first instance staff should report any suspicions of occurrence of fraud, or attempted fraud, to their line manager. They may do so in accordance with SFC's Whistleblowing Policy if applicable or alternatively under this policy as follows.

26. If they feel unable, or it would not be appropriate, to raise the matter with their line manager, they should contact another line manager or a member of the Senior Management Team.

27. If it is not possible to safely and satisfactorily eliminate the suspicion, or if there is a good reason for not raising a concern within the line management chain, the matter should be formally reported direct to the Chief Executive.

28. If staff have a particularly serious and urgent concern, or for whatever reason an issue cannot be raised via the management chain or the Chief Executive, they should report the matter to the Chair of the Board and the Chair of the Audit and Risk Committee (ARC).

29. If staff have a concern about the Chair of the Board, they should report the matter to the Head of Internal Audit and the Scottish Government, and the Board should be informed. However, it is at the discretion of the Scottish Government to consider the circumstances of the case and determine when and if the Board should be fully informed. For example, if it is particularly sensitive and/or confidential in nature. Legal advice may be sought.

30. The Fraud Response Plan (at Annex A) sets out how suspicions of allegations of fraud must be reported and that effective action is taken to:

    - Investigate the circumstances of the alleged fraud.
    - Minimise the risk of subsequent loss.

- Ensure that appropriate recovery action is taking, or failing recovery, to initiate action to write off any losses.
- Remedy any weaknesses in internal control procedures.
- Initiate disciplinary and legal procedures, where appropriate.
- Demonstrate that SFC is not a soft target for attempted fraud.

31. The names and contact information of reporting officers for individuals wanting to make a report:

Raising concerns - reporting officer options	Name	Contact details
Your line manager		
Director of Finance	Tiff Ritchie	rmaconachie@sfc.ac.uk
Chief Executive	Francesca Osowska	ceo@sfc.ac.uk
Chair of the Board	Cara Aitchison	chair@sfc.ac.uk
Chair of the Audit & Risk Committee	David Alexander	chair@sfc.ac.uk
Internal audit (Scottish Enterprise)	Allan Fyfe	Allan.Fyfe@scotent.co.uk

32. All concerns will be treated in confidence and will be thoroughly investigated.

33. The Counter fraud procedure outlines the process to follow when a suspicion arises.

34. Should any concerns raised under this policy amount to a Qualifying disclosure under SFC's Whistleblowing Policy, the protections against detriment suffered by the individual making the allegations set out in that policy may apply.

Counter-fraud culture and training

35. Everyone should understand the risk of fraud faced by the SFC. Fraud is serious and diverts resources away from the SFC's primary objectives. As the aftermath of fraud is costly, time-consuming, disruptive and unpleasant, and may lead to unwelcome adverse publicity, a major thrust of this fraud policy is prevention. We will encourage staff, through training, on how to detect fraud and we will promote a culture where people feel enabled to challenge suspect acts and behaviour.

Compliance

36. SFC has a zero tolerance to fraud and will investigate all instances of fraud by its staff or external organisations (contractor or client).

37. All discovered cases of actual or attempted fraud should be notified to the Audit and Risk Committee as required by the Scottish Public Finance Manual. This will be done through the annual report to the Committee, unless a serious actual or attempted fraud has been discovered and the ARC will be notified as soon as possible. All cases of fraud should also be notified to the Scottish Government sponsor unit.

38. All discovered cases of actual or attempted fraud will be investigated and failure to comply with this policy will result in disciplinary action through SFC's disciplinary policy and procedures. The police will be informed where considered appropriate. In addition, disciplinary action will be considered not only against those members of staff found to have perpetrated frauds but also against managers whose negligence is held to have facilitated fraud.

Financial Conduct

Losses

39. Losses and special payments, by their nature, are not transactions carried out in the course of SFC's operating activities. They are therefore subject to special control procedures and a greater degree of Treasury control than the generality of payments.

40. It is the duty of the Chief Executive, as Accountable Officer, to ensure that funds are applied only for their intended purpose and to safeguard public funds and property. Detailed advice on handling losses and special payments is set out in the SPFM and should be rigorously followed.

41. The Chief Executive has the authority to approve the write off all losses under £500, and it is for the Chief Executive to correspond with Scottish Government (SG) on all losses over £500 which requires prior written approval to be obtained from the First Minister. Before providing approval to write off losses or before approaching SG for approval, the Chief Executive will wish to be reassured on the circumstances surrounding the loss and, in particular, what action has been taken to avoid recurrence. Concerns regarding financial losses will be handled in line with the procedures for managing reports of Fraud as set out in the Fraud Response Plan (Annex A).

42. Losses are only to be written off or special payments authorised after a most careful appraisal of the facts. The Chief Executive has to be satisfied that there is no feasible alternative, for example, that in the case of losses, all reasonable action has been taken to effect recovery. In dealing with individual cases, it is also necessary to consider the soundness of control systems and the efficiency with which they have been operated and take any necessary steps to rectify control weaknesses.

43. The Financial Memoranda, between SG and SFC, requires SFC to maintain a record of all losses and special payments as categorised in the SPFM. SFC is also required to record all cases of potential losses and special payments that are under investigation.

44. The Payments and Procurement Officer maintains a losses register. Details included in the losses register are as follows:

- A description of the loss.
- The gross amount.
- Cause of the loss.
- Action taken.
- Amount of write off.
- Date of write off.
- Write off authorised by.

Compensation in cases of maladministration

45. The SPFM has detailed guidance on ex gratia compensation in cases of maladministration. It is likely that such cases would be referred directly to the Scottish Government.

Other relevant policies and guidance

46. Other related policies include:

- The Civil Service Code
- SFC's policy on Gifts, hospitality and awards
- SFC's Whistleblowing policy
- SFC's Anti-Bribery and Corruption policy
- SFC's Acceptable Use policy;
- SFC's Disciplinary policy;
- Civil Service Learning counter fraud, bribery and corruption: all staff;
- Gifts - Scottish Public Finance Manual;
- Losses and special payments - Scottish Public Finance Manual.

Further information

47. SFC staff should speak to the Finance Team.

Monitoring and review

48. This policy will be available to SFC staff via the intranet and reviewed annually.

Document history

Owner	Deputy Director of Finance
Version number	1.1
Approved by	SFC Board
Approval date	6 December 2024
SMT review and update	23 March 2026
Next Review Date	Annually

Annex A: Fraud response plan

1. This Fraud Response Plan sets out how suspicions of allegations of fraud must be reported in order to ensure that effective action is taken to:
    - Investigate the circumstances of the alleged fraud.
    - Minimise the risk of subsequent loss.
    - Ensure that appropriate recovery action is taking, or failing recovery, to initiate action to write off any losses.
    - Remedy any weaknesses in internal control procedures.
    - Initiate disciplinary and legal procedures, where appropriate.
    - demonstrate that SFC is not a soft target for attempted fraud;

Reporting suspected fraud

2. Managers and staff must always be alert to the risk of fraud, theft, bribery or corruption. Managers and staff may also receive notification of suspected fraud from external sources including partner organisations, professional bodies and members of the public.
3. You must report your suspicions of fraud. Under the SFC's Whistleblowing Policy all matters will be dealt with in confidence and with the terms of the Public Interest Disclosure Act 1998. This statute protects the legitimate personal interests of staff.
4. All reports of suspected fraud will be treated seriously.
5. If in any doubt over whether your concerns are valid or not, report it. In doing so please note things you should and should not do.
    - **DO** - make a note of all relevant details including conversations, dates and the names of those involved.
    - **DO** - secure any evidence you have gathered.
    - **DO NOT** - discuss with anyone other than the person you are reporting to.
    - **DO NOT** - attempt to conduct any investigation of the matter.
    - **DO NOT -** contact the suspected individual or individuals.

How to report

6. Fraud reporting procedures are as follows:
    - In the first instance staff should report any suspicions of occurrence of fraud, or attempted fraud, to their line manager.

- If they feel unable, or it would not be appropriate, to raise the matter with their line manager, they should contact another line manager or a member of the Senior Management Team.

- If it is not possible to safely and satisfactorily eliminate the suspicion, or if there is a good reason for not raising a concern within the line management chain, the matter should be formally reported directly to the Chief Executive

- If staff have a particularly serious and urgent concern, or for whatever reason an issue cannot be raised via the management chain or the Chief Executive, they should report the matter to the Chair of the Board and the Chair of the Audit and Risk Committee (ARC).

- If staff have a concern about the Chair of the Board, they should report the matter to the Head of Internal Audit and the Scottish Government and the Board will be informed. However, it is at the discretion of the Scottish Government to consider the circumstances of the case and determine when and if the Board should be fully informed. For example, if it is particularly sensitive and/or confidential in nature. Legal advice may be sought.

7. Staff purposefully making false allegations will be subject to disciplinary procedures.

8. Anyone who receives a report can contact the Director of Finance and/or the Secretary to the Board who can provide support in how they handle the report as outlined in this Fraud Response Plan.

What happens next?

9. Line Managers or SMT members should report any allegations to the Chief Executive. If for any reason an issue cannot be raised with the Chief Executive, they should report the matter to the Chair of the Board and the Chair of the ARC. If there is a concern about the Chair of the Board they should report to the matter to the Head of Internal Audit and the Scottish Government and the Board will be informed. However, it is at the discretion of the Scottish Government to consider the circumstances of the case and determine when and if the Board should be fully informed. For example, if it is particularly sensitive and/or confidential in nature. Legal advice may be sought.

10. Following the reporting of allegations of fraud, the Chief Executive (or other individual[1]) will:

    - Acknowledge receipt within five working days.

    - Undertake a review of the facts to determine whether the allegations are substantiated. Where it is not immediately clear from the evidence presented that a fraud may have been committed, they may decide to initiate action to

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[1] This could be the Chair of the Board and Chair of ARC, Head of Internal Audit as set out in paragraph 8.

determine whether there is a substance to the allegations. For example, this may include offering to have a meeting with the individual reporting the alleged fraud in confidence (this could be via Teams or in person). This meeting would enable the Chief Executive (or other individual) to obtain as much information as possible about the alleged fraud.

- In the event that allegations cannot be substantiated, the case will be closed, and no further action will be taken.
- If the review finds that allegations are substantiated, the Chief Executive (or other individual) will undertake the following actions, as appropriate for the particular case. In taking these steps the Chief Executive (or other individual) will consider the need to involve HR, Finance and IT, and seek legal advice where necessary, for example, depending on the nature of the suspected fraud:
    - Taking steps to prevent further loss and to secure evidence (records, assets, including restrictions on access to officers, computers and SFC's information such as by way of remote access).
    - Agree the scope and terms of reference (see below) and nature of any investigative work required to establish the facts of the particular case. This may include gathering evidence and undertaking interviews/taking statements.
    - Decide whether to appoint an investigating officer (this may or may not be someone in the employment of SFC (see below)). This will need to be determined on a case by case basis, for example if a police investigation is being undertaken it may not be appropriate for SFC to appoint its own investigating officer.
    - Consider the consider the prima facie case for suspension of any SFC staff member(s) who is (are) the subject of suspicion or allegations.
    - Decide whether to take legal advice or any other specialist advice.
    - Decide whether it is necessary to report to law enforcement agencies and statutory bodies (Police Scotland/Procurator Fiscal Service). This will normally be where there are reasonable grounds to suggest that an offence may have been committed.
    - Take action to recover losses, including civil recovery where appropriate.
    - Decide the level at which line management should be involved and bring the allegations to the notice of line management if it is not already aware of them, at the same time confirming the investigative arrangements and reporting lines.
    - Agree a timetable for completion of any agreed actions.
    - Establishing a communications plan.

11. In undertaking these actions the individual can contact the Director of Finance and/or the Secretary to the Board who can provide support in how they handle the report as outlined in this Fraud Response Plan. As noted above, the individual should also consider the need to involve HR, Finance and IT, and seek legal advice where necessary, for example, depending on the nature of the suspected fraud.

Selection of an investigating officer

12. The Chief Executive (or other individual) following prior consultation with HR and legal where required, may decide to appoint an Investigating Officer. This will be determined on a case-by-case basis, for example if a police investigation is being undertaken it may not be appropriate for SFC to appoint its own investigating officer. If the decision is taken to appoint an Investigating Officer, this may or may not be someone in the employment of SFC. The Investigating Officer must have the appropriate skills to undertake an investigation and, if necessary, knowledge of the area of work under investigation. The investigating officer must be a person who does not have, and has not had, close personal or work-related ties with the person(s) the allegations relate to.

Scope of investigations

13. The Chief Executive (or other individual), assisted as necessary by HR, Finance and IT and other Senior Management Team members where necessary, will carefully consider the scope and terms of reference for any investigative work to establish the facts. Legal advice can be sought. Investigations should not be restricted solely to suspicions or allegations against an individual that may lead to a charge of gross misconduct. If there is a possibility that instances of serious misconduct (e.g. misconduct other than fraud) may also have occurred, these should be investigated at the same time as the fraud allegations, should involve HR and should also follow SFC's Disciplinary Policy. The terms of reference should not preclude reporting any evidence of fraud or serious misconduct which was not identified in the initial report.

    In undertaking these actions, the individual can contact the Director of Finance and/or the Secretary to the Board who can provide support selecting an investigating officer and scoping an investigation.

Review and reporting

14. As soon as investigations have been completed, reports and other relevant documents (subject to any confidentiality requirements) should be passed to the Chief Executive (or other individual). They will decide whether the evidence tends to substantiate allegations of fraud. They may instruct further investigation, for example, where evidence gathered is inconclusive, contradictory or incomplete. Once the Chief Executive

(or other individual) is satisfied that no further investigations are required, consideration must be given to:

- What, if any, disciplinary action should be initiated against those involved (this should involve HR).
- The form and content of the final report.
- The form and content of any report to the Audit and Risk Committee.
- Whether the Police/Procurator Fiscal should be notified (if this has not already been done).

15. If it is decided that disciplinary action should be taken against a person, they will provide the employee with a written statement setting out details of the allegation and the conclusion on the facts established. HR should be involved) and thereafter, the disciplinary procedures as set out in the Disciplinary Policy will be followed.

16. If evidence of gross misconduct or lesser instances of misconduct have been identified during the investigation, the lesser instances will not be disregarded solely because a charge of gross misconduct is proposed in respect of certain aspects of the individual's actions. Further action will include:

    - Pursuing recovery of funds.
    - Informing other public and government bodies, as appropriate.
    - Considering the adequacy of internal control procedures.
    - Considering the impact on the budget and take any action to deal with the consequences.
    - Arranging, where necessary, for notation of the relevant accounts.
    - Liaising with the Police/Procurator Fiscal as necessary.

17. Where evidence of fraud or serious misconduct has been identified, the Chief Executive (or other individual) will consider whether any action needs to be taken to prevent a recurrence. In such cases, an action plan should be drawn up setting out recommendations. Action plans will include the required steps to take in response to an investigation’s findings. An occurrence of fraud may hold lessons to be learned for the SFC

18. The Audit and Risk Committee should be informed of the outcome of cases where an allegation of gross misconduct relating to fraud has been made. Where such an allegation has been brought but a disciplinary hearing does not uphold the allegation, or an appeal panel overturns the panel’s decision, the Committee should be informed of the reasons for the Panel's decisions. The Committee must consider whether, in light of this information, there are lessons to be learned in terms of the handling of cases and whether the Fraud Response Plan is operating effectively.

19. In undertaking these actions, the individual can contact the Director of Finance and/or the Secretary to the Board who can provide support during review and reporting.

Confidentiality

20. The Chief Executive (or other individual) and Investigating Officer will receive all information relating to individual cases. They must treat all information relating to individual employees in strictest confidence and should ensure that it is only passed on to colleagues on a strictly need to know basis. Only those allegations which have resulted both in disciplinary charges and a finding against the employee will be noted in their personnel record.

External Fraud

21. External frauds are frauds perpetrated by third parties against SFC (e.g. contract fraud or fraudulent invoices). In the case of contractors and suppliers, a finding of fraud will normally lead to termination of their contract. If there is any suspicion of collusion on the part of employees in an external fraud, the procedures relating to internal fraud will be adapted to apply as appropriate, given any requirements arising from ongoing Police/Procurator Fiscal investigations. Subject to that condition, cases of suspected external fraud should be reported to and handled by the Chief Executive as for internal fraud.

22. SFC's IT Team will be alerted to any cases of internet scams. If fraud by a supplier is suspected, the Scottish Government Procurement & Commercial Directorate should be kept informed of developments. Cases of straightforward theft (which does not qualify as fraud) should be notified to the Director of Finance for action.

23. If there is any suspicion of fraud at a funded body, either in relation to the claiming of funds from SFC or otherwise, then the matter should be referred to the Director of Finance to take forward.

24. If there is any suspicion of collusion on the part of SFC members of staff in a suspected or discovered external fraud, the procedures relating to internal fraud should apply as appropriate.

Contact details

25. Names and contact information for individuals wanting to make a report:

- Chief Executive: ceo@sfc.ac.uk.
- Chair of the Board and Chair of the Audit and Risk Committee: chair@sfc.ac.uk.
- Head of Internal Audit: Allan.Fyfe@scotent.co.uk

- Secretary to the Director-General Education and Justice at the Scottish Government (ceu@gov.scot).