

**TAY ROAD BRIDGE JOINT BOARD**

**FRAUD GUIDELINES**

**March 2016**

# TAY ROAD BRIDGE JOINT BOARD

## FRAUD GUIDELINES

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## **1 Introduction**

- 1.1 The Tay Road Bridge Joint Board (the Board) is committed to safeguarding the public funds entrusted to it and maintaining the highest standards of probity. In order to fulfil this commitment, the Board has a zero tolerance approach to fraud, corruption and bribery. There is no acceptable level of fraud, corruption or bribery.
- 1.2 The Board is determined to protect itself and the public from fraud and corruption and is committed to maintaining an effective anti-fraud and corruption strategy which will provide a framework to:-
- Encourage fraud and anti-bribery prevention;
  - Promote detection;
  - Investigate all instances of suspected fraud;
  - Pursue recovery of any losses; and
  - Invoke disciplinary and police proceedings, where appropriate.
- 1.3 An internal control framework exists to ensure that the Board's financial and operational environments are properly controlled. The following documents and procedures are an important part of effective internal control processes:-
- Standing Orders;
  - Scheme of Administration for Financial Regulations;
  - Scheme of Administration for Tender Procedures;
  - Scheme of Administration for Delegation of Powers;
  - Operating Procedures and Guidelines;
  - Employees' Conditions of Service and Employment Policies;
  - Code of Conduct for Board Members; and
  - The National Code of Conduct for Local Government Employees in Scotland.
- 1.4 As stewards of public funds, employees, officers and Board members must have, and be seen to have, high standards of personal honesty and integrity.

## **2 Definitions**

### **2.1 Fraud:**

The term is used to describe obtaining money, assets, contracts, benefits or advantage through deliberate deceit, whether active or passive. It is commonly used to describe a wide variety of dishonest behaviour such as deception, forgery, false representation, theft, embezzlement, bribery and concealment of material facts. Fraud can be perpetrated by persons outside as well as inside an organisation and by collusion. The Board defines fraud as a dishonest action designed to facilitate gain (personally or for another) at the expense of the Board or the wider community.

### **2.2 Corruption:**

This relates to the offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person.

- 2.3 Bribery:  
This is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.

### **3 Standards in Public Life**

- 3.1 In all its dealings the Board will adhere to the seven principles of public life set out in the Nolan principles below:-

#### Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

#### Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

#### Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### Leadership

Holders of public office should promote and support these principles by leadership and example.

### **4 The Board's Anti-Fraud and Corruption Strategy**

- 4.1 The objective of this strategy is to prevent fraud and corruption. The purpose of this strategy is to formalise the responsibilities and arrangements for the prevention of, and response to, fraud and corruption.
- 4.2 The Board takes ultimate responsibility for the protection of its finances and those that are administered on behalf of the Government. The Board recognises that fraud and corruption are costly in terms of reputational risk and financial loss. The Corporate Governance Framework which underpins

the Board's activities has a number of components that exist to protect the Board against fraud and corruption. These are:-

#### Annual Governance Statement

The Board has approved and adopted a local Code of Corporate Governance that is consistent with the principles of the Chartered Institute of Public Finance and Accountancy (CIPFA) and Society of Local Authority Chief Executives (SOLACE) framework Delivering Good Governance in Local Government. This statement explains how the Board delivers good governance and reviews the effectiveness of these arrangements. Within the overall control arrangements of this statement, the system of internal financial control is intended to ensure that assets are safeguarded, transactions are authorised and properly recorded, and material errors or irregularities are either prevented or would be detected within a timely period. It is based on a framework of regular management information, financial regulations, administrative procedures and management supervision.

#### Internal Audit

Under the Public Sector Internal Audit Standards internal auditing is defined as an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. It is widely recognised that effective internal audit cover is regarded as a matter of good practice. In addition it supports the Board's Section 95 Officer discharge the responsibilities contained in the legislation. As part of the assurance gathering process used to prepare the Board's Annual Governance Statement the Internal Auditor provides an annual report providing an opinion on the adequacy and effectiveness of the Board's control environment.

#### External Audit

External Audit will carry out specific reviews to test the adequacy of the Board's financial systems. They also examine arrangements for preventing and detecting fraud and corruption.

#### Service Level Agreements with stakeholders

The Board will liaise where appropriate with outside organisations to encourage closer working and formalising joint working through the implementation of Service Level Agreements. However, these agreements will necessarily be subject to there being appropriate legal gateways to sharing of information and resources.

#### Councillors Code of Conduct

The Ethical Standards in Public Life (Scotland) Act 2000 introduced a new ethical framework for public life in Scotland. Scottish Ministers have issued Code of Conduct for Councillor's setting out principles and rules on the treatment of Councillor's interests. In addition the 2000 Act places a duty on Councils to promote the observance of high standards of conduct by their Councillor's and to assist them to observe the Code in accordance with Guidance issued by the Standards Commission for Scotland. The 2000 Act also places a duty on Councils to maintain and allow the public access to a Register of their Councillor's interests in accordance with Regulations made by the Scottish Ministers and Guidance issued by the Standards Commission.

In the case of Board Members they must declare their interests in their constituent Council's Register of Members' Interests.

#### Code of Conduct for Council Employees

This National Code sets out the minimum standards of conduct that is expected of a Local Government employee. This covers general standards; financial and non-financial interests; relationships with colleagues, managers, councillors, contractors, media and the public; gifts and hospitality, appointments, political neutrality and political restrictions.

#### Risk Register

The Board has a risk register in order to identify, record, review and revise key business risks. All risks have been evaluated and prioritised. The main priorities within this strategy are the identification, evaluation and control of risks which threatens the Board's ability to deliver services to the public.

#### Recruitment and Selection Procedures

The Board's Recruitment and Selection Procedure ensures that employees are appointed on merit and includes controls to eliminate the appointment of unsuitable persons. All applicants who accept the Board's offer of employment are consenting to the Board using the personal data which they have provided in connection with the application and which they may provide in the future, for fraud prevention purposes. This means that the Board can check and/or data match personal data held between the Board and other organisations as deemed necessary. All job applicants are required to fully comply with the recruitment and selection process which includes providing correct and accurate information at all stages of the recruitment process. Prior to appointing the preferred candidate the recruiting manager is required to ensure that they are satisfied with all documentation submitted. Where managers have a concern on the accuracy or validity of the submitted documentation they should contact Human Resources. Employees who have provided false or inaccurate information during the recruitment and selection process will be investigated in accordance with the Board's Procedure for Dealing with Breaches of Discipline and Sub Standard Work Performance. Appropriate action will be taken which may include dismissal.

4.3 The Board's strategy for the prevention and detection of fraud and corruption is based on the following comprehensive and related elements:

- Developing and promoting an anti-fraud culture;
- Allocating responsibilities for the overall management of the risk of fraud;
- Establishing cost effective internal controls to detect and deter fraud;
- Responding effectively to fraud when it occurs, including taking appropriate legal and/or disciplinary action; and
- Monitoring systems to record, and subsequently monitor, all discovered cases of fraud.

## **5 The Board's Anti-Bribery Policy**

### **5.1 Background**

The UK Bribery Act 2010 came into force in July 2011. There are four key offences under the Act:-

- Bribery of another person;
- Accepting a bribe;
- Bribing a foreign official; and
- Failing to prevent bribery.

The offences carry criminal penalties for individuals and organisations, including unlimited fines for organisations. The Board should therefore ensure that anti-bribery policies and procedures are in place to reduce the risk of any employees, Board Members or associated persons from committing a bribery offence.

The new offence of failure to prevent bribery can be mitigated if an organisation can prove it has adequate procedures in place to prevent persons associated with it from committing bribery. What counts as adequate depends on the bribery risks faced by the Board, therefore the bribery prevention procedures that the Board adopts must be proportionate to and focused on the risks that it faces.

### **5.2 Assessing the Risk of Bribery**

The following six principles assist with the risk assessment and will help the Board decide what, if anything, it needs to do differently:-

#### *Proportionality:*

This is dependent upon the size of the organisation and if it is operating in countries or markets where the risk of bribery is higher.

#### *Top Level Commitment:*

Have top level management been active in making sure that your staff and the key people who do business with you and for you understand that you do not tolerate bribery.

#### *Risk Assessment:*

What are the bribery risks that the Board might face, i.e. the markets that it operates in or the people it deals with.

#### *Due Diligence:*

Knowing exactly who you are dealing with can help to protect the Board from taking on or engaging people who might be less than trustworthy.

#### *Communication:*

Ensuring that policies and procedures are communicated to staff and others who perform services on the Board's behalf enhances awareness and helps to deter bribery. In higher risk situations, the board might insist on additional training.

#### *Monitoring and Review:*

The risks the Board faces and the effectiveness of procedures may change over time. The Board therefore needs to ensure that if the bribery risks that it faces changes then ensure its policies change.

### 5.3 Meeting the Standard

Whilst the organisation is relatively small and operates solely in the UK, both of which are deemed to have low risks of bribery, it does make use of contracts and operates in what is deemed to be a higher bribery risk market, namely the construction industry, thereby increasing the overall risk of bribery.

These Fraud Guidelines and the Board's Anti-Fraud and Corruption Strategy help to formalise the responsibilities and arrangements for the prevention of, and response to, fraud, corruption and bribery. This includes the communication of these guidelines to employees and Board Members as well as to external parties, both those that perform services for the Board and also other stakeholders by ensuring that they are publically available on the Board's website. The Fraud Guidelines ensure that an anti-fraud and anti-bribery culture is in place and the internal control systems are robust. Thorough documentation, including working manuals and operating procedures are also in place which help to prevent fraud, corruption and bribery,, these are listed in section 1.3. These are complemented by training and support.

## 6 Culture

- 6.1 Creating an anti-fraud culture, in which all staff understands the standard of conduct required, their personal responsibilities in preventing fraud and the importance of controls, is vital in preventing fraud.
- 6.2 The Board is committed to the seven Principles of Public Life identified by the Nolan Committee, namely selflessness, integrity, objectivity, accountability, openness, honesty and leadership, which are described in detail in section 3.
- 6.3 The Board expects members and employees to lead by example in ensuring opposition to fraud and corruption. This includes adherence to rules, regulations, procedures and practices.
- 6.4 The Board requires all individuals and organisations with whom it deals in any capacity to behave towards the Board with integrity and without intent or action involving fraud or corruption.
- 6.5 Board members, employees and members of the public are the important elements in the stance against fraud and corruption and are positively encouraged to raise any concerns they may have on issues which impact on the Board's activities being carried out with propriety.
- 6.6 Training and guidance is vital in maintaining the effectiveness of the strategy and its general credibility. The Board supports induction and work related training. This ensures that responsibilities and duties are regularly highlighted and reinforced to ensure that best practice is followed across all Tay Road Bridge Joint Board services.
- 6.7 Senior management should try to create the conditions in which staff have neither the motivation nor the opportunity to commit fraud. The maintenance of good staff morale may help to minimise the likelihood of an employee causing harm to the organisation through fraud.



- 6.8 Under the right conditions staff are themselves an excellent deterrent against fraud. Staff should be encouraged to report suspicions of fraud either to their line managers, the Treasurer or to call the Board's Helpline for Employees.

## **7 Roles and Responsibilities**

### **7.1 Board Members:**

The Board Members have overall responsibility for the operations and activities of the Board.

Board Members must have regard to the Board's Code of Conduct for Members. Acceptance of their appointment includes an undertaking to be guided by this Code.

Board Members and employees must declare any possible conflicts of interest which they may have, whether in contracts entered into by the Board or otherwise. In the case of Board Members they must declare their interests in their constituent Council's Register of Members' Interests.

### **7.2 Chief Officers and Managers:**

Managers at all levels are responsible for ensuring that:

- An effective system of internal control is in place within their areas of responsibility.
- All employees for whom they are responsible are complying with the relevant codes of conduct.
- All complaints are logged and details of subsequent actions and decisions are recorded.

Managers, therefore, are required to:

- Establish clear written rules and procedures, within which employees, consultants, contractors, service users, Board Members and the public can work.
- Regularly review and update the written rules to reflect the current operating environment.
- Assess types of risk involved in the operations for which they are responsible.
- Regularly review and test the control systems for which they are responsible.
- Ensure controls are being complied with.
- Ensure suitable levels of internal checks are included in working procedures, particularly financial procedures.
- Ensure that there is suitable segregation of duties, so that no one person can carry out a complete transaction without being subject to some form of checking process, and so that control of any key function is not vested in one individual.
- Ensure that employee recruitment is in accordance with procedures laid down, and in particular, written references are obtained to confirm the honesty and integrity of potential employees prior to an offer of employment being made.
- Ensure that backlogs of work are not allowed to accumulate.
- Ensure that there is regular rotation of staff where practicable.

- Give consideration to building safeguards against internal and external fraud when designing a new system.
- Take seriously any allegation of fraud reported to them and deal with these in accordance with appropriate procedures.
- Make necessary changes to systems after a fraud to minimise the risk of recurrence.

### 7.3 Employees:

Employees should be encouraged to be alert to the possibility of fraud and corruption in the workplace. They should know whom to contact if they suspect a fraud whether it is their line manager, other appropriate member of staff or the Treasurer.

Employees are responsible for ensuring they fully comply with codes of conduct within the Board and any code of conduct related to their professional body. They must also assist in any investigations by making available all relevant information.

Any Officer or other employee in receipt of a regular salary shall not be entitled to retain any fees or commissions collected or received in connection with the duties or their office.

Any Officer or other employee of the Board who corruptly accepts any gratuity, bonus, discount, bribe or consideration of any sort in connection with their duties of their office shall be liable to summary dismissal.

Board Members and employees must declare any possible conflicts of interest which they may have, whether in contracts entered into by the Board or otherwise. In the case of employees this should be done in writing to the Treasurer.

### 7.4 The Treasurer:

The Treasurer is available to offer advice and assistance on control issues as necessary. However, it is the responsibility of management to maintain effective internal controls for systems for which they are responsible and to ensure that the Board's resources are properly applied in the manner intended.

The Treasurer will have regard to the possibility of malpractice during routine audit work and will seek to identify defects in controls. All weaknesses which could facilitate frauds should be reported to the Treasurer.

The Treasurer is required to formally report all incidents of fraud to the Board's External Auditors who forward such information to Audit Scotland.

### 7.5 External Audit:

The role of External Audit is to form an objective view of the discharge by the audited body of its stewardship responsibilities. They carry out specific reviews to test, amongst other things, the adequacy of the Board's financial systems. They also examine arrangements for preventing and detecting fraud and corruption.

## 7.6 Internal Audit:

The Internal Audit service operates in accordance with the Public Sector Internal Audit Standards. Internal Audit undertakes an annual programme of work, which is reported to the Joint Board. Internal Audit also provides an independent opinion on the adequacy and effectiveness of the systems of internal control on the reviews undertaken during the year. Whilst it is not a primary function of Internal Audit to detect fraud, the internal audit activity must evaluate the potential for the occurrence of fraud and how the organisation manages fraud risk.

## 7.7 Members of the Public:

The success of the fraud prevention strategy will be enhanced through the honest and co-operative support of the public.

## **8 Internal Control Systems**

8.1 Control is any action, procedure or operation undertaken by management to increase the likelihood that activities and procedures achieve their objectives. A key element in the prevention of fraud and corruption is the operation of effective systems of internal control.

8.2 Thorough documentation, including working manuals and operating procedures, is expected for all financial and operational systems, and these must be issued to all relevant staff.

8.3 Every effort must be made to continually review and develop these systems in line with best practice to ensure efficient and effective internal controls, which include:

- Effective segregation of duties;
- Authorisation procedures;
- Budgetary control;
- Financial monitoring;
- Security of data;
- Recording and documentation; and
- Training and support

This should assist in deterring fraudulent activity and detect error.

## **9 Fraud Response Policy**

9.1 The circumstances of individual frauds may vary, but suspected frauds will be investigated thoroughly and timeously, and the appropriate action will be taken.

9.2 All employees must inform their line manager, or appropriate member of staff of any circumstances which may suggest an irregularity affecting the finances, services or policy of the Board. Alternatively, there is a Helpline for employees to disclose information if they feel that they cannot discuss the matter with their line manager. The confidentiality of any concerns raised will be maintained as far as possible.

- 9.3 All suspected instances of fraud and corruption must be reported to the Treasurer, after initial assurance that there are reasonable grounds for concern.
- 9.4 After consultation with appropriate officers, the Treasurer will decide on the type and course of investigation, which will essentially fall into one of four categories:
- The investigation is carried out solely by Internal Audit;
  - A joint investigation is undertaken by Internal Audit and the Board;
  - An internal investigation is carried out by the Board with Internal Audit acting in an advisory capacity; or
  - The case is passed immediately to the Police who will carry out the investigation.
- 9.5 When a significant fraud is discovered it should be notified to the Treasurer. At this stage a decision will be made in conjunction with the Bridge Manager and/or the Clerk to either inform the Police or investigate the matter internally. In most cases, the Police will not be officially notified at this stage. The Police may request the assistance of the Treasurer or any relevant party as part of the investigation.
- 9.6 The purpose of any investigation is to:
- Gather evidence to determine whether an irregularity has occurred;
  - Identify those involved;
  - Identify the amount involved;
  - Support findings with evidence;
  - Identify any control weaknesses or failures;
  - Recommend improvements; and
  - Provide a written factual report on the incident.
- 9.7 All persons who are the subject of an investigation into suspected fraud or corruption will be treated fairly and courteously at all times.
- 9.8 It is the responsibility of the Bridge Manager to ensure action is taken following the enquiry including any formal disciplinary action. The Clerk is also involved to ensure that each employee is treated in accordance with the appropriate employment policies and procedures.
- 9.9 Where loss has been suffered through fraudulent activity, the Board will pursue the perpetrator for recovery.
- 9.10 Management must put in place controls recommended following any fraud or corruption to reduce the risk of future loss.
- 9.11 Attached in Appendix B is a summary of the key areas which should be considered when undertaking a fraud investigation.

## **10 Conclusion**

- 10.1 The Board is committed to making sure that the opportunity for fraud, corruption or bribery is as small as possible.

- 10.2 The Board expects all employees, consultants, contractors, service users, Board Members and the public to be fair and honest, and to provide information, support and assistance to ensure fraud, corruption and bribery are prevented, subject to the Data Protection Act.
- 10.3 The Board has in place a clear framework of systems and procedures to deter, detect and investigate fraud, corruption and bribery. It will ensure that these arrangements are fair and transparent, and are monitored and updated for future developments in preventative, deterrent and detection techniques.
- 10.4 Fraud, corruption, bribery or other irregularities will be dealt with effectively, in a firm and controlled manner.

## APPENDIX A

### Contacts

<b>Name</b>	<b>Post</b>	<b>Telephone Number</b>
Alan Hutchison	Bridge Manager	433044
Marjory Stewart	Treasurer to the Board	433555

**Key Areas in the Structure and Conduct of an Investigation**

**1. Procedural Considerations**

- The overall objective is to achieve a professional and systematic approach to the investigation.
- It is important that there are adequate resources to investigate the matter.
- A working paper file should be opened for each investigation to ensure that it is satisfactorily documented in terms of information and evidence so that any action taken can be properly supported.

**2. Operational Considerations**

- All evidence and other documentation should be adequately secured.
- It is important to determine the most appropriate methods to seek out and evaluate the evidence to reach a considered professional opinion.
- Consideration must be given as to whether or not to suspend the employee(s) under investigation. The final decision whether or not to suspend is usually made by the Bridge Manager in consultation with the Clerk to the Board, with appropriate advice provided by the Treasurer and the Personnel Department.

**3. Conduct of the Investigation**

The purpose of the investigation is to establish the facts in an equitable and objective manner. Therefore it is essential to ensure that:

- All documentation relevant to the investigation (preferably original documentation) is obtained.
- Other evidence, such as physical verification, cash counts, etc. is obtained as necessary.
- The evidence is evaluated. For larger investigations, with a high volume of information, it may be necessary to carry out a preliminary analysis of a number of cases, with a full and detailed appraisal being carried out after the initial conclusion has been reached.
- Confidentiality is maintained. This prevents the employee whom the allegations are made against from destroying any evidence and prevents embarrassment should the allegations turn out to be unfounded.

**4. Interviewing**

- Thorough preparation before the interview is necessary, for example, typing out sample questions, ensuring all relevant documents are to hand and agreeing respective roles of those conducting the interview.
- Two people should be present to conduct the interview, one asking questions and one taking notes.
- It may be beneficial for the employee's manager to be present as they have a more in depth knowledge of the systems involved.
- The interviewee has a right to be accompanied to the meeting.
- It is imperative that interview notes record the events accurately.
- The interviewee should be given the opportunity to read through the interview notes and make any adjustments necessary (which should be initialled). The interview notes should then be consecutively numbered, dated and signed by interviewer and interviewee.

## **5. Reporting Procedures**

- The primary responsibility for the prevention and detection of fraud rests with management and it is therefore essential that the findings are reported at a time and in a manner consistent with the needs of management.
- The report should be made to the appropriate level of management.
- The report should be of a high standard because the final report may well be used by management in a disciplinary situation or the Police in a criminal situation. Therefore, it is essential that the report accurately presents all material aspects of the investigation. Due consideration should be given to the content of any report as under the Freedom of Information (Scotland) Act 2002 the report could be made available to the public, this may increase the risk of similar frauds.
- The report should be supplemented by working papers which fully document the investigation.

## **6. Post-Investigation Issues**

- The investigation may result in a formal disciplinary hearing chaired by the Bridge Manager and attended by a representative of the Personnel Department. The outcome of such a hearing may be a verbal warning, a written warning, a final written warning or dismissal.
- An employee may lodge an appeal against the outcome of formal disciplinary action.
- In certain circumstances an employee may take the case to an employment tribunal.
- Where deemed appropriate the case may be referred to the Police. The decision whether to refer the case to the Police is made by the Bridge Manager in conjunction with the Clerk to the Board.
- When the investigation has been completed and all aspects have been explored and the extent of the fraud determined, it is necessary to determine whether there are any systems implications which have been disclosed by the fraud.
- It is then necessary to determine what changes (if any) need to be made, and controls imposed to bring the system up to the required standard.