

What to do if you suspect fraud

Critical first steps

1

Act quickly, but tread carefully

The faster you act, the better your chance of preserving evidence and preventing stolen assets from disappearing. The first minutes and hours after detection are often the most crucial and it is very easy to damage the eventual outcome at this early stage. Consider the implications of each step you take.

2

Follow a plan

If you have a fraud plan, implement it immediately - it will guide you through the steps you need to take, saving time and risk of error. If not, consult a solicitor to ensure you follow the rules of evidence gathering.

3

Know your rights

You must have a contractual right to search or monitor employee belongings and communications. This should be enshrined in the terms and conditions of employment and documented in an employee handbook/policy disseminated to employees. Assuming this contractual right exists, diaries, desks, computers and business email accounts may be a rich source of evidence.

If you wish to monitor real time communications (e.g. telephone calls) ensure you comply with the Data Protection Act 1998, Lawful Business Regulations 2000, Regulation of Investigatory Powers Act 2000 and Human Rights Act 1998.

4

Be discreet

Ensure that as few individuals as possible know about the investigation to avoid tipping off the suspect (or others involved) and to avoid false rumours circulating. Remember – if allegations prove to be unfounded, it may be impossible for the suspect to return to work and this could result in a claim.

Keep this in your drawer for when you need it!

5

Secure and record evidence

Copy any telephone call recordings which you wish to rely on as evidence and store the original securely in a marked sealed bag (to avoid allegations of tampering). Use the copy to prepare transcripts. Record the exact date, time and length of the call and the participants and their telephone numbers.

Record the location of any paper/real evidence (where, when and by whom it was found), make copies and retain originals in a secure location or with your solicitor. It is vital you retain a paper trail and do not misplace original evidence. Do not alter or annotate original paper evidence.

6

Consult forensic experts

Digital evidence is key to many investigations. It is vital to preserve and analyse data carefully. Don't ask your IT team to conduct a search – they are not generally sufficiently trained, either technically or with respect to the rules of evidence gathering. Consult specialist lawyers and IT investigators.

7

Interview staff

Consider interviewing staff (bearing in mind point 4!) who may be able to provide oral evidence or assist you with your investigation.

8

Investigate other sources of evidence

Innocent third parties may have become caught up in the activities of a fraudster and may be able to assist you. Examples of third parties include bankers, brokers, accountants, legal advisers, email hosts, suspect's spouse (and their email host, bank etc). Give careful consideration to how you frame any such request (see point 4).

9

Take court action

Consider (with your solicitor) seeking assistance from the court to conduct your investigation. It may be possible to get orders to help with evidence gathering and also identifying the whereabouts of stolen assets.

Need help developing a fraud investigation or prevention strategy?

Call Richard Mumford **01293 603698** or Andrew Frake on **01293 603645**.

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