Fraud response plan

RICS-regulated firms, like all organisations, should have a fraud response plan. Fraud can have a significant impact on businesses and responding appropriately to any fraud may help mitigate that impact.

The fraud response plan is not intended to set out how your firm will prevent fraud. Instead, it provides guidance of the steps you will follow as an organisation once potential fraud has been identified. You should ensure that your staff are aware of the fraud response plan.

RICS-regulated firms that hold client money must refer to the RICS Client Money Handling professional statement (2019) in relation to any frauds involving client funds. A summary of the requirements is included below in Annex 1.

Also included below in Annex 2 are suggestions for what you should consider including in your fraud response plan.

Further guidance on your fraud response plan is available in this guide to good practice in Fraud Risk Management published by the Chartered Institute of Management Accountants. This includes an example of a detailed fraud response plan.

The level of detail in your plan should be proportionate to the size and complexity of your firm. Other examples of fraud response plans can be found using an internet search.

In addition to your fraud response plan, your firm should also have processes and procedures in place to prevent fraud. You should also have a process through which staff can report suspected fraud internally, or, if necessary, to an independent body (eg, RICS) and your staff should be aware of this process.

Annex 1: Requirements for fraud involving client money

The professional statement requires (in section 2.2.6) that RICS-regulated firms must:

- *ensure that any breach is investigated and remedied promptly on discovery, including the replacement of any money improperly withheld or withdrawn from a client account.*
- *record any breach of the mandatory requirements of this professional statement in writing in sufficient detail including any consideration of whether to inform RICS and any client affected by the breach.*
- *inform RICS, the client and the insurers of the RICS-regulated firm immediately if money is misappropriated by any person.*

Further guidance is provided in section 3.6:

- *The duty to remedy breaches promptly or immediately rests not only on the person causing the breach, but also on the RICS-regulated firm.*
- *Principals may have a professional obligation to replace missing client money from their own resources, even if the money has been misappropriated by an employee or another principal, and whether or not a claim is subsequently made on the firm's insurance.*
- *In addition, all principals should report any client money misappropriation to RICS immediately.*
- *The firm should usually report any client money misappropriation to the police and should keep records of reports made and any subsequent police advice or action. If the firm decides not to report the matter to the police, a record of that decision and the reasons for it should also be kept.*

In practice, if a fraud has occurred that has led to a loss or potential loss of client funds, you must act immediately to prevent any further losses. You must cover any shortfall in the client account with office funds, transferring them into the client account until the issue is resolved. You must inform your client, your insurer and RICS immediately. You should consider informing the police and record the reasons why if you do not.

You should also review your processes to identify how the fraud has occurred, and how you will prevent similar frauds in the future.

Annex 2: What to include in your fraud response plan

Introduction

You may wish to set out the purpose of the plan.

Definitions

You may wish to define fraud. This could include explaining the difference between internal and external fraud.

Roles and responsibilities

You may wish to set out who will be responsible for what in terms of responding to fraud.

Immediate actions

You may wish to set out the actions you will take immediately on identifying a fraud to prevent any further fraud. These may include actions such as ensuring relevant staff or principals are aware, contacting your bank to attempt to recall payments or freeze bank accounts, and suspending staff members.

If the fraud involves client money you need to be aware of the requirements set out in the RICS client money handling professional statement. These are summarised in Annex 1 above.

Who to keep informed

You may wish to include details of who you will need to keep informed. This may include both internal contacts and external stakeholders. This may also include the police and your insurers.

If the fraud involves client money you need to be aware of the requirements set out in the RICS client money handling professional statement. These are summarised in Annex 1 above.

Investigation

You may wish to include details of how you will investigate the facts relating to the fraud. You will want to identify the cause of the fraud, and whether any staff were intentionally involved.

Recovery

You may wish to include details of any steps you would take to recover any funds.

Disciplinary action

You may wish to include reference to disciplinary action that you might undertake relating to staff.

Legal action

You may wish to include reference to legal action. This could include the thresholds at which legal action will be taken.

Further action

You may wish to include detail of the action you will take to prevent any similar fraud occuring in the future. This could include the requirement for an internal report to be produced setting out the reasons for the fraud, lessons learned, and the subsequent changes to processes.