

APPENDIX E (III)

FRAUD RESPONSE PLAN

INTRODUCTION

Management and staff are likely to have little experience of dealing with fraud and when suspected cases arise, may be unsure of the appropriate action to take. The objectives of this response plan are to:

- provide a documented framework which the College can refer to in the event that fraud is suspected or reported
- ensure that in the event of fraud, timely and effective action is taken to prevent further losses, identify fraudsters, safeguard evidence, minimise publicity, reduce adverse effect on business and learn lessons
- to minimise the possibility of subsequent recurrence

Fraud investigation checklists for line managers and the fraud investigation group are included at Appendix K (iv).

REPORTING FRAUD

All actual or suspected incidents of fraud should be reported without delay to the Director of Finance or other member of the fraud investigation group. The members are:

- Deputy Principal & CEO (Chair)
- Director of Finance
- Head of Human Resources

When staff report suspected fraud it is important that their suspicions are treated seriously and that all details provided by the reporting employee are recorded accurately and in a timely manner. They should be repeated back to the reporting employee to confirm understanding. It is essential that staff are put at ease, since the decision to report the suspected fraud may be traumatic for the individual concerned. Those reporting fraud should be assured that all information will be dealt with in the strictest confidence and that anonymity will be preserved if requested, unless that is incompatible with a full and fair investigation. The anonymity of any whistleblower must be guaranteed at initial investigation stage. (See Whistleblowing Policy)

Once the Director of Finance has recorded that a loss has actually occurred the following actions should be carried out;

1. Call a meeting of the fraud investigation group within 24 hours of the fraud investigation team.

Deputy Principal & CEO
Director of Finance
Head of HR
Any other relevant person (Chair of Audit Committee, Internal Auditor)
2. Consider immediate action in accordance with the College Disciplinary Policy and take appropriate action to mitigate risk, without compromising the quality of evidence or alerting the fraudsters, such as:

Notify banks and consider the temporary suspension of cheques, if relevant;

Consider the position of a suspect employee if there is sufficient evidence;

Change passwords and combinations if necessary;

As appropriate, withdraw any signing authority of the suspect;

Secure control of the suspect's office and computer and paper files.
3. Start investigating the fraud and establish the scale. The Deputy Principal & CEO / Head of HR will agree to appoint an appropriate investigating Manager subject to confirmation from the Police that the College can proceed with the internal investigation without compromising any Police process.
4. Reorganise responsibilities where necessary.
5. Inform the Chairman of the Audit and Risk Committee and the Principal and Chief Executive and the Internal Audit Service
6. Inform the Police.
7. Consolidate action to trace and secure assets and accounting records controlled by the suspect, associates and key witnesses.
8. Contact solicitors and the external auditors if appropriate.
9. Address any questions of public relations and publicity.
10. Start asset recovery proceedings.
11. Identify and correct flaws in accounting and other systems.
12. Assess accounting implications.

At this stage management should also take whatever steps are necessary to prevent further losses, for example by changing procedures or suspending payments without compromising the quality of evidence or alerting the fraudsters.

INITIAL ENQUIRY

On receiving the details of the suspected fraud, the fraud investigation group should undertake as limited review as necessary to establish whether further action needs to be taken. This will normally be an investigation, led by internal audit. The decision by the group to initiate a special investigation shall constitute authority to internal audit to use time provided in the internal audit plan for special investigations, or contingency time, or to witch internal audit resources from planned audits.

If this initial investigation suggests that suspicions are confirmed, the group will decide which body is best placed to undertake further investigative work and will inform the principal, the chair of audit committee, the chair of the governing body, auditors, the funding body and the police as appropriate. The circumstances in which the College must inform the funding body of actual or suspected fraud are set out in the funding body's audit code of practice. The principal is responsible for informing the funding body of any such incidents.

PREVENTION OF FURTHER LOSS

Where the initial investigation provides reasonable grounds for suspecting a member or members of staff of fraud, the fraud investigation group will need to decide how to prevent further loss.

Fraudulent or corrupt activity is regarded as a breach of contract and where there are reasonable grounds for suspicion then suspension, with or without pay, of the suspects is likely, pending the outcome of enquiries. The rights of staff on suspension must be acknowledged, for example their right to union representation and to be informed of the reasons for their suspension.

It may be necessary to plan the timing of suspension to prevent the suspects from destroying or removing evidence that may be needed to support disciplinary or criminal action. Suspect(s) should be supervised at all times before leaving the College's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the College. Any security passes and keys to premises, offices and furniture should be returned.

Advice should be obtained on the best means of denying access to the College 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, access permissions to the College's computer systems should be withdrawn without delay.

Internal audit should 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 the College's assets.

At this stage, the College should decide if external parties including the funding body and the police are to be involved. Delays in contacting the police may prejudice future enquiries and alerting them immediately is important since they will be able to advise the College on how best to proceed and the most effective methods to gather evidence.

CONDUCTING A FRAUD ENQUIRY

Once it has been agreed that there is sufficient evidence to justify a fuller investigation, the fraud investigation group should meet with the police where appropriate to decide who is best placed to undertake further investigation. Should it be decided that an internal investigation is appropriate, either in tandem with a police investigation or on its own, it is important that it is undertaken by individuals with experience of fraud investigations. This is most likely to be internal auditors, supported as necessary by the College's staff, who may have specialist knowledge and external specialists where appropriate.

Where fraud and corruption are suspected, contact by the chief financial officer and the head of internal audit with the local fraud squad should be considered in order to agree an appropriate course of action.

For internal investigations, the fraud investigation group should agree the following:

- detailed remit and scope for the investigation; for example, is it to confirm that there is sufficient evidence to support the allegations, to gather evidence for the police, or does the College wish to quantify the total potential loss?
- who should undertake the investigation
- reporting procedures and deadlines
- a programme of regular meetings.

There is a clear requirement to record all details fully, accurately and in a manner that is accessible. The police should be able to advise on an appropriate recording format. Developing a simple form to log all events and contacts made will provide a quick summary, ease the recording process and provide documented support for any future enquires or possible prosecution.

RECOVERY OF LOSSES

It is important that any losses incurred by the College are fully and accurately recorded and that costs are correctly apportioned. In addition to the direct cost of losses attributable to fraud, all costs associated with enquiries should be recorded. These will be required under loss reporting procedures and may also be required by the courts if the decision to prosecute is taken and in determining any assessment of costs or compensation and insurance recoveries.

Where the loss is substantial, legal advice should be obtained without delay about the need to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice should also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment.

STAFFING ISSUES

A major objective in any fraud investigation will be the punishment of the perpetrators, to act as a deterrent to other personnel. The College must follow disciplinary procedures against any member of staff who has committed fraud.

The College will normally pursue the prosecution of any such individual. Of crucial importance is the need to conduct enquiries within the parameters of relevant laws and regulations. Employees have certain statutory rights, and if infringed, the likelihood of success of disciplinary action is diminished. It is vital, therefore, that any interviews with suspects are undertaken strictly in accordance with established procedures. No interviews should take place without first seeking advice from the police and from the head of human resources on the relevant procedures and rules to be followed. In particular all those involved in interviewing suspects should have knowledge of the 1994 Police and Criminal Evidence Act.

Internal audit will need to:

- maintain familiarity with the College's disciplinary procedures, to ensure that evidence requirements will be met during any fraud investigation
- establish and maintain contact with the police where appropriate
- establish whether there is a need for audit staff to be trained in the evidence rules for interviews under the Police and Criminal Evidence Act
- ensure that staff involved in fraud investigations are familiar with and follow rules on the admissibility of documentary and other evidence in criminal proceedings.

If fraud is proven which involves staff, appropriate disciplinary action will be taken. Such action may be considered not only against those found to have perpetrated the fraud, but also against managers whose negligence may have facilitated it.

REPORTING DURING THE INVESTIGATION

The fraud investigation group should provide a confidential report to the chair of the governing body, the chair of audit committee, the principal and the external audit partner at least monthly, unless the report recipients request a lesser frequency. The scope of the report should include:

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

Any variation from the approved fraud response plan, together with reasons for the variation, should be reported promptly to the chairs of both the governing body and the audit committee.

CONCLUDING AN INVESTIGATION

At the end of a case, irrespective of the outcome, it is important that the progress of the investigation is reviewed to see what lessons can be learned, and to assess the effectiveness of the action taken. Such reviews will help identify any weaknesses in internal control that initially led to the fraud and should highlight any deficiencies in these systems for reporting and investigating, enable more effective future enquiries and precipitate changes to internal procedures designed to prevent reoccurrence.

On completion of a special investigation, a written report should be submitted to the audit committee for consideration and discussion containing:

- a description of the incident, including the value of any loss, the people involved, and the means of perpetrating the fraud
- the measures taken to prevent a recurrence
- any action needed to strengthen future responses to fraud, with a follow-up report on whether or not the actions have been taken.

This report will normally be prepared by internal audit.

REVIEW OF THE FRAUD RESPONSE PLAN

This plan will be reviewed for fitness of purpose at least annually or after each use. Any need for change will be reported to the audit committee for approval.