

# **Suas**

## **ANTI- FRAUD & OTHER WRONGDOING WHISTLE-BLOWING POLICY**

### **1. Introduction**

Suas is committed to the highest possible standards of openness, transparency and accountability in all its affairs. We wish to promote a culture of honesty and opposition to fraud in all its forms and other wrongdoing. The organisation operates mainly in Ireland, but also funds specific programmes in Kenya and India through partner organisations. All organisations face the risk that certain employees may engage in fraud or conduct that violates the law or regulations, or the policies of the organisation itself. Employees may be concerned that by reporting, or co-operating in investigations of, potential fraud or misconduct they will be opening themselves up to victimisation or detriment or risking job security.

This policy is designed to ensure employees have the opportunity to report fraud or wrongdoing or potential fraud or wrongdoing and, provided they are acting in good faith, they have a right not to suffer any detriment by virtue of having made a report.

This document will be reviewed periodically in order to determine whether it remains useful, relevant and effective.

### **2. Purpose of this policy**

The purpose of this policy is to foster a culture of openness and honest communication and to ensure the full compliance with all legal, regulatory and other requirements and ensuring the integrity of all employees and to provide:

- A clear definition of what we mean by “fraud” and “other wrongdoing”
- A definitive statement to staff forbidding fraudulent activity in all its forms
- A summary to staff of their responsibilities for identifying exposures to fraudulent activities or other wrongdoing, for establishing controls and procedures for preventing such activity and/or detecting such activity when it occurs
- Guidance to employees as to action which should be taken where they suspect any fraudulent activity or other wrongdoing
- Clear guidance as to responsibilities for conducting investigations into fraud or other wrongdoing related activities
- Protection to employees in circumstances where they may be at risk of victimisation as a consequence of reporting, or being a witness to, fraudulent activities or other wrongdoing. This also includes any ‘whistle-blowers’.

This document is intended to provide guidance and should be read in conjunction with the relevant Human Resource Policies in relation to Investigation Guidelines<sup>1</sup>.

### **2. Definitions**

#### **Suas defines employees for this policy as:**

For the purposes of this policy "Employees" means all persons employed by Suas on foot of a contract of employment, whether permanent, part-time or fixed-term, interns and volunteers and for the avoidance of doubt includes directors and officers, the Chief Executive Officer, Finance Manager and all other senior management.

#### **Suas defines fraud as:**

The theft or misuse of Suas’s funds or other resources, by an employee or a third party, which may or may not also involve misstatement of financial documents or records to conceal the theft or

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<sup>1</sup> *The Investigation Guidelines are a work in progress*

misuse.

For example, fraud includes but is not limited to the following:

- Theft of funds or any other Suas property
- Falsification of costs or expenses
- Forgery or alteration of documents
- Destruction or removal of records
- Inappropriate personal use of Suas's assets
- Employees seeking or accepting cash, gifts or other benefits from third parties in exchange for preferment of the third parties in their dealings with Suas
- Blackmail or extortion
- Offering, promising or giving of a bribe and requesting, agreeing to receive or accepting a bribe for any reason
- Paying of excessive prices or fees to third parties with the aim of personal gain.

**Suas defines other wrongdoing as :**

- A criminal offence (such as fraud or theft);
- A breach of any legal obligations (such as failure to comply with company legislation);
- Breaches of any Organisation code or policy;
- Breach of systems or codes of practice;
- Impropriety including but not limited to matters of financial reporting, financial control, accounting or auditing;
- Deliberate concealment relating to any of the above.

### **3. Suas Policy**

Fraud and other wrongdoing is wrong, and is unacceptable to Suas. Where fraud occurs it is not just a loss to Suas, but ultimately to our beneficiaries, people who are amongst the most needy in society.

Fraud or other wrongdoing may have a major impact on our reputation, on donor confidence and therefore again on our beneficiaries.

Suas's objective is that fraud and other wrongdoing is eliminated from its activities. Any indications of fraud or other wrongdoing will be rigorously investigated and dealt with in a firm and controlled way.

### **4. Responsibilities of Employees**

#### **a. Managers**

It is the responsibility of managers to be familiar with the types of fraud or other wrongdoing that might occur in their area, to be alert for any indication of fraud or improper activity and to maintain controls to avoid such occurrences. Managers are required to ensure that all staff under their control be given a copy of this policy in a language they can understand, and acknowledge its receipt. Managers should also ensure that staff be encouraged to report suspected issues of fraud.

#### **b. All Staff**

It is the responsibility of all employees to carry out their work in such a way as to prevent fraud or other wrongdoing occurring in the workplace. Employees must also be alert for occurrences of fraud, be aware that unusual transactions or behaviours could be indications of fraud, and report potential cases of fraud as outlined below.

### **5. Reporting Suspected Fraud or Other Wrongdoing**

Employees are required to report issues of suspected fraud or other wrongdoing. Employees should report their suspicions as follows:

- Staff, including interns and volunteers: to their Line Manager/ Programme Manager
- Management: to the Chief Executive Officer and/or Chair of the Audit and Risk Committee

Employees who suspect fraud should not do any of the following:

- Contact the suspected individual(s) directly in an effort to determine facts, demand explanations or restitution
- Discuss the issue with anyone within Suas other than the people listed above
- Discuss the issue with anyone outside of Suas, except as required by law

### **5.1 Reporting Information**

If the circumstances are such that reporting a suspicion as above is inappropriate, or if the person to whom it is reported is unable to assist, the issue may be reported to the Chief Executive Officer or Chair

as follows:

- By email to [info@suas.ie](mailto:info@suas.ie) or [chair@suas.ie](mailto:chair@suas.ie)
- By post marked "Private & Confidential" to Chair, Suas, 10-12 Hogan Place, Dublin 2, Ireland.

### **6. Dealing with Reports of Suspected Fraud & Other Wrongdoing**

Any suspicions of fraud or other wrongdoing will be taken seriously by Suas. Suas expects its managers to deal firmly and quickly with any reports of suspected fraud or other wrongdoing.

Managers receiving reports of suspected fraud or other wrongdoing must immediately notify the issue and proposed actions to the Chief Executive Officer.

The purpose of this prompt notification is to ensure transparency in dealing with the issues and to allow the sharing of experience of similar situations that may already have arisen elsewhere.

### **7. Investigation Guidelines**

In consultation with the persons notified, arrangements must be made for a comprehensive investigation of the issue. The following are responsible for managing these investigations:

- person nominated by the Chief Executive Officer or Chair of the Audit & Risk Committee

In all circumstances those responsible must consult with the Chief Executive Officer regarding the investigation process, approval of investigation Terms of Reference, etc.

#### **7.1 Investigation Team**

Investigations should be completed either by appropriately experienced independent Suas staff, or by independent third parties. Where the fraud or other wrongdoing has financial implications it is recommended that a person with suitable financial skills and experience such as the Finance Manager is a part of the investigation team. An investigation is required to be done without regard to any person's relationship with Suas, position or length of service. The Chief Executive Officer will not be involved in the investigation directly as he / she will be the one to review the investigation report and be involved in the decision on any disciplinary action to be taken. The investigation team should comprise at least two members

When conducting their investigation, investigators must be very alert not to act in a way or reveal documents or other information that will allow others to guess that there is a whistle blower involved or to work out who they might be. The safeguards for reporting employees must be applied in all cases - see below.

#### **7.2 Investigation**

The purpose of the investigation is to establish the facts. All work of the investigation team should

be documented, including transcripts of interviews conducted. The investigation should be held in a timely manner and the Chief Executive Officer should be kept informed of any major developments. In order to ensure confidentiality, as per the HR Investigation Guidelines, a confidentiality clause is part of the interview notes sign-off statement, and breaches of confidentiality may result in disciplinary action for employees of Suas. To maintain confidentiality, disclosure of details of the allegation being investigated should be appropriate to the situation and to the person being interviewed, whilst not misleading the witness in anyway.

Where external expert advice is required, for example the opinion of a lawyer, the Chief Executive Officer should be consulted for approval. Any external expert advice should be summarized in an appendix to the investigation report.

### 7.3 Investigation Report

The conclusion of all investigations must be documented. The Investigation Report will contain all details relating to the investigation and a timeline of all the events which took place. The Report will also include the transcripts of any interviews undertaken and any legal advice received as an appendix. The report may also contain the recommendations of the investigation team on the course of action to be taken. The final written report should be sent to the Chief Executive Officer for appropriate action to be taken.

The person(s) that initially reported the suspicions should be informed of the outcome of the investigation but this should be done only once the report and proposed course of action has been finalised.

### 8. Safeguards for Employees

The safety of whistle blowers is a very important consideration for investigators and one that must not be taken lightly. The organization has an obligation to protect staff members who have come forward to report wrong doing.

Issues reported to line management and the helpline will be investigated with the following safeguards:

- Harassment or Victimization: Suas recognises that the decision to report a suspicion can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. Suas in accordance with its Human Resource Policies will not tolerate harassment or victimisation and will take all practical steps to protect those who raise an issue in good faith.
- **Confidentiality: Suas will endeavour to protect an individual's identity when he or she raises an issue and does not want their name to be disclosed. It should be understood, however, that an investigation of any malpractice may need to identify the source of the information and a statement by the individual may be required as part of the evidence.**
- Anonymous Allegations: Employees may opt to make an anonymous allegation, however it should be noted that Suas discourages anonymous allegations. Issues expressed anonymously will be considered at the discretion of Suas. In exercising this discretion, the factors to be taken into account will include:
  - The seriousness of the issues raised
  - The credibility of the allegations and the supporting facts
  - The likelihood of confirming the allegation from attributable sources
- Untrue Allegations: Employees should be aware that if an allegation is made in good faith, but it is not confirmed by an investigation, Suas guarantees that no action will be taken against the complainant. If, however, individuals make malicious or vexatious allegations, disciplinary action will be considered against an individual making the allegation.

## **9. Actions Arising from Fraud & Other Wrongdoing Investigations**

### **9.1 Disciplinary procedures**

Persons who are judged guilty of fraud or serious wrongdoing have committed gross misconduct and will be dealt with in accordance with the HR Policy on Disciplinary Action. Proven allegations of fraud or serious wrongdoing may result in dismissal. The process and people involved in deciding on this disciplinary action are set out in section 7 above.

In addition, where appropriate, Suas will refer significant fraud to the local law enforcement agencies with a view to initiating criminal prosecution. Consideration should be given to the local context and the consequences in terms of human rights of initiating criminal prosecution against the individuals involved. In every case, the final decision whether or not to prosecute should be taken by the Chief Executive Officer or Chair.

### **9.2 Changes to systems of controls**

The fraud or other wrongdoing investigation is likely to highlight where there has been a failure of supervision and /or a breakdown or absence of control; the course of action required to improve systems should be documented in the investigation report and implemented when this report is finalised.

### **9.3 Recovery of losses**

Where Suas has suffered loss, full restitution will be sought of any benefit or advantage obtained and the recovery of costs will be sought from individual(s) or organisations responsible for the loss. If the individual or organisation cannot or will not make good the loss, consideration will be given to taking civil legal action to recover losses. This is in addition to any criminal proceedings which may result.

## **10. Application to Partner Organisations and Consultants**

Contracts with partner organisations and with consultants should make explicit reference to the existence of this policy and should require partner agencies and consultants to report any frauds that arise in their dealings with the organisation or that in any way involve the resources of the organisation. In addition all contracts with partners and consultants should either include a copy of this policy as an attachment or clearly specify where a copy can be obtained. Sample wording to deal with this requirement is included in Appendix 2.

## **11. Effective Date**

The Anti-Fraud Policy will come into effect immediately upon approval by the Board.

## **12. Review of this Policy**

In the interests of maintaining best practice, the contents of this Anti-Fraud Policy will be reviewed by the Audit and Risk Committee every three years.

## **Appendix 1 – Donor Requirements on Reporting Fraud**

### **1. Irish Aid**

Fraud is deemed to have been perpetrated where:

- a) An act is willfully or knowingly perpetrated; and
- b) Such act has the characteristics of fraud including, but not limited to, misappropriation, deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, false representation, alteration of negotiable instruments such as cheques, falsification of accounting records or financial reports, or concealment of material facts and collusion: and
- c) The Department suffers, or could realistically believe that it might suffer, an actual loss including but not limited to a financial loss.

In such cases, you are obliged to report the suspicion of fraud by following the procedures outlined below:

1. Communicate in writing and by email with the signatory (or his / her replacement) of the legal contract between your organization and the Department of Foreign Affairs.
2. Describe, as far as possible, the circumstances of the (alleged) fraud, the suspected principals involved and an estimate of Irish Aid funds concerned.
3. Describe any action already take, the proposed follow-up actions, including plans for a forensic audit if this is deemed appropriate.
4. Share the draft TORs of an investigative exercise for comment with Irish Aid before tendering the exercise to a third party.
5. Share all relevant documentation that might be requested by Irish Aid, including the results of the forensic audit in a timely manner.
6. Maintain constant contact with Irish Aid until the fraud case is thoroughly investigated and the case deemed closed by Irish Aid officials. Notwithstanding full compliance with the above, the Department reserves the right to undertake a separate audit exercise should that be deemed an appropriate course of action.

## **2. EU**

Currently there are no set procedures on reporting fraud. *[The advice given here is that if there is a fraud which occurred in an EU funded project and of "significant" value, we should contact the local delegation and let them know and inform them of what measures we were taking to address it and how we would endeavour to stop it happening again.]*

## **Appendix 2 – Clauses for inclusion in contracts with partner organisations and Consultants**

The following clauses should be inserted in the relevant contracts:

### **1. Partner Organisations**

*As indicated in its **Anti-fraud and Whistle Blowing Policy**, Suas is opposed to fraud in all of its forms. It is a condition of this grant that the partner organisation should take all reasonable steps to prevent, detect and deal with fraud. Partner agencies are required to:*

- *Review the Suas policy (available at: <http://www.suas.ie/resources>)*
- *Report any suspected incidents of fraud that arise in dealing with Suas or that involve its resources, to the Suas Chief Executive Officer or by email or as detailed in section 5.1 of the policy.*
- *Facilitate investigation and resolution of such incidents.*

### **2. Consultants**

*As indicated in its **Anti-fraud and Whistle Blowing Policy**, Suas is opposed to fraud in all of its forms. It is a condition of this agreement that the consultant should:*

- *Review the policy (available at: <http://www.suas.ie/resources>)*
- *Report any suspected incidents of fraud that arise in dealing with Suas or that involve its resources, to the Suas Chief Executive Officer or by email as detailed in section 5.1 of the policy.*
- *Participate as appropriate in the investigation and resolution of such incidents*



