

Title	<b>HEFCW Fraud and Bribery Response Plan</b>
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0.1	Sept 09	First Draft
0.2	Nov 09	Updated post Management Board Oct 09
0.3	Nov 09	Updated post Equality Impact Assessment
1.1	June 12	Updated with Bribery Act 2010 implications
1.2	June 13	Updated to reflect changes in HEFCW organisational structure

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## **1. Introduction**

- 1.1 This Fraud and Bribery Response Plan provides a checklist of actions and a guide to follow in the event that fraud or bribery is suspected. It covers:
- notifying suspected fraud or bribery;
  - the investigation process;
  - liaison with police and external audit;
  - initiation of recovery action;
  - reporting process;
  - communication with the Welsh Government.
- 1.2 Its purpose is to define authority levels, responsibilities for action and reporting lines in the event of suspected fraud, bribery, theft or other irregularity.
- 1.3 As set out in the HEFCW Fraud and Bribery Policy Statement:- 'HEFCW views fraud and bribery very seriously. All suspected cases will be investigated rigorously and promptly and appropriate legal and/or disciplinary action will be taken in all proven cases of fraud or bribery'.

## **2. Notifying suspected fraud**

- 2.1 It is important that all staff are able to report their concerns without fear of reprisal or victimisation and are aware of the means to do so. The Public Interest Disclosure Act 1998 ('The Whistleblowers' Act') provides appropriate protection for those who voice genuine concerns through the proper channels. (Staff should also refer to HEFCW's Whistleblowing Policy on the intranet).
- 2.2 In the first instance, any suspicion of fraud, bribery, theft or other irregularity should be reported, as a matter of urgency, to your line manager. If such action would be inappropriate, your concerns should be reported upwards to one of the following persons:
- Head of Team;
  - Council Secretary;
  - Chair of the HR Committee;
  - Chief Executive.
- 2.3 Additionally, all concerns must be reported to the Head of Internal Audit
- 2.4 Every effort will be made to protect an informant's anonymity if requested. However, HEFCW will always encourage individuals to be identified to add more validity to the accusations and allow further investigations to be more effective. In certain circumstances, anonymity cannot be maintained. This will be advised to the informant prior to release of information.
- 2.5 Annex A attached is a list of 'Dos and Don'ts' for staff to refer to when they suspect fraud or bribery.

### **3. The investigation process**

- 3.1 Suspected fraud or bribery must be investigated in an independent, open-minded and professional manner with the aim of protecting the interests of both HEFCW and the suspected individual(s). Suspicion must not be seen as guilt to be proven.
- 3.2 The investigation process will vary according to the circumstances of each case and will be determined by either the Head of Skills, Education and Funding (HoSEF) or the Head of Institutional Engagement (HoIE) in consultation with the Head of Corporate Services (HoCS). Should any one of the three Heads of Teams be the subject of any investigation, the other two Heads will determine the investigation process. An Investigating Officer (IO) will be appointed to take charge of the investigation on a day-to-day basis. This will be another independent officer.
- 3.3 Where initial investigations reveal that there are reasonable grounds for suspicion, and to facilitate the ongoing investigation, it may be appropriate to suspend an employee against whom an accusation has been made. This decision will be taken by the investigating Heads of Teams in consultation with the IO. Suspension should not be regarded as disciplinary action nor should it imply guilt. The process will follow the guidelines set out in HEFCW's Disciplinary Policy relating to such action (see intranet).
- 3.4 It is important, from the outset, to ensure that evidence is not contaminated, lost or destroyed. The IO will therefore take immediate steps to secure physical assets, including computers and any records thereon, and all other potentially evidential documents. They will also ensure, in consultation with management, that appropriate controls are introduced to prevent further loss.
- 3.5 The IO will ensure that a detailed record of the investigation is maintained. This should include a chronological file recording details of all telephone conversations, discussions, meetings and interviews (with whom, who else was present and who said what), details of documents reviewed, test and analyses undertaken, the results and their significance. Everything should be recorded, irrespective of the apparent significance at the time.
- 3.6 All interviews will be conducted in a fair and proper manner (following guidelines set out in the Disciplinary Policy, referred to above). Where there is a possibility of subsequent criminal action, the police will be consulted and interviews may be conducted by the police under caution in compliance with the Police and Criminal Evidence Act (PACE), which governs the admissibility of evidence in criminal proceedings.
- 3.7 The findings of the investigation will be reported to the investigating Heads of Teams who will determine, in consultation with the IO and the Chief Executive, what further action (if any) should be taken.

3.8 Reference should also be made to Appendix 9 'Example of a Fraud Response Plan' to the Chartered Institute of Management Accountants (CIMA)'s publication 'Fraud Risk Management: A Guide to Good Practice' in respect of investigation procedures.

#### **4. Liaison with Police and external audit**

4.1 The police generally welcome early notification of suspected fraud or bribery, particularly that of a serious nature. Some fraud or bribery cases will lend themselves to automatic reporting to the police (such as theft by a third party). For more complex cases, the Chief Executive, following consultation with the investigating Heads of Teams and the IO will decide if and when to contact the police. The HoCS will report cases of suspected fraud or bribery to the external auditors at an appropriate time.

4.2 All staff will cooperate fully with any police or external audit enquiries, which may have to take precedence over any internal investigation or disciplinary process. However, where possible, teams will coordinate their enquiries to maximise the effective and efficient use of resources and information.

#### **5. Initiation of recovery action**

5.1 HEFCW will take appropriate steps, including legal action if necessary, to recover any losses arising from fraud, bribery, theft or misconduct. This may include action against third parties involved in the case of fraud or bribery or whose negligent actions contributed to the case of fraud or bribery.

#### **6. Reporting process**

6.1 Throughout any investigation, the IO will keep the investigating Heads of teams informed of progress and any developments. These reports may be oral or in writing.

6.2 On completion of the investigation, the IO will prepare a full written report setting out:

- background as to how the investigation arose;
- what action was taken in response to the allegations;
- the conduct of the investigation;
- the facts that came to light and the evidence in support;
- action taken against any party where the allegations were proved;
- action taken to recover any losses;
- recommendations and/or action taken by management to reduce further exposure and to minimise any recurrence.

6.3 Staff will be provided with a brief and anonymised summary of the circumstances via the intranet.

6.4 Reports on fraud or bribery investigations and follow up reports on systems and controls shall be considered by the Audit and Risk Committee. The reports on fraud or bribery investigations should also be submitted to the Welsh Government.

## **7. Communication with the Welsh Government**

7.1 The Framework Document requires an annual report of all cases of fraud and theft to which HEFCW has been exposed together with details of all items written off.

7.2 The HoCS is responsible for the preparation and submission of such reports referred to above to the Welsh Government.

## **ANNEX A**

### **Fraud and Bribery Response Plan Dos and Don'ts**

#### **Do**

Make a note of your concerns:

- record all relevant details, such as the nature of your concern, the names of parties you believe to be involved, details of any telephone or other conversations with names, dates and times and any witnesses;
- notes do not need to be overly formal, but should be timed, signed and dated;
- timeliness is most important. The longer you delay writing up, the greater the chances of recollections becoming distorted and the case being weakened.

Retain any evidence you may have:

- the quality of evidence is crucial and the more direct and tangible the evidence, the better the chances of an effective investigation.

Report your suspicions promptly:

- in the first instance, report your suspicions to your line manager. If this action would be inappropriate, further guidance on disclosure can be found in the Fraud and Bribery Response Plan (above) and HEFCW's Whistleblowing Policy (on intranet);
- additionally, all concerns must be reported to the Head of Internal Audit .

#### **Don't**

Be afraid of raising your concerns:

- the Public Interest Disclosure Act provides protection for employees who raise reasonably held concerns through the appropriate channels (Whistleblowing);
- you will not suffer discrimination or victimisation as a result of following these procedures and the matter will be treated sensitively and confidentially.

Convey your concerns to anyone other than authorised persons:

- there may be a perfectly reasonable explanation for the events that give rise to your suspicion. Spreading unsubstantiated concerns may harm innocent persons.

Approach the person you suspect or try to investigate the matter yourself:

- there are special rules relating to the gathering of evidence for use in criminal cases. Any attempt to gather evidence by persons who are unfamiliar with these rules may destroy the case.