

# EAPF Counter-Fraud Policy



## Introduction

Fraud is an ever-present and increasing threat to our resources.

This document sets out the EAPF's approach to managing its fraud risk and how it will prevent, detect and report fraud. The aim of this policy is to develop a strong counter fraud culture, supported by effective actions which are proportionate to the risks faced.

## Linking the EAPF approach to Government work on fraud

The Environment Agency Pension Fund (EAPF) expects to uphold high standards of business conduct. This expectation is guided by [HM Treasury's Managing Public Money](#) 2013.

The Cabinet Office has been leading work across Government on addressing fraud. Across the Defra family, there is a shared approach to addressing fraud risk, which is reflected in the [Environment Agency's Counter Fraud Strategy](#).

The EAPF Counter Fraud Policy follows the approach set out by the EA, strengthening and harmonizing as far as possible and ensuring any causes of fraud are reported back up through government.

## What is Fraud?

[The Fraud Act 2006](#) states that a person may commit the offence of fraud by:

- false representation
- failing to disclose information
- abuse of position

The Cabinet Office developed a framework of types of fraud to identify the different fraud risks that need to be managed. We have adapted that approach for the EAPF and a full list of risks we may be exposed to is shown in Annex 1 (Fraud Typography).

These can include:

Details of our approach on member-related fraud are set out in Annex 2 and details of our approach in relation to all other fraud is in Annex 3.

## Policy

Our policy is to take appropriate action to prevent fraud and to deal with all cases where fraud is suspected.

The EAPF will always seek to recover monies from those individuals who defraud or seek to defraud the EAPF. We will investigate all cases of actual or suspected fraud and initiate appropriate recovery action and/or criminal proceedings where fraud is identified to recover lost monies.

In line with Cabinet Office guidance, we will apply the civil test "on a balance of probabilities" in determining whether we treat an action as fraudulent.

In relation to member related fraud, the Pensions Committee will normally seek to recover all overpayments of pensions in excess of £400. (Amounts under £400 will generally be uneconomic to pursue and likely to be the result of a delay in reporting a death, rather than fraud and would be insensitive to pursue).

## **Governance**

The Environment Agency Board delegates the administering authority responsibilities in operating the Environment Agency Active and Closed Pension Funds to Pensions Committee, the Investment sub Committee and under its Scheme of Delegation to officers and staff members.

This Counter-Fraud Policy and the Fraud Risk Management of the EAPF is owned by the Director of Legal Services. They also act as the EAPF Single Point of Contact (SPoC) for referral of suspected fraud incidents. They are supported in this by the Chief Pensions Officer, who is responsible for managing and implementing this policy.

The EA Director of Legal Services is responsible for deciding how fraud matters will be investigated and when an investigation can be closed down. No investigations into potential frauds related to the EAPF should take place without prior approval from the Director of Legal Services, in consultation with the Chief Pensions Officer. There are two exceptions to this.

The first exception is in relation to member-related fraud where there may be some preliminary investigations required by the Fund Administrator to identify if the incident was fraudulent or if for example initial over payments were received due to an innocent error.

The second exception is in relation to investigation of potential fraud within the EAPF Management Team, in which case the Chief Pension Officer will not be consulted.

Authorisation for writing off sums arising out of fraudulent acts in relation to the EAPF will be in line with the Financial Scheme of Delegation, as set out in Annex 4.

## **Embedding a culture of counter-fraud**

The EAPF risk register will include fraud risks and will set out the current actions needed to address fraud. This will go to every Pensions Committee and Investment sub Committee meeting.

Fraud will be a regular topic at EAPF Training days.

Officers in the EAPF Management Team will be encouraged to undertake EA training for staff on fraud.

The EAPF will take part in regular Fraud prevention measures to raise the profile of fraud, for example the National Fraud initiative, screening of annual and monthly mortality and member communications.

The EAPF Fund Administrator will undertake mortality screening every month to manage the risk that pension overpayments are not made in cases of member bereavement.

The EAPF Fund Administrator will review tier 3 ill health benefits claims to manage the risk that overpayment is not made to members who are in gainful employment.

## Reporting incidents of fraud

The Fund Administrator will inform the Chief Pension Officer of suspected fraudulent activity in relation to member fraud. The Chief Pension Officer will in turn notify the Director of Legal Services as soon as possible.

All other suspected fraudulent activity identified should be reported immediately to the Chief Pension Officer and the **Environment Agency's Counter-Fraud Co-ordinator**. If the suspected fraud relates to a member of the EAPF Management Team, it should not be reported to the Chief Pension Officer.

Alternatively, suspected fraud can be reported in line with the Environment Agency's confidential **Whistleblowing procedure**.

Annex 5 sets out the steps for reporting and investigating potential incidents of fraud. This is in line with the EA Fraud response policy.

The EAPF will report the loss or theft of data to Defra group Security [security.team@defra.gov.uk](mailto:security.team@defra.gov.uk) within 24 hours.

The EAPF will report incidents relating to personal data immediately to the Data Protection team at [dataprotection@environment-agency.gov.uk](mailto:dataprotection@environment-agency.gov.uk)

Confirmed incidents of fraud will be reported annually to the Pensions Committee by the Chief Pensions Officer. The EA Director of Legal Services will also report annually on the fraud incident to the Executive Directors Team (EDT) and the Audit and Risk Assurance Committee (ARAC).

The EAPF will retain records within EAPF files of all suspected and confirmed causes of fraud.

Any suspected or confirmed cases of fraud reported to the Chief Pension Officer or the EA Counter Fraud Co-ordinator will be entered onto the EA fraud log. Suspected causes which are found not to be fraudulent will be removed from the log. The log records will be retained for 7 years.

## Effective date

This policy was approved by the Pensions Committee on 8 December 2020 and is effective from that date.

## Review

This policy will be reviewed every 2 years but updated as necessary in between reviews.

## Enquiries

Any enquiries in relation to this EAPF Fraud Policy, please contact:

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## Annex 1 – Types of fraud that the EAPF may be exposed to

External Expenditure		External suppliers		External Third Party		Internal (EAPF staff)		Internal (member)	
EE1	Procurement – collusion between contractors	ES1	Exploiting assets and information	ETP1	Cheque fraud	INT1	Payment fraud	INTM1	Overpayment - death
EE2	Procurement – mis-selling	ES2	Identify theft	ETP2	Mandate fraud	INT2	Receipt fraud	INTM2	Overpayment - ill health
EE3	Procurement- other	ES3	Post-contract fraud	ETP3	Unsolicited request for payment	INT3	Exploiting assets and information	INTM3	Money laundering
EE4	Assets theft and misuse	ES4	Computer hacking and misuse	ETP4	Plastic card fraud	INT4	Identity theft	INTM4	Other
EE5	Bribery	ES5	Bribery	ETP5	Computer hacking and e-enabled fraud	INT5	Personnel management		
EE6	Other	ES6	Money laundry	ETP6	Pension scams against members	INT6	Travel and expenses, pay and other allowances		
		ES7	Other	ETP7	Money laundering	INT7	Procurement fraud – staff collusion		
				ETP8	Other	INT8	Procurement fraud – Govt Procurement card		
						INT9	Procurement fraud – other		
						INT10	Theft of assets		
						INT11	Management reporting fraud		
						INT12	Computer hacking and unauthorised misuse		
						INT13	Bribery		
						INT14	Other		

## Annex 2 – Policy on Member related fraud (INTM 1 – INTM3)

This annex sets out the policy for dealing with overpayments to members. This can relate to:

- pension payments made after the death of the pensioner or other beneficiary as a result of a delay or failure in notifying the Funds' administrator of the death; or
- payments to those members in receipt of ill health pension payments, who have taken up gainful employment but who have not, as required, informed the EAPF of their new employment.

We recognise that in many cases a delay in reporting is not a deliberate attempt to defraud the pension funds and recovery in such cases is likely to be straightforward. All overpayments will be handled sensitively in the initial stages.

Where death is suspected by the Fund Administrator, having checked mortality databases, they will send monthly reminder letters until 3 reminders have been issued. If a life certificate hasn't been received after the 3rd reminder then the pension is suspended.

For ill health cases, where the fund administrator suspects the member to be in gainful employment, if the overpayment hasn't been repaid after the 3rd reminder, case details are gathered into a casefile and referred to the Fund for guidance on how to proceed.

### Initial action to be taken on suspicion of overpayment/fraud

The Fund Administrator will confirm the value of pension 'overpayment'. The Fund Administrator will contact the individual still collecting the pension to establish reasons and ask for repayment of the full amount.

The following are the most likely scenarios:

- Short term accidental failure to report death
- Long term deliberate failure to report death
- Deliberate fraud with forged signatures on life certificate

In the case of a short-term accidental failure the full funds may be available for immediate repayment, in most other cases further action will need to be considered.

The Fund Administrator will report full details at this stage to the Chief Pensions Officer, who will then inform the EA Director of Legal Services.

### Recovery of payment

The EAPF will always seek to recover monies from those individuals who defraud or seek to defraud the EAPF. We will do this through voluntarily means or, where necessary, via the courts.

In all cases where immediate full repayment is not forthcoming, the Fund Administrator will try to establish the individual's personal circumstances and available assets (using credit referencing agencies, enquiry agents as necessary) and then consider the most appropriate next steps (see below).



If the individual's whereabouts are not known, the Fund Administrator will try tracing options include electoral role checks, contacting the bank to which the pension is made or making use of any other clues in the member's records. If unsuccessful, the Fund Administrator will consider using enquiry agents to try to trace the individual so that personal circumstances can be investigated and recovery options can be considered.

Further next steps if needed to recover payment include recovery without litigation, recovery/partial recovery after obtaining judgement, criminal prosecution and write off. Where litigation is considered, The Fund Administrator will discuss this with the Chief Pensions Officer & EA Director of Legal Services before proceeding with an agreed recovery plan. Each case must be considered separately, depending on the individual's circumstances and legal advice, and taking into account the principles below.

Where funds need to be recovered, the EAPF has no automatic right to offset overpayments against death benefits due to the member's estate or ongoing dependants' benefits. However, the EAPF does support reaching an agreement with the recipients of any death benefits or ongoing benefits in relation to offsetting.

Where recovery options have been exhausted, due care must be taken to identify where the overpayment constitutes an unauthorised payment under HMRC rules. Cases where an unauthorised payment exists must in the first instance be referred to the Pensions Manager for review.

Any repayment plans must be referred to the Pensions Manager for agreement. Where recovery can be made via a repayment plan over a 'reasonable' period of time lawyers generally recommend accepting the plan and only resorting to legal action should the plan fail.

'Reasonable' is normally defined as no longer than the period of the overpayment (i.e. repayment to be at least at the same monthly rate as the original pension payments). Lesser amounts may be accepted depending on the individual circumstances.

Where repayment plans are agreed the Fund Administrator issues invoices and monitor repayments, sending regular summaries of payments received. Defaults are reported to the EA and then followed up via lawyers/debt collectors.

Debtors are contacted every 12 months to verify their circumstances and ensure the EAPF may take advantage of any change that would enable them to increase their payments.

The Pensions Committee may wish to obtain judgement on debts over £10k that cannot be immediately repaid.

The Pensions Committee will reserve the right to claim interest on any sums owed to the Environment Agency Pension Funds.

Other circumstances - In other circumstances the following will be applied:

Circumstance	Step 1	Step 2	Step 3
Individual has some assets or a steady job.	Review the facts of the situation and potentially instruct lawyers to obtain judgement on the debt.	Commence enforcement procedures.	Receive outstanding monies.

Individual has no assets and no steady job.	Consider value of debt compared to likely cost of pursuing.	Where appropriate instruct lawyers to obtain judgement on the debt.	Consider enforcement procedures (costs can be high so the likelihood of recovery needs to be considered).
Fraud e.g. where individual has deliberately forged signature on a Life Certificate.	Prepare file for the police to investigate.	Instruct lawyers to obtain judgement on the debt.	Consider enforcement procedures (costs can be high and recovery is only likely where the individual has some assets).

### Approval/reporting of Recovery/repayment plan or Write-off

For smaller amounts (up to £400) write off may be the prudent option because there are costs attached to chasing a debt. However, for any amounts over £400 every practical effort will be made to recover a debt before considering write off, which will always be a last resort and must be authorised under the EA Board's Scheme of Delegation.

Repayment plans and write-offs will be reported to the next Pensions Committee meeting.

### Annex 3 – Policy related to all other forms of fraud

The EAPF will always seek to recover monies lost through fraud.

Recovery of monies lost in relation to all forms of fraud other than those set out in Annex 3 will be done in line with EA practice.

### Requirements of all suppliers to the EAPF

The EAPF will require all its service providers to provide details of their business processes and procedures on fraud prevention, including cyber security. Where these are not produced our auditors will request completion of an internal control questionnaire to obtain reasonable assurance that the supplier has suitable controls in place.

All the agreements will be checked to ensure they include appropriate indemnity clauses to protect the Funds in the event of any fraud. They will also require segregation of duties and internal control frameworks to be in place for all of the Funds' activities. Officers will review all internal assurance frameworks and this will be demonstrated through the annual external and internal audits. All agreements will also include a requirement to reference the EA's Whistleblowing policy so that staff in suppliers have an alternate route to raise concerns direct with the EAPF.

The EAPF will provide all key suppliers with details of who to contact in case of emergency where the EAPF data or assets are at risk or have been subject already of a fraudulent activity. The EAPF will provide contact details to the Environment Agency Incident Room of who to contact should an issue arise out-of-office hours which is linked to the pension fund.

The EAPF will ensure authorised signatory/email account lists are maintained, in line with the Scheme of Delegation to cover the authorising of all transactions undertaken.

The EAPF will regularly review the risks from fraud presented by suppliers, including from third parties on the suppliers, based on risk presented to member data and EAPF assets.



Any material financial transactions with the Environment Agency, as a related party, are fully disclosed in the Annual Report and Financial Statements under FRS8. The party is named, the relationship is defined, the transaction is described and the amounts involved disclosed. This, for example, would include any amounts rechargeable between the related parties at year end.

## Custodian

The global custodian of the Funds' assets will have a comprehensive framework of internal controls in place that enables fraud prevention and risk mitigation at all levels of operation.

Regular service reviews will be held with the custodian to monitor service commitments, plus custodial monitoring will be reported to Officers by an independent organisation. Other procedures and internal controls will also be reviewed by an independent reporting accountant via the Service Organisation Control (SOC1) Report which would be shared with clients and auditors. The custodian will also be annually externally audited by the National Audit Office.

The Funds' assets will be held in the name of the EAPF and so will be segregated from those of the custodian itself. This will allow them to be safeguarded in the event of a failure by the custodian. Only small amounts of cash will be left on deposit with the custodian utilising overnight money market instruments to ensure this is the case.

The Funds' assets are held in the name of the EAPF and so are segregated from those of the custodian, safeguarding them in the event of company failure. Where appropriate, cash held by the Fund with the custodian in Sterling, Euros and United States Dollars are invested in Liquidity Funds, which would therefore also not be affected in the event of a failure by State Street.

## Annex 4: Financial Scheme of Delegation

### FSoD Pensions only

U6	Authorising Environment Agency Pension Fund write offs	Limit	Authorised officer or body
U6.1	Relating to fraud and financial irregularity. This is on the understanding that we have followed the procedures note requirements and have taken initial action to reclaim the overpayment.	Over £50k	Pensions Committee or Chief of Staff
		Up to £50k	Chief Pensions Officer
U6.2	Authorising write off approval for overpayments in all other circumstances. This is on the understanding that we have followed the procedures note requirements and have taken initial action to reclaim the overpayment.	Over £50k	Pensions Committee or Chief of Staff
		Up to £50k	Chief Pensions Officer
		Up to £10k	Pensions Manager
		Up to £1k	The Funds' Third Party Administrator

## ANNEX 5: Process for reporting and Investigation Fraud

### Overview of the EAPF Fraud investigation process

Timeline							
Investigation					Disciplinary process (where EA staff involved)		Case closed
Identified	Reported	Direction	Investigated	Findings	Handover	Hearing	
Suspected fraudulent activity in relation to member fraud identified by the Fund Administrator	To Chief Pension Officer	Director of Legal Services in consultation with Chief Pensions Officer	By Fund Administrator	Report to Chief Pensions Officer and Director of Legal Services	N/A	N/A	Director of Legal Services in consultation with Chief Pension Officer
Suspected internal (EAPF staff) fraudulent activity identified (See EA <a href="#">Fraud Response Plan for more details</a> )	To National FSoD Co-ordinator & Chief Pension Officer EA Fraud Steering Group advise on whether potentially fraudulent and appropriate route/possible issues for investigations	Director of Legal Services in consultation with Chief Pensions Officer confirm investigation requirements	Normally commissioned by Chief Pensions Officer supported by HR Specialist	Report to Chief Pensions Officer and Director of Legal Services	Disciplinary process - supported by HR	Heard by Local management	EA Fraud Steering Group review for lessons learnt
Suspected external fraud	To National FSoD Co-ordinator & Chief Pension Officer EA Fraud Steering Group advise on whether potentially fraudulent and appropriate route/possible issues for investigations	Director of Legal Services in consultation with Chief Pensions Officer confirm investigation requirements	Normally commissioned by Chief Pensions Officer	Report to Chief Pensions Officer and Director of Legal Services	N/A	N/A	Director of Legal Services in consultation with Chief Pension Officer EA Fraud Steering Group review for lessons learnt