

Arts Council of Wales

Anti-Fraud Policy

May 2018



Cyngor Celfyddydau Cymru
Arts Council of Wales



Noddir gan
Lywodraeth Cymru
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Arts Council of Wales operates an equal opportunities policy.

Policy Statement

One of the fundamental responsibilities of the Arts Council of Wales (the Arts Council) is to ensure the proper use of the public funds and resources with which it has been entrusted. This Anti-Fraud Policy applies to all aspects of our work. It defines the overall controls and procedures that will assist us in the prevention and detection of Fraud.

We promote an anti-fraud culture across all aspects of our work. This means that we take an active stance and a robust approach in safeguarding against the misuse or misappropriation of public funds.

The highest standards of propriety and professional behaviour are expected of all those most closely associated with the Council's work. These standards are set out in our Code of Best Practice and are reviewed on a regular basis.

We also have a Whistleblowing Policy, should any member of staff feel that issues need to be raised.

We require Council and Committee members, our national advisers and our staff to:

- act with honesty and integrity at all times
- safeguard resources
- take appropriate steps to prevent, detect, report and investigate fraud, bribery or serious irregularity.

The Arts Council will not accept any level of fraud or bribery or serious irregularity. Any such cases will be thoroughly investigated and dealt with appropriately.

We are committed to ensuring that opportunities for fraud, bribery or serious irregularity are minimised. We therefore take an active approach to the design and operation of our financial and administrative systems to minimise the risk of irregular or unauthorised behaviour.

This Policy complements the Arts Council's Risk Management and Whistleblowing Policies. It was last approved by our Audit Committee in May 2018 and is reviewed annually.

Definitions of Fraud, Bribery and Serious Irregularity

Fraud is a type of criminal activity, defined as:

“abuse of position, or false representation, or prejudicing someone's rights for personal gain”.

Put simply, fraud is an act of deception intended for personal gain, that avoids an obligation or that causes a loss to another party.

The criminal act is the attempt to deceive. Attempted fraud is therefore treated as seriously as accomplished fraud. The general criminal offence of fraud can include:

- deception whereby someone knowingly makes false representation
- the failure to disclose information
- abuse of position
- gaining an unfair advantage or profiting as a result of insider knowledge of the company's affairs
- impropriety in the handling or reporting of money, financial transactions or reporting
- disclosing confidential information to outside parties

In doing so, a criminal act is deemed to have taken place when the individual purposefully acts dishonestly to make a gain, financial or otherwise, for themselves or another, or to cause loss to another or expose another to the risk of a loss.

Our work to detect and prevent fraud extends across all aspects of our activities. This includes:

- Recruitment
- Human Resources
- ICT
- Procurement
- Grants management
- Cash handling
- Use of charge cards
- Travel and expenses
- Misuse of company equipment
- Misuse of company information or data

The Bribery Act 2010 came into force on 1 July 2011. It replaces earlier legislation with a consolidated scheme of bribery offences intended to deal with bribery both domestically and abroad.

These are:

- Bribing another person (to perform improperly a relevant function or activity, or to reward a person for improper performance of such a function or activity)
- Being bribed (including acceptance of bribes)
- Bribing a foreign public official (in order to obtain or retain business or an advantage in the conduct of business)
- Failure to prevent bribery (an organisation could be liable to prosecution if an employee or individual associated with it bribes another person to gain an advantage or obtain/retain business for that organisation)

A serious irregularity can be regarded as an action, or the failure to take an action, that results in the loss or compromise of an organisation's assets, where the action, or failure to take action, is not, in itself, a fraudulent action. An organisation's assets include money, information / data, documents or equipment.

Fraud, bribery or serious irregularity may occur internally or externally and may be perpetrated by staff, external consultants, suppliers, contractors or grant applicants - individually or in collusion with others.

Reporting Fraud

All staff should be alert to the possibility that unusual events or transactions could be symptoms of fraud or attempted fraud. Examples would include money laundering, attempting to secure funding under false pretences via new applications or suspicious activity of an organisation or individual we may fund.

Fraud may also be highlighted as a result of specific management checks or be brought to the attention of management by a third party. Additionally, irregularities occasionally come to light in the course of audit reviews. Where it is suspected that irregularities are occurring within the Arts Council, the member of staff should refer immediately to this policy for guidance and follow the procedures set out in our Whistle-blowing Policy.

The Arts Council has fraud management guidance in place that identifies the areas in which we may be exposed to fraud, bribery or serious irregularity. It outlines our procedures for reporting and investigating occurrences of suspected fraud, bribery or serious irregularity. It also explains the measures in place to reduce the risk of these occurring.

All matters will be dealt with in confidence. Any that may have been raised and investigated through our Whistleblowing Policy will be investigated in accordance with the Public Interest Disclosure Act 1998. This protects the legitimate personal interests of those involved in raising a concern and any consequent investigation.

Vigorous and prompt investigations will be carried out in all cases of actual or suspected fraud reported or discovered. Where necessary, Government, regulators and the Police will be informed if an investigation demonstrates that this is necessary.

Responsibilities

1. Accounting Officer

The Chief Executive is designated by the Welsh Government as the Arts Council's Accounting Officer. This includes a personal responsibility for establishing and maintaining a sound system of internal control that supports the achievement of the Arts Council's corporate policies, aims and objectives. This includes the propriety and regularity of the public finances for which he/she is answerable and for the keeping of proper accounts.

The systems of internal control and corporate assurance are designed to respond to and manage the whole range of risks that the Arts Council may face. It is based on an on-going process designed to identify the principal risks, evaluate the nature and extent of those risks and to manage them effectively. This includes the consideration and management of fraud risk.

The Accounting Officer has a responsibility to see that appropriate advice is tendered to the Council on all these matters. Satisfactory performance of these responsibilities is fundamental to the role of the Chief Executive.

2. Council and Committee Members, National advisers and Staff

All Council and Committee members, National Advisers, and members of staff have a duty to ensure that public funds and the Arts Council's assets are safeguarded. Therefore, everyone is responsible for:

- Conducting themselves in accordance with the Arts Council's Code of Best Practice, including in relation to declarations and conflicts of interest;
- Ensuring they are fully aware of the Arts Council's policies and guidance that relate to fraud, bribery and general risk management;
- Acting with propriety in the use of official resources and the handling and use of public funds in all instances. This includes cash and/or payments systems, grant approval and management and dealing with suppliers and contractors;
- Being vigilant to the possibility that unusual events or transactions could be indicators of fraud, bribery or serious irregularity and alerting their line manager or appropriate person where they believe the opportunity exists for these risks to occur.

It is the responsibility of everyone to report details immediately if they suspect an act of fraud, bribery or serious irregularity has occurred, been attempted or is likely to be attempted or occur.

In addition the following have additional specific duties:

2.1 The Council

The Council is responsible for developing and maintaining effective controls to prevent fraud and deter misconduct. Council will carry out vigorous and prompt investigations if either occurs or is suspected.

Appropriate legal and/or disciplinary action against the perpetrators of fraud or attempted fraud will be taken by Council. Council will also take any necessary disciplinary action against line managers where management failures have contributed to the commission of the fraud, and against individual members of staff where they are involved.

The circumstances of individual frauds will vary and may be perpetrated both internally by staff and externally e.g. within the activities of an individual or organisations we may fund or via fictitious applications. However, it is important that all irregularities or instances of suspected fraudulent activity or unacceptable behaviour are vigorously and promptly investigated and that appropriate action is taken. This action may include making necessary changes to systems or procedures to ensure that similar frauds do not happen again.

Arts Council and the Council view fraud very seriously and will ensure that systems are established and maintained for the recording and subsequent monitoring of all discovered cases of fraud.

2.2 Directors/Heads of Department/Managers

The members of staff identified above are responsible for ensuring that an adequate system of internal control, including risk management and awareness and corporate governance, exists within their areas of responsibility. They are also responsible for ensuring that controls operate effectively. The responsibility for the prevention and detection of fraud therefore rests primarily with senior staff.

There is a need for all senior staff to assess the types of risk involved in the operations for which they are responsible; to regularly review and test the control systems for which they are responsible; and, to ensure that controls are being complied with. They must at all times satisfy themselves that their systems continue to operate effectively.

If designing any new system, a comprehensive risk assessment must be undertaken. Specific consideration should be given to building in safeguards against internal and external fraud. Subject to the area(s) of work under consideration the following are available to offer advice and assistance on risk management and control issues as necessary:

- Our internal auditors;
- Director of Finance and Business Services
- Director of Funding and Investment Services;
- Head of Business Development;
- Head of Finance and Accounting;
- Planning, Performance and Compliance Manager

3. External Audit

It is the responsibility of the Auditor General as external statutory auditor to issue annually a Certificate and Report on the Financial Statements which includes an opinion on:

- their truth and fairness, providing assurance that they:
 - are free from material misstatement, whether caused by fraud or error;
 - comply with statutory and other applicable requirements; and
 - comply with all relevant requirements for accounting presentation and disclosure,
- and the regularity of expenditure and income.

4. Internal Audit

The purpose of internal audit is to provide the Council and Accounting Officer – through the Audit and Risk Assurance Committee – with an independent and objective opinion on risk management. This includes an assessment of control and governance and their effectiveness in achieving the organisation's agreed objectives. This opinion forms part of the framework of assurances that the Council receives and is used to help inform the annual Statement on Internal Control that appears in the statutory accounts. Internal Audit also has an independent and objective consultancy role to help line managers improve risk management, governance and control.

5. Audit and Risk Assurance Committee

The Arts Council of Wales is required, by the Welsh Government, to establish an Audit Committee in order to advise, and to provide assurance, on the adequacy of the Council's arrangements for internal audit, external audit and corporate governance.

The Audit and Risk Assurance Committee supports the Council and Accounting Officer by reviewing the comprehensiveness and reliability of assurances on governance, risk management, the control environment and the integrity of financial statements and the annual report. In particular, it is responsible for reviewing the systems of Internal Control within the Council's risk management, control, governance, financial and other operations. The goal is to help promote the highest standards of propriety in the use of public funds and encourage proper accountability for the use of those funds.

Conclusion

The circumstances and type of individual frauds will vary. However, regardless of type, scale or circumstance, the Arts Council takes fraud very seriously. We are fully committed to reducing our exposure to potential fraud, bribery or serious irregularities and we will fully investigate all reported suspicions.

Robust action will be taken in instances where fraud, bribery or serious irregularities may be proven. And where necessary, such issues will be referred to the police.

The Arts Council of Wales is a member of the National Fraud Initiative.

Appendix 1

Staff Guidance on Reporting a Suspicion of Fraud

Before Raising a Concern

Do

- Keep calm
- Consider and define the concern by assessing the **facts** gathered
 - Why do you have the concern?
 - What does it involve (fraud, misconduct or other inconsistent activity)?
 - Who do you believe is involved?
 - When may have it occurred may it still be happening?
 - Is there any evidence of wrongdoing?
 -

Don't

- Forget there may be an innocent or good explanation
- Become a private detective
- Discuss your concerns with anyone other than those identified in our policy and procedures
- Use the procedure to pursue a personal grievance. The Arts Council supports responsible reporting of suspicious activity and disciplinary action will be taken against individuals where it can be proven that a disclosure was made maliciously.

Raising a Concern

If, after considering the above actions, the concern remains, speak to:

- Your line manager
- Director of Finance and Business Services
- Member of the Senior Leadership Team

Do not undertake any investigations or speak to any parties yourself.