

COLLAS DAY | DISPUTE RESOLUTION

Employee Fraud

Are your employees taking home more than their monthly salary?

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Fraud by employees is the fastest growing crime, accounting for *approximately 60%* of all fraud committed against businesses.

Such fraudulent activities have been highlighted by the much publicised cases of Nick Leeson, who brought down Barings Bank in 1995 and more recently, the French rogue trader, Jerome Kerviel, whose fraudulent acts cost the French Bank, Société Générale an estimated £3.7 billion, making it the biggest fraud in financial history. The Bank stated that the fraud was based on simple transactions but concealed by “sophisticated and varied techniques”.

Actions such as these, albeit on a smaller scale, are not uncommon across all financial institutions and can involve a variety of practices. Such practices include the misappropriation of funds, false expense claims, the theft of cheques, the forging of signatures and the falsification of documents. The misappropriation of client data by an ‘insider’ employee and subsequent utilisation of that information is also an increasingly common area of employee fraud. An example of this occurred when an employee working at an Indian call centre for a well-known High Street Bank was charged with data theft. It was alleged that the employee, working as a data operator, had hacked into the computer systems to obtain customers’ details, which he passed on to fraudsters, leading to substantial sums of money being misappropriated from the accounts of UK customers.

Institutions in Guernsey need to recognise that such acts are not confined to other jurisdictions, they can be a very real threat to local businesses too. Two recent local cases, whereby sums of money were misappropriated by employees, have highlighted the need for financial institutions in Guernsey to be vigilant.

Prevention is better than cure

In attempting to prevent fraudulent acts being committed by employees, it is very important that financial institutions are aware of the warning signs associated with this kind of behaviour. In addition, institutions should ensure they implement robust internal controls and preventative measures aimed to reduce the very possibility of fraud.

The perpetrators of fraud are often confident, consider themselves beyond reproach and may be driven by a desire for a lavish lifestyle. At the other end of the scale, a change in an employee’s private circumstances can lead to fraudulent acts being committed, for example a sudden, desperate financial need can drive an employee to engage in criminal acts.

According to the UK’s Fraud Prevention Service, CIFAS, warning signs of potential employee fraud include:

- staff under stress without a high workload;
- marked personality changes;
- staff always working late;
- reluctance to take leave;
- reluctance to delegate work;
- unexplained wealth or living beyond apparent means;
- customer complaints of missing statements or unrecognised transactions;
- new staff resigning quickly;
- cosy relationships with suppliers / contractors;
- suppliers / contractors who insist on dealing with just one individual;
- rising costs with no explanation;
- key employees having too much control or authority without audit checks;
- employees with external business interests.

Should you suspect that one of your employees is involved in fraudulent acts within your institution, it is important that you take action immediately. Prompt, decisive action is needed in order to curtail the loss and to minimise the impact on the business and the reputation of the institution.

While it is necessary to act quickly, an element of caution is also required. Care must be taken not to breach employees’ employment rights, whether allegations are proven or turn out to be unfounded.

In order to secure a conviction against the perpetrator and to maximise the prospects of the recovery of funds, it is essential that evidence is gathered that proves all the elements of the offence. It is also imperative that the evidence obtained is admissible in court.

Legal advice is required to help you reconcile these competing demands.

The tracing and recovery of misappropriated assets can be an involved process, especially when dealing with an overseas jurisdiction. Here too, legal advice and assistance can help in respect of disclosure orders and freezing orders to recover evidence and any assets. Advice may also be required on various aspects of money laundering legislation.

Should you require any advice on any of the issues raised in this article, please contact:

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