

Investigation Protocol



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1. Purpose

This Protocol has been written to ensure that, wherever possible, a consistent process is followed whenever Internal Audit undertakes any investigation into any allegations or suspicions of fraud or irregularity. It seeks to outline the roles, responsibilities, principles and approach that will be adopted by Internal Audit during any investigation into allegations or suspicions of fraud or the inappropriate conduct of an employee. It outlines the expectations and principles that should be adopted, not only by Internal Audit, but also by other parties involved, including, but not limited to, Human Resources and Development, IT and relevant Management.

If any allegation or suspicion is found to be substantiated, the Liverpool City Region Combined Authority (LCRCA) and Merseytravel (hereafter referred to as “the organisations”) have a responsibility and commitment to:

- Take necessary action to stop any continuing losses to the public purse or adverse impact to the provision of corporate objectives and activities;
- Act to minimise the impact to the organisations, both financial and reputational;
- Recover any lost assets (financial, physical, data or otherwise);
- Identify those responsible and ensure that appropriate sanctions are applied
- Inform relevant external parties or professional bodies where appropriate (e.g. Police, Information Commissioners Office) and seek to pursue prosecution or civil remedy where appropriate;
- Establish any control issues arising from the investigation and action that should be taken to address these; and
- Provide feedback, if appropriate, to individual(s), in accordance with the Confidential Reporting (Whistleblowing) Policy.

Where allegations or suspicions are not substantiated, the organisations are committed to:

- Identifying any lessons that can be learnt as a result of the investigation;
- Demonstrating, where necessary, that a thorough and fair investigation has been undertaken; and
- Providing feedback, if appropriate, to individual(s) who made the allegation, in accordance with the Confidential Reporting (Whistleblowing) Policy.

2. Scope

This protocol does not affect the authority granted to Internal Auditors under the organisations’ respective Constitutions to:

- have right of access to any of the organisations premises, if requested;
- have right of access to all assets, records, documents, correspondence and control systems, if requested;

- receive any information and explanation considered necessary concerning any matter under consideration;
- require any employee of the authority to account for cash, stores or any other authority assets under his/her control;
- access records belonging to third parties, such as contractors, when appropriate and required; and
- directly access the LCRCA Chief Executive, Merseytravel Chief Executive and Director General, Chair of the LCRCA Audit Committee and Chair of the Audit, Risk and Governance Board when appropriate.

3. Types of Investigation

Financial Irregularity, Fraud, Dishonesty and Corruption

Fraud and corruption are illicit and unauthorised activities, undertaken, often covertly, by an individual or group for personal gain.

Typically, fraud is an offence resulting from dishonest behaviour that intentionally allows the fraudster, or a third party, to personally gain, or to cause loss to another. Formal definitions are stated in the [Fraud Act 2006](#).

Corruption can take many forms but its defining characteristic is the collusion of parties to manipulate a specific outcome. This may be fraud, or could be offering, soliciting or acceptance of an inducement or reward in order to influence improperly the actions of another or the failure to disclose an interest in order to benefit financially or otherwise.

Fraud and corruption are deliberate acts (or deliberate omissions to act), relating to an individual, or a third party and include (but are not limited to):

- Theft and misuse of assets, including cash, physical assets, intellectual assets, data and property;
- Manipulation or misreporting of financial information or data;
- Deception and misrepresentation;
- Offering or accepting bribes or inducements from third parties, or offering bribes or inducements to third parties;
- Conspiracy to breach laws or regulations; and
- Fraudulent completion of official documents.

Whilst national statistics indicate that around 14% of suspicions of financial irregularity arise from routine monitoring arrangements, or through the undertaking of planned audit work, nearly half are identified through allegations or “whistleblows”¹.

If an officer receives an allegation of fraud or corruption it must be reported immediately to the Head of Internal Audit.

¹ Association of Certified Fraud Examiners 2012 “Report to the Nations on Occupational Fraud and Abuse”

If this is not possible, it may be reported to the LCRCA Chief Executive or Director of Corporate Services, or the Merseytravel Chief Executive and Director General.

Immediate steps will be taken to protect and preserve evidence, where appropriate. To facilitate this, the Head of Internal Audit (or appointed Officer) will liaise with relevant officers, as required, including (but not limited to) Human Resources, IT, relevant Directors and Managers. All action taken will be in accordance with relevant Policies, Procedures and protocols.

The Head of Internal Audit, or a Senior Officer appointed by the LCRCA Chief Executive or Director of Corporate Services, or the Merseytravel Chief Executive and Director General for this purpose, will, as a matter of urgency, undertake an initial review of the allegation or suspicion to establish whether a detailed investigation is required.

Staff may be informally interviewed at this stage, but will be informed that any discussions are for fact-finding purposes only. Staff may be accompanied by a Trade Union representative or workplace colleague at this interview. Whilst these preliminary discussions are not disciplinary hearings, staff should be made aware that any statement made or notes retained could be used as evidence in a disciplinary hearing, should one be necessary.

Following preliminary enquiries, if a full investigation is considered necessary, then the Head of Internal Audit (or appointed Officer) will notify the LCRCA Chief Executive or Director of Corporate Services, or the Merseytravel Chief Executive and Director General who will appoint a Lead Investigating Officer, as appropriate.

If further Internal Audit work will be required, the Head of Internal Audit will appoint suitably trained and experienced Officers to undertake this.

Anonymous complaints/allegations/incidences will only be investigated if there is sufficient information on which to commence initial enquiries. No further action will be taken against employees if allegations made against them are found to be malicious, vexatious or false. However, if an employee is found to have made an allegation against another which is found to be frivolous, malicious or for personal gain, their actions may be regarded as serious or gross misconduct, and subject to disciplinary procedures.

Employee Conduct

Not all investigations will relate to matters of financial irregularity, fraud or corruption. Investigations may arise which relate to employee conduct issues such as:

- General conduct;
- Performance;
- Health and safety;
- Bullying and harassment; and
- Alcohol and substance misuse.

If suspicions of general misconduct are identified by Internal Audit during the course of routine Internal Audit work, the Head of Human Resources will be immediately informed, in order that the matter can be addressed by Human Resources in accordance with disciplinary procedures. Internal Audit will provide any relevant evidence that has been obtained during the course of their work, to facilitate and inform this process.

Investigations may arise which are borne from concerns regarding both conduct and fraud. These may be identified from a number of sources and may include (but are not limited to):

- Falsification of Time and Attendance;
- Misuse of equipment; and
- Manipulation of expenses.

In cases such as these, if concerns have not been identified or reported directly to Internal Audit, Management should ensure that the Head of Internal Audit is promptly informed in order that an assessment of the general control environment can be undertaken, and any control issues arising can be identified and resolved. Internal Audit can assist in the collation of evidence and statistical analysis to support such investigations.

In these circumstances, the matter should be referred to the relevant Director who will take into consideration the cross-cutting nature of the investigation and determine how the investigation is to be conducted, and by whom.

IT Equipment, Systems and Data

Investigations may arise as the result of the misuse of the organisations IT equipment or manipulation of systems or data. Such action is likely to be in breach of the IT Acceptable Use Policy or Mobile Devices Acceptable Use Policy, and may be identified through a number of sources, including routine internal audit work, general monitoring of systems, tip-offs, CCTV footage or management concerns.

Examples of investigations which may arise through misuse of corporate IT equipment include (but are not limited to):

- Internet, telephone, mobile device or email misuse;
- Manipulation or falsification of data held in business systems;
- Theft or corruption of data;
- Use of unlicensed and / or unauthorised software;
- Unauthorised copying of copyrighted material;
- Virus contamination;
- Reconfiguration or manipulation of IT security systems / password misuse; and
- Unauthorised use of removable media.

As part of the investigation process, IT network records along with internet, telephone and e-mail usage will be examined as appropriate.

In rare and exceptional circumstances, the Head of Internal Audit and LCRCA Chief Executive or Director of Corporate Services, or the Merseytravel Chief Executive and Director General may use their statutory powers to obtain access to records, outside of the above Policy.

Access to CCTV images is controlled by the CCTV Code of Practice and requires a written record of access request and approval.

Allegations made against third parties

An allegation may be received by the organisations, which relates to a third party, such as a Contractor or Partner organisation.

In this event, the Head of Internal Audit and LCRCA Chief Executive or Director of Corporate Services, or the Merseytravel Chief Executive and Director General should be informed and in discussion with the relevant Head(s) of Service, the matter will be considered on a case-by-case basis and a decision will be made on the necessary course of action.

4. Conduct of an Investigation

Immediate steps will be taken to protect and preserve all evidence. This may include:

- Suspension of staff; guidance on suspension is available in the Discipline and Grievance Toolkit;
- Securing of computer records on systems, desktop PC's, laptops, mobile devices, telephone records, e-mail accounts and records of internet usage;
- Suspension of IT network access rights;
- Securing of written records (original documents where possible);
- Securing of physical assets; and
- Photographic evidence (including CCTV images).

All records and assets relating to the investigation will be retained in a secure location with controlled access.

Every investigation is unique and the approach will depend upon the specific details of the case. However, the following principles will be observed when undertaking an investigation:

- The investigation will be undertaken with due urgency, consistent with completing a thorough and proportionate review;
- Full records of the investigation will be maintained;
- Comprehensive notes will be made of all interviews, observations, monitoring and surveillance;

- The Human Resources Department will lead on all matters where formal disciplinary procedures are required, providing support and advice to the Investigating Officers;
- Confidentiality will be respected and maintained;
- Effective two-way communication channels will be maintained between all relevant parties;
- Compliance with relevant legislation, including Data Protection, Employment legislation (including ACAS Guidelines) and Human Rights legislation will be observed; and
- The Head of Internal Audit and/or Lead Investigating Officer, in consultation with the Director of Resources will consider whether disclosure to external organisations should be made, such as the Police, Information Commissioner, HMRC or Professional bodies etc.

There may be times when it will be necessary for the organisations to carry out surveillance as part of the investigation. In such cases this will be undertaken in accordance with the Surveillance Policy and in compliance with the Guidance for Officers Undertaking Surveillance.

6. Reporting

At the conclusion of an investigation, the Lead Investigating Officer will produce a report detailing the findings and conclusions. The Investigation Report may include Reports provided by other Investigating Officers, including Internal Audit and IT, dependent on the nature of the case. Prior to the distribution of report, advice may be sought from the Legal department, if appropriate.

Contributing Investigating Officers, including Internal Audit and IT may be required to attend a disciplinary hearing and present evidence, if appropriate and required.

Human Resources should inform Internal Audit of the result of any hearing for which there has been Internal Audit involvement.

7. Actions Following a Completed Investigation

Following the outcome of an investigation, the Head of Human Resources and / or the Head of Internal Audit, in conjunction with the relevant Directors should determine any further action necessary to protect the organisations and their reputation. These actions may include:

- Attempt to recover assets or losses;
- Notification to other Agencies or Partner Organisations;
- Referral to the Police, Action Fraud or other regulatory body;
- Referral to Professional body
- Changes to internal control systems or procedures;

- Internal Audit follow-up to actions agreed from any recommendations made in the report;
- Feedback to the “Whistleblower”/ Complainant, where possible / appropriate; and
- Publicity or Press Release, in consultation with the Corporate Communications team.

8. Deviations

Any deviations from this protocol must be documented and authorised by the LCRCA Chief Executive or the Merseytravel Chief Executive and Director General as appropriate.