

ANTI-FRAUD AND CORRUPTION POLICY

Contents

1 Introduction 1

1.1 Overview and Purpose of this Policy 1

1.2 Legal and Regulatory Context 1

1.3 Scope 1

2 Fraud 3

2.1 Definitions 3

3 Principles for Preventing, Detecting and Reporting Fraud 5

3.1 General Principles 5

3.2 Prevention 6

3.3 Detection 6

3.4 Summary of Reporting Obligations 7

3.5 Guidelines for Combatting Fraud 8

4 Procedure for Investigating Suspected Fraud 8

4.1 Receipt of a Report 8

4.2 Investigation 9

5 Related Documents 10

6 Document Control 10

1 Introduction

1.1 Overview and Purpose of this Policy

This document sets out the University of Limerick's ("the University") policy and procedure for reducing the incidence of and dealing with fraud and/or corruption. It helps to ensure that University funds and resources are used for the purpose for which they are intended without corrupt interference.

It also guides the University community in carrying out their responsibilities in respect of the prevention, detection and reporting of fraud and corruption.

The terms "fraud" and "corruption" although related are defined separately in paragraph 2.1 below. However, any subsequent reference to fraud in this Policy shall, unless the context provides otherwise, be regarded as being applicable to fraud and/or to corruption.

1.2 Legal and Regulatory Context

The Anti-Fraud and Corruption Policy (the **"Policy"**) supports the proper execution of the functions of the University. These functions are set out in the Universities Act, 1997 (as amended). It is also designed to address principles of effective practice in public sector governance[1].

Implementation of the Policy and related procedures support our commitment to uphold the law for the prevention of crime and corruption, the proper use of public funds and the standards and behaviour required of public sector bodies, of employees and members of the Governing Authority and of its Sub-Committees..

1.3 Scope

1.3.1 To whom does the policy apply?

The Policy applies to:

a. All persons remunerated by the University;

b. Vendors contracted by the University for goods or services;

c. Volunteers, appointees including adjunct appointees and other unpaid individuals performing duties or services on behalf of the University, and;

d. Members of the Governing Authority, who are not otherwise specified in the above categories.

e. Members of Governing Authority Sub-Committees, established under Section 18(4) of the Universities Act, 1997.

[1]Code of Practice for the Governance of State Bodies (2016) and as subsequently amended.

The Policy applies to these categories of people, regardless of whether they also fall into a category of persons not covered by the scope of this Policy. For instance, students who are also part-time employees of the University.

1.3.2 In what circumstances does the policy apply?

The Policy applies to any activity involving any of the University's funds, resources and assets and to any funds and resources relating to grants, subsidiary companies, contracts for goods and services that are controlled by the University.

1.3.3 Who is responsible for implementing the policy?

a. The Governing Authority has ultimate responsibility for the use of the University's funds and resources and for approving this Policy;

b. The Audit & Risk Committee (ARC) of the Governing Authority has delegated responsibility for monitoring the implementation of the Anti-Fraud and Corruption Policy and for advising the Governing Authority in relation to fraud reported to the ARC;

c. Members of the University Executive Committee are responsible for determining controls and preventative measures to combat fraud. They are also responsible for reporting to the ARC on a bi-annual basis regarding any invoking of the Policy in the University;

d. Members of the University Executive Committee and senior managers are also responsible for monitoring the implementation of this Policy within their areas. This includes being alert to the possibility of or potential for fraud, to indications of impropriety, and for establishing and implementing controls to prevent and detect fraud;

e. The Chief Financial and Performance Officer (CFPO) is responsible for receiving reports of suspected fraud and for chairing the Fraud Response Panel, which is tasked with investigating reports of potential or suspected fraud. Where the CFPO is in any way conflicted in receiving such reports, then the employee should send their report of suspected fraud to the President. Where the President is in any way conflicted in receiving such reports, then the report should be submitted to the Chairperson of the ARC;

f. The Provost & Deputy President, CFPO, the Director, Human Resources, and the Corporate Secretary are the *ex-officio* members of the Fraud Response Panel and are responsible for determining the need for an investigation of suspected fraud in line with the procedure set out in Section 4. Where any of these officers are conflicted, implicated or unavailable, the President may nominate a replacement. In the case where the President is conflicted, then the Chancellor will, having consulted with the Chairperson of the Audit and Risk Committee, appoint the Fraud Response Panel;

g. All individuals within the scope of this Policy are responsible for conducting themselves with integrity in the first instance and for not engaging in fraudulent behaviours;

h. All members of the University community are individually responsible for being alert to the possibility of fraud and for appropriately reporting to the CFPO any suspicions as soon as practical, and;

i. All individuals within the scope of this Policy are required to cooperate with any investigations in relation to suspected fraudulent behaviour.

2 Fraud

2.1 Definitions

Fraud means the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party. It includes acts such as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. Attempted fraud is necessarily treated as seriously as accomplished fraud. For the purpose of this policy, fraud is not limited to that as defined in the Criminal Justice (Theft and Fraud Offences) Act 2001[2].

Fraud includes any corrupt or dishonest act or omission that causes loss to the University, avoidance of an obligation or results in a benefit or advantage (to the person acting or omitting or to a third party).

a. Fraud is deliberate as opposed to accidental or negligent.
b. Fraud includes attempted fraud.
c. Fraud includes attempts to circumvent measures used to prevent fraud.

Computer Fraud means the use of information technology equipment or systems (IT) to manipulate programs or data dishonestly (for example, by altering, substituting or destroying records, or creating spurious records), or where the use of IT was a material factor in the perpetration of fraud. Theft (e.g. hacking systems or utilising computer resources for purposes not authorised by the owner) or fraudulent use of computer time and resources is included in this definition. Users should also consult the University's Acceptable Usage Policy in that regard.

Corruption means the direct or indirect offering of, seeking for or accepting inducements, gifts, favours, payment or benefits in kind which may improperly influence the action of any person in relation to his or her office of employment, position or business. The corrupt person need not benefit directly from their deed; they may unreasonably use their position to secure or influence some advantage to another. Not reasonably taking action to prevent corruption, also amounts to corruption. For the purpose of this policy, corruption is not limited to that as defined in the Criminal Justice (Theft and Fraud Offences) Act 2001[3]

[2] A person who dishonestly, with the intention of making a gain for himself or herself or another, or of causing loss to another, by any deception induces another to do or refrain from doing an act is guilty of an offence.
[3] The Criminal Justice Act 2018 creates the offence of active and passive corruption, defined as either directly or indirectly corruptly offering/giving or corruptly requesting/accepting a gift, consideration or advantage as an inducement or reward for any person doing an act in relation to his or her office of employment, position or business.

While it is not possible to list all categories of fraud, some categories include:

- Theft or misappropriation of University assets
- Submitting false claims for payments or reimbursement, or receiving remuneration (other than in respect of authorised absences) when not providing one's full contracted hours to the University[4]
- Accepting or offering a bribe or accepting gifts or other favours under circumstances that might lead to the inference that the gift or favour was intended to influence an employee's decision-making while serving the University
- Accepting an inappropriate commission from, or paying same, to a third party
- Colluding with vendors or third parties in providing preferred pricing or engaging in contract rigging
- 'Off Books' accounting or making false or fictitious entries
- Knowingly creating and/or distributing false or financially misleading reports or data
- Paying of excessive prices or fees where the authorisation for and/or justification for such is either not made out and/or not documented
- Research Fraud
- Academic Fraud
- Computer Fraud (as defined above)
- Blackmail or extortion
- Bribery and corruption
- Violation of the University's procedures with the aim of personal gain or to the detriment of the University
- Overriding of University systems and controls for the purposes of engaging in fraudulent activity (e.g. sharing of accounts and passwords with 3rd parties, lack of due regard for the segregation of duties)
- Unauthorised or illegal use of confidential or proprietary information.

[4] Employees must be mindful of the obligations within their contract of employment here. For example, while holding two jobs is not inherently fraudulent, it may constitute fraud if the employee deliberately misleads their employer about their availability during contracted working hours, thereby causing financial loss or gaining unlawfully (Criminal Justice (Theft and Fraud Offences) Act 2001, s.6). It may also breach contract terms or employment policies. Employees must also inform their employer about alternative employment to ensure compliance with the Organisation of Working Time Act, 1997.

3 Principles for Preventing, Detecting and Reporting Fraud

3.1 General Principles

a. The University is committed to **preventing** fraud from occurring through robust governance and management processes that emphasise integrity and honesty within the university community.

b. The University uses any and all legal and practical means to **detect** and investigate fraud within the University.

c. The University strives for a culture of transparency and accountability, and in line with this all incidents of potential or suspected fraud deemed to warrant an investigation are **reported** to the University's Internal and External Auditors and to the Higher Education Authority. Confirmed incidents of fraud or corruption are declared in the University's Annual Governance Statement as required by the Code of Practice for the Governance of State Bodies. The University is also required to provide its external auditors and the C&AG with any particulars requested in relation to actual, suspected, or alleged fraud. This allows the controls environment to be assessed, and (if necessary) improvements to be implemented to prevent recurrence and lessons to be learned.

d. The Audit & Risk Committee, Governing Authority, and the Higher Education Authority are informed of confirmed cases of fraud. There is also a statutory requirement to notify the Charities Regulator where the University forms the opinion that there are reasonable grounds for believing that an offence under the Criminal Justice (Theft and Fraud Offences) Act 2001 has been or is being committed[5].

e. Proven instances of fraud may result in:

- For members of the Governing Authority - initiation of procedures for breaches of the Code of Conduct for Members of the Governing Authority,
- For employees, and individuals working on behalf of the University – initiation of procedures for breaches of the Code of Conduct for Employees of the University and/or the Statute on Employee Disciplinary Matters, Suspension, Termination and Capacity,
- For employees, or individuals or organisations contracted to provide goods and/or services - initiation of any relevant contract performance/grievance procedures up to and including termination of the contract.

f. The University may take action to seek repayment of any losses or redress for any damage caused as a result of fraud.

g. The University will refer incidents of fraud to An Garda Síochána where appropriate and in line with its statutory obligations.

h. The University expects all individuals within the scope of this Policy to be aware of the requirements of their terms and conditions of employment, relevant codes

[5] Section 59 of the Charities Act 2009 (as amended).

of conduct for their position, the policies and procedures of the University and law and regulation in relation to fraud and corruption.

3.2 Prevention

a. The University is committed to fostering a culture of integrity and honesty where fraud is not tolerated. Fostering such a culture means that the University's strong approach to the prevention of fraud is implemented though its governance and control procedures including the consideration of fraud in the assessment of organisational risk.

b. The Executive Committee is empowered by the Governing Authority to implement whatever controls it deems necessary to prevent fraud.

c. Individuals with management responsibility must be aware of the possibility of fraud and alert to any opportunities for fraudulent activity.

d. Individuals with management responsibility are also responsible for ensuring that their direct reports are aware of their responsibilities in respect of this Policy.

3.3 Detection

a. In the first instance, the University depends upon the vigilance and integrity of the University community to detect fraud.

b. The University can and will use all legal means, checks and balances to detect fraud.

c. Where an individual within the scope of this Policy suspects fraud, this must be reported without delay:

- By written report to the CFPO (in line with the procedure set out in Section 4) or,

Under the University's Protected Disclosures Policy. For the avoidance of doubt, where a report of fraud is made as anonymously, or as a protected disclosure, the provisions of this Policy apply to the investigation of any such report. This does not affect any legal protections to which the Reporting Person is entitled under law. Although anonymous reports are discouraged, but where supported by evidence deemed sufficient by the Fraud Response Panel, an anonymous report may form the basis of an investigation.

d. Where the CFPO receives a report of alleged or suspected fraud, a determination will always be made by the Fraud Response Panel and formally recorded as to whether an investigation is warranted.

e. Making an allegation of fraud does not confer any additional rights or responsibilities on any individual(s) within the scope of this Policy, or negatively affect any existing rights or responsibilities.

f. Individuals accused of fraud are treated fairly and equitably and any investigation will be conducted in a transparent and impartial manner. Investigations are confidential insofar as possible for the protection of the reputation of the University and the individual(s) who are the subject of the investigation.

g. Individuals who, knowingly or negligently: obstruct an investigation; falsely

report fraud, cover up, and/or; fail to report fraud are considered accessories to the fraud after the fact. This may also apply to threats or acts of retaliation made against individuals reporting fraud.

3.4 Summary of Reporting Obligations

a. The President notifies any incidents of suspected fraud which are deemed to warrant investigation to the HEA in line with understood transparency obligations, the Oversight Agreement and the established regular reporting processes.

b. The CFPO on behalf of the Fraud Response Panel reports the conduct and outcome of any investigations to the President and to the ARC.

c. Where there is no evidence that fraud has occurred, the anonymity of the subject(s) of any report will be preserved and no detail of the allegation retained, only the fact that such a report was received and any recommendations made. However, where the Fraud Response Panel considers that the matter, while not constituting fraud, may involve a potentially significant breach of University policy, the Code of Conduct, or expected standards and behaviours, it may refer relevant information, as deemed necessary and appropriate, to the President and/or the Director of the Human Resources Division for consideration in accordance with applicable University procedures.

d. Where an investigation determines that there is evidence of fraud the CFPO on behalf of the Fraud Response Panel reports that fact and any consequences thereof to the President and to the ARC.

e. In addition to the separate obligation to notify incidents of suspected fraud which are under investigation, the President also further reports incidents of confirmed fraud to the Higher Education Authority, to the Charities Regulator where the provisions of Section 59 of the Charities Act 2009 are met, and on the advice of the Fraud Response Panel, to An Garda Síochána.

f. The University is usually requested to complete a "Fraud Questionnaire" annually for the purposes of completing its annual financial statements, and all incidents of reported, suspected or actual fraud are disclosed to its External Auditors. Even where this information is not formally requested, the CFPO on behalf of the Fraud Response Panel provides this information to its External Auditors as a matter of course.

g. The CFPO on behalf of the Fraud Response Panel provides a report on all incidents of fraud, suspected or alleged fraud to the President and to the ARC annually.

3.5 Guidelines for Combatting Fraud

Each member of the University community has a duty to help safeguard the University's resources and to assist with the prevention, detection and reporting of fraud. A simple guideline for helping to combat fraud is as follows:

a. Employees **should**:

- Report any concerns they have to their line manager or other appropriate manager,
- Persist in reporting and escalate concerns if they remain,
- Report any identified opportunities for fraud,
- Record and retain any relevant documents relating to their concerns[6],
- Act in good faith and cooperate with the procedures set out in this policy.

b. Employees **should not:**

- Be afraid to seek advice from their line manager or the Finance Department,
- Confront the individual(s) with their suspicions,
- Discuss their concerns with colleagues or anybody other than their line manager or other appropriate manager,
- Contact the Gardaí directly.

4 Procedure for Investigating Suspected Fraud

4.1 Receipt of a Report

a. Where the CFPO (or in his/her absence, another member of the Fraud Response Panel) receives a written report of suspected or alleged fraud or other written notification that this Policy may have been breached, this procedure commences.

b. The CFPO acknowledges receipt of the report in writing to the sender where possible.

c. The CFPO advises the other members of the Fraud Response Panel of the receipt of a report and arranges a meeting of the Group to determine a course of action as soon as practicable following receipt of a report of suspected or alleged fraud/breach of this Policy.

d. The Fraud Response Panel will arrange to obtain and secure all relevant information and documentation material to the report to prevent destruction of evidence.

e. The Fraud Response Panel determines if an investigation of the suspected or alleged fraud is warranted. In making this determination, the Fraud Response Panel may consult with any party and seek any information that is available within the University and seek any external expertise that they require.

[6] Within the bounds of confidentiality, acceptable usage of university systems and data protection.

f. Where the Fraud Response Panel determines that an investigation into suspected or alleged fraud is not warranted, the Group will provide a written report to the President and ARC outlining why an investigation will not take place.

g. Where the Fraud Response Panel determines that an investigation into suspected or alleged fraud is warranted, a written report must be provided to the President and to the ARC outlining its decision. The HEA is also notified. The Comptroller and Auditor General and the External Auditor will also be informed via the completion of the fraud questionnaire which is part of the annual audit process.

4.2 Investigation

a. Where the Fraud Response Panel determines that an investigation should take place, the Group may engage the services of an external expert. Where the decision is to use the University's Internal Auditor to conduct an investigation of the allegation, then

- The investigation is conducted within the existing audit plan where possible.
- The CFPO will commission additional engagement where this is not possible.

b. The CFPO informs any individuals alleged to have committed fraud that an investigation is being carried out. The Fraud Response Panel may defer informing such individual(s) until such time as it has obtained and secured all relevant information and documentation as outlined in paragraph 4.1 above. This measure may be taken in order to prevent any destruction of evidence.

c. The investigator chosen by the Fraud Response Panel:

- Investigates the circumstances of the suspected or alleged fraud promptly.
- Protects the interests and reputation (current and future) of the University and the subject(s) of the investigation throughout.
- May access any and all information, testimony and expertise required to conduct the investigation.

d. At the conclusion of their investigation, the investigator submits a written report to the Fraud Response Panel which sets out:

- Their findings in respect of the alleged fraud,
- Their recommendations regarding disciplinary procedures, civil action and reporting to An Garda Síochána,
- Any recommendations regarding the prevention of occurrences of similar instances of fraud.

e. The Fraud Response Panel considers the investigator's report and determines whether they accept the report and the recommendations contained therein. The Panel may also make its own recommendations, based on the findings, its own deliberations, and the best interests of the University.

f. Where the Fraud Response Panel accepts the report, they take appropriate action,

based on their determination (initiating disciplinary procedures through the University's normal channels for such procedures and/or referral to An Garda Síochána for instance).

g. Where the Fraud Response Panel does not accept the report, the matter is referred to the President and the ARC to determine an appropriate course of action.

h. The CFPO on behalf of the Fraud Response Panel reports the outcome of the investigation to the President, the ARC and to the HEA in line with the policy provisions for reporting set out in Section 3.4.

i. The Charities Regulator is notified where the requirements of Section 59 of the Charities Act, 2009 are met.

5 Related Documents

The University has a documented suite of policies and procedures that set out how the University handles governance and controls. This Policy forms part of that framework and should be read in conjunction with the following:

a. Risk Management Policy;

b. Protected Disclosures Policy & Procedures;

c. Codes of Conduct for Members of the Governing Authority and Employees;

d. Research Integrity Policy;

e. Terms and conditions of employment and other contractual obligations;

f. Policies and Procedures for Recruitment and Appointments;

g. Policies relating to financial management & reporting;

h. Internal Audit Charter;

i. Contract Signing Authority Policy;

j. IT Acceptable Usage Policy and IT Security Policy;

k. Policy for Conflicts of Interest.

6 Document Control

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