



Fraud Response Plan

Creating choice for disabled people



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Introduction

The Independent Living Fund is committed to protecting the public funds with which it has been entrusted. Minimising the losses to fraud and corruption is an essential part of ensuring that ILF monies are used for the purpose for which they are intended, namely the provision of personal and domestic care for severely disabled individuals who meet the ILF qualifying criteria. The ILF will ensure that it has respect and sensitive regard for the organisation's key goal of assisting severely disabled individuals to live independently, whilst balancing this with the need for the accountability of public monies.

The purpose of this document is to set out what to do if a fraud against the ILF be discovered or suspected. It also explains how the ILF will enhance and review the current systems of internal control to ensure that all ILF staff are aware of their responsibilities.

All policies and practices adopted by the ILF Board of Trustees to safeguard the organisation against fraud and theft are in line with HM Treasury guidance: Managing the Risk of Fraud.

Fraud, by its very nature, is difficult to detect, and the Independent Living Fund will never be totally secure from attempted fraud. However, by establishing a sound system of internal control and procedures, we can manage, rather than eliminate fraud and risk, and provide a reasonable, rather than absolute, system of assurance.

Fraud Definition

ILF investigators must look towards establishing proof of deceptions against the Fund under standards of proof required under Scottish Law and largely the Fraud Act 2006 in England, Wales and Northern Ireland

The 2006 Fraud Act gives a statutory definition of the criminal offence of fraud defining it in three classes:

- Fraud by false representation - where a person makes "any representation as to fact or law ... express or implied" which they know to be untrue or misleading.
- Fraud by failing to disclose information - where a person fails to disclose any information to a third party when they are under a legal duty to disclose such information.

- Fraud by abuse of position - where a person occupies a position where they are expected to safeguard the financial interests of another person, and abuses that position; this includes cases where the abuse consisted of an omission rather than an overt act.

The Act provides that a person found guilty of fraud was liable to a fine or imprisonment for up to twelve months on summary conviction (six months in Northern Ireland), or a fine or imprisonment for up to ten years on conviction on indictment.

This Act largely replaces the laws relating to obtaining property by deception, obtaining a pecuniary advantage and other offences that were created under the Theft Act 1978.

This document is intended to provide:

- i) Direction and help to any member of staff charged with dealing with suspected cases of theft, fraud and corruption.
- ii) Direction on how the compliance Department will respond to the detection, reaction and prevention of fraud.
- iii) Targets on improving fraud detection; more efficient response times; reducing loss through fraud and introducing sanction and prosecution measurements.
- iv) How the Payment Security team aims to achieve these targets.

Reporting Suspicions

- **External Detection**

Suspicion of fraud or irregularity may arise through a number of means, including the following:

- Internal detection i.e. staff detection, ILF Assessments & internal control checks.
- External detection i.e. Local Authorities, Government Agencies and members of the public.

Reports of suspicions by external parties can be made:

By telephone:

Fraud Manager 0115 9450838

Compliance Manager 0115 9450903

Compliance Officer 0115 9450924

In writing:

The Payment Security team
Independent Living Funds
PO Box 7525
Nottingham
NG2 4ZT

By email:

compliance@ifl.org.uk

- **Internal Detection**

If ILF staff suspects fraud or corruption, then the matter should be reported without delay to the Payment Security team and all evidence must be retained. However, if it is thought internal fraud has occurred, the matter should be reported directly to a Senior Manager, at Director level or above, who is not suspected of having any involvement in the alleged deception.

Response

Any matter involving any external financial irregularity should be referred to the Payment Security team for further investigation. These matters are taken seriously and additional action, such as disciplinary proceedings and/or prosecution, will be taken where evidence of offences is found. All investigations work will be carried out in line with legislative requirements. PACE legislation, rigidly adhered to by ILF investigators, ensures that all investigations are conducted in line with the Human Rights Act 1998. In addition, all investigations are conducted in accordance with the Data Protection Act 1998.

- **Establish and secure evidence necessary for criminal and disciplinary action**

Once a referral has been received, the Fraud Manager will decide if the case warrants further investigation. The Fraud Manager will set up an Investigations file, documenting continuous progression reports, with regular audit checks conducted by the Senior Payment Security Manager on the conduct of the investigation. No statement shall be made that cannot be supported by the facts.

It is vital that staff do not take any action on either of the operational files without first seeking advice from the Fraud section, and that the investigations file is kept securely. This prevents incidents occurring which may hamper, jeopardise or prejudice any action taken by the Fraud Manager or action the police may wish to take.

Original documents potentially to be used as evidence will be removed from the operational file to ensure no marks or amendments are made on original documents. Additionally, a record will be kept within the Investigations file of anyone handling evidence where documents need to be passed to the police for prosecution evidence.

The Fraud Manager will ensure that copies of all documents taken by the police are made and kept in the operational file.

Where offences are suspected, investigations are carried out up to a criminal standard of proof. The purpose of any investigation is to establish the facts, ensuring that all investigative action is effective, transparent and ethical. Investigation results will not be disclosed to or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected, but subsequently found innocent of wrongful conduct, and to protect the ILF from potential civil liability.

The process of investigation will involve:

- Analysing allegations or information to gauge credibility;
- Gathering new evidence with discretion and sensitivity;
- Securing all evidence in a clear and structured manner;
- Carrying out continuous risk assessments;
- Interviewing witnesses & suspects (where applicable, under caution and always by PACE & PEACE trained staff);
- Taking statements;
- Liaising with departments or other agencies (including the Police);
- **Prevent further loss**

Where initial investigation provides reasonable grounds for suspecting a fraud, the Fraud Manager will offer recommendations to the relevant Manager on preventing further loss. This may require the suspension of the investigated User's payments.

It may be necessary to plan the timing of suspension to prevent the suspects from destroying or removing evidence that may be needed to support disciplinary or criminal action.

- **Ensure that any punishment administered is appropriate**

The Fraud Manager will compile a report of findings for submission to the Senior Payment Security Manager in relation to suspected fraud cases, with a view to deciding if a case should be sent for prosecution or a sanction is appropriate.

The Police can contact the Senior Payment Security Manager to discuss any such cases further:

Senior Payment Security Manager Tel: 0115 945 0839

The Operations Director will be responsible for handling any media interest regarding any case referred for prosecution. They have clear guidelines with regards to what information can be disclosed. The contact details are as follows:

Operations Director Tel: 0115 945 0953

- **Minimise and recover losses**

Recovering losses is a major objective of any fraud investigation. The Payment Security team shall ensure that, where possible, the amount of any loss will be quantified for all fraud Investigations. Repayment of losses should be sought in all cases. Where the loss is substantial, legal advice should be obtained without delay about the options available. Similarly, where the person responsible for the fraud refuses repayment, legal advice should be sought about prospects for recovering losses through the Civil Court.

The Payment Security team will consider the appropriate method for seeking compensation for all losses incurred through either:

- Obtaining compensation orders in criminal cases
- Taking Civil proceedings in order to obtain a judgement.
- Making deductions from future ILF payments.
- Making arrangements for voluntary payment.
- Considering any other means of recovery.

The ILF currently seeks legal advice through:

Harvey Ingram LLP
20 New Walk
Leicester
LE1 6TX
Tel: 0116 254 5454
(England, Wales & Northern Ireland)

McClay, Murray & Spens LLP
151 St Vincent Street
Glasgow
G2 5NJ
Tel: 0141 248 5011
(Scotland only)

- **Review the reasons for the incident, the measures taken to prevent a recurrence and any action needed to strengthen future responses to fraud;**

Where a fraud has occurred, management must seek to make any necessary changes to systems and procedures to ensure that similar fraud will not recur. The investigation may highlight where there has been a failure of supervision or a breakdown or absence of control.

In order to prevent and detect similar incidents the Payment Security team, where deemed necessary, will analyse and report on:

- The circumstances surrounding proven fraud cases and their contributing factors
 - Losses incurred
 - Progress and success of recovery action
 - Progress with disciplinary action
 - Progress with criminal action
 - Providing a feedback mechanism of advising relevant departments on how to address procedural weaknesses identified during investigation;
- **Submit an Annual Fraud Return to HM Treasury**

In accordance with NDPB requirements, the ILF shall forward to its Sponsor Department, the DWP, an annual report on overpayments, fraud and theft suffered by the ILF. It will also notify the DWP of any unusual or major incidents as soon as possible and of any changes to the ILF's Fraud Policy Statement and Fraud Response Plan. This is intended to inform HM Treasury of lessons learnt from cases of fraud to be shared with other government departments.

Roles and Responsibilities

- **Chief Executive**

The Chief Executive has overall responsibility for the ILF's response to fraud.

- **Operations Director**

It is the responsibility of the Operations Director to oversee the action taken to investigate. In practice, much of this responsibility will normally be delegated to the Senior Payment Security Manager.

- **Senior Payment Security Manager**

Is responsible for establishing and maintaining adequate system controls within the Payment Security team. This includes responsibility for managing the prevention and detection of fraud and ensuring that all staff are aware of their responsibilities in this regard. The Senior Payment Security Manager is responsible for implementing the requirements of the ILF's overall strategy for combating fraud and corruption. In order to support this process they will disseminate the documents and policies that make up the strategy. This includes:

- This document
- ILF Strategic Plan
- Overpayment Prevention Strategy
- ILF Business Plan
- Relevant Legislation (Fraud Act, Police & Criminal Evidence Act, Data Protection Act, Human Rights Act etc.)

- **Payment Security Managers**

The Payment Security team has Fraud, Compliance and Overpayment functions, each run a specialist Payment Security Manager. All are in a position to take responsibility for the prevention and detection of fraud and corruption within their work area. They will encourage all staff to fulfil this objective. Members of staff are instructed to seek advice from the Payment Security team before proceeding with any enquiries where they suspect fraud or corruption.

The Payment Security team has powers which allow them access to request various records and other information which may be deemed relevant to the prevention or detection of a crime in accordance with the Data Protection Act 1998 Section 29.

- **Employees**

All employees are required to act in accordance with the Staff Code of Conduct (Disciplinary Policy & Procedures - Appendix 5). The ILF Disciplinary Policy & Procedures place responsibility for the prevention and detection of fraud with all employees. Any such concerns should be raised in accordance with the *Reporting Suspicions* advice within this document.

- **Human Resources Department**

The Human Resources Department will provide advice to employees wishing to raise concerns regarding suspected internal fraud, if appropriate. They will also provide advice to individuals in making decisions with regards to suspension and disciplinary proceedings.

- **Legal Officers**

External Legal Services contracted by the ILF will be consulted, where appropriate, to advise on legal proceedings, including the recovery of assets.

Review of Fraud Response Plan

The Fraud Manager will review this plan at least annually or after each use. Any amendments required will be reported to Senior Payment Security Manager for approval. Where significant changes are recommended, the FRP will be resubmitted to the DWP to approve.

Overall Objectives

The Payment Security team, incorporating the Fraud, compliance and overpayment recovery functions, has an overall objective to identify and maintain good practices, address weaknesses in current processes and introduce improved systems for the management of those processes; in short, continual improvement.

The end result is that of minimising the amount of fraud and corruption that is currently within the system and significantly reduce the opportunity for fraud or corruption to occur in the future.

References

Additional information with regards to procedural matters can be found by referring to the following documents:

- ILF Fraud Sanctions Policy Statement – April 2006
- LF Disciplinary Policy & Procedures
- ILF Risk Register 2006/07
- Employment Contract - Confidentiality and Data Protection requirements
- Compliance Internal Service Level Agreement – November 2003

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