POLICY DOCUMENT No TF04

ANTI-FRAUD POLICY

Incorporating Fraud Response and Investigation Plan

This policy is reviewed every two years by the Finance and General Purposes Committee

History of Document

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1. Introduction

Heart of Suffolk Education Trust requires all Staff, Trustees, Governors and Members to act honestly and with integrity at all times and to safeguard the public resources for which they are responsible. The Trust will not accept any level of fraud or corruption; consequently, any case will be thoroughly investigated and dealt with appropriately. The risks of fraud, theft, irregularity and cyber-crime are taken seriously and proportionate controls are implemented to mitigate the risk as far as possible.

2. Legislation

This policy has due regard to all relevant legislation and guidance including, but not limited to, the following:

- Bribery Act 2010
- Fraud Act 2006
- Companies Act 2006
- Public Interest Disclosure Act 1998
- Charities Act 2011
- Proceeds of Crime Act 2002
- Terrorism Act 2000
- DfE Academy Trust Handbook

3. What is Fraud?

Fraud is a criminal offence, which is defined in the Fraud Act 2006 as:

- Fraud by false representation
  A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. Representation can be stated by words or communicated by conduct i.e. written, spoken or by electronic means. Representation must be made dishonestly, and is made with the intention of making a gain or causing a loss or risk of loss to another.

- Fraud by failing to disclose information
  A fraud will have been committed if a person fails to declare information which he/she has a legal duty to disclose. There is a requirement that the person acts dishonestly and intends to make a gain for himself/herself, cause a loss to another or expose another to a risk of loss.

- Fraud by abuse of position
  A person who is in a privileged position acts dishonestly by abusing the position held, and by doing so, fails to disclose to another person, information which he/she is legally required to disclose. The dishonest act must be with the intention of making a gain for himself/herself or

another. Alternatively it may be with the intention of causing a loss or risk of loss to another. The offence may be committed by omitting to make a declaration as well as by an act.

The introduction of the Fraud Act 2006, does not prevent the prosecution of offences under the various Theft Acts and Forgery and Counterfeiting Act, e.g. theft counterfeiting and falsification of documents.

Corruption is a specific type of fraud and involves the offering, giving, soliciting or acceptance of any inducement or reward which may influence the action of any person.

Corruption involves two or more people. Corruption does not always result in a loss, indeed the corrupt person may not benefit directly from their deeds.

Theft is dishonestly appropriating property belonging to another with the intention of permanently depriving the other of it.

Bribery is defined by the Bribery Act 2010 as inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages.

Irregularity may be any significant matter or issue, other than fraud or corruption, which is so defined and prescribed by the governing body as to fall within the general principles of this policy and may warrant consideration or investigation under the fraud response procedure.
For example, an irregularity may be where a member of staff makes a genuine error or mistake in the course of their duties/responsibilities, but where this error or mistake is subsequently hidden from the governors, perhaps to the on-going detriment of the academy. Additionally, an irregularity may also involve consideration of the possible inappropriate use of academy funds or assets, which may not technically constitute fraud or corruption.

Examples of what could constitute fraud include, but are not limited to, the following:

- Theft of cash
- Substitution of personal cheques for cash
- Travelling and subsistence claims for non-existent journeys or events, or inflating claims
- Manipulating documentation to increase salaries
- Payment of invoices for goods received by an individual rather than the academy
- Unauthorised borrowing of equipment
- Failure to declare a conflict of interest
- Concealing a generous gift or reward
- Creation of false documentation

4. Preventing Fraud

All employees and third parties that work with the trust will be expected to act with high levels of integrity and to adhere with the rules outlined in this policy, and where appropriate, the Staff Code of Conduct, the Gift and Hospitalities Policy and the Pecuniary Interests Policy.

Robust internal controls will be put in place to manage the risk of fraud and are detailed within the Finance Regulations and Scheme of Delegation. These will cover areas including the following:

- Process of authorising transactions
- Access restrictions and transaction controls
- Account reconciliations
- Physical security of assets
- Segregation of responsibilities
- Pre-employment checks

Internal controls will be reviewed by the Trust Finance & General Purposes Committee, through the External Audit and Internal Scrutiny programme, to ensure they remain effective and are being consistently applied.

All employees will follow the Staff Code of Conduct and will be required to declare any business or pecuniary interests, or other conflicts of interest, to the headteacher or CEO. Trustees and Governors will be required to declare conflicts of interest at Governing Body and Trust meetings and through the declaration of pecuniary interests.

Following a case of fraud, the risk management strategy will be reviewed to ensure it considers all relevant risks and that the internal controls are effective.

5. Record Keeping

Financial records will be kept, along with evidence for the business reasons for making payments to third parties.

In line with the Gifts and Hospitality Policy, employees will be required to make the headteacher aware of all gifts or hospitality received or offered over the value of £**20**; these will be subject to review. Employees' expenses claims relating to expenses incurred with third parties will be submitted together with applicable receipts, and such expenditure should be authorised in advance of being incurred.

All invoices, accounts and related documents will be prepared and maintained will the highest accuracy and completeness. No accounts will be kept "off-book" and any reports of fraud, and subsequent investigations, will be recorded.

6. Indicators for Potential Fraud

Some actions and behaviours may give cause for concern, arouse suspicion and possibly indicate fraudulent activity. These are outlined by the DfE:
https://www.gov.uk/government/publications/indicators-of-potential-fraud-learning-institutions/indicators-for-potential-fraud-a-generic-checklist-for-education-providers

The list provided is not exhaustive; fraud can take many different forms. All employees will be vigilant to the indicators of fraud.

Clarification will be sought from the CEO or CFO if there are any questions over whether something could be considered an indicator of fraud. The presence of any of these indicators may not be a cause for concern; however, they will always be investigated appropriately in accordance with this policy.

7. Procedure for Reporting Fraud

Vigorous and prompt investigations will be carried out into all cases of actual or suspected fraud discovered or reported in accordance with the School's Whistleblowing Procedure. All matters will be dealt with in confidence and in strict accordance with the terms of the Public Interest Disclosure Act 1998 which protects the legitimate personal interests of staff.

Any instances of fraud, theft and/or irregularity exceeding £5,000 individually, or £5,000 cumulatively in any financial year, will be reported to the DfE as soon as possible, in line with the Academy Trust Handbook and the Fraud Response and Investigation Plan in Appendix 1 to this policy. Unusual or systematic fraud, regardless of value, will also be reported.

8. Fraud Response and Investigation Plan

The Trust has a Fraud Response and Investigation Plan that sets out how to report suspicions, how investigations will be conducted and concluded. This plan forms part of the Trust's Anti-Fraud Policy (Appendix 1).

9. Cyber-crime and cyber-security

The Trust and its schools will be vigilant to cyber-crime and clear cyber-security measures and proportionate controls will be implemented as appropriate. Appropriate action will be taken where a cyber-security incident occurs.

The following measures will be implemented specifically relating to addressing the risk of fraud:

- Firewalls, anti-virus software and strong passwords will be used
- Data will be routinely and securely backed up
- A restricted number of devices will be used to access financial or other sensitive data

Staff are regularly reminded to:

- Check the sender of an email is genuine before, for example, sending payment, data or passwords.
- Make direct contact with the sender where an email requests a payment – this will be done in person where possible, but at a minimum staff must use another method other than the direct reply function, such as a phone call.
- Understand the risks of using public WiFi.
- Understand the risks of not following payment checks and measures.

Any suspected incidents of fraud relating to cybersecurity will be reported and investigated as outlined in Appendix 1 of this policy.

The Trust will follow the National Crime Agency's (NCA) recommendation to not pay cyber ransom demands. Any decision to pay a cyber-ransom demand will only be made if permission has been obtained from the DfE.

10. Money laundering

Money laundering describes offences concerning the possession, concealment, conversion, transfer or making of arrangements relating to the proceeds of crime. This is not limited to money or cash.

Trustees will take appropriate and reasonable steps to ascertain where funds received by the academy come from. This includes:

- Identifying who they are dealing with.
- Verifying identities, where appropriate, and where there are high risks.
- Checking the nature of the organisation's or individual's business to be assured that this is appropriate for the academy to be involved with.
- Watching out for unusual, complex or suspicious activities, conducts or requests.
- Ensuring that any conditions attached to receiving the funds are appropriate and can be accepted and there is reasonable assurance that the funds are not from any illegal or inappropriate source.

Any decisions by trustees to accept or refuse donations will be recorded in writing in order to demonstrate that decisions were taken responsibly, with due consideration given to any risks.

Payments by cash will only be accepted by the school up to a value of £**500** from known individuals and organisations.

Any concerns held by staff relating to money laundering will be raised with the accounting officer. Where the Trust knows or suspects that an individual or organisation is engaged in money laundering or dealing in criminal property, the accounting officer will submit a suspicious activity report (SAR) to the NCA. The individual or organisation the report concerns will not be informed of the suspicion. Careful consideration will be given to the academy's relationship with the individual or organisation once the report has been submitted.

11. Responsibilities

11.1 Overall responsibility for dealing with fraud lies with the CEO as Accounting Officer. Responsibilities include:

- Overseeing the development and implementation of a system of internal controls that aim to minimise the risk of fraud.

- Overseeing the financial transactions and the development and implementation of effective financial regulations, policies and procedures to prevent losses and misuse.
- Ensuring bank accounts, financial systems and financial records are operated by more than one person.
- Ensuring resources are being managed in an ethical, efficient and economical manner.
- Ensuring that rigorous investigations of potential fraud are carried out promptly.
- Ensuring the appropriate legal and/or disciplinary action is taken where fraud is proven.
- Ensuring that appropriate action is taken to recover assets and minimise loss.
- Keeping full and accurate accounting records and producing the academy's annual accounts, including a statement on regularity, propriety and compliance.
- Advising the board of trustees in writing if action it is considering is incompatible with the Articles of Association, funding agreement or ATH, and notifying the DfE's accounting officer if the board proceeds with action considered to be in breach.
- Assessing the areas of the academy that are most vulnerable to fraud, in conjunction with the CFO.
- Receiving reports of fraud.
- Conducting an initial investigation where a report is made, in conjunction with the CFO.
- Approving gifts and hospitality in line with the Gifts and Hospitality Policy.
- Ensuring employees are provided with appropriate anti-fraud training.
- Maintaining the Register of Pecuniary Interests and Gifts and Hospitality Register.

11.2 Day to day responsibility for managing the risk of fraud has been delegated to the finance officers within each school through the CFO, which includes Bursars and Finance Officers.

The responsibilities of the School Finance Officers therefore include:

- Assessing the areas of the academy that are most vulnerable to fraud, in conjunction with the headteacher.

The responsibilities of the CFO therefore include:

- Conducting an initial investigation where a report of fraud is made, in conjunction with the CEO.
- Contacting the DfE to request prior approval for any transactions beyond the academy's delegation limits, and transactions that are novel, contentious or repercussive.
- Designing an effective control environment to prevent fraud commensurate with the risk management plan;
- Establishing and maintaining an effective Anti-Fraud Policy and Fraud Response and Investigation Plan, commensurate to the level of fraud risk identified in the risk management plan, and with consideration of the indicators for potential fraud identified by the DfE.

https://www.gov.uk/government/publications/indicators-of-potential-fraud-learning-institutions/indicators-for-potential-fraud-a-generic-checklist-for-education-providers;

- Liaising with the Trust Finance and General Purposes Committee on issues of fraud prevention, detection, and management;
- Making sure that all staff are aware of the Trust's Anti-Fraud Policy and know what their responsibilities are in relation to combating fraud;
- Taking appropriate action to recover assets;
- Ensuring that appropriate action is taken to minimise the risk of similar frauds occurring in future.

11.3 All **managers** are responsible for:

- Ensuring that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively;
- Preventing and detecting fraud;
- Assessing the types of risk involved in the operations for which they are responsible;
- Ensuring that controls are being complied with and their systems continue to operate effectively;

11.4 **Every member of staff** is responsible for:

- 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 or the School's decision-making bodies;
- Conducting themselves in accordance with the seven principles of public life set out in the first report on Standards in Public Life by the Nolan Committee. They are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
- Being alert to the possibility that unusual events or transactions could be indicators of fraud;
- Reporting details immediately through the appropriate channel if they suspect that a fraud has been committed or see any suspicious acts or events;
- Cooperating fully with whoever is conducting internal checks or reviews or fraud investigations;
- Providing information about any conflicts of interest and direct or indirect pecuniary interests to the Headteacher or CEO.

11.5 The Trust Board

The Chair of Trustees is responsible for:

- ensuring that an adequate system of internal control exists and that controls operate effectively;
- receiving reports of fraud that involve the CEO;
- ensuring that the DfE are notified as soon as possible in relation to instances of fraud, theft and irregularity exceeding £5,000 individually or £5,000 cumulatively in any financial year.

The Trust Finance & General Purposes Committee, as part of their audit and risk remit, is responsible for reviewing the academy's internal controls, and for conducting a full investigation of reports and determining what the next steps will be.

All Trustees and Governors are responsible for:

- Abiding by the Trust's policies and regulations and the guidance on Codes of Practice for Board Members of Public Bodies.
- Being alert to the possibility that unusual events or transactions could be indicators of fraud;
- Reporting details immediately through the appropriate channel if they suspect that a fraud has been committed or see any suspicious acts or events;
- Cooperating fully with whoever is conducting internal checks or reviews or fraud investigations

11.6 **The External Auditor** will be responsible for certifying whether the academy's annual accounts present a true and fair view of its financial performance and position.

12. Confidentiality

The Trust understands that the decision to report a concern can be a difficult one to make. Where possible, the identity of the person who made the report will be kept confidential; their identity will only be shared on a need-to-know basis. The identity of the individual(s) about whom an allegation is made will be also be kept confidential, and only shared on a need-to-know basis. Where an allegation is proven to be unfounded or malicious, the individual about whom the allegation was made will be provided with appropriate support.

Heart of Suffolk Education Trust Appendix 1 to Anti-Fraud Policy

Fraud Response and Investigation Plan

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1 Introduction

The purpose of this plan is to define the responsibilities for action in the event of a suspected fraud. Its focus is to:

- establish responsibilities for investigating the incident and taking appropriate action
- establish and secure evidence for disciplinary and/or criminal action
- prevent further loss
- recover losses
- establish lines of communication with the police.

2. Procedure

a. Action of employees/trustees/governors/members - if you become aware of a suspected fraud or irregularity, you should write down your concerns immediately. Make a note of all relevant details, such as what was said on the telephone or during other conversations, the date, the time and the names of anyone involved. Report the matter immediately to the School Business Manager or Bursar/Finance Officer or in their absence the Headteacher or Deputy Headteacher. When you report your concerns you must be prepared to hand over any notes or evidence you have already gathered. Confidentiality is of paramount importance throughout the process.

b. A member of staff or Governor or Trustee may choose to report concerns anonymously and such anonymity will be respected. It should be noted that if the report suggested criminal activity and the case is referred to the police, the identity of the person reporting the details will be needed at a later date if criminal proceedings are to be pursued effectively. Identification is preferred and will assist the investigation.

c. You must not do any of the following:
   - contact the suspected perpetrator in an effort to determine the facts and demand answers

- discuss the case facts, suspicions or allegations with anyone other than members of the Finance and General Purposes Committee and their nominated investigators.
- attempt to personally conduct an investigation of your own.

3. Malicious allegations

If an allegation is made frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against the person making the allegation.

4. Action by the Trust

a. The Trust has incorporated the role of an Audit Committee into the responsibilities of the Finance and General Purposes Committee with the agreement of the DfE. An extraordinary meeting would be convened in the event of a suspected fraud situation.

b. Members of the Senior Leadership Team must immediately inform the Headteacher of any concerns reported to them who in turn will report this to the CEO.

c. Any member of staff who reports a suspected fraud should feel confident they will be listened to seriously and sensitively. They should be given a fair hearing and they should feel reassured that they will not suffer because they have voiced their suspicions.

d. If any of the core membership of the Finance and General Purposes Committee are personally implicated in the suspected fraud, it should be reported instead directly to the Chair of Trustees and Chair of the Finance and General Purposes Committee. In such circumstances, the Chair of Trustees will determine, in consultation with the Chair of the Finance and General Purposes Committee, the procedure for examining the facts of the suspected fraud, any subsequent investigation and for deciding action.

e. The CFO will call a meeting of the Trust Finance and General Purposes Committee at the first available opportunity, ideally within 24 hours of the suspected fraud being reported. Where members of Finance and General Purposes Committee are not available, suitable alternatives can be appointed by the committee.

f. The Finance and General Purposes Committee will consider the report of suspected fraud and decide:
   - whether to instigate an investigation to establish the facts of what has taken place
   - whether to recommend to the CEO that the matter is reported to the police
   - whether to recommend to the CEO to suspend the individual(s) suspected pending further investigation (see 3. below).

g. Where further evidence is required before deciding whether to instigate an investigation, the Finance and General Purposes Committee will commission the gathering of further evidence and reconsider the position in order to make a decision.

5. Suspension pending investigation

a. The Trust Finance and General Purposes Committee will consider whether to make a recommendation to the Headteacher to suspend the individual(s) suspected pending further investigation. The prime consideration in this respect is to prevent further loss and/or the destruction or removal of evidence.

b. Where an individual is to be suspended they should be approached unannounced and asked to attend a meeting, where the suspension is confirmed and explained. Wherever possible, they should be given the opportunity to be accompanied at the meeting by a trade union representative or work colleague. If it is not possible for them to be accompanied, the meeting may proceed nonetheless so that action can be taken to prevent further loss and/or the destruction or removal of evidence. Following suspension, the individual(s) will be supervised at all times before leaving the premises. Only personal property may be removed and all keys must be surrendered. The Network Manager will be informed and access to School IT systems denied immediately. The individual will be sent confirmation of the suspension, in writing.

c. Suspension pending investigation of suspected fraud does not imply that it has been established that fraud has taken place and does not represent disciplinary action. Members of staff will remain on full pay throughout the period of suspension.

6. Investigation of suspected fraud

a. The Trust Finance and General Purposes Committee will normally commission an internal investigation of the suspected fraud, but will have authority to appoint other experts to conduct the investigation where necessary.

b. The school, its employees, Trustees and Governors will make available to the investigator all such information and records as are necessary to pursue the investigation.

c. The matters investigated will be kept confidential in so far as this does not hinder or frustrate the investigation process.

d. The investigator will prepare a report setting out their findings from the investigation. The report will cover:
   - an opinion on whether a fraud has been committed and the reasons and summary evidence in support of the opinion
   - where the opinion is that a fraud has been committed, description of the fraud, value of loss, people involved and the means by which the fraud was perpetrated
   - measures already taken or to be taken to prevent recurrence
   - any recommendations for action to strengthen future responses to fraud.

e. the Trust Finance and General Purposes Committee will consider the report and determine whether it demonstrates that a fraud has been committed and who may be responsible. In the light of their conclusions, the Trust Finance and General Purposes Committee will decide the action to be taken, as follows:

i. if it is determined on the basis of the evidence that no fraud has taken place, the Trust Finance and General Purposes Committee will agree action to ensure that all relevant parties are informed. If any individual(s) have been suspended pending investigation, the CFO will be responsible for advising on action relating to the lifting of the suspension in the case of staff.

ii. if it is determined on the basis of the evidence that a fraud has taken place, the Trust Finance and General Purposes Committee will refer to the Disciplinary Procedure in the case of staff. The Trust Finance and General Purposes Committee will also agree any action necessary under the School's requirements for reporting to the DfE, which is mandatory for any instances of fraud, theft or irregularity exceeding £5,000 individually or £5,000 cumulatively in any financial year. The Trust Finance and General Purposes Committee may recommend to the CEO/Headteacher that the matter is reported to the police if this has not happened at an earlier stage and/or that civil action is taken to recover losses.

f. If the report recommends improvements to the school's control systems, the School Business Manager or relevant Finance Officer will ensure that these are implemented at the earliest opportunity.

g. Where the matter is referred to staff disciplinary procedures, a separate investigation under those procedures will be necessary and evidence from the Finance and General Purposes Committee's investigation will form part of the disciplinary investigation.

7. Recovery of losses

The Finance and General Purposes Committee will assess the opportunity for recovering any losses, including taking legal action through the Courts, where appropriate. The CEO will be responsible for ensuring that any legal action is pursued.