

## Anti - Fraud Policy and Procedures

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## **Anti - Fraud Policy and Procedures**

### **1. Introduction**

This policy and its procedures help demonstrate effective corporate governance at School Partnership Trust Academies (SPTA). They explain the need for an anti-fraud Policy, the responsibilities for effective controls and the associated procedures to deal with any fraud.

Whilst it is important to consider whether there has been an element of bribery relating to fraud the introduction of the Bribery Act 2010 introduces a new offence which could lead to SPTA facing criminal liability and therefore the requirements of the new Act need to be considered in the event that any SPTA staff either bribe colleagues to commit a fraud or are themselves bribed to commit a fraud, as SPTA could itself become criminally liable under the Act. The offence of bribery not only covers staff, but also consultants or intermediaries acting on behalf of SPTA.

### **2. Policy**

SPTA will not accept any level of fraud or corruption; consequently, any case will be thoroughly investigated and dealt with appropriately. The Trust is committed to ensuring that opportunities for fraud and corruption are reduced to the lowest possible level of risk.

This policy applies to all Board members, Directors, staff, whether permanent, part-time, temporary, fixed term, casual or volunteers of SPTA and its associated academies. It also applies to any contractors or consultants working on behalf of SPTA. It is the responsibility of the Executive Leadership Team and Senior Leadership Teams within each academy to make sure that all temporary staff, consultants and contractors are aware of this policy.

### **3. The Control Framework**

All SPTA Directors and Senior Leaders must ensure that effective internal control systems including governance and accounting are in place and operating to reduce the opportunity for fraud or corruption.

### **4. What is Fraud?**

The term 'Fraud' is usually used to describe depriving someone of something by deceit. This might be straightforward theft, misuse of funds or other resources, or more complicated crimes like false accounting and the supply of false information. The Fraud Act 2006 covers fraud by false representation, by failing to disclose information and by abuse of position. See Appendix 2 for more details of types of fraud.

### **5. Procedure for Reporting Fraud**

Staff should report any suspicions of fraud to their line managers, or through their line management chain, who will report as appropriate to the SPTA Executive Leadership Team.

All matters will be dealt with in confidence and prompt investigations will be carried out into all cases of actual or suspected fraud that are discovered and reported.

SPTA have a Whistleblowing procedure/policy for those staff who wish to submit information about wrongdoing at work outside the line management chain.

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### **6. Directors and Senior management**

Under the terms of the SPTA Governance Handbook, the Chief Executive is also the Accounting Officer and is therefore responsible for establishing and maintaining a sound system of internal control that supports the achievement of SPTA's policies, aims and objectives.

The system of internal control is designed to respond to and manage the whole range of risks that SPTA faces. The system identifies the principal risks and evaluates their nature and extent, allowing them to be managed effectively.

In addition, the Department for Education (DfE) provide guidance within the 'Academies Financial Handbook' (AFH). The overall financial requirements are specified in SPTA Master Funding Agreement, but the AFH provides detailed guidance on a wide range of financial management, funding and accounting issues. The AFH sets out the recommended governance framework for academies and describes the key systems and controls that should be in place. It describes the grants that the DfE make available and specifies the financial reporting/budget management arrangements that must be followed by academy trusts to ensure accountability over the substantial amount of public funds that they control. It also discusses in detail the requirements for preparing an annual trustees report and accounts in order to comply with Company Law, Accounting Standards and Charity Commission expectations.

Overall responsibility for managing the risk of fraud rests with the SPTA Director of Finance. Responsibilities include:

- promoting an anti-fraud culture;
- appropriate risk management;
- fraud prevention and detection measures and;
- fraud investigation.

All other senior leaders within SPTA and its academies are responsible for:

- ensuring that an adequate system of internal control exists within their area 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;
- reviewing and testing regularly the control systems they are responsible for;
- ensuring the controls are 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;
- incorporating anti-fraud controls at the design phase in all systems.

SPTA have contracted internal auditors, to deliver an opinion to the Audit Committee on the risk management and internal control and governance. As part of this they will review and evaluate the policies, procedures and operations in place to safeguard the organisations assets and interests from losses of all kinds, including those arising from fraud, irregularity or corruption. The internal audit will assist in the deterrence and prevention of fraud by examining and evaluating the effectiveness of controls, assessing the extent that the Audit Committee has evaluated its risks and the possibility of fraud.

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### **7. All Other Staff**

All staff within SPTA must show due regularity and propriety in the use of official resources and the handling of public funds, whether they are involved in cash or payment systems, receipts or dealing with suppliers. They must be alert to the possibility of fraud and take special care where unusual transactions may occur. Possible Fraud indicators are shown in Appendix 3. They must report details immediately through the appropriate channel if they suspect fraud has been committed or see any suspicious acts or events and co-operate fully with whoever is conducting internal checks, reviews or investigations.

### **8. Fraud Response and Investigation Plan**

SPTA 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 SPTA Fraud Policy (Appendix 4).

## **Anti - Fraud Policy and Procedures**

### **Appendix 1:**

#### **Control Measures to Reduce the Possibility of Fraud or Theft**

Line managers must ensure the security of assets and money within their area of responsibility. Among the measures they can use to discharge this responsibility are:

- regularly assessing the exposure to potential fraud or theft;
- ensuring there is an adequate procedure for reporting problems to senior management;
- being aware of SPTA's procedures and policy on fraud;
- assessing the suitability of staff to handle particular risk areas;
- ensuring appropriate segregation and rotation of duties;
- providing adequate training and guidance;
- allowing staff to see all relevant information on fraud and theft;
- ensuring regular management review of work; and
- ensuring complete and clear documentation of all transactions.

## Anti - Fraud Policy and Procedures

### Appendix 2:

#### Definitions

The Fraud Act 2006 defines 3 categories of fraud or false representation, by failure to disclose information and by abuse of position. Fraud is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. Fraud is committed by the act of seeking improper benefit. A crime is committed with the actual intention to defraud not its realisation.

The Audit Commission (1994) defines:

**Fraud** as – ‘the intentional distortion of financial statements or other records by persons internal or external to the organisation which is carried out to conceal the misappropriation of assets or otherwise for gain.’

**Corruption** as – ‘The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.’

Fraud and other similar irregularities include:

- Forgery or alteration of payable order, expense claims, cheques, drafts, letters of comfort, contracts etc.
- Any misappropriation of funds, supplies or any other asset owned or service provided by SPTA.
- Any irregularity in the handling or reporting of any transactions.
- Misappropriation of and misuse of SPTA/academy property, equipment, materials, information or records.
- Seeking or accepting anything of material value from vendors, consultants or contractors doing business with SPTA or its academies.
- Any computer related activity involving the alteration, destruction, forgery or manipulation of data for fraudulent purposes or misappropriation of SPTA owned software,
- Any claim for reimbursement of expenses not incurred completely and exclusively in the performance of one’s official duty.
- Any similar or related irregularity.

## **Anti - Fraud Policy and Procedures**

### **Appendix 3:**

#### **Possible Fraud Indicators**

A number of frauds can come to light because of suspicions aroused by, for instance, the behaviour of certain individuals.

Warning signs that might indicate that fraud may be taking place:

- Unusual behaviour, reluctance to take leave, refusal of promotion or regular long hours worked by key staff. When an employee is on leave the work is left until the employee returns.
- Key documents missing, documents that are lacking key information. Missing expenditure vouchers and official records.
- A sudden unexplained change of lifestyle or an employee's lifestyle that is more affluent than would be expected from his/her employment.
- Cosy relationships with suppliers/contractors. Suppliers/contractors who insist on dealing with one particular member of staff. Excessive variations to budgets or contracts. Defining needs that can only be met by specific contractors. Lowest tenders or quotes passed over with minimal explanation recorded. Single vendor selection and vague specifications. Disqualification of any qualified bidder.
- Managers bypassing subordinates, subordinates bypassing managers and managers frequently overriding internal controls.
- Lack of Senior Management oversight. Inadequate monitoring to ensure that controls work as intended (periodic testing and evaluating).

## **Anti - Fraud Policy and Procedures**

### **Appendix 4:**

### **Fraud Response and Investigation Plan**

#### **Introduction**

This document provides guidance to all employees if they become aware of a fraud being committed at SPTA including its academies by permanent, temporary or casual staff, consultants, contractors or members of the public.

#### **Objectives**

The objectives of the 'Fraud Response and Investigation Policy' are to ensure timely and effective action is taken to:

- prevent losses of funds or other assets where fraud has occurred and to maximise the recovery of losses;
- minimise fraud by taking rapid action at the first signs of a problem;
- identify the fraudsters and maximise the success of any disciplinary and legal action taken;
- identify any lessons to help manage fraud in the future and
- reduce adverse effects on the organisation of School Partnership Trust Academies (SPTA).

#### **Staff Responsibilities**

##### **To whom should you report if you suspect a fraud?**

The route you will take will depend on whether you are reporting a possible fraud undertaken by a member of staff or a member of the public. When you suspect a fraud you should not discuss this with any other work colleagues, either before or after reporting it to the appropriate person.

##### **Fraud by a member of public:**

If the fraud happens in your area you must report this to your line manager immediately. The line manager will then contact the SPTA Director of Finance or if applicable the Principal within their academy, who will then contact the SPTA Director of Finance. They will then advise the CEO and the Executive Leadership Team of SPTA.

##### **Fraud by a member of staff including SPTA Board Members, Local Governing Bodies and Consultants:**

If a work colleague is committing the fraud, then once again under normal circumstances you should report this to your line manager. They will then contact the SPTA Director of Finance or if applicable the Principal within their academy, who will then contact the SPTA Director of Finance. If you suspect your own or any other line manager of committing a fraud you should report it to someone else within the management chain or use the Whistleblowing procedure.

### **Appendix 4 (continued)**

## **Anti - Fraud Policy and Procedures**

### **Fraud Response and Investigation Plan**

#### **What happens when you report a fraud?**

When a fraud is reported whether internal or external, an appropriate officer investigates it. Irrespective of the source of the suspicion, management must undertake an initial investigation to ascertain the facts.

Any conversations and information that you give to the investigating officers will as far as possible remain confidential. You may be asked to produce a written statement that could be used in the event that the fraud becomes a criminal investigation. If you are required to produce a written statement you will receive help and guidance.

#### **Management Responsibilities**

Each Senior Leader is responsible for ensuring that procedures and systems exist within their area of responsibility, to minimise the incidence of, and the opportunity for, fraud and irregularities. See Appendix 1.

Whenever any suspected fraud in SPTA is reported the SPTA Director/Principal shall be responsible for managing the investigation.

It is important that line management responsibilities only go as far as assessing the evidence and determining whether the suspicion is reasonable. ie not malicious or based on a clear misunderstanding/lack of knowledge. Management must err on the side of caution. The advice of the SPTA Executive Leadership Team must be sought in all but the most straightforward of cases. Assistance by the SPTA core team will be provided to manage or undertake the investigation where appropriate.

#### **Evaluation and investigation of complaints and allegations**

The circumstances of individual frauds will vary, but it is important that all are vigorously and promptly investigated and that appropriate action is taken. As soon as an allegation is received, it is the responsibility of the line manager to undertake an initial enquiry to ascertain the facts. This enquiry should be carried out as quickly as possible with the objective of either substantiating or repudiating the allegation that has been made. At this point care has to be taken to ensure that any activity is carried out in accordance with the Regulation of Investigatory Powers Act 2000. Appendix 5.

If the line manager has grounds for suspecting that a member of staff may be involved in a fraudulent activity they should not interview the member of staff without seeking guidance from the SPTA core team.

The purpose of the initial enquiry is to ascertain whether there is any substance in the suspicions so that, if necessary a full investigation can be instigated. If the allegation is substantiated the Principal/SPTA Director of Finance should be apprised of the situation who will in turn inform the SPTA Executive Leadership Team (ELT). At this stage managers should be aware they have a prime role in securing evidence and minimising any further losses. SPTA Core Team will offer advice on the most appropriate course of action. This further action may include the commissioning of specialist services to assist with the investigation; ie legal advisors or IT specialists.

#### **Appendix 4 (continued)**

## **Anti - Fraud Policy and Procedures**

### **Fraud Response and Investigation Plan**

#### **Evaluation and investigation of complaints and allegations (continued)**

When the allegation is not referred to the line manager but is referred to one of the Whistleblowing designated officers, the preliminary enquiry will normally be carried out by the SPTA Core Team.

#### **Allegation against an employee**

If an allegation is substantiated after the preliminary enquiry and further investigation is required, the investigation should have two objectives that will determine the type of investigation:

- if the employee should be subject to SPTA's disciplinary policy
- if there is evidence that an employee has committed fraud against SPTA or has committed a corrupt act, the employee may be subject of a criminal investigation by the police.

#### **Allegation against a member of the public**

If an allegation is substantiated after the preliminary enquiry and further investigation is required, the type of the investigation will very much depend on the allegation.

Generally all investigations will follow a criminal route; this will be with the view to prosecuting the individual under the appropriate legislation. The decision to prosecute will be taken after SPTA have sort appropriate legal advice.

#### **Management's welfare responsibility regarding an employee accused of fraud**

SPTA may suspend and member of staff involved in a potential fraud, pending the outcome of the investigation. SPTA Core Team will be involved in this process.

Managers should be mindful of the Disciplinary policy. SPTA also recognises that suspension can be an extremely stressful experience for employees and their families and managers should remind employees of the various options of support that is available to them.

#### **The control framework to minimise and prevent fraud**

When fraud has been identified the Audit Committee, CEO and SPTA Director of Finance together with the advice from the internal auditors should review the control procedures to ensure the opportunities to repeat the fraud are minimised.

#### **Press and Publicity**

External communications will be dealt with centrally by SPTA Core Team in all matters regarding fraud and corruption. If any officer discloses and related information to the media without the express authority of the CEO it will be regarded as a disciplinary offence.

#### **Training**

SPTA should ensure that all managers receive training in fraud awareness. The level and the extent will depend on the work that the individual carries out. When employees are an integral part of the control framework it will be necessary to be regularly reminded of fraud issues.

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### **Regulation of Investigatory Powers Act 2000**

The Human Rights Act (1998) requires investigations to ensure compliance with Human Rights legislation. Permission must be obtained from an authorised officer before using intrusive investigation techniques.

Within SPTA the following have been designated as Authorised officers:

- CEO
- Director of Education
- Director of Finance
- Director of Business Development

Any relevant investigations may be made in conjunction with the Counter Fraud and Compliance Unit, Department for Education, Education Funding Agency and the National Audit Office or other relevant bodies.

## Anti - Fraud Policy and Procedures

### Appendix 6:

#### Bribery Act 2010

The Bribery Act came into force on 1 July 2011. In its simplest form the act makes it an offence to receive a bribe either directly or indirectly. The act covers transactions taking place both in the UK and abroad, lying within both public and private sectors.

Secondly, under the Bribery Act companies and partnerships are also seen to be liable to prosecution where commercial organisations have failed to prevent persons associated with them from bribing another person on their behalf, to retain a business advantage. Employees, consultants and individuals providing services to an organisation all fall under this banner of Associates.

However, it is a statutory defence if procedures are set up as preventative measures to safeguard against the risk of bribery in organisations.

The key issues that management should address in order to mitigate risk, prevent prosecution and provide a sound defence are:

- Risk assessment – identify the key risks that could be exposed to bribery practices.
- Top Level Commitment – create a culture conducive to anti-bribery practices providing a clear message that bribery is unacceptable.
- Due Diligence – Identify conflicts of business interests between key personnel within the organisation and suppliers/contractors/consultants. Ensure amounts paid or received for services are reasonable. Appropriate segregation of duties for financial transactions.
- Clear, practical and accessible policies and procedures – Policies must be detailed and transparent and communicated to everyone within SPTA. Detailed guidance to all employees on gifts and hospitality that is acceptable. **Refer to SPTA Gifts and Hospitality Policy.** All entertainment must be logged and approved by relevant parties; this should include an assessment of the impact on the recipient, value and perception in the market place.
- Effective implementation of Policies – This should be dealt with through training or at the recruitment/induction of new staff
- Monitoring and Review – Regular review of procedures based on the evaluation of financial controls of SPTA and the work undertaken by appointed internal auditors.

Ministry of Justice Bribery Act 2010

<http://www.justice.gov.uk/legislation/bribery>