



FRAUD & ANTI-BRIBERY POLICY

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(This policy supersedes all previous Fraud & Anti-Bribery policies)

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Change Log

Policy Date	New version number	Amendments	Comments
July 19		Academy Financial Handbook 2019 Fraud, theft and irregularity added EfA Anti-fraud checklist for academy trusts added	
September 20		AFH reference updated to reflect Academies Financial Handbook 2020	
September 20		Point 8 of ESFA Anti-Fraud checklist updated	
Autumn 22		References to Academies Financial Handbook amended to Academies Trust Handbook	
Autumn 22		Section 6 updated to reflect ATH 2021 including cybercrime	

****Trust – Refers to all Schools, Academies & Business Support Team within the Learning Academy Partnership***

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1. Introduction

- 1.1 In order to protect its financial systems, resources, assets, and the honesty and integrity of its staff, it is important that the Learning Academy Partnership (South West) [hereafter the 'Trust'] has an established policy in place to minimise the risk and impact of fraudulent or corrupt activity.
- 1.2 This paper sets out the Trust's strategies for minimising the risk of fraud, corruption and other irregularity and the plan for responding when such fraud, corruption or irregularities are suspected. This anti-fraud policy and fraud response plan complements the Trust's Whistle Blowing Policy.

2. Definition Of Fraud

- 2.1 The Fraud Act 2006 provides for a general criminal offence of fraud, with three ways of committing it: by false representation (with the intention of making a gain or causing a loss or risk to another); by failing to disclose information to another person where there is a legal duty to disclose such information; and by dishonestly abusing one's position. The Act also makes it an offence for any person, by any dishonest act, to obtain services for which payment is required, with the intent to avoid payment.
- 2.2 Although there is no precise legal definition of fraud, the term is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. Fraud can occur anywhere within the Trust and can present itself not simply as financial or financially motivated but covers areas including financial, reputational, employment and students. This policy covers all of the above.
- 2.3 For practical purposes for the application of this policy, fraud may be defined as the use of deception with the intention of:
 - Gaining an advantage, personally and/or for family or friends
 - Avoiding an obligation
 - Causing a financial loss to the Trust

3. Bribery

- 3.1 There are four key offences under the Bribery Act 2010:

1. bribery of another person
2. accepting a bribe
3. bribing a foreign official
4. failing to prevent bribery

- 3.2 Bribery is not tolerated. It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy.

4. Policy Statement

- 4.1. Those responsible for the Trust's management have a responsibility for the prevention, detection and investigation of irregularities. The Trust's internal audit service assists by examining and evaluating the adequacy and effectiveness of the actions taken to fulfil this obligation.
- 4.2. Irregularities include:
- fraud, which includes misappropriation of money and property
 - corruption
 - financial malpractice
 - embezzlement
 - serious mal administration
 - unethical practices that are not necessarily criminal
 - dangerous acts or omissions creating health and safety hazards
- 4.3 The Trust's Fraud policy has the following components:
1. The Trust creates an environment in which high standards of probity and accountability are expected. Trustees and staff register their outside interests and do not take part in decisions where they have such an interest. Clear guidance on the administration of finance and contracts is set out in the Academies Financial Handbook and is complemented by the Trust's Finance policy. There is an established Whistle Blowing policy.
 2. All members of staff have a duty to comply with the Trust's regulations and to behave honestly and with integrity.
 3. The Trust's Whistle Blowing policy encourages staff to voice any reasonably held suspicion as part of an effective anti-fraud culture.
 4. This Whistle Blowing Policy sets out the Trust's procedure and informs staff of their rights and obligations under the Public Interest Disclosure Act 1998. This legislation will protect employees from any reprisals as long as they meet the following rules:
 - they must disclose the information in good faith
 - they must believe it to be substantially true
 - they must not act maliciously or make false allegations
 - they must not seek any personal gain
 5. The Trust incorporates recommendations made by the internal audit service to strengthen the Trust's financial and operational systems of control.

5. Fraud Response Plan

- 5.1. The purpose of the plan is to define authority levels, responsibilities for action and reporting lines in the event of a suspected fraud or irregularity.
- 5.2. The use of the plan is intended to enable the Trust to:
- prevent further loss
 - establish and secure evidence necessary for criminal and disciplinary action
 - notify the funding body if required
 - recover losses
 - take action against the culprits
 - review the reason for the incident, the measures taken to prevent a recurrence and any action needed to strengthen future responses to fraud
 - keep all personnel with a need to know suitably informed about the incident and the Trust's response
 - inform the police and establish lines of communications
 - assign responsibility for investigating the incident
 - establish circumstances in which external specialists should be involved
 - establish policies for follow on actions, such as future requests for references for employees involved in the incident
- 5.3. Action - All actual or suspected incidents should be reported immediately to the CEO (unless the CEO is suspected, in which case it will be reported directly to the Chair of Trustees) and Chair of the Finance, Risk & Resources

Committee. The CEO will make any initial enquiries considered necessary to clarify the situation but should then arrange a meeting of the Finance, Risk & Resources Committee to determine the initial response.

5.4 The Finance, Risk & Resources Committee will decide the action to be taken including the need to commission special investigations and the resource implications. They will need to consider the following:

- **Prevention of future loss**

- This may require the suspension with, or without pay of the suspect.
- Suspects may need to be escorted from the premises and prevented from gaining future access, including access to the Trust's computer systems.
- Internal audit may consider that other related systems or areas should be investigated.

- **Action to be taken against the individual**

- The Trust will follow disciplinary procedures against any member of staff who has committed fraud. The Trust will normally pursue the prosecution of any such individual.
- The circumstances in which the Trust must inform the funding body about actual or suspected frauds are detailed in the funding body's audit code of practice. The CEO is responsible for informing the funding body of any such incidents.

- **Recovery of loss**

- The amount of any loss should be quantified, and repayment of losses sought in all cases. Where the loss is substantial legal advice should be obtained without delay.

- **Reporting to Trustees**

- Any incident shall be reported without delay by the CEO to the Chair of the Finance, Risk & Resources Committee. Follow up reports updating progress should be provided.
- Any variation from the approved fraud response plan, together with the reasons for the variations, shall be reported promptly to the Chair of Trustees.
- A written report (normally prepared by Internal Audit) shall be submitted to the Finance, Risk & Resources Committee describing the incident, value of loss, individuals involved and the means of perpetrating the fraud. Also the measures taken to prevent a recurrence and any actions needed to strengthen future responses to fraud.

6. Academy Financial Handbook 2021 extract (6.11-6.17)

6.1. Fraud, theft, irregularity and cybercrime

6.11 Academy trusts must be aware of the risk of fraud, theft and irregularity and address it by putting in place proportionate controls. Trusts must take appropriate action where fraud, theft or irregularity is suspected or identified.

6.12 The board of trustees must notify ESFA, as soon as possible, of any instances of fraud, theft and/or irregularity exceeding £5,000 individually, or £5,000 cumulatively in any financial year. Unusual or systematic fraud, regardless of value, must also be reported. The following information is required: • full details of the event(s) with dates • the financial value of the loss • measures taken to prevent recurrence 59 • whether it was referred to the police (and if not why) • whether insurance or the RPA have offset any loss.

6.13 ESFA may conduct or commission investigations into actual or potential fraud, theft or irregularity in any academy trust, either because of a notification from the trust itself or from other information received. ESFA may involve other authorities, including the police.

6.14 ESFA will publish reports about its investigations and about financial management and governance reviews at academy trusts.

6.15 ESFA also publishes guidance on reducing fraud. Trusts should refer to this and to the findings from ESFA's investigation reports, as part of its risk management approach. Cybercrime 6.16 Academy trusts must also be aware of the risk of cybercrime, put in place proportionate controls and take appropriate action where a cyber security incident has occurred.

6.17 Trusts must obtain permission from ESFA to pay any cyber ransom demands. ESFA supports the National Crime Agency's recommendation not to encourage, endorse, or condone the payment of ransom demands. Payment of ransoms has no guarantee of restoring access or services and is likely to result in repeat incidents.

7. ESFA Anti-Fraud Checklist for Academy Trusts

Fraud occurs in every sector and although the level of identified fraud in academies is very low, academy trusts need to be aware of the potential for it to occur.

The 10 questions below are intended to help trustees, accounting officers and chief financial officers to review their arrangements for preventing, detecting and dealing with fraud should it occur. Arrangements will vary according to the size, complexity and structure of the trust.

1. Are the trustees, accounting officer and chief financial officer aware of the risk of fraud and their responsibilities regarding fraud?
2. Is fraud included within the remit of the trust's Finance audit risk committee?
3. Has the role of the trust's external auditor and responsible officer (or equivalent) regarding fraud been established and is it understood?
4. Is fraud risk considered within the trust's risk management process?
5. Does the trust have a fraud strategy or policy and a 'zero tolerance' culture to fraud?
6. Is the fraud strategy or policy and 'zero tolerance' culture promoted within the trust? For example through financial regulations, disciplinary procedures, checks on new staff, induction process, staff training, vetting of contractors?
7. Does the trust have policies on whistleblowing, declarations of interest and receipt of gifts and hospitality?
8. Does the trust have appropriate segregation of duties around financial transactions, including, but not limited to, accounting, processing and banking arrangements?
9. Is it clear to whom suspicions of fraud in the AT should be reported?
10. If there has been any fraud in the trust, has a 'lessons learned' exercise been undertaken?

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