

## Investigating Suspicions of Fraud

### OVERVIEW OF ISSUE

Employee fraud causes significant harm to an organization's reputation, finances and morale. If your organization suspects that a fraud is being perpetrated, there are several critical steps which should be taken in a timely manner in order to preserve evidence, investigate the suspected fraud, address reputational concerns and recover losses.

### KEY POINTS

- Contact HIROC and obtain legal advice prior to commencing an investigation of the suspected fraud.
- Gather and review as much objective and documentary evidence as possible prior to conducting any interviews with employees.

### THINGS TO CONSIDER

#### Initial Actions Where Fraud is Suspected

- Contact HIROC to discuss strategy, including a plan for who should lead and conduct the investigation, how best to obtain and secure evidence of the suspected fraud and whether any other experts should be consulted (e.g. forensic accountants, computer forensics experts, private investigators).
- Limit involvement in the investigation on a “need to know” basis (e.g. senior management and human resources). Ensure that discretion is maintained at all times.
- Identify possible security concerns with respect to suspect employee(s), including keys to premises, identification and access cards, computer passwords, voicemail, email, mobile devices, data stored on memory sticks and other devices, remote access, interaction with external suppliers and banking arrangements.
- In consultation with HIROC, consider initiating legal proceedings to preserve evidence and assets, prior to confronting employee(s).

#### Obtaining and Securing the Evidence

- Identify all potential sources of evidence, including email and instant messages, data on computers, devices and servers, social media accounts and banking records (note: a Court Order will be required in order to search an employee's home computer and devices).
- Coordinate with internal and/or external forensic computer experts to preserve electronic evidence, in accordance with internal policies.

- Secure personnel file of the suspect employee(s).
- Secure relevant company documents. Gather and review as much objective and documentary evidence as possible prior to conducting any interviews of employees.
- If employee is a member of a union, review the collective agreement to determine the employee's rights and any requirement to have a union representative present during the interview, and contact a labour lawyer for advice in consultation with the healthcare organization's human resources department.

#### Meeting with the Employee(s)

- Identify and document the interview team (may include person in charge of the investigation, senior management, human resources, union representative (if necessary), outside consultants and, if appropriate, a lawyer).
- Consider issues such as amount of advance notice to be given to employee(s) and the order, length and location of the interview(s). Consider having security available if needed.
- Interview employee(s) and request detailed explanations with respect to all issues of concern.
- Record verbatim notes of the meeting(s). Tape record the meeting(s) only with consent of the employee(s).
- Prepare to challenge employee's version of events using information and documentation gathered prior to the interview.

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- If collusion amongst employees is suspected, interview suspect employees separately in back-to-back meetings.
- If further investigation is required, contact legal counsel and seek advice with respect to whether it is appropriate to take temporary steps to prevent access to company facilities and/or preclude access to computers and other devices (employee(s) may allege constructive dismissal).
- Inform employee(s) of duty to assist with the ongoing investigation and importance of maintaining confidentiality.

### Privacy Concerns

- Balance an employer's legitimate interest in the conduct of its employees in the workplace and employees' privacy rights.
- Obtain legal advice prior to searching an employee's computer or email, regardless of the circumstances.
- Always maintain confidentiality while investigating suspicions of fraud.

### Communication/Reputational Concerns

- Develop and document a communication strategy for internal and external stakeholders in consultation with a public relations/media consultant and HIROC. Expect media scrutiny and take a proactive approach by developing a media plan to address concerns, such as the potential impact upon the public's confidence in the organization.
- Prepare for the potential of attracting the attention of regulatory/oversight bodies.
- If the employee(s) will be terminated, obtain legal advice and prepare a termination letter and a script to follow during the termination meeting. Take detailed notes of the meeting. Seek advice with respect to making any internal announcement.
- In consultation with HIROC, consider whether and when it would be appropriate to report the matter to the police.



## REFERENCES

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