

Table Tennis Scotland

FRAUD AVOIDANCE MANUAL

May 2006

CONTENTS

SECTION	SUBJECT	PAGE
1	Introduction	3
2	The Law	4
3	Fraud Policy and Strategy	6
4	Potential Fraud Areas	8
5	Organisational Structure and Responsibilities	12
6	Follow Up: Investigation Procedures	14

SECTION 1

INTRODUCTION

- 1.1 This manual sets out arrangements for Fraud investigation, with particular emphasis on external fraud perpetrated by someone from outside **Table Tennis Scotland**. The possibility of collusive fraud is also addressed.
- 1.2 The manual is divided into six sections. The first three sections cover introductory material, the law of fraud and **Table Tennis Scotland's** fraud policy and strategy. The remaining three sections deal with potential fraud areas; fraud prevention and detection procedures; organisational structure/responsibilities; and action to be taken if a fraud is reported, uncovered or suspected.
- 1.3 It should be noted that a formal Lottery Fund document is NOT in place.

SECTION 2

THE LAW

Introduction

- 2.1 Fraud is not itself an individual criminal offence, rather the term encompasses a variety of crimes. Matters are complicated further by the fact that the Scots law position is radically different to that in England.
- 2.2 Under the heading of fraud, the offences that need consideration are:
- Common Law (or *simple*) fraud
 - Uttering as genuine (forgery)
 - Embezzlement and theft

Common Law Fraud

- 2.3 Can be stated as:
a false pretence made to another person in the knowledge of its falsity and with the intention that the other person should be deceived by it into acting in a way which he would not otherwise have acted, provided that the other person is so deceived and does so act on account of it.
- 2.4 This alone helps little. The key elements are:
- Representation:- the active creation of a false belief in the mind of the victim.
 - Intention:- the fraudster must at least realise that the statement may be false
 - Result:- there must be a causal link. A defence to this charge might simply be to argue that the award would have been made despite the fraud.
- 2.5 The deception does not necessarily have to comprise a statement. Representation can, for example, be implied from conduct. Statements of intention and opinion may constitute a false pretence, depending upon the maker's intentions. Silence will not constitute a false pretence unless there is an obligation to disclose. Obligations to disclose are sometimes imposed on bankrupts, company directors and trustees.
- 2.6 'Attempt to defraud' is also an offence in Common Law, although difficult to define. Awareness of this charge is important not just to punish the failed

fraudster, but also to deter other potential fraudsters. The test seems to be whether the perpetrator has gone beyond the act of mere preparation, albeit that such a test raises severe practical evidential difficulties.

Uttering As Genuine

- 2.7 To make fake documents is not in itself a criminal offence. The crime is to intentionally utter a document as genuine knowing that it is false. It is not necessary to demonstrate that harm has resulted from the uttering of false documents; submission alone will suffice. Such documents might include application forms, correspondence, invoices, constitutions, company documentation, leases and title deeds.

Embezzlement and Theft

- 2.8 To some extent distinguishing between these two offences is of only academic merit given that they are often alternative charges. A theft is the wrongful appropriation of property belonging to another, with the intention of permanently depriving the other of possession. An embezzlement is a more general, deceitful failure to account for the administration of property entrusted to you. In both the fraudster will dishonestly assume the rights of the true owner.

SECTION 3

FRAUD POLICY AND STRATEGY

Introduction

- 3.1 **Table Tennis Scotland**'s mission statement, policy and fraud strategy are set out below.

Fraud Mission Statement

- 3.2 **Table Tennis Scotland** *will* create an environment that inhibits fraud and so allows all money to be applied for its designated purposes.

Fraud Policy Statement

- 3.3 **Table Tennis Scotland** is committed to taking all practical steps to prevent itself being subjected to fraud whether perpetrated internally or externally. This fraud risk comprises the risk of theft of funds and assets, the risk of false accounting and the risk of bribery and corruption. **Table Tennis Scotland** aims to target fraud in key risk areas as detailed in its strategy.
- 3.4 **Table Tennis Scotland** will maintain robust control mechanisms to both prevent and detect fraud. All officers of TTS have a responsibility for maintaining documented control systems and must be seen to be setting an example by complying fully with all procedures, regulations and controls. The effectiveness of controls will be subject to cyclical review by **Table Tennis Scotland**'s auditors. Directors especially must be aware of the risk of fraud and the potential for harm, and should be willing to hear any concerns (however slight) colleagues may have on this issue.
- 3.5 **Table Tennis Scotland** staff and volunteers and volunteers are required to be vigilant as regards the real threat of external fraud and to recognise that there are clever, ruthless individuals willing to take advantage of the organisation's benevolent purposes. Staff and volunteers are expected to be familiar with the fraud prevention strategy and to act in accordance with the correct procedures so lessening the potential for fraud. The awareness of the threat of fraud aims to create a culture of caution and prudence, which will act as a deterrent to potential fraudsters. This culture values prevention rather than cure; recognising that it is best to act on suspicions immediately instead of merely relying on good fortune by ignoring these.
- 3.6 **Table Tennis Scotland** expects all staff and volunteers at all times to act with honesty and with integrity. All members of staff and volunteers have a responsibility to protect the assets and reputation of **Table Tennis Scotland**.

- 3.7 Confidential mechanisms have been established to allow staff and volunteers to report suspected frauds to management or internal auditors. If initial investigation suggests there is a case for further investigation, the body best placed to undertake the further investigation will be informed. This body will be the police if criminal activity is suspected.

Fraud Strategy

- 3.8 In the implementation of its Fraud Policy, **Table Tennis Scotland** undertakes to:

- Develop and maintain written procedures to prevent fraud
- Develop and maintain a Fraud Investigation Manual
- Develop and implement training courses for directors, staff and volunteers to improve their skills in preventing and detecting fraud
- Ensure that appropriate personnel procedures are in place covering discipline and grievances
- Develop arrangements for investigations
- Review and further develop its risk management procedures to minimise the threats of fraud

- 3.9 The basic framework of **Table Tennis Scotland's** work in the detection and prevention of fraud will focus on five stages of award distribution

- At application
- At assessment
- In tendering
- At claims stage
- At monitoring

Each stage will involve a different set of questions and issues, requiring the attention and vigilance of all staff and volunteers involved in the process.

SECTION 4

POTENTIAL FRAUD AREAS

Introduction

4.1 There are potentially fourteen categories of Fraud risk identified.

These are:

- Collusion
- Conflicts of interest
- Contract fraud
- Failure to meet grant conditions and planned outputs
- Diversion of funds
- Mis-appropriation of assets
- Payments in advance not used for the purposes intended
- Falsification of documents and evidence
- Applicants having own funds or concealing other supporting funds
- Double funding
- Inflation of needs
- Payment instrument fraud
- Construction fraud
- Project advisors

Collusion

- 4.2 An especially distasteful, but especially dangerous fraud. A range of potential partnerships might be identified between applicants, their suppliers and **Table Tennis Scotland** staff and volunteers.
- 4.3 Detection of this fraud can often involve simply noticing coincidences in the names or addresses involved. Prevention must be helped by asking searching and challenging questions.

Conflicts of interest

- 4.5 Both **Table Tennis Scotland** staff and volunteers and external parties can often have their integrity called into question here, despite acting entirely in good faith. There is however a risk of criminal fraud between applicants/suppliers and applicants/approvers.
- 4.6 The current approach to this fraud risk is to require annual declarations to be made by staff and volunteers and Board Members, case-by-case declaration and retrospective declaration.

Contract fraud

- 4.7 Current **Table Tennis Scotland** procedures, if followed, should be effective in negating this risk.

Failure to meet conditions and planned outputs

- 4.8 Such failures may be deliberate in themselves, or an attempt to conceal a change in circumstances. To some extent this fraud is guarded against by payments being output related. This alone will not entirely suffice and any failure that monitoring reveals will result in the recovery of funds provided.
- 4.9 The recovery of funds is a complicated and difficult matter, and it may well prove inadequate or impossible. This then is an area where prevention is very much better than cure. Prevention in this context must involve checking applicants' claims very carefully and requiring appropriate supporting documentation to be provided.

Diversion of funds by the successful applicant.

- 4.11 Accounting procedure should prevent such embezzlement. All payments must be monitored and matched to application, invoices and specified outputs. A review of typical forgeries reveals that invoices are particularly easy to create, a fact that should be borne in mind if suspicions are raised.

Mis-appropriation of assets by the successful applicant

- 4.12 Again, all payments must be monitored against the original application and invoices for assets.

Payments in advance not used for the purposes intended

- 4.13 This is monitored by the involvement of a development officer, by year-end reviews and by review of the recipient's annual accounts.

Falsification of documents and evidence

- 4.14 Detection and prevention measures presently in place should negate this risk. That is, leases, constitutions, and the like should be signed, dated and checked with third parties. Particular vigilance should be exercised with letters, invoices, tender documents and planning approvals given the relative ease with which these documents can be manufactured.

Applicants have own funds or concealed other funds

- 4.15 **Table Tennis Scotland** may guard against this by reviewing annual accounts and by requiring some sort of underwriting from relevant sports bodies or local authorities. Where deemed appropriate, "Fit for Purpose" audit of bodies may be undertaken.

Double funding

- 4.16 Is guarded against by requiring documentary evidence from other funding sources and by consulting with counterpart lead directors, staff and volunteers, programme directors, staff and volunteers and relationship directors, staff and volunteers. Funding might also be provided by Lottery funders, from other government departments, from local authorities, European sources and philanthropic bodies.

Inflation of needs

- 4.17 An especially common fraud, which crosses a fine line from simple contingency provision. .

Payment Instrument Fraud

Construction fraud

Project Advisors

May enter commission and contract frauds.

SECTION 5

ORGANISATIONAL STRUCTURE AND RESPONSIBILITIES

Introduction

- 5.1 All directors, staff and volunteers, within their area of responsibility are responsible for ensuring that there are adequate controls in place to prevent fraud and that agreed procedures are followed; that staff and volunteers involved in processing applications and awards are aware of the risk of fraud and the action to be taken where fraud is suspected.

Accountable Officer

- 5.2** Table Tennis Scotland's Board of Directors is ultimately responsible.

5.3 Fraud Policy Responsibility

- 5.4 Responsibility for setting **Table Tennis Scotland's** fraud policy and ensuring that it is followed rests with the Board of Directors.

Specific responsibilities include:

- Promoting fraud awareness amongst staff and volunteers
- Undertaking and managing the risk assessment process
- Producing the fraud policy and strategy

- Ensuring that appropriate control procedures are in place and are fully documented
- Managing any contact with outside bodies

Investigations Directors, staff and volunteers

- 5.5 It is important that staff and volunteers are aware that they should not deal with allegations of fraud themselves but should immediately convey their suspicions to the Directors..
- 5.6 The Directors, staff and volunteers will not be required to carry out the detailed investigation of the actual or suspected fraud but will be responsible for co-ordinating it and taking appropriate decisions throughout the process. Key tasks/responsibilities of the Directors, staff and volunteers are:
- To take such action as is deemed necessary to substantiate the allegations of fraud
 - To document fully the action taken, the parties spoken to, and the evidence gathered
 - Where necessary, to consult outside parties such as bankers, the police, lawyers or investigative consultants
 - To observe utmost secrecy so as not to prejudice any subsequent judicial proceedings
 - In certain cases, to withhold payments of award/instalments of award whilst investigation continues
 - At appropriate intervals to prepare written reports for interested parties
- 5.7 **Table Tennis Scotland's** Director of Support Services will act as Investigations Directors.

SECTION 6

FOLLOW UP: INVESTIGATION PROCEDURES

Introduction

- 6.1 The procedures for investigating suspected or potential fraud adopted by **Table Tennis Scotland** follow below.

Procedures

- 6.2 Once any irregularities have been identified, an initial investigation will be carried out immediately to determine whether there is a reasonable possibility that fraudulent actions are involved and a decision taken on the need for further action. Attendees at the initial meeting(s) will include the Support Directors, and other senior directors, staff and volunteers as appropriate.
- 6.3 If the initial enquiries indicate that there may be attempted, suspected or proven fraud by award recipients or applicants, a meeting of the appropriate officers (as per para 6.2, above) will be held immediately, with the **Table Tennis Scotland** Chairman and the Director of Support Services (Investigations Directors, staff and volunteers).
- 6.4 The purpose of this meeting will be to:
- Discuss and agree the form of investigation to be undertaken and by whom it should be carried out (i.e. Officer investigation initially or independent investigations by solicitors, accountants, consultants or private investigators).
 - Discuss and agree the need for a joint investigator where a fraud might be occurring across more than one funding body (subsequently, discuss and agree this appointment with the distribution body(ies) concerned)
 - Agree timescale, ensuring that prompt action will be taken by the investigator/investigation team.
 - Ensure that **Table Tennis Scotland's** Support Directors is fully briefed, to enable her to co-ordinate the investigation efficiently and effectively.

Reporting

- 6.5 The findings of the investigation will be reported in the first instance to the Chairman by the Investigations Director.
- 6.6 If this report states that the irregularity investigated is likely to amount to fraud or attempted fraud, the Chairman will notify sportscotland. In cases of obvious fraud, the police will be notified immediately on discovery.
- 6.7 Where the irregularity or non-compliance issue does not amount to an attempted, suspected or proven fraud, but is, nonetheless, a serious breach of contract, the matter should be referred by officers to the **Table Tennis Scotland** Board. Action recommended might include repayment of award.

Review

- 6.8 From time to time officers will meet to discuss lessons learnt from irregularities and proven fraud and the need if any to review/amend systems, operating procedures, conditions of award and monitoring requirements to obviate the risk of repetition.