

Anti-Fraud & Corruption Strategy

May 2020

1. Introduction

South Tees Development Corporation (STDC) is committed to preventing fraud, bribery and corruption within the organisation and ensuring funds are used as they are intended.

The Development Corporation will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against fraudsters and where possible, will attempt to recover losses.

2. Purpose

The purpose of this strategy is to:

- Improve the knowledge and understanding of all STDC staff, irrespective of their position, about the risk of fraud, bribery and corruption within the organisation.
- Promote an anti-crime culture and an environment where staff feel able to raise concerns and understand that fraud, bribery and corruption is unacceptable.
- Set out the Corporation's responsibilities in terms of deterrence, prevention, detection and investigation of fraud, bribery and corruption.
- Ensure appropriate sanctions are considered following an investigation, which may include internal disciplinary action, civil recovery and/or criminal prosecution.

3. Scope

This policy applies to all individuals working at all levels including Board, Executive and Non-Executive Members (including co-opted members), Honorary Members of the Board, Members, employees (whether permanent, fixed-term, or temporary), consultants, contractors, vendors, suppliers, service users, trainees, seconded, home-workers, casual staff and agency staff, interns and students, agents, sponsors, volunteers, employees and committee members of organisations funded by STDC, employees and principals of partner organisations, or any other internal and external stakeholders or persons associated with STDC and any other parties who have a business relationship with STDC wherever located (collectively referred to as "Staff") in this Policy.

This policy is not intended to provide a comprehensive approach to preventing and detecting fraud, bribery and corruption.

Any abuse or non-compliance with this policy or procedures will be subjected to a full investigation and appropriate disciplinary action.

4. Strategy Particulars

The Corporation has a responsibility to protect public funds for which we are responsible. Fraud on public funds is unacceptable therefore the Corporation is committed to minimising the risk of fraud, corruption and misappropriation. Development of an anti-fraud culture is part of improving resilience to fraud through raising awareness, clearly defined responsibilities, robust reporting mechanisms and a suitably resourced anti-fraud strategy.

In terms of the Development Corporation and the functions it delivers, the levels of fraud detected nationally are very low and as such the risk of fraud to the Development Corporation is considered low.

This Strategy will be focused on employee related fraud and procurement fraud.

The Development Corporation recognises that as well as causing financial loss, fraud is also detrimental to the provision of services, and damaging to the reputation of, and confidence in, the Corporation and public bodies in general.

The Corporation is clear it will not tolerate any impropriety by employees, members or third-party organisations, and will ensure appropriate sanctions are considered following an investigation. This may include appropriate internal disciplinary action, civil recovery and/or criminal prosecution following a full investigation.

5. Definitions

Fraud

Fraud involves dishonestly making a false representation, failing to disclose information or abusing a position held, with the intention of making a gain or causing a loss. The gain or loss does not have to succeed, as long as the intent is there.

The Fraud Act 2006 came into force on 15th January 2007 and applies in England, Wales and Northern Ireland.

Fraud by false representation – a representation can be in words, written or communicated by conduct. There must be knowledge that the representation was untrue or misleading.

Fraud by failing to disclose – not declaring something (verbally or in writing) when there is a legal duty to disclose that information.

Fraud by abuse of position – occupying a position in which you are expected to safeguard, or not to act against, the financial interests of another person or organisation, and abusing that position.

Further areas for consideration are – possession of articles for use in fraud and the making or supplying articles for use in fraud.

Actions that could be seen to constitute fraud include, but are not limited to:

- Any dishonest or deceptive act;
- Making fraudulent statements e.g. falsifying timesheets, travel and subsistence, sick or special leave
- Theft, destruction of property or data, or misappropriation of funds;
- Impropriety in the handling and reporting of money or financial transactions;
- Subletting;
- Profiteering because of inside knowledge of the company's activities;
- Disclosing confidential information;
- Obtaining goods, money or services by deception
- Intimidation or exploitation
- False accounting/invoicing and / or the destruction, removal or inappropriate use of records;
- Serious misuse of IT or communications system.

Bribery and Corruption

Bribery and corruption involves offering, promising or giving a payment or benefit-in-kind in order to influence others to use their position in an improper way to gain an advantage.

- Offences of bribing another person:

The Bribery Act 2010 makes person (P), guilty of an offence if either of the following two cases apply:

- P offers, promises or gives a financial or other advantage to another person, and P intends the advantage to induce a person to perform improperly a relevant function or activity, or to reward a person for improper performance of such a function or activity.
- P offers, promises or gives a financial or other advantage to another person, and P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.
 - Offences relation to being bribed:

The Bribery Act 2010 makes person (R) guilty of an offence if any of the following applies:

- R requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by R or another person).
- R requests, agrees to receive or accepts a financial or other advantage, and the request, agreement or acceptance itself constitutes the improper
- R requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by R or another person) of a relevant function or activity.
- In anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly by R or by another person at R's request or with R's assent or acquiescence.

Failure of a commercial organisation to prevent bribery (Section 7 of the Bribery Act 2010):

- A relevant commercial organisation (e.g. STDC) is guilty of an offence under this section if a person associated with the organisation bribes another person intending to obtain or retain business for the organisation, or to obtain or retain advantage in the conduct of business for the organisation.
- However, it is a defense for the organisation to prove that it had in place adequate procedures designed to prevent persons associated with the organisation from undertaking such conduct.

6. Responsibilities within the Organisation

Through our day to day work, we are in the best position to recognise risks within our own areas of responsibility. We also have a duty to ensure that those risks are identified and eliminated. This section outlines the roles and responsibilities of individuals within STDC who can contribute to protecting it by reporting fraud and other irregularities.

- **Chief Executive**

The Chief Executive has the overall responsibility for funds entrusted to the organisation as the accountable officer. The Chief Executive must ensure adequate policies and procedures are in place to protect the organisation.

- **Audit & Risk Committee**

The Audit and Risk committee are responsible for seeking assurance that STDC has adequate arrangements in place for countering fraud.

- **Director of Finance & Resources**

The Director of Finance & Resources is responsible for approving financial transactions across the organisation.

The Director of Finance & Resources prepares documents and maintains detailed financial procedures and systems which apply the principles of separation of duties and internal checks to supplement those procedures and systems.

The Director of Finance & Resources will report annually to the Board on the adequacy of internal financial controls and risk management as part of the Board's overall responsibility to prepare a Statement of Internal Control for inclusion within STDC's annual report.

The Director of Finance & Resources will, depending on the outcome of the initial investigations, inform appropriate senior management of suspected cases of fraud, bribery and corruption, especially in cases where the loss may be above an agreed limit or where the incident may lead to adverse publicity

If an investigation is deemed appropriate, the Director of Finance & Resources will delegate the investigation to the Head of Finance whilst retaining overall responsibility.

The Director of Finance & Resources will consult and take advice from the Human Resources (HR) Manager, if a member of staff is to be interviewed or disciplined. The Director of Finance & Resources will not conduct a disciplinary investigation, but the employee may be subject to a separate investigation by HR.

- **Internal and External Audit**

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. The external auditors have a statutory duty to ensure STDC has in place adequate arrangements for the prevention and detection of fraud, bribery and corruption.

Auditors have a duty to pass on any suspicions of fraud, bribery or corruption to the Director of Finance and Resources.

- **Human Resources (HR)**

HR will liaise closely with the managers from the outset if an employee is suspected of being involved in fraud, bribery or corruption. HR will also ensure appropriate use of STDC's Disciplinary Policy and Procedure. HR will advise those involved in the investigation on matters of employment law and other procedural matters such as disciplinary and complaints procedures as requested. Close liaison between any appointed external agencies and HR will be essential to ensure that parallel sanctions are effectively applied in a coordinated manner.

HR will conduct robust pre-employment checks at the recruitment stage for all employees, (temporary, fixed term and permanent) and refer any discrepancies to the CEO. Checks will include identification, eligibility to reside and work in the UK, qualifications, membership of professional body, references/previous employment and when relevant, DBS and health checks.

- **Managers**

Managers are responsible for ensuring policies, procedures and processes within their local area are adhered to and kept under constant review including conducting risk assessments and mitigating identified risks.

Managers have a responsibility to ensure staff are aware of fraud, bribery and corruption and understand the importance of protecting the organisation from it. Managers are also responsible for the enforcement of disciplinary action for staff who fail to comply with policies and procedures.

Any instances of actual or suspected fraud, bribery or corruption brought to the attention of a manager should be reported to the Director of Finance & Resources immediately. It is important that managers do not investigate any suspected financial crimes themselves.

- **All Employees**

All staff are required to comply with STDC policies and procedures and apply best practice to prevent fraud, bribery and corruption (for example in the areas of procurement, personal expenses and ethical business behaviour). Staff should be made aware of their own responsibilities in protecting STDC from these crimes.

Employees who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.

Employees are expected to act in accordance with the standards laid down by their professional institutes, where applicable, and have a personal responsibility to ensure that they are familiar with them.

Employees also have a duty to protect the assets of the organisation, including information, goodwill and property. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees should always:

- avoid acting in any way that might cause others to allege or suspect them of dishonesty;

- behave in a way that would not give cause for others to doubt that STDC employees deal fairly and impartially with official matters; and
- be alert to the possibility that others might be attempting to deceive.

All employees have a duty to ensure that public funds are safeguarded, whether they are involved with cash or payment systems, receipts or dealing with contractors or suppliers.

All employees should be aware that fraud and bribery will normally, dependent upon the circumstances of the case, be regarded as gross misconduct thus warranting summary dismissal without previous warnings. However, no such action will be taken before an investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.

Employees will not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that you will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly your function or activities.

The Standing Orders and Standing Financial Instructions place an obligation on all staff and Non-Executive Directors to act in accordance with best practice. In addition, all STDC staff and Non-Executive Directors must declare and register any interests that might potentially conflict with those of STDC.

If an employee suspects that fraud, bribery or corruption has taken place, it should be reported to Director of Finance & Resources and/or nominated others.

7. Information Management and Technology

The Head of Information Security (or equivalent) will contact the Director of Finance & Resources immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate internet/intranet, e-mail, telephone, PDA use and any offence under the Computer Misuse Act 1990. Human Resources will be informed if there is a suspicion that an employee is involved.

8. External parties

Those organisations undertaking work on behalf of STDC are expected to maintain strong anti-fraud principles and have adequate controls in place to prevent fraud when handling public funds and dealing with customers on behalf of STDC. Contractors and sub-contractors acting on STDC's behalf are responsible through contractual arrangements put in place during the tender process and through contracts, for compliance with the Bribery Act 2010

9. External communications

Individuals (be they employees, agency staff, locums, contractors or suppliers) must not communicate with any member of the press, media or another third party about a suspected fraud as this may seriously damage the investigation and any subsequent actions to be taken. Anyone who wishes to raise such issues should discuss the matter with either the Director of Finance & Resources.

10. Detection

The Corporation will use all legal and cost-effective means to detect fraud, corruption and bribery including working with other organisations in national data matching schemes e.g. the National Fraud Initiative and HMRC Taxes and Management Act Returns. This may require the lawful sharing of information.

The risk-based Internal Audit Plan ensures areas with a risk of fraud are reviewed at least annually.

All stakeholders are expected to report suspected fraud, corruption or bribery.

11. Prevention

There are a number of key requirements to support the prevention of fraud, corruption and bribery:

- Establishment of adequate internal control systems to prevent fraud is the responsibility of management.
- Senior Management Team responsibility for assessing the effectiveness of internal control systems in relation to fraud, corruption and bribery.
- Internal Audit coverage is sufficient to provide annual assurance to the Corporation's Audit & Risk Committee and supports managers by assessing controls in relation to the prevention of fraud.
- Awareness raising with staff around the importance of maintaining adequate controls systems.

12. Response

Any instances of fraud, bribery or corruption will be dealt with through the following mechanisms:

- All instances of fraud must be notified to Internal Audit services to enable the completion of annual returns and to form evidence to support the Annual Governance Statement.
- Investigations will be conducted by the most appropriate section as follows. Fraud involving employees will be investigated in accordance with the Corporation's disciplinary procedures by a nominated Investigation Manager, with support as required from the Internal Audit service.
- The Corporation will adhere to the provisions of the Regulation of Investigatory Powers Act (RIPA) and Money Laundering Legislation.

Any decision to involve the Police in any investigation of fraud will be taken by the Director of Finance in consultation with the CEO and the Monitoring Officer.

The outcome of the investigation of fraud against the Corporation will be reported appropriately to ensure systems and procedures are amended and to act as a deterrent.

The Corporation recognises the need to ensure that its investigation process is not misused. Any abuse such as the raising of malicious allegations by officers/members will be dealt with as a disciplinary matter

13. Sanctions – including recovery of proceeds could be through POCA, Civil Law or Pensions

This section outlines the sanctions that can be applied and the redress that can be sought against individuals who commit fraud, bribery or corruption against STDC and should be read in conjunction with STDC's Disciplinary Policy and procedure.

The types of sanction which the organisation may apply are:

- Civil – sanctions can be taken to recover money and/or assets which have been fraudulently obtained, including interest and costs.
- Criminal – STDC will work in partnership with the police and the Crown Prosecution Service to bring a case to court against an offender. Outcomes, if found guilty, can include fines, a community order or imprisonment and of course, a criminal record.
- Disciplinary – procedures will be initiated when an employee is suspected of being involved in fraudulent or illegal activity.

STDC will seek financial redress whenever possible to recover losses to fraud, bribery and corruption. Redress can take the form of confiscation under the Proceeds of Crime Act 2002, compensation orders, a civil order for repayment, or a local agreement between STDC and the offender. Funds recovered will be returned to STDC for use as originally intended.

14. Reporting a Suspicion of Fraud, Bribery or Corruption

If any person has any concerns about fraud, bribery or corruption, they must inform the Director of Finance & Resources immediately [unless the Director of Finance is implicated, in which case they should contact the Chair or Chief Executive]. The individual should not contact the Police unless it is an emergency.

If you feel unable to talk to the Director of Finance & Resources, Chair or Chief Executive, you should contact the Human Resources Manager.

Appendix B provides a summary of do's and don'ts when it comes to suspecting and reporting fraud. Managers are encouraged to copy this to staff and place it on the notice boards in their department.

All reports of fraud, bribery and corruption will be taken seriously and are thoroughly investigated. The Director of Finance & Resources will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised. If the allegations are found to be malicious, they will also be considered for further investigation to establish their source.

STDC wants all employees to feel confident that they can report any fraud, bribery and corruption suspicions without any risk to themselves. In accordance with the Public Interest Disclosure Act 1998, STDC has produced a Whistleblowing Policy which should be read in conjunction with this policy.

The Public Interest Disclosure Act 1998 gives protection to individuals, casual workers, agency workers and contractors, non-employees etc who make a qualifying disclosure when they reasonably believe it is in the public interest for them to do so.

15. Policy Framework

The policy framework surrounding prevention of fraud, bribery and corruption includes:

- Code of Conduct including protocol on Gifts & Hospitality, Declarations of interest and Confidential Reporting (“whistleblowing”) policy and Complaints procedures.
- Procurement Policy
- Financial Procedure rules
- ICT Security Policies
- Robust internal control systems, processes and reliable record keeping
- Effective Internal Audit
- Effective Recruitment procedures
- Disciplinary Policy and Procedures
- Induction and Training

16. Process for Monitoring Compliance and Effectiveness

The following monitoring processes are in place for this policy:

Standard	Monitoring Process
Monitoring arrangements for compliance and effectiveness.	A report will be provided to the approving committee.
Responsibility for conducting the monitoring/audit	This policy shall be reviewed in line with legislative requirements and based upon continual usage by Director of Finance
Frequency of the monitoring/audit.	Annual.
Process for reviewing results and ensuring improvements in performance occur.	The Audit Committee will review the results of this audit/report. The discussion and action any action points will be recorded in the minutes and followed up by the Audit Committee.