



Northern Ireland Museums Council

Fraud and Bribery Prevention Policy and Response Plan

Introduction

The Northern Ireland Museums Council expects Board members and staff to act honestly and with integrity at all times and to safeguard the resources which are at the Council's disposal. It will not tolerate any level of fraud, bribery or corruption. Consequently, Council's policy is to thoroughly investigate all suspected frauds and bribery allegations (anonymous or otherwise) and where appropriate, refer matters to the police at the earliest juncture. NIMC is also committed to ensuring that opportunities for fraud and corruption are reduced to the lowest possible level of risk.

Definition

Fraud is the obtaining of financial advantage or causing of loss by implicit or explicit deception. It is the mechanism through which the fraudster gains unlawful advantage or causes unlawful loss.

Fraud is not a victimless crime and is generally used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

Computer fraud is where information technology equipment has been used to manipulate computer programs or data dishonestly (for example by altering or substituting records, destroying or suppressing records, duplicating or creating spurious records), or where the existence of an IT system was a material factor in the perpetration of fraud (i.e. where the fraud was unlikely to have occurred if there had been no IT system). Theft or fraudulent use of computer facilities, computer programs and the Internet is included in this definition. The suspicion that any of these acts have taken place should be regarded as potentially fraudulent.

The Fraud Act 2006 came into effect on 15th January 2007. The Act states that a person is guilty of fraud if s/he is in breach of any of the following:

Fraud by false representation, ie if a person dishonestly makes a false representation and intends by making the representation to make a gain for himself or another, or to cause loss to another or expose another to risk of loss;

Fraud by failing to disclose information, ie if a person dishonestly fails to disclose to another person information which s/he is under a legal duty to disclose and intends, by means of abuse of that position, to make a gain for himself or another, or to cause loss to another or expose another to risk of loss; and

Fraud by abuse of position, ie if a person occupies a position in which s/he is expected to safeguard, or not to act against, the financial interests of another person, and s/he dishonestly abuses that position, and intends, by means of the abuse of that position, to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.

Bribery

The Bribery Act 2010 received Royal Assent on 8 April 2010. The Act creates a new offence under section 7 which can be committed by commercial organisations which fail to prevent persons associated with them from committing bribery on their behalf. NIMC may be perceived as such an organisation. Guidance from the Ministry of Justice indicates that organisations will have a full defence against prosecution regarding an associated person bribing another with the intention of obtaining or retaining business, if it can show that it had adequate procedures in place to prevent associated persons from bribing.

In light of this the procedures which follow are informed by the six recommended principles, namely;

- that the procedures are proportionate to the bribery risks the Council faces, and the nature and scale of the organisation
- that there is a top-level commitment within NIMC to preventing bribery by persons associated with it
- that the risks relating to bribery are assessed
- that due diligence is applied proportionally and on a risk based approach in respect of persons performing services for NIMC
- that bribery prevention policies and procedures are embedded and understood throughout NIMC
- that NIMC's policies and procedures designed to prevent bribery are monitored and reviewed.

Responsibility

The NIMC Board and staff have a duty to ensure that public funds are safeguarded and therefore must act with propriety in the use of the Council's resources. They will conduct themselves in accordance with the seven principles of public life detailed in the first report of the Nolan Committee 'Standards in Public Life', and be vigilant to the possibility of fraudulent activity in their day to day work. It is expected that they would immediately report any suspicion that a fraud is being attempted or perpetrated, or if they see suspicious acts or events. The rights of staff in this regard are protected through the Council's 'Whistleblowing Policy'

NIMC staff will be expected to assist and cooperate with all investigations concerning the perpetration of fraud through, for instance, making information available, attending interviews and providing witness statements. As they must have, and be seen to have, high standards of personal integrity, it is essential that staff members protect their reputation as such by maintaining a clear understanding of Council's systems and procedures, especially those relating to the acceptance of gifts and hospitality, expenses, annual leave, flexi-time and leave of absence.

The Director, as Accounting Officer for NIMC, is responsible for establishing and maintaining a sound system of internal controls, which include the management of the risk of fraud and bribery. Such controls will include:

- advising the Board on the establishment and maintenance of an anti-fraud and bribery policies;
- ensuring that fraud and bribery are appropriately assessed within the Council's overall risk management framework;
- operating appropriate pre-employment screening measures;
- ensuring all staff are aware of the Fraud Prevention Policy and that fraud awareness training is provided as appropriate and, if necessary, more specific anti-fraud training and development is provided to relevant staff;
- taking account of reports on incidents of fraud and bribery, and implementing any necessary changes to procedures as a consequence of reported findings;

- where possible ensure a segregation of duties amongst staff and a regular review of associated systems;
- and, testing the potential for fraud within any new procedures prior to their introduction.

Internal audit is responsible for providing opinions regarding the adequacy and effectiveness of NIMC's systems of internal control, but this responsibility does not extend to ensuring that systems for the prevention, detection and investigation of irregularities (including fraud) are in operation. Nevertheless, NIMC's internal audit function will assess and review the key controls and functions which are deemed to be at most risk of fraud and/or bribery and will report any irregularities discovered.

NIMC's Board has issued terms of reference to its Audit Committee which includes a responsibility to provide advice to the Board and Director on anti-fraud and bribery policies, whistle-blowing processes and arrangements for special investigations. The Committee will review the Council's risk management plan at each of its meetings, which includes risks associated with fraud and bribery.

Fraud and Bribery Response Plan

The objective of this plan is to ensure that timely and effective action is taken when fraud or bribery is suspected. It is reiterated that the prevention and detection of fraud and bribery is a management responsibility, and it therefore follows that it is for management to ensure that sound procedures are in place, and are followed, so as to minimise the possibility of fraud. Where, despite arrangements aimed at minimising the possibility of fraud being in place, a fraud or suspected fraud comes to light, the guidance of this Response Plan should be followed.

Initial Investigation

On the suspicion of fraud or bribery, the Director will carry out a discrete and speedy investigation within 24 hours of the suspicion being raised. The purpose at this stage will be to determine the factors that gave rise to suspicion and to clarify whether or not a fraud has been attempted or perpetrated.

S/he will immediately inform the Chair of the NIMC Board of the finding of the initial investigation, with a view to establishing a group to investigate the alleged fraud comprising at least – the Director, a member of the NIMC Audit Committee, a representative of the Sponsor Department.

All frauds and instances of bribery (suspected and proven), both internal and external, will be reported to,

- the Head of Museums Branch and the Director of Finance in the Sponsor Department
- and, the Northern Ireland Audit Office.

The Sponsor Department uses the NICS Group Internal Audit and Fraud Investigation Service, which provides a professional fraud investigation service which complies with the necessary legislative framework, professional standards and recognised best practice. It has a service level agreement with this service and thus refers reports of fraud to it for further action.

If the initial investigation confirms the suspicion that fraud or bribery has occurred, the Director will ensure that all original documentation is preserved in a safe place for further investigation. And to remove any threat of further fraud or loss, NIMC will immediately

change its procedures and, if appropriate, suspend and cease further payments pending full investigation.

Internal Fraud or Bribery

Where there is the suspicion of staff being involved (internal fraud) the Director will inform both the NIMC Chair and instigate the procedures to establish an investigation group.

Where a member of staff has good reason to suspect that a fellow member of staff may be involved in fraudulent activity, he or she should notify the appropriate line manager and the Director. Should the suspect be senior to the person who thinks that fraudulent activity has been, is being, or is intended to be carried on, he or she should immediately report the matter to the Director or the Chair of the NIMC Board. Provided that the disclosure is made in good faith the person making it will be protected by the terms of the Public Interest Disclosure (Northern Ireland) Order 1998.

In a case of internal fraud, the Chair, either alone or in conjunction with the Director and the investigation group, will decide on the appropriate course of action, including the full investigation arrangements. This will include drawing up terms of reference for the investigation and a checkpoint plan for the various stages of the investigation. In doing so an investigation should ensure that:

- All aspects of the suspected staff member's work is investigated, not just the area where the fraud was discovered.
- The investigation covers the period the officer was responsible for the processes under investigation but also earlier periods of employment.
- Potential evidence, including computer files and record of amendments relevant to the case should be retained securely and not disposed of.
- Control and procedural weaknesses discovered during the investigation are strengthened immediately.
- The extent, if any, of supervisory failures are examined

Details of all meetings held during the course of an investigation will be recorded, including interviews held for evidentiary purposes. Should a staff member be suspected of fraud, the Chair and/or Director may institute a suitable course of action that may range from close monitoring and supervision of the staff member to precautionary suspension. It should be noted that suspension in such circumstances does in no way imply guilt.

External Fraud or Bribery

Where there is suspicion of fraud or bribery concerning an external organisation or individual the Director will inform the NIMC Chair and instigate the procedures to establish an investigation group. NIMC will ascertain whether there is sufficient evidence for the police to be notified.

Again, to remove any threat of further fraud or loss, NIMC will immediately change its procedures and, if appropriate, suspend and cease further payments pending full investigation.

Areas of Potential Fraud

Counterfeit money

If large value amounts of counterfeit notes (over £100) are presented to NIMC by way of payment for a service, the staff member in receipt of them will inform the Director and contact the Police Service of Northern Ireland immediately. The notes should be secured in the Council's safe until the police arrive. If small amounts discovered contact the PSNI and inform the customer of the fraudulent note. Where possible record the date counterfeit note

was presented, the amount and the name and address of person who presented the counterfeit note

Bribery

The Bribery Act 2010 essentially creates two general offences of bribing another person and being bribed. Should a member of NIMC's staff or Board be offered an inducement which might in any way be perceived as an attempt to influence or compromise their personal judgement, integrity or impartiality, the guidance of this Response Plan should be followed, namely; members of staff will inform the Director, who will inform the NIMC Chair and determine whether there is sufficient evidence for the police to be notified.

In relation to potential bribery, NIMC maintains various policies and procedures, particularly those relating to Gifts and Hospitality, which should be noted in conjunction with the paragraph above.

Grants to Third Parties

From time to time NIMC provides grants to third parties through its grant programmes and by other means. The Council has set procedures for the checking and payment of grants. Should a member of staff suspect an attempted fraud by a grant recipient, s/he will inform the Director, who will inform the NIMC Chair and instigate the procedures to establish an investigation group. A record of the matter will be kept by the member of staff and the Director in order that the matter may be appropriately reported to the Charities Commission for Northern Ireland and recorded on the Government Funding Database.

Post Event Action

The NIMC fraud investigation group may become subject to the Fraud Response Plan of the Sponsor Department. The latter set out the communications aspects and the need to keep the Department informed through at least a monthly update on the progress of the case, with more frequent updates depending on the significance of the case. The group will prepare a report on the incident for consideration by the Audit Committee.

The NIMC Audit Committee will ensure that its internal auditors undertake an analysis of the weaknesses of the systems and procedures that gave rise to the fraud or bribery. It will request that the NIMC executive prepare a written report at an appropriate time on the matter, to be tabled at meetings of the Council's Audit Committee and Board. This will contain recommendations on any necessary changes to systems and procedures to ensure that similar frauds do not recur, as well as providing a full picture of the incident and the actions taken with a view to sharing the report with other bodies as appropriate.

The Board may, after full investigation, take legal and/or disciplinary action in line with NIMC's Disciplinary Procedures. Any staff member found guilty of a criminal act will be considered to have committed a serious disciplinary offence and is likely to be dismissed on the grounds of gross misconduct. Equally, if allegations of fraud are made frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against the person making such an allegation. Disciplinary action may also be initiated in the event of supervisory negligence being found to be a contributory factor. NIMC will in principle pursue the recovery of losses arising from fraud through civil action, subject to its policy on writing-off debts.

Reviewed by the NIMC Audit Committee
March 2016

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