

## Appendix 8 – Anti-fraud policy

### 1. Introduction

1.1 The Commission requires all staff, at all times, to act honestly and with integrity. This includes safeguarding the public resources for which they are responsible and any other resources that fall within the Commission's responsibility.

1.2 The Commission takes fraud seriously and is committed to ensuring that its systems and practices reduce the risk of fraud occurring. In addition, cases of actual or suspected fraud will be vigorously and promptly investigated and appropriate action will be taken.

1.3 The purpose of this policy is to:

- Set out staff responsibilities (as an individual and/or a manager) with regard to the prevention and detection of fraud;
- Describe the procedures for notifying and investigating any allegations of fraud (see Appendix); and,
- Provide advice and procedure for notifying any knowledge or suspicion of money laundering

### 2. Audience

2.1 The policy applies to any fraud, or suspected fraud, involving employees in their work for the Commission, and in their dealings with stakeholders, consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with the Commission.

### 3. What is Fraud?

3.1 The Fraud Act 2006, which came into effect on 15 January 2007, creates a general offence of fraud with three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information;
- Fraud by abuse of position.

3.2 It also creates new offences:

- Obtaining services dishonestly;
- Possessing, making and supplying articles for use in frauds;
- Fraudulent trading applicable to non-corporate traders.

3.3 For practical purposes fraud may be defined as the use of deception with the intention of obtaining an advantage, causing loss to another party or exposing another to a risk of loss.

3.4 Actions which constitute fraud include:

- Any dishonest or fraudulent act;
- Forgery or alteration of any document or account belonging to the Commission;
- Forgery or alteration of a cheque, bank draft, or any other financial document;
- Misappropriation of funds, securities, supplies, or other assets;
- Impropropriety in the handling or reporting of money or financial transactions;
- Profiteering as a result of insider knowledge of the Commission's activities, possibly by making unauthorised use of information not yet released;
- Disclosing confidential and proprietary information to outside parties;
- Disclosing to other persons activities engaged in or contemplated by the Commission;
- Accepting or seeking anything of material value from contractors, vendors or persons providing services/materials to the Commission;
- Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment; and/or
- Any similar or related inappropriate conduct.

Money laundering is a specific form of fraud which is dealt with under specific laws. Money laundering may involve:

- The physical disposal of cash proceeds derived from illegal activity;
- Creating complex layers of financial transactions to conceal the source of funds;
- Legitimising the proceeds of crime by returning them into the system as proper business funds.

3.5 It is difficult and perhaps inadvisable to be prescriptive as to where these issues might affect the Commission. There are always new and unforeseen ways of using organisations in such operations. However, some examples of areas where the risk of fraud may be more likely to arise are:

- Making false claims for overtime, flexi-time, travel and subsistence claims;

- Falsification and duplication of invoices in order to generate a false payment;
- Misappropriation of grant funds;
- Unauthorised use of purchasing systems in order to misappropriate goods or use services for personal gain;
- Short deliveries of goods or services may be accepted as a result of collusion;
- Acceptance of unsolicited goods or expanded orders as a result fraudulent acceptance of attractions such as free gifts (see also clause 3.1 of the Code of Conduct on the Hospitality and Gifts Register);
- Misuse of procurement or credit cards;
- A contractor could be selected as a result of favoritism or who does not offer best value for money;
- Payments made for work not carried out as a result of collusion between the contractor and official;
- Theft or unauthorised use of assets;
- Theft of sensitive/restricted documentation or information;

3.6 Circumstances might lead you to report a matter or put a transaction on hold. The sorts of questions you should be asking yourself include:

- Who are you dealing with?
- Where do they reside or work?
- What is their job (if relevant)?
- Are you unsure of any of these? You need to check to your satisfaction.
- Have you met the person with whom you are dealing?
- Be very cautious about persons acting for unknown third parties; get details of those third parties and make contact with them.
- Look out for the unusual, e.g. where there is a difference between the identity of the person with whom you are dealing and the details of an account or a difference between the account holder and the signatory or someone agreeing to a lesser sum too easily.
- Look out for what appears (without explanation) to be a loss-making activity, for example an uneconomic tender for work or an unrealistic price being paid for something.

3.7 Managers and all other staff should also be alerted to any warning signs that might indicate that fraud is taking place. These may include: staff under stress without a high workload; staff always working late; staff reluctance to take leave; refusal of promotion; unexplained wealth; sudden change of lifestyle; new staff resigning quickly; close relationships with suppliers / contractors; suppliers / contractors who insist on dealing with one particular member of staff.

## Responsibilities

### **Accounting Officer's Responsibilities**

- 3.8 The Accounting Officer, who is the Commission's Chief Executive, is responsible for establishing and maintaining a sound system of internal control that supports the achievement of departmental policies, aims and objectives. The system of internal control is designed to respond to and manage the whole range of risks that a department 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 risk will be seen in the context of the management of this wider range of risks.

### **Manager Responsibilities**

- 3.9 Each member of the Executive and Management Teams, as well as Team Managers should be familiar with the types of improprieties that might occur within their area of responsibility, and be alert for any indication of irregularity.
- 3.10 Managers should also be alert for fraud across the Commission. As recognised in the National Audit Office's "Combating Fraud Position Statement by the Comptroller and Auditor General" managers are in a unique position to perpetrate fraud because of their ability to manipulate accounting records and override controls. Managers should therefore be aware of the risk, and take collective responsibility for each other's actions. This requires knowledge of the business as a whole, as well as specialist knowledge of their area of responsibility.
- 3.11 Management at all levels within the Commission is responsible for the prevention and detection of fraud. In particular, they are responsible for:
- Identifying the risks to which systems, operations and procedures are exposed;
  - Developing and maintaining effective controls to prevent and detect fraud; and
  - Ensuring that controls are being complied with.

### **Staff Responsibilities**

- 3.12 Every member of staff is responsible for:
- Acting with propriety in the use of resources and the handling and use of public funds whether they are involved with cash or payments systems, receipts or dealing with suppliers;

- Conducting themselves in accordance with the Commission's Code of Conduct and any other policies specifying staff behavior (in particular clause 10.1 of the Code of Conduct which addresses fraud prevention);
- Being alert to the possibility that unusual events or transactions could be indicators of fraud;
- Reporting details immediately through the appropriate channel if they suspect that a fraud has been committed or see any suspicious acts or events; and
- Cooperating fully with whoever is conducting internal checks or reviews or fraud investigations.

### **Internal Audit's Responsibilities**

3.13 Internal Audit is responsible for:

- Delivering an opinion to the Accounting Officer on the adequacy of arrangements for managing the risk of fraud;
- Assisting in the deterrence and prevention of fraud by examining and evaluating the effectiveness of control commensurate with the extent of the potential exposure / risk in the various segments of the Commission's operations;
- Examining and advising upon the adequacy of arrangements by management to review and identify the possibility of fraud as a business risk; and
- Assisting those conducting internal fraud investigations.

### **External Audit Responsibilities**

3.14 External Audit is responsible for:

- Conducting financial audit work in accordance with audit procedures that are designed to consider fraud;
- Carrying out targeted value for money studies that identify and assess fraud risk, and raise awareness of control and system weaknesses;
- Considering regularity of expenditure with specific attention to risk of fraud and mitigation measures; and
- Taking appropriate action in response to disclosures under the Public Interest Disclosure Act 1998 i.e. whistle blowing.

### **Investigation of Alleged Fraud**

3.15 Investigations into alleged fraud will as appropriate be taken forward by the police and, or consistent with the investigation procedure set out in the Appendix to this policy.

## Money Laundering

- 3.16 Money Laundering is the process whereby criminals attempt to give the impression that money that they have is actually legally theirs and, therefore, they are legitimately able to spend it. If something is purchased with this money then it can either be used or sold and those proceeds of sale appear to be legitimate.
- 3.17 Offences, duties and responsibilities are contained in the Proceeds of Crime Act 2002 as amended and related regulations. You are personally required, by law, to report any knowledge or suspicion of money laundering.
- 3.18 Do not confront the person with your suspicions. You should be aware that there are criminal offences around Money Laundering, particularly if you disclose information that enables a suspect to conceal evidence and prejudices an investigation. It is very important, therefore, that if you have suspicions you keep these to yourself and in the first instance, report your suspicions to the Commission's Legal Counsel who is the Commission's Money Laundering Reporting Officer.**
- 3.19 Legal Counsel will inform appropriate senior managers, including the Chief Executive, internal and external auditors. This will enable initial consideration to be given to the matter. Legal Counsel will, if there are appropriate grounds report the matter to the Serious and Organised Crime Agency.

## Additional Contacts

- 3.20 If you would like further advice, please contact:

The Electoral Commission's Internal Auditors: Mazars LLP, London,  
Tower Bridge House, St Katharine's Way, London E1W 1DD  
T: ++44 (0)20 7063 4000 (Switchboard)

- or -

The Electoral Commission's Legal Counsel  
Bob Posner  
Tel: 020 7271 0546  
Email: [bposner@electoralcommission.org.uk](mailto:bposner@electoralcommission.org.uk)

## 4. Related policies

- 7.1 The Commission has a range of policies and procedures that deal with behavior at work including:

- Whistleblowing Policy;
- Code of Conduct;
- Grievance Policy;
- Disciplinary Policy;
- Anti-Bribery Policy.

7.2 This policy should be read in conjunction with the above policies and the relevant procedure followed where it is appropriate. If you are unsure which procedure may be appropriate HR will be able to advise.

Claire Bassett

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Chief Executive/Accounting Officer

Date: February 2017

**Alternative contact for policy information**

Bob Posner Legal Counsel

## Appendix:

# Fraud Response Plan - Procedure for Investigating Frauds

## 1. Introduction

1.1 The following specifies the procedure to be followed in the event that fraud is suspected. It covers:

- Notifying suspected fraud;
- The investigation process;
- Liaison with police and external audit;
- Initiation of recovery action;
- Dealing with inquiries for information.

## 2. Avenues for reporting fraud

2.1 If you discover or suspect fraudulent activity you should, in the first instance, report your suspicions to your **line manager**. If such action would be inappropriate, your concerns should be reported to one of the following persons:

- Legal Counsel; or
- Internal Auditor.

2.2 Alternatively, you may remain anonymous by telephoning the National Audit Office whistle blowing number (Tel 020 7798 7999).

2.3 If you ask to have your identify protected and kept confidential, it will not be disclosed without your consent.

2.4 If the situation arises where we are not able to resolve the concern without revealing your identify (e.g. evidence is needed at court) the Commission will discuss with you whether and how it can proceed.

2.5 Those receiving the complaint will report the allegation to the Chief Executive (unless the allegation relates to the Chief Executive in which case see 2.8 below) who will either coordinate all investigations with Legal Counsel and other affected areas (both internal and external), or nominate the Deputy Chief Executive/a nominated Director to do so. In all instances, Internal Audit will be notified of the suspected fraud.

2.6 In order to identify and deter malicious allegations all referrals are subject to a formal risk assessment at the point at which the allegation is made. This prevents investigations being conducted disproportionately and without tangible evidence to support allegations

made. The risk assessment will be promptly carried out by the Chief Executive or his nominee. It will in essence consist of:

- An initial assessment of the adequacy of the evidence received and/or its source;
- Considering the relative seriousness in terms of the extent of the impact and who it may have affected or be affecting, e.g. an isolated incident, or part of a systematic pattern, the number of people affected and the financial implications;
- A subjective test as to the possible intent of those involved to indicate whether matters under consideration may have been "inadvertent" to "deliberate/dishonest". This can be difficult and may be classed as "unknown", given the limited information to hand;
- Any other relevant background information will also be considered;

This framework for the risk assessment enables a consistent, proportionate and transparent approach to whether and how an allegation is taken forward for investigation. However, it is only a framework. There will be circumstances in which a different approach will be necessary e.g. If the risk is immediate and obvious, and it is appropriate to bypass the formal process.

Save where legally required and including for audit purposes, risk assessments will not be disclosed in individual cases. There are a number of reasons for this - it may be necessary to protect the source of information; the assessment will usually be carried out before an investigation starts, and different concerns often arise once we begin investigating; and the risk assessment is irrelevant to any formal decision as to whether or not there has been fraud.

- 2.7 All matters will be dealt with in confidence and great care must be taken in the investigation of suspected improprieties or wrongdoings so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.
- 2.8 The reporting individual should be told **not to**:
- Contact the suspected individual in an effort to determine facts or demand restitution.
  - Discuss the case, facts, suspicions, or allegations with *anyone* unless specifically asked to do so by Chief Executive.
- 2.9 In the event of an allegation that relates to the Chief Executive, the Commission's Legal Counsel and/or the Internal Auditor will liaise with the Chairman of the Audit Committee of the Commission and this procedure document shall be read substituting the Chairman of the Audit Committee for references to the Chief Executive.

### 3. The investigation process

- 3.1 Suspected fraud must be investigated in an independent, open-minded and professional manner with the aim of protecting the interests of both the Commission and the suspected individual(s).
- 3.2 Any individual who conducts disciplinary, civil or criminal investigations must be appropriately trained. The Commission has experienced professional in-house expertise – e.g. Legal (including knowledge and experience of relevant legislation), HR, accountancy and audit, as well as an investigations regulatory team. There are also established links for support and advice to external investigatory (police) and prosecution bodies.
- 3.3 The investigation process will vary according to the circumstances of each case and will be determined by the Chief Executive or nominated Deputy Chief Executive / Director, in consultation with the Legal Counsel and Internal Auditor. At this stage (and as matters progress) the Commission’s external auditors and the police may be notified. An “Investigating Officer” (who may for example be the Legal Counsel or the Internal Auditor or the Deputy Chief Executive or a Director) will be appointed to take charge of the investigation on a day-to-day basis.
- 3.4 The Investigating Officer may resource additional expertise from within or outside the Commission as required.
- 3.5 Those assigned to investigate the suspected fraud will, in consultation with the Chief Executive, have:
  - Free and unrestricted access to all the Commissions records and premises, whether owned or rented; and
  - The authority to examine, copy, and/or remove all or any portion of the contents of files (including that held on computers), desks, cabinets, and other storage facilities, on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of the investigation.
- 3.6 Where initial investigations reveal that there are reasonable grounds for suspicion, and/or to facilitate the ongoing investigation, it may be appropriate to suspend an employee against whom an accusation is made. This decision will be taken by the Chief Executive or nominated Deputy Chief Executive/Director in consultation with the Head of HR and Legal Counsel. Suspension should not be regarded as disciplinary action nor should it imply guilt. The process will follow the guidelines set out in the Commission’s Suspension from Work Policy and Procedure.
- 3.7 It is important, from the outset, to ensure that evidence is not contaminated, lost or destroyed. The Investigating Officer will therefore take immediate steps

to secure physical assets, including computers and any records thereon, and all other potential evidence. They will also ensure, in consultation with management that appropriate controls are introduced to prevent further loss.

- 3.8 The Investigating Officer 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 is present and who said what), details of documents reviewed, tests and analyses undertaken, the results and their significance. Everything should be recorded, irrespective of the apparent significance at the time.
- 3.9 All interviews will be conducted in a fair and proper manner. Where there is a possibility of subsequent criminal action, the police will be consulted and interviews may be conducted under caution in compliance with the Police and Criminal Evidence Act which governs the admissibility of evidence in criminal proceedings.
- 3.10 Throughout any investigation, the Investigating Officer will keep the Chief Executive or nominated Deputy Chief Executive/Director, informed of progress and any developments.
- 3.11 On completion of the investigation, the Investigating Officer will prepare a full written report setting out:
  - The 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; and
  - Any recommendations as to actions to be taken.
- 3.12 The findings of the investigation will be reported to the Chief Executive or nominated Deputy Chief Executive/Director who will determine, in consultation as appropriate with Legal Counsel, the Head of HR and Internal Auditor what further action (if any) should be taken. If the investigation results in a recommendation to terminate an individual's contract, the recommendation will be implemented by the Head of HR in accordance with the Commission's disciplinary procedures.
- 3.13 Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the Commission from potential civil liability.

## 4. Liaison with Police and External Audit

- 4.1 The police generally welcome early notification of suspected fraud, particularly that of a serious or complex nature. Some frauds will lend themselves to automatic reporting to the police (such as theft by a third party). For more complex frauds the Chief Executive, following consultation as appropriate with the Legal Counsel and the Internal Auditor, will decide if and when to contact the police. The Chief Executive will report suspected frauds to the Commission's Audit Committee and external auditors at an appropriate time. These reports may be verbal or in writing.

## 5. Initiation of Recovery Action

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

## 6. Dealing with Inquiries for Information

- 6.1 All inquiries concerning the activity under investigation from the suspected individual, his or her legal advisor or Trade Union representative, or any other inquirer should be directed to the Chief Executive or the nominated Deputy Chief Executive/Director.