

PROTECT

Author: Steve Brown

Date: 07 May 2014

Version: 1.0

Approved: Executive Team - 7 October 2014

OFFICE OF THE PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN

ANTI-FRAUD AND BRIBERY POLICY

INTRODUCTION - PURPOSE AND SCOPE

1. The Office of the Parliamentary and Health Service Ombudsman (PHSO) does not tolerate any form of fraudulent or improper activity (such as bribery). The Office will take appropriate action against those who perpetrate or attempt to perpetrate fraudulent or improper acts, whether they are people we employ or others we contract or deal with. All staff are required at all times to act honestly and with integrity and to safeguard public assets.
2. Like all organisations PHSO must ensure good levels of awareness and effective controls are maintained against the risk of fraud or bribery in order to deter fraud and bribery from happening, or if it does or is suspected, to ensure an effective and robust response.
3. PHSO staff share the responsibility of other public servants to safeguard public assets and funds. The anti-fraud and bribery policy enables us to discharge this responsibility in a managed, effective, and efficient way and ensures that we respond in an appropriate and proportionate way to the circumstances of any suspected fraud or bribery.
4. In addition to internal fraud we may from time to time also encounter evidence of fraud externally during our operational work and we must also be able to respond to this effectively and appropriately.
5. This policy covers PHSO staff, contractors, suppliers, and any third party who may have dealings with the Office or its employees. The policy also covers circumstances where evidence suggests fraud or bribery is being perpetrated by a complainant, third party or employee of an organisation in which we are investigating a complaint.
6. This policy therefore ensures that management and staff have a clear understanding of:
 - the Office's position and instructions for reporting fraud or suspected fraud or bribery;
 - the respective responsibilities of the Office, management and staff;
 - the Office's expectations for the behaviour of staff, and consequences if these standards are not met.

DEFINITIONS

7. Fraud for our purposes fraud can be defined as any circumstances in which an individual has acted dishonestly with intent to make a financial or other gain for themselves or anyone else, or acting maliciously to inflict a loss (or the risk of loss) on another as a result.

PROTECT

Author: Steve Brown

Date: 07 May 2014

Version: 1.0

Approved: Executive Team - 7 October 2014

8. Bribery is the offering, promising, giving, accepting or soliciting of money, a gift or other advantage as an inducement to do something that is illegal or a breach of trust in the course of carrying out the organisation's activities.

9. 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.

LEGISLATION

10. The offences referred to as fraud are covered by the Fraud Act 2006. The Fraud Act sets out three classes of fraud by virtue of:

- Falsification of documentation or making other false statements
- Misuse of information (e.g. disclosing or failing to disclose information)
- Abuse of position

For an offence to be committed the defendant must have carried out one of the above actions dishonestly, with the intention of making a gain or causing a loss (or risk of loss) to another. A person found guilty of Fraud may be liable to a fine or imprisonment for up to twelve months on summary conviction, or a fine or imprisonment for up to ten years on conviction on indictment.

The Act also creates an offence of obtaining services dishonestly. A person found guilty of this offence may be liable to a fine or imprisonment for up to twelve months on summary conviction or for up to five years on conviction or indictment.

11. The Bribery Act 2010 creates four criminal offences. The first two offences relate to offering a bribe and receiving a bribe. For the offence to be committed it is sufficient for the bribing party to intend to influence improperly the intended recipient, the recipient does not need to have taken action. The third offence relates to bribery of a foreign public official (so is not relevant to our work); the fourth relates to the failure of 'commercial organisations' to prevent bribery. Public bodies such as PHSO may fall under the definition of commercial organisations if they engage in commercial activities, irrespective of whether profits are made. Potential penalties for conviction under this Act are unlimited fines and prison sentences of up to ten years.

AVENUES FOR REPORTING SUSPECTED FRAUD OR BRIBERY

12. PHSO has in place avenues for reporting suspicions of fraud or bribery:

- In respect of fraud staff should report such suspicions in accordance with the Fraud Response Plan [LINK]; and

PROTECT

Author: Steve Brown

Date: 07 May 2014

Version: 1.0

Approved: Executive Team - 7 October 2014

- In respect of potential bribery staff should report their suspicion to their line manager, Director or head of function, or if that is not possible directly to the Director of Finance, Facilities and ICT, or the Managing Director.

Any instances where the anti-fraud and bribery policy has been relied upon will be reported to the members of the PHSO Board and the Audit Committee.

RESPONSIBILITIES

PHSO's Corporate Responsibilities

13. To prevent fraud and respond effectively to any occurrence PHSO has the same responsibilities as Government Departments. These are set out in Annex 4.7 of the HM Treasury publication 'Managing Public Money'. This states that organisations should actively manage the risk of fraud by:

- Assessing the organisation's overall vulnerability to fraud;
- Identifying the areas most vulnerable to fraud risk;
- Evaluating the scale of fraud risk;
- Measuring the effectiveness of the fraud risk strategy; and
- Reporting fraud to the Treasury.

The Office will investigate all suspected cases of fraud against PHSO in accordance with the 'PHSO Fraud Response Plan' [Link]. The Office will investigate any suspected cases of bribery in a manner appropriate to the circumstances.

The Accounting Officer

14. The Ombudsman as Accounting Officer is responsible for establishing and maintaining a sound system of internal control that supports the achievement of PHSO's policies, aims and objectives. The system of internal control is designed to respond to and manage the whole range of risks that PHSO faces. The system of internal control is based on an on-going process designed to identify the principal risks, to evaluate the nature and extent of those risks and to manage them effectively.

Managing fraud and potential bribery risks in PHSO is set in the context of the management of this wider range of corporate risks.

The Managing Director (The Accountable Officer) / Director of Finance, Facilities and IT

15. Overall responsibility within PHSO for managing the risk of Fraud or dealing with potential bribery has been delegated to the Managing Director / Director of Finance, Facilities and IT. Their responsibilities include:

- Developing a fraud risk profile and undertaking a regular review of the fraud risks associated with each of the key strategic aims and objectives in order to keep the

PROTECT

Author: Steve Brown

Date: 07 May 2014

Version: 1.0

Approved: Executive Team - 7 October 2014

profile current - the profile should include an assessment of the potential for bribery;

- Establishing an effective anti-fraud and bribery policy, and fraud response plan, commensurate to the level of fraud (and bribery) risk identified in the fraud risk profile;
- Designing an effective control environment to prevent fraud (and potential bribery) commensurate with the fraud risk profile.
- Establishing appropriate mechanisms for reporting fraud (and bribery) risk issues, reporting significant incidents to the Accounting Officer and coordinating assurances about the effectiveness of the anti-fraud and bribery policy to support the Governance Statement.
- Liaising with the Audit Committee
- Making sure that all staff are aware of the organisation's anti-fraud and bribery policy and know what their responsibilities are in relation to combatting fraud or potential bribery
- Ensuring that appropriate anti-fraud training and development opportunities are available to staff in order to build capability and responsiveness
- Ensuring that robust and prompt investigations are carried out if instances of fraud or bribery occur or are suspected
- Ensuring that any circumstances requiring professionally qualified accountancy staff to exercise their legal duty to report suspected fraud to the National Crime Agency (NCA) are complied with
- Taking appropriate legal and/or disciplinary action against perpetrators of fraud or bribery
- Taking appropriate disciplinary action against supervisors where supervisory failures have contributed to the commission of fraud or bribery
- Taking appropriate disciplinary action against staff who fail to report their suspicions of fraud or bribery
- Taking appropriate action to recover assets
- Ensuring that appropriate action is taken to minimise the risk of similar fraud or bribery incidents occurring in the future

Operational/Line Managers

16. Operational/line managers are responsible for:

- Ensuring that an adequate system of control exists within their areas of responsibility and that controls operate effectively
- Preventing and detecting fraud and/or bribery
- Assessing the types of risks involved in the operations for which they are responsible regularly
- Ensuring that controls are complied with and their systems continue to operate effectively
- Implementing new controls to reduce the risk of similar fraud and/or bribery occurring where these have taken place

PROTECT

Author: Steve Brown

Date: 07 May 2014

Version: 1.0

Approved: Executive Team - 7 October 2014

Staff

17. Every member of staff is responsible for:

- Acting with propriety in the use of official resources and the handling and use of public funds
- Conducting themselves in accordance with PHSO's organisational value of integrity (openness and honesty) in all their dealings and taking responsibility and accountability for their actions.
- Conducting themselves in accordance with the seven principles of public life set out in the first report of the Nolan Committee 'Standards in Public Life'. They are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership
- Being alert to the possibility that unusual events or transactions could be indicators of fraud or bribery
- Reporting details through the appropriate channel if they suspect that fraud or bribery has been committed or see any suspicious acts or events
- Cooperating fully with whoever is conducting internal checks or review or fraud and/or bribery investigations

Internal Audit

18. Internal audit is responsible for providing the Accounting Officer with an objective evaluation of, and opinion on, the overall adequacy and effectiveness of PHSO's framework of governance, risk management and control.

Audit Committee

19. The Audit Committee on behalf of the PHSO Board will consider any incidents of suspected fraud or bribery to assure the Accounting Officer that management action has been robust and effective, action to recover funds is appropriate, and suitable learning to prevent recurrence has been undertaken. The Audit Committee will monitor the follow up to any incidents to ensure that agreed actions are implemented.

FRAUD RESPONSE PLAN

20. PHSO has a fraud response plan that sets out how to report suspicions, how investigations will be conducted and concluded [link]. The Fraud Response Plan will also form the basis of PHSO's response to any incidents of suspected bribery. The plan forms part of PHSO's anti-fraud and bribery policy.

OTHER REPORTING REQUIREMENTS

21. PHSO's external auditors will be informed of the details of suspected, alleged and actual cases of fraud relating to PHSO's resources without undue delay.

PROTECT

Author: Steve Brown

Date: 07 May 2014

Version: 1.0

Approved: Executive Team - 7 October 2014

22. Any instances where the PHSO anti-fraud and bribery policy has been invoked will be included in the annual Governance Statement published as part of the Annual Report and Accounts.

MONITORING AND REVIEW

23. This policy will be reviewed at least biennially or sooner when legislation or circumstances dictate.