

## National Council for Special Education

### **Good Faith Reporting Policy and Procedure (including Fraud Prevention)**

#### **1 Introduction**

1.1 The NCSE encourages its staff, Council members and the public to bring to its attention any event which may occur within the workings of the NCSE which might be illegal, improper or unethical.

1.2 The NCSE recognises that its employees carry out their work with integrity and professionalism. There may be circumstances where the high standards may not be adhered to and situations when things go wrong. Employees will usually be the first to know and suspect when someone in the organisation has done or is doing something improper or illegal. The NCSE recognises that staff may have difficulty in expressing their concerns due to a sense of loyalty to colleagues or the possible negative impact on the reputation of the NCSE or because they fear being victimised.

1.3 Employees are encouraged to "make a good faith report" on suspected wrongdoing (see paragraph 2.2 below) of which they become aware at an early stage, so that the NCSE can conduct its enquiries and take any necessary corrective actions to safeguard the interests and reputation of staff and the NCSE.

#### **2 Purpose and Scope**

2.1 This Good Faith Reporting Policy and Procedure applies to all employees and is intended to provide a safe and secure mechanism for employees who wish to report any genuine concerns they may have about suspected wrongdoing or malpractice within the NCSE.

2.2 Examples of wrongdoing may include (but are not limited to): fraud or corruption, criminal activities, financial malpractice, breaches of statutory and regulatory obligations, breaches of the Code of Behaviour, or breaches of any other code or policy relating to the business of the NCSE. The NCSE has the duty to identify such situations and to take appropriate measures to remedy them.

2.3 Fraud is a risk for most organisations including NCSE. The NCSE policy on prevention or mitigation of the risk of fraud includes good faith reporting of suspected fraud in accordance with the NCSE Good Faith Reporting Policy. The NCSE Fraud prevention policy is set out in more detail in the annex hereto.

2.4 If an employee has a complaint about his/her own personal circumstances, then the normal Grievance Procedure should be used. It is important that this Policy is not confused with the Grievance Procedure or other appeal procedures which apply to particular circumstances.

### **3 NCSE policy approach to dealing with Good Faith Reports by staff**

3.1 The NCSE is committed to the effective implementation of this Policy. If an employee uses this Policy to raise a concern in good faith, the NCSE gives its assurance that s/he will not be subject to disciplinary or other detrimental action by NCSE. However, the NCSE would consider abuse of this Policy by the raising of unfounded or malicious allegations to be a serious disciplinary matter.

3.2 If an employee who has made a Good Faith Report is subjected to retribution, victimisation or detriment by another employee's actions because of invoking this Policy, disciplinary action will be taken by NCSE against the perpetrator.

### **4 How to raise a concern internally**

4.1 An employee who believes that there is an occurrence within the working of NCSE which might be illegal, improper or unethical, should discuss and report the issue initially with his/her Line Manager if appropriate.

4.2 The employee raising the concern will be expected to explain the basis for her/his belief. Within the confines of any legal constraints, the employee will be given appropriate feedback on any investigation, and the NCSE will be sensitive to any concerns s/he may have as a result of any steps taken under this Policy

4.3.1 If an employee feels compromised or unable to discuss the matter with his/her direct Line Manager, for whatever reason, the matter should be raised with the next most senior responsible Manager if appropriate or with the NCSE Head of Audit Policy (contact details will be published on the shared drive).. If the employee still has concerns or feels that the matter is so serious that s/he cannot discuss it with any of the above, the matter should be raised with the Chief Executive Officer.

4.3.2 Should a complaint relate to the Chief Executive, the matter should be raised with the Chairperson of the NCSE Audit Committee (see 4.4)

4.4 Should the procedure at 4.3 not resolve the matter and if the employee still has concerns and feels that the matter is so serious that s/he cannot discuss it with any of the above, the matter should be raised in writing with the **Chairperson of the NCSE Audit Committee** whose contact details will be published on the NCSE shared drive. The Audit Committee Chairperson will consider the matter raised and will consult with the Council Chairperson and/or Committee members as appropriate in determining action to be taken. The Committee Chairperson may advise the employee to raise the matter under 4.3 or under other procedures where this is appropriate.

4.5 The employee should indicate if s/he wishes to raise the matter in confidence so that appropriate arrangements can be made. Matters will be dealt with as confidentially as possible where requested but in the case of an investigation absolute confidentiality cannot be assured.

4.6 The employee should specifically invoke this Policy in raising the matter.

4.7 The NCSE will respond appropriately to all matters raised and reported and will handle the matter expeditiously and properly in accordance with the principles of natural justice.

4.8 It will be much more difficult and problematic for the NCSE to investigate matters which are reported anonymously. Accordingly, while the NCSE will consider anonymous reports, this Policy is not appropriate for concerns raised anonymously.

## **5. How the NCSE will respond**

5.1 When an employee raises any concerns, the person to whom the concerns/allegations are made will make a record of the discussion. This record will be read back to the employee at the conclusion of the discussion and it is required that both parties sign this record as being a correct report of the concerns/allegations.

5.2 If appropriate, the employee may be asked for his/her suggestions on how the matter might best be resolved. If an employee raising the complaint has any personal conflict of interest in the matter, this should be disclosed at the outset. Failure to do so may be a disciplinary matter. If the concern reported is more properly an issue to be handled within the NCSE's Grievance Procedure, the employee will be so informed.

5.3 The appropriate person with whom a matter is raised by an employee under this policy will then decide how best to respond in a responsible and appropriate manner under this Policy. Usually this will involve making internal enquiries but it may be necessary to carry out an investigation at a later stage, which may be formal or informal depending on the nature and circumstances of the concern raised.

5.4 A decision as to whether a preliminary investigation should be carried out will be made as soon as possible, but within 10 working days of the concerns having been raised. Where this is not possible, the person who reported their concerns will be advised of the delay and of the revised timeframe.

5.5 Where an investigation is deemed necessary, it will be carried out in accordance with the principles of natural justice and guided by the principles of fairness, impartiality and objectivity. The Chief Executive will be advised of any investigation.

5.6 Where the person who receives the initial allegation considers that an investigation would be inappropriate s/he will identify the reasons for such a conclusion and copy it to the Head of Audit Policy. The individual who reported the concerns will be informed of this decision and given the opportunity to resubmit the allegation to the Head of Audit Policy. This option will not apply where an allegation has been disproved following an investigation.

5.7 Where the investigation confirms that wrongdoing or malpractice has occurred, appropriate disciplinary action in accordance with the NCSE Disciplinary Procedures will be taken including up to termination of employment, restitution and or forwarding information to the appropriate authorities for criminal prosecution. Reimbursement of losses together with ancillary legal and other costs incurred will be sought in all cases.

5.8 At the completion of the investigation, and in particular where the allegations were unsubstantiated, the individual who initially indicated his/her suspicions will be informed of the outcome.

5.9 The objective of this Policy is to provide a process to encourage individuals to raise genuine concerns of wrongdoing and malpractice. In a situation where the individual raising the concern has himself/herself been involved in wrongdoing he/she should not expect immunity from disciplinary or criminal proceedings. In such circumstances, however, the fact that he/she raised the concern may be taken into account.

5.10 It is the policy of the NCSE to keep the individual who raised the concern informed, as appropriate, of the outcome of any enquiries or investigations carried out. However, the NCSE will not inform him/her of any matters which would infringe duties owed to other parties or in respect of which the NCSE has received legal advice to the effect that information should not be released. Employees are required to keep confidential any information provided to them as part of these procedures.

## **6. Raising a concern externally (exceptional cases)**

6.1 The main purpose of this Policy is to give employees the opportunity and protection needed to raise concerns where they believe that there is an occurrence within the working of NCSE which might be illegal, improper or unethical. The NCSE, in the adoption of this Policy, anticipates that raising concerns internally would, almost always, be the appropriate action for employees to take.

6.2 However, where the concerns are such that they cannot be dealt with internally – see paragraphs 4.3.2 & 4.4, - this Policy provides for a structured channel to enable staff to raise concerns that a colleague is doing something which is illegal, improper or unethical with an independent external person i.e. the Chairperson of the Audit Committee. Any member of staff who decides to raise their concerns outside the channels set out in this Policy does so at his/her own risk.

## **7. Monitoring the Policy and Procedure**

7.1 Confidential records will be kept of all matters raised through this Policy and the NCSE will conduct periodic reviews on the effectiveness of the Policy.

## **8. Communication of policy**

8.1 All staff members will be given a copy of this policy and will be required to certify that they have read and noted the contents of the policy. The policy will be given to new recruits and included in induction programmes. It will be discussed at senior management meetings at least on an annual basis.

## **9. Adoption of Policy**

9.1 This good faith reporting policy was reviewed by the NCSE Audit Committee on 29<sup>th</sup> April 2012 and at previous meetings and adopted by Council on the recommendation of the Audit Committee on 16<sup>th</sup> May 2012.

***Nothing in this Good Faith Reporting Policy shall affect the statutory rights of an employee.***

## **Annex NCSE Fraud Prevention Policy**

### **Introduction**

Fraud is a risk to the assets, resources and reputation of an organisation. While this risk can be mitigated through systems and controls, it is not possible to eliminate the potential.

This annex provides particular guidance to staff in relation to preventing, detecting, reporting and dealing fairly with any irregularities which may arise and, in particular, to any incidences of fraud.

This policy applies to all staff members of the NCSE.. The policy covers any fraud, whether perpetrated against the Council by persons internally or externally. It also includes fraud by any provider of goods and services to the Council.

### **What is fraud?**

Fraud encompasses an array of irregularities and illegal acts characterised by intentional deception. It involves or leads to the misappropriation of funds or assets. It may be committed by persons inside or outside the organisation, or by people from inside and outside operating in collusion.

Fraud is an offence under criminal law and, where there is reason to believe that a fraud has been committed, the matter will be referred by the NCSE to the appropriate authorities for investigation. Appropriate disciplinary action may follow, as appropriate.

For the purpose of this policy, fraud shall include but is not limited to:

- theft or misappropriation of Council assets (e.g. embezzlement, payroll fraud, procurement fraud, computer fraud, external theft, including intercepting cheques in the post)
- knowingly submitting or processing false claims for payment or reimbursement (fictitious applications for grants, bogus travel or overtime claims)
- knowingly creating or distributing false or misleading information (including forgery or alteration of any document such as a payment authorisation or invoice)
- violation of Council procedures with the aim of personal gain, or gain for a connected person
- wilful negligence including any deliberate act intended to cause damage to the interests of the Council.

### **Responsibilities**

Staff members at all levels in the NCSE have a responsibility to safeguard against fraud. It is the responsibility of all employees to conduct their duties in a manner to ensure the risk of fraud is minimised in so far as reasonably possible. This includes ensuring that they are familiar with the approved procedures and controls associated with the discharge of their duties. All staff members should also be alert to the possibilities for fraud and be on their guard for any indications that improper or dishonest activity is taking place.

Managers at all levels should create an environment and culture in which staff members are aware that they must always behave honestly and appropriately in compliance with the Civil

Service Code of Behaviour. Staff members should understand that internal controls are designed and intended to prevent and detect fraud and in turn safeguard and protect all members of staff against the consequences of fraud.

In particular, it is the responsibility of all managers to establish and maintain an effective system of internal control in their areas of responsibility.

Senior management should be constantly aware of all risks and exposures inherent in their areas of responsibility and ensure that the risk of fraud is also addressed in the business planning processes.

### **Reporting fraud**

All staff members have a responsibility to report suspected fraud. The reporting procedures and the procedures for acting on such reports will be generally in line with those outlined in the NCSE good faith reporting policy. Care must always also be taken in any investigation of alleged fraud to ensure that evidence is not compromised by premature disclosure.

Any actual occurrence of such irregularities when proven must also be reported to the NCSE Audit Committee and to Council. The Comptroller and Auditor General (C&AG) must be notified of any fraud investigations.

### **Fraud register**

The Head of Audit Policy shall arrange for a record of all instances of fraud reported to be maintained. This record should include details of reported frauds/irregularities, subsequent action and resolution.

### **Fraud investigation**

The NCSE will ensure the investigation of possible fraud. Any investigation shall take full account of the procedures outlined in the Civil Service Disciplinary Code (D/Finance Circular 14/2006). It should be noted that the Disciplinary Code defines “serious misconduct” warranting investigation as including, but not limited to: “theft, fraud, embezzlement, misappropriation of funds, bribery or corruption, lack of due care for state resources” and “deliberate falsification of records, violation or misuse of confidential information or organisational property, material or equipment” .

The NCSE will ensure an initial investigation into any alleged or suspected fraud with a view to establishing (a) evidence in relation to whether a fraud has occurred, (b) the nature and extent of any loss to the Council, and (c) whether there have been any failures of internal controls. The person charged with the investigation may consult, as appropriate, with other senior managers during this investigation. Relevant technical or professional advice may also be sought, as necessary.

The results of the investigation will be presented to the Chief Executive for consideration. Where there is evidence of a fraud having been perpetrated, the NCSE will take whatever steps are appropriate which may include the initiating of civil legal proceedings and referral to the Garda Síochána which may ultimately result in criminal charges.

In such cases, the NCSE may seek legal advice to ensure that appropriate documentation of the facts has been achieved in order to:

- protect innocent persons

- support appropriate civil or criminal actions
- preserve the integrity of any criminal investigation or prosecution
- avoid any unnecessary litigation.

**Staff protection**

The NCSE will, at all times, seek to protect its staff from any negative personal consequences arising from the reporting, in good faith, of any fraud. To the extent possible, without negative impact on the course of the investigation, the source of reported information will be kept confidential and limited in circulation.

The NCSE will take a serious view of any staff member taking action against, or engaging in inappropriate behaviour towards, a colleague who has reported information in good faith. Any such actions or misbehaviour shall be treated as a disciplinary matter by the NCSE.

Any report made in good faith shall be treated as such by the NCSE. However, if an investigation shows that frivolous, malicious or untrue allegations have been made, these will be treated as a disciplinary matter by the NCSE.

For the purpose of complying with the provisions of this Policy the incident, facts, suspicions or allegations will be dealt with by responsible officers on a confidential need to know basis..

The NCSE will pursue recovery of losses resulting from fraud and associated costs, as appropriate, and if necessary through legal action.