

## PHSO FRAUD RESPONSE PLAN

### PART 1 - HANDLING SUSPICION OF FRAUD

#### 1.1 IF YOU SUSPECT FRAUD IS BEING PERPETRATED AGAINST THE OFFICE

First stay calm and don't panic - it can often be a shock to see or think that someone is doing something fraudulently.

Secondly be discreet and maintain complete confidentiality - the "need to know" principle must be strictly applied, this will ensure that:

- staff are not harmed by false accusations, and
- if a fraud is occurring that the perpetrator is not 'tipped off'.

*Then immediately report your suspicions to your Director or Head of Function, or if that is not possible another senior manager, the Director of Finance, Facilities and ICT (Director F,F&ICT), or the Managing Director (MD).*

Act quickly but carefully, following the procedures laid down in this guidance and, if appropriate, in PHSO's Whistleblowing Policy [[link](#)].

Do not attempt to undertake any investigation of the suspected fraud yourself - you might destroy or corrupt valuable evidence in the process. Instead, concentrate on providing as much information as is readily available to any investigation (which will be initiated by the MD), such as names, dates, times, transactions, invoices numbers, etc but without discussing it with anyone or removing any documentation.

If, as a manager, a suspected fraud against the Office is reported to you, you must:

- obtain as much detail as you can and the circumstances permit without risking 'tipping-off' any individual(s) who are suspected of being involved in the fraud;
- ensure confidentiality is maintained;
- put in train any immediate action that may be necessary to secure evidence, quantify scope and scale, or prevent further losses;
- report to your Director or Head of Function, the Director F,F,&ICT or the MD direct as appropriate who must then report to the MD if they are not already aware;
- it is the MD's job to decide on action to be taken in consultation as necessary with Executive Team members - they will keep the Ombudsman, PHSO's Board and Audit Committee, and PHSO's internal auditors informed of the action being taken.

## **1.2 IF YOU SUSPECT A FRAUD IS BEING PERPETRATED AGAINST ANOTHER ORGANISATION**

If you suspect or discover a fraud is occurring against another organisation during the investigation of a complaint you must:

- make a detailed note of the reasons and evidence giving rise to your suspicion;
- increase the risk assessment on the case;
- report your suspicions immediately to your line manager;
- Do not approach the organisation concerned with your suspicions until and unless you are told to do so with the agreement of the Executive Director Operations & Investigations (EDO&I) or MD.

If, as a manager a suspected fraud against another organisation is reported to you, you must:

- consider the evidence available;
- report to your Director or Head of Function, the EDO&I or the MD direct as appropriate who must then report to the MD if they are not already aware;
- it is the MD's job to decide on action to be taken in consultation as necessary with Operations Management Team members as necessary - they will keep the Ombudsman, PHSO's Board and Audit Committee, and PHSO's internal auditors informed of the action being taken.
- Do not approach the organisation concerned with our suspicions without the agreement of the EDO&I or MD.

As a general guide to our approach in the situation where we suspect fraud by a complainant, EDO&I and the MD will (circumstances permitting) consider whether to:

- Discuss our concerns with the complainant to confirm that there is no simple explanation and the facts are correct;
- ask the complainant what action they propose to take if our concerns are justified - inviting them to take the issue directly to the body concerned;
- make it clear that if they decide not to act, we will consider whether to raise it with the body in question.

If we suspect fraud by staff of a body in jurisdiction, EDO&I and the MD will consider raising our suspicions with senior management within the body concerned for their action.

### 1.3 HOW FRAUD AGAINST PHSO WILL BE INVESTIGATED

Where internal fraud is established, it will constitute an act of gross misconduct. The procedures for handling cases of misconduct, including suspension and the support available for staff implicated in the investigation, are set out in the chapter on Disciplinary Procedures [*link*] in the *Staff Handbook*, and these procedures should be followed during the investigation. The MD will consult with the Director HR People and Talent (Director HR,P&T) on how this is carried out.

The MD is responsible for initiating the investigation and organising managers or staff to assist (e.g. in securing papers) and will liaise closely with the Ombudsman, Executive Team members whose areas of responsibility are affected, and others as necessary. The investigation itself will usually be carried out by the appropriate authorities (e.g. Internal Audit or the Police) but this will depend on the significance, seriousness or complexity of the suspected fraud.

The investigation process will depend on the particular nature of the case but the common procedures should be as follows:

- i. On receiving an allegation the MD will alert the Ombudsman and others as necessary. The MD will decide whether it is appropriate to alert the local Police at this stage; if this happens the remainder of this process may be delayed if the Police plan to mount a criminal investigation. (Note that in certain circumstances, professionally qualified accountancy staff have a legal duty to report suspected fraud to the National Crime Agency (NCA) - this will be complied with and co-ordinated with actions and decisions taken by the MD).
- ii. The MD (liaising closely with others as necessary) will decide whether it is appropriate to task Internal Audit at this stage with undertaking a preliminary investigation to establish the facts.
- iii. If Internal Audit or the Police are not utilised at this stage then the MD will make appropriate arrangements to undertake a preliminary investigation to establish the facts, keeping Director HRP&T informed if a member of staff is potentially involved.
- iv. The investigation report will be given to the MD and copied to the Ombudsman.
- v. The MD will decide whether a formal investigation is appropriate, taking advice from Director HRP&T and others as appropriate.
- vi. The formal investigation will normally be carried out by internal audit or contracted out to a specialist fraud investigation organisation.
- vii. The formal investigation report when produced will be issued to the MD and Ombudsman. The MD will then decide what action should be taken in consultation with the Ombudsman as appropriate.

If the alleged fraud used information technology consideration may be needed to involve PHSO's ICT provider to support the fraud investigation, subject to the need to ensure discretion and confidentiality. Any such decision will depend on the facts of the case and will be taken by the MD taking advice as appropriate.

#### **1.4 HOW TO SECURE EVIDENCE IN A LEGALLY ADMISSIBLE FORM**

When asked to do so by the MD, managers should take immediate personal charge of any documentation that is relevant to the discovered or suspected fraud. For example:

- securing the suspect's work station, pedestal and associated document cabinets, and making sure that the suspect - and any other unauthorised member of staff - do not have access to them before the investigation starts, and
- ensuring that the suspect should not be admitted to the building.

If there is any uncertainty as to which documents should be secured, immediate advice should be sought from the MD. PHSO's Security Officer is available to assist, or provide advice, where necessary in ensuring evidence is secured, and managing the access of individuals to PHSO premises.

If the alleged fraud involves the use of information technology, then it may be necessary to involve PHSO's ICT provider so that any records on the suspect's PC or the Office's network system or laptop, relating to the fraud, cannot be accessed, destroyed or corrupted prior to the investigation.

#### **1.5 WHEN AND HOW TO CONTACT THE POLICE**

Decisions to involve the police will be taken by the MD, consulting with the Ombudsman, as necessary, subject to requirements of professionally qualified accountancy staff as set out above at 1.3i and below. The decision to notify the police should be taken at an early stage so that any joint investigation arrangements (where appropriate) can be made as necessary. Initial contact with the Police will be the responsibility of the MD.

When the full circumstances of a fraud affecting PHSO are known the MD, consulting with the Ombudsman and others (e.g. Director F,F&ICT, and the Police), as necessary, will decide whether to report the fraud to the National Crime Agency (NCA) in respect of the Proceeds of Crime Act (POCA) 2002, and the Money Laundering Regulations 2003 and 2007. Although POCA and the Money Laundering Regulations do not apply directly to PHSO, HM Treasury have stated that they expect all public bodies to comply with the main terms of the legislation, and as custodians of public money PHSO will follow the legislation administratively.

## **PART 2 - PREVENTING LOSSES, RECOVERING LOSSES AND LEARNING THE LESSONS**

### **2.1 HOW TO PREVENT LOSSES**

The greatest cause of fraud is the failure to observe existing control procedures. Losses can therefore best be prevented by ensuring that all the necessary internal controls are understood and enforced.

This, ultimately, is the responsibility of the line manager. The Office appreciates that line managers cannot and *should not* supervise every transaction that their staff carry out. They can, however, ensure that their staff have adequate knowledge and training to carry out their duties and check that established policies and procedures are followed. Line managers should pay greatest attention to those areas where they perceive the greatest risk of fraud lies, and ensure that the controls in these areas are robust. Colleagues, or Internal Audit are available to assist if required.

### **2.2 RECOVERY ACTION**

Once a fraud has been discovered, one of the key objectives (alongside the proper investigation and subsequent action) must be to recover all cash or assets lost or misappropriated as a consequence of the fraud. The MD will decide when recovery of losses should begin which may be as soon as the size and extent of the loss has been established. In some cases this will not be possible until the investigation has been completed.

#### **2.2.1 External contractors / suppliers / individuals**

If an external contractor, supplier or individual has perpetrated the fraud (e.g. payments made on false documentation to outside organisations / individuals), Finance must be informed so that any payments due can be stopped immediately.

#### **2.2.2 Member of staff**

If a member of staff has perpetrated the fraud, immediate action will be taken to prevent any further losses occurring. Action will also normally be taken to recover stolen monies or goods. The timing of this and how it will be done will depend on the circumstances of the case and whether any criminal action is being taken. Decision on this will be made by the MD.

### **2.3 IDENTIFY LESSONS LEARNT AND DISSEMINATE**

The MD on completion of the investigation will consider the action which may be necessary to strengthen or improve the Office's internal controls, in order to prevent a re-occurrence of the fraud. The MD will discuss these with the Ombudsman and others as necessary. In most cases the fraud investigation will include suggestions for remedial action and the report could form the basis of the action plan. The MD will monitor implementation of the action plan and report to the next Audit Committee and Board meeting.

## **PROTECT**

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At the same time, the Office will consider whether any disciplinary action is appropriate where an employee of PHSO has been culpable, reckless or negligent and this has contributed to the perpetration of a fraud or attempted fraud. In these cases, disciplinary procedures set out in the Staff Handbook will be followed. The MD will report the outcome of any disciplinary action to the Audit Committee and the PHSO Board.

**PROTECT**