Counter Fraud, Bribery and Corruption Policy

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Foreword

Fraud and corruption are significant risks to the UK public sector and have far reaching financial and reputational consequences. We believe that the overwhelming majority of our employees, contractors and suppliers are honest and act with integrity. However, we recognise that, like any organisation, the ICO is not immune to deliberate and opportunistic acts of fraud and corruption from those determined to carry them out. We take our duty to protect public funds very seriously and we have an averse risk appetite to fraud and corruption in all its forms, whether it is attempted from the ICO or within. We will always take robust action where such acts are suspected or perpetrated.

We all have a part to play in stamping out fraud and corruption and must remain vigilant to the many forms that it may might take. The success of our counter fraud, bribery and corruption measures depends on all of us helping to tackle wrongdoing and raising concerns when we have suspicions. At the ICO, we are committed to a culture where all staff are able to speak up about wrongdoing at work, safe in the knowledge that they will not face adverse consequences for doing so.

This document sets out a comprehensive approach to reduce the risk of fraud, bribery and corruption to an absolute minimum at the ICO and gives details on how we can all help in the fight to deter, prevent and identify fraud.

Key messages

The main objective of this policy is to:

- Form part of the ICO's framework for the prevention, detection and investigation of fraud, bribery and corruption.
- Clearly outline the ICO's commitment to tackling fraud, bribery and corruption.
- Set the cultural tone for the organisation.
- Support all staff (including temporary and agency workers and secondees) to understand their roles and responsibilities in identifying, preventing and reporting fraud and corruption.
- Help consultants, contractors, vendors and other organisations or individuals with links to the ICO to understand how and when to raise any concerns.

Does this policy relate to me?

The ICO has an averse risk appetite to fraud, bribery and corruption in all its forms. As such, all staff, agency workers, secondees, consultants, vendors, contractors, Non-Executive Directors and any organisations or individuals with a relationship with the ICO have a role to play in identifying and reporting fraud and corruption and should familiarise themselves with the policy.

This policy applies to any actual or suspected irregularity, deception or dishonesty committed with the intent of providing gain for the perpetrator or other parties, or inflicting loss (or risk of loss) on another.

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1. Introduction

1.1. All staff are expected to comply with the ICO Code of Conduct, which sets out the standards of behaviour and conduct expected of employees, including the need to act with openness, integrity and honesty at all times. It draws on the recommendations of the Committee on Standards in Public Life, chaired by Lord Nolan, and has parallels with the Civil Service Code.

1.2. This policy sets out the ICO's commitment to preventing, deterring and detecting all forms of fraud, bribery and corruption. The ICO has robust systems and processes in place to achieve this. All suspected or identified instances of fraud, bribery or corruption will be taken seriously and investigated promptly and thoroughly.

1.3. Senior management will ensure appropriate risk assessments are conducted in relation to fraud, bribery and corruption and that the control framework is robust. If an incident has occurred due to the breakdown of systems or processes, senior management will take immediate action to ensure that appropriate controls are strengthened to prevent reoccurrence.

1.4. Those committing fraud, bribery or corruption will be dealt with firmly and swiftly. The action taken will depend on the circumstances but may include disciplinary measures, dismissal, referral to regulatory authorities and/or criminal prosecution (this list is not exhaustive). The ICO will seek to recover any losses incurred in full.

1.5. The ICO will ensure that all staff, temporary staff and contractors:

- understand what is meant by 'fraud', 'bribery' and 'corruption';
- understand their role in preventing or identifying fraud, bribery and corruption;
- are encouraged to report suspected fraud, bribery or corruption; and
- are protected from any adverse consequences if they raise a concern about fraud, bribery or corruption. The ICO has a Whistleblowing Policy ('Speak Up') to protect anyone who wishes to raise concerns about behaviour or practice: Whistleblowing Policy and Procedure

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2. Definitions

2.1. **'Fraud'** is commonly used to describe the use of deception to deprive, disadvantage, or cause loss to another party. This can include activities such as theft, embezzlement, misuse of funds and false accounting. The Fraud Act 2006 defines three classes of fraud:
- false representation;
- failing to disclose information; and
- abuse of position.

2.2. The 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.
A non-exhaustive list of examples of fraud under these definitions is shown in Annex A.

2.3. **'Bribery'** is the offer of a financial or other advantage as an inducement to another party to persuade them to perform their functions improperly or reward them for doing so. The Bribery Act 2010 sets out offences relating to the making of bribes, requesting or accepting a bribe, and bribing foreign public officials.
A non-exhaustive list of examples of bribery is shown in Annex A.

2.4. The ICO is accountable for the actions of any third parties who work on its behalf, eg contractors and agents (known as "associated persons" under the Bribery Act 2010). There is also a corporate offence of failing to prevent bribery which requires organisations to

have adequate procedures in place to prevent its associates from engaging in bribery.

2.5. **'Corruption' -** The Bribery Act 2010 is designed to tackle bribery and corruption in their most common forms under UK law. Corruption is a form of dishonesty and refers to an individual who has given or obtained advantage through means which are illegitimate, immoral and/or inconsistent with their duty to an organisation or the rights of others. It is the abuse of entrusted power for personal gain. Examples include accepting incentives during procurement processes or taking money or favours in exchange for services.

Further examples are provided in Annex A.

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3. Responsibility for managing the risk of fraud, bribery and corruption

3.1. The ICO will actively manage the risk of fraud, bribery and corruption by:

- assessing and evaluating the organisation's overall vulnerability to fraud, bribery and corruption and identifying the most vulnerable areas of the organisation;

- measuring the effectiveness of the fraud, bribery and corruption risk management processes.

3.2. The ICO's Risk Management Policy provides the framework for continuing to embed risk management across the organisation, and outlines elements of the system of internal controls used to respond to operational risks. The ICO uses the Three Lines Model for effective risk management and control:

3.2.1 **First line and Second line** - We have policies and dedicated governance teams in place to oversee the effectiveness of, and compliance with, our policies and to focus on areas of higher risk which might require additional controls. There is particular focus on escalation and reporting to ensure substantial risk issues have quick visibility at the right level.

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Fraud and corruption are minimised through well designed and consistently operated management procedures which restrict opportunities for fraud. Measures in place include effective leadership, denial of opportunity, employee screening and training on conduct and systems. Systems are designed with detective checks in mind, including the need for segregation of duties, reconciliation procedures, random checking of transactions, review of management information and exception reports.

3.2.2 **ET retains** oversight of risk management, including the management of the fraud risk. It provides guidance and challenge to the first line on the management of fraud, bribery and corruption risks and tests compliance with the counter-fraud policies. The Audit and Risk Committee receives regular reports on counter fraud activity, incidents and whistleblowing referrals.

3.2.3 **Third line**: The fraud risk is considered when developing the annual audit plan, which incorporates a yearly audit on financial controls as standard. The risk of fraud is actively considered as part of individual audits and Internal Audit can have a role in investigating incidents of fraud, bribery and corruption or can act as a resource to those investigating such incidents. The external auditor's annual review of financial checks and balances and validation testing provides a further deterrent to fraud. Both Internal and External Audit report into the Audit and Risk Committee.

3.3. The ICO is committed to regularly reviewing our approach to tackling fraud and corruption and horizon scanning to increase the ICO's awareness of emerging fraud risks such as those associated with digital and cyber security.

3.4. The ICO is committed to working together with, and exchanging information with, other local and national agencies in full compliance with the General Data Protection Regulation (GDPR) in order to detect and prevent fraud.

3.5. The table in Annex C sets out responsibilities for managing the risk of fraud, bribery and corruption.
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4. What to do if you suspect wrongdoing

4.1. If you are concerned about fraud, bribery or corruption, it is important you report it immediately. All reports will be treated in confidence and there will be no adverse consequences if you raise genuine concerns, even if you are later found to be mistaken. All reports will be investigated swiftly and thoroughly.

4.2. Staff should report any suspicions in the first instance to the Counter Fraud Functional Lead - who is the ICO's Director of Risk and Governance. If this person is not available (or is under suspicion) then concerns should be reported to the Board Member Accountable for Counter Fraud – who is the ICO's Deputy Chief Executive.

Further guidance for staff who develop suspicions of fraud, bribery or corruption can be found at Annex B.

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5. Responsibility for investigating and responding to suspected instances of fraud, bribery and corruption

5.1. All cases of actual or suspected fraud, bribery and corruption will be robustly and promptly investigated and appropriate action will be taken, including referral to the Police, where appropriate.

5.2. The ICO has put in place procedures for reporting and investigating suspicions of fraud, bribery or corruption which are set out in the Counter Fraud, Bribery and Corruption Procedure.

5.3. The Counter Fraud Functional Lead is responsible for the investigation of suspected instances of fraud, bribery and corruption in the first instance. Their responsibilities, and those of other members of staff, in investigating and responding to suspected instances of fraud and corruption are set out in Annex C.

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Feedback on this document

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Version history

Version	Changes made	Date	Made by
1.0	Policy written	January 2023	Claire Churchill
2.0	Policy reviewed	February 2024	Claire Churchill

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![ico. Information Commissioner's Office]

Annexes

Annex A – Identifying fraud, bribery and corruption

The examples below are intended to help staff recognise instances of fraud, bribery and corruption at the ICO and are not intended to be exhaustive.

All staff should familiarise themselves with the types of improprieties that could possibly occur within their areas of responsibility, and should be alert for any indications of irregularity in their area or beyond.

Fraud	Bribery	Corruption
• Deliberate personal gain or benefit as a result of misuse of ICO funds. • Falsifying financial statements. • Embezzlement - taking money which an individual has been entrusted with on behalf of another party. • Receiving goods or equipment and not recording its receipt.	• Alteration of casework findings, outcomes or awards in return for money. • Alteration or destruction of any documentation or records in return for an inducement. • Accepting gifts and/or hospitality from current or potential suppliers of goods or services during procurement exercises. Please see the Procurement Policy for further details of processes to be followed.	• Conspiring with a supplier to falsify the amount paid on an invoice so that the supplier evades paying income or corporate taxes. • Buying unnecessary or inappropriate goods and services. • Excessive gifts and hospitality given to employees to influence business decisions or tasks. • Concealing invoices.

Fraud	Bribery	Corruption
• Submitting false qualifications, professional registrations and/or references to obtain employment. • Failing to declare criminal convictions. The Recruitment and Selection Policy and Procedures gives details of the Criminal Records Declarations required. • Falsifying expense claims eg 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. • Completing private work during ICO work time.	• Accepting excessive levels of gifts and/or hospitality knowing that it is intended to influence the outcome of a decision or other outcome. This can take many different forms eg gift cards, gifts, entertainment and shopping trips, payment of travel and other expenses, secret rebates, or charitable or political donations. Please see the Gifts and Hospitality Policy for further details. • Making, requesting or receiving improper payments or personal "commissions". • Facilitation payments, which may include a payment to a public official to do their job properly, as well as payment to do their job improperly.	• False representation by knowingly making false statements of fact during negotiations, which induces the other party to enter into a contract. • Demanding or taking money or favours in exchange for services. • Collusion or exchanging favours with other organisations which result in employees' interests not being accurately represented.

Fraud	Bribery	Corruption
• Falsifying records to steal ICO property. • Corporate identity fraud, eg using the ICO's logo or letterhead for personal reasons and/or to imply the document has been sanctioned or that the document is sent for and on behalf of the ICO. • Forgery, including forging company cheques for personal benefit.		

Annex B – Quick reference guidance note - What to do if you suspect fraud, bribery or corruption

Do	Don't
• **Report your suspicions immediately** to the Counter Fraud Functional Lead (ICO's Director of Risk and Governance). If this person is not available (or is under suspicion) then report the matter to the Board Member Accountable for Counter Fraud – who is the ICO's Deputy Chief Executive. Further alternative reporting lines are listed in the Code of Conduct. • **Record all relevant details** including relevant documents, the names of parties believed to be involved, details of the suspected offence, records of any telephone or other conversations, dates and times and any witnesses. Notes should be timed, signed and dated but do not need to be unduly formal. • **Keep any evidence** - the more direct and tangible the evidence, the better the chances of an effective investigation.	• **Don't be afraid of raising concerns -** the Public Interest Disclosure Act and 'Speak Up' (the ICO Whistleblowing Policy) provide protection for employees who raise reasonably held concerns through the appropriate channels. The matter will be treated confidentially and sensitively and you will not suffer discrimination or victimisation as a result of following these procedures. • **Only communicate your concerns to an authorised person** - there may be a reasonable explanation for the events that give rise to your suspicion. Spreading unproven concerns may harm innocent people. • **Don't approach the person you suspect, or try to investigate the matter yourself** - there are special rules relating to the gathering of evidence for use in criminal or civil cases and it may affect the chain of evidence if these rules are not followed.

Annex C – Counter fraud, bribery and corruption responsibilities

Stakeholder	Responsibilities for managing risk	Responsibility for investigating and responding to suspected instances of fraud, bribery and corruption
Information Commissioner	Accountable for the effectiveness of the ICO's arrangements for countering fraud, bribery and corruption.	As the **Accounting Officer**, has overall responsibility for public funds entrusted to the ICO and has a duty to report any confirmed cases of fraud, bribery or corruption.
Deputy Chief Executive	Accountable for the risk management of fraud, bribery and corruption, and for the operation of the ICO's anti-fraud, bribery and corruption policies.	As the **Board Member Accountable for Counter Fraud,** has responsibility for ensuring the Counter Fraud Functional Lead is suitably experienced and qualified, and has sufficient resources to undertake any investigations. Also has the responsibility for reporting any confirmed cases of fraud, bribery or corruption.
Audit and Risk Committee	To ensure that the control framework to prevent and detect fraud, bribery and corruption is effective.	To consider the effectiveness of the arrangements for reporting concerns under this policy.
Management Board	To develop a strong Counter Fraud culture within the organisation, and ensure the effective operation of the corporate governance framework.	To implement any changes recommended as a result of an investigation by the Counter Fraud Functional Lead.

Stakeholder	Responsibilities for managing risk	Responsibility for investigating and responding to suspected instances of fraud, bribery and corruption
Director of Risk and Governance	To be accountable to the Deputy Chief Executive for the day-to-day management of the fraud, bribery and corruption risk. To actively seek out best practice in Counter Fraud and integrate into the ICO's policies and procedures. To be a member of the government Counter Fraud Profession, and maintain: • a detailed understanding of the ICO's fraud, bribery and corruption risks; • an effective method for communicating these to the Management Board and the Audit and Risk Committee; • a good understanding of the ICO, and the context within which it operates, alongside the limitations it may have in dealing with fraud, bribery and corruption; • a good understanding of the ICO's fraud, bribery and corruption controls, their effectiveness and limitations. As the **Counter Fraud Champion**, to promote awareness of fraud, bribery and corruption within the ICO, and inform process improvements and drive cultural change.	As the **Counter Fraud Functional Lead,** to be accountable to the Deputy Chief Executive for investigating concerns in respect of fraud, bribery and corruption, following the procedures set out in the Counter Fraud Bribery and Corruption Procedure. To ensure the Risk Register is updated to reflect any improved controls as a result of investigations into concerns raised under this policy. To produce a full lessons learned report for any confirmed instance of fraud, bribery or corruption.

Stakeholder	Responsibilities for managing risk	Responsibility for investigating and responding to suspected instances of fraud, bribery and corruption
Directors	To ensure the effective operation of the corporate governance framework within area of responsibility, including the Counter Fraud, Bribery and Corruption Policy. To identify risks within their directorates. To ensure that the control framework to prevent and detect fraud, bribery and corruption is effective.	To be a recognised point of contact for staff members to raise concerns with regarding risk or wrongdoing, including suspicions of fraud, bribery and corruption. To report any concerns promptly to the Counter Fraud Functional Lead.
Risk and Business Continuity Manager	To consider fraud, bribery and corruption risks as part of the ICO's corporate risk management arrangements.	To update the Risk Register to reflect any improved controls as a result of investigations into concerns raised under this policy.
External Audit	As part of its external audit work, the NAO will review the adequacy of the relevant controls operated by the ICO.	As part of its external audit work, the NAO is required to identify and assess the risks of material misstatement of the financial statements, which includes the risk of fraud.
Internal Audit	To report on the effectiveness of controls to the Audit & Risk Committee.	To report any suspected instances of fraud, bribery and corruption highlighted by internal audits to the Counter Fraud Functional Lead.

Stakeholder	Responsibilities for managing risk	Responsibility for investigating and responding to suspected instances of fraud, bribery and corruption
Heads of and Team Leaders	To promote employee awareness of fraud, bribery and corruption. To ensure that there are mechanisms in place within their areas to assess the risk of fraud, bribery and corruption and to reduce these risks by implementing robust internal controls.	To be a recognised point of contact for staff members to raise concerns regarding risk or wrongdoing, including suspicions of fraud. To report any concerns promptly to the Counter Fraud Functional Lead.
Staff	To comply with ICO policies and procedures. To be aware of the possibility of fraud, bribery or corruption and to fully implement internal controls as required in their area.	To report any concerns to the Counter Fraud Functional Lead or an alternative as set out in this policy.
Public, Suppliers, Contractors, Consultants	To be aware of the possibility of fraud, bribery and corruption. To ensure that effective controls are in place within their own organisations to mitigate risks to the ICO.	To report any concerns to Counter Fraud Functional Lead or an alternative as set out in this policy.