

Fraud Response Plan

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INTRODUCTION

1 The University is committed to reducing its risk of fraud and corruption to the lowest possible level. The University defines fraud as follows (see Appendix A):

“Any action deliberately designed to cause loss to the University, or to obtain any unauthorised benefit, whether or not this is received personally or by others.”

2 The University’s attitude and expectations in relation to fraud are summarised in Appendix B. As well as seeking to reduce both the opportunity and scope for fraud, the University is also committed to taking prompt action to fully investigate and address any suspected cases, whether carried out by staff, students, members of the Board of Trustees, of the Collegiate Council, or of Committees established by those bodies, suppliers or other partners. This document defines the authority levels, responsibilities for action, and reporting lines in the event of a suspected fraud or irregularity.

PURPOSE

3 The use of the plan should enable the University to:

- prevent further loss;
- establish and secure evidence necessary for civil, criminal and/or disciplinary action;
- notify the Higher Education Funding Council for England (HEFCE), if the circumstances are covered by the mandatory requirements of the Audit Code of Practice;
- minimise and recover losses, including complying with any reporting requirements under the University’s insurance policies;
- ensure that appropriate action is taken against the culprits;
- deal with requests for references for employees disciplined or prosecuted for fraud;
- review the reasons for the incident, the measures taken to prevent a recurrence, and any action needed to strengthen future responses to fraudulent activity;
- keep all personnel with a need to know suitably informed about the incident and the institution’s response;
- assign responsibility for investigating the incident;
- establish circumstances in which external specialists should be involved; and
- where appropriate, notify the police and establish lines of communication with them, e.g. see Appendix B, paragraph 3.

INITIATING ACTION

4 Knowledge of a suspicion of fraud or irregularity may arise through a number of channels, including the following:

- the requirement on all spending officers under the Financial Regulations to report any irregularity to the Internal Auditors;

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- the University's procedure on public interest disclosure ('whistle-blower's charter');
- anomalies highlighted by the operation of control systems and procedures; and
- planned audit work.

5 All actual or suspected incidents should be reported without delay to the Director of Finance and Estates (contact 020 7862 8240). The Director of Finance and Estates should, within one working day, hold a meeting of the following project group to decide on the initial response:

- Chief Operating Officer and University Secretary (Chair);
- Head of the Internal Audit Service provider;
- Director of Finance and Estates; and
- Director of Human Resources.

6 If any suspected fraud directly involves any of the persons referred to in 5 above, then the relevant reference should be replaced by the Vice-Chancellor (VC).

7 At its first meeting the project group will decide on the initial action to be taken. This will normally be an investigation led by the Director of Finance and Estates. The Chair of the Audit and Risk Committee should be advised at the earliest stage when an investigation under this procedure has been initiated (although such advice should only indicate the fact of the investigation rather than any detail). The Vice-Chancellor should also be informed at this stage of action taken (unless the suspected fraud directly involves the Vice-Chancellor). The decision by the project group to initiate an investigation shall constitute authority to spend the necessary Internal Audit time on this work. The group will also consider its membership, and the need to include representatives from other specialist areas, such as Finance, Computing, the Legal and Constitutional Advisor or Estates.

8 The project group will meet as required to oversee the progress of any investigation and take major decisions relating to the case, e.g. referral to the Police.

PREVENTION OF FURTHER LOSS

9 Where initial investigation provides reasonable grounds for suspecting a member or members of staff of fraud, the project group will decide how to prevent further loss. This may require the suspension, with or without pay, of the suspect(s). 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. Legal advice should be taken where necessary.

10 In these circumstances, the suspect(s) should be approached unannounced. They should be supervised at all times before leaving the University's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the University. Any security passes and keys to premises, offices and furniture should be returned.

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11 The Finance and Estates Division should advise on the best means of denying access to University property while suspects remain suspended (for example by changing locks and informing security staff not to admit the individuals to any part of the premises). Similarly, the Director of Information and Communications Technology should be instructed to withdraw without delay access permissions to all computer systems and advise, if appropriate, on any other measures to protect the University's position.

12 The Director of Finance and Estates 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 University assets.

ESTABLISHING AND SECURING EVIDENCE

13 The Director of Finance and Estates will:

- maintain familiarity with the University's disciplinary procedures, to ensure that evidence requirements will be met during any fraud investigation;
- establish with the Head of the Internal Audit Service whether there is a need for audit staff to be trained in the evidence rules for interviews under the Police and Criminal Evidence Act as this relates to the handling, securing and storing of evidence;
- establish and maintain contact with the Police, as required;
- ensure that staff involved in fraud investigations are familiar with and follow rules on the admissibility of documentary and other evidence in criminal proceedings; and
- take legal advice as required.

RECOVERY OF LOSSES

14 Recovering losses is a major objective of any fraud investigation. The Director of Finance and Estates 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.

15 Where the loss is substantial, legal advice should be obtained without delay about the options available and any need to freeze the suspect's assets through the court, pending conclusion of the investigation. Similarly, where the perpetrator refuses repayment, legal advice should be sought about prospects for recovering losses through the Civil Court. The University would normally expect to recover costs in addition to any losses.

REPORTING

Reporting Lines

16 The project group shall provide periodic confidential update reports to the Chair of the Audit and Risk Committee and the VC summarising:

- circumstances surrounding the case, contributing factors etc;
- quantification of losses;

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- progress with recovery action;
- progress with disciplinary action;
- progress with criminal action;
- estimate of resources required to conclude the investigation; and
- actions taken to prevent and detect similar incidents.

17 The project group will also consider the need to keep others informed, in particular the External Auditors and Head of Communications.

Reporting to the Board of Trustees

18 Any incident matching the criteria in *Accountability and Audit: HEFCE Code of Practice* (see 22 below) shall be reported without delay by the VC, to the Chairs of both the Board of Trustees and the Audit and Risk Committee.

19 Any significant variation from the approved Fraud Response Plan, together with reasons for the variation, shall be promptly reported to the Chairs of both the Board of Trustees and the Audit and Risk Committee.

20 On completion of an investigation, a written report shall be submitted to the Audit and Risk Committee containing:

- a description of the incident, including value of any loss, people involved, and the means of perpetrating the fraud;
- the measures taken to prevent a recurrence; and
- any action needed to strengthen future responses to fraud, with a follow-up report on whether the actions have been taken.

21 This report will normally be prepared by the Director of Finance and Estates.

Notifying the HEFCE

22 The circumstances in which the University must inform the HEFCE about actual or suspected frauds are detailed in *Accountability and Audit: HEFCE Code of Practice* (see Appendix C). The VC is responsible for informing HEFCE of any such incidents.

OTHER ISSUES

Responsibility for Investigation

23 All investigations shall normally be led by the Head of the Internal Audit Service under the direction of the project group set up to deal with the specific case. Investigations shall not be undertaken by management, although management should co-operate with requests for assistance from Internal Audit.

24 Some investigations may require the use of technical expertise which the University's Internal Audit Service does not possess. In these circumstances, the project group may approve the appointment of external specialists to lead or contribute to the investigation.

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References for employees disciplined or prosecuted for fraud

25 Any requests for a reference for a member of staff who has been disciplined or prosecuted for fraud shall be referred to the Director of Human Resources. The Human Resources division shall prepare any answer to such a request.

Review of Fraud Response Plan

26 This plan will be reviewed by the Director of Finance and Estates for fitness of purpose at least annually or after each use. Any need for change will be reported to the Audit and Risk Committee for approval.

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Appendix A: Definition of fraud

1 The University of London considers the following behaviour as “fraudulent”:

“Any action deliberately designed to cause loss to the University, or to obtain any unauthorised benefit, whether or not this is received personally or by others.”

2 This definition of fraudulent conduct is considered to apply equally to staff, students, members of the Board of Trustees, of the Collegiate Council, or of Committees established by those bodies, suppliers, partners, subsidiaries, associates and any other individuals or organisations who have dealings with the University.

Note:

3 There is no legal definition of “fraud”. The UK Institute of Internal Auditors (IIA(UK)) Fraud Position Statement refers to the definitions used by the Metropolitan Police and the Law Commission.

4 The Metropolitan Police Fraud Squad defines fraud as:

- *Theft involving the distortion, suppression or falsification of financial records.*

5 The Law Commission, in its report on Fraud (July 2002), developed a broader definition:

- *Any person who, with intent to make a gain or to cause loss or to expose another to a risk of loss, dishonestly:*

- (i) Makes a false representation, or*

- (ii) Fails to disclose information to another person which,*

- a) He or she is under a legal duty to disclose,*

- b) Is of a kind which the other person trusts him or her to disclose, and is information which in the circumstances it is reasonable to expect him or her to disclose, or*

- (iii) Abuses a position in which he or she is expected to safeguard, or not to act against, the financial interests of another person or of anyone acting on that person’s behalf.*

The offence of obtaining services dishonestly would be committed where, with intent to avoid payment, a person by any dishonest act obtains services in respect of which payment is required. Deception is not an essential element of the offence. It would therefore extend to the obtaining of services by providing false information to computers and machines, which under the present law may not amount to any offence at all.

6 In view of these two definitions, the IIA(UK) considers that “fraudulent behaviour could involve either internal disciplinary action, proceedings in the civil courts or prosecution by the police. Fraud can also be linked to other serious criminal activity taking place outside of the organisation in which it occurs, including extortion and money laundering.”

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Appendix B: Statement of the University's policy in relation to fraud

1 The University will not tolerate fraud, and expects the following standards of conduct and behaviour:

- All staff, students, members of the Board of Trustees, of the Collegiate Council, or of Committees established by those bodies should behave in a fair and honest way in any dealings related to the institution. This applies equally to both internal conduct, and also externally in relation to our suppliers, partners and other business associates.
- All staff should apply themselves diligently to their work and the execution of their duties. Specifically they should have due regard to the need to rigorously apply those internal controls, rules and regulations which are designed to prevent, deter and detect fraud.
- As well as operating within the law and any specific agreements or contracts, all external organisations dealing with the University must conduct themselves in accordance with normal ethical business standards consistent with the University's Charitable status and public-sector funding.
- Staff, students, members of the Board of Trustees, of the Collegiate Council, or of Committees established by those bodies should be aware of the institution's Whistle blowing Policy and the right this gives them to raise legitimate concerns about possible fraud, as well as other problems/irregularities.
- Any member of staff, students, members of the Board of Trustees, of the Collegiate Council, or of Committees established by those bodies, supplier, partner or associate should promptly report to the appropriate contact within the University all legitimate concerns about suspected fraud or irregularity. (Guidance on this can be obtained from the Director of Finance and Estates, tel. 020 7862 8240.)

2 Where any fraud is committed against the University, consideration will always be given to prosecuting the person/organisation responsible through all criminal and/or civil means available.

3 A major objective in any fraud investigation will be the punishment of the perpetrators, to act as a deterrent to others. The University will follow disciplinary procedures against any member of staff or student who has committed fraud. The University will normally involve the Police and pursue the prosecution of any such individual.

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Appendix C: Extracts from *Model Financial Memorandum between HEFCE and Institutions (HEFCE 2008/19)* Note: HEI = Higher Education Institution

Annex A: Mandatory requirements of the Financial Memorandum and Accountability and Audit Code of Practice

16. The HEI's designated officer must report any material adverse change – such as a significant and immediate threat to the HEI's financial position, significant fraud or major accounting breakdown – without delay to all of the following:

- the chair of the HEI's audit committee
- the chair of the HEI's governing body
- the HEI's head of internal audit
- the external auditor
- the HEFCE chief executive.

Annex B: Accountability and Audit Code of Practice

Higher education audit framework

23. In the event of any material adverse change in an institution's circumstances, such as a significant and immediate threat to the HEI's financial position, significant fraud or major accounting breakdown, the designated officer must inform, without delay, all of the following:

- the chair of the HEI's audit committee
- the chair of the HEI's governing body
- the HEI's head of internal audit
- the external auditor
- the HEFCE chief executive.

On receiving any such notification, the chief executive will discuss what response to make with the HEI's governing body or designated officer, including any action to be taken. If a matter requiring report is discovered by external or internal auditors in the normal course of their work and the designated officer refuses to make a report, the auditors must report directly to all of the following:

- the chair of the HEI's audit committee
- the chair of the HEI's governing body
- the HEFCE chief executive.

This is to ensure that the HEI has taken appropriate action.

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