

# Northern Ireland Audit Office

## Fraud Response Plan

### Introduction

1. The Northern Ireland Audit Office (NIAO) operates a zero tolerance attitude to fraud and is committed to developing and maintaining a culture where its staff have, and are seen to have, the highest standards of honesty, propriety and integrity in the exercise of their duties. The NIAO's Anti-Fraud Policy Statement sets out senior management's commitment to the highest standards of openness, probity and accountability in all official business. NIAO's policy is that all allegations of fraud, anonymous or otherwise, will be investigated. Within the context of the Anti-Fraud Policy Statement, in which fraud is defined, it is necessary to set out in greater detail the procedures to be followed in the event of suspicion of fraud. NIAO has prepared this Fraud Response Plan to act as a procedural guide, which must be followed, in the event of a fraud, or attempted fraud, being suspected. The plan sets out how NIAO staff and others should report suspicions of fraud and how NIAO handle them.

2. Adherence to this plan will ensure that timely and effective action is taken to prevent further losses, maximise the recovery and minimise recurrence of losses, identify the fraudsters and maximise the probity of success if any disciplinary/ legal action is taken.

3. Staff have a duty under the Office's Code of Conduct to come forward and give information where they honestly believe someone may have committed or be about to commit an act of fraud. This should be done without delay. The Public Interest Disclosure (NI) Order 1998 protects the rights of staff who report wrongdoing. Section 5 of the Criminal Law Act (NI) 1967 (Withholding Information)

also places an onus on individuals to report/ pass evidence to the police. A formal internal whistleblowing policy has been established to provide a framework for providing information and to afford protection to staff who supply information, provided this is done in good faith and without malice.

4. This document should be read in conjunction with the following NIAO documents:

- ◆ Statement of Vision, Mission and Values;
- ◆ Code of Conduct;
- ◆ Anti- Fraud Policy Statement;
- ◆ Internal Whistleblowing Policy;
- ◆ External Whistleblowing Policy; and

All of these are available on NIAO's intranet.

## **What should be reported?**

5. This Plan is intended to be implemented where attempted, suspected or proven fraud have been identified. Concerns which should be reported include, but are not limited to, staff committing or attempting to commit:

- ◆ any dishonest or fraudulent act;
- ◆ forgery or alteration of documents or accounts;
- ◆ misappropriation of funds, supplies or other assets;
- ◆ impropriety in the handling or reporting of money or financial transactions;
- ◆ profiting from an official position;
- ◆ disclosure of official activities or information for advantage;

- ◆ accepting or seeking value from third parties by virtue of official position or duties; and
  - ◆ theft or misuse of property, facilities or services.
6. External organisations' actions which should be reported include:
- ◆ being offered a bribe or inducement by a supplier;
  - ◆ receiving fraudulent (rather than erroneous) invoices from a supplier;
  - ◆ reported allegations of corruption or deception by a supplier.

This list is not exhaustive. If you are in any doubt about the seriousness of your concern, advice and guidance can be obtained from the Counter Fraud Unit, ext. 51023.

## **Safeguards**

7. **Harassment or Victimisation.** – NIAO recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. NIAO will not tolerate harassment or victimisation and will take action to protect those who raise a concern in good faith.

8. **Confidentiality** – NIAO will do its utmost to protect an individual's identity when he/she raises a concern and does not want their name to be disclosed. It must be appreciated that the investigation process or a Court process may lead to disclosure of the individual's identity.

9. **Anonymous Allegations** – This Plan encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the NIAO. In exercising this discretion, the factors to be taken into account would include:

- ◆ The seriousness of the issue raised;
- ◆ The credibility of the concern; and
- ◆ The likelihood of confirming the allegations from attributable sources.

10. **Untrue Allegations** – if an allegation is made in good faith, but is not confirmed by the investigation, no action will be taken against the individual responsible for making the allegation. If it is proven that individuals have made malicious or vexatious allegations, disciplinary action will be taken against the individual making the allegation.

## **What Should An Employee Do If They Suspect Fraud or Corruption?**

11. Line managers and staff should be alert to the possibility that unusual events or transactions could be symptoms of fraud or attempted fraud and that there may be collusion between staff and third parties in cases of fraud. Fraud may also be highlighted as a result of specific management checks or be brought to management's attention by a third party.

12. It is NIAO policy that there will be consistent handling of all attempted, suspected or proven fraud cases without regard to the position held or length of service of the individual(s) involved.

13. Staff who have concerns should report them as soon as possible to their immediate line manager. If there is a concern that management may be involved, the matter should be reported to the next appropriate level.

14. If they feel unable to raise a particular matter with their line manager, for whatever reason, they should raise the matter with their Director/ Assistant Auditor General or the Assistant Auditor General for Division A. Alternatively, staff may report their concerns to the NIAO's whistleblowing website- [whistleblowing@niauditoffice.gov.uk](mailto:whistleblowing@niauditoffice.gov.uk).

15. If these channels have been followed and the member of staff still has concerns, or the member of staff feels that the matter is so serious that they cannot discuss it with any of the above, they should discuss them with the Comptroller and Auditor General (C&AG).

16. If staff feel that they cannot discuss their concerns with anyone in the Office they should refer the matter to the independent Chair of the Office's Audit Committee whose details are on the NIAO's website.

17. An individual raising a concern must not discuss it with colleagues or friends or undertake investigative work.

## **What Should A Member Of The Public Do If They Suspect Fraud or Corruption?**

18. A member of the public who suspects fraud involving NIAO, its staff or contractors is strongly encouraged to report their concerns:

- ◆ by contacting the Office's Counter Fraud Branch on 02890 251023 or by writing to the Branch at

The Northern Ireland Audit Office  
106 University Street  
BELFAST  
BT7 1EU.

- ◆ by providing details of concerns on NIAO's whistleblowing website - [whistleblowing@niauditoffice.gov.uk](mailto:whistleblowing@niauditoffice.gov.uk).

## **Action to be taken**

19. On discovery of an attempted, suspected or proven fraud or any kind of financial impropriety, the person who has received the report (see paragraphs 13 to 16) should immediately contact the C&AG, or in his absence the Assistant Auditor General of Division A. The Office will immediately notify Internal Audit of the matter. The C&AG will appoint someone to conduct an initial but urgent fact-finding exercise. This discreet preliminary enquiry should be carried out as soon as possible and, where practicable, within 24 hours of the suspicion being raised. The investigator will be trained in fraud investigation.

20. The investigating officer will conduct an initial discreet enquiry, without alerting the suspect, to ascertain the facts surrounding the suspicion or discovery of fraud. The main purpose of this enquiry is to confirm or repudiate, as far as possible, the suspicions which have arisen. The preliminary enquiry should cover:

- ◆ The type of irregularity suspected or realised and the circumstances that led to it e.g. established working procedures not being adhered to, officers completing work that they are not authorised to do so, etc.
- ◆ How the fraud was realised.
- ◆ The value and type of resource lost – actual or estimated.
- ◆ The period over which the fraud may have occurred, if known.
- ◆ The date it was realised.
- ◆ Names of staff who may be linked with the fraud.
- ◆ Whether collusion with others is suspected e.g. other employees, persons contracted by the Office, persons who do not have any legitimate business interest with the Office.
- ◆ Names of all officers who have been involved in the investigation so far.

- ◆ Action taken by individual managers and the individual who reported the suspicion e.g. discussions, explanations sought.
- ◆ Any other information or observations that might be useful to the investigation.

21. The outcome of the preliminary enquiry will be communicated in writing to the C&AG or the Assistant Auditor General of Division A within 24 hours, where possible, of the initial suspicion or confirmation of the fraud. All documentation relating to the enquiry will be securely held in a safe place. If as a result of the preliminary enquiry, it is clear that fraud has not taken place the case will be closed, recording the reasons for closure in writing.

22. Depending on the circumstances of the suspected fraud the Office will take **immediate** steps to prevent any further frauds or losses occurring by changing/strengthening procedures or even suspending any payment processes, pending full investigation. Internal audit will be consulted for advice and assistance on matters relating to internal controls, if necessary.

23. If the preliminary enquiry confirms that a fraud has been attempted or perpetrated, the C&AG will decide on the action to be taken, including the full formal investigation arrangements and the appointment of an external investigator, if necessary.

## **Liaison with the Police Service of Northern Ireland**

24. If it appears that a criminal offence may have been committed the matter will be reported to the Police Service of Northern Ireland (the Police) at once before any overt action is taken, otherwise suspects may be alerted and evidence removed or destroyed. Any decision about involving the Police will be made by the C&AG, on

advice of the investigating officer. The Office may also seek advice from its legal advisors.

25. If the case is not immediately accepted, or only partly accepted by the PSNI, the C&AG shall set up a team to conduct a full investigation in order to establish all of the facts. This team may or may not involve the investigating officer appointed for the preliminary enquiry. Taking into account the nature and scale of the suspected fraud, additional technical expertise from specialised fraud investigators may be acquired.

## **Allegations reported directly to the Chair of the Audit Committee**

26. In the case of an allegation that has been reported directly by an NIAO employee to the Chair of the Audit Committee (see paragraph 16), where possible the Chair of the Audit Committee should arrange to meet with the whistleblower to discuss the concern. **The circumstances of the allegations will determine what action is to be taken.** After initial consideration of the allegations and following any discussion with the whistleblower, the Chair of the Audit Committee will, if appropriate, follow normal procedure and report the matter immediately to the C&AG, or in his absence the Assistant Auditor General of Division A. In circumstances where the allegation is serious and he considers it inappropriate to report the matter to anyone within the NIAO, the Chair of the Audit Committee will use his judgement to decide how best the matter should be handled. He may seek assistance from someone independent of the NIAO, for example, the Head of Internal Audit, the Assembly's Audit Committee or the Police.

## **The Investigation**

27. A fraud investigation must be properly conducted, thorough and wide-ranging. NIAO will maintain a record of the allegation in the fraud register which will include details of the allegations, investigation and ultimately the conclusions. The

investigating officer will agree the Terms of Reference for the investigation with the C&AG and the Audit Committee and have unrestricted access to staff and records, manual or electronic. The investigating officer will draw up an investigation plan, setting out the objectives of the investigation, the resources and expertise required, the scope of the investigation and the timescale. Members of the investigation team **will be independent** of the area under investigation and will have a clear understanding of reporting procedures and evidence handling and recording procedures. For internal fraud the plan will include investigation of the extent to which there has been supervisory negligence on the part of supervisors and managers. Human Resources will be consulted at an early stage to identify any personnel issues that need to be considered. The action plan will delegate roles and responsibilities in accordance with the skills and experience of the experts involved. Access to information about the investigation will be restricted to those with a legitimate need to know. In conducting investigations, NIAO will be mindful of relevant legislation, including but not limited to): the Data Protection Act 1998; the Fraud Act 2006; the Human Rights Act 1998; The Police and Criminal Evidence (NI) Order 1998 (PACE); the Public Interest Disclosure (Northern Ireland) Order 1998; The Regulation of Investigatory Powers Act 2000; and the Proceeds of Crime Act 2002 and money laundering regulations.

## **Preservation of Evidence**

28. A key consideration in any investigation must always be how to secure or preserve sufficient evidence to prove fraud.

29. For the purposes of criminal proceedings, the admissibility of evidence is governed by PACE. Although PACE does not apply in civil or disciplinary proceedings it should nevertheless be regarded as 'best practice'. If an individual does end up being charged with a criminal offence (and this may not have been planned at the outset of the investigation), all investigations and relevant evidence will be open to discovery by that individual's defence. **It is therefore vital that**

**detailed and accurate records are kept from the outset, including accurate notes of when, where and from whom the evidence was obtained and by whom.**

## **Physical Evidence**

30. It is vitally important to have arrangements in place for the safe and secure storage of evidence and other investigative material. Control should be taken of any physical evidence before the opportunity arises for it to be removed or destroyed by the suspect(s). Physical evidence may therefore have to be seized at an early stage of the investigation, before any witness statements are collected or interviews conducted. Similarly, electronic evidence must be secured before it can be tampered with.

31. If an investigation of an internal fraud is being conducted the Office has a right to access its own records and may bring disciplinary action against any member of staff who tries to prevent this.

32. When taking control of physical evidence, original material is essential – photocopies are not acceptable. Records should be kept of the time that it was taken and the place that it was taken from. If evidence consists of several items, for example many documents, each one should be tagged with a reference number, which corresponds with the written record. Taking photographs and/or video recordings of the scene may also prove helpful.

When conducting investigations it is essential to be mindful of the provisions of the Human Rights Act, in particular the right to privacy and to a fair trial or hearing.

## **Interviews**

33. Any decisions about interviewing suspects, including police involvement will be taken by senior management. All interviews will be properly conducted in controlled conditions and by trained personnel from the investigating team or the police. Detailed notes should be kept of questions and answers, and interviews should be taped if possible.

## **Dealing with employees under suspicion**

34. If a member of staff is suspected of involvement, the C&AG, in consultation with senior management will consider the appropriate course of action. This may range from close-monitoring/ supervision to precautionary suspension, however, it should be noted that suspension does not in any way imply guilt. If a decision to suspend is taken, the individual(s) will be escorted from the premises and will not be allowed access to office assets or records – manual or electronic. Employees who are allowed to remain at work will be kept under constant surveillance. If necessary, an immediate search of the suspects work area and storage cabinets will be carried out.

## **Communication**

35. The investigating officer will provide the C&AG and the Audit Committee with regular written briefings on the progress of the investigation.

## **Action on conclusion of an investigation**

36. On conclusion of any investigation, the investigating officer will prepare a written report for the Audit Committee and Senior Management's attention detailing the findings and conclusions and the lessons to be drawn from the fraud. Consideration will also be given to circulating the outcomes and lessons learned to all staff within the Office and to other public sector organisations. The NIAO fraud response plan will be reviewed to determine whether it needs to be updated in light of the findings from the investigation.

37. NIAO will seek to recover funds and assets lost through fraud. In all fraud investigations the amount of any loss will be calculated. Where the loss is substantial, NIAO will obtain legal advice. NIAO would normally expect to recover costs in addition to losses.

## **Review**

38. This plan will be reviewed annually or following an incident of fraud to ensure that it reflects changes which may be necessary to strengthen future responses to fraud. Staff wishing to receive clarification on this policy and/or suggest improvements should contact the Office's Counter Fraud Unit.