

# Fraud Response Plan



**2015**

Version number: 1

Approval date: 5 August 2015

Approved:



Charles S. Mgone  
EDCTP Executive Director



1	Introduction .....	3
1.1	Definition of fraud.....	3
1.2	Purpose of the fraud response plan .....	3
1.3	Application of this plan .....	3
2	Standards of conduct and fraud policy .....	3
2.1	Standards of conduct .....	3
2.2	EDCTP fraud policy statement .....	4
3	Roles and responsibilities .....	5
4	Reporting and responding to suspected incidents of fraud .....	6
5	Demand letter .....	6
6	Gathering evidence .....	7
7	Follow-up action and senior management response .....	7

# 1 Introduction

## 1.1 Definition of fraud

Fraud essentially involves using deception to dishonestly make a personal gain for oneself and/or create a loss for another. Fraud is a major risk that threatens an organisation, not only in terms of resources but also its image and reputation. The EDCTP is committed to maintaining an honest and transparent culture within the Association.

An effective anti-fraud strategy has four main components; prevention, detection, deterrence, and response. This document focuses on response, the fourth component of the anti-fraud strategy; the other components are addressed in other EDCTP policy documents and procedures.

## 1.2 Purpose of the fraud response plan

The purpose of this document is to provide guidance to EDCTP directors, managers and staff on how to deal with detected or suspected cases of fraud. The main objectives of preparing this response plan are:

- To ensure a consistent and comprehensive response to suspected and detected incidents of fraud
- To provide a framework for a response by describing the procedures that allow 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
- To help restrict damage and minimise losses and help to ensure the integrity of evidence
- To send a clear message to EDCTP employees that fraud is taken seriously and that action will be taken against perpetrators
- To reduce the tendency of employees getting panic for not knowing the steps to take in the event of a fraud.

## 1.3 Application of this plan

This plan applies to any irregularity or suspected irregularity involving employees as well as beneficiaries of EDCTP grants and/or any other parties with a business relationship with EDCTP.

# 2 Standards of conduct and fraud policy

## 2.1 Standards of conduct

EDCTP is committed to high ethical and professional standards in the management of the financial resources entrusted to it. EDCTP members of staff are therefore expected to observe the highest standards of honesty and fairness and to conduct their work in a way that ensures full accountability.

EDCTP staff, beneficiaries and other stakeholders shall commit themselves to these core values:

- Fairness
- Honesty and openness
- Efficiency and effectiveness
- Professionalism.

Some of the principles that EDCTP employees are required to strictly adhere to are:

#### 1. Integrity

EDCTP employees shall be straightforward and honest in all professional and business relationships.

#### 2. Objectivity

EDCTP employees shall not allow bias, conflicts of interest or the undue influence of others to compromise their judgement.

#### 3. Confidentiality

EDCTP employees shall respect the confidentiality of information acquired as a result of professional and business relationships, especially in procurement, and shall not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose.

#### 4. Professional behaviour

EDCTP employees shall comply with relevant laws and regulations and shall avoid any action that may discredit the EDCTP.

## 2.2 EDCTP fraud policy statement

The EDCTP Senior Management Team is committed to maintaining an honest, transparent and ethical culture within the organisation and within that of its beneficiaries. EDCTP directors, managers and staff are committed to the elimination of fraud, to promptly investigate any such cases, to take appropriate actions that highlight the EDCTP's zero tolerance approach to fraud, and to ensure those responsible will be made an example of, no matter who the perpetrators are.

The Senior Management Team (SMT) wishes to encourage anyone having reasonable suspicions of fraud to report them. The EDCTP has a whistle-blowing policy which aims to ensure that concerns are raised and dealt with in an appropriate manner. Employees raising genuine concerns will be protected and their concerns looked into.

EDCTP Project Officers (PO), Grant Finance Officers (GFO), Finance Officer (FO) and Grant Finance Assistants (GFA) are sufficiently aware of the inherent risk factors and are familiar with EDCTP financial guidelines and SOPs, including rules and controls in place to counter such risks; they are aware of how to report any suspicions they may have. GFOs and POs are encouraged to have a questioning mind, being alert to conditions which may indicate possible misstatement due to error or fraud, and to always critically assess the reports and relevant supporting documents of beneficiaries.

No cases of suspected fraud will be swept under the carpet. All suspected cases of fraud will be thoroughly investigated, and the outcome must be reported by the Executive Director to the Board. For each exposed fraud, the SMT in conjunction with the Board will decide how much publicity should be given to it.

The EDCTP's policies in dealing with established cases of fraud include the following:

- Internal disciplinary action: in accordance with EDCTP Staff Regulations and Dutch law
- Civil case: Action is taken through the civil courts to recover losses
- Criminal case: Action is taken against the employee(s) or beneficiaries(s) concerned in a police managed enquiry
- A parallel response: Civil action to recover misappropriated assets is taken in parallel with a police investigation.

## 3 Roles and responsibilities

### Board

- With the assistance of EDCTP Audit Committee, review the internal control systems, including the design, implementation and effectiveness of anti-fraud strategy and whistle-blowing policy
- Ensure whistle-blowing arrangements that are in place are effective
- Review of annual audit reports, management letters and annual fraud reports.

### Senior Management Team (SMT)

- Responsible for detecting fraud in their departments
- Ensure members of staff under their supervision report any suspected irregularities
- Ensure that all members of staff under their supervision are aware of how they should respond to a reported incidence of fraud.

### Executive Director (ED)

- The ED has overall responsibility for the EDCTP's response to fraud, including appointing an investigation team
- Approval of demand letters.

### Director of Finance and Administration (DFA)

The DFA is responsible for co-ordinating any investigation and for keeping the fraud response plan up to date. The duties of the DFA include:

- Maintain the fraud and investigations log. This log must detail all reported suspicions, including details of actions taken and conclusions reached. The log will be used as an important tool for managing, reporting and evaluating lessons learnt
- Update the fraud response plan when necessary
- Have responsibility for any internal disciplinary procedures
- Ensure appropriate legal advice is sought when required
- Assist the Director of South-South Cooperation and Head of Africa Office (DSSC) to prepare a communication brief for the press in the event that the news of an exposed fraud becomes public.

### External auditors (where applicable)

Depending on the nature of the suspected fraud and the amount involved the SMT may consider appointing an external audit firm to carry out a forensic audit. The objectives of such audits will include:

- To investigate the suspected misappropriation by finding facts and/or evidence to quantify the value of the financial loss
- To help determine what actually happened and how it could have occurred; and
- To determine who were involved.

### Legal advisers

The DFA must seek legal advice from the EDCTP Legal Officer or where necessary from external sources as soon as a fraud is reported or suspected. These advices will include guidance on civil and criminal procedures, and recovery of assets.

### Directors/Heads of department

Directors are responsible for detecting fraud and other irregularities in their area of responsibility. Staff must assist management by reporting any suspected irregularities. When a member of staff raises a concern with his/her line manager, the details must be immediately passed to the DFA. If a concern involves the DFA, the matter should be reported directly to the Executive Director.

## **Staff**

Each EDCTP staff member has a responsibility to safeguard the resources of the Association.

## **Police**

If it appears that a criminal act has taken place, the police should be involved at the outset of any investigation, as any delay could reduce the chances of success.

# **4 Reporting and responding to suspected incidents of fraud**

- When an employee suspects fraud or other illegal act by an employee of EDCTP or by an EDCTP beneficiary he/she should discuss it immediately with their line manager. If it concerns their line manager, he/she should discuss with Executive Director (ED)
- If the suspicions appear well grounded, the line manager/ED informs the DFA
- DFA records the details of the suspicions in the fraud and investigations log
- DFA arranges for an immediate meeting of the SMT to discuss the issue. At this meeting the DFA will inform the SMT of the issue
- The ED will put together an internal investigation team to assess the substance of case by determining the facts. DFA will coordinate the internal investigations. The internal investigations will try to establish whether it appears that a criminal act has taken place. Depending on the nature of the suspected fraud and the amount involved, the SMT may consider appointing an external audit firm to carry out a forensic audit
- The investigations team will present the findings of their investigation to the Senior Management Team (SMT) to make the necessary decisions
- If the initial investigations point to the likelihood of a criminal act having taken place the DFA will, with the agreement of the Executive Director, contact the police and the legal advisers (internal or external) at once. The advice of the police will be followed in taking forward the investigation. In addition the DFA, with advice from EDCTP Legal Officer, shall ensure appropriate procedures are followed in gathering physical evidence, making written note of discussions held with witnesses, and obtaining written statements from witnesses
- If the internal investigations conclude that a criminal act has not taken place and there is no case to answer, the DFA will inform the SMT, and the fraud case will be marked as closed and no further actions required.
- If the internal investigations indicate that a criminal act has not taken place but there are indications to suggest that gross or negligent misconduct has occurred, the DFA in consultation with SMT and on obtaining legal advice, will:
  - Consider what actions should be taken against those involved
  - Consider what may be done to recover the loss
  - Initiate dismissal or disciplinary procedures
  - Initiate project cancellation or suspension procedures in line with the grant agreement.
- A demand letter is issued. All demand letters require the approval of the ED
- Where there are sufficient grounds, the SMT and the Board may decide that, in addition to seeking recovery of losses through civil proceedings, also to seek a criminal prosecution. The decision will be guided by the police and the legal advice received.

# **5 Demand letter**

A demand letter corresponding to the amount of the loss must be issued to the perpetrator of the fraud (employee or EDCTP beneficiary).

The issuing of a demand letter to recover the amount of the loss requires the approval of the Executive Director. The demand letter must specify:

- The name and address of the addressee
- The term demand letter must be stated in the body of the letter

- Background description of the issues at hand; the description should be clear to make sure there is no reasonable doubt about miscommunication and ignorance on the part of recipient
- Deadline at which the payment must be received. It should state that legal action may be taken if they don't comply
- The amount to be recovered, expressed in euro
- To state that Dutch law is applicable
- Date of the demand letter
- Name and signature of the Executive Director.

The DFA shall keep an up-to-date list of amounts to be recovered. This list shows:

- Amount
- Name of the institution/employee
- Date of issue of the demand letter.

## **6 Gathering evidence**

The DFA is responsible for coordinating investigations, including gathering any necessary evidence. Each case will be treated according to the particular circumstances and professional advice will be sought where necessary. EDCTP policies for gathering evidence include:

- If a witness is prepared to give a written statement, the witness must be asked to sign the document as a true record
- Any physical evidence obtained must clearly state where, when and from whom it was taken. The DFA shall put in place adequate control procedures in place for the control and handling of physical evidence obtained, particularly electronic evidence, during investigations
- If the decision is taken by the chair of the investigation team to interview suspects or people with knowledge of how the system operates, the individual(s) being interviewed must be informed of the reason for the interview and that a record will be made of all that is said. Once the interview is over, the interviewees must be given the opportunity to read the written record and sign each page in acknowledgement of its accuracy. All other persons present should also be asked to sign to acknowledge accuracy.

## **7 Follow-up action and senior management response**

The follow-up actions and senior management responses include the following:

- For every identified incident of fraud, the investigations team established by the EDCTP Executive Director or the independent external auditors will examine the circumstances and conditions which allowed the fraud to occur with a view to making a report to senior management of the lessons to be learned from the incident and the improvements to systems and procedures that are required
- After every fraud incident, the Executive Director will set up a committee to review the existing systems and procedures so as to identify any other potential areas of weakness. Should weaknesses be identified, appropriate actions will be taken
- Use the investigations log to prepare an annual report for the Board of all investigations carried out, and any outcomes and lessons learned.