

Agenda item:	15
Report title:	Anti-fraud policy - update
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Action:	To consider

Executive summary

The GMC's Anti-Fraud Policy and Fraud Response Plan was reviewed by an accredited Counter Fraud Specialist from Moore Stephens in April 2016, using NHS Protect's guidance. The purpose of the review was to ensure that our existing policy and response plan reflected current best practice.

We have been given a very positive 'green' audit assurance that there is a sound control framework in place to achieve system objectives and the controls to manage the risks audited are being consistently applied.

Some minor recommendations were made to enhance the readability of the document. The policy has been revised to reflect these recommendations.

Recommendation

The Performance and Resources Board is asked to agree the revised Anti-Fraud and Ant-Bribery Policy and Fraud Response Plan, effective from 1 July 2016.

Background

- 1 The GMC's anti-fraud policy and fraud response plan was reviewed by an accredited counter-fraud specialist from Moore Stephens, using NHS Protect's guidance. The planned audit approach was to:
 - a Review the GMC's anti-fraud policy and fraud response plan to determine whether they reflect current best practice.
 - b Propose actions to take to reduce the risk of fraud and the actions to take should a fraud be suspected.

Positive findings

- 2 The review highlighted that:
 - a The GMC's attitude to fraud, bribery and corruption is clear.
 - b There are clear links to other related policies, specifically: the Public Interest Disclosure Policy; Gifts and Hospitality Policy; Conflicts of Interest Policy and the Disciplinary Policy and Procedures.
 - c The Fraud Response Plan provides very clear guidance to staff, associates, member and third parties on how to report fraud, including alternative reporting channels should there be concerns about those individuals to whom such reports might normally be made.
 - d The Fraud Response Plan provides good examples of how fraud and bribery may occur within the GMC.
 - e The Policy makes reference to the charity 'Public Concern at Work'. This is best practice, as it allows those who have concerns, who are worried about repercussions, to report them without fear of reprisal.
 - f The guidance for managers on how to manage an allegation of fraud is robust and fit for purpose.

Areas for improvement

- 3 The main areas for improvement identified were:
 - a While the definitions of fraud and bribery were accurate, the policy would benefit from explaining the offences in lay terms.

- b** The anti-fraud policy provided a high level of detail, which could detract from the basic principles of the policy.
 - c** The introduction of flowcharts would aid readability.
 - d** The information on how individuals should raise their concerns should be moved from the fraud response plan to the main body of the policy.
 - e** The fraud response plan could be made into a standalone policy targeted specifically to managers, rather than to all readers most of whom do not need to know in detail how an investigation is undertaken.
- 4** The revised policy (Annex A) and response plan (Annex B) reflect these comments.

15 –Anti-fraud policy - update

15 – Annex A

Anti-fraud and anti-bribery policy

Introduction

- 1 The General Medical Council (GMC) will not accept any level of fraud, bribery or corruption. We are committed to protecting our assets and are committed to promoting honesty and integrity in all of our activities. The GMC is determined to prevent, deter and detect all forms of fraud, bribery and corruption committed against it, whether by internal or external parties.
- 2 The GMC is committed to ensuring all of its business is conducted in an open, honest and fair manner. All members, associates, staff and third parties working on behalf of the GMC are expected to adopt the highest standards of propriety and accountability, and to play a key role in promoting an anti-fraud culture.
- 3 Where fraud is suspected, the GMC will take direct action. All cases will be thoroughly investigated and dealt with appropriately. The form of action taken will depend on the level and circumstances of the fraud discovered and may include disciplinary procedures, dismissal and/or criminal prosecution. The GMC will always seek to recover funds lost through fraud.
- 4 This policy applies to all members, associates and staff, whether permanent or temporary and third parties working on behalf of the GMC.
- 5 Registrants are obliged to follow our published guidance, *Good Medical Practice* (GMP), which includes a comprehensive section on probity. While this policy is applicable to doctors who fall into the categories described in paragraph 4, it does not vary their obligations under GMP.

Definition of fraud

- 6 For the purposes of this policy, fraud is defined as the use of deception to deprive, disadvantage or cause loss to another person or party. This can include theft, the misuse of funds or other resources or more complicated crimes such as false accounting and the supply of false information.

- 7** The Fraud Act 2006 introduced three main offences. They are as follows:
- fraud by false representation - e.g. lying on a CV to obtain employment
 - fraud by abuse of position - e.g. finance manager uses their position to siphon off funds
 - fraud by failing to disclose information - e.g. not declaring an unspent criminal conviction in order to obtain employment.
- 8** Other examples of fraud that might occur at the GMC would include:
- falsification of expense claims
 - theft of cash or other company assets or stock
 - falsification of invoices for payment
 - failure to account for monies or invoices paid
 - dealing inappropriately with Registrations or Fitness to Practise cases that involve friends, family members or a person with whom there is a close personal and/or professional interest
 - pretending to be a registered medical practitioner (which is covered within the Medical Act 1983 s39, fraud or error in relation to registration).
- 9** An individual who commits fraud will face disciplinary action, civil action and/or criminal prosecution. If found guilty of fraud in a criminal court, an individual may receive a custodial sentence of up to ten years. The individual may also be struck off if they are a member.

Definition of bribery

- 10** Bribery is a financial or other advantage that is intended to induce "improper performance" of a position of trust or a function that is expected to be performed impartially or in good faith. Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift (i.e. lavish treatment during a business trip or tickets to an event).
- 11** Bribery does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.
- 12** The Bribery Act 2010 provides the four main offences:
- giving or offering a bribe
 - receiving or requesting a bribe
 - bribing a foreign public official (also known as facilitation payments)

- negligently failing to prevent a bribe (corporate offence).
- 13 Under the Bribery Act, an offence has been committed even if no money or goods have been exchanged and a bribe has no minimum value.
- 14 It therefore falls to all staff to ensure that they comply with the GMC’s policy on declaring gifts and hospitality offered to them in the course of their work.
- 15 Individuals who commit bribery against the GMC may face criminal prosecution, civil action, disciplinary action and/or striking off (if the individual is a member). If found guilty of bribery, the individual may receive a ten year custodial sentence and unlimited fines.

Prevention of fraud

- 16 The GMC operates within a framework of statutes, regulations, codes of conduct and systems and procedures, including [Financial Regulations](#), [the Schedule of authority](#), and the [policy for the procurement of goods and services](#). These are designed, in part, to prevent fraud and corruption and to enhance accountability. We require all members, associates, staff and third parties working on our behalf to act in accordance with this framework.
- 17 The GMC has systems and procedures that incorporate robust internal controls designed to minimise the risk of fraud occurring. Managers are required to identify the risks to which systems are exposed (including the risk of fraud), to develop and maintain controls to mitigate and manage the risks and to ensure that such controls are properly complied with. The Corporate Risk Register identifies the risk of fraud, together with the mitigating actions in place to minimise the risk of fraud occurring. The Internal Audit service reviews the adequacy and effectiveness of internal controls, as part of their annual audit programme, to provide assurance to managers and the Audit and Risk Committee.
- 18 Key fraud and bribery prevention measures are:
- recruitment screening
 - [Seven Principles of Public Life ‘Nolan Principles’](#)
 - [Gifts and hospitality policy](#)
 - [Conflicts of Interest Policy](#)
 - [Policy for the procurement of goods and services](#)
 - [Whistleblowing policy \(Public Interest Disclosure\)](#)

Reporting fraud

- 19 The GMC encourages and expects members, associates, staff and third parties working on our behalf to report incidents of suspected fraud, bribery and corruption

immediately. Any delay in reporting suspected fraud, bribery and corruption may result in further losses. Please refer to [Annex 2](#) for further details and guidance on how to report suspected fraud, bribery and corruption.

- 20** In the first instance, staff should normally raise the concern with their line manager. If the concern relates to a line manager, then staff should raise it with a director and if it relates to a director, the concern should be raised with the Chief Executive. If the issue concerns the Chief Executive, the concern should be raised with the Chair of Council and if it relates to the Chair of Council the concern should be raised with the Chairs of the Audit and Risk and Remuneration committees.
- 21** Where staff have a difficulty in approaching their own manager, because there is a concern that either management are involved or may not take the matter seriously, they can contact the Head of Consultancy and Review or the Assistant Director, Finance and Procurement, or refer to the [Whistleblowing policy](#) or the [NHS Protect Report Fraud](#) webpage.

Members and associates reporting fraud

- 22** Members and associates are encouraged and expected to raise any concerns and should normally report any concerns to the Chair of Council, Chief Executive, Chief Operating Officer or a director.
- 23** If the issue concerns the Chief Executive or another member, the concern should be raised with the Chair of Council or with the Chairs of the Audit and Risk and Remuneration Committees if it concerns the Chair of Council.

Third parties reporting fraud

- 24** Third parties, including the general public, can report concerns through the GMC corporate complaints procedure or the GMC Contact Centre. They can also report concerns direct to GMC members or staff, who will escalate the concern in line with the Anti-Fraud policy.
- 25** In the event that a person feels unable to raise their concerns direct with the GMC, they may contact the GMC's external auditor, whose name and address can be found in the GMC's published accounts.
- 26** Anyone concerned about a wrongdoing that threatens the public interest can seek free, confidential legal help from the charity '[Public Concern at Work](#)'. They operate a helpline on 0207 404 6609, and can be emailed at helpline@pcaw.co.uk.

Investigating allegations of fraud

- 27** The GMC's Fraud Response plan provides guidance to managers on the action to be taken should they receive an allegation of fraud, bribery or corruption. In normal cases

it will be the relevant director, in conjunction with the Director of Resources and Quality Assurance, who will arrange for an investigation to be undertaken. Matters of a criminal nature will be reported to the Police. We will also notify other relevant agencies, such as employers and the NHS Protect, as appropriate.

Training

- 28** The GMC recognises that the success of this anti-fraud and anti-bribery policy depends, to a large extent, on all members, associates, staff and third parties working on our behalf being aware of the GMC's approach to fraud, bribery and corruption.
- 29** Details of our Anti-Fraud and Anti-Bribery policy and Fraud Response plan are published on the intranet. In addition, mandatory fraud training will be provided to all staff within six months of commencing employment with the GMC.

Monitoring fraud

- 30** The Audit and Risk Committee is responsible for reviewing the arrangements in place by which staff may raise concerns about possible improprieties. As part of this, the Audit and Risk Committee will approve the Anti-Fraud and Anti-Bribery policy and Fraud Response plan.
- 31** Any action taken by the GMC in connection with suspected fraud, bribery or corruption will be reported to the Audit and Risk Committee.

Supporting policies

- 32** The Anti-Fraud and Anti-Bribery policy is supported by the following policies and procedures.
- [Whistleblowing policy](#) (Public Interest Disclosure)
 - [Gifts and hospitality policy](#)
 - [Conflicts of Interest policy](#)
 - [Disciplinary policy and procedures](#)
 - Fraud Response plan
 - [Financial Regulations](#)
 - [Procurement policy](#)

Annex 1

Seven Principles of Public Life

Underpinning the anti-fraud culture are the Seven Principles of Standards in Public Life. They were first set out by Lord Nolan in 1995.

The principles apply equally to members, associates, staff and third parties working on our behalf and are:

Selflessness - holders of public office should take decisions solely in terms of the public interest. They should not do so to gain financial or other material benefits for themselves, their families or friends.

Integrity – holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in their official duties.

Objectivity – in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards or benefits, holders of public office should make choices on merit.

Accountability – holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever public scrutiny is appropriate to their role.

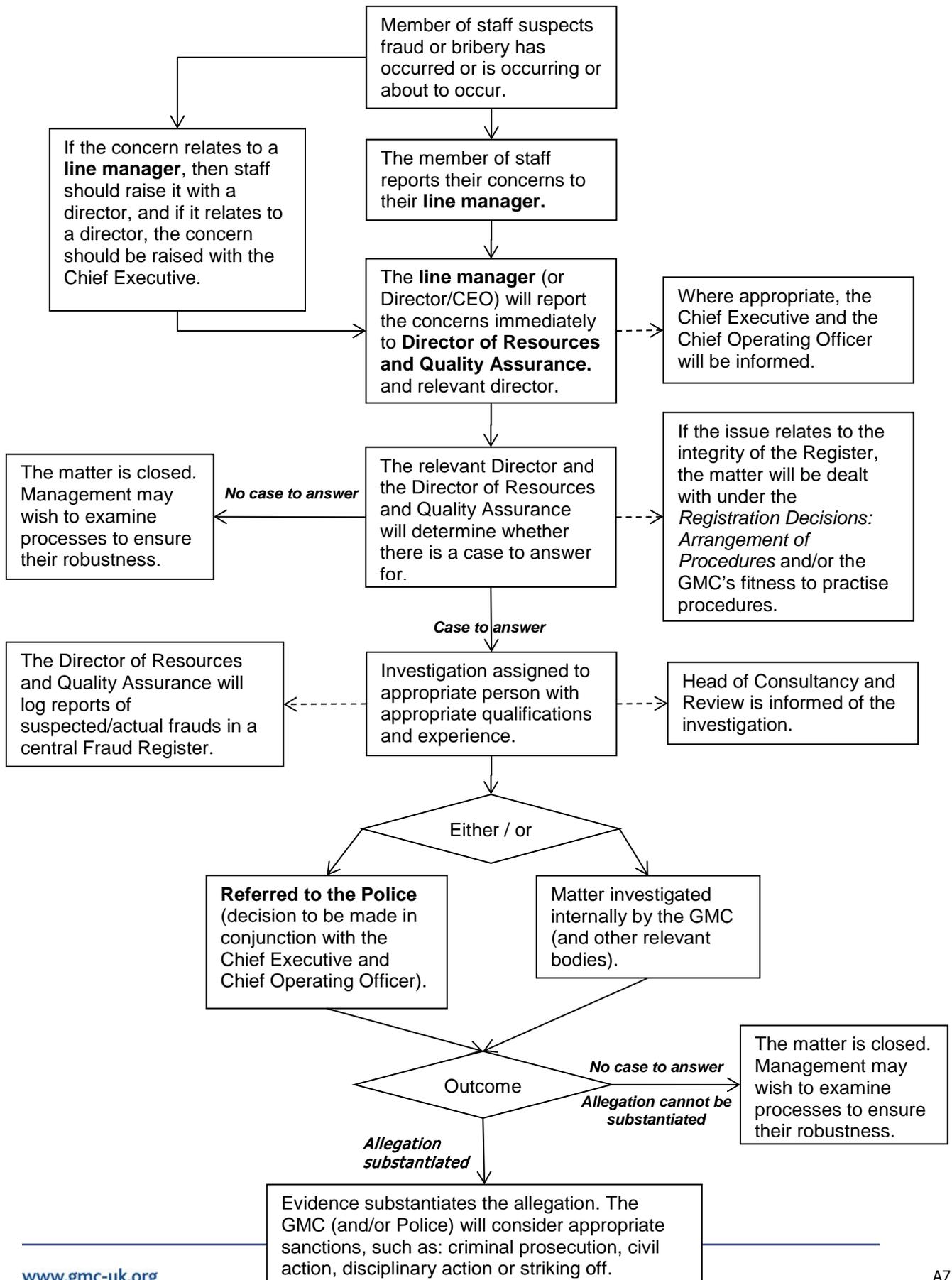
Openness – holders of public office should be as open as possible about all the decisions and actions they take. They should give clear reasons for their decisions and restrict information only when the wider public interest (or legislation) demands.

Honesty – holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership – holders of public office should promote and support these principles by leadership and example.

Annex 2

Reporting fraud process map and guidance



The following is guidance for individuals who suspect bribery and corruption.**Do:**

- Stay calm – remember you are a witness not a complainant.
- Write down your concerns immediately – make a note of all relevant details such as what was said in 'phone or other conversations, the date, the time and the names of anyone involved.
- Do report your concerns as soon as possible as any delay may cause the GMC to suffer further financial loss. We encourage you to raise your concerns - the Public Interest Disclosure Act 1998 protects employees who have reasonable concerns. You will not suffer discrimination or victimisation by following the correct procedures.

Don't:

- Do not investigate the matter yourself. Attempting to gather evidence yourself (unless it is about to be destroyed) may result in it becoming inadmissible and prejudice any criminal investigation. The gathering of evidence must be done in line with legal requirements in order for it to be admissible in court.
- Do not approach the person involved (this may lead to him/her destroying evidence).
- Do not discuss your suspicions with anyone other than those persons referred to above unless specifically asked to do so by them. Confronting the suspect or conveying concerns, to anyone other than those authorised, could alert the suspect or lead to an innocent person being unjustly accused.
- Do not use the process to pursue a personal grievance.

Remember:

- You may be mistaken or there may be an innocent or good explanation – this will come out in the investigation.
- The process may be complex and protracted. Investigations are carried out in confidence on a need to know basis. You will be updated as and when it is appropriate to do so; do not be alarmed if you have not heard anything from the investigators.

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15 – Annex B

Fraud response plan

Introduction

- 1 In line with the GMC's commitment to its opposition to fraud, bribery and corruption, this Fraud response plan is intended to provide a framework to follow in responding to allegations of fraud, bribery or corruption. It provides information that allows evidence to be gathered and collated in a way which facilitates informed initial decisions, while ensuring that evidence gathered will be admissible in any future criminal or civil actions.

What staff should do if they suspect fraud

- 2 Staff are encouraged and, indeed, expected to raise any concern that they may have, without fear of recrimination ('whistle-blowing'). To facilitate this, the GMC has a [Whistleblowing policy](#). Any concerns raised will be treated in the strictest confidence and will be properly investigated.
- 3 Staff are often the first to spot possible cases of fraud or corruption at an early stage. Staff should not try to carry out an investigation themselves. This may damage any subsequent enquiry. Please refer to the Anti-Fraud and Anti-Bribery policy for further details and guidance on how to report suspected fraud, bribery and corruption. See [Annex 1](#) for reporting fraud process.

What a manager should do when a suspicion is reported to them

- 4 Any manager who has received information about a suspected fraud or a suspicion of corruption must report it immediately to the Director of Resources and Quality Assurance and relevant director who will, where appropriate, ensure that the Chief Executive and Chief Operating Officer are informed.
- 5 The relevant director, in conjunction with the Director of Resources and Quality Assurance, should satisfy themselves that there are reasonable grounds for the suspicion and arrange for an investigation to be undertaken. The investigation should be assigned to a person with appropriate experience or qualifications. At this point the Head of Consultancy and Review should be notified of the investigation. Any decision

- to refer the matter to the Police will be made in consultation with the Chief Executive and Chief Operating Officer.
- 6 If the disclosure relates to the integrity of the Register, the matter should be reported to the Director of Resources and Quality Assurance to be dealt with under the Registration Decisions: Arrangement of Procedures and/or the GMC's fitness to practise procedures.
 - 7 The Director of Resources and Quality Assurance will log reports of suspected/actual frauds in a [central Fraud Register](#).
 - 8 Management should take immediate action to prevent further loss, and should take steps to safeguard any evidence.
 - 9 The investigating officer should securely retain any relevant documentation in its original format - it should not be written on or altered in any way. Preserving documents in plastic wallets is recommended. Other items or equipment relevant to the investigation must be safeguarded without any alteration to their original condition, for example, personal computers and any records thereon.
 - 10 The final outcome of an investigation could result in a court appearance. It is therefore important that the investigation can withstand the rigours of cross-examination. Evidence is crucial and the investigating officer should preserve evidence in a legally admissible form.
 - 11 A detailed record of the investigation should be maintained. This should include a chronological file recording details of telephone conversations, discussions, meetings and interviews, details of documents reviewed and details of any tests and analyses undertaken.
 - 12 All interviews should be conducted in a fair and proper manner. Where there is the possibility of criminal prosecution, advice should be sought from the police to ensure that the requirements of the Police and Criminal Evidence Act (PACE) are met. The investigating officer should seek advice from the Assistant Director, HR before undertaking any interviews.
 - 13 The Director of Resources and Quality Assurance will provide advice on the action needed to secure any cash and evidence, and will advise on disciplinary procedures, particularly where it may be necessary to suspend staff.
 - 14 No information should be divulged to anyone other than the small group of senior managers who are directly involved in managing the investigation.

- 15 No information should be divulged to the press or media. Responsibility for divulging information to the media will be taken by the relevant director, in consultation with the Chief Executive and Chief Operating Officer, through the GMC’s media team.
- 16 The Head of Consultancy and Review, the Assistant Director, Finance & Procurement and the Assistant Director, HR are available to offer advice and guidance as necessary.

Providing feedback on fraud investigations

- 17 Within ten working days of a concern being raised, the relevant director or investigating officer will contact the person who raised the concern, to indicate how the matter will be dealt with.
- 18 The GMC recognises that those people who report suspected fraud or corruption need to be assured that the matter has been properly addressed. Therefore, subject to legal constraints, they will receive information about the outcome of any investigation, including action taken to improve controls, and so mitigate the threat of future fraud.
- 19 The Head of Consultancy and Review will distribute details of lessons learned from the fraud investigation, where there may be implications for the organisation as a whole.

Internal Audit

- 20 It is a management responsibility to maintain systems and to ensure that resources are applied properly on approved activities. This includes responsibility for the prevention and detection of fraud and other illegal acts. Internal audit staff shall have regard to the possibility of such wrongdoing and should seek to identify serious defects in internal control which might permit the occurrence of such events. The Head of Consultancy and Review should advise the internal audit provider of any discovery or suspicions of fraud. Likewise the internal audit provider should notify the Head of Consultancy and Review in the event of internal audit staff discovering evidence or suspicion of fraud.

Supporting policies

- 21 The Fraud response plan is supported by the following policies and procedures:

- Anti-Fraud and Anti-Bribery policy
- [Whistleblowing policy](#)
- [Gifts and hospitality policy](#)
- [Conflicts of Interest policy](#)
- [Disciplinary policy and procedures](#)
- [Financial Regulations](#)
- [Procurement policy.](#)

Annex 1

Reporting Fraud process map and guidance

