

Revenue Scotland Fraud Response Plan

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1. Introduction and Scope

1.1 Revenue Scotland has a zero tolerance approach to fraud. We will counter fraud by ensuring that a zero tolerance culture to fraud is maintained and that fraud is effectively managed at all levels in the organisation.

Purpose

1.2 This Fraud Response Plan sets out arrangements to ensure that effective action is taken in the event of a suspected fraud or attempted fraud against Revenue Scotland being reported.

Scope

1.3 This Plan covers both external and internal fraud. It should be read in conjunction with Revenue Scotland's Counter-Fraud Policy. It applies to all staff, including delegates carrying out functions on behalf of Revenue Scotland, and temporary staff.

1.4 The procedures set out in this Plan also apply in respect of Revenue Scotland members of staff who are seconded or loaned to other bodies. In such cases, the body to which the member of staff is seconded or loaned will be consulted on handling of the investigation. The procedures will also apply to individuals who are loaned or seconded to Revenue Scotland. In these cases the parent body will be consulted on handling of the investigation.

1.5 This Plan does not cover tax evasion by external parties. Collusion by Revenue Scotland staff in actions or attempted actions to evade tax would, however, be covered by this Plan.

2. Related Policies and Procedures

- Counter-Fraud Policy
- Whistleblowing Policy

3. Overview of Policy

3.1 This Fraud Response Plan sets out arrangements to ensure, in the event of a suspected fraud or attempted fraud against Revenue Scotland being reported, that effective action is taken to:

- (a) Investigate the circumstances;
- (b) Minimise the risk of subsequent loss;
- (c) Ensure that appropriate recovery action is taken or, failing recovery, to initiate action to write off any losses;
- (d) Remedy any weaknesses in internal control procedures;
- (e) Initiate disciplinary and legal procedures, where appropriate; and
- (f) Demonstrate that Revenue Scotland is not a soft target for attempted fraud.

Application

3.2 This Fraud Response Plan, which is fully consistent with the Scottish Government (SG) Fraud Response Plan, covers both external and internal fraud. It is aligned to Revenue Scotland's operational environment and pertinent risk factors. This Plan should be read in conjunction with the Revenue Scotland Counter-Fraud Policy.

3.3 The procedures set out in this Plan will also apply in respect of Revenue Scotland members of staff who are seconded or loaned to other bodies. In such cases, the body to which the member of staff is seconded or loaned will be consulted on the handling of the investigation. The procedures will also apply to individuals who are loaned or seconded to Revenue Scotland. In these cases the parent body will be consulted on the handling of the investigation.

Tax Evasion

3.4 Tax evasion is a very important category of potential external fraud – and is separate from categories such as procurement, purchasing or contract fraud. Revenue Scotland will continue to deter, prevent, detect and take action against tax evasion through its comprehensive range of compliance systems, policies and activities. Separate arrangements are in place for external notification to Revenue Scotland of potential or suspected Scottish Landfill Tax fraud or Land and Buildings Transaction Tax fraud, and will be put in place in relation to air passenger tax and any other devolved taxes for which Revenue Scotland may in future become responsible. This document does not cover tax evasion by external parties; collusion by staff in actions or attempted actions to evade tax would, however, be covered by this Policy.

Reporting Fraud

3.5 Managers and staff must always be alert to the risk of fraudulent activity and any indication of such activity should be reported. They may also receive notification of suspected fraud from external sources including partner organisations, taxpayers, agents, professional bodies and members of the public.

3.6 See Section 4 for further detail about roles and responsibilities for reporting fraud.

Investigations

3.7 Following the reporting of suspicions or allegations of fraud, the Chief Executive or, if for whatever reason it is not considered appropriate for the Chief Executive to be involved in a particular investigation, the Chair of the Board will seek specialist advice and/or a recommendation as appropriate from:

- (a) Scottish Government HR;
- (b) SG Internal Audit Directorate; and/ or
- (c) The Revenue Scotland Head of Legal Services, in consultation if appropriate with SGLDon whether the suspicions or allegations warrant further action or investigation.

3.8 The Chief Executive (or the Chair) may also, at their discretion arrange for the information to be passed on to the SG Fraud Response Team for co-ordination purposes and other purposes set out in paragraph 3.18.

3.9 If further action or investigation is agreed, the Chief Executive (or, exceptionally, the Chair) should initiate the following action, insofar as it is appropriate to the particular case:

- (a) 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.
- (b) Secure records and assets, including imposing restrictions on access to offices, computer terminals or devices.
- (c) Based on advice from Scottish Government HR, and involving the Head of Legal Services/ SGLD as required, consider the *prima facie* case for suspension of any Revenue Scotland member or members of staff who are the subject of suspicion or allegations.
- (d) Agree the scope and nature of any investigative work required to establish the facts of the particular case.
- (e) Decide whether the appropriate Police/ Procurator Fiscal Service contacts should be informed.
- (f) Agree a timetable for completion of any agreed actions.

3.10 Fraud investigations may at the request of the Chief Executive (or the Chair) be undertaken by Scottish Government Internal Audit Directorate, Scottish Government HR or an Independent Investigating Officer, depending on the circumstances.

3.11 Investigations will take account of any relevant work or recommendations by specialist areas, including Internal Audit and HR reports. The SG Fraud Response Team should also be kept informed about preliminary investigation findings.

3.12 The Chief Executive (or the Chair), assisted as necessary by a Heads of Service and/or the Chief Accountant, will carefully consider the terms of reference for any investigative work. 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 by HR under SG's Disciplinary Policy and Procedures to which staff of Revenue Scotland are subject.

Selection of Investigating Officer

3.13 Scottish Government HR will, where necessary, following prior consultation with and on behalf of the Chief Executive (or the Chair), appoint the independent Investigating Officer. The Investigating Officer must have the appropriate skills to undertake an investigation and, if necessary, knowledge of the area of work under investigation. He/she should be a person who does not have, and has not had, close personal or work-related ties with the person under investigation.

Action on Investigation Findings

3.14 As soon as possible after investigations have been completed and the Chief Executive (or the Chair), in consultation as appropriate with HR, Internal Audit and legal advisers, is satisfied that no further investigations are required, the Chief Executive (or Chair) must ensure that:

- (a) Disciplinary action, if any, is being taken (in line with disciplinary policy and procedures);
- (b) Disciplinary action, if any, is being taken if initial allegations appear to be malicious;
- (c) The form and content of any report to the Audit and Risk Committee and the Board is appropriate; and
- (d) The Police/ Procurator Fiscal is/ are notified if required.

Case Closure, Follow-Up and Review

3.15 Where evidence of fraud or serious misconduct has been identified, the Chief Executive (or the Chair) should consider whether any action needs to be taken to prevent a recurrence. In such cases an action plan should be drawn up setting out clear

recommendations. It may be helpful to consult SG Internal Audit or HR who have already drawn up their own cross-SG action plans.

3.16 Action plans will include the required steps to be taken in response to an investigation's findings. Any occurrence of fraud in Revenue Scotland may hold lessons to be learned elsewhere in the Scottish Administration or in the core Scottish Government. Actions plans should therefore be shared with the SG Fraud Response Team who have a lead role in ensuring that appropriate action is taken forward effectively across SG.

3.17 The Chief Executive (or the Chair) will be informed by HR of the outcome of cases where a charge of gross misconduct has been made. In any case where such a charge has been brought but a disciplinary hearing does not uphold the charge or an appeal panel overturns the initial panel's decision, the Chief Executive (or the Chair) will be informed of the reasons for the panel's decisions. It will then be for the Board, advised by the Chief Executive, in consultation with HR and others as necessary, to consider whether in light of this information there are lessons to be learned for the handling of fraud cases and whether this Fraud Response Plan and related guidance, for example on disciplinary procedures, is operating effectively.

3.18 If appropriate, where an individual has, or individuals have, been dismissed or subject to other disciplinary action for matters other than fraud (e.g. abuse of IT systems), HR will inform the Chief Executive (or the Chair) and Internal Audit of the circumstances of the case and consideration may be given to whether a further review (by Internal Audit) should be undertaken to establish whether or not there has been misuse of other systems by the same individual(s).

Confidentiality

3.19 The Chief Executive (or the Chair), Heads of Service and the Chief Accountant, as necessary, will receive the appropriate information relating to individual cases. They must treat all information relating to individual members of staff on an "Official - Sensitive" basis and should ensure that it is only passed on to colleagues on a strictly need to know basis. HR will place a record on the career folder of a member of staff only where disciplinary action has been taken. Under the Revenue Scotland Whistleblowing Policy all matters will be dealt with in confidence and in strict accordance with the terms of the Public Interest Disclosure Act 1998, which protect the legitimate personal interests of staff. Further information is provided in the Whistleblowing Policy.

Reporting Cases of Fraud

3.20 Details of any cases of actual or suspected fraud dealt with under these arrangements must be reported at least quarterly to the Revenue Scotland Audit and Risk Committee (ARC). Details of fraud where actual losses have been incurred must also be reported to the Scottish Parliament through notes in the Revenue Scotland Annual Report and Accounts, as well as to the ARC.

External Fraud

3.21 External frauds - other than tax fraud or evasion (see paragraph 3.4 above) - are frauds perpetrated by third parties against Revenue Scotland (e.g. contract, procurement and purchasing fraud). Cases of external fraud will be dealt with under this Fraud Response Plan in conjunction with the Revenue Scotland Counter-Fraud Policy. As previously noted, the SG Fraud Response Team is also available to advise on arrangements for dealing with external fraud.

3.22 The Chief Executive may seek additional advice in cases of external fraud from SG DG Exchequer, HR and/or SGLD. Procedures for responding to suspected external fraud, insofar as they are appropriate to any particular case, may include the following:

- (a) A report by operational management on the circumstances;
- (b) A formal assessment of whether the evidence tends to substantiate fraud; (any invalid claims or invoices that could reasonably be argued were submitted in good faith should not normally be regarded as fraud);
- (c) In consultation as appropriate with SG DG Exchequer and with the Head of Legal Services or as appropriate SGLD, consideration of any specific aspects requiring special handling;
- (d) Consideration of what actions, if any, need to be taken to raise awareness about wider effects of the alleged/ attempted fraud;
- (e) Notification of the alleged fraud to the Police/ Procurator Fiscal where appropriate; consideration of what actions need to be taken for them to establish the facts; engagement of specialist advice as required;
- (f) Consideration of suspension of the project/ supplier payment, etc., and of whether recovery action is required;
- (g) Consideration of what support is required for any on-going investigations, e.g. availability of staff for statements;
- (h) Ensuring that the Audit and Risk Committee is kept fully apprised of the potential fraud, the potential risk and the actions to be taken;
- (i) In consultation with SG DG Exchequer, consideration of losses and special payments implications, as set out in the Scottish Public Finance Manual;
- (j) Consideration of control procedures and lessons learned; and
- (k) Consideration of reporting requirements.

3.23 It will normally be sufficient to alert Revenue Scotland's IT team, copying in SG's IT Security group, about any cases of internet scams. If fraud by a supplier is suspected, the Scottish Procurement and Commercial Directorate should be kept informed. Cases of straightforward theft (which does not qualify as fraud) should be notified to the Head of Change and Corporate Functions and, as appropriate, the SG Security team for action.

4. Responsibilities

4.1 Fraud reporting procedures within Revenue Scotland are as follows:

- (a) In the first instance staff should report any suspicions of occurrence of fraud, or attempted fraud, to their line manager.
- (b) 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 senior member in the management chain.
- (c) If this does not resolve the issue, or if there is a good reason for not raising a concern within the line management chain, the matter should be reported direct to the Chief Executive.
- (d) If staff have a particularly serious and urgent concern, which for whatever reason cannot be raised via the management chain or the Chief Executive, they should report the matter to the Chair of the Board of Revenue Scotland.

4.2 The Board of Revenue Scotland has overall responsibility for establishing and maintaining a framework for risk, control and governance – including for managing the risk of fraud. In discharging its overarching responsibility, the Board has delegated to the Audit and Risk Committee responsibility for scrutinising arrangements put in place by the Chief Executive, as Accountable Officer, and staff of Revenue Scotland for risk, control and governance. This includes the management of fraud risk and appropriate procedures to prevent, deter and detect fraud that are consistent with relevant guidance in the Scottish Public Finance Manual (SPFM) - on which this Fraud Response Plan and accompanying Counter-Fraud Policy are based - on the prevention, detection, reporting and handling of fraud.

4.3 In putting in place these arrangements and carrying out these functions, the Chief Executive is supported in particular by her Heads of Service and by the Chief Accountant and is able to call on assistance as appropriate from SG Internal Audit Directorate, SG HR, the SG Fraud Response Team within the SG DG Exchequer and other specialist corporate support.

4.4 Specific roles and responsibilities, while listed separately, are clearly inter-linked: close liaison and co-operation on developments in specific areas is essential, as is the involvement of line management at an appropriate level. It will often be

necessary to act with extreme urgency in handling actual or suspected frauds. It may also be necessary to involve additional individuals with particular knowledge or expertise in consideration of a specific case, or to require individual members of staff to attend meetings, provide statements or otherwise assist.

4.5 The Chief Executive leads on the implementation of effective counter-fraud policy in Revenue Scotland and is responsible for ensuring that necessary action is taken to handle all actual or suspected cases of fraud, or attempted fraud, which may occur. She leads in:

- (a) Promoting a strong anti-fraud culture throughout Revenue Scotland, deploying internal and external communications;
- (b) Counter-fraud policy development in Revenue Scotland;
- (c) Assessing, monitoring and mitigating risk of fraud in Revenue Scotland policies and procedures;
- (d) Ensuring that fraud investigations are carried out effectively;
- (e) Considering, in consultation with HR and with line management, the sensitivity of the allegations in terms of public interest and briefing the Board appropriately; and
- (f) Reporting fraud, and lessons learned; alerting SG, delivery partners and stakeholders as appropriate to fraud risks; and undertaking any appropriate communications

4.6 In all these responsibilities, the Chief Executive is supported as necessary by her Heads of Service and the Chief Accountant.

4.7 The Chief Accountant is specifically responsible for:

- (a) Safeguarding funds potentially at risk, rectifying any obvious gaps in financial controls;
- (b) Advising the Chief Executive on the case for recovery action and initiating action to recover funds as required;
- (c) Determining the financial impacts of frauds;
- (d) Supporting the Chief Executive in reporting details of any frauds to the Audit and Risk Committee and the Board; and
- (e) Arranging, where necessary, for notation of Revenue Scotland Accounts.

4.8 Scottish Government HR Directorate, as providers of Revenue Scotland's HR shared service, is responsible for provision of HR advice and assistance to the Chief Executive, including:

- (a) Advising on and as appropriate arranging the suspension of Revenue Scotland members of staff pending the outcome of any investigations (and reviewing

the notice of suspension at regular intervals throughout the period of investigation);

- (b) Appointing an Investigating Officer (see below);
- (c) Liaising with SG Legal Directorate (SGLD) on legal implications under employment legislation and SG Main terms and conditions;
- (d) Implementing disciplinary procedures against perpetrators of frauds and other members of staff whose actions may have facilitated frauds; and
- (e) Considering the action to be taken if lesser instances of misconduct have been identified during the investigation.

4.9 The Head of Change and Corporate Functions, consulting the SG Security team and Revenue Scotland IT services as necessary, is responsible for:

- (a) Protecting accounting and other records;
- (b) Safeguarding relevant records and assets potentially at risk;
- (c) Restricting access to offices, workstations, devices and records of individuals involved by altering or withdrawing cards/ passwords;
- (d) Pursuing cases of straightforward theft; and
- (e) Leading on information assurance work.

4.10 The Head of Change and Corporate Functions, as manager of IT services, is responsible for IT-related counter-fraud activity.

4.11 The Revenue Scotland Head of Legal Services, in consultation with SGLD if appropriate, is responsible for the provision of legal advice.

4.12 SG Internal Audit Directorate, who provide Internal Audit services to Revenue Scotland, are responsible as and when requested by the Chief Executive for:

- (a) Carrying out fraud investigations and liaising with the appropriate Police/ Procurator Fiscal Service contacts as required;
- (b) Making recommendations for improvement where appropriate; and
- (c) Advising on potential lessons to be learned.

4.13 At Revenue Scotland's discretion, the Chief Executive may arrange for suspicions of fraud to be reported to the SG Fraud Response Team for the purposes of co-ordination under the SG Fraud Response Plan. The Team, which receives and records information provided anonymously or otherwise about suspected frauds from individual members of the public, is well placed, as required, to:

- (a) Issue fraud alerts;
- (b) Provide advice and co-ordination services on counter-fraud matters; and

(c) Advise on what action, assistance and communication may be required from within SG and external sources (including the Police).

5. Exceptions

5.1 There are no exceptions.

6. Enforcement

6.1 All cases of actual or suspected fraud will be vigorously and promptly investigated and appropriate action will be taken. The Police will be informed where considered appropriate. In addition, disciplinary action will be considered not only against any members of staff found to have perpetrated frauds but also against managers whose negligence is held to have facilitated frauds. Both categories of offence can be held to constitute gross misconduct, the penalty for which may include summary dismissal.

7. Review

7.1 This document is subject to review at least annually.