

Policy on Fraud Prevention, Detection and Effective Action

1. Preamble

It is important to realize that fraud may have an impact on the credibility of the organization and staff morale. In the case of an external fraud, it may affect buyer-supplier and donor-recipient relationships. Fraud is an ever-present threat to these resources and hence must be a concern of all members of staff.

CUTS prohibits dishonest and fraudulent activity and through this policy aims to implement procedures for prevention, early detection of fraud and effective action against such practices. This will dramatically reduce the risks associated with fraud and enable CUTS to achieve its Mission, Goal and Objectives.

CUTS requires staff at all times to act honestly and with integrity and to safeguard the resources for which they are responsible. Each employee must be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

2. Definitions and Coverage

This policy applies to any fraud involving CUTS staff as well as donors, recipients, suppliers, partner agencies, affiliated organizations, and/or any other partner directly or indirectly involved with CUTS. For the purpose of this Policy, the following definitions should apply:

- “CUTS” means the CUTS International established in Geneva as an NGO (Non-Governmental Organisation) under the Swiss law.
- “Executive Committee” means the Executive Committee of CUTS.
- “General Assembly” means the General Assembly of CUTS”
- “Director” means the Executive Director of CUTS appointed by the Executive Committee.
- “Competent Authority” in relation to exercise of Fraud Response means Director or any other person to whom the power is delegated by the Director under these rules. As an exception, where the Director is himself alleged or found guilty of Fraud, the “Competent Authority” means the Executive Committee represented by its Chairman.
- “Employee” means any person who works for CUTS, whether paid or unpaid, subject to a contract for hire.
- “Fraud” is economic crime involving deceit, trickery or false pretences, by which someone desires to cause harm by deceiving someone else or to make profit unlawfully from a relation

of trust.¹ Fraud generally involves the intention to deceive a person or organisation in order to obtain an advantage, avoid an obligation or cause loss. The term Fraud includes offences such as, but not limited to, deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, collusion and nepotism.

3. What is Fraud?

Fraud can be broadly divided into two categories:

3.1. INTERNAL FRAUD

Internal Fraud refers to fraud that might take place within the organization or committed by the staff members themselves. It may entail involvement with an outsider party. Some examples of Internal Fraud include, but are not limited to:

- Organisation supplies sold for personal gain.
- Unauthorized personal use of assets (e.g. telephone, vehicles etc).
- Staff being paid inflated expenses (supported by false receipts).
- The same project being funded by two different donors (Note: This is an internal fraud since it involves the motives of the NGO/staff to make a gain, even though it entails involvement with an outside party).
- Resources given to ghost staff or beneficiaries who do not really exist.
- Pocketing of cash receipts.
- Other deceptions committed within the organization or by the staff members

3.2. EXTERNAL FRAUD

External Fraud refers to fraud directly involving or connected with a third party, where CUTS may be either guilty or victim of fraudulent activities. External Fraud includes, but is not limited to, bribery, extortion, corruption, theft of information, third-party theft and forgery. Some examples of External Fraud include but are not limited to:

- Abuse of procurement process, often in collusion with suppliers to pay inflated prices.
- False/misleading information provided by a third party about the company, individual or proposed deal.
- Failure by third party to disclose information that it has the legal duty to disclose.
- Abuse of position by third party in order to make a gain for himself or another.
- Possession of articles (which are connected with the fraud) for use by third party.
- Making or supplying of articles for use in frauds.
- Obtaining funds by false pretence
- Other deceptions directly involving or connected with a third party

¹ U4 Anti-Corruption Resource Centre. *Corruption glossary*. <URL : <http://www.u4.no/document/glossary.cfm#fraud>>

4. CUTS's Position towards Fraud

CUTS explicitly recognises Fraud as described in section 3 as unacceptable and treats attempted fraud as seriously as accomplished fraud. It takes the most serious view of any attempt to commit fraud by CUTS' employees, contractors or their employees, any agent acting on behalf of CUTS GRC, and others. Any detected case will be thoroughly investigated, with disciplinary or criminal sanctions pursued where appropriate and possible, and losses recovered by any lawful means.

5. Prevention of Fraud

It is useful to know what typical phenomenon occur before, during and after a fraudulent incident. When these factors have been pinpointed – both predicting and detecting fraud becomes a much more manageable task. CUTS is committed to identifying the factors that can lead to fraud and to ensuring that opportunities for fraud are reduced to the lowest possible level of risk; that effective controls are maintained to prevent fraud, and that systems and procedures are reviewed and improved following detected cases of fraud. The way in which the factors that lead to external and internal fraud are identified may vary; although they may even coincide.

CUTS aims to prevent fraud by undertaking the following:

5.1. PROMOTION FROM THE TOP

Every employee shall, at all times, maintain absolute integrity and commitment to the duty and/or responsibility and shall not do anything, which is unworthy of an employee of CUTS.

The CUTS General Assembly, the Executive Committee, the Director and the senior management team all set the tone through their behavior and lead in the promotion of an anti-fraud culture throughout the organization.

5.2. RISK MANAGEMENT AND OVERSIGHT STRUCTURE

Fraud risk can be minimised through carefully designed and consistently operated procedures, which deny opportunities for fraud.

In line with this Policy, CUTS has adopted an Accounting Policy, Service Rules, and a Procurement Policy. CUTS follows the provisions of these Policies related to responsibilities and procedures for internal control and external audit.

All employees are made aware of these policies and of their updates.

5.3. RAISING AWARENESS AND PROMOTING A CULTURE OF TRANSPARENCY

As a pre-requisite for effective detection of fraud, this policy requires that all employees, the Director and the members of the Executive Committee and of the General Assembly be aware of its provisions, of their respective mandates and responsibilities at work, as well as the rules and policies governing CUTS. Moreover, the credibility and success of the Policy is dependent largely on how effectively it is communicated throughout the organisation.

Therefore:

- CUTS GRC encourages and ensures a clear-cut division of the roles and responsibilities of all its individual employees.
- Details of this policy, including its legal implications, will be provided to all employees. The Policy will be accessible by all employees on the internal server.

6. Detection and Investigation of Fraud

6.1. WHISTLEBLOWING AND FRAUD REPORTING

All employees are required by this Policy to report immediately and in good faith, preferably in writing, discovered or suspected unethical or fraudulent activity to the most relevant of the following authorities according to the nature of the fraud:

- The Administrative Officer, CUTS;
- The Director, CUTS; or
- The Chairman of the Executive Committee, CUTS.

No reporting party who in good faith reports such a matter will suffer harassment, retaliation or other adverse consequences. Any staff member who harasses or retaliates against the reporting party will be subject to disciplinary action up to and including termination of employment. Disciplinary action however may be taken in cases where malicious and false allegations are raised. Additionally, no staff member will be adversely affected because they refuse to carry out a directive which constitutes fraud or is a violation of the rules and regulations governing CUTS including the Laws of Switzerland.

6.2. CONFIDENTIALITY

Discovered or suspected matters can be reported anonymously or on a confidential basis. Anonymous allegations will be investigated by the Competent Authority, but consideration will be given to the seriousness of the issue, its credibility and the likelihood of confirming the allegation from other reliable sources. In the case of allegations made on a confidential basis, every effort will be made to keep the identity of the reporting party secret, consistent with the need to conduct an adequate and fair investigation.

Allegations will not be discussed with anyone other than those who have a legitimate need to know. It is important to protect the rights of the persons accused, to avoid damaging their reputation should they be found innocent and to protect the organization from potential liability.

6.3. INVESTIGATION RESPONSIBILITIES

The reporting party must not attempt to personally conduct investigations, interviews or interrogations related to the alleged fraudulent activity.

The Competent Authority will investigate all allegations on a timely basis in order to gather facts and evidence. The investigation may include but is not limited to examining, copying and/or removing all or a portion of the contents of files, desks, cabinets and other facilities of the organization without prior knowledge or consent of any individual who may use or have custody of such items or facilities when it is within the scope of the investigation.

Investigators will not hide any information, fact or evidence in order to protect others.

The External Auditor also has powers to independently investigate fraud and corruption and the competent authority may use his services for this purpose.

7. Effective Action against Fraud

An early and proportionate response to allegations of fraud is important, in order to facilitate an efficient action and to prevent overburdening the structure of the organization. Depending on the nature of the allegation, it should not result in wastage of resources. Where the investigation has found a staff member guilty of fraudulent practice with sufficient evidence, the Competent Authority should decide on the appropriate disciplinary measures to be taken in accordance with the rules and regulations applicable. The response procedure and possible measures are described below.

7.1. RESPONSE PROCEDURE

The Competent Authority will inform an employee, against whom an action is proposed in writing explaining the reason for taking such action(s). The said employee will be given an opportunity to make representation that s/he may wish to and such representation shall be taken into consideration before taking any action(s).

In the case of a major penalty, an employee will have the right to ask for personal hearing/oral enquiry. The Competent Authority will not make any order for such a penalty, except after the desired enquiry has been held and an opportunity has been given to the employee to make any representation against the penalty proposed to be awarded in the light of the findings of the Enquiry Officer and the Competent Authority's conclusions therein.

7.2. POSSIBLE MEASURES

Depending on the gravity of the fraud, possible measures to be taken by the Competent Authority include, but are not limited to:

Minor Penalties

- Censure
- Withholding of increments
- Withholding of promotion
- Deduction of salary
- Recovery from pay of the whole or part of any pecuniary loss caused to CUTS

Suspension

The competent authority might place an employee under suspension, when a disciplinary proceeding against an employee is contemplated and/or where a case against him/her in respect of a criminal offence is under investigation or trial. An order of suspension may at any time be revoked by the Competent Authority.

Major Penalties

- Reduction to a lower stage in a time scale or to a lower grade or post.
- Removal or dismissal from services.
- Judicial action before the relevant Swiss authorities.

8. Follow-Up:

After any fraudulent incident, relevant policies and procedures will be re-evaluated and systems updated.