

ANTI-FRAUD POLICY



Updated by:	Alastair Heath-Robinson
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	Annual
Signed:	
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Policy Updates

Version	Date	Description of Changes	Initials
V1.0	18/03/26	Added definition of fraud and financial irregularity on page 3/4. Added Trust requirement to comply with Academy Trust Handbook page 4. Added Trustee responsibility page 5. Added that all employees act with integrity and honesty on page 5.	ES
V1.1	30/06/26	Updates recommended following internal audit: Section 3 – updated how fraud will be reported to align to Academy Trust handbook Section 5 – training for staff added Section 6.2 – updated third party referrals	AHR

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1. Introduction

The Trust requires staff at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. The Trust will not accept any level of fraud and corruption; consequently, any case will be thoroughly investigated and dealt with appropriately.

The Trust has procedures in place that reduce the likelihood of fraud occurring. These include financial regulations, documented procedures, and a system of internal control. In addition, the Trust tries to ensure that a risk (and fraud) awareness culture exists.

This document is intended to provide direction and help to those staff who find themselves having to deal with suspected cases of theft, fraud, or corruption. It gives a framework for a response and advice and information on various aspects and implications of an investigation. This document is not intended to provide direction on the prevention of fraud.

2. Definitions

The Fraud Act 2006 gives **fraud** a legal definition. The act introduces provision for a general offence of fraud which is broken into three sections:

- Fraud by false representation – representation must be made dishonestly and is made with the intention of making a gain or causing a loss or risk of loss to another. A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. Representation can be stated by words or communicated by conduct i.e. written, spoken or by electronic means.
- Fraud by failing to disclose information – a fraud will have been committed if a person fails to declare information that he/she has a legal duty to disclose. There is a requirement that the person acts dishonestly and intends to make a gain for himself/herself, cause a loss to another or expose another to a risk of loss.
- Fraud by abuse of position – a person in a privileged position acts dishonestly by abusing the position held; and by doing so, fails to disclose to another person, information which he/she is legally required to disclose. The dishonest act must be with the intention of causing a loss or risk of loss to another. The offence may be committed by omitting to make a declaration as well as by an act.

The introduction of the Fraud Act does not prevent the prosecution of offences under the various Theft Acts and Forgery and Counterfeiting Act.

Corruption is a specific act of fraud and involves “the offering, giving, soliciting or acceptance of any inducement or reward which may influence the action of any person.” Corruption involves two or more people and does not always result in a loss.

Fraud and financial irregularity may include, but are not limited to:

- theft or misappropriation of Trust funds or assets
- falsification of financial or other records
- payroll fraud or false expense claims
- misuse of Trust resources or property
- procurement fraud or collusion with suppliers
- bribery or corruption
- deliberate concealment of financial information

These examples are not exhaustive and any deliberate act intended to obtain an unauthorised financial or personal benefit may be treated as fraud.

3. The Board's Policy

The Board is committed to maintaining an honest, open and well-intentioned atmosphere within the Trust. It is therefore also committed to the elimination of any fraud within the Trust, and to the vigorous investigation of any such cases.

All staff have a responsibility to protect the assets of the Trust. The Board is committed to the three fundamental public service values underpinning all public sector work which are:

- Accountability: Everything done by those who work in the Trust must be able to withstand public scrutiny.
- Probity: Absolute honesty and integrity should be exercised in dealing with students, staff, and suppliers.
- Openness: The Trust's activities should be sufficiently public and transparent to promote confidence between the Trust and its students, staff, and members of the public.

The Board wishes to encourage anyone having reasonable suspicions of fraud to report them and no employee will suffer in any way as a result of reporting reasonably held suspicions.

The Trust will comply with the requirements of the Academy Trust Handbook and the Department for Education's guidance on reporting fraud, theft, irregularity and cyber crime. The Accounting Officer will ensure that any significant fraud, theft, irregularity or misuse of public funds is reported promptly to the Department for Education in accordance with current requirements, together with the Trust's external auditors and any other relevant authorities, including the police where appropriate.

All members of staff can therefore be confident that they will not suffer in any way as a result of reporting reasonably held suspicions of fraud. For these purposes "reasonably held suspicions" shall mean any suspicions other than those that are raised maliciously and found to be groundless.

4. Roles and Responsibilities

Responsibility for investigating fraud is delegated to the CFOO. He/she shall also be responsible for informing third parties such as Internal Audit, External Audit or police when appropriate.

The CFOO shall normally inform the Internal Auditor at the first opportunity and delegate to the Internal Auditor responsibility for leading any investigation whilst retaining overall responsibility.

The CFOO will be responsible for reporting to the Board all cases of fraud and attempted fraud, detailing the nature and extent of the fraud and any implications for the Trust's internal control system.

The CFOO shall advise those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as requested.

If the fraud is in relation to the CFOO, the CEO will be responsible for investigating. If fraud in relation to CEO, the Trust Board will be responsible for investigating. If the fraud is in relation to the Trust Board or Members, the DfE will investigate.

Trustees are responsible for ensuring that appropriate systems of internal control and risk management are in place to prevent and detect fraud.

Finally, all staff have a duty to safeguard the assets of the Trust. Assets include information and goodwill as well as property. All employees must act with integrity and honesty, report suspected fraud or irregularity immediately and cooperate with any investigation.

5. Fraud Awareness Training

The Trust will provide fraud awareness training for all staff as part of induction and at least annually thereafter through trust newsletter updates, annual cyber security training and termly phishing simulations.

Training at induction will involve all staff reading and confirming that they have understood the Anti-fraud policy, Gifts & Hospitality policy, Whistleblowing policy, ICT Acceptable Use policy and staff code of conduct. In addition, those involved in financial processing will complete additional training that will include recognising fraud indicators, conflicts of interest and procurement fraud.

6. Procedures

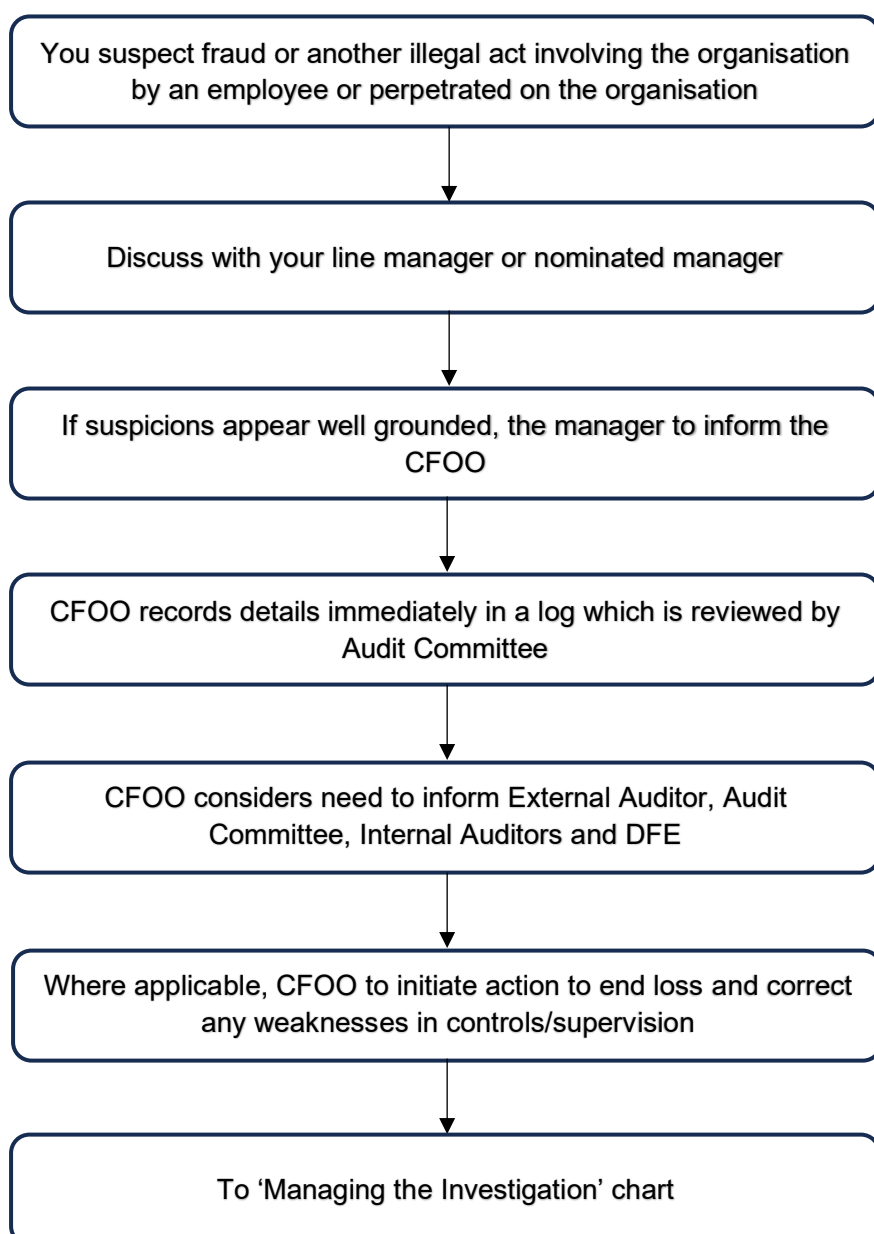
The following flowcharts describe the Trust's response to a reported suspicion of fraud. The flowcharts are intended to provide procedures that allow for evidence gathering and collation in a manner that will facilitate informed

initial decisions, while ensuring that evidence gathered will be admissible in any future criminal or civil actions.

Each situation is different therefore the guidance in the flowcharts will need to be considered carefully in relation to the actual circumstances of each case before action is taken. Further details on the processes in the flowchart can be found under Commentary on Flowchart Items.

It should be added that under no circumstances should a member of staff speak or write to representatives of the press, TV, radio or to another third party about a suspected fraud without the express authority of the Chief Executive Officer. Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel.

6.1. Reporting Fraud Flowchart



6.2. Reporting Fraud Information

Discuss with your Line Manager

An employee will normally discuss his/her suspicions with their line manager. In cases where this is not deemed appropriate, the employee must report the incident to the Headteacher. The Headteacher will then agree on the next course of action. If the suspicion seems well founded either the employee or the Headteacher would inform the CFOO.

If an employee suspects his/her Headteacher, the employee should report their suspicions directly to the CFOO or CEO.

If the suspicion involves a Trustee/Governor the matter must be reported to the CEO who will then report to the Chair of Trustees. If the concern is regarding the CEO, these should be reported to the Chair of Trustees directly. In the event of suspicion of the Chair of Trustees being involved in fraudulent activities, one of the Members of the Trust should be contacted or the DFE.

Employees should normally raise concerns with their line manager in the first instance. However, concerns may also be raised through the Trust's Whistleblowing Policy where appropriate.

Anonymous Complaints

Anonymous letters, telephone calls or other contacts may be received from time to time from individuals who wish to raise matters of concern, but not through official channels. Whilst the claims may be erroneous or unsubstantiated, they may also reflect a genuine case for concern and therefore should always be taken seriously. Sufficient enquiries will be made by the CFOO to establish whether there is any foundation to the allegations. If the allegations are found to be malicious, they will also be subject to investigation in the same manner.

CFOO Records Details Immediately in a Fraud Register

The fraud register will contain details of all reported suspicions, including those dismissed as minor or otherwise not investigated. It will also contain details of actions taken and conclusions reached. The Board will review this log at least once a year.

CFOO considers need to inform third parties

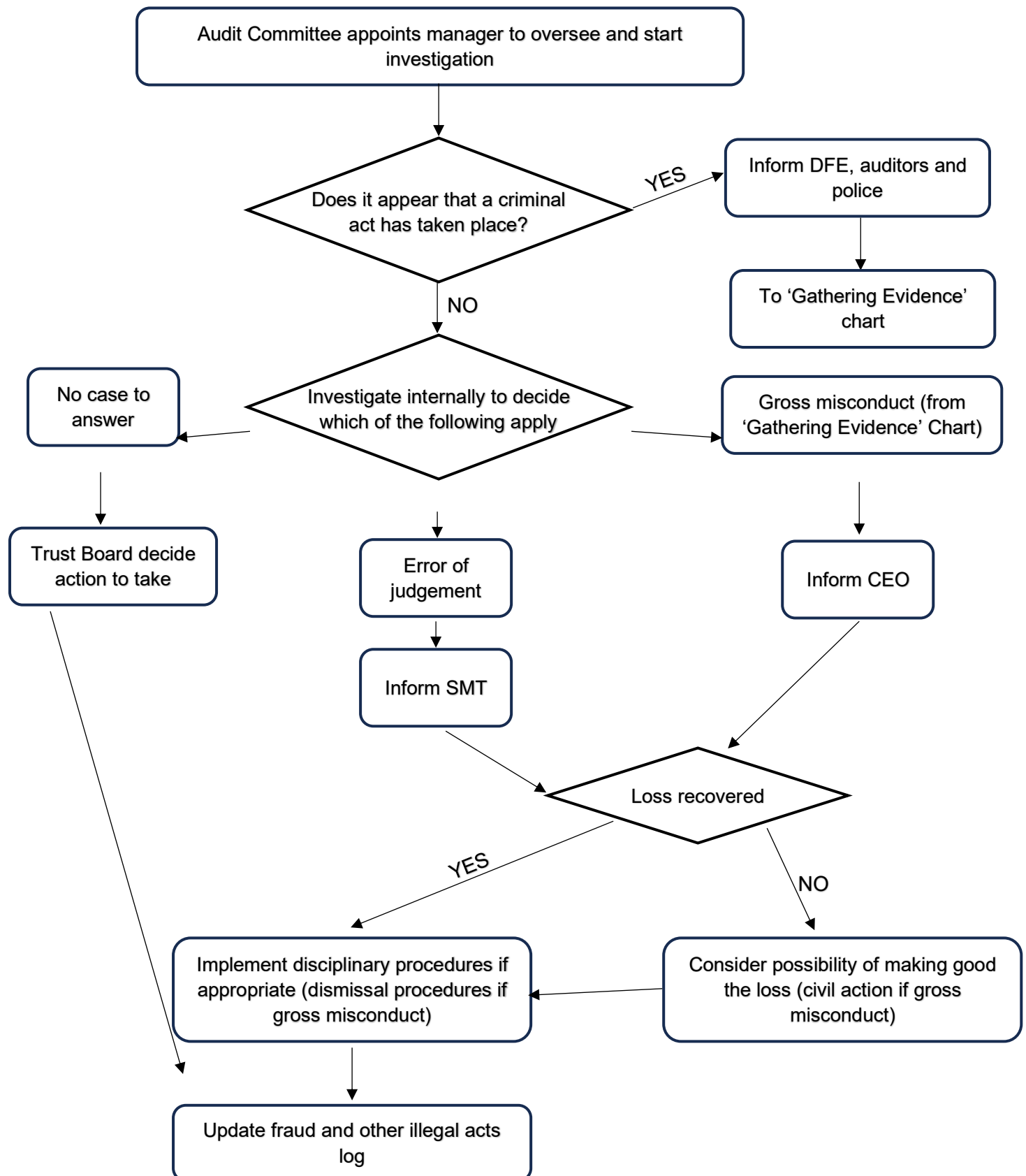
The CFOO will immediately notify the CEO and Chair of Trustees of any suspected significant fraud, theft or financial irregularity. The Accounting Officer will ensure that significant fraud, theft, irregularity or misuse of public funds is reported promptly to the Department for Education in line with current Academy Trust Handbook requirements. External auditors will be

informed where appropriate and the Trust will notify the police or other regulatory authorities where a criminal offence is suspected.

When determining whether a case is significant, the Trust will consider factors including:

- the value of the loss;
- whether there is evidence of deliberate dishonesty or criminality;
- whether there are weaknesses in internal control;
- the potential reputational impact on the Trust; and
- any requirement to notify insurers or other regulators.

7. Managing the Investigation Flowchart



7.1.Managing the Investigation Information

Audit Committee to appoint a manager to oversee and start investigation

The circumstances of each case will dictate who will be involved and when. The following is intended to be general guidance to assist management in deciding the best course of action. An Investigation Panel will also be set up which will include:

- Chief Executive Officer
- Chief Finance and Operations Officer
- Member of SMT as appropriate
- Internal Auditor

The panel can only contain members who are not implicated in any way in the incident/allegation.

Diary of Events

The manager overseeing the investigation (referred to hereafter as the investigation manager) is responsible for initiating a Diary of Events to record the progress of the investigation.

Does it Appear a Criminal Act has taken place?

In some cases of course this question may be asked more than once during an investigation. The answer to the question obviously determines if there is to be a fraud investigation (or other criminal investigation). In practice it may not be obvious if a criminal act has taken place. If a criminal event is believed to have occurred external audit and the Board will now be informed if this has not already been done.

Investigate Internally

If it appears a criminal act has not taken place the next step will be an internal investigation to determine the facts, what, if any, disciplinary action is needed, what can be done to recover loss and what may need to be done to improve internal control to prevent the event happening again.

Broadly, where no criminal act has taken place the event could have three outcomes. The most serious would be where it is decided there was gross misconduct, this could involve dishonesty but not with a criminal intent. The outcome is likely to be dismissal if a member of staff is involved. Less serious would be if it were decided that there was negligence or an error of judgement that caused the event. This is unlikely to lead to dismissal but might involve disciplinary procedures. Finally, it may be concluded there is no case for an individual to answer.

In each case the investigation manager will consider what can be done to recover any loss and whether anything should be done to improve control to

prevent the event happening again.

Recovering a Loss

Where recovering a loss is likely to require a civil action it will be necessary to seek legal advice. Where external legal advisors are used the investigation manager must ensure there is co-ordination between the various parties involved. If the loss may be covered by insurance the investigation manager should inform the Vice Principal Finance and Resources.

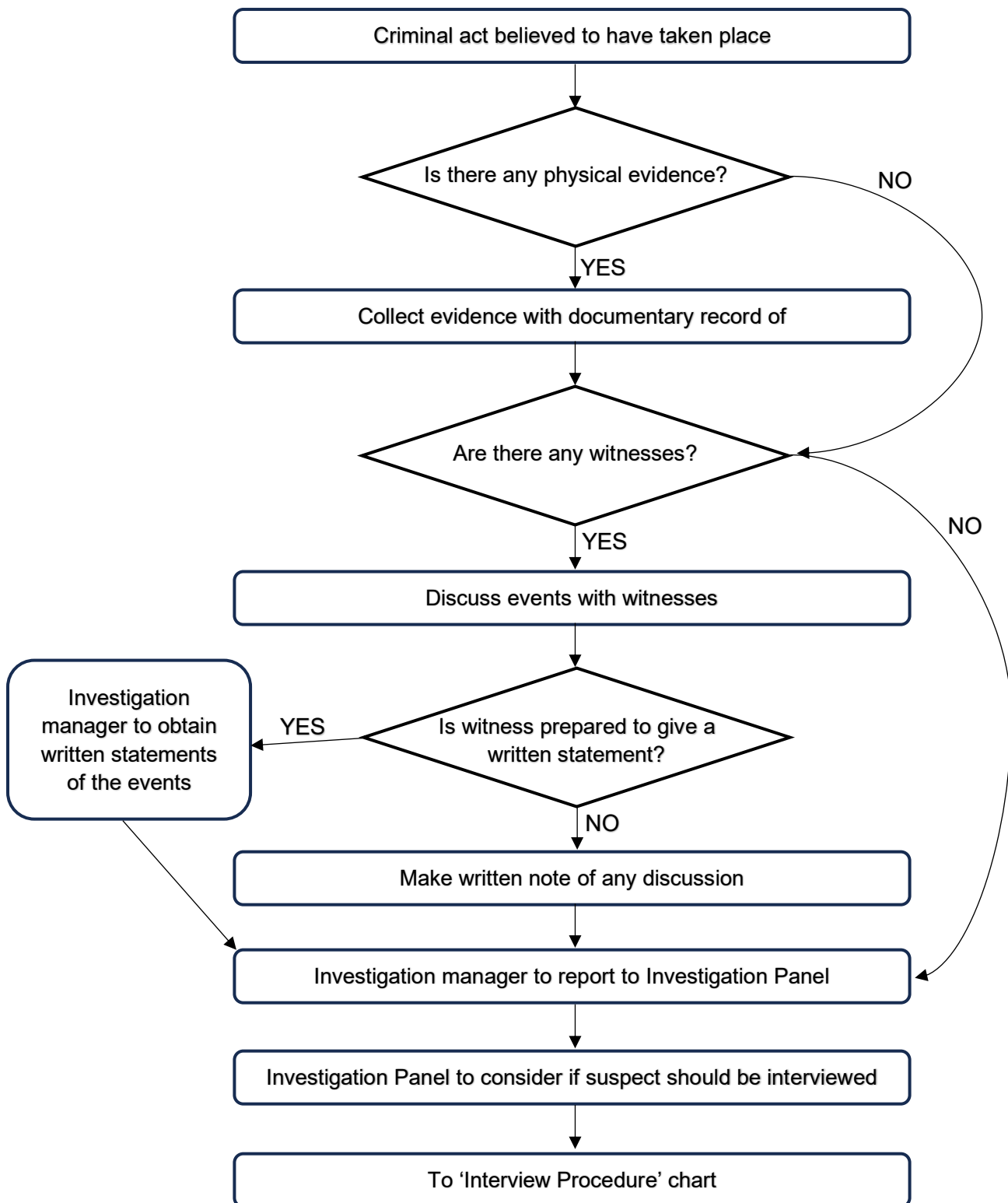
Disciplinary/Dismissal Procedures

The disciplinary procedures of the Trust have to be followed in any disciplinary action taken by the Trust towards an employee (including dismissal). This may involve the investigation manager recommending a disciplinary hearing to consider the facts, the results of the investigation (a formal report) and take appropriate action against the employee.

Staff under an investigation that could lead to disciplinary action have the right to be represented at all stages. One way in which evidence may best be protected is to suspend the member of staff, subject to advice from the Human Resources department. Immediately suspension has been decided upon, the following points need to be observed:

- The suspended member of staff should be allowed to return to their base in the presence of the departmental manager and be allowed to remove any personal possessions
- Those in attendance should note (or copy, if appropriate) what is taken, ensuring that nothing potentially relevant is removed from the premises
- All keys should be handed over to the appropriate manager of the Trust by the employee
- Where the employee has been involved with computer applications, their access should be immediately suspended, through recourse to the system administrator
- Any other assets at risk should be secured, either directly, or by notifying any other parties holding assets, for example withdrawal of signing authorities
- When management is satisfied that they have possession of all relevant items held by the suspended manager (including assets, accounting and other records) then the member of staff's desks and cupboards should be secured, and they should be escorted from the premises.
- Those with responsibilities for controlling access to the member of staff office/premises should be informed of the suspension, so that the employee will not be allowed access without specific permission

7.2. Gathering Evidence Flowchart



7.3. Gathering Evidence Information

The chart does not cover all complexities of gathering evidence. Each case must be treated according to the circumstances taking professional advice if necessary.

Witnesses

If a witness to the event is prepared to give a written statement, it is best practice for an experienced member of staff, preferably from Human Resources, to take a chronological record using the witness's own words. (The witness must be happy to sign the document as a true record, but the involvement of an independent person usually helps to keep the statement to relevant facts).

Physical Evidence

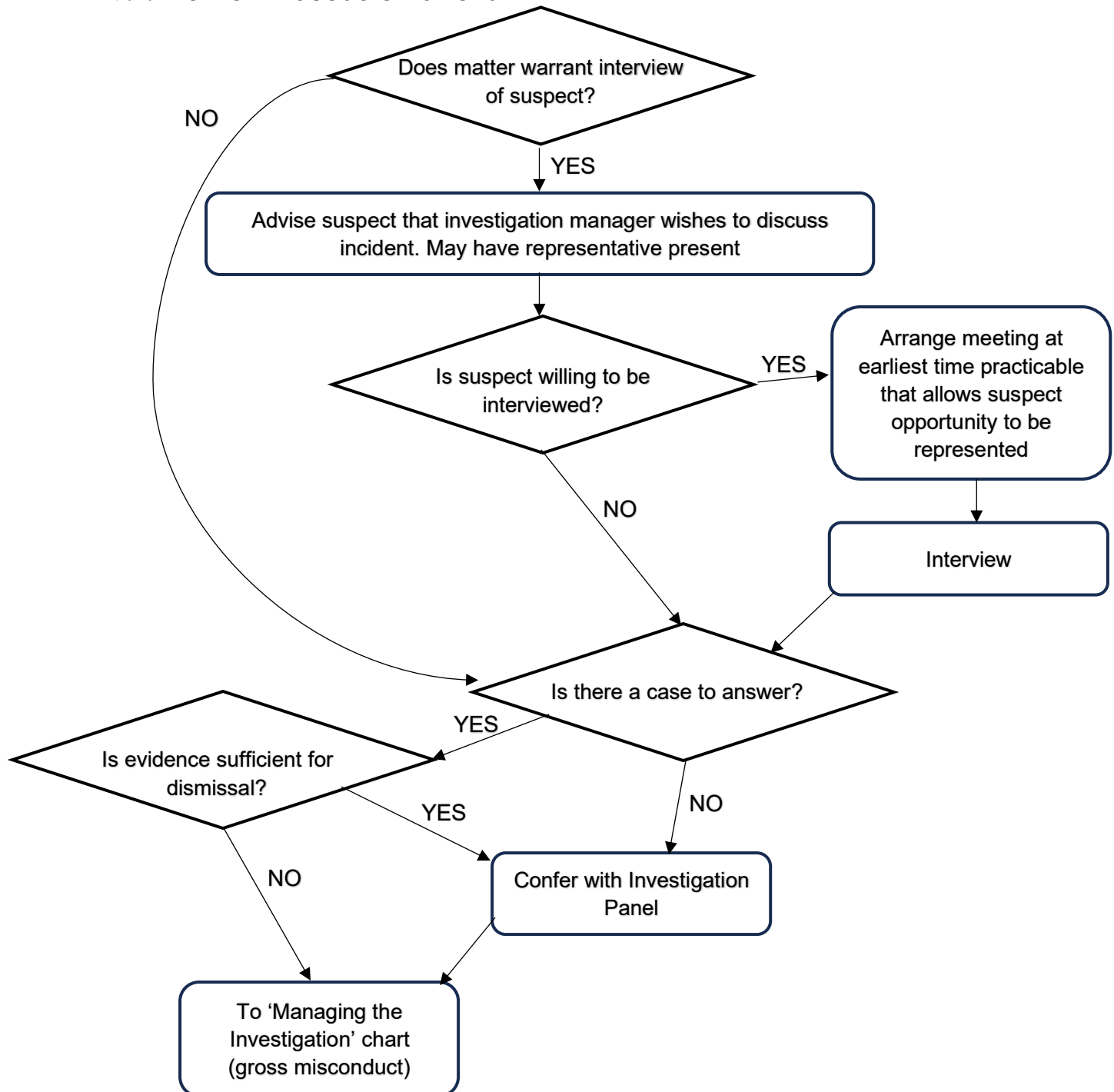
Upon taking control of any physical evidence, it is very important that a record is made of the time and place it is taken. If evidence consists of several items, for example many documents, each one should be tagged with a reference number corresponding to the written record.

In all cases, those managers involved with the reporting and investigation of the facts must take care to ensure that all possible evidence is protected and kept in case it is required at a later date.

The Investigation Panel to consider if suspects should be interviewed

The Investigation Panel will consider the report (written or verbal) of the Investigation Manager and consider if the suspect should be interviewed. If a crime is suspected, it is recommended that the police be consulted before any interview with the suspect takes place.

7.4. Interview Procedure Flowchart



7.5. Interview Procedure Information

Interview

The requirements of the Police and Criminal Evidence Act (PACE) must be considered before any interview with a suspect is performed, since compliance with PACE determines whether evidence is admissible in criminal proceedings. If in doubt about the requirement of PACE it is important to take specialist advice.

Is Evidence Gathered Sufficient for Dismissal?

Under UK employment legislation dismissal must be for a 'fair' reason. The manner of dismissal must also be reasonable. It is therefore important that no employee should be dismissed without close consultation with the CEO and that the Trust's Disciplinary Policy and Procedures are followed. The CEO should be consulted about the provision of references for employees who have been dismissed or who have resigned following suspicions of a fraud.

7.6. More Detailed Investigation

The flowcharts cover the basics of reporting fraud, initial evidence gathering, interviewing, and management action. It will be necessary to decide whether further investigation is required, and if so, by what means it should be undertaken. The remainder of this section discusses some of the considerations in cases of fraud and corruption, with special regard to the often-conflicting objectives of maximising control and minimising cost.

Points of good practice for any investigation include:

- Identifying a manager responsible for the investigation. The manager should be independent of the area under investigation.
- Define the objectives of the investigation.
- Define scope and timing of investigation and likely outputs.
- Seek advice where necessary from such sources as internal and external audit, legal advisors.
- Agree resources required for investigation.
- Define responsibilities.
- Budget and monitor resources used (costs and time).
- Monitor progress and inform as required.
- Consider lessons to be learned e.g. how control can be improved.
- Draw up an action plan based on lessons learned.
- Keep proper records including a diary of events.

7.7. Investigation Resource Options

After completion of initial fact finding in accordance with procedures given in the flow charts, the following options for resourcing an investigation are available to the Trust:

- Internal Audit
- Finance Staff
- HR
- External Audit
- External Specialists

These options are not mutually exclusive. In complex cases a number of different parties will need to be involved.

Some internal auditors have considerable experience in fraud investigations. In many cases internal audit will be the most suitable resource to manage and co-ordinate an investigation from the point of view of cost, experience and effectiveness.

Appendix 1 – The Law and its Remedies Further Information

Introduction

Criminal law may impose sanctions on the defendant for causing loss, while Civil law may assist the Trust to recover its loss. In Civil law the method of concealment (in the case of fraud) is unlikely to be a key factor in the value of compensation or the drafting of the statement claim.

In Criminal law, the nature of the deceit is highly relevant in the framing of charges, but the law is not primarily concerned with restitution or recovery of the proceeds of fraud or theft – although there are statutory powers to award compensation and to order restitution or forfeiture in some circumstances. However, criminal law now requires the financial benefits (to the villain) to be quantified as part of the investigation process. The proceeds direct, and indirect, can now be seized and dealt with by the court of trial.

There is no reason why the criminal prosecution and civil process cannot be taken at the same time if the evidence supports such action. But there are dangers in unilateral uncoordinated action.

Civil Law Remedies

The following is a brief description of some of the more common civil law remedies. It is not comprehensive and legal advice should be sought before action is take:

- Monies had and Received - The claim will refer to funds to the plaintiff, which have been 'had and received' by the defendant at the plaintiff's expense – and will seek their recovery.
- Interest - The plaintiff may be entitled to interest on the amount lost, and there are claims for interest under court rules and statute.
- Tracing - Tracing is an equitable remedy for the recovery of assets. It's meaning is that the trail by which assets have been removed must be followed through the hands they pass through after leaving control of the plaintiff.
- Mareva Injunction or Restraint Order - In some cases a court order can be used to freeze the assets of a person suspected of fraud or a person who has been convicted of a criminal offence in respect of their fraudulent activity. A Mareva Injunction may be used in conjunction with criminal or civil proceedings. A Restraint Order can only be related to criminal proceedings, when it may be a simpler alternative to a Mareva Injunction where proceedings have been or are about to be instituted.
- Damages for Deceit - A defendant may become liable in tort to the plaintiff for damages arising out of the act, and if the plaintiff can establish this liability, there is entitlement to be put into the position that would have been if the tortious act had not been committed. If successful, this claim may result in the award of damages beyond mere

recovery of assets stolen.

Criminal Law

The following are brief descriptions of some of the criminal offences most relevant in this context. It is not comprehensive, and legal advice should be sought before action is taken:

- Theft - The misappropriation of Trust assets for gain or otherwise. Section 1 Theft Act 1968 A person who dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.
- Fraud - English law does not specifically define fraud, however, Buckley J's description in *Re London and Globe Finance Ltd.* Encapsulates the two key ingredients: 'to defraud is to deprive by deceit' thereby underlining the two essential elements in fraud:
 - Deception or concealment, and
 - Deprivation or loss to the victim.

The following are the most frequently used definitions:

- Section 15 Theft Act 1968 A person who by any deception dishonestly obtains property belonging to another with the intention of depriving the other of it.
- Section 16 Theft Act 1968 A person who by any deception dishonestly obtains for himself or another any pecuniary advantage.

The offence is committed where a person obtains employment or increased remuneration, for example by falsely stating qualifications or professional history.

Section 17(1) Theft Act 1968 (False Accounting)

A person who dishonestly with a view to gaining for himself or another or with intent to cause loss to another:

- destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose, or
- in furnishing information for any purpose produces or makes use of any account or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in any material particular.

This is a very wide-ranging offence dealing with fraudulent transactions.

In criminal law, every individual element of the statutory wording must be proved beyond reasonable doubt. The essential difference between theft and criminal deception is reflected in the two terms 'appropriates' and 'by deception obtains'.

Under s.15, for 'deception' to be proved it must be established that the proposition on which the victim acted was false and that the defendant

knew the proposition to be false. Secondly, this section requires evidence of the obtaining ownership, possession or control of property and includes obtaining for another person or enabling another person to obtain or retain property.

Essentially, s.15 is used in circumstances where ownership of the property concerned has been gained by the accused with the consent of the owner.

- Corruption - The definition (in the context of the Bribery Act) is: the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person.
- Damage - Relates to arson, vandalism or sabotage of property, including computer systems and records.

S1(1) Criminal Damage Act 1971 Any person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage such property, or being reckless as to whether any such property would be destroyed or damaged.

There are many other offences dealing with criminal activity.

Evidence

For the purposes of criminal proceedings, the admissibility of evidence is governed by the Police and Criminal Evidence Act (PACE). For non-criminal (i.e. civil or disciplinary) proceedings, PACE does not apply, but should nevertheless be regarded as best practice. Interview procedure is covered in the next section.

The collection of evidence must be co-ordinated if several parties are involved in an investigation. Evidence gathering requires skill and experience and professional guidance should be sought where necessary. There is a considerable amount of case law concerning the admissibility of evidence.

Documentary evidence should be properly recorded, it will need to be numbered and include accurate descriptions of when and where it was obtained and by and from whom. In criminal actions evidence on or obtained from electronic media needs a document confirming its accuracy.

Appendix 2 – Interview Guidance

An interview under caution should not be considered unless the local Director of Regulation and Best Value has been informed. This depends on who is doing the interview and what the purpose is.

In the first instance this may be a manager whose purpose is to find out the facts. This interview should not be under caution, even if the crime is suspected. The manager has the right to ask an employee to account for his actions in respect of that employment. If a manager starts the interview with a caution, he/she is telling the suspect that he/she does not have to answer legitimate management questions. This may have an adverse effect on the disciplinary power to dismiss for failing to give an explanation. For this reason, it is important to involve Human Resources before interviewing a suspect if the manager is not experienced in such situations.

It should be a gross misconduct/dismissal offence if the employee refuses to answer questions about their actions as an employee. If the employee knowing the criminal law refuses to answer on the grounds that they might incriminate themselves, that is their right, and if they ask that question they should be told so. They are still dismissed.

The same situation applies to auditors, internal and external. They should not normally administer a caution.

All interviews must be conducted fairly. Comments such as "if you do not tell me the truth you will get the sack" will render any evidence obtained inadmissible under Section 78 PACE.

Interviews conducted by managers, internal or external auditors may be admissible in a criminal trial at the discretion of the trial Judge Section 78 PACE. The question of fairness will always be a crucial point. Having said that, current criminal case law is moving towards absolute exclusion of such interviews in a criminal process. This should not deter management from carrying out an internal interview to find out what happened. It is the right of the organisation to do so.

The Human Resources Department should be advised of interviews taking place and consulted, particularly for interviews of witnesses, if advice is required on the procedure to be followed.

It should be noted that investigations carried out prior to an individual being charged are open to discovery by that individual's defence.

Interview Procedure

Where an interview takes place under caution the following is a summary of the procedure to be followed. This procedure should not however be regarded as authoritative, and interviewers should ensure they understand

the requirements of PACE fully before initiating an interview.

It is important that the suspected individual is advised of the reason for requesting the interview and told that anything they say may be used as evidence against them.

This verbal statement must be given as follows:

"You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."

It is also critical that the suspect(s) be told that they are not under arrest and may leave the interview at any time.

There should be a second person with the interviewer, ideally from Human Resources, who will make a contemporaneous record of all that is said by the questioner and suspect. The suspect must be advised they have a right to legal representation. In addition, if the suspected person has a representative present, this person may also wish to make a written record. A tape recorder may be used for recording the interview provided this is done overtly.

Once the interview is over, the suspected person should be given an opportunity to read the written record and be asked to initial any crossings out or alteration as well as sign the bottom of each page in acknowledgement of its accuracy. (If they are unable to read, their representative, or in their absence the writer, should read the record back). Should the suspect decline to sign the record, a note to that effect should be made at the conclusion of writing (on the last page), signed by the writer.

All persons present in the interview should be listed at the header to the record, and all should sign to acknowledge the accuracy of what was said.