

## FRAUD & BRIBERY POLICY

### Introduction and overview

Fraud, bribery and corruption divert money and management attention away from the University's core operations and could threaten the University's reputation.

The University is committed to high standards of ethical behaviour, acting with integrity and upholding the law. Acts of fraud, bribery and other corrupt behaviour will not be tolerated in any of the University's activities, at home or abroad, including where such activities are carried out by third parties acting on the University's behalf.

The University also strives to create and maintain an honest, open and well-intentioned working environment where University staff and other stakeholders are confident to raise their concerns without fear of reprisal.

This Policy outlines expectations of staff and third parties and gives guidance on how concerns should be raised, investigated and resolved.

Where justified, disciplinary and/or legal action will be taken against any individual or group who perpetrates any act constituting fraud against the University and all necessary steps will be taken to recover any losses incurred.

### Section A: Definitions and legislative context

#### **A1 Fraud**

A1.1 'Fraud' is a broad term used to describe a number of activities including, theft, embezzlement, false accounting, misappropriation, bribery, corruption, deception and collusion.

In general, a fraud involves deception to dishonestly make a personal gain and/or create a loss for another party.

A1.2 Until the introduction of the Fraud Act 2006 there was no precise legal definition of 'fraud' and this Act defines three classes of fraud:

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

Examples of fraud under these definitions are shown at **Appendix A**.

A1.3 In all three classes of fraud, the Fraud Act requires that for an offence to have occurred, the person must have acted dishonestly, and that they have acted with the intent of making gain for themselves or anyone else, or inflicting loss (or risk of loss) on another.

## **A2 Bribery**

A2.1 'Bribery' is a financial or other advantage offered as an inducement to another to persuade them to carry out their functions improperly.

A2.2 The UK Bribery Act 2010 came into force on 1 July 2011 and sets out new offences relating to:

- making a bribe or
- requesting or accepting a bribe
- bribing foreign public officials (wherever that takes place)

There is also a new corporate offence of "failing to prevent bribery". The University must have "adequate procedures" in place to avoid being convicted of this offence.

Under the Bribery Act, it is a criminal offence to give or receive (or promise to give or receive) a bribe anywhere in the world.

A2.3 Bribes usually take the form of improper payments or personal "commissions". They can, however, take on many different shapes and forms, such as gift cards, gifts, entertainment and shopping trips, payment of travel and other expenses, secret rebates, or charitable or political donations.

Facilitation payments, which are common in some countries, are also outlawed under the Bribery Act. These payments secure or expedite routine or necessary Government action by a public official. A facilitation payment includes a payment to a public official to do their job properly as well as payment to do their job improperly.

A2.4 The University is accountable for the actions of any third parties who work on behalf of the University, e.g. international agents, contractors. Under the Bribery Act, these third parties are known as "associated persons".

A2.5 Factors known to increase the risk of bribery are:

- The use of sub-contractors
- The working practices adopted in certain countries
- Working with industrial sectors that are known to present increased bribery risks e.g. pharmaceutical and construction sectors.

Examples of situations involving bribery are shown at **Appendix A**.

## **Section B: Scope and application of this Policy**

This Policy applies to:

- i. all staff, governors and “associated persons” (as defined in the Bribery Act - including contractors and authorised representatives); and
- ii. all University activities undertaken in the UK or overseas.

### **B1 The University’s approach to fraud, bribery and corruption**

- B1.1 The University will not tolerate fraud, bribery or any other corrupt activity, carried out by its own staff or by third parties acting on behalf of the University.
- B1.2 The University will seek to prevent such activity by a variety of measures including:
- a) risk assessments to ensure a proportionate response is made to activities and areas at risk of fraud and bribery;
  - b) strong internal controls, to prevent and detect irregularities;
  - c) strict recruitment and induction procedures;
  - d) a clear Staff Code of Conduct;
  - e) staff awareness and training; and
  - f) learning from incidents by improving internal controls.
- B1.3 The University will encourage its staff, contractors and related parties to report concerns and suspicious activity. (See **Section C** on “reporting concerns”).
- B1.4 The University will maintain a Fraud Response Plan (see **Section D**) to ensure concerns are investigated appropriately and conclusions reached.

### **B2 Implementing the Policy**

- B2.1 The Chief Operating Officer is responsible for ensuring strong internal financial controls across the University, including the implementation and maintenance of fraud risk assessments and associated internal controls.
- B2.2 The Head of Governance is responsible for responding to reports of suspected fraud, bribery and corrupt activities and for initiating the Fraud Response Plan, including the commissioning of any Internal Audit investigations.
- The Head of Governance will require the Head of Internal Audit to ensure that:
- Internal Audit’s fraud investigation staff are familiar with and follow rules on the admissibility of documentary and other evidence in criminal proceedings;
  - Internal Audit’s fraud investigation staff are familiar with the University's disciplinary procedures, to ensure that evidence requirements will be met during any fraud investigation;

- recommendations regarding police notification are given at a timely point in the investigation;
- advice is provided, in consultation with the University's Head of Legal, as to whether there is a need for other staff to be trained in the evidence rules for interviews under the Criminal Procedure and Investigations Act and, as necessary, the Police and Criminal Evidence Act ("PACE").

**B3 Expectations of University staff, contractors and third parties (i.e. "associated persons")**

B3.1 General expectations of university staff include:

- a) To discharge duties in accordance with their employment or contractual obligations and with due regard to University policies and procedures;
- b) To undertake all training associated with this Policy;
- c) To avoid all activities which are fraudulent or corrupt including bribery, e.g.:
  - acting dishonestly to cause a loss to the University or others or to make a gain for themselves and/or parties known to them;
  - offering (including promising to offer), requesting or receiving (including promising to receive) a bribe at any time;
  - the payment of facilitation payments; or
  - abusing their position.
- d) To follow the University's guidance around the offer and acceptance of gifts and hospitality, as outlined in the University's policy on Gifts and Hospitality.
- e) To disclose any interests or external activities as required by the University's policy on Disclosure of Interests, Consultancy and External Activities.
- f) To remain vigilant and report to the appropriate person (see **Section C**) concerns related to suspected fraud, bribery or other corrupt behaviour.
- g) To co-operate fully with any internal or external investigations carried out into reported concerns.
- h) To maintain confidentiality about any suspected or actual incidents involving the University.

## **Section C: Reporting concerns about suspected irregularities**

Suspicion of fraud or irregularity may arise through a range of means including the day-to-day operation of University procedures and planned internal or external audit work.

All actual or suspected instances of irregularity relating to the scope of this Policy should be reported without delay as detailed below.

Colleagues who raise genuine concerns about possible non-compliance will not be dismissed, demoted or otherwise suffer a detriment for raising those concerns.

Staff should be aware that disciplinary action may be taken against them if it becomes clear that they had knowledge that an act of fraud, bribery or corruption had taken place but had failed to report it.

See **Appendix B** for a flowchart of the reporting channels for raising concerns.

**Please note that concerns relating to money laundering should follow the procedure described in the Money Laundering Policy.**

### **C1 Reporting concerns regarding fraud, bribery and other irregularities**

C1.1 In the first instance, employees should notify their Line Manager and/or Principal Budget Holder (as defined in the Financial Regulations including members of the Vice-Chancellor's Executive Group, Deans and Directors) as soon as possible of any financial irregularities or matters which may give rise to suspicion of corrupt activity within their areas of responsibility.

Concerns should normally be communicated in writing but may be made orally in exceptional circumstances. The report should provide:

- a brief description of the alleged irregularity,
- the loss (or potential loss) involved,
- the individual(s) possibly involved; and
- any evidence supporting the concern.

C1.2 The Line Manager/Principal Budget Holder should make an initial assessment of the concern by considering the evidence provided, the credibility of the source and any other linked information or anecdotes (whether current or historical). As soon as possible and certainly within 3 days, they should notify the Chief Operating Officer who will immediately inform the Head of Governance. The Head of Governance may be notified directly if the Chief Operating Officer is unavailable or if the concern relates in any way to the Chief Operating Officer.

C1.3 If reporting via the Line Manager or Principal Budget Holder is considered inappropriate (e.g. if the concern relates to them) or their response is considered to be unsatisfactory then a report may be made directly to the Head of Governance. The concern will then be treated under the University's Public Interest Disclosure (Whistleblowing) Policy.

## **C2 Procedure for contractors or third parties to report concerns**

- C2.1 In the first instance, staff employed by contractors and third parties should notify their Line Manager of any concerns and/or the main University contact for the project or contract.

Concerns should normally be communicated in writing but may be made orally in exceptional circumstances. The report should provide:

- a brief description of the alleged irregularity,
- the loss (or potential loss) involved,
- the individual(s) possibly involved and
- any evidence supporting the concern.

- C2.2 If, for any reason, reporting via the Line Manager or main University contact is considered inappropriate (e.g. if the concern relates to them) or their response is considered to be unsatisfactory then a report may be made directly to the Head of Governance. The concern will then be treated under the University's Public Interest Disclosure (Whistleblowing) Policy.

## **C3 Anonymous and malicious reports**

- C3.1 It can be more difficult to assess and investigate anonymous allegations. For this reason, anonymous reporting is discouraged but, in exceptional circumstances and where supported by evidence, may form the basis of an investigation.

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

## **C4 Record Keeping**

- C4.1 The Head of Governance will keep a separate register of all reported concerns, including concerns relating to fraud, bribery and corruption. The register will include reference to any associated investigations and outcomes and will be kept for at least six years.

## **Section D: How the University will respond to concerns**

### **D1 Fraud Response Plan for reported concerns**

The purpose of the Fraud Response Plan is to define responsibilities, key actions and reporting lines in the event of a suspected fraud or other irregularity. It should help the University:

- assign responsibility for investigating the incident;
- keep relevant staff and Governors informed of the investigation and its outcome;
- prevent further loss and recover losses;
- establish and secure evidence necessary for criminal and disciplinary action;
- punish the perpetrators;
- notify other bodies, where required, including the police and HEFCE; and
- learn lessons from the incident and implement measures to prevent a recurrence.

#### **D1.1 Responsibilities**

The Head of Governance is responsible for co-ordinating the University's response to actual or suspected incidents under the scope of this Policy.

Upon notification and initial consideration of a concern and, wherever possible, within 24 hours, the Head of Governance shall inform the Vice-Chancellor (and Chief Operating Officer, if the concern has not been raised via him/her) and shall consider whether the concern warrants the convening of the Fraud Response Group.

If the Fraud Response Group is convened, the Group should be constituted within 48 hours and should include a minimum of 3 members. The Group will normally include, where practicable, the following staff:

- Head of Governance (Chair)
- Head of Internal Audit Service
- Director of Human Resources
- Chief Operating Officer
- Chief Legal Officer and/or Head of Legal
- Risk Manager

If a Group meeting is not feasible, the Head of Governance shall consult members of the Fraud Response Group before determining action. If any of the office-holders named above hold direct management responsibility for the area under investigation, or are otherwise implicated in the suspected irregularity, their role may be taken by another appropriate senior officer.

HEFCE<sup>1</sup> requires that the internal auditor is informed, as soon as possible, of all attempted, suspected or actual fraud or irregularity. The internal auditor is required to consider any implications of investigations into attempted,

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<sup>1</sup> HEFCE Financial Memorandum 2010/19 – paragraph 56

suspected or actual fraud or irregularity in relation to the internal control system, and to make recommendations to management, as appropriate, to strengthen the systems and controls.

Final responsibility for the decision to involve the internal auditor to investigate the concern further rests with the Head of Governance, who shall consult with the Chair of the Audit Committee.

Responsibilities for Record Keeping are outlined in **Section D3**.

#### D1.2 Investigation

Investigations into suspected fraud, bribery and corruption will be carried out in a fair and impartial way.

This will involve an investigation, normally led by Internal Audit, taking account of appropriate professional practice and any relevant guidance issued by HEFCE, the Charity Commission or any other relevant regulatory body.

Internal Audit will report progress with the investigation to the Head of Governance, who shall advise the Fraud Response Group. Progress with the investigation will be reported to the Chair of the Audit Committee and, as required, to the full Audit Committee and the Board of Governors.

##### *Preventing further loss*

To prevent further loss, it may be necessary to suspend staff during the investigation. Further details are given at **Section D2**.

##### *Establishing and securing evidence*

A major objective in any fraud investigation is the punishment of the perpetrators, to act as a deterrent. Only appropriately trained staff will conduct fraud investigations to ensure evidence is obtained and secured in the correct manner.

##### *Recovery of losses*

Recovering losses is a crucial element of any fraud investigation. The Head of Governance shall ensure that in all fraud investigations, the amount of any loss will be quantified. Restitution of misappropriated assets shall be sought in all cases.

Where the loss is substantial, legal advice shall be obtained without delay about the need to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice shall also be obtained about prospects for recovering losses through the civil court, in the event that the perpetrator refuses repayment. The University will normally expect to recover all costs in addition to losses.

#### D1.3 Final outcomes of investigation



On completion of the investigation, Internal Audit shall produce a written report for the Fraud Response Group. The report will include the following:

- a conclusion as to whether the reported concern(s) has any substance;
- the nature and extent of the fraud or irregularity;
- its impact, financial and otherwise, upon the University;
- who was involved (including those staff and/or management whose failure to exercise appropriate supervision or control may have contributed to the fraud);
- internal control weaknesses which may have allowed the irregularity to occur; and
- recommendations regarding actions required to prevent a recurrence.

Once approved, the Head of Governance will forward the report to the Vice-Chancellor, together with any further recommendations made by the Group. Where allegations of fraud, bribery or corruption have been upheld, the principal findings and conclusions of the Fraud Response Group should also include:

- a recommendation regarding legal action through criminal or civil law channels; and
- a recommendation regarding disciplinary action.

Any legal proceedings or other related actions will be conducted or directed by the Chief Legal Officer. Any disciplinary action taken will be in accordance with University's disciplinary procedures.

#### D1.4 Wider notification requirements

##### Notification of Governors

The Head of Governance will notify the Chair of the Audit Committee and, as required, summarise the matter in the regular "reportable incidents" report submitted to each Audit Committee meeting.

Where the fraud or irregularity is of sufficient seriousness (as defined by HEFCE<sup>2</sup>) the Head of Governance will make a full report to the Audit Committee.

##### Notification of HEFCE

The Head of Governance will ensure that the University complies with the HEFCE requirement<sup>2</sup> for the Vice-Chancellor to notify HEFCE of any theft, fraud, loss of charity assets or other irregularity where:

- a) the sums of money involved are, or potentially are, in excess of £25,000; or
- b) the particulars of the fraud, theft, loss of charity assets or other irregularity may reveal a systemic weakness of concern beyond the institution, or are novel, unusual or complex; or
- c) there is likely to be public interest because of the nature of the fraud, theft, loss of charity assets or other irregularity, or the people involved.

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<sup>2</sup> HEFCE Financial Memorandum 2010/19 Annex B: Audit Code of Practice

### Notification of Police

Following investigation, as outlined in D1.3 above, the Fraud Response Group will consider the possibility of criminal proceedings, taking advice from the Police as required. The Head of Governance (or in his absence, the Risk Manager) is authorised to report such incidents to the Police and will ensure feedback is provided to the Fraud Response Group regarding any Police action.

### Notification of Insurers

The Head of Governance will ensure that relevant information is provided to insurers as required.

## **D2 Human Resource considerations**

### **D2.1 Suspension during investigation**

The Director of Human Resources will participate in the Fraud Response Group and will assist the Group to decide whether staff suspension is required during the investigation under the University's disciplinary procedure.

Individuals suspected of fraud, bribery or corruption may be suspended immediately (on full pay) pending a full investigation. In some cases it may also be necessary to suspend other staff (on full pay) in order to conduct a proper investigation.

The suspension of a member of staff does not constitute a finding of misconduct against him or her. Any staff suspended as a result of suspected bribery or fraud will be informed of the reason for the suspension.

In such circumstances, the suspect(s) should be approached unannounced and supervised at all times before leaving the University's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the University. Any security passes and keys to premises, offices and furniture should be returned.

The Head of Security and the Director of IT Services shall be consulted on the best means of denying access to the University and its IT facilities, while suspects remain suspended.

During the period of any suspension the suspended member of staff will not be permitted to return to the premises, to make contact with staff or witnesses, or to act on behalf of the University, unless given express permission to do so by the relevant University authorities. Any infringement of this requirement may be treated as a disciplinary offence.

### **D2.2 Disciplinary action**

The University will follow disciplinary procedures against any member of staff who has committed fraud, bribery or corruption which may result in dismissal.

D2.3 *Criminal and Civil legal proceedings*

All proven incidents of fraud, bribery and corruption will be reported to the police for possible prosecution. In addition to any criminal prosecution brought by the police, the University may instigate civil legal proceedings.

D2.4 *References for employees disciplined or prosecuted for fraud, bribery or corruption*

Any request for a reference for a member of staff who has been disciplined or prosecuted for fraud shall in all cases be referred to the Director of Human Resources.

**D3 Record Keeping**

D3.1 The Head of Governance will update the Register of reported concerns with all associated investigations and outcomes. Documents will be kept for at least six years.

## **Section E: Further help and guidance about the Fraud Policy**

For general guidance on the application of this Policy, please contact:

- Chris Reilly, Chief Operating Officer, extension 4006
- Philip Booth, Chief Legal Officer, extension 4010
- David Soan, Deputy Finance Director (Accounting), extension 4122
- Jay Wilson, Head of Legal, extension 3482
- Adam Dawkins, Head of Governance, extension 4520
- Susan O'Donnell, Risk Manager, extension 4222

### **Related Policies**

Other relevant policies linked with this Policy include:

- a. Financial Regulations
- b. Expenditure Policy
- c. Policy on Corporate Gifts & Hospitality
- d. Policy on Disclosure of Interests, Consultancy and External Activities
- e. Public Interest Disclosure (“Whistleblowing”) Policy
- f. Staff Code of Conduct
- g. Disciplinary Procedure

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### **Associated Procedure & Guidance Notes (for Vice-Chancellor’s Office use)**

- External Reporting procedure for Police notification
- HEFCE notification requirements

The examples below are not intended to be exhaustive but provide a general indication of the range of matters covered by this Policy.

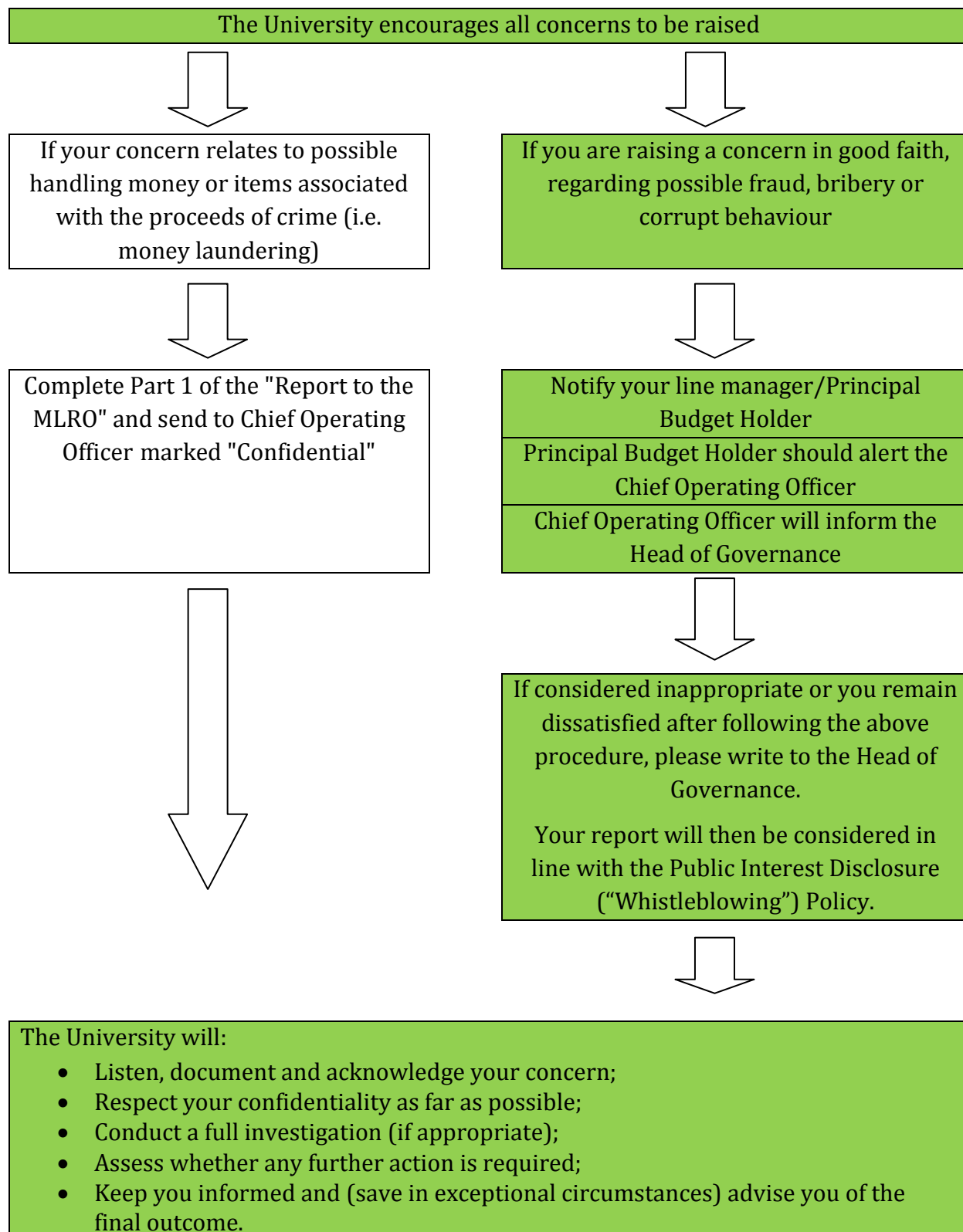
<b>Fraud: Examples</b>
Deliberate personal gain/benefit as a result of misuse of University research funds
Falsifying financial statements
Embezzlement, taking money which one has been entrusted with on behalf of another party
Illegal diversion of funds e.g. receiving cash and not recording its receipt
Tax evasion, major counterfeiting rings, 'advance fee' frauds;
Submitting false qualifications, professional registrations and/or references to obtain employment
Failing to declare criminal convictions e.g. under the Rehabilitation of Offenders Act 1974
Falsifying expense claims e.g. excessive expenses or expenses which are not reflective of actual activities or were never wholly incurred
Falsely claiming to be off sick
Falsifying time records and claiming for hours not worked (e.g. overtime)
Completing private work during University time
Falsifying records to steal University property
Corporate identity fraud, e.g. using the University's logo or letterhead for personal reasons and/or to imply the University has sanctioned the content of the document or that the document is sent for and on behalf of the University.

<b>Bribery: Examples</b>
Payment of a facilitation payment e.g. at international border points (NB: unless personal safety is at risk)
Alteration of academic outcomes or awards in return for an inducement
Alteration of the outputs or findings of work undertaken (e.g. research or consultancy work) in return for an inducement
Alteration, including destruction, of any documentation or records in return for an inducement
Accepting gifts and/or hospitality from current or potential suppliers of goods/services during procurement exercises. This could be an attempt to influence the University's actions during the process and should be refused.
Accepting excessive levels of gifts or hospitality knowing that it is intended to influence the outcome of a decision or other outcome.

## Raising concerns – flowchart

The reporting route for money laundering concerns is also shown below as these can be similar to concerns about fraud, bribery and corruption.

Please make sure you use the correct route.



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