

Protocol Re Fraud and Theft Reporting and Investigation

Initial Reporting

If a suspected theft or fraud is identified by any entity within the Society's Group, it must be reported immediately to the relevant Department Head, who in turn must report it to the Director General and the Director of Finance and Administration. It is essential that the matter is immediately reported to Finance and Administration for a number of reasons.

- This is a normal financial control in all organisations
- It gives Finance and Administration a timely opportunity to consider controls to prevent the continuation of theft/fraud
- Finance and Administration must, as part of the Law Society's audit process, complete a fraud questionnaire in which the incident must be outlined
- If computer theft/fraud is suspected, IT can be alerted and access restricted or monitored.

Preliminary Investigation and Report

A preliminary investigation should be undertaken by the responsible Manager/Director. A preliminary report should be submitted to the Director General and Director of Finance and Administration as soon as possible. If this is not possible within five working days an interim report should be submitted. Where necessary the matter should be processed under the Society's disciplinary procedure. Suspension pending completion of disciplinary proceedings must be considered.

Finance and Administration should assess the adequacy of the actions taken on initial reporting and should make further recommendations, including the engagement of external forensic assistance if necessary, to the Director General.

If the amount is material (greater than €500) the matter must be reported to the Chairman of the Finance Committee at this stage.

Full Investigation

A full investigation should then be completed by the responsible Manager/Director, where possible, within ten working days of the discovery of the issue. Finance and Administration will appoint an internal accountant to provide whatever assistance is required to ascertain the extent of the theft/fraud and the control system weaknesses, if any. If necessary a disciplinary hearing should be held without delay. If a suspension was not imposed on initial investigation it may be appropriate to consider this again at this stage.

The matter must be advised to the next meeting of the Finance Committee.

Control Review

Part of the outcome of the investigation must be the identification of the control weaknesses that gave rise to the possibility of theft/fraud and recommendations as to how this can be improved. Finance and Administration will lead this process in consultation with the relevant Department. The implementation of any changes required will be agreed with Manager/Director and implemented immediately. The review may have implications for procedures in all Departments.

Reporting to an Garda

In accordance with the Criminal Justice Act 2011 where fraud/theft is confirmed, this must be reported to An Garda irrespective of whether there is a suspect or not. While our auditors Deloitte have a legal responsibility to report same it is better that the Society makes the report.

Any "settlement" with an individual arising from a disciplinary procedure cannot include a commitment not to report the matter to An Garda. It is unlikely that An Garda will pursue minor frauds/thefts, but they must be reported to them.

Criminal Justice Act 2011

(1) A person shall be guilty of an offence if he or she has information which he or she knows or might be of material assistance in –

- the commission by any other person of a relevant offence, or
- securing the apprehension, prosecution or conviction of any other person for a relevant offence,
- fails without reasonable excuse to disclose that information as soon as it is practicable to do so to a member of the Garda Síochána.

A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.