

Excerpts from Ministry of Justice Internal Audit and Assurance - Anti-Fraud and Corruption Policy (IAACP)

“The Ministry of Justice (MoJ) requires all staff to act honestly and with integrity at all times and to safeguard the public resources for which they are responsible. Fraud is a constant threat to the management of these resources and must be a concern to all members of staff.” **(Executive Summary – Paragraph 1 – Page 1)**

“This policy has been endorsed by the MoJ's Principal Accounting Officer (the Permanent Secretary) and the MoJ's Departmental Audit and Risk Committee.”
(Executive Summary – Paragraph 3 – Page 1)

What is Fraud - Fraud is a criminal offence. A general offence of fraud was created by the Fraud Act 2006. The three ways that fraud can be committed, as set out in the Act, are by:

False representation Failure to disclose information when there is a legal duty to do so, and, Abuse of position

(Main body – Paragraph 4 – Page 1)

E-enabled / Cyber fraud is a generic term commonly employed when information technology has been used to manipulate programs or data dishonestly e.g. by altering, substituting, destroying records or creating spurious records or where the use of an IT system was a material factor in the perpetration of a fraud. This includes theft or fraudulent use of computer time and resources. Examples of instances of fraud are shown at appendix A.

(Main body – Paragraph 8 – Page 1)

MoJ Fraud Investigation and Prevention - As part of the Ministry's commitment to fighting fraud, there are dedicated Fraud Investigation Teams for the LAA; HMCTS; NOMS and Core MOJ. These Teams are responsible for.... carrying out investigations into allegations of fraud....unannounced visits to check on areas where there is a high risk of fraud....Reporting to Boards and Audit Committees across the Ministry;.... and Reporting through MoJ Internal Audit and Assurance to the Cabinet Office (Fraud, Error, Debt and Grants Team).

(Main body – Paragraph 9 – Page 2)

Accounting Officers - In accordance with HM Treasury guidance and the Cabinet Office Eliminating Public Sector Fraud, Accounting Officers should ensure that adequate arrangements have been established in their area of responsibility to identify and assess risk and maintain fraud risk assessments.

(Main body – Paragraph 10 – Page 2)

Accounting Officers should allocate overall responsibility for managing the risk of fraud in their area of responsibility to an appropriate senior officer....Reporting significant incidents of fraud (appendix B)

(Main body – Paragraph 12 – Page 2)

– **(Examples in appendix B** -.....Forged signatures on claim forms....Forged receipts....Altered performance markings or false documentation....Theft of cash (e.g. Cashier, Reception petty cash floats)... Exploitation of Assets and Information... using assets of the organisation for other than official purposes and/or supplying information to outside organisations for personal gain.....Running own business using the organisations

assets (e.g. IT system);... False accounting and cost misallocation....Creating false payments....Providing confidential information to outsiders allowing them to make fraudulent claims;...False accounting....Creating false BACS payments...Fraud Relating to Departmental Income..... theft of income received that has not yet been recorded in the accounting system such as income received by post, cash or cheques awaiting banking.....Understating or failing to record income so that “surplus” income can be stolen (i.e. false accounting);... Manipulation of fees/charges/sales records.....other Fraud and theft not falling into the above categories. (**APPENDIX B - Page 7, 8 and 9**)

MANAGEMENT RESPONSIBILITIES - All managers are responsible for:

- The prevention and detection of fraud;
 - Ensuring that all allegations of fraud or theft are investigated. Where appropriate the Police must be informed. Action must be taken where fraud is proven;
 - Where assets have been stolen, management must make every effort to recover them.
- Press Office (and Ministers) must be briefed where it is likely that a criminal case will be brought against an individual. Management must ensure that such action is taken.
 - Managers should ensure that all contractors, agency and fee-paid staff are aware of this policy and are alert to the possibility of fraud and where to report instances of identified fraud.


(Main body – Paragraph 13 – Page 3)

STAFF RESPONSIBILITIES - Every member of staff is responsible for:

- Conducting themselves in accordance with the Civil Service Code, the Civil Service Management Code, MoJ Conduct and Disciplinary policies, which collectively require staff to act professionally and with integrity, objectivity, honesty, impartiality, to comply with the law and ensure the proper and efficient use of public money.
- Acting with propriety in the use of official resources and the handling and **use of public funds** whether they are involved with cash or payment systems, receipts or dealing with suppliers
- Being alert to the possibility that unusual events or transactions could be indicators of fraud
- If an employee suspects fraudulent activity, extreme care must be taken not to alert the potential perpetrators of the fraud. The employee must make sure that s/he reports it immediately in line with instructions. On no account should they take any action to challenge staff that may be involved.
- All staff who suspect fraud or theft must report it either to their line manager or to the appropriate fraud investigation team listed below: Core MoJ / NOMS Fraud team on 0300 047 5200 or by email to; or xxxxxxxxxxxxxxxx@xxxxxxxx.xxx.xxx.xx or; LAA email - allegations@legalaid.gsi.gov.uk ; or HMCTS email - xxxxxxxxxxxxxxxx@xxxxx.xxx.xxx.xx ; or OPG on 0121 600 6153 or opgstaffinternalfraud@publicguardian.gsi.gov.uk
- Alternatively, you can refer to the MoJ Whistleblowing Policy reporting wrongdoing hotline (01527 544777).
- Co-operating fully with those conducting internal checks, reviews or fraud investigations.

(Main body – Paragraph 14 – Page 3 and 4)

Fraud Response Plans - Managers must respond quickly in situations where fraud or theft is suspected or discovered by:

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- having appropriate mechanisms in place;
 - Identifying, managing and reporting fraud; and
 - ensuring sufficient counter fraud capacity to meet fraud risk and improving capability

(Main body – Paragraph 15 – Page 4)


- All areas of the MoJ must have a fraud response plan which underpins the MoJ fraud policy.

(Main body – Paragraph 17 – Page 4)


- Response plans should cover how fraud and attempted fraud should be dealt with. This includes details of what individual staff should do, how suspicions should be reported, how and by whom investigations will be conducted.

(Main body – Paragraph 18 – Page 4)

Fraud Investigation and Interface with Disciplinary Procedures

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- If the outcome of a fraud investigation concludes that there is a reasonable suspicion of fraud having been committed, MoJ will put the matter in the hands of the police and a criminal prosecution may result.

(Main body – Paragraph 20 – Page 4)



Recovery action and lessons learned - The MoJ will seek to recover losses in all cases where a fraud has been proven, either through court proceedings or by following internal disciplinary proceedings. Managers must ensure that, where a fraud has taken place, the risk surrounding the process or area affected is re-assessed.

(Main body – Paragraph 21 – Page 5)

Bribery and Corruption - It is an offence for a civil servant to corruptly accept any money, gift or consideration as an inducement or reward. Corruption can be defined as ‘an act done with intent to give some advantage which is inconsistent with official duty and the rights of others’. It is the abuse of power by a public official for private gain and includes bribery and bias.

(Main body – Paragraph 22 – Page 5)



Review - This policy will be kept under regular review and any matters arising should in the first instance be referred to MoJ Internal Audit & Assurance.

(Main body – Paragraph 22 – Page 5)

APPENDIX A - Examples of Instances of Fraud

...Deception – the act of deceiving someone - Providing information that is untrue to gain benefit, e.g. giving false information about domestic circumstances in order to gain additional expense payments (for example, under public interest transfer conditions). **(Appendix A - Page 6)**

...**Concealment of Facts** – to cover and hide, to keep secret e.g. not informing pay section when a retired officer receiving a pension dies, with the result that payment is still made or not informing pay section when an overpayment has been made. **(Appendix A - Page 6)**


...**Forgery** – illegal copying, crime of making fraudulent imitation Falsifying authorising officers' signatures on documents for gain or to conceal other misdemeanours, e.g. authorising signature on invoices. **(Appendix A - Page 6)**

...**Conspiracy** – a secret plan to carry out an illegal or harmful act e.g. several people all travelling on official business in one car but each making a T & S claim for travelling separately. **(Appendix A - Page 7)**


...**Collusion** - secret/illegal agreement or co-operation Agreement between a member of staff and a supplier to the financial benefit of both. **(Appendix A - Page 6)**

MoJ Corporate: Fraud Response Plan (Appendix C)


...This fraud response plan is one of a series which supports the MoJ's Anti-Fraud and Corruption policy; it sets out what you should do and how MoJ will respond in the event a fraud is discovered or if there is suspicion of a fraud in MoJ. **(Appendix C - Page 11)**

 **Reporting the fraud or suspicion** - At the point where a fraud, or a suspicion of fraud, is discovered the member of staff concerned must immediately report the matter to their line manager who will inform their Head of Division or equivalent (see also whistle blowing policy). If there are difficulties with this course of action, the individual should report the matter directly to their respective team for HMCTS email investigations@hmcts.gsi.gov.uk; **(Appendix C - Page 11)**

The following action must then be taken:

- The Head of Division or equivalent must notify the appropriate MoJ specialist fraud team, Finance and Human Resources.
-  the appropriate MoJ specialist fraud team will provide timely advice on investigation action, including contact with the police.
- The Head of Division (or equivalent) should ensure their Director (or equivalent) is notified and updated about ongoing actions.

...It is essential that members of staff and their managers respond quickly in situations where fraud is suspected or discovered. The individual or individuals under suspicion should not be alerted to the fact until the Head of Division (or equivalent) has contacted and obtained guidance from the appropriate specialist fraud team. **(Appendix C - Page 12)**

 **Investigation** - The Ministry maintains teams of specialist staff available to undertake fraud investigations. All investigations undertaken in England and Wales will comply with best practice guidelines under the Police and Criminal Evidence Act 1984 (PACE) and the Criminal Procedure and Investigation Act 1996 (CPIA) **(Appendix C - Page 12)**

...If a manager has any concerns that an irregularity has taken place they should contact MoJ Internal Audit & Assurance for advice before taking any action themselves. **(Appendix C - Page 12)**


Securing evidence - At the point where a fraud or a suspicion of fraud is discovered, all evidence material to the investigation must be secured. . **(Appendix C - Page 13)**


...Line management may be asked to collect the appropriate documents and to ensure secure storage until the members of an investigation team can take formal custody of the documents. (This may mean various types of financial record, attendance sheets, receipt books, files etc). **(Appendix C - Page 13)**

...It is extremely important that the handling of any evidence is kept to an absolute minimum and that all evidence is secured immediately. **(Appendix C - Page 13)**

...staff and managers must not make any markings or endorsements nor tamper with the documents in any way, to prevent possible prejudice of any future prosecution. Items must be secured as quickly as possible to prevent any accidental loss or destruction of the evidence. **(Appendix C - Page 13)**


...If computer records are to be used in evidence as part of an investigation, the hardware and data storage media must be placed under secure safekeeping until a qualified investigator can attend. Access to systems and data on any system that it is suspected has been used to commit fraud must be prohibited to individuals under suspicion. **(Appendix C - Page 13)**

 **Police action** - The police will be contacted in all cases where there is a clear indication of a fraud having been committed. MoJ Internal Audit & Assurance will advise on whether the police should be contacted. **(Appendix C - Page 14)**

 **Disciplinary action** - If the outcome of a fraud investigation identifies the perpetrator of a fraud, the Ministry will refer the matter to the police for possible criminal prosecution. **(Appendix C - Page 15)**

Recovery action - The Ministry will seek recovery of losses in all cases where a fraud has been proven, either through court proceedings or following internal disciplinary proceedings. Where court proceedings are being brought, managers should ensure details are supplied in order for a claim for compensation to be sought. **(Appendix C - Page 15)**

The policy takes into account the requirements of the **Public Interest Disclosure Act 1998**. **(Appendix C - Page 15)**

 This policy applies to all employees, and those contractors working for the Ministry, for example, agency staff, builders, security, or catering staff. It also covers suppliers and those providing services under a contract with the Ministry in their own premises. Within the policy the phrase "employees" includes all the above. **(Appendix C - Page 16)**

Members of staff should use this policy if they believe they are being required to act in a way that is inconsistent with the Civil Service Code. However, this policy also includes other areas of serious concern, such as the **unauthorised use of public funds, fraud and corruption**. **(Appendix C - Page 16)**