

# AHRC POLICY ON COUNTER FRAUD AND BRIBERY

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## **Policy Statement**

- 1.0 AHRC is committed to establishing and applying appropriate standards of regularity and propriety and requires all employees at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. AHRC employees are required to conduct themselves in accordance with the harmonised Research Council Code of Conduct.
- 2.0 AHRC employees are required to record any external activities and/or interests which may in any way conflict with the interests of AHRC with the PSU Head of Risk and Governance.
- 3.0 AHRC is committed to applying appropriate cultures and behaviours with a 'zero-tolerance' approach to fraud and bribery and aims to foster an environment in which opportunities for fraud and bribery are minimised and in which suspicions of either are reported. AHRC is committed to rigorously investigating cases of alleged fraud, to the recovery of any assets lost (through civil legal action if necessary) and to taking action against perpetrators of fraud or bribery through the application of criminal sanctions.
- 4.0 AHRC is committed to fostering an environment in which opportunities for fraud, bribery and corruption are reduced to the lowest possible level of risk and that the internal control framework is designed to minimise the risk of fraud or bribery.
- 5.0 This policy is fully endorsed by the Chief Executive and Audit Committee of AHRC. Adherence will ensure that AHRC activities are compliant with legal and ethical requirements.
- 6.0 **What are Fraud, Bribery and Cybercrime?**  
Definitions can be found in Appendix 1.

## **Policy Scope**

- 7.0 This policy supplements the existing Research Councils Code of Conduct, AHRC's Disciplinary policy and AHRC's gifts policy.
- 8.0 For the purposes of this policy the use of the word "employee" covers AHRC employees on permanent or temporary contracts; persons who are on secondment to AHRC; and non-employees such as students,

contractors and other persons carrying out work on AHRC premises and/or on behalf of AHRC. For the purposes of this policy it does not include grant holders who will be covered by the standard Research Funding Guide.

- 9.1 This policy covers overseas activities as well as UK, particularly in cases of overseas funding where new relationships are being pursued and developed.
- 10.0 For the purposes of this policy where Fraud is mentioned this should be taken to mean Fraud, Bribery and Cyber Crime.
- 11.0 Whilst AHRC completes a Fraud and Error assessment as part of the Cabinet Office Fraud and Error initiative this policy only covers fraud.
- 12.0 A list of relevant legislation, regulations and supporting frameworks that provide background to this, as well as related AHRC policies and strategies are listed in Appendix 2.

## **Policy Objectives**

- 13.0 The objectives of this policy are to ensure that all employees are aware of their responsibilities to act honestly and with integrity to safeguard the public resources for which they are responsible.

## **Policy Principles**

### **14.1 Reporting Fraud**

Employees should report any suspicions to their line manager as soon as possible. Employees can report their suspicions to any of the following if they are reluctant to discuss their concerns with their line manager:

- AHRC Director of Resources and the Head of PSU;
- The PSU Head of Risk and Governance.

Employees may also report any suspicions through the Fraud e-mail address [psucounterfraud@ahrc.ac.uk](mailto:psucounterfraud@ahrc.ac.uk)

If the employee feels unable to raise their concerns internally, they may raise them in accordance with the Research Council Whistleblowing Policy.

### **Issues that should be reported include:**

- Any suspected or actual attempts at fraud or bribery;
- Concerns that other employees or associated persons may be being bribed; or
- Concerns that other employees or associated persons may be bribing third parties, such as clients or government officials.

Investigations will be carried out into all cases of actual or suspected fraud discovered or reported.

### **Frauds Involving UK SBS Ltd (SBS)**

SBS perform some delegated functions on behalf of AHRC and these include but are not limited to financial transaction processing. Where a suspected fraud involves processes or controls operated by SBS, the AHRC Director of Resources and the Head of PSU will inform SBS of the allegation and agree how the investigation will proceed. Frauds identified by SBS which impact on AHRC will be notified by SBS to the AHRC Director of Resources and the Head of PSU.

#### **15.1 Fraud Response**

When a fraud occurs or is suspected, regardless of value, there are certain procedures that should be followed. The official response is the **Fraud Response Plan** (see Appendix 3). This plan is a process that sets out AHRC's procedures for ensuring that allegations and reports of fraud or dishonesty are properly followed up, are considered in a consistent and fair manner and that prompt and effective action is taken to:

- Minimise the risk of any subsequent losses;
- Reduce any adverse operational effects;
- Improve the likelihood and scale of recoveries;
- Demonstrate that AHRC retains control in a crisis;
- Make a clear statement to employees and others that AHRC has a zero tolerance towards fraud and robust processes to guard against fraud.

The **Fraud Response Plan** will also involve the production of a 'lessons learned' report based on the circumstances and conclusion of the case. Any conclusions in respect of weaknesses in systems and proposed improvements should be implemented as soon as possible.

## **Policy Responsibilities**

16.0 The HM Treasury handbook, *Managing Public Money*, sets out the general roles and responsibilities for people working in the public sector in relation to fraud.

### **17.0 Chief Executive Officer**

The Chief Executive Officer is responsible for establishing and maintaining a sound system of internal control that supports the achievement of AHRC policies, aims and objectives. The system of internal control is designed to respond to and manage the whole range of risks that AHRC faces. The system of internal control is based on an on-going process designed to identify the principal risks, to evaluate the nature and extent of those risks and to manage them effectively. Managing fraud risk will be seen in the context of the management of this wider range of risks.

### **18.1 AHRC SMT**

The overall responsibility for managing the risk of fraud is at Executive Board level and has been delegated to the Director of Resources and the Head of PSU by the Chief Executive Officer. Responsibilities include:

- Developing and maintaining a fraud risk profile and undertaking a regular review of the fraud risks associated with each of the key organisational objectives in order to keep the profile current;
- Establishing and maintaining an effective anti-fraud policy and fraud response plan, commensurate to the level of fraud risk identified in the fraud risk profile;
- Designing an effective control environment to prevent fraud commensurate with the fraud risk profile;
- Establishing appropriate mechanisms for:
  - Reporting fraud risk issues;
  - Reporting significant incidents of fraud to the Chief Executive Officer;
  - Reporting to HM Treasury in accordance with *Managing Public Money* and;
  - Co-ordinating assurances about the effectiveness of anti-fraud policies to support the Governance Statement.
- Liaising with the Audit Committee;
- Ensuring that all employees are aware of the organisation's anti-fraud policy and know what their responsibilities are in relation to combating fraud;

- Developing skill and experience competency frameworks;
- Ensuring that appropriate anti-fraud training and development opportunities are available to appropriate employees in order to meet the defined competency levels.

### 19.1 **Line managers**

All line managers are advised to seek advice from the PSU's Head of Risk and Governance in respect of suspected fraud.

Line managers are responsible for preventing and detecting fraud and bribery through:

- Ensuring that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively;
- Ensuring that all procedures and policies in place to guard against fraud and bribery are followed;
- Assessing the types of risk involved in the operations for which they are responsible;
- Reviewing and testing the control systems for which they are responsible regularly;
- Ensuring that controls are being complied with and their systems continue to operate effectively;
- Implementing new controls to reduce the risk of similar fraud occurring where frauds have taken place.

### 20.1 **All employees**

Every employee is responsible for:

- Complying with all procedures and policies in place to guard against fraud and bribery;
- Acting with propriety in the use of official resources and the handling and use of public funds whether they are involved with cash or payments systems, receipts or dealing with suppliers;
- Conducting themselves in accordance with the Research Council Code of Conduct;
- Being alert to the possibility that unusual events or transactions could be indicators of fraud or bribery;
- Reporting details immediately through the appropriate channel if they suspect that a fraud or bribery has been committed or see any suspicious acts or events;

- Cooperating fully with whoever is conducting internal checks or reviews or fraud investigations.

#### 21.1 **PSU Risk and Governance Team**

The PSU risk and Governance Team is responsible for:

- The development, administration, dissemination and application of this policy;
- Maintaining the Fraud Register;
- Production of all the outputs required under the Cabinet Office Fraud and Error initiative;
- Representing AHRC on the Research Council Research & Assurance Network;
- Representing AHRC on the BIS Counter Fraud Network.

#### 22.1 **Audit and Assurance Services Group (AASG)**

AASG (Internal audit), is responsible for:

- Delivering an opinion to the Chief Executive Officer on the adequacy of arrangements for managing the risk of fraud and ensuring that the organisation promotes an anti-fraud culture;
- Assisting in the deterrence and prevention of fraud by examining and evaluating the effectiveness of control commensurate with the extent of the potential exposure/risk in the various segments of AHRC operations;
- Ensuring that management has reviewed its risk exposures and identified the possibility of fraud as a business risk;
- Assisting management in conducting fraud investigations.

### **Policy Communication**

23.0 This policy will be made available to all employees for reference and guidance purposes through the AHRC Intranet. All new employees will be made aware of the policy. All employees will be required to undertake regular Counter Fraud and Bribery awareness training.

### **Policy Benefits**

24.1 Investment in this policy will benefit AHRC by:

- Ensuring that all employees are aware of their responsibilities concerning fraud; and
- Mitigating the risk of fraud occurring within AHRC.

## **Appendix 1: Definitions and Terms**

### **What is Fraud?**

Fraud is defined as 'a criminal activity where deception is used for personal gain or to cause a loss'.

Fraud can be committed in one of three ways, as defined by the Fraud Act 2006:

- Fraud by false representation;
- Fraud by failing to disclose information;
- Fraud by abuse of position.

The following is adapted from the Fraud Act 2006.

### **Gain or Loss**

- A 'Gain' or 'Loss' is defined to consist of a gain or loss in money or property whether real or personal (including things in action and other intangible property), which could be temporary or permanent.
- A 'Gain' includes a gain by keeping what one has, as well as a gain by getting what one does not have.
- A 'Loss' includes a loss by not getting what one might get, as well as a loss by parting with what one has.

### **Fraud by false representation**

- Dishonestly making a false representation, and intending by making the representation to:
  - Make a gain for themselves or another, or
  - Cause loss to another or to expose another to a risk of loss.
- 'Representation' means any representation as to fact or law, including a representation as to the state of mind of:
  - The person making the representation, or
  - Any other person.
- A representation may be express or implied.



- A representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).
- A representation is false if -
  - It is untrue or misleading, and the person making it knows that it is, or might be, untrue or misleading.

### **Fraud by failing to disclose information**

- Dishonestly failing to disclose to another person information which he/she is under a legal duty to disclose, and
- Intending by failing to disclose the information to:
  - Make a gain for themselves or another, or
  - Cause loss to another or to expose another to a risk of loss.

### **Fraud by abuse of position**

- Occupying a position in which he/she is expected to safeguard, or not to act against, the financial interests of another person.
- Dishonestly abusing that position, and
- Intending by means of the abuse of that position:
  - Make a gain for themselves or another, or
  - Cause loss to another or to expose another to a risk of loss.
- A person may be regarded as having abused their position even though their conduct consisted of an omission rather than an act.

## **What is Bribery?**

Bribery is defined in the Bribery Act 2010 as a financial or other type of advantage that is offered or requested with the:

- Intention of inducing or rewarding improper performance of a function or activity; or
- Knowledge or belief that accepting such a reward would constitute the improper performance of such a function or activity.

A relevant function or activity includes public, state or business activities or any activity performed in the course of a person's employment where the person performing that activity is expected to perform it in good faith, impartially, or in accordance with a position of trust.

AHRC employees are required to act in accordance with the AHRC Hospitality and Gifts Policy.

The following is adapted from the Bribery Act 2010.

### **Offences of bribing another person**

A person is guilty of an offence if either of the following cases applies.

- Case 1 is where:
  - The Person offers, promises or gives a financial or other advantage to another person, and
  - The Person intends the advantage:
    - To induce a person to perform improperly a relevant function or activity, or
    - To reward a person for the improper performance of such a function or activity.
  - It does not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned.
  - It does not matter whether the advantage is offered, promised or given by The Person directly or through a third party.
- Case 2 is where:

- The Person offers, promises or gives a financial or other advantage to another person, and
- The Person knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.
- It does not matter whether the advantage is offered, promised or given by The Person directly or through a third party.

### **Offences relating to being bribed**

A person is guilty of an offence if any of the following cases applies

- Case 3 is where:
  - The person requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by the person or another person).
  - It does not matter -
    - Whether the person requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party,
    - Whether the advantage is (or is to be) for the benefit of the person or another person.
  
- Case 4 is where:
  - The person requests, agrees to receive or accepts a financial or other advantage, and
  - The request, agreement or acceptance itself constitutes the improper performance by the person of a relevant function or activity.
  - It does not matter:
    - Whether the person requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party;
    - Whether the advantage is (or is to be) for the benefit of the person or another person;
    - Whether the person knows or believes that the performance of the function or activity is improper.

- Case 5 is where:
  - The person requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by person or another person) of a relevant function or activity
  - It does not matter:
    - Whether the person requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party;
    - Whether the advantage is (or is to be) for the benefit of the person or another person.
    - Whether the person knows or believes that the performance of the function or activity is improper.
  
- Case 6 is where:
  - In anticipation of or in consequence of the person requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly:
    - By the person, or
    - By another person at the person's request or with the person's assent or acquiescence.
  - It does not matter:
    - Whether the person requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party;
    - Whether the advantage is (or is to be) for the benefit of the person or another person;
    - Whether the person knows or believes that the performance of the function or activity is improper.
  - Where a person other than the person is performing the function or activity, it also does not matter whether that person knows or believes that the performance of the function or activity is improper.

**Function or activity to which bribe relates**

- For the purposes of this Act a function or activity is a relevant function or activity if:
  - It falls within subsection (2), and
  - Meets one or more of conditions A to C.

- The following functions and activities fall within this subsection:
  - Any function of a public nature;
  - Any activity connected with a business;
  - Any activity performed in the course of a person's employment;
  - Any activity performed by or on behalf of a body of persons (whether corporate or unincorporated).
  
- Condition A is that a person performing the function or activity is expected to perform it in good faith.
  
- Condition B is that a person performing the function or activity is expected to perform it impartially.
  
- Condition C is that a person performing the function or activity is in a position of trust by virtue of performing it.
  
- A function or activity is a relevant function or activity even if it:
  - Has no connection with the United Kingdom, and
  - Is performed in a country or territory outside the United Kingdom.
  
- In this section "business" includes trade or profession.

### **Improper performance to which bribe relates**

- For the purposes of this Act a relevant function or activity:
  - Is performed improperly if it is performed in breach of a relevant expectation, and
  - Is to be treated as being performed improperly if there is a failure to perform the function or activity and that failure is itself a breach of a relevant expectation.
  
- In subsection (1) "relevant expectation":
  - In relation to a function or activity which meets condition A or B, means the expectation mentioned in the condition concerned, and
  - In relation to a function or activity which meets condition C, means any expectation as to the manner in which, or the reasons for

which, the function or activity will be performed that arises from the position of trust mentioned in that condition.

- Anything that a person does (or omits to do) arising from or in connection with that person's past performance of a relevant function or activity is to be treated for the purposes of this Act as being done (or omitted) by that person in the performance of that function or activity.

**Expectation test**

- For the purposes of sections 3 and 4, the test of what is expected is a test of what a reasonable person in the United Kingdom would expect in relation to the performance of the type of function or activity concerned.
- In deciding what such a person would expect in relation to the performance of a function or activity where the performance is not subject to the law of any part of the United Kingdom, any local custom or practice is to be disregarded unless it is permitted or required by the written law applicable to the country or territory concerned.
- In subsection (2) "written law" means law contained in:
  - Any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or
  - Any judicial decision which is so applicable and is evidenced in published written sources

## **What is Cybercrime?**

With cybercrime being one of the fastest-growing criminal activities it is receiving particular attention from Government with the creation of the National Cyber Crime Unit in 2013 operating as part of the National Crime Agency.

Cyberspace is described as an interactive domain made up of digital networks that is used to store, modify and communicate information. It includes the internet, but also the other information systems that support businesses, infrastructure and services.

Cybercrime can be committed by different groups:

- Cyber criminals interested in making money through fraud or the sale of valuable information;
- Industrial competitors interested in gaining an economic advantage;
- Foreign intelligence services interested in gaining national security information;
- Hackers who find interfering with computer systems enjoyable challenge;
- Activists who attack organisations for political or ideological motives;
- Employees or those who have legitimate access, who deliberately misuse systems and data.

In protecting AHRC from these risks staff should abide by the guidance contained within the 'acceptable use policy for ICT Systems and Services'. Any concerns/issues in respect of this policy can be raised with the Council's IT manager.

Staff should also be aware of the Government Security Classification Scheme which came into effect in April 2014 introducing a new Protective marking Scheme as guided by the Cabinet Office's Security Policy Framework. Any concerns/issues in respect of this policy can be raised with the AHRC Information Manager.

If staff suspect that any cybercrime is being committed they should report it in the same way as any suspected fraud.



## **Appendix 2: Relevant Authoritative Bodies related AHRC Documents, Legislation, Regulations and Supporting Frameworks.**

### **Authoritative Bodies**

Department of Business Innovation and Skills (BIS)

- Supports the scientific community and funds AHRC activities.

### **Related Documents**

[The Fraud Act 2006 \(opens in a new window\)](#)

[The Bribery Act 2010 \(opens in a new window\)](#)

[Managing Public Money \(opens in a new window\)](#)

[Research Council Code of Conduct \(opens in a new window\)](#)

[Research Council Disciplinary Policy \(opens in a new window\)](#)

## Appendix 3 – Fraud Response Plan

1. All employees are required under the Research Council Code of Conduct to immediately notify their line manager of any financial irregularity, or any circumstances suggesting the possibility of irregularity affecting the financial procedures or property of AHRC.
2. If employees are reluctant to discuss concerns with their line-manager they may approach any of the following:
  - The AHRC Director of Resources and the Head of PSU;
  - The PSU Head of Risk and Governance.

Employees may also report any suspicions through the Fraud e-mail address.  
[psucounterfraud@ahrc.ac.uk](mailto:psucounterfraud@ahrc.ac.uk)

If the employee feels unable to raise their concerns internally, they may raise them in accordance with the Research Council Whistleblowing Policy.

3. The manager to whom a report has been made should ensure that full details of the incident are recorded on the Fraud Register which is held by the PSU Risk and Governance Team.
4. If not already aware, all reported cases should also be made known to the Executive Director, who has responsibility for Counter Fraud within AHRC which is the AHRC Director of Resources and the Head of PSU.
5. All allegations and reports of fraud or dishonesty will be investigated and dealt with in line with the [Research Council Disciplinary Policy \(opens in a new window\)](#) with the rights of the individual reporting the suspected fraud protected.

In addition:

- a) Evidence in investigations of alleged fraud should be secured in a legally admissible format, i.e.:
  - Evidence must be carefully preserved;
  - Where possible, evidence should not be handled and no marks should be made on original documents;

- A record should be kept of anyone handling evidence.

b) When dealing with employees under suspicion of fraud prompt action must be taken:

6. Any decision to notify the police will be made by the AHRC Director of Resources and the Head of PSU with the agreement of the Chief Executive. In particular, consideration will be given as to whether civil or criminal proceedings should be undertaken in order to protect AHRC's interests. Each case will be considered on its own particular merits in accordance with the expert advice obtained with a view to minimising losses (both monetary and otherwise) to AHRC.
7. The AHRC Communications Team will be responsible for dealing with any enquiries from the press and other media.
8. The Director of AASG will, at an appropriate time, consider the results of the investigations and assess whether there is a weakness in AHRC's systems of internal control which needs to be addressed. An assigned qualified member of AASG will report the findings, conclusions and any recommendations to the AHRC Director of Resources and the Head of PSU.
9. The Director of Resources and the Head of PSU is required to notify Audit Committee of any cases of proven fraud or bribery. This action will be undertaken at the first opportunity following the completion of the initial investigations.
10. The Director of Resources and the Head of PSU is required to notify HM Treasury of any proven fraud in the annual fraud return.
11. In accordance with AHRC's Financial Memorandum the Chief Executive is required to notify BIS of any fraud or theft suffered by AHRC.
12. In accordance with the AHRC/NAO Letter of Understanding the Chief Executive is required to notify NAO of any actual or suspected fraud.

## 25.0 **Conclusion**

Following all fraud investigations a 'lessons learned' report will be produced based on the circumstances and conclusion of the case. Any conclusions in respect of

weaknesses in systems and proposed improvements should be implemented as soon as possible.

## **Appendix 4: Points of Contact**

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