

An introduction to fraud response plans

Businesses should be prepared to act immediately on suspicion of fraud. A good fraud response plan can help your organisation to do this effectively.

What is a fraud response plan?

A fraud response plan outlines the policies and procedures that an organisation will follow in the event of a fraud being discovered or suspected. A good fraud response plan should aim to:

- Outline the entire fraud investigation process (who, what, when and how) from receipt of the initial allegation through to preparation of the final 'outcome' report.
- Clearly define the roles and responsibilities of senior management and other staff involved in the investigation process.
- Set out the organisation's policy on reporting fraud within the company and to third parties.
- Demonstrate the organisation's commitment to take appropriate disciplinary, regulatory, civil or criminal proceedings against fraudsters and to recover losses.
- Ensure that any lessons learnt are applied to strengthening anti-fraud controls and processes.

The scope of an organisation's fraud response plan will vary depending upon the nature and size of the business.

Why do you need a fraud response plan?

A fraud response plan provides assurance that the organisation is prepared and able to respond to fraud in a timely and effective manner. It provides guidance on how internal investigations should be conducted and when and how to involve third parties.

It should form part of an organisation's overall anti-fraud strategy covering the prevention, detection and investigation of fraud.

Legal considerations

Organisations need to 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 Act 1984
- The Proceeds of Crime Act 2002 and money laundering regulations
- The Public Interest Disclosure Act 1998
- The Regulation of Investigatory Powers Act 2000.

Key elements

Policies: Does your anti-fraud policy clearly state your organisation's commitment to investigate all allegations of fraud and to take appropriate action against fraudsters? Have policies been established to allow your business to use legitimate investigation techniques such as desk searches, CCTV surveillance, and monitoring of electronic communications?

Initial action: What are the immediate steps that should be taken in the event of a fraud being discovered or suspected, to mitigate losses and secure evidence? Who will conduct preliminary enquiries to determine whether there are reasonable grounds to suspect a fraud has occurred and the action to be taken? Smaller businesses may wish to consider adopting a policy that independent advice will be sought at the outset of any fraud investigation.

Full investigations: Who has overall responsibility for initiating and supervising fraud investigations and follow-up? What investigative skills are available in-house? Do senior management and/or staff (including human resources) have a role

to play? How and when will evidence be collected and preserved without alerting the suspect? How and when should the police become involved? At what point will external professional advice be sought from fraud investigators, forensic accountants, lawyers or asset recovery specialists?

Reporting within the company: Does your organisation have a whistleblowing policy which clearly states that staff should report concerns and not attempt to conduct investigations themselves or discuss suspicions with colleagues? Is access to information on fraud investigations restricted to those with a legitimate need to know? Does the investigation team provide regular updates to senior management?

External communications: Are there any requirements to report certain types of fraud to third parties (such as to the police, regulatory authorities, external auditors, banks or insurance companies)? Do you have a process for handling enquiries from the media and/or shareholders?

Taking action: What is your organisation's policy on the use of parallel sanctions and the recovery of fraud losses? (See our separate factsheet on *An Overview of Parallel Sanctions* for more information). Who will decide what, if any, disciplinary action will be taken against an employee found to have committed fraud?

Review procedures

Introduce review procedures to ensure that appropriate remedial action is taken to prevent any similar frauds occurring in future.

Business practices and activities change over time. It is essential to regularly review and test your fraud response plan, to ensure it remains up-to-date and effective.

Hallmarks of an effective response plan

DO:

- ✓ Consider the need to establish policies to allow your business to use legitimate investigation techniques such as desk searches, use of CCTV surveillance and monitoring of electronic communications, etc.
- ✓ Liaise with human resources at an early stage, to identify any personnel issues that need to be considered.
- ✓ Manage the flow of information about the investigation on a 'need to know basis', but be ready to react to internal rumour and/or external enquiry.
- ✓ Be alert to possible collusion between staff and third parties in fraud cases.
- ✓ Ensure all investigations adhere to relevant legislation (such as DPA 1998, HRA 1998, PACE 1984, PIDA 1998 and RIPA 2000).
- ✓ Use suitably qualified and experienced experts where necessary, such as fraud investigators, forensic accountants, lawyers or asset recovery specialists.
- ✓ Maintain detailed and accurate records of all investigative actions and any relevant policy decisions.
- ✓ Have arrangements in place for the safe and secure storage of evidence and other investigative material.
- ✓ Consider the use of 'parallel sanctions' in fraud investigations and associated legal or disciplinary proceedings.
- ✓ Take remedial action to prevent similar occurrences of fraud happening in future.

DO NOT:

- ✗ Panic! Consider your fraud response plan before taking action.
- ✗ Encourage staff to confront suspected fraudsters and/or investigate suspicions of fraud themselves. This could expose them to physical danger and lead to the destruction of evidence.
- ✗ Ignore the threat from fraud – all businesses are susceptible!

Further information

See our separate fraud factsheet on *An Overview of Parallel Sanctions* for more information.

Fraud Advisory Panel
www.fraudadvisorypanel.org

Public Concern at Work
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