

Fraud Policy Statement

Introduction

The Commission requires all staff at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. The purpose of this statement is to set out your responsibilities regarding both the prevention of fraud and the procedures to be followed where a fraud is detected or suspected.

Definitions

In law there is no specific offence of fraud: many of the offences referred to as fraud are covered by the Theft Acts of 1968 and 1978. The term is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. For practical purposes fraud may be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party.

The criminal act is the attempt to deceive and attempted fraud is therefore treated as seriously as accomplished fraud.

Computer fraud is where information technology equipment has been used to manipulate programs or data dishonestly (for example, by altering, substituting or destroying records, or creating spurious records), or where the use of an IT system was a material factor in the perpetration of fraud. Theft or fraudulent use of computer time and resources is included in this definition.

The Commission's responsibilities

The Commission has the same responsibilities as Government Departments. These are set out in chapter 37 of *Government Accounting*:

“Departments should develop and maintain effective controls to prevent fraud and to ensure that if it does occur it will be detected promptly. If fraud occurs departments must carry out a vigorous and prompt investigation. They should take the appropriate legal and/or disciplinary action in all cases where that would be justified; and they should make any necessary changes to systems and procedures to ensure that similar frauds will not happen again. Investigations should consider as a matter of course whether there has been a failure of supervision; and appropriate disciplinary action should be taken where supervisory failures have occurred.

Departments should establish systems for recording and subsequently monitoring all discovered cases of fraud.”

In addition to having its regular external audit programme, the Commission has taken action to meet these requirements. It has established its systems of control. It now also has an internal audit service, and has carried out a risk analysis which underpins its internal audit programme.

Although the Chairman, as the Commission's Accounting Officer, bears overall responsibility and is liable to be called to account for specific failures, these responsibilities fall directly on line management and many involve **all** the Commission's staff.

Line managers' responsibilities

Line managers are responsible for ensuring that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of fraud, therefore, rests primarily with managers. There is a need for all managers to assess the types of risk involved in the operations for which they are responsible; to review and test regularly the control systems for which they are responsible; and to ensure that controls are being complied with and satisfy themselves that their systems continue to operate effectively.

The Finance & Estates Manager will offer advice and assistance on control issues as necessary, after consultation as appropriate with Internal Audit. In terms of establishing and maintaining effective controls it is generally desirable that:

- (a) wherever possible, there is a separation of duties so that control of a key function is not vested in one individual;
- (b) backlogs are not allowed to accumulate; and
- (c) in designing any new system, consideration is given to building in safeguards against internal and external fraud.

Investigation

Line managers should be alert to the possibility that unusual events or transactions could be symptoms of fraud or attempted fraud. Fraud may also be identified as a result of specific management checks or be brought to management's attention by a third party. Additionally, irregularities occasionally come to light in the course of audit reviews.

Irrespective of the source of suspicion, it is for line management to report it immediately to the Finance & Estates Manager and Director (or Secretary in the case of Corporate Services) and undertake an initial investigation to ascertain the facts. This investigation should be carried out as speedily as possible after suspicion has been aroused: prompt action is essential. The purpose of the initial investigation is to confirm or repudiate the suspicions which have arisen so that, if necessary, further investigation may be instigated and disciplinary action initiated, in accordance with the Commission's [Disciplinary Procedure](#). The Finance & Estates Manager will advise on any specific course of action which may be necessary.

The factors which gave rise to the suspicion should be determined and examined to clarify whether a genuine mistake has been made or an irregularity has occurred. An irregularity may be defined as any incident or action which is not part of the normal operation of the system or the expected course of events. Preliminary investigation may involve discreet enquiries with staff or the examination of documents. It is important for staff to be clear that any irregularity of this type, however apparently innocent, will be investigated.

If initial investigation confirms the suspicion that a fraud has been perpetrated, then, to prevent the loss of evidence which may prove essential for subsequent disciplinary action or prosecution, management should take steps to ensure that all original documentation is preserved in a safe place for further investigation. Additionally, the Commission may suspend any officer involved, pending the outcome of an investigation. Suspension itself does not imply guilt; it is another safeguard to prevent the removal or destruction of evidence.

Anyone interviewed as part of the investigation may, if he/she wishes, be accompanied by a friend or trade union representative.

If, after initial investigation, management is satisfied that a prima facie case of fraud or irregularity has occurred, disciplinary action will be initiated. A full report should also be made immediately to the Finance & Estates Manager (or to the Secretary if there is evidence that the Finance & Estates Manager may be involved in the irregularity).

Staff responsibilities

Every member of staff has a duty to act with propriety in the use of official resources and in the handling and use of public funds. Staff should ensure that public funds are safeguarded, where they are involved with cash or payments systems, receipts, stocks or dealings with contractors or suppliers. Staff should alert their line manager where they believe the opportunity for fraud exists because of poor procedures or lack of effective oversight. In addition it is the responsibility of every member of staff to report details immediately to their line manager if they suspect that a fraud has been committed or see any suspicious acts or events. Any person making a frivolous or vexatious allegation may be subject to disciplinary action. Staff should also assist in any investigation by making available all relevant information and by co-operating in interviews.

Personal conduct

Staff are public servants and owe a duty of loyal service to the Commission as their employer. They must have, and be seen to have, high standards of honesty, financial propriety, and personal integrity in the exercise of their duties. They should not accept gifts,

hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity. The Commission has issued guidance on the acceptance of gifts and hospitality in the [Financial Instructions](#).

Disciplinary action

After proper investigation the Commission will initiate legal and/or disciplinary action in all cases where it is considered appropriate. Commission policy generally in relation to proven frauds or suspected frauds which come to light, whether perpetrated by a member of staff or by persons external to the organisation, is that the case will be referred to the police at the earliest possible juncture. The Commission will co-operate fully with police enquiries and these may result in the offender(s) being prosecuted. The investigations described above will also consider whether there has been any failure of supervision. Where this has occurred appropriate disciplinary action will be initiated against those responsible.

Learning from experience

Where a fraud has occurred management must make any necessary changes to systems and procedures to ensure that similar frauds will not recur. The investigation may have pointed up a failure of supervision, a breakdown or an absence of control. The Finance & Estates Manager will offer advice and assistance on matters relating to internal control, having consulted Internal Audit as appropriate.

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