

Counter Fraud and Malpractice Policy

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Introduction

The Financial Management Code between the Higher Education Funding Council for Wales (HEFCW) and AU states that “the institution must ensure that it has an effective policy of risk management which is able to demonstrate that the organisation and management of the institution’s financial affairs are appropriately controlled”.

Suitable measures are therefore vital to ensure a culture at AU in which fraud and malpractice are deterred, prevented and detected; that all suspected incidents are appropriately investigated; and that necessary sanctions are imposed where fraud or malpractice are proven.

This Policy sets out the roles and responsibilities of staff, committees, and other parties towards achieving this, and applies to any suspected fraud and malpractice involving employees, as well as consultants and contractors.

This Policy should be read in conjunction with other relevant policies, including the Anti-Bribery Policy; Financial Regulations, Financial Procedures, and Public Interest Disclosure Policy (all of which are available at www.aber.ac.uk/en/policies).

Contents

1. Policy Statement	Page 2
2. Definitions	Page 3
3. Prevention and Detection	Page 5
4. Roles and Responsibilities for Prevention and Detection	Page 6
5. Investigation into suspected Fraud and Malpractice	Page 8
6. Communications, and Reporting to External Bodies	Page 12
7. Appendix A: Guidance for Staff	Page 15
8. Appendix B: Criminal Finance Act Policy Statement	Page 16

1. Policy statement

Aberystwyth University (AU) is committed to ensuring that high legal, ethical and moral standards are in place across the organisation. In line with this open and transparent approach, the University has a zero-tolerance attitude to fraud and malpractice, and is committed to countering any such activity.

The University will investigate all instances of actual, attempted and suspected fraud committed by staff, students, suppliers, subsidiaries and other third parties and will seek to recover funds and assets lost through fraud. Individuals found to have perpetrated fraud will be subject to disciplinary and/or legal action.

2. Definitions

There is a clear distinction between fraud and malpractice.

Fraud

The definition of fraud is governed by the *Fraud Act 2006*, which categorises the criminal offence of fraud according to three classes: fraud by false representation, fraud by failing to disclose information, and fraud by abuse of position. In all cases, fraud includes the intention to carry out such fraudulent activity regardless of whether the individual eventually acts on this intention.

Fraud by false representation is defined as dishonestly making a false representation and the intention, by making the representation, to make a gain for themselves or another party, or to cause loss to another party or to expose another party to a risk of loss.

Fraud by failing to disclose information is defined as an individual dishonestly failing to disclose to another person information which they are under a duty to disclose or the intention, by failing to disclose the information, to make gain for themselves or another party, or to cause loss to another party or to expose another party to a risk of loss.

Fraud by abuse of position is defined as an individual in a position in which they are expected to safeguard, or not to act against, the financial interests of another party dishonestly abusing that position and the intention, by means of the abuse of that position, to make a gain for themselves or another party, or to cause loss to another party or to expose another party to a risk of loss.

In the context of the above definitions:

Both gain and loss extend only to gain or loss in money or other property (whether real or personal, including things in action and other intangible property), but include any such gain or loss whether temporary or permanent.

Gain includes a gain by keeping what one has, as well as a gain by getting what one does not have.

Loss includes a loss by not getting what one might get, as well as a loss by parting with what one has.

In the context of AU, examples of fraud include:

- Theft of any AU money or property by staff or third parties;
- Forgery or alteration of any document, for example, a cheque;
- Destruction or removal of records without appropriate authority;
- Falsifying documents such as travel and/or expense claims, or timesheets (a form of theft);
- Misusing time during working hours (e.g. taking unauthorised absences, or falsely claiming to be sick);
- Disclosing confidential information to outside parties without authority;
- Unauthorised use of University assets;
- Falsifying accounting or other records (e.g. financial statements or HEFCW returns);
- Inappropriate relationships with third parties causing conflicts of interest, gains or losses to the University;

- Giving or receiving bribes;
- Gaining an unfair advantage, personally or for family and friends;
- Using the University's name, logo or letterhead for improper or personal reasons and to imply that the AU has endorsed the content of any documentation;
- Completing a recruitment application stating that particular qualifications and/or membership of professional bodies are held when they are not or failing to disclose convictions or other required information; or
- Making offers of or accepting monetary or other benefit to undertake a particular course of action, including in relation to student admissions.

This list is illustrative and not exhaustive.

Malpractice

Malpractice (which can include fraud) covers both deliberate acts of commission and deliberate acts of omission.

While there are intentional actions that may not be regarded criminally as fraudulent, they may nevertheless involve a grossly inappropriate use of AU funds and/or resources. Examples of these include higher than necessary expenditure being incurred on overseas trips, transport or hospitality facilities. Whilst these would not usually lead to criminal charges, AU may take action under its own disciplinary procedures and they are therefore included within the general application of this Policy.

Criminal Finance Act 2017

The Criminal Finances Act came into force in 2017. All UK corporates (including universities) and partnerships are affected and can be subject to prosecution for the facilitation of tax evasion by 'associated persons'.

Associated persons can include employees, agents or those that provide services for or on the university's behalf. It covers all taxes including VAT, Income Tax, Corporation Tax and customs duties.

The Act creates a Corporate Criminal Offence (CCO) of failing to prevent the facilitation of tax evasion. Under the CCO, an organisation must take steps to ensure its 'associated persons, do not help others to evade tax.

Penalties for non-compliance include unlimited fines and barring from public or government contracts plus associated reputational damage.

3. Prevention and Detection

AU takes a proactive approach to preventing fraud and malpractice, and has numerous measures in place including denial of opportunity, effective leadership, and audit and employee screening.

While it is accepted that no systems of preventative measures can guarantee that fraud and malpractice will not occur, the University has several consistently-operated measures in place to deter and detect such activity. These include:

- Financial Regulations and Procedures which are designed to ensure financial probity through internal checks and balances, reconciliation procedures, and the random checking of transactions, whilst also maintaining operational efficiency;

- A transparent procurement processes, and lists of approved suppliers which are reviewed and updated;
- Financial delegations of authority which set out the committees and/or individuals which can approve financial expenditure or budgetary commitments;
- Regulations in relation to Gifts and Hospitality, both in relation to Council members and staff;
- A Register of Interests in relation to Council members, which is published on the University's website;
- A 'Declarations and Compliance process' through which staff are required to record gifts for both inbound and outbound gifts and hospitality, membership of external bodies and trades or other associations and public or other appointments;
- A Travel Policy, to ensure that all relevant trips on University business are properly approved;
- A Donations Acceptance Policy;
- Management of access to IT terminals and systems, with access restrictions on specific applications;
- A Managing Sickness Absence Procedure;
- A Policy on the Disposal of Assets; and
- Segregation of duties.

Staff, students and others associated with AU are also encouraged to be intuitive and bring forward concerns via the University's Public Interest Disclosure Policy. This ensures that matters raised are considered by the University without adverse consequences for the complainant, maintaining confidentiality where possible.

The Audit, Risk and Assurance Committee, in accordance with the HEFCW Audit Code of Practice, provides an independent and objective view of internal controls by overseeing both internal and external audit services. The adequacy of arrangements to detect fraud and malpractice are assessed routinely as part of the audit processes. Where serious weaknesses in system design or a significant degree of non-compliance are identified, the auditors inform the Director of Finance and Corporate Services.

4. Roles and Responsibilities for Prevention and Detection

All AU Council members and employees have a clear responsibility for the prevention and detection of fraud and malpractice.

The key responsibilities of committees and individuals are set out below.

Council and the Audit, Risk and Assurance Committee

As 'the supreme governing body of the University', the Council is responsible for establishing and monitoring systems of control and accountability throughout the Institution, including financial and operational controls.

The Council, advised as appropriate by the Audit, Risk and Assurance Committee, is responsible for:

- Adopting and approving a formal policy to counter fraud and malpractice;
- Setting the institutional framework and culture regarding ethos, ethics, and integrity;
- Ensuring that an adequate and effective control environment is in place, and that suitable training is provided in this respect;
- Ensuring that adequate audit arrangements are in place to detect and capture suspected fraud and malpractice; and
- Ensuring that adequate resources are in place to investigate suspected incidents of fraud and malpractice.

Vice-Chancellor

The Vice-Chancellor, as the chief academic, administrative and accounting officer of the University, has overall responsibility to the University Council for the promotion, administration and implementation of the systems of control and accountability approved by the Council, including providing adequate training to raise awareness of these systems.

Many of the Vice-Chancellor's day-to-day functions in this respect are often carried out by Pro Vice-Chancellors, and Heads of Departments, as appropriate under the University's management system.

Supervisory Roles

Members of staff and others who act in a supervisory role are responsible for implementing this Policy in respect of the prevention and detection of fraud and malpractice; and in responding to such incidents. This involves ensuring that the high legal, ethical and moral standards set by AU are adhered to in their academic and professional service units.

The practical requirements of those in a supervisory role are to:

- Understand the fraud and malpractice risks in their areas, and to consider whether processes under their control may be at risk;
- Adopt the processes and controls in place at the University to prevent, deter and detect fraud and malpractice;
- Be diligent in their responsibilities as managers, particularly in exercising their authority in authorising transactions (e.g. timesheets, expense claims, purchase orders, returns, and contracts);

- Be vigilant about unexplained changes in the behaviour and/or lifestyle of staff members whom they supervise;
- Deal effectively with issues raised by staff, including taking appropriate action to deal with reported or suspected fraud and malpractice;
- Report suspected fraud and malpractice in accordance with the process outlined in this Policy; and
- Provide support and/or resource as required to investigations into fraud and malpractice.

Employees, Students and other related parties (e.g. contractors, honorary appointees)

The University expects employees, students and other related parties to:

- Uphold the high legal, ethical and moral standards expected by AU of those connected with the University;
- Safeguard the University's assets and reputation;
- Report suspected fraud and malpractice in accordance with the process outlined in this Policy; and
- Be aware of and adhering to the University's policies and procedures to the extent they are applicable to their employment or relationship with the University.

Internal Audit

The University's Internal Auditors are not responsible for detecting fraud and malpractice – this responsibility rests with the Vice-Chancellor and management in accordance with the systems of control and accountability approved by the Council.

However, the Internal Auditors' role in respect to fraud and malpractice is to:

- Regularly review policies and procedures, making recommendations as appropriate to improve these documents to better prevent and detect such incidents;
- Discuss with the Audit, Risk and Assurance Committee, the Vice-Chancellor and University management any areas which the Internal Auditors suspect may be exposed to a risk of fraud and malpractice;
- Help determine the appropriate response to a suspected incident of fraud or malpractice, and to support any investigation that takes place; and
- Facilitate corporate learning on fraud and malpractice, their prevention and indicators of such incidents.

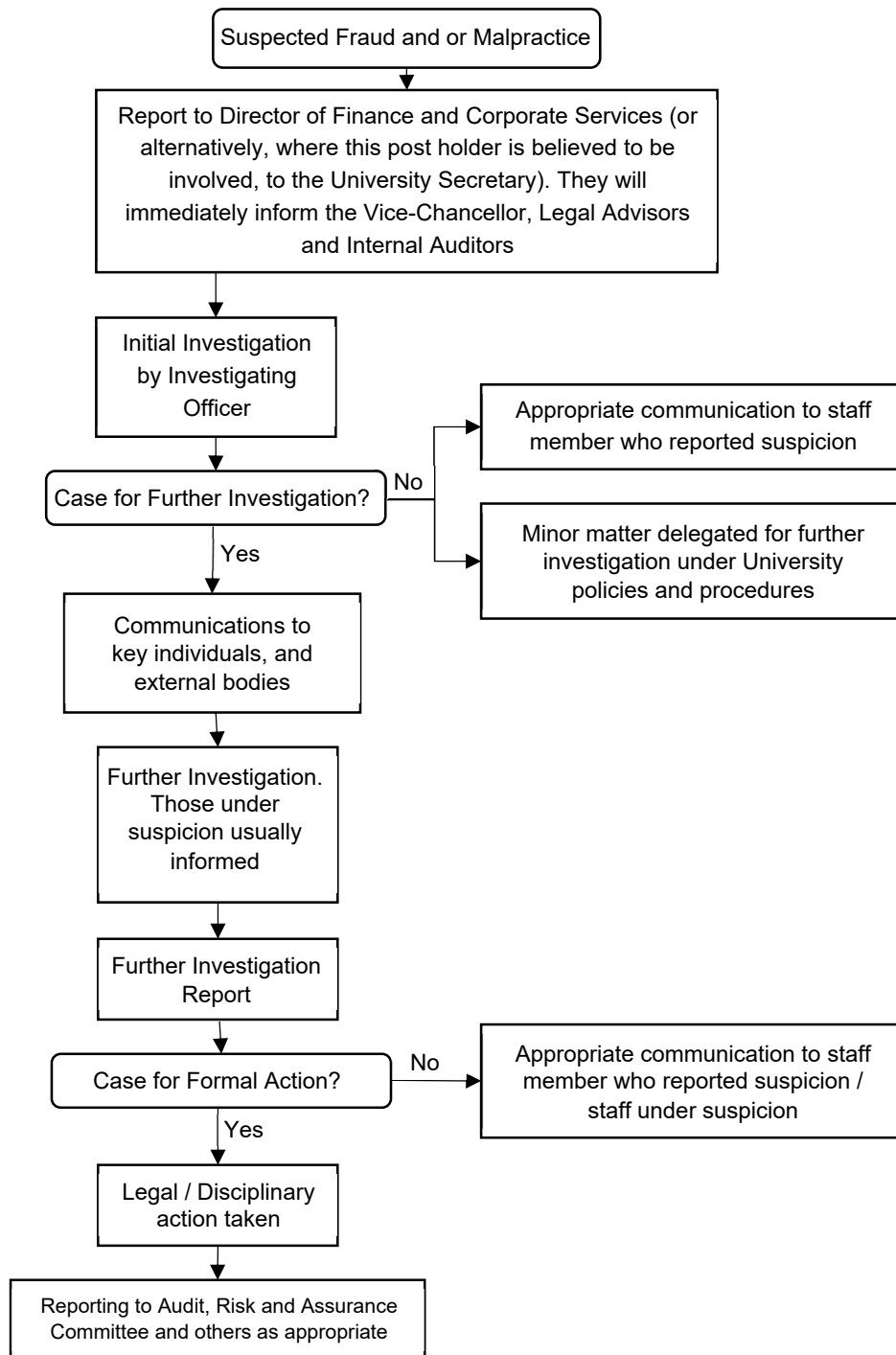
External Audit

The University's External Auditors are not responsible for detecting fraud and malpractice. However, they are required to consider fraud and the impact that this has on their audit approach. This is achieved through measures including reviews of accounting policies, and evaluations of broad programmes and controls that prevent, deter and detect fraud at AU. Any fraud and malpractice suspected by the External Auditors will result in substantive audit procedures being performed, all audit evidence evaluated, and the matter reported to the Audit, Risk and Assurance Committee.

5. Investigation into suspected Fraud and Malpractice

The whole University community is key to ensuring that AU's stance on fraud and malpractice is effective. All employees, students and other related parties are encouraged to raise any concerns that they may have. All such concerns will be treated in confidence, wherever possible, and will be impartially investigated.

The chart and text below sets out the detailed approach to reporting suspected fraud and malpractice, and how they will be investigated through to action and formal reporting.



Initial Report

If an individual believes that they have reason to suspect a fraud and malpractice, or they are being encouraged to take part in such activity, they must immediately report this to the Director of Finance and Corporate Services. Employees or managers should not initiate their own investigations or enquiries, but should seek the advice of this post holder as soon as possible.

If it is believed that this post holder is involved, and/or the Vice-Chancellor is involved, the University Secretary should be informed. If the report comes via this latter route, then the best approach to the investigation, taking into account the principles outlined below, will need to be considered in conjunction with the University's legal advisors. Where the Vice-Chancellor is not involved, the University Secretary will immediately inform the Vice-Chancellor if it is believed that the Director of Finance and Corporate Services is involved. If the Vice-Chancellor is believed to be involved, the Chair of Council will be informed.

Initial Investigation

The Director of Finance and Corporate Services will consider the most appropriate response within 24 hours of the suspicion being reported.

An initial confidential investigation will take place with an appropriate Investigating Officer being appointed.

The Vice-Chancellor, the University's legal advisors and internal auditors should be informed that this investigation is being carried out and should be kept apprised of its progress.

The purpose of the initial investigation is to gather all relevant information and documentation to determine if there is a *prima facie* case for further formal internal/external investigation. This investigation will be undertaken urgently and confidentially, with a report being made to the Director of Finance and Corporate Services. Initial investigations shall normally be completed within two working days.

The Director of Finance and Corporate Services will then consider whether:

- There is a case for further investigation/action. If there is no case for further investigation/action, there should be an appropriate communication to the individual who reported the suspected fraud or malpractice;
- There are immediate measures that would prevent any further losses, including the suspension of employees;
- Where appropriate, to approach external parties such as the Internal or External auditors, or specialist legal advisors, for advice on how an investigation of this type will be processed and to take advice on searching for, securing and preserving information, including documentary and electronic evidence and systems of all types;
- To determine whether specialist expert advice will be needed to be engaged;
- The matters reported constitute minor misconduct or other matters, which it may be delegated for further investigation or management to other suitable managers using the appropriate University policies and procedures. If this course of action is taken, the Director of Finance and Corporate Services will retain overall oversight and may choose to take further formal action as evidence emerges.

Further Investigation

Where there is a case for further action or investigation, the Director of Finance and Corporate Services will, as soon as reasonably practical, take steps to initiate a Further Investigation.

Where the matter involves a member of staff, the Director of Human Resources should be informed that this investigation is being carried out and should be kept apprised of its progress. Other individuals and external bodies should be informed in accordance with the communications plan set out in the next section.

Under these circumstances, an individual, or group of individuals should normally be advised of the concerns relating to them. Where those under suspicion are members of staff or students, the applicable Disciplinary Procedure should be adhered to.

When an individual or group of individuals are advised of suspicions or allegations they will immediately be suspended and all access to internal files and papers (electronic and otherwise) will be disabled. Any prearranged meetings or tasks including planned visits to external locations should be reassigned to other staff.

The Investigating Officer involved in the initial review shall, under normal circumstances, be requested to lead the Further Investigation. The Director of Finance and Corporate Services may consider appointing an external person to lead this work if it is more appropriate.

The Investigating Officer shall be provided with all assistance that he or she reasonably requires or requests including assistance with fulfilling their day-to-day duties which will be subordinated to the investigation.

The Investigating Officer may delegate tasks to other members of staff subject to ensuring that such members of staff maintain the confidentiality of the tasks assigned to them and, with the prior agreement of the Director of Finance and Corporate Services, wherever this prior agreement is practical to obtain.

The Investigating Officer will also consider whether external specialists are required to assist with the investigation such as forensic accountants or internal audit.

The Investigating Officer, as advised by the University's Director of Human Resources and Organisational Development or where appropriate based on legal advice, may communicate with appropriate members of staff for the purposes of gathering information and evidence and will, unless it will compromise the investigation, consult relevant senior staff of the academic or professional service unit whose area the issue under investigation has arisen, always ensuring the maintenance of confidentiality.

The Investigating Officer shall liaise with and take advice from the Director of Human Resources and Organisational Development over all matters related to the rights of staff potentially affected by the investigation including the alleged perpetrator. They will also aim to minimise disruption to operational activities and routines.

Investigation Report

A report of the Further Investigation and key outcomes will be presented to the Director of Finance and Corporate Services as a basis for their decision upon any subsequent actions including:

- Any formal Disciplinary Hearing;
- Liaison with the Police and potential legal action;
- The nature and timeline of any system review;
- Liaison with the Chair of the Audit, Risk and Assurance Committee;
- The requirement to formally notify HEFCW and others as per the Financial Management Code.

Copies of the full Investigation Report shall be provided to the Vice-Chancellor and the Chair of the Audit, Risk and Assurance Committee.

Any suspension of an individual suspected of fraud will be carried out in accordance with the applicable Disciplinary Policy. If a case of fraud is proven, the University will act accordingly and disciplinary proceedings may lead to dismissal where applicable.

The University will seek prosecution of any individual where a criminal offence is suspected and the evidence obtained is sufficient to achieve a criminal conviction. In addition, the University will follow civil proceedings to recover money or other loss where appropriate.

6. Communications, and Reporting to External Bodies

The University is required to report suspected fraud or malpractice to key internal individuals and external bodies at the appropriate time.

	<u>Individual / External Body</u>	<u>Informed by:</u>
Informed upon Initial Report	Vice-Chancellor	Director of Finance and Corporate Services
	University's Legal Advisors	
	Internal Auditors	
Informed as appropriate following Initial Investigation	Director of Human Resources and Organisational Development	Director of Finance and Corporate Services
	University Secretary	
	Chair of Audit and Risk	
	University's Insurers	
	External Auditors	
	HEFCW	
Charity Commission		
Chair of Council		
Audit, Risk and Assurance Committee		
Informed as appropriate following Further Investigation	Police	Director of Finance and Corporate Services

Through the Initial Investigation, the Director of Finance and Corporate Services will establish if there is a *prima facie* case for further formal internal/external investigation. The outcome of this Initial Investigation will influence the communications required and any reporting to external bodies.

Depending on the nature of the suspected fraud or malpractice, and the facts that have already been established, the Director of Finance and Corporate Services will consider reporting the suspected fraud to the Police and those normally informed following the Initial Investigation, ahead of that Investigation being conducted.

Vice-Chancellor

As the University's Accountable Officer, the Vice-Chancellor shall be informed of any suspected fraud and malpractice at the point when concerns are first raised with the Director of Finance and Corporate Services.

Legal Advisors

The University's legal advisors shall be notified of suspected fraud and malpractice at the point when concerns are first raised with the Director of Finance and Corporate Services. This ensures that legal privilege is established at the earliest possible opportunity.

Internal Auditors

The Financial Management Code between AU and HEFCW requires that "Serious failures, including those that are suspected but not confirmed, must be reported to the institution's internal auditors immediately, in order that they can assess the adequacy of the relevant controls and any impact on their opinion of risk management, control and governance processes".

Serious failures are defined in the Financial Management Code as those where one or more of the following apply:

- a. The sums of money are, or potentially are, in excess of £25,000;
- b. The particulars of the fraud or irregularity are novel, unusual or complex; or
- c. There is likely to be public interest because of the nature of the fraud or irregularity, or the people involved.

HEFCW

Institutions must report serious failures to HEFCW at the time they are identified.

The report relating to a serious failure must be sent to the HEFCW Chief Executive. The University is required to provide as much information as possible to help HEFCW understand the appropriateness of the response and what, if any, further action is planned. In particular the report must indicate:

- a. whether the incident has happened or is suspected;
- b. when it occurred and who was involved;
- c. the impact of the incident on the institution and any stakeholders;
- d. what inquiries have been made and actions taken, including any reports to other regulators or the police;
- e. what controls were in place that applied to the incident, whether they were followed and, if not, why not; and
- f. whether the governing body has determined that controls need to be introduced or revised
– and if so, how and by when.

This report will be prepared and submitted to HEFCW by the Vice-Chancellor as Accountable Officer, drawing on advice from the Investigating Officer, and the Director of Finance and Corporate Services.

The Charity Commission

The University Council has adopted a framework for reporting serious incidents to the Charity Commission.

As a registered charity, the University is required to report serious incidents to the Charity Commission. Council members are trustees of the University in law, and as trustees bear ultimate responsibility for ensuring that the charity makes a report where required, and does so in a timely manner. However, in practice, making such a report to the Charity Commission would usually be delegated to an employee of the University, typically the University Secretary as Clerk to the Council.

Audit, Risk and Assurance Committee

It may be appropriate, subject to agreement with the Chair of the Audit, Risk and Assurance Committee, to keep that Committee apprised of an ongoing investigation.

On completion of any Further Investigation, a full written report will be submitted to the Audit, Risk and Assurance Committee containing:

- a description of the incident, including the value of any loss, the people involved, and the means of perpetrating the fraud;

- the action that has been taken against the perpetrator(s);
- the measures taken to prevent a recurrence; and
- any action needed to strengthen future responses to fraud, with a follow-up report on whether the actions have been taken.

This report will normally be prepared by the Investigating Officer with external assistance where appropriate. In compiling the report, the Investigating Officer shall be mindful of considerations relating to the Freedom of Information Act 2000.

Whether the report submitted to the Audit, Risk and Assurance Committee includes the Investigation Report in full shall be determined by the Chair of that Committee.

The Police

Consideration of whether and when to report an incident to the Police will be taken by the Director of Finance and Corporate Services, and a report may be made at any stage during the investigation process.

Whilst reporting to the Police of fraud is likely to be the norm, depending on the nature of the incident, immediate reporting may not be appropriate until a body of material can be put before the Police. It should be noted that under some types of insurance, a report to the Police may be obligatory and this should be confirmed with finance.

The Investigating Officer shall liaise and co-operate with the Police in any case where there has been a report to the Police which the Police decide to investigate.

All Police contact, including the arrangement of visits by the Police, shall be arranged through the Investigating Officer, or the Director of Finance and Corporate Services, unless otherwise delegated by them. Where the Police ask to see members of staff or their work or records, the Director of Human Resources must be informed.

Where a suspected incident of fraud or malpractice is raised with the Police directly, rather than with the University, and the police contact the University for further information, the enquiries should be referred to the Director of Finance and Corporate Services before any further action is taken.

Managing Public Relations

Any requests for information from the press or anyone outside the University concerning any investigation of fraud or malpractice must be referred directly to the Director of Finance and Corporate Services. The advice of the Head of Communications will be taken into consideration by the Director of Finance and Corporate Services prior to issuing any statements.

Under no circumstances should the Investigating Officer or other employee provide statements to press or external persons.

7. Appendix A: Guidance for Staff

What should you do if you suspect a fraud?

Do make an immediate note of your concerns.

Make a note of all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.

Do convey your suspicions to someone with the appropriate authority and experience, commencing with your line manager.

If this does not lead to a satisfactory response then consider escalating the concern.

Tell the Director of Finance and Corporate Services.

If it is believed that one or both of these post holders is involved or an alternative reporting route is preferred, the University Secretary should be alerted.

Do deal with the matter promptly.

Any delay could cost the University money or reputational damage. If in doubt, report your suspicions anyway.

Do not be afraid of raising your concerns.

Your concerns will be dealt with in confidence. You will not be ridiculed and will not suffer any recriminations as a result of voicing a reasonably held suspicion. The University will treat any matter you raise sensitively and confidentially. We will ensure you receive appropriate support.

Do not accuse any individuals directly.

Do not try to investigate the matter yourself.

There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may compromise the case.

Do not tell anyone about your suspicions other than those with the proper authority.

All reported frauds will be investigated and if appropriate the police may be involved.

8. Appendix B : Criminal Finance Act Policy Statement

1. Aberystwyth University has nominated a key officer responsible for information, training and queries on CFA 2017 within our organisation – the key officer for CFA 2017 is: Nansi George, Assistant Director of Finance (Tax & Controllershship).

2. Aberystwyth University regularly reviews its risks and associated processes and procedures to ensure that all steps are taken to prevent facilitation of tax evasion.

3. Aberystwyth University regularly reviews guidance and legislation in relation to CFA 2017 to ensure it is maintaining an appropriate CFA 2017 policy and will update this on a two-yearly cycle in line with other Finance related policies.

4. Aberystwyth University maintains a register of possible risks of the facilitation of tax evasion by its staff and associates, as well as listing controls to mitigate those risks, and any actions required to improve those controls. This register is regularly reviewed and updated, as and when required in relation to the nature of the specific risks.