

## Anti-Fraud and Anti-Bribery Policy and Response Plan

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# Anti-Fraud and Bribery Policy

## 1. Introduction

- 1.1. Fraud costs the public sector millions of pounds every year and diverts resources from those who need them. It undermines public and political confidence in public services and can have a detrimental impact on staff morale across an organisation. PBNI requires staff members at all times to act honestly and with integrity, and to safeguard the public resources for which they are responsible.
- 1.2. The Bribery Act 2010 came into force on the 1st July 2012 and defines Bribery as “**a financial or other advantage intended to induce or reward the improper performance of a person’s function or activity, where the benefit could create a conflict between personal interests and business interests**”. Any cases of bribery brought before the courts have the potential to have similar effects on the public and political confidence in PBNI and the morale of staff as are brought about by fraud.

### *Policy Statement*

- 1.3. PBNI is committed to the values of probity and accountability which foster a positive organisational culture. It is also committed to the elimination of any fraud within PBNI, to the rigorous investigation of any prima facie case, and - where fraud or other criminal acts are proven - to ensure that wrongdoers are dealt with appropriately. PBNI will take proportionate steps to recover any assets lost as a result of fraud, corruption or theft. PBNI has a zero tolerance approach towards acts of bribery and corruption by staff, associated persons and organisations.
- 1.4. Managing the risk of fraud and bribery is seen by the PBNI in the context of managing a wider range of risks. PBNI promotes an anti-fraud and anti-bribery culture by encouraging management to create conditions in which staff members have neither the motivation nor the opportunity to commit fraud or either offer or accept bribes. Professional staff is the first line of defence against these issues, supported by the establishment and maintenance of carefully designed and consistently operated procedures. Managers have prime responsibility for establishing internal control arrangements to minimise the risk of fraud, corruption and other irregularities within their business areas.

## **Policy Scope**

- 1.5. This policy, along with the associated Response Plan, prescribes what staff members should do if they suspect fraud or other wrongdoing, such as bribery, in any business associated with the PBNI. The term 'staff' is used to refer to all members of staff, including temporary staff, secondees, contractors or consultants working within PBNI.
- 1.6. PBNI encourages anyone having reasonable suspicions of fraud or bribery to report them in accordance with the fraud and bribery response plan, or the PBNI whistleblowing policy. It is also PBNI policy that no one will suffer in any way as a result of reporting a reasonably held suspicion. For these purposes "reasonably held suspicions" shall mean any suspicion that is believed by the individual to be true and which is raised in good faith.
- 1.7. All cases of suspected fraud or bribery in PBNI must be reported to the Department of Justice as outlined in this policy. The Department will then report these suspected frauds to the Comptroller and Auditor General in the Northern Ireland Audit Office and the Department of Finance (DoF). This should only be done by the Department.

## **2. What is Fraud and what are its impacts?**

- 2.1. Fraud is defined in criminal and civil law and in various disciplinary and regulatory processes.
- 2.2. The Fraud Act 2006 became law in Northern Ireland in January 2007 and created a new general offence of fraud which can be committed in three ways:
  - By false representation;
  - By failing to disclose information; or
  - By abuse of position.
- 2.3. It also established a number of specific offences to assist in the fight against fraud. These include an offence of possessing articles for use in fraud and an offence of making or supplying articles for use in fraud.

2.4. For the purposes of this document, fraud covers **any deception which harms the PBNI's interests**. It may involve:

- manipulation, falsification or alteration of records or documents;
- suppression or omission of the effects of transactions from records or documents;
- recording of transactions without substance;
- misappropriation (theft) or wilful destruction or loss of assets including cash;
- deliberate misapplication of accounting or other regulations or policies;
- bribery and corruption;
- deception and collusion;
- money laundering; and
- computer fraud, for example fraud in which IT equipment is used to manipulate computer programmes or data dishonestly, or where the existence of an IT system was a material factor in the perpetration of the fraud.

### **3. What is Bribery and what are the impacts?**

3.1 The Bribery Act 2010 came into force on the 1<sup>st</sup> July 2012 and was intended to provide a stricter definition of bribery than was provided in the Fraud act 2006 and other legislation. The legislation creates the following four statutory offences:

- The general offence of offering, promising or giving a bribe
- The general offence of requesting, agreeing to receive, or accept a bribe
- The offence of bribing a foreign public official to obtain or retain business
- A new corporate offence of failing to prevent bribery

3.2 The first three offences listed above relate to the individual and make it a criminal offence to give or receive a bribe. These offences apply to everyone, including individuals in the public service.

3.3 Consequences of an individual being convicted of any of the first three offences listed above can involve a prison sentence of up to 10 years and personal liability for senior officers of PBNI, in relation to the corporate offence of failing to prevent bribery.

- 3.4 The fourth offence mentioned above relates to the offence committed when a corporate body fails to take the necessary measures to prevent bribery on their behalf. This includes staff, or other third parties, such as a contractor, an agent, or a service provider irrespective if it is for charitable or educational aims or purely public functions.
- 3.5 Examples of potential impacts on PBNI of a case or cases of bribery can include unlimited fines, reputational damage, costs associated with investigations and legal representation etc.

#### **4. When fraud or bribery is suspected or detected**

- 4.1. Staff members are advised to report any suspicions of fraud or bribery urgently as per the Fraud and Bribery Response Plan. All matters will be dealt with in confidence and in strict accordance with the terms of the Public Interest Disclosure (Northern Ireland) Order 1998. This statute protects the legitimate personal interests of staff. Vigorous and prompt investigations will be carried out into all cases where suspected fraud is discovered or reported.

#### **5. Fraud Response Plan**

- 5.1. PBNI's Fraud and Bribery Response Plan – section 2 details PBNI's procedures for responding to any incidents of suspected fraud and bribery. The Response Plan sets out how suspicions should be raised and how investigations will be conducted and concluded. The plan forms part of our Anti-Fraud and Anti-Bribery Policy and should be read in conjunction with it.

#### **6. Prosecution**

- 6.1. Where evidence suggests that a criminal offence has been committed, the Director of Operations will be consulted about a referral to the police. Informal advice may be sought from the police at an early stage in an investigation, as this may affect the way that the investigation is conducted.
- 6.2. It is usual that where there is prima facie evidence of a criminal offence having been committed, the case will be referred to the police for investigation. This does not affect disciplinary action or civil recovery and those who perpetrate fraud or commit

offences covered under the Bribery Act 2010 will be liable to these sanctions as well as to possible prosecution. Senior management will liaise with the police to ensure that any other action instigated under the Response Plan does not prejudice or interfere with criminal proceedings.

- 6.3. Where other PBNI staff members are required to liaise with the police as potential witnesses in matters regarding the prosecution of fraud or bribery, PBNI will provide all the support and assistance that may be required, or that the staff member feels that they may need in assisting the police. This support does not extend to any employee or contractor who is subsequently charged with fraud or bribery related offences committed against PBNI.

## **7. Sanctions**

- 7.1. Staff suspected of involvement in fraudulent activity or acts pertaining to the Bribery Act 2010 may be subject to one or more of the following sanctions:
- a) Disciplinary policy and procedures
  - b) Criminal, where the relevant law enforcement agency considers it to be in the public interest to pursue a prosecution;
  - c) Civil recovery of monies or assets fraudulently acquired; and
  - d) Professional debarment, whereby PBNI will make a referral to the employee's professional regulatory bodies where appropriate.
- 7.2. The DOJ will consider terminating contracts with any organisation which is convicted of the corporate offence of failing to prevent bribery and disbarring them from any future tender exercises for PBNI contracts.

## **8. Responsibilities**

- 8.1. Annex 4.7 Annex 4.7 of Managing Public Money (NI) sets out in general terms an organisation's responsibilities in relation to fraud. The same approach to the management of fraud risk is used to counter the risk of bribery. This document can be accessed via the following link:  
<http://www.afmdni.gov.uk/frab/browse.asp?branch=1&category=43&maxres=20&start=0&orderby=3>

***Accounting Officer***

8.2. As PBNI Accounting Officer, the Chief Executive is responsible for ensuring the establishment and maintenance of a sound system of internal control that supports the achievement of organisational policies, aims and objectives. The system of internal control is designed to respond to and manage the whole range of risks that PBNI faces. In broad terms, managing the risk of fraud and bribery involves:

- assessing the PBNI's overall vulnerability to fraud and bribery;
- identifying the areas most vulnerable to fraud risk and bribery risk;
- evaluating the scale of risk associated with fraud and bribery;
- responding to the risks;
- measuring the effectiveness of the fraud bribery risk strategies; and
- reporting suspected cases of fraud and bribery to the Department of Justice.

### ***Director of Operations***

8.3. Overall responsibility for managing the risk of fraud and bribery at corporate level has been delegated to the **Director of Operations** as the PBNI's Fraud and bribery **Nominated Officer**. His/her responsibilities include:

- Developing fraud and bribery risk profiles and undertaking a regular review of the risks associated with each of the key organisational objectives in order to keep the profile current;
- Establishing an effective anti-fraud and anti-bribery policy and fraud and bribery response plan commensurate to the level of risk identified in the risk profile;
- Developing appropriate fraud targets;
- Designing an effective control environment to prevent fraud and bribery commensurate with the risk profile;
- Establishing appropriate mechanisms for:
  - Developing reporting fraud and bribery risk issues;
  - reporting significant incidents of fraud and bribery to the Accounting Officer;
  - reporting to DOJ in accordance with Managing Public Money (NI) Annex 4.7; and

- co-ordinating assurances about the effectiveness of anti-fraud and bribery policies to support the Statement on Internal Control
- Liaising with PBNI Audit and Risk Committee;
- Making sure that all staff members are aware of the organisation's anti-fraud and anti-bribery policy and of their own responsibilities in helping to combat fraud and bribery;
- Developing skill and experience competency frameworks;
- Ensuring that appropriate anti-fraud and anti-bribery training and development opportunities are available to appropriate staff in order to meet the defined competency levels;
- Ensuring that vigorous and prompt investigations are carried out if fraud or bribery occurs or is suspected;
- Taking appropriate legal and/or disciplinary action against perpetrators;
- Taking appropriate disciplinary action against supervisors where supervisory failures have contributed to the commission of fraud or bribes;
- Taking appropriate disciplinary action against staff who fail to report fraud or bribery;
- Ensuring that organisations convicted of the corporate offence of failing to prevent bribery are not considered for PBNI contracts;
- Taking appropriate action to recover assets; and
- Ensuring that appropriate action is taken to minimise the risk of occurrences in future.

### ***Managers***

8.4. Managers are responsible for preventing and detecting fraud and bribery by such actions as:

- Assessing the types of risk (including fraud risk) involved in the operations for which they are responsible;
- Ensuring that an adequate system of internal control exists within their areas of responsibility;
- Ensuring that controls are being complied with and that their systems continue to operate effectively;
- Regularly reviewing and testing the control systems for which they are responsible;

- Where frauds or acts of bribery have taken place, implementing new controls to reduce the risk of similar offence recurring; and
- Ensuring compliance with the Anti Fraud bribery policy and Response Plan.

### ***Internal Audit***

8.5. It is not the responsibility of Internal Audit to prevent fraud, bribery and error. The fact that an audit is carried out may, however, act as a deterrent. The primary role of Internal Audit is to provide an independent appraisal of internal controls within the PBNI's financial and management systems. In conducting this role, Internal Audit may identify financial irregularity.

8.6. Internal Audit is responsible for:

- Considering the risks of fraud and corruption in the course of its assurance activities and providing assurance that PBNI promotes an anti-fraud culture;
- Assisting in the deterrence and prevention of fraud and bribery by examining the effectiveness of control commensurate with the extent of the potential risk in the PBNI's various operations and giving independent assurance to the Accounting Officer on the adequacy of these arrangements;
- Providing assurance that management has reviewed its risk exposures and identified the possibility of fraud and bribery as a business risk;
- Acting as an independent section for staff to report suspected frauds and bribes;
- Maintaining expertise on counter-fraud measures for PBNI;
- Providing or procuring any specialist knowledge and skills to assist in investigations into cases of suspected fraud and bribery, or leading investigations where appropriate and requested by management; and
- Considering fraud and bribery risk in every internal audit undertaken.

### ***All PBNI Staff Members***

8.7. Every member of staff is responsible for:

- Ensuring that their conduct complies with PBNI's Code of Ethics and the seven principles of public life as set out in the first report of the Nolan Committee, 'Standards in Public Life' (see Annex A). Employees have a responsibility to carry

out their duties carefully and honestly and to follow procedures and guidance from managers. Such diligence will ensure that PBNI operates with integrity and in the best interests of the public. PBNI expects all members of staff to lead by example in ensuring opposition to fraud and corruption;

- Acting with propriety in the use of official resources and the handling and use of public funds whether they are involved with cash or payments systems, receipts or dealing with suppliers;
- Being alert to the possibility that unusual events or transactions could be indicators of fraud or bribery (staff may find the information contained in Annexes C, D and E helpful);

Annex C	provides examples of possible indicators of fraud.
Annex D	provides examples of common methods and types of fraud.
Annex E	provides examples of good management practice which may assist in combating fraud.

- Reporting details immediately through the appropriate channels if they suspect that a fraud has been committed;
- Co-operating fully with staff conducting internal checks, reviews or fraud investigations;
- Assisting management in conducting fraud investigations; and
- Acting with propriety in the use of official resources and the handling and use of public funds whether they are involved with cash or payments systems, receipts or dealing with suppliers.

### ***PBNI's Audit and Risk Committee***

8.8. PBNI's Audit and Risk Committee has responsibility for providing assurance and advice in terms of PBNI's audit function. It reviews the PBNI Anti-Fraud and anti-Bribery Policy and receives the reports of Internal Audit, External Audit and any other Investigating Officers where suspected fraud or bribery has been investigated. It also receives quarterly updates on suspected and proven fraud cases from the Head of Finance and regularly considers fraud and bribery risk management issues.

8.9. The Audit and Risk Committee is responsible for advising the Accounting Officer and the Board on:

- Management’s assessment of the PBNI’s risk of fraud and bribery, and the suitability of their response to it; and
- PBNI’s anti-fraud policies and arrangements for investigations.

### ***External Auditors***

8.10. The role of PBNI’s external auditors (that is, the Northern Ireland Audit Office [NIAO]) is to determine if the financial accounts represent a “true and fair view”. In doing so the NIAO will carry out its work with due regard to the possibility of fraud having occurred. Where such cases are identified the external auditor will notify senior management for them to carry out their investigations. It must however be reiterated that it is not the responsibility of the external auditor, or Internal Audit unit, to detect cases of fraud. This is primarily a management responsibility.

### ***Service Users and Members of the Public***

8.11. If service users or the public have any suspicions regarding irregularities within PBNI, they are positively encouraged to report such concerns directly to the contacts named in the Fraud and Bribery Response Plan.

### ***Contractors, Partners and Other Associated Bodies***

8.12. Contractors, partners and other bodies working with PBNI are expected to conform to the same high standards of conduct and integrity to which PBNI operates. Such partners:

- are expected to have adequate internal controls in place to prevent fraud and must provide an assurance to PBNI before the signing of any contracts that they are fully in compliance with the Bribery act 2010.
- Must co-operate with PBNI’s anti-fraud and anti-bribery policy.

8.13. Those responsible for the engagement of contractors or external consultants should provide them with a copy of this policy as they may not have access to PBNI’s intranet site. Under the section 7 corporate offence of failing to prevent bribery PBNI is responsible for ensuring the compliance of these contractors and consultants to

the Bribery Act 2010. PBNI can be held legally responsible for any cases of bribery carried out by these bodies while carrying out work for PBNI.

## **9. Training and Communication Plan**

9.1. The policy and associated Response Plan will be communicated to staff through the following:

- Sent out directly to all staff
- Full policy on PBNI Intranet site

9.2. Any specific training required in relation to the Anti-Fraud and Anti-bribery Policy and Response Plan will be developed in conjunction with PBNI's Learning and Development Department.

## **10. Linkages**

10.1. This policy is linked to the following PBNI policies:

- Whistleblowing Policy
- Hospitality and Gifts Policy
- Procurement Policy
- Disciplinary Policy
- Grievance Policy

## **11. Monitoring and Evaluation**

11.1. The operation of the policy will be monitored through the review and control mechanisms identified under roles and responsibilities.

11.2. Evaluation of the operation of the policy will be considered by the Director of Operations as and when cases are completed.

## **12. Review**

12.1. This policy will be reviewed 3 years from the date of approval.

12.2. Interim reviews may also be prompted by feedback, challenge or identified best practice.

## **13. Breach of Policy Provision**

13.1. Breach of the Board's policy and response plan may merit consideration under the Board's Disciplinary Policy or any of the other policies listed in paragraph 10 above.

#### **14. Conclusion**

14.1. The circumstances of individual frauds and bribes will vary. PBNI takes fraud and corruption extremely seriously and actively seeks to prevent any level of fraud and all bribery. All cases of actual or suspected fraud or bribery will be vigorously and promptly investigated and appropriate action - including the recovery of assets wrongfully obtained - will be taken. Staff must report suspected fraud, bribery or other suspicious activity immediately.

## Section 2 - Fraud and Bribery Response Plan

### 1. Introduction

1.1. This plan describes the PBNI's intended response to a reported suspicion of fraud. It provides guidance and procedures that allow for evidence gathering and collation in a manner that will facilitate informed initial decisions whilst ensuring that evidence gathered will be admissible in any further criminal, civil or disciplinary action. This guidance will require careful consideration in relation to the actual circumstances of each case before action is taken. The use of the plan should enable PBNI to prevent loss of public money, recover losses and establish and secure the evidence necessary for any civil, criminal or disciplinary action. The Response Plan complements the Anti-Fraud Policy and forms part of the overall Anti-Fraud Strategy of PBNI.

### 2. Reporting suspected or proven fraud

2.1. When a member of staff suspects that a fraud has occurred or an offence covered under the Bribery Act 2010, (s)he must notify his/her Assistant Director/Head of Department immediately through the appropriate line management channel. Speed is of the essence and this initial report should be verbal. If it is not appropriate for staff to raise their concerns with their line manager, the matter should be brought to the attention of the key contacts or any of the other Directors, Assistant Directors or Heads of Department. The key contacts in reporting fraud are as follows:

Name	Title	Contact Number
Hugh Hamill	Director of Operations – Nominated Officer	(028)9026245=8
Catherine Teggart	Head of Finance	(028)90 262428

2.2. In notifying line management of suspected fraud, staff should be aware of the PBNI's Whistle Blowing policy and the protection that this provides.

2.3. On verbal notification of a potential fraud or bribery offence, the relevant Assistant Director must immediately contact the **Director of Operations** in their capacity as Nominated Officer. In the case where there is prima facie evidence that a fraud has

been perpetrated, or a bribery offence has been committed, the Director of Operations will consider how the police should become involved.

- 2.4. The verbal report must be followed up within 24 hours by a written report addressed to the Director of Operations who will immediately notify the Accounting Officer, Head of Finance, Chair of the Audit and Risk Committee, Sponsor Director in the Department of Justice and the Head of Financial Services Division, who will arrange for the Auditor and Comptroller General and DoF to be informed. This paper should include all known facts relevant to the case and in cases of suspected fraud should also include a completed template at Annex F.
- 2.5. Upon receipt of the follow-up written report, the Nominated Officer should forward it to the Head of Internal Audit. As Nominated Officer, the Director of Operation is authorised to treat enquiries confidentially and anonymously if so requested by the individual contacting him.
- 2.6. It is important that Internal Audit is notified of possible fraud or Bribery so that the effectiveness of existing internal controls can be reassessed and additional control measures can be introduced if appropriate. The rapid discovery and proper reporting can also be an indicator of the strength of control within a business area.
- 2.7. All cases of suspected or proven fraud or bribery must be reported promptly to the Department of Justice via the Sponsoring Division who will in turn notify FSD. FSD notify the Comptroller and Audit General and Department of Finance..
- 2.8. Details of such cases should be recorded in a fraud log, containing details of actions taken in all cases which will be held by the Head of Finance who will present this log at each meeting of the Audit and Risk Committee and bring any significant matters to the attention of the Board. All matters will be dealt with in confidence and in strict accordance with the terms of the Public Interest Disclosure (Northern Ireland) Order 1998.

### **3. Preliminary 'Fact-finding'**

- 3.1. Before completing the written report described above, it may be necessary for line management, the Director of Operations or Assistant Director to undertake an initial enquiry to ascertain the facts. This enquiry should be carried out as speedily as

possible after suspicion has been aroused: prompt action is essential. The purpose of this preliminary enquiry is to confirm or refute as far as possible the suspicions which have arisen so that, if necessary, disciplinary action - including further and more detailed investigation under internal disciplinary procedures, and/or by the police - may be instigated. PBNi has a zero tolerance attitude towards Bribery and all cases in which the investigation indicates that an offence covered under this legislation has taken place should be reported to the Police. The Head of Finance is available to offer advice on any specific course of action which may be necessary. Where facts indicate that money laundering may have been perpetrated, it is important to state that it is a specific criminal offence under the Money Laundering regulations to do anything that could "tip off" an offender prior to a Serious Organised Crime Agency (SOCA) investigation.

- 3.2. In the case of suspected fraud, the factors which gave rise to suspicion should be determined and examined to clarify whether a genuine mistake has been made or an irregularity has occurred. An irregularity may be defined as any incident or action which is not part of the normal operation of the system or the expected course of events.
- 3.3. The manager or managers carrying out the initial investigation must be conscious of the fact that internal disciplinary action and/or criminal action may later be necessary and advice from HR should be sought. If such action is later taken, then under contractual procedures, the officer concerned has a right to representation, and may have the right to remain silent, the right to a proper disciplinary hearing etc (as set out later in this document). If it is likely that criminal action may be necessary (i.e. police action), then searches, interviews, cautions, legal representation, note-taking etc may need to be carried out in accordance with the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (PACE).
- 3.4. Utmost care must be taken from the outset not to compromise the individual's or PBNi's position because of what is said or done by a manager, especially to the officer under suspicion, during initial enquiries. The manager carrying out such enquiries must be clear as to their remit and if unclear should seek advice from a more senior manager who is aware of the procedures. For example, desks and cupboards etc. should normally be searched only in the presence of the individual concerned. Management has no right to search personal belongings without consent

except where there is contractual right. The right to privacy under Human Rights legislation may have a bearing.

- 3.5. Any initial report should be treated with the utmost caution and discretion as apparently suspicious circumstances may turn out to have a reasonable explanation or the report may originate from a malicious source. On discovery of suspected fraud, it is essential that confidentiality is maintained at all times as the initial suspicions may be unfounded or the perpetrator(s) may be alerted.
- 3.6. Should evidence exist that a criminal offence may have been committed; a search may be carried out by the police under a search warrant or various statutory powers of search. This process is directly linked to the PBNI Disciplinary Policy and Procedures. Experience would show that most problems which emerge in relation to the handling of such cases can be traced back to the early stages. If in doubt seek advice.
- 3.7. If the preliminary fact-finding suggests that a fraud has been attempted or perpetrated, then immediate steps should be taken to prevent the possible destruction of evidence and ensure that all original documentation is preserved in a safe place for further investigation. If the removal of documentation would impair the efficient operation of work, arrangements should be made to have copies available for continued use. The safe retention of original documents is essential for potential future legal action.
- 3.8. In addition, the Nominated Officer may need to consider whether suspension of the suspect is appropriate given the specific circumstances of the case and if so, arrange for this to be carried out. Proportionate action can be taken, depending on specific circumstances, such as remaining on the premises under supervision or restriction of access.

#### **4. Appointing a Case Manager**

- 4.1. Should the initial investigation indicate that there is prima facie evidence of fraud or bribery, it is critical that the Nominated Officer appoint a Case Manager to oversee and control the subsequent investigation. This manager should be at senior level (Assistant Director or equivalent).

- 4.2. The appointment should be confirmed in writing and terms of reference (TOR) should also be agreed. The TOR issued to the Case Manager should include an Action Plan.
- 4.3. The appointed Case Manager should ensure that the case is completed as swiftly as possible, taking account of the need to gather and organise all relevant information and evidence.
- 4.4. Where allegations of suspected fraud or bribery are made to a business area by a source external to PBNI, the Director of Operations and the Head of Finance must be consulted immediately to consider and agree on further action.
- 4.5. The Case Manager has full responsibility for progressing the case and whilst (s)he can - and should - call on the assistance of various sources of help at all stages (e.g. Finance, HR, Internal Audit, Board Secretary etc), ultimate responsibility and accountability in progressing the case should remain with that person. The Case Manager may, however, appoint a suitably qualified and experienced Investigation Officer to carry out the detailed investigation work.
- 4.6. The Case Manager should have the necessary skills and authority (i.e. the appropriate rank and experience) to enable him/her to properly discharge these duties.
- 4.7. The Case Manager must be independent of the matter being investigated.
- 4.8. The investigation carried out by the Case Manager would be carried out independently and would inform the need to refer to another relevant Board policy.

## **5. Role of the Case Manager**

- 5.1. The Case Manager should investigate all aspects of the suspected officer's work and not just the area where the fraud or bribe was discovered. The investigation should cover the period during which the officer was responsible for the processes under investigation, but consideration should also be given to investigating earlier periods of employment. Potential evidence, including computer files and records of amendments relevant to the case, should be retained securely in compliance with PACE requirements.

- 5.2. Any control weaknesses discovered in procedures during the investigation should be strengthened immediately, and the extent of any supervisory failures examined.
- 5.3. It is the responsibility of the Case Manager to keep all other interested parties (Director of Operations, Head of Finance, Head of HR and other Senior Managers etc.) abreast of all developments. In cases which have incited or are likely to incite media interest, the Case Manager in conjunction with the Nominated Officer will brief the Head of Communications on the precise information which can be released, and will instruct that Department to maintain a record of the information that they have released and to whom. The Case Manager should liaise with the appropriate experts where required e.g. accountants, solicitors, etc.
- 5.4. When the Case Manager has completed his/her investigation, their report recording lessons learned should be presented to the Nominated Officer (Director of Operations) to be signed off. The information gathered may be subsequently provided as evidence under other Board policies as necessary.
- 5.5. Lessons learned should be circulated by the Nominated Officer to all other interested parties, who must take the appropriate action to improve controls to mitigate the scope for future recurrence of the fraud and prevent any future occurrences of bribery offences being committed. Where appropriate, the Nominated Officer should discuss with the Head of Internal Audit the effect of any system weaknesses identified by the investigation.
- 5.6. The Case Manager should ensure that the Losses Register, which is held by the Head of Finance, is updated as appropriate with the value of any loss to PBNI as a result of any fraud.

## **6. Interviewing**

- 6.1. Fraud investigation is a specialist area of expertise and staff tasked with carrying out an investigation should have appropriate experience and training. For the purposes of criminal proceedings, the admissibility of evidence is governed by the Police and Criminal Evidence (NI) Order 1989 (PACE). Documentary evidence must be properly recorded. It must be numbered and include an accurate description of when and where it was obtained as well as by and from whom. In criminal actions,

evidence on or obtained from electronic media must have an accompanying document to confirm its accuracy.

- 6.2. In any investigation, there may be a need to interview staff, suspects or other persons involved. Interviewing is a specialist skill that is usually best carried out by or supported by the appropriate professionals.
- 6.3. When fraud or bribery is suspected, the need to interview can be for the purpose of disciplinary and/or criminal proceedings. When disciplinary action is necessary, interviews are usually carried out by the appropriate case manager in conjunction with a representative from HR.
- 6.4. In these circumstances it is essential that specialist personnel advice is sought on the appropriate disciplinary procedures before interviewing takes place. The potential involvement of the Police in any investigation does not negate the need to ensure that the appropriate disciplinary procedures have been followed.
- 6.5. When criminality is suspected, interviewing of suspects must not be carried out by staff but must be left to the Police. If the conditions of the Police and Criminal Evidence (NI) Order 1989 (PACE) are not complied with evidence will not be admissible in Court.

## **7. Contacting the Police**

- 7.1. A Memorandum of Understanding (MOU), setting out a basic framework for the working relationship between the PSNI and the Public Sector in respect of the investigation and prosecution of fraud cases, is in place. The MOU sets out a framework to ensure that appropriate action is taken by public sector organisations in line with DoF guidelines to deal with cases of suspected fraud as set out in Managing Public Money Northern Ireland and other guidance issued by DoF. It also aims to ensure that actions throughout the investigative process are conducted in accordance with PACE where appropriate.
- 7.2. If the Nominated Officer is satisfied that there is prima facie evidence of fraud, then they must report the matter to the police in accordance with the operating protocols set out in the MOU. Consultation with the police at an early stage is beneficial, allowing the police to examine the evidence available at that time and to make

decisions on whether there is sufficient evidence to support a criminal prosecution or if a police investigation is appropriate. Alternatively, the police may recommend that PBNI conducts further investigations and they will more generally provide useful advice and guidance on how the case should be taken forward.

7.3. If the police decide to investigate then it may be necessary for the Case Manager to postpone further internal action and adjust the Action Plan as appropriate. However, the Case Manager should continue to liaise with the PSNI at regular intervals and report on progress made.

## **8. Sanction and Redress**

8.1. There are three main actions that PBNI may pursue as part of its fraud investigation:

- Conduct the investigation to a criminal standard to maximise the opportunities for a criminal prosecution. This course of action may include the preparation and submission to the PSNI of an evidential pack.
- If necessary, seek redress of any outstanding financial loss through the Civil Courts; and
- Pursue a disciplinary process which may, if there is clear evidence of supervisory failures, include other officials.

8.2. Each option should be carefully considered in order to ensure that the most appropriate course of action is taken. It is important that any civil or disciplinary action does not impair a criminal investigation and vice versa.

## **9. Recovery of Loss**

9.1. Preventing further loss and recovery of any losses incurred are the primary objectives of any fraud investigation. The Nominated Officer shall ensure that in all fraud investigations, the amount of any loss shall be quantified.

9.2. Repayment of losses should be sought in all cases.

- 9.3. Where the loss is substantial, legal advice should be obtained without delay on the potential to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice should also be obtained on the prospects for recovering losses through the civil court, should the suspect refuse to repay the loss. PBNI should seek to recover costs in addition to any losses.

## **10. Theft of Personal Property**

- 10.1. While the theft of the personal property or cash of a member of staff does not constitute fraud against PBNI, it is nevertheless essential that any such incidents are reported through line management so that appropriate action (such as notification of the police) can be taken.
- 10.2. Responsibility for the prevention of the theft of personal property or cash rests with individuals who are ultimately responsible for their own property. However, it is prudent for managers to remind staff not to leave personal valuables or cash unattended. This is particularly important in open-plan offices and in the case of "office collections", which should be under the control of one individual and not passed from hand to hand.

### **The Seven Principles of Public Life**

The seven principles below were identified in the first report of the Nolan Committee and should be the hallmark of all public servants' behaviour. They apply equally to temporary staff, secondees and contractors working within PBNI.

#### **Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

#### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### **Leadership**

Holders of public office should promote and support these principles by leadership and example.

## Further Information

Further information and guidance to supplement this document is available from the following sources:

### **Managing Public Money Northern Ireland (MPMNI)**

This document sets out the main principles for dealing with resources used by public sector organisations in Northern Ireland. It can be accessed via the following link: <http://www.afmdni.gov.uk/frab/browse.asp?branch=1&category=43&maxres=20&start=0&orderby=3>

### **Standards in Public Life - The Seven Principles**

The Nolan Committee was established by central government to review standards of behaviour in all areas of the public sector. Its report defined the seven guiding principles that apply to public servants. Our policies and procedures reflect these seven principles as detailed in Annex A.

### **Memorandum of Understanding (MOU) with PSNI**

A Memorandum of Understanding (MOU) is in place with the PSNI setting out the working relationship between the Northern Ireland public sector and PSNI in respect of the investigation and prosecution of suspected fraud cases. The MOU sets out best practice and business areas should ensure that the guidance is adhered to. The MOU can be viewed via the following link: [www.afmdni.gov.uk/fiap/browse.asp?branch=3&category=15&maxres=20&start=0&orderby=2](http://www.afmdni.gov.uk/fiap/browse.asp?branch=3&category=15&maxres=20&start=0&orderby=2)

### **Managing the Risk of Fraud – A Guide for Managers**

This document is available via the link below:

<http://www.afmdni.gov.uk/fiap/browse.asp?branch=3&category=15&maxres=20&start=0&orderby=2>

### **Guidance on the Provision of Gifts and Hospitality**

There are strict rules governing expenditure by NI civil servants on hospitality and official gifts and on the acceptance of gifts, hospitality or awards. It is essential that staff adhere to the principles, guidelines and procedures set out in 'Northern Ireland Civil

Service – Guidance on Offers and the Acceptance of Gifts and Hospitality’, which can be accessed via the following link.

[http://www.afmdni.gov.uk/pubs/DAOs/daodfp1006\\_revised\\_sept\\_09.DOC](http://www.afmdni.gov.uk/pubs/DAOs/daodfp1006_revised_sept_09.DOC)

NIAO - Managing Fraud Risk in a Changing Environment. A Good Practice Guide - Published 17 November 2015, which can be accessed via the following link.

[http://www.niauditoffice.gov.uk/fraud\\_good\\_practice\\_guide.pdf](http://www.niauditoffice.gov.uk/fraud_good_practice_guide.pdf)

Anyone involved in anti-fraud procedures is encouraged to read the above documents.

### **Access to Procedures**

Managers must make sure that all members of staff have access to the relevant aspects of procedures referred to above. Managers must also ensure that employees have access to any up to date divisional/branch procedures relating to the services that they provide.

### **Understanding and Complying with Procedures**

Staff are responsible for making sure that they read and understand the rules and regulations that apply to them, and act in line with them. Additionally, any officer who is issued with instructions specific to his/her post must ensure that these instructions are complied with.

### **Non -compliance with Procedures and Guidance**

If anyone breaks these rules and regulations, PBNI may take formal action against them.

**Possible Indicators of Fraud**

- 1) Missing expenditure vouchers and unavailable official records
- 2) Crisis management coupled with a pressured business climate
- 3) Profitability declining
- 4) Excessive variations to budgets or contracts
- 5) Refusals to produce files, minutes or other records
- 6) Related party transactions
- 7) Increased employee absences
- 8) Borrowing from fellow employees
- 9) An easily led personality
- 10) Covering up inefficiencies
- 11) Lack of Board oversight
- 12) No supervision
- 13) Staff turnover is excessive
- 14) Figures, trends or results which do not accord with expectations
- 15) Bank reconciliations are not maintained or can't be balanced
- 16) Excessive movement of cash funds
- 17) Multiple cash collection points
- 18) Remote locations
- 19) Unauthorised changes to systems or work practices
- 20) Employees with outside business interests or other jobs
- 21) Large outstanding bad or doubtful debts
- 22) Poor morale
- 23) Excessive control of all records by one officer
- 24) Poor security checking processes over staff being hired
- 25) Unusual working hours on a regular basis
- 26) Refusal to comply with normal rules and practices
- 27) Non taking of leave
- 28) Excessive overtime
- 29) Large backlogs in high risk areas
- 30) Lost assets
- 31) Lack of thorough investigations of alleged wrongdoing
- 32) Offices with excessively flamboyant characteristics
- 33) Employees suffering financial hardships
- 34) Placing undated/post-dated personal cheques in petty cash

- 35) Employees apparently living beyond their means
- 36) Heavy gambling debts
- 37) Signs of drinking or drug abuse problems
- 38) Conflicts of interest
- 39) Lowest tenders or quotes passed over with scant explanations recorded
- 40) Managers bypassing subordinates
- 41) Subordinates bypassing managers
- 42) Excessive generosity
- 43) Large sums of unclaimed money
- 44) Large sums held in petty cash
- 45) Lack of clear financial delegations
- 46) Secretiveness
- 47) Apparent personal problems
- 48) Marked character changes
- 49) Excessive ambition
- 50) Apparent lack of ambition
- 51) Unwarranted organisation structure
- 52) Absence of controls and audit trails
- 53) Socialising with clients – meals, drinks, holidays
- 54) Seeking work for clients
- 55) Favourable treatment of clients – e.g. allocation of work
- 56) Personal creditors appearing at the workplace
- 57) Altering contract specifications
- 58) Contract not completed to specification
- 59) Contractor paid for work not done
- 60) Grants not used for specified purpose, e.g. leasing capital equipment instead of purchasing them
- 61) Falsification of travel warrants (this was an issue for PBNI before the revised client travel procedures were put in place when travel is reimbursed after the journey has taken place on receipt of a valid ticket)

### Common Methods and Types of Fraud

- 1) Payment for work not performed
- 2) Forged endorsements
- 3) Altering amounts and details on documents
- 4) Collusive bidding
- 5) Overcharging
- 6) Writing off recoverable assets or debts
- 7) Unauthorised transactions
- 8) Selling information
- 9) Altering stock records
- 10) Altering sales records
- 11) Cheques made out to false persons
- 12) False persons on payroll
- 13) Theft of official purchasing authorities such as order books
- 14) Unrecorded transactions
- 15) Transactions (expenditure/receipts/deposits) recorded for incorrect sums
- 16) Cash stolen
- 17) Supplies not recorded at all
- 18) False official identification used
- 19) Damaging/destroying documentation
- 20) Using copies of records and receipts
- 21) Using imaging and desktop publishing technology to produce apparent original invoices
- 22) Transferring amounts between accounts frequently
- 23) Delayed terminations from payroll
- 24) Bribes
- 25) Over-claiming expenses
- 26) Skimming odd pence and rounding
- 27) Running a private business with official assets
- 28) Using facsimile signatures
- 29) False compensation and insurance claims
- 30) Stealing of discounts
- 31) Selling waste and scrap.

**Examples of Good Management Practice preventative controls which may assist in combating Fraud**

- 1) All income is promptly entered in the accounting records with the immediate endorsement of all cheques.
- 2) Regulations governing contracts and the supply of goods and services are properly enforced.
- 3) Accounting records provide a reliable basis for the preparation of financial statements.
- 4) Controls operate which ensure that errors and irregularities become apparent during the processing of accounting information.
- 5) A strong Internal Audit presence.
- 6) Management encourages sound working practices.
- 7) All assets are properly recorded and provision is made known for expected losses.
- 8) Accounting instructions and financial regulations are available to all staff and are kept up to date.
- 9) Effective segregation of duties exists, particularly in financial accounting and cash/securities handling areas.
- 10) Close relatives do not work together, particularly in financial, accounting and cash/securities handling areas.
- 11) Creation of a climate which promotes ethical behaviour.
- 12) Act immediately on internal/external auditor's report to rectify control weaknesses.
- 13) Review, where possible, the financial risks of employees.
- 14) Issue accounts payable promptly and chase up any non-payments.
- 15) Set standards of conduct for suppliers and contractors.
- 16) Maintain effective security of physical assets, account documents (such as cheque books, order books), information, payment and purchasing systems.
- 17) Review large and unusual payments.
- 18) Perpetrators should be suspended from duties pending investigation.
- 19) Proven perpetrators should be dismissed without a reference and prosecuted.
- 20) Query mutilation of cheque stubs or cancelled cheques.
- 21) Store cheque stubs in numerical order.
- 22) Undertake test checks and institute confirmation procedures.
- 23) Develop well-defined procedures for reporting fraud, investigating fraud and dealing with perpetrators.
- 24) Maintain good physical security of all premises.

- 25) Randomly change security locks and rotate shifts at times (if feasible and economical).
- 26) Conduct regular staff appraisals.
- 27) Review work practices open to collusion or manipulation.
- 28) Develop and routinely review and reset data processing controls.
- 29) Regularly review accounting and administrative controls.
- 30) Set achievable targets and budgets, and stringently review results.
- 31) Ensure that staff members take regular leave.
- 32) Rotate staff.
- 33) Ensure all expenditure is authorised.
- 34) Conduct periodic analytical reviews to highlight variations to norms.
- 35) Take swift and decisive action on all fraud situations.
- 36) Ensure that employees are fully aware of their rights and obligations in all matters concerned with fraud.

Examples of Good Management Practice which may assist in **detecting** fraud and examples of fraud indicators can be found in Appendices 5 and 6 of the document '**Managing the Risk of Fraud – A Guide for Managers**'. This document is available on the following link:

<http://www.afmdni.gov.uk/fiap/browse.asp?branch=3&category=15&maxres=20&start=0&orderby=2>

**Initial Fraud Notification Template**

1.	PBNI fraud reference number (unique identifier)	
2.	Department/Team	
3.	Specific location of fraud (eg name of school, name of depot etc)	
4.	Date fraud or suspected fraud discovered	
5.	Is the case being reported as actual, suspected or attempted fraud?	
6.	Type of fraud?	
7.	What was the cause of the fraud?	
8.	Brief outline of case	
9.	Amount of lost or estimated value?	
10.	How was the fraud discovered?	
11.	Who perpetrated the fraud?	
12.	Has PSNI been notified?	
13.	Any other action taken so far?	
14.	Please give contact details for this fraud in case follow-up is required	

## **Notes**

### **1. Types of fraud**

- Grant related
- Theft of assets (please state type of asset eg cash, laptop, oil, tools, camera)
- Payment process related
- Income related
- Pay or pay related allowances
- Travel and subsistence
- Pension fraud
- Contractor fraud
- Procurement fraud
- False representation
- Failure to disclose information
- Abuse of position
- Other (please specify)

### **2. Causes of fraud**

- Absence of proper controls
- Failure to observe existing controls
- Opportunistic
- Unknown

### **3. Means of discovery of fraud**

- Normal operation of control procedures
- Whistleblowing (internal or external)
- Internal Audit
- External
- Computer analysis/National Fraud Initiative
- Other means (please specify)

### **4. Perpetrators of Fraud**

- Internal staff member
- Contractor
- Funded body/grant applicant
- Other third party (please specify)
- Collusion between internal and external parties
- Too early to determine
- Unknown

### **5. Other actions taken**

- Controls improved
- Control improvements being considered
- Too early to determine
- No action possible
- Disciplinary action
- Prosecution