

Fraud Response Plan

Author / Lead	Central Operations
Policy version	4
Approval date	27 November 2019
Approved by	Board of Directors
Implementation date	December 2019
Date last reviewed	December 2017
Review interval (years)	2 Years
Review date	September 2021
Target audience	Trust-wide

The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the need to:

- *eliminate discrimination and other conduct that is prohibited by the Act*
- *advance equality of opportunity between people who share a protected characteristic and people who do not share it*
- *foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.*

In the development of this policy/procedure due regard has been given to achieving these objectives.

Scope and Purpose of Policy

Introduction

Wellspring Academy Trust ('the Trust') is committed to the values of probity and accountability and requires staff at all times to act honestly and with integrity, to safeguard the public resources for which they are responsible. Fraud is an ever-present threat to these resources and it is therefore necessary for all managers to be aware of what is required in the event of being notified of a suspected fraud. The Fraud Response Plan describes the Trust's position on fraud and what staff should do if they suspect a fraud. The Plan should be read in conjunction with the Trust's Anti-Fraud and Anti-Bribery Policy and the Whistleblowing Policy, which identifies a framework to allow members of the Trust's staff, management, Governors/Directors or the Trust community to raise concerns confidentially.

Stage 1: Chief Finance Officer (or nominee)

Establish as many details as possible by discussion with the notifying individual only. Irrespective of the source of the concern, the Chief Finance Officer should undertake an initial enquiry to ascertain the facts to confirm or repudiate the suspicions which have arisen so that, if necessary, further action may be taken. If the suspected fraud involves the Chief Finance Officer, responsibility for ensuring the following steps are followed passes to the Accounting Officer.

Secure the evidence

Preliminary examination may involve the review of documents and, if initial investigation supports the suspicion that a fraud has been perpetrated, the Finance Officer should take steps to ensure that this is preserved in a safe place.

Notify the Accounting Officer

Whilst the Chief Finance Officer should establish as many details as possible, they should report the incident to the Accounting Officer. The Accounting Officer is responsible for reporting any instances of fraud or theft to the Education and Skills Funding Agency (ESFA) in accordance with the ESFA Handbook.

Notify Chair of the Audit Committee

The Chief Finance Officer should, after notifying the Accounting Officer, contact the Chair of the Audit Committee to notify them of the suspected fraud and make preparation for their inclusion in the Fraud Response Group. The Chair of the Audit Committee is then responsible for notifying the Internal Auditors accordingly.

Stage 2: Accounting Officer

Establish Fraud Response Group (FRG)

The Accounting Officer should, within 24 hours, hold a meeting of the following group to decide on the initial response:

- Head of Human Resources (Sponsor)
- Chief Finance Officer
- Chair of the Audit Committee (or delegated member of Audit Committee)
- Any other person that the Accounting Officer considers necessary to assist the Group.

The FRG should, on the basis of the evidence available and the preliminary investigation undertaken by the Chief Finance Officer and Accounting Officer, consider the significance of the fraud and decide on the level of action to be taken. This may be an internal investigation led by a senior member of the Trust or a Special Investigation led by internal audit. It is likely that a suspected fraud, unless it is identified as minor, will be investigated by internal audit.

The Accounting Officer will notify the Chair of the Board of Directors and Chair of the relevant Local Governing Body (where relevant) within 24 hours of the Fraud Response Group meeting.

Consideration should also be given as to whether to inform the police and the ESFA.

In some cases evidence may need to be secured before the FRG meeting is held to prevent it either being lost or destroyed. The members of FRG may be required to seek advice from external specialists in connection with this, especially with regard to electronic evidence (see 'Protection of electronic evidence' below).

Notify the Trust's Insurers

At an early stage the Trust's insurers should be informed of a suspected fraud.

Prevent Further Losses

Where initial investigation provides reasonable grounds for suspecting a member or members of staff of fraud, the Fraud Response Group will decide how to prevent further loss. This may require, after consultation with Human Resources, the suspension of the suspects to prevent them destroying or removing evidence that may be needed to support disciplinary action or criminal prosecution.

In these circumstances, the suspects should be approached unannounced. They should be supervised at all times before leaving the Trust's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the Trust. Any security passes and keys to premises, offices and furniture should be returned and access to the Trust's IT systems denied immediately.

Advice should be obtained on the best means of denying access to the Trust while suspects remain suspended, including permissions for the Trust's computer systems.

Protection of electronic evidence

Electronic evidence including emails, documents produced and saved on computers and times of access onto systems can be a valuable source of information and evidence when investigating allegations of fraud, corruption or bribery. This evidence must be carefully handled during its collection, review and storage. If appropriate precautions are not taken then this evidence may not be admissible in court proceedings, whether civil or criminal.

Computers or servers should not be 'tampered with' in any way by staff without a proper understanding of the resultant implications. The act of turning a computer off or on can affect the integrity of the evidence and therefore specialists should be brought in to 'image' the contents of the computer as soon as practically possible. This copy of the data can then be searched allowing the original data to be preserved.

Specialist forensic computer software should be used when reviewing or extracting data from computers and servers to ensure that the integrity of the evidence is maintained. Other electronic media, including (for example) mobile telephones, electronic notebooks, iPods and memory sticks, should also be secured and treated in the same way. The FRG may commission specialists or experts to support the Trust with securing electronic data.

Appoint an Investigating Officer

For each notified suspicion the FRG will appoint an 'Investigating Officer' who will be in charge of the investigation on a day to day basis. For Special Investigations, this will be the Chair of the Audit Committee or Head of Internal Audit.

Stage 3 – Accounting Officer and Investigating Officer

The Investigating Officer and Accounting Officer must:

- identify a course of action (what, who, when, how, where);
- identify the reporting process (who by, to whom, when and how); and ensure that strict confidentiality is continuously maintained.

If the suspected Fraud involves the Accounting Officer, the Chair of the Board of Directors must take responsibility for the Investigation

Liaison

The Accounting Officer

The Accounting Officer is responsible for informing the ESFA and, where a special investigation is proposed, consulting with the Chair of the Audit Committee to commission this investigation, usually to the Trust's Internal Auditors.

If the suspected fraud involves the Accounting Officer, the Chair of the Board shall undertake the responsibilities of the Accounting Officer.

Internal and External Audit

The primary role of internal audit is to report on the adequacy and effectiveness of systems and procedures (the 'internal control' environment). Where the Investigating Officer is not the Head of Internal Audit, then the latter should be kept informed of progress and will always be available to assist the Investigating Officer. 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 Trust's assets. Internal Auditors will always be receptive to discussing concerns raised by staff, students, suppliers or the general public.

The Trust also has a duty to report all suspected frauds to its External Auditors at the earliest opportunity.

The Police

The experts at investigating fraud are the police. They can also advise on the likely outcome of any intended prosecution. If the police decide that a formal investigation is necessary, all staff should co-operate fully with any subsequent requests or recommendations. All contact with the police following their initial involvement will usually be via the Investigating Officer or Accounting Officer. When the police decide to formally investigate this will not prejudice any internal disciplinary procedures. However, the Trust's investigation and the police's should be co-ordinated to make maximum use of resources and information and to ensure that neither investigation is compromised whilst ever they run concurrently.

Education and Skills Funding Agency

The circumstances in which the institution must inform the ESFA about actual or suspected frauds are detailed in the ESFA's Academies Financial Handbook.

The Accounting Officer is responsible for informing the ESFA of all instances of fraud or theft committed against the Trust, whether by employees, trustees or third parties, above £5,000 either individually or cumulatively in any year. Any unusual or systematic fraud, regardless of value, must also be reported.

The ESFA will not tolerate fraud. It reserves the right to conduct or commission its own investigation into actual or potential fraud, theft or irregularity, in any academy trust either as the result of a formal notification from the trust itself or as the result of other information received. The ESFA may involve other authorities, including the police, as appropriate. The ESFA will publish reports into investigations it undertakes.

Investigating Suspected Fraud

Internal Investigation

Once fraud is suspected any investigation should be conducted in a professional manner aimed at ensuring that the current and future interests of both the Trust and the suspected individual(s) are protected. The strongest evidence must substantiate all investigative work and reports must avoid contents that could be considered to be defamatory in the event of the report being made public.

Throughout all stages of any internal investigation of suspected fraud it is vital that the provisions of the Police and Criminal Evidence Act 1984 (PACE) are complied with.

- The Investigating Officer must:
 - open a file to record chronologically:
 - telephone conversations and face-to-face discussions
 - records/documents reviewed
 - tests undertaken and results
 - steps taken to support the parties involved.

The file should be indexed and all details recorded no matter how insignificant they might initially appear.

- Ensure the correct form of evidence is obtained and appropriately retained.
- Ensure the need for specialist investigative techniques has been considered, where appropriate.

- Ensure interviews are conducted in the appropriate manner. In particular, that the requirements of PACE are complied with when interviewing suspects.
- Ensure compliance with RIPA, The Fraud Act 2006 and The Bribery Act 2010.

Special Investigation

The decision by the Audit Committee to commission a special investigation will constitute authority to Internal Audit to use time provided in the Internal Audit plan for special investigations. All special investigations will normally be led by the Trust's Internal Auditors, who will follow their own written procedures on fraud investigation.

Special investigations should not be undertaken by management, although management should co-operate with requests for assistance from Internal Audit.

Reporting Fraud

Interim Report

As soon as the initial 'detection' stage of the investigation has been completed an interim confidential report should be made by the Investigating Officer to the Accounting Officer and any other officer decided upon at the preliminary stage.

The Interim Report should set out:

- the findings to date;
- the interim conclusions drawn from those findings; and
- should seek approval to continue the investigation if this is appropriate.

If it is decided to continue the investigation then future reporting arrangements and any changes to the planned action should be confirmed.

Final Report

This report will supersede all other reports and be the definitive document on which management (in a disciplinary situation) and possibly the police (in a criminal situation) will base their initial decisions. The format of the final report will not always be the same as each case is unique, but will frequently set out:

- how the investigation arose;
- who the suspects are;
- their position within the organisation and their responsibilities;
- how the investigation was undertaken;
- the facts and evidence which were identified;
- quantification of losses;
- progress with any recovery action;
- progress with any disciplinary action;
- progress with any criminal action;
- action taken to prevent and detect similar incidents; and
- additional work required on the system weaknesses identified during the investigation.

Report to Audit Committee

Under its normal reporting arrangements, Internal Audit will keep the Chair of the Audit Committee and the Chair of the Board of Directors informed of its work in the area of fraud and corruption. In certain circumstances however, Internal Audit may consider it necessary to report directly and promptly to the Audit Committee. This applies, in particular, to cases

of suspected fraud involving senior employees. Such notification will, of course, be carried out in a manner consistent with the Trust's disciplinary procedures. This is to ensure that Directors maintain their independence in respect of appeals from employees against disciplinary action.

Any variations from the approved Fraud Response Plan, together with reasons for the variation, should be reported promptly to the Chair of the Audit Committee and the Chair of the Board of Directors. On completion of a special investigation, a written report should be submitted to the Audit Committee 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; and
- any action needed to strengthen future responses to fraud, with a follow-up report on whether or not the actions have been taken.

Report to Board of Directors

Where the Audit Committee feels that there is evidence of irregularity, fraud, bribery, corruption or any impropriety, the Chair of the Audit Committee must notify the Chair of the Board of Directors, who must raise the matter at their next meeting. Where the matter is considered significant, the Directors must consider holding a special meeting.

Recovery of Losses

Recovering losses is a major objective of any fraud investigation. In all investigations, the amount of any loss should be quantified and repayment of losses should be sought. 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 and about prospects for recovering losses through the civil court, where the perpetrator refuses repayment. The Trust would normally expect to recover costs in addition to losses.

The possibility of recovering a loss through insurance should not be overlooked. There may be time limits for making a claim and in certain cases claims may be invalidated if legal action has not been taken.

Register of Actual / Attempted Fraud Incidents

The Chief Finance Officer will maintain an up to date register of actual and attempted fraud incidents. As part of the notification procedure for potential frauds the Chief Finance Officer will update the register to include all notifications of potential fraud.

If subsequently an investigation leads to the conclusion that a fraud neither took place nor was attempted, the potential fraud will be removed from the register.

Absence/Unavailability of Key Individuals in the Fraud Response Plan

In order to ensure that the Fraud Response plan is fully operational in the event of a key individual being unavailable, the following delegations can be made to ensure the policy is compiled with promptly;

Accounting Officer – Duties can be delegated to a Director of the Trust. The Accounting Officer cannot delegate the responsibility of reporting fraud to the ESFA in accordance with the ESFA's Academies Financial Handbook.

Chair of the Audit Committee – duties can be delegated to another Director on the Audit Committee.

Other key individual noted in the policy (i.e. required member of the Fraud Response Group)
– Duties can be delegated to an individual with relevant expertise with the approval of the Accounting Officer.

Review of the Fraud Response Plan

The Fraud Response Plan will be reviewed as part of the annual revision of the Trust's Financial Regulations.

Linked Policies

Financial Regulations
Anti-Fraud and Bribery Policy
Whistleblowing Policy
Disciplinary Procedure
ESFA Handbook

Location and Access to this Policy

This policy is available on the Trust's Website.