



# Anti-Fraud Policy & Procedure

## October 2017

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## **1 Introduction**

- 1.1 This policy sets out The Trust's wider commitment to reducing the occurrence of fraud and protecting services from loss. This includes ensuring the proper use of resources to achieve the corporate objectives. This policy also outlines The Trust's approach to dealing with fraud both internally and externally of the organisation. It defines the roles and responsibilities of all the staff that are tasked to combat the threat of fraud and how to report concerns of fraud.
- 1.2 This policy aims to systematically prevent, detect and eradicate fraud through building strong defenses into our working practices, conducting high quality investigations when fraud is suspected and using all legal sanctions available including criminal prosecution when fraud is uncovered. This policy will apply to:
- employees
  - agency staff
  - contractors
  - consultants
  - suppliers.
- 1.3 The Trust requires all the above, at all times, to act honestly and with integrity and to safeguard the interests of the employees and business at all times. Fraud is an ever-present threat at all resources and may occur internally or externally and may be perpetrated individually or in collusion with others. The Trust has a 'zero tolerance' approach to fraud.

## **2 Responsibilities**

### **Employees Responsibilities**

- 2.1 All employees are responsible for:
- acting with propriety in the use of The Trust's resources and in the handling and the use of funds whether they are involved with cash or payments systems, receipts or dealing with contractors, suppliers or staff
  - reporting details immediately to the appropriate person if they suspect or believe that there is evidence of irregular or improper behaviour or that a fraud may have been committed.

### **Managers Responsibilities**

- 2.2 The day-to-day responsibility for the prevention and detection of fraud rests with the line managers who are required to:
- identify the risks to which systems, operations and procedures are exposed
  - developing and maintaining effective controls to prevent and detect fraud
  - ensuring that controls are being complied with
  - ensuring that all allegations of fraud are communicated to the appropriate person within DEFRA.

## **Internal Assurance**

2.3 Internal Assurance is responsible for:

- assisting in the deterrence and prevention of fraud by examining and evaluating the effectiveness of control
- ensuring that management has reviewed its risk exposures and identifying the possibility of fraud as a business risk
- ensuring that all allegations of fraud are communicated to the appropriate person within The Trust.

## **Finance, Audit, Risk and Resources Committee**

2.4 The FARR Committee is responsible for receiving reports from investigating officer concerning investigations and recommendations.

## **HR and Standards Committee**

2.5 The Executive Committee is responsible for ensuring that all criminal and civil laws are adhered and complied with.

## **Third Parties including Contractors**

2.6 Third parties including contractors are responsible for:

- ensuring they work to the standards set out for a third party
- reporting any concern of fraud immediately.

## **3 Definitions of Fraud**

3.1 This policy is intended to be fully compliant with the Fraud Act 2006 and its definitions.

3.2 Actions to be taken by Managers and staff when dealing with potential fraud issues can be found in What is Fraud – A guide for Managers and Employees (appendix 1).

3.3 The Fraud Act 2006 came into effect in January 2007. The Act introduced a new general offence of Fraud which can be committed in three ways:

- **Fraud by false representation:** by dishonestly making a false representation intending by making the representation to make a gain for yourself or another, or to cause loss to another or expose another to risk of loss. A representation is false if it is untrue or misleading, and the person making it knows that it is, or might be, untrue or misleading. An example of this would be an employee submitting a false claim form for payment.
- **Fraud by failing to disclose information:** by dishonestly failing to disclose to another person information which you are under legal duty to disclose and intends, by failing to disclose the

information, to make a gain for themselves or another, or to cause loss to another or expose another to the risk of loss. An example of this would be an employee failing to disclose a criminal conviction that would affect their working practices.

- **Fraud by abuse of position:** by occupying a position in which you are expected to safeguard, or not to act against, the financial interests of another person, and dishonestly abusing that position, intending, by means of abuse of that position to make a gain for themselves or another, or to cause loss to another or to expose another to a risk of loss. An example of this would be an individual who has access to a procurement card for use on ATT FE business and they used that card for their own personal use for personal gain.

### **Anti-Bribery**

3.4 The Bribery Act 2010 came into force from July 1 2011. The Act contains four principal offences:

- paying (or offering) a bribe
- accepting a bribe
- bribing of a public official
- failing to prevent bribery.

3.5 'Failing to prevent bribery' is a new corporate offence that provides a statutory defense for organisations who demonstrate the existence of adequate procedures to prevent bribery. Please refer to our Anti Corruption and Bribery Policy and Gifts and Hospitality Policy for further guidance.

## **4 Vision Trust Values**

4.1 All The Trust's employees are expected to follow the "Nolan principles" which are:

### **Selflessness**

4.2 Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

### **Integrity**

4.3 Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in performance of their official duties.

### **Objectivity**

4.4 In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

## **Accountability**

- 4.5 Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

## **Openness**

- 4.6 Holders of public office should be as open as possible about all decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

## **Honesty**

- 4.7 Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## **Leadership**

- 4.8 Should promote and support these principles by leadership and example.

## **5 Prevention**

- 5.1 The Trust's aim is to have sound financial systems and procedures which incorporate efficient and effective internal controls. For instance segregation of duties is considered a fundamental control in financial systems. The Trust is responsible for maintaining effective internal controls which include the prevention of fraud and other illegal acts.

## **6 Raising Fraud Awareness**

- 6.1 The Trust recognises that the success and credibility of its Anti-Fraud Policy will depend largely on how effectively it is communicated throughout the organisation and beyond. Every opportunity will be taken to bring it to the attention of employees, and all others that come into contact with The Trust. To further develop an anti-fraud culture The Trust will:
- develop and maintain effective controls to prevent fraud
  - ensure that if fraud occurs a vigorous and prompt investigation takes place without regard to position held or length of service
  - take appropriate disciplinary and legal action in all cases, where justified
  - review systems and procedures to prevent similar frauds
  - ensure staff receive fraud awareness training.

## **7 Reporting Your Concerns**

- 7.1 The Trust will rely primarily on employees to report any concerns that they may have with any potentially fraudulent issues they have observed whilst carrying out their work. The Trust has in place a procedure for reporting suspicion of fraud, without fear, prejudice or harassment.

### **Employee Fraud**

- 7.2 Any concerns regarding employees of The Trust should in the first instance be referred by staff to their own line manager. If their line manager may be implicated in the potential fraud then the matter should be referred to the Director of Further Education, however, any concerns can be reported directly to The Trust Finance Director who has the responsibility of ensuring that allegations of fraud are considered and disseminated to the appropriate person within the Trust for investigation.

### **Contractor/Supplier Fraud**

- 7.3 Any concerns regarding contractors/suppliers of the Trust identified by an employee of the Trust should follow the same process as clause 7.2 Employee Fraud. However, if a concern is identified by a contractor/supplier of the Trust they should refer the matter to The Trust Finance Director.
- 7.4 All matters will be dealt with in confidence and prompt investigations will be carried out into all cases of actual or suspected fraud discovered or reported.

### **Whistleblowing**

- 7.5 The Trust also have a Whistleblowing Policy which affords protection to employee's who have a genuine concern and do not feel able to raise this concern through the channels identified above. However, if this procedure is used to raise malicious allegations it will be treated as an act of gross misconduct and dealt with in accordance with the Disciplinary Policy.
- 7.6 All matters will be dealt with in confidence and in strict accordance with the terms of the Public Interest Disclosure Act 1998.
- 7.7 Further advice and guidance can be obtained from the Public Concern at Work hotline on 020 7404 6609 or via the website [www.pcaaw.co.uk](http://www.pcaaw.co.uk).

## **8 How the Allegation is handled**

- 8.1 All allegations of fraud will be investigated.
- 8.2 Depending on the nature and anticipated extent of the information obtained, the appointed investigator will work closely with Human Resources and any internal or external parties. This is to ensure that all allegations are thoroughly investigated and all evidence supplied are

properly investigated and reported upon, and where possible, losses are recovered for the organisation.

- 8.3 The Chief Executive in conjunction with the Trust Finance Director will take a risk based decision if it is appropriate whether to inform the Police and when this should occur.

## **9 Prevention of Further Loss**

- 9.1 Where initial investigation provides reasonable grounds for suspecting a member or members of staff of fraud, the Trust Financial Director after seeking advice from the investigator will decide how to prevent further loss. This may require the suspension of the suspect(s). In such a case, the advice of Human Resources should be sought. It may be necessary to plan the timing of suspension to prevent the suspect(s) from destroying or removing evidence that may be needed to support disciplinary or criminal action.
- 9.2 In these circumstances, the suspect(s) should be approached unannounced. They should be supervised at all times before leaving The Trust's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to The Trust. Any security passes and keys to the premises, offices and furniture should be returned.
- 9.3 Advice should be obtained on the best means of denying access while suspects remain suspended (for example, by withdrawing security passes and informing security staff not to admit the individual(s) to any part of the premises). Similarly, access permissions to The Trust's computer systems should be withdrawn without delay.
- 9.4 Internal assurance shall consider whether it is necessary to investigate systems, other than that which has given rise to suspicion, through which the suspect may have had opportunities to misappropriate the Trust's assets.

## **10 Recovery of Losses**

- 10.1 Recovering losses is a major objective of any fraud investigation. Internal assurance shall ensure that in all fraud investigations, the amount of any loss will be quantified. Repayment of losses should be sought in all cases.
- 10.2 Where the loss is substantial, legal advice should be obtained without delay by the Trust Financial Director about the need to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice should also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment. The Trust would normally expect to recover costs in addition to losses.

## **11 Managing the Investigation**

### **Appointment of a Manager to Oversee the Investigation**

11.1 The Trust CEO will nominate an Investigating Officer who could be from within The Trust or external to the organisation depending on whether the allegation is potentially criminal or disciplinary.

### **Beginning the Investigation**

11.2 The investigator must seek to establish the facts and gather the evidence (regardless as to whether such points to guilt or innocence) quickly and reduce or remove the threat of further frauds or losses by, for example, changing procedures or suspending payments.

### **Diary of Events**

11.3 The investigator should initiate a Diary of Events to record the progress of the investigation. Also the investigator must seek to secure evidence in a legally admissible form.

### **Informing the Police**

11.4 If initial enquiries reveal potential criminality evidence should be gathered by the investigator to show the potential offence and a decision will then be made by the Chief Executive in conjunction with the Trust Financial Director whether or not to refer the matter to the police. If the matter is referred to the police and they accept the case, agreement should be sought from the officer investigating the case as to what actions you can continue with from an internal investigation perspective.

### **Investigate Internally**

11.5 Irrespective of whether or not a criminal act has taken place The Trust may wish to proceed with an internal investigation to determine the facts, what if any action is needed, what can be done to recover a loss and what needs to be done to improve internal control to prevent the event happening again. Broadly, where no criminal act has taken place the event could have three outcomes.

- where it is decided there was gross misconduct, this could involve dishonesty but not with criminal intent
- there was negligence or an error of judgment that caused the event
- finally it may be concluded there is no case to answer.

11.6 In each case the investigating officer should consider what can be done to recover any loss and whether anything should be done to improve control to prevent the event happening again.

## **Disciplinary Procedures**

- 11.7 The disciplinary procedures of The Trust have to be followed in any disciplinary action taken by The Trust towards an employee.
- 11.8 In conjunction with Human Resources action must be taken promptly and the Disciplinary Policy invoked as appropriate to deal with an employee(s) under suspicion. This could involve the search of a workstation or computer files and/or suspension pending the investigation.

## **12 Gathering Evidence**

### **Witnesses**

- 12.1 If a witness to the event is prepared to give a written statement, it is best practice for an experienced member of staff to accompany the investigator to a meeting with the witness, to take a chronological record using the witness' own words. The witness should sign the document as a true record.

### **Physical Evidence**

- 12.2 Upon taking control of any physical evidence, it is important that a record is made of the date, time and place and by whom it was taken. If evidence consists of several items, for example many documents, each one should be tagged with a reference number corresponding to the written record.

### **Interviewing of Suspect(s)**

- 12.3 If the matter has not been referred to the Police the investigator should consult Human Resources. If the matter has been referred to the Police the investigator must consult them before interviewing a suspect. In the interview any person under investigation has the right to be accompanied by a work colleague (not implicated in the allegation) or trade union representative.

## **13 Interview Procedure**

### **Review Events with Police**

- 13.1 Whether or not the evidence gathered is thought sufficient for disciplinary action and/or prosecution, if there is evidence of fraud or another criminal offence, the Police **may** be consulted at this stage if they are not already involved.

### **Interview**

- 13.2 Specialist advice must be sought via Human Resources before any interviews are conducted. The Trust may wish to bring external interviewers who are suitably qualified.

## **Reporting the loss**

13.3 Delegated limits for approving the writing off of losses are detailed in The Trust's Financial Procedures. The write off of any loss arising from a fraud is subject to the conditions contained in the financial procedures.

## **14 Points of Good Practice**

14.1 Points of good practice for any investigation include:

- having an established line of communication with the local police or economic crime unit
- identifying a manager responsible for the investigation. The manager should be, if possible independent of the area under investigation
- define the objectives of the investigation
- define scope and timing of investigation and likely outputs
- seek advice where necessary from such sources as police, internal and external audit, and legal advisors
- agree resources required for investigation
- define responsibilities
- budget and monitor resources used (costs and time)
- monitor progress and inform as required
- consider lessons to be learned e.g. how control can be improved
- draw up an action plan based on lessons learned
- keep proper records including a diary of events.

## **15 Involving the Police**

15.1 The Trust should involve the police as directed by the Chief Executive after consultations with the investigating officer. Properly organised investigations, conducted by individuals with an inside working knowledge, will be of great assistance to any subsequent police inquiry, and the police should be informed as soon as the issues involved are identified. The police will often be able to advise on how to draft a statement to the press.

## **16 Investigation Resources Options**

16.1 Following allocation by the Trust CEO, all investigations will be led by a suitably experienced individual who will either work for The Trust or is external to the organisation, depending on whether or not the matter is one of a criminal nature or if the matter is a disciplinary issue. Under no circumstances should managers carry out either a criminal or a disciplinary investigation, unless trained and specifically requested to do so. However, management should cooperate with requests for assistance from the investigator.

- 16.2 Some investigations may require the use of technical expertise which may not be possessed within The Trust. In these circumstances, the Financial Director may approve the appointment of external specialists to lead or contribute to the investigation.

## **17 Interview under Caution**

- 17.1 An interview under caution should not be considered by The Trust unless the police and/or external investigators have been informed. The Trust Financial Director with the agreement of the Chief Executive will seek external specialist advice as and when this is required.

## Appendix 1 - What is Fraud – A Guide for Managers and Employees

### Fraud Act 2006

There are 3 main offences under the Act:

▪ **Fraud by false representation (Section 2)**

Example: A person lies about qualifications in order to obtain employment.

▪ **Fraud by failing to disclose information (Section 3)**

Example: A person fails to mention on a job application that they lost their previous job because of theft or fraud.

▪ **Fraud by abuse of position (Section 4)**

Example: A payroll manager creates ghost employees and transfers the pay into bank accounts set up for that purpose.

**It is important to recognise the indicators of fraudulent behaviour, however, they are only indicators and NOT proof of guilt!!**

- Sudden change in lifestyle, extravagant spending
- Does not take holidays/refusal of promotion
- Unusually stressed/agitated
- Backlog of work
- Increase in number of hours worked, first in, last out
- Controlling (particularly “experts”) will not share knowledge
- Acts without approval
- Fails to delegate

## WHAT YOU SHOULD DO AND DON'T:

### EMPLOYEES:

DO	DON'T
<input checked="" type="checkbox"/> Make an immediate note of your concerns	<input checked="" type="checkbox"/> Approach the individual
<input checked="" type="checkbox"/> Convey your suspicions to someone with the appropriate authority and experience	<input checked="" type="checkbox"/> Be afraid to raise your concerns
<input checked="" type="checkbox"/> Report your concerns as soon as possible	<input checked="" type="checkbox"/> Try to investigate the matter yourself
<input checked="" type="checkbox"/> Copy documentation if able to do so	<input checked="" type="checkbox"/> DO NOTHING!!

### MANAGERS:

DO	DON'T
<input checked="" type="checkbox"/> Speak to the individual who is raising the concern in private	<input checked="" type="checkbox"/> Discuss the issue in an open office
<input checked="" type="checkbox"/> Take all allegations of fraud seriously, it will have taken the individual a lot of courage to raise it with you	<input checked="" type="checkbox"/> Joke about the issue with the person, they will want it treated seriously!!
<input checked="" type="checkbox"/> Report your concerns to the appropriate person as soon as possible	<input checked="" type="checkbox"/> Try to investigate the matter yourself
<input checked="" type="checkbox"/> Copy documentation if able to do so	<input checked="" type="checkbox"/> DO NOTHING!!