

# Anti-fraud Policy

---

## Introduction

- 1 The Open University conducts its business in a legal and ethical manner. University officers, employees, other members of the University and any other associated person acting on the University's behalf are responsible for acting honestly and with integrity by ensuring that their activities, interests and behaviours do not conflict with these obligations, regardless of their seniority.
- 2 The Open University is committed to the prevention of fraud and to the promotion of an anti-fraud culture. We operate a zero-tolerance attitude to fraud and require staff, students and our partners to act honestly and with integrity at all times and to report all reasonable suspicions of fraud.
- 3 We will investigate all instances of actual, attempted and suspected fraud committed by staff, students, consultants, suppliers and other third parties and will seek to recover funds and assets lost through fraud. Perpetrators will be subject to disciplinary and/or legal action.
- 4 The purpose of this policy is to provide a definition of fraud and define authority levels, responsibilities for action, and reporting lines in the event of suspected, attempted or actual fraud or irregularity perpetrated by an individual against the University.

## Definition of fraud

- 5 The Fraud Act 2006 provides a framework within which there are three potential areas that an individual may be guilty of fraud if in breach. These are fraud by:
  - a) False representation: a person commits a fraud if they intentionally and dishonestly make a false representation.
  - b) Failing to disclose information: a person commits a fraud if they dishonestly fail to disclose information.
  - c) Abuse of position: a person commits a fraud if they dishonestly abuse their position.

In (a) to (c) above, the individual is deemed to have committed a fraud if they make a false representation, fail to disclose information or abuse their position for the purpose of:

- i) making a gain for themselves or another; or
- ii) causing a loss to another or to expose another to a risk of loss.

## Key responsibilities

- 6 The University Secretary is responsible for developing, implementing and maintaining adequate systems of internal control to prevent and detect fraud; and is supported by the Director of Academic Policy and Governance in the development of suitable controls in respect of students. Heads of Units are responsible for familiarising

Last updated February 2017 by Academic Policy and Governance

The Open University is incorporated by Royal Charter (RC 000391), an exempt charity in England & Wales and a charity registered in Scotland (SC 038302). The Open University is authorised and regulated by the Financial Conduct Authority in relation to its secondary activity of credit broking.

themselves with the types of fraud and dishonesty that might occur within their units, monitoring compliance with internal controls and agreed policies and procedures, and notifying their line manager (or any of the specified people named below) of any indications of fraudulent activity.

- 7 Suspicion of fraud or irregularity may be captured through a number of means, including the following:
  - a) Individuals reporting suspicions of fraud or irregularity to the University Secretary, Finance Director or Chief Auditor;
  - b) Individuals using the Whistleblowing Policy;
  - c) Identification through operational procedures;
  - d) Discovery through planned audit work.

## **Reporting non-student fraud**

- 8 All suspected or actual incidents of fraud / irregularity allegedly perpetrated by individuals other than students or enquirers should be reported without delay to the University Secretary, Finance Director or Chief Auditor. Any of the above should, as soon as practicable, notify and if appropriate hold a meeting of the University's Fraud Response Group (FRG) to decide on the initial response.

## **Reporting student fraud**

- 9 All suspected or actual incidents of fraud concerning a student or applicant to study should be reported without delay to the Secretary of the Student Fraud Group (SFG email to: [studentfraud@open.ac.uk](mailto:studentfraud@open.ac.uk)) who will consult with the Chief Auditor and will convene a meeting of the SFG as appropriate and as soon as is practicable to do so. SFG will give advice and guidance as to the further conduct of any investigation and if required escalate the issue to FRG.

## **Referral to external agencies**

- 10 At which stage a case should be reported to the police or other external agency will be decided by the Chair of SFG or FRG.
- 11 The University must inform the Higher Education Funding Councils about actual or suspected frauds such as are detailed in their currently applicable Financial Memorandum. The University Secretary is responsible for informing the Funding Councils of any such incidents. Liaison with other external bodies (for example the Student Loans Company) will be undertaken as appropriate to individual cases.
- 12 In informing HEFCE the University will be fulfilling its duty to report serious incidents arising from fraud and theft to the Charity Commission.

## **Prevention of further loss**

- 13 Where initial investigation provides reasonable grounds for suspicion of fraud, the FRG and / or SFG will decide how to prevent further loss. If the individual is an employee or student this may require the suspension (an employee with or without pay), of the person(s) alleged to have committed the suspected fraud / irregularity. It may be necessary to plan the timing of suspension to prevent the individual(s) from destroying or removing evidence that may be needed to support disciplinary or criminal action.

- 14 The FRG / SFG will, as necessary, consult the Security Manager about preventing subsequent access to University property and may authorise the withdrawal of permissions for University computer systems.
- 15 The Chief Auditor shall consider whether it is necessary to investigate systems other than that which has given rise to suspicion, through which the individual(s) may have had opportunities to misappropriate the University's assets.

## **Establishing and securing evidence**

- 16 The Chief Auditor will:
  - a) maintain familiarity with the University's disciplinary procedures, to ensure that evidential requirements are met during any fraud investigation;
  - b) establish whether there is a need for audit staff to be trained in the evidence rules for interviews under the Police and Criminal Evidence Act;
  - c) ensure that staff involved in fraud investigations are familiar with and follow rules on the admissibility of documentary and other evidence in criminal proceedings. This will usually involve the appointment of specialist fraud investigators;
  - d) ensure that the Internal Audit team are able to provide advice in accordance with the University's whistleblowing policy.

## **Recovery of losses**

- 17 Recovering losses is a major objective of any fraud investigation. The Chief Auditor shall ensure that in all fraud investigations, the amount of any loss will be quantified. Repayment of losses should be sought in all cases.
- 18 The Groups will, as necessary, consider seeking legal advice, for example on the freezing of the suspect's assets in cases of substantial loss and on the recovery of losses and costs through the civil courts.

## **References for employees disciplined or prosecuted for fraud**

- 19 Any request for a reference for a member of staff who has been disciplined or prosecuted for fraud shall be referred to Human Resources. Human Resources shall prepare any answer to a request for a reference having regard to employment law.

## **Reporting to governors**

- 20 Any incident matching the criteria in the Funding Councils' Audit Codes of Practice (as above) shall be reported without delay by the University Secretary to the chairs of Council and the Audit Committee.
- 21 Any variation from the approved Anti-Fraud Policy, together with reasons for the variation, shall be reported promptly to the chairs of both Council and the Audit Committee.

- 22 The Audit Committee will be kept informed of the progress of any investigations relating to impropriety including:
- a) a description of the incident, including the value of any loss, the people involved, and the means of perpetrating the fraud;
  - b) the measures taken to prevent a recurrence;
  - c) any action needed to strengthen future responses to fraud, with a follow-up report on whether the actions have been taken.
- 23 This report will normally be presented as part of the regular updates provided by the Chief Auditor.

### **Communication (including training)**

- 24 The University ensures that its fraud prevention and associated policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risk it faces.
- 25 Unit managers or their nominee are responsible for ensuring all employees receive appropriate training and for the communication of the University's Anti-Fraud Policy and other relevant policies to associated person(s). Unit managers will also monitor and review their procedures and action plans to ensure their suitability, adequacy and effectiveness in relation to this Policy and implement improvements as appropriate.

### **Top level commitment**

- 26 This Policy is reviewed annually to ensure fitness for purpose by the Audit Committee and adopted by the full Council and has the full support of the Vice-Chancellor and senior management of this University.

### **Summary of changes**

#### **February 2017**

The reference to what was called the Public Interest Disclosure (Whistleblowing) Policy (in section 7b) has been amended to reflect the policy's new name, the Whistleblowing Policy.