

FRAUD PREVENTION AND ANTI-BRIBERY AND CORRUPTION POLICY

1. Policy Statement

The Parliamentary and Health Services Ombudsman (PHSO), has a zero-tolerance policy towards fraud, bribery and corruption and will take action against those who have perpetrated fraud, bribery or corruption. PHSO has a clear framework in operation for the prevention, detection and investigation of fraud, bribery and corruption.

2. Who This Policy Applies To

This policy aims to support all staff (including temporary and agency workers) and Board Members to understand their roles in relation to fraud, bribery and corruption.

The policy also aims to help contractors, suppliers, organisations we investigate and complainants to understand how and when to contact PHSO with any concerns.

3. Environment and Culture

Honesty is one of the underpinning values of PHSO's organisational culture. In agreeing this policy, PHSO is clear that:

- Fraud, bribery, or corruption will not be tolerated.
- It is committed to preventing fraud, bribery and corruption and will have robust systems and processes in place to enable this.
- All staff, board members and people working on our behalf are required to act with honesty, integrity and propriety at all times.
- All reported or identified instances will be taken seriously and investigated in a timely way.
- Those committing fraud, bribery and corruption will be dealt with swiftly and firmly and be prosecuted. PHSO will seek to recover any losses experienced.
- Senior management will ensure the control framework is robust and, if a fraud has occurred due to the breakdown in systems or processes, take immediate action to ensure that appropriate controls are strengthened to ensure reoccurrence does not happen.

To assist all staff and Board members PHSO will:

- Provide support, training and awareness sessions covering fraud detection and prevention.
- Ensure staff understand internal controls are designed to detect and prevent fraud, and their role in this.

- Encourage and support staff to report suspected fraud, bribery or corruption without fear of retribution.
- Ensure that anyone raising a concern about fraud, bribery or corruption within PHSO can raise concerns without fear of suffering adverse consequences.

4. What to do if you suspect wrongdoing

PHSO is committed to a culture where all staff are able to speak up about possible or actual wrongdoing at work. If you are concerned about fraud, bribery or corruption it is important you report it immediately. All reports will be treated in confidence and anyone raising a concern can do so without fear of suffering adverse consequences. It does not matter that you are mistaken, as long as you are genuinely concerned. All reports will be investigated promptly and fully.

PHSO has put in place procedures for the reporting of suspicions of fraud, bribery or corruption. This is laid out in the fraud, bribery and corruption response plan. Staff should look report any such suspicions in the first instance to either the Freedom to Speak Up Guardian, the Chief Operating Officer or if that is not appropriate, directly to the Chief of Staff.

5. What are fraud, bribery and corruption?

Fraud

‘Fraud’ is a broad term used to describe a number of activities including theft, embezzlement, false accounting, misappropriation, deception and collusion. In general, a fraud involves deception to dishonestly make a personal gain and/or create a loss for another party.

The Fraud Act 2006 defines three classes of fraud:

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

Examples of fraud under these definitions are shown in Annex A (Fraud Prevention Response Plan).

In all three classes of fraud, the Fraud Action 2006 requires that for an offence to have occurred, the person must have acted dishonestly, and that they have acted with the intent of making gain for themselves or anyone else, or inflicting loss (or risk of loss) on another.

Bribery

Bribery’ is a financial or other advantage offered as an inducement to another to persuade them to carry out their functions improperly.

The Bribery Act 2010 sets out offences relating to making a bribe, requesting or accepting a bribe, and bribing foreign public officials (wherever that takes place).

There is also a corporate offence of “failing to prevent bribery”. PHSO must have “adequate procedures” in place to avoid being convicted of this offence.

Under the Bribery Act 2010, it is a criminal offence to give or receive (or promise to give or receive) a bribe anywhere in the world.

Bribes usually take the form of improper payments or personal “commissions”. They can, however, take on many different shapes and forms, such as gift cards, gifts, entertainment and shopping trips, payment of travel and other expenses, secret rebates, or charitable or political donations.

Facilitation payments, which are common in some countries, are also outlawed under the Bribery Act 2010. These payments secure or expedite routine or necessary Government action by a public official. A facilitation payment may include a payment to a public official to do their job properly, as well as payment to do their job improperly.

PHSO is accountable for the actions of any third parties who work on behalf of it, e.g., contractors. Under the Bribery Act 2010, these third parties are known as “associated persons”.

Examples of situations involving bribery are shown in Annex A.

Corruption

Corruption is the misuse of power for personal gain.

Tax evasion

The Criminal Finance Act 2017 introduced two new criminal offences; one relating to UK tax evasion, one relating to foreign tax evasion. The new offences are designed to help the Government counter circumstances where an employee facilitates tax evasion by their customers or suppliers. This could arise, for example, if a PHSO employee conspired with a supplier to falsify the amount paid on an invoice so that the supplier evaded paying income or corporate taxes.

6. Responsibilities under this policy

To prevent fraud and respond effectively to any occurrence, PHSO has the same responsibilities as for Government Departments. These are set out in the HM Treasury publication ‘Managing Public Money’. This states that organisations should actively manage the risk of fraud by:

- Assessing the organisation’s overall vulnerability to fraud
- Identifying the areas’ most vulnerable to fraud risk
- Evaluating the scale of fraud risk

- Measuring the effectiveness of the fraud risk strategy; and
- Reporting fraud to the Treasury

PHSO will investigate all suspected cases of fraud, bribery and corruption against the organisation in accordance with the 'PHSO Fraud and Corruption Response Plan' (Annex A).

The table below lays out the details of PHSO's staff and its Auditors responsibilities for dealing with Fraud, Bribery and Corruption instances.

Stakeholder	Responsibilities
Ombudsman	As the Accounting Officer, has overall responsibility for public funds entrusted to PHSO and must ensure that a system of internal control is in place to protect PHSO from fraud, bribery and corruption.
Chief Executive	Accountable for the effectiveness of PHSO's arrangements for countering fraud, bribery and corruption as well as corporate governance.
Chief Operating Officer	Accountable for the operation of PHSO anti-fraud, bribery and corruption policies To be the lead officer in handling staff concerns in respect of fraud, bribery and corruption and informing internal audit to commence initial investigation.
Director of Resources	Responsible for developing and implementing the Fraud Prevention and Anti-Bribery and Corruption Policy Statement, Strategy and Guidance Notes and relevant associated policies. To ensure that the control framework to prevent and detect fraud, bribery and corruption are effective.
Chief of Staff	To advise Board Members and officers on ethical issues, standards and powers to ensure that PHSO operates within the Law and Statutory Codes of Practice. Maintain a Register of Disclosable Pecuniary Interests. To be the recognised officer, in the absence of the Chief Operating Officer in handling concerns in respect of fraud, bribery and corruption and informing internal audit to commence an initial investigation.
Freedom to Speak Up Guardian	To be a recognised point of contact for staff members to raise concerns with regarding risk or wrongdoing, including suspicions of fraud. The Guardian will look to provide confidential advice on different ways to raise a concern, as articulated

	in the Fraud, Bribery and Corruption Response Plan.
Assistant Director: Business Management, Planning and Performance	To ensure that fraud, bribery and corruption risks are considered as part of PHSO's corporate risk management arrangements.
Senior Leadership Team	To develop a strong counter fraud culture within the organisation, and ensure the effective operation of the corporate governance framework within individual areas of responsibility. This will include monitoring and evaluating arrangements to ensure effectiveness and compliance with best practice.
Audit & Risk Assurance Committee	To monitor PHSO's policies and consider the effectiveness of the arrangements for Counter Fraud and Freedom to Speak Up.
Board Members	To support and promote the development of a strong counter fraud culture.
External Audit (National Audit Office)	<p>As per the Public Disclosure Act, the NAO are the organisation to whom anyone can contact confidentially when they have concerns regarding fraud, corruption and bribery.</p> <p>As part of its external audit work, the NAO is required to identify and assess on the risks of material misstatement of the financial statements, which does risk of fraud. The NAO will review the adequacy of the relevant controls operated by PHSO as part of this assessment.</p>
Internal Audit	Investigating any issues reported under this policy. Reporting on the effectiveness of controls to the Audit & Risk Assurance Committee. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this policy and that action is identified to improve controls and reduce the risk of recurrence.
Managers/Team Leaders	To promote employee awareness of fraud, bribery and corruption and ensure that all suspected or reported irregularities are immediately referred to the Chief Operating Officer or Head of Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, bribery and corruption and to reduce these risks by implementing robust internal controls.
Staff	To comply with PHSO policies and procedures, to be aware of the possibility of fraud, corruption and

	theft, and to report any concerns to the Chief Operating Officer.
Public, Partners, Suppliers, Contractors and Consultants	To be aware of the possibility of fraud, bribery and corruption against PHSO and report any concerns or suspicions. To ensure that effective controls are in place to mitigate risks to PHSO.

7. Fraud, Bribery and Corruption Response Plan

PHSO has a Fraud, Bribery and Corruption Response Plan (Annex A) that sets out how to report suspicions, and how investigations will be conducted and concluded. This plan forms part of this policy.

The circumstances of individual frauds and corrupt activities will vary. PHSO takes fraud, bribery and corruption very seriously. All cases of actual or suspected fraud, bribery and corruption will be robustly and promptly investigated and appropriate action will be taken, including referral to the police.

8. Monitoring and review

This policy will be reviewed at least every two years or sooner where the law changes or circumstances require.

POLICY INFORMATION

Author: Director of Resources

Related policies and guidance: Freedom To Speak Up Policy & Procedure
Code of Conduct
Finance Code
Procurement Code

Annex A: Fraud, Bribery and Corruption Response Plan

1. The Purpose of the Response Plan

The purpose of the Fraud, Bribery and Corruption Response Plan is to define responsibilities, key actions and reporting lines in the event of a suspected fraud or other irregularity. It should help PHSO to:

- assign responsibility for investigating the incident;
- keep relevant staff and the Chair of the Audit and Risk Assurance Committee informed of the investigation and its' outcome
- prevent further loss and recover losses
- establish and secure evidence necessary for criminal and/or disciplinary action
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- notify other bodies, where required, including the police and HM Treasury (annual return for losses and special payments)
- learn lessons from the incident and implement measures to prevent a recurrence

2. Identifying fraud, bribery and corruption

This area of wrongdoing is very complex and not easy to identify. The examples below are intended to help staff recognise instances of fraud, bribery and corruption, and are not intended to be exhaustive but provide a general indication of the range of matters covered by this Policy.

Fraud: Examples
Deliberate personal gain/benefit as a result of misuse of PHSO funds
Falsifying financial statements
Embezzlement, taking money which one has been entrusted with on behalf of another party
Illegal diversion of good e.g. receiving goods/equipment and not recording its receipt
Tax evasion, falsifying supplier invoices to affect the tax impact on the supplier
Submitting false qualifications, professional registrations and/or references to obtain employment
Failing to declare criminal convictions e.g. under the Rehabilitation of Offenders Act 1974
Falsifying expense claims e.g. excessive expenses or expenses which are not reflective of actual activities or were never wholly incurred
Falsely claiming to be off sick
Falsifying time records and claiming for hours not worked (e.g. overtime)
Completing private work during PHSO work time
Falsifying records to steal PHSO property

Corporate identity fraud, e.g. using the PHSO's logo or letterhead for personal reasons and/or to imply the organisation has sanctioned the content of the document or that the document is sent for and on behalf of PHSO

Bribery: Examples

Alteration of casework findings, outcomes or awards in return for an inducement

Alteration, including destruction, of any documentation or records in return for an inducement

Accepting gifts and/or hospitality from current or potential suppliers of goods/services during procurement exercises. This could be an attempt to influence the PHSO's actions during the process and should be refused

Accepting excessive levels of gifts or hospitality knowing that it is intended to influence the outcome of a decision or other outcome

3. If you suspect fraud, bribery or corruption within or against PHSO

In the event that a member of staff discovers or has suspicions that fraud or corruption is occurring within or against PHSO, then the table below provides guidance on what to do.

Checklist summary for staff discovering actual or attempted fraud	
DO	DON'T
<p>✓ Report your suspicions promptly</p> <p>Any suspicion of fraud or other irregularity must be reported in the first instance - and as a matter of urgency to your Line Manager, the Freedom to Speak Up (FTSU) Guardian, or directly to the Chief Operating Officer, or if that is not possible, to the Chief of Staff.</p> <p>✓ If you have concerns about making a report, then please contact Head of Internal Audit directly. Make a note of your concerns</p> <p>Record all relevant details, such as the nature of your concern, the names of parties you believe to be involved, details of any telephone or other conversations with names dates and times and any witnesses.</p> <p>Notes do not need to be overly formal, but should be timed, signed and dated.</p> <p>The longer you delay writing up your notes of events, the greater the chances of</p>	<p>! Don't be afraid of raising concerns</p> <p>The Public Interest Disclosure Act and PHSO Freedom to Speak Up Policy provides protection for employees who raise reasonably held concerns through the appropriate channels.</p> <p>You will not suffer discrimination or victimisation as a result of following these procedures and the matter will be treated sensitively and confidentially.</p> <p>! Don't convey your concerns to anyone other than authorised persons</p> <p>There may be a perfectly reasonable explanation for the events that give rise to your suspicion. Spreading unsubstantiated concerns may harm innocent persons.</p> <p>! Don't approach the person you suspect or try to investigate the matter yourself</p>

<p>recollections becoming distorted and the case being</p> <p>✓ Retain any evidence you may have</p> <p>The quality of evidence is crucial and the more direct and tangible the evidence, the better the chances of an effective investigation.</p>	<p>There are special rules relating to the gathering of evidence for use in criminal or civil cases. Any attempt to gather evidence by persons who are unfamiliar with these rules may affect the chain of evidence.</p>
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4. What happens once you have made a report of fraud, bribery or corruption

Upon notification and initial consideration of a concern (via member of staff, line manager and FTSU Guardian) and, wherever possible, within 24 hours, the Chief Operating Officer (COO) shall inform the Chief Executive Officer and the Head of Internal Audit of the possible issue and initiate the preliminary investigation to verify the allegations and provide recommendations. If the COO is the subject of the report, then the Chief of Staff will act in place of the COO.

The investigation process by Internal Audit will include:

1. clarifying and documenting the nature and circumstances surrounding the suspect activity
2. securing the evidence in a legally admissible form
3. ensuring the threat of further or continued fraud or corruption and any associated losses are removed
4. deciding whether a formal investigation is appropriate
5. advising the Chief Operating Officer, Chief Executive Officer and the Chair of the Audit and Risk Assurance Committee throughout the investigation
6. advising the police where there is initial evidence of wrongdoing
7. following the advice of the police and providing the necessary support and information if they accept the allegation for investigation
8. if the police decide not to take further action, then PHSO will consider:
 - appointing a person with suitable experience, who may be a member of management, or a third party investigator to: investigate; ensure that a fully documented record is kept setting out the key steps and details of the investigative process; and report
 - taking the necessary actions based upon the report recommendations, for example disciplinary action in accordance with PHSO's Code of Conduct and Disciplinary Policy

5. Securing evidence

The COO should, following a report an employee or other source about suspicious activity, take immediate steps to secure any available evidence which is considered to substantiate the alleged fraud or corruption. Advice should be taken from the Head of Internal Audit on procedures to preserve that evidence for any

potential legal proceedings. The gathering of any additional evidence should only be undertaken with the advice and agreement of the Head of Internal Audit.

In order to secure the evidence in a legally admissible form consideration should first be given to photographing the relevant documents in the location where found. Thereafter they should be preserved in their original state, as they may need to be fingerprinted or otherwise tested and stored in a secure place. A record should be maintained of precisely where, when and by whom they were found and of anyone handling the evidence.

6. Dealing with employees under suspicion

It is important to ensure that any employee(s) under suspicion of committing fraud, bribery or corruption are treated fairly. Any action taken by management to suspend or dismiss an employee in this situation will only be taken in conjunction with the Assistant Director of Human Resources and the Director of Legal, Clinical & Quality. If the decision is made to allow the employee(s) under suspicion to remain in the workplace, additional pre-authorised checks may be necessary, including, for example, a search of the work area, filing cabinets and computer files.

7. Interviewing employees under suspicion

If the police have decided to pursue an investigation, they must be involved at an early stage in accordance with this policy and they will make any decisions regarding interviews. Otherwise, the decision to interview any employee(s) under suspicion of committing fraud, bribery or corruption is to be made by the Chief Operating Officer (COO) or Chief Executive Officer, if the COO is under suspicion. All action will be undertaken in accordance with the Disciplinary Policy.

8. Recovery of assets

PHSO will seek to recover all assets lost or misappropriated as a result of fraud, theft or corruption. The process of recovery will depend upon the nature and circumstances surrounding the loss, and whether the fraud results in criminal charges.

Once the size and extent of the loss has been confirmed, action will be taken to trace and freeze the lost assets, where possible, so that the recovery process can be commenced. The recovery process may take several forms:

- frauds committed by third parties - repayment by an agreed arrangement, directly to PHSO.
- frauds committed by employees - repayment by an agreed arrangement, either directly or through payroll deductions.

Recovery arrangements agreed with third parties will be handled by the PHSO's legal advisers.

9. Communications

All internal and external communications about any event covered by this policy being investigated internally will be handled by PHSO's Corporate Communications team. Given the sensitivity surrounding such events and the need to ensure consistency in the release of any information, the Corporate Communications team will deal directly with the media if necessary, taking advice from PHSO's legal advisers (and the police where they are involved) as to what information can be released, and in what form.

10. Applying the lessons learnt

PHSO is committed to ensuring that the threat of fraud and corruption is properly managed through the implementation and application of sound systems of internal control and supporting employee management processes.

In the event that fraud or corruption is discovered, PHSO will take steps to ensure the lessons learnt from the event are used to improve systems and processes and prevent recurrence. This may require:

- changes to the existing systems of internal control, for example, separation of duties or additional checks
- changing attitudes to, and understanding the risks of, fraud and corruption, for example, by training
- making use of the deterrence factor (of being caught/severity of the consequences)
- making it too difficult to commit fraud or corrupt acts.

In addition, the dissemination of the lessons learnt from a particular fraud event will provide a valuable learning opportunity for PHSO as a whole.

11. Reporting losses

All losses resulting from fraud/thefts will be reported to HM Treasury in accordance with the requirements set by HM Treasury.

12. Reporting your concerns

If you have any concerns about fraud, bribery or corruption. please contact either your line manager and/or the FTSU Guardian, or the Chief Operating Officer or the Chief of Staff. If you do not wish to report to any of the above individuals, please contact the confidential helpline on 020 3117 2520.