

TELFORD & WREKIN COUNCIL - ANTI-FRAUD AND CORRUPTION POLICY 2015

1. INTRODUCTION

- 1.1 The Council through this policy clearly demonstrates its zero tolerance commitment to dealing with fraud, bribery and corruption and will deal equally with perpetrators from inside (members¹ and employees²) and outside the Council.
- 1.2 The policy outlines measures designed to frustrate attempted fraud, bribes or corruption (defined in Appendix A) and the steps that will be taken if such action occurs. It is separated into four areas:-
 1. Culture
 2. Prevention/Deterrence
 3. Detection and Investigation
 4. Training
- 1.3 The Council also recognises the high degree of external scrutiny of its affairs by a variety of external bodies. These bodies are important in highlighting any areas where improvements to anti-fraud, anti bribery and anti corruption activities can be made.

2. CULTURE

- 2.1 The Council's co-operative values include openness and honesty which supports the Council's commitment to zero tolerance in respect to fraud, bribery and corruption.
- 2.2 The prevention and detection of fraud, bribery or corruption and the protection of the public purse are responsibilities of everyone, both internal and external to the organisation. The anti-fraud, bribery and corruption culture and associated procedures assist the Council in its management of the risk of fraud, bribery and corruption against the Council and are an integral part of its governance framework.
- 2.3 The Council's members, employees, partners, volunteers and governors play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud, bribery and corruption, regardless of seniority, rank or status, in the knowledge that such concerns will be investigated and wherever possible be treated in confidence³. Suppliers/contractors to the Council and the public also have roles to play in this process and should inform the Council if they feel that fraud, bribery or corruption may have occurred. Examples of types of concerns are listed in Annex 1.
- 2.4 The Council will deal firmly and take appropriate action against those who defraud the Council or who are corrupt. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees/members raising malicious allegations) will also be dealt with appropriately.
- 2.5 When fraud, bribery or corruption has occurred due to a breakdown in the Council's systems or procedures, senior managers will ensure that appropriate improvements in systems of control are implemented within a reasonable timeframe to prevent a re-occurrence.

3. PREVENTION & DETERRENCE

¹ The term "members" is used in the policy to include elected, co-opted and independent members.

² The term employees is used in the policy to include employees, temporary staff, volunteers, partners

³ The Council's Speak Up policy sets out how concerns can be raised (including anonymous information) and how they will be dealt with, including allegations in respect to fraud and corruption.

3.1 MEMBERS

- 3.1.1 All members of the Council have a duty to the citizens of the Borough to protect the Council and public money from any acts of fraud, bribery or corruption. This is achieved through the Anti-Fraud and Corruption Policy, compliance with the Code of Conduct for Members, the Council's Constitution⁴, relevant legislation and any other protocols and procedures adopted by the Council.

3.2 EMPLOYEES

- 3.2.1 The Role of the Chief Financial Officer – one of the Assistant Directors⁵ has been designated the statutory responsibilities of the Chief Financial Officer as defined by s151 of the Local Government Act 1972. These responsibilities are set out in Annex 2.
- 3.2.2 Employees and their managers are responsible for controls and ensuring that adequate systems of internal control exist within their areas of responsibility, that these controls operate effectively and that they test them regularly to confirm this. They should also operate so as to prevent and detect fraud and implement appropriate controls into new/developed systems and new controls into existing systems to reduce the risk of fraud occurring or recurring.
- 3.2.3 Managers at all levels are responsible for managing the risk of fraud, bribery and corruption through:
- a) Recruitment – following the Council's recruitment policies and procedures
 - b) Appropriate induction and training in order for their staff to do their job
 - c) Their adherence to and promotion of the Council's Values and the Employee Code of Conduct
 - d) Providing awareness of the Council's constitution, appropriate policies and procedures (key documents associated with this policy are listed in Annex 2)
 - e) Regular reminders, updates and vigilance in respect to fraud, bribery & corruption
 - f) Encouraging staff to raise concerns with them or through the Speak Up policy

3.3 MEMBERS & EMPLOYEES

- 3.3.1 Both members and employees must ensure that they avoid situations where there is a potential for a conflict of interest⁶. Such situations can arise particularly with planning and land issues, procurement (especially tendering), recruitment etc. Effective role separation is essential to ensure decisions made are based upon impartial advice to maintain public confidence in the Council's decision-making processes and avoid questions about improper disclosure of confidential information.
- 3.3.2 All members and officers are expected to fully co-operate with whoever is conducting fraud, bribery and corruption investigations, proactive checks or data matching exercises.

3.4 INTERNAL AUDIT

- 3.4.1 Internal Audit plays a vital preventative role in ensuring that systems and procedures are in place to prevent and deter fraud, bribery and corruption and has specific rights within the constitution (see Annex 2). Internal Audit investigates all employee cases of suspected financial irregularity, fraud, bribery or corruption⁷, except Benefit fraud investigations (see below), in accordance with agreed procedures. Internal Audit liaises with management to recommend changes in procedures to improve controls, reduce risks and prevent losses to the Authority.

⁴ Including Financial Regulations and Standing Orders

⁵ Assistant Director Finance, Audit & Information Governance

⁶ Conflicts could also arise where employees have additional employment outside the Council but this is managed through the Private Works procedure.

⁷ Except where they are referred to the Police when they may leave it to the Police or assist, as appropriate

3.5 BENEFITS INVESTIGATION TEAM

- 3.5.1 Benefits administration is recognised nationally as being complex and difficult to administer. This results in the scheme being prone to error and abuse. The Authority is committed to tackling poverty but it must also ensure that the administration of housing and council tax benefit is secure, fair and provides prompt help to those who need it. Equally, it must also be vigilant in tackling fraud and error to ensure value for taxpayers' money. The Revenues & Benefits Service operates within legislation, government guidance and local procedures with the aim of improving the quality and accuracy of benefit determinations and to both prevent and reduce the incidence of fraud.
- 3.5.2 Until 1 June 2015 the Benefits Investigation Team is responsible for the investigation of welfare benefit fraud, often jointly with the Department for Works & Pensions (DWP), in accordance with legislation, agreed codes of conduct and a separate Council policy. From 1 June 2015 responsibility for investigating all instances of Housing Benefit fraud (and any Council Tax Benefit fraud prior to 1 April 2013) will transfer to the Department for Work and Pension's Single Fraud Investigation Service (SFIS). The Council's Revenues & Benefits Investigation Team will remain responsible for investigating Council Tax Support fraud and will also investigate Council Tax and Business Rates fraud. In cases where employees and/or members are involved the team will work with Internal Audit, People Services, the Monitoring Officer and appropriate senior management to ensure that correct procedures are followed.

3.6 DATA MATCHING

- 3.6.1 The Council participates in all mandatory Data Matching exercises. In respect to Benefits there are also regular external exercises with HBMS (Housing Benefits Matching Service), DWP and most recently the introduction of PAYE Real Time Information (RTI) matches from HMRC. In addition internal data matching exercises are undertaken. All exercises adhere to Data Protection requirements.

3.7 EXTERNAL AUDIT

- 3.7.1 Independent External Audit is an essential safeguard of the stewardship of public money. From 1st April 2015 external audit suppliers are being managed by the Public Sector Audit Appointments body who have taken over from the Audit Commission until local authorities appoint their own External Auditors. External auditors will continue to operate through a Code of Practice that is designed to test (amongst other things) the adequacy of the Council's financial systems, the arrangements for preventing/limiting the opportunity for fraud and the arrangements for the detection of fraud, bribery and corruption. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity, and will act without undue delay if grounds for suspicion come to their notice. Where External Audit is required to undertake an investigation they will operate within legislation and their codes of conduct.

3.8 OTHER AGENCIES

- 3.8.1 Appropriate Council services have arranged (in compliance with the Data Protection Act 1998) the exchange of information on national and local fraud, bribery and corruption activity with appropriate external agencies.

3.9 CONTRACTORS/SUPPLIERS AND THE PUBLIC

- 3.9.1 This policy, although primarily aimed at those within or associated with the Council, encourages contractors/suppliers and the public to assist in the Council's zero tolerance commitment to fraud, bribery and corruption.

3.10 PROSECUTION AND RECOMPENSE

- 3.10.1 To support this policy the Council has a Corporate Prosecution Policy which is complemented by the Benefit Fraud Sanction & Prosecution Policy, which is to be replaced by the Revenues and Benefits Sanction and Penalty Policy. The corporate policy is designed to clarify and ensure consistency in the Council's action in specific cases and to deter others from committing offences against the Authority. The Benefit Fraud Sanction & Prosecution policy and Revenues and Benefits Sanction Policy ensure that Revenues and Benefits prosecutions are undertaken within the requirements of the relevant legislation.
- 3.10.2 In addition or instead of prosecution, the Council will seek to recover any money or assets fraudulently/corruptly obtained from the Council.

3.11 DISCIPLINARY OR OTHER ACTION

- 3.11.1 Theft, fraud, bribery and corruption are serious offences against the Authority and employees will face disciplinary action if there is evidence that they have been involved in these activities, including Benefit fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case but in a consistent manner.
- 3.11.2 Members will face appropriate action under this policy if there is evidence that they have been involved in theft, fraud, bribery and corruption against the Authority. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case but in a consistent manner. If the matter is a potential breach of the Code of Conduct for Members then it will also be referred to the Standards Committee.

3.12 PUBLICITY

- 3.12.1 The Council's Corporate Communications Team will optimise the publicity opportunities associated with anti-fraud, anti bribery and anti corruption activity within the Council. Information will be publicised in respect to prosecutions and other appropriate cases as a deterrent.
- 3.12.2 In addition the Council's Everyday App will be extended in the Summer of 2015 to include fraud reporting to make it easier for the public to report suspected cases.
- 3.12.3 Internally where the Council can learn from incidents the relevant points will be communicated to members and employees.
- 3.12.4 Any notifications received by the Council of possible regional/national frauds, scams or alerts will be communicated to employees and members, as appropriate.
- 3.13.5 All anti-fraud, anti-bribery and anti-corruption activities, including the update of this policy⁸, will be publicised in order to make employees, members and the public aware of the Council's commitment to taking action on fraud, bribery and corruption, when it occurs.

4. DETECTION AND INVESTIGATION

- 4.1 Internal Audit plays an important role in the detection of fraud. Included in their audit plan (informed by a fraud risk register) are specific fraud tests, spot checks and unannounced visits. However it is often the vigilance of employees, partners, volunteers, members, governors, suppliers/contractors and the public that aids detection.
- 4.2 All suspected fraud, bribery and corruption irregularities (except benefit fraud) are required to be reported (verbally or in writing) to the Audit & Information Governance Manager either by the person with whom the initial concern is raised or through the Council's Speak Up policy. (See paragraph 3.4.1).

⁸ This policy will be reviewed annually and updated where necessary.

5. AWARENESS AND TRAINING

- 5.1 The Council recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of training and awareness for Members, employees and affected external parties. The principles of this policy are integrated into the officer and member's induction programme and incorporated in the Member Development programme. Specialist training for certain employees is provided by their service area due to their specific roles.
- 5.2 Regular awareness through corporate communication, staff news and Ollie will support the successful application of this policy. Full copies of the Anti-Fraud and Corruption and Speak Up policies are available on the intranet.

DEFINITIONS OF FRAUD, BRIBERY & CORRUPTION

Fraud is defined by the Audit Commission as:-

Fraud – “*the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain*”.

In addition, fraud can also be defined as “*the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to mislead or misrepresent*”.

The Fraud Act 2006 which came into effect on 15th January 2007 created a new general offence of fraud with three ways of committing it:

- Fraud by false representation
- Fraud by failing to disclose information
- Fraud by abuse of position

It also created new offences:

- Obtaining services dishonestly
- Possessing, making and supplying articles for use in frauds
- Fraudulent trading applicable to non-corporate traders.

Corruption is defined by the Audit Commission as:-

Corruption – “*the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person*”.

In addition, this policy also covers “*the failure to disclose an interest in order to gain financial or other pecuniary benefit.*”

Bribery is defined under the Act as:-

A bribe is a financial or other advantage that is offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of such an advantage would constitute the improper performance of such a function or activity.

EXAMPLES OF THE TYPES CONCERNS that should be raised:

- * A criminal offence
- * A failure to comply with a statutory or legal obligation
- * Improper or unauthorised use of public or other official funds
- * A miscarriage of justice
- * Maladministration, misconduct or malpractice
- * Discriminatory behaviour
- * Endangering an individuals health and/or safety
- * Damage to the environment
- * Benefit Fraud
- * That offers or requests have been made in respect to a promise, gift, financial or other advantage to or from a person that results in improper performance of a decision or action
- * Deliberate concealment of any of the above

Roles and Responsibilities of the Chief Financial Officer (CFO) in respect to Financial Affairs including Fraud & Corruption

Section 151 of the Local Government Act (1972) sets out that in every local authority in England & Wales should:

“make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility for the administration of those affairs”.

Section 114 of the Local Government Finance Act (LGFA) 1988 requires the Chief Financial Officer to report to the Council if the authority, one of its committees, the Leader and Cabinet Executive or one of its officers:

- Has made – or is about to make – a decision which has or would result in unlawful expenditure;
- Has taken, or is about to take, an unlawful action which has or would result in a loss or deficiency to the authority; or
- Is about to make an unlawful entry in the Council's accounts.

Section 114 of the LGFA 1988 also requires the Chief Financial Officer to nominate a properly qualified member of staff to deputise, should the Chief Financial Officer be unable to perform the duties under Section 114 personally.

Under the Constitution the CFO responsibilities of proper administration encompasses all aspects of local authority financial management including:

- provision of financial advice for service delivery, strategic planning and policy making across the authority;
- provision of advice on the optimum use of available resources on the management of capital and revenue budgets;
- provision of financial management information;
- preparation of statutory and other accounts, associated grant claims and supporting records;
- provision of an effective internal audit function and assistance to management in providing safe and efficient financial arrangements;
- the proper exercise of a wide range of delegated powers both formal and informal;
- provision of effective financial management systems and procedures;
- provision of effective income collection and payments systems;
- advising on treasury, investment and cash-flow management;
- advising on the safe custody of assets and insurance; and
- The recognition of the fiduciary responsibility owed to local tax payers.

KEY COUNCIL DOCUMENTS THAT SUPPORT THIS POLICY

(This list contains examples but is not exhaustive)

- Constitution
- Financial Regulations and Standing Orders and associated detailed procedures
- Fraud Response Plan
- Employee Code of Conduct
- Health and Safety Policies
- Corporate Information Security Policy (which includes the E-mail and Internet Usage Policies and IT Strategy).
- Gifts and Hospitality Guidance
- Equalities policies
- Private Works Procedure

CONSTITUTION POWERS FOR REPRESENTATIVES OF INTERNAL AUDIT

(Part 4 – Rules of Procedure: Section 6 – Financial Regulations paragraph 9.7)

9.7 The Chief Finance Officer's authorised Internal Audit representatives shall be empowered to:

- enter at all reasonable times any Council premises or land
- have access to all Council and partner records (includes business e-mails and internet records), documentation and correspondence relating to any financial and/or other transactions or other business of the Council, its employees or members, as considered necessary by the CFO, Monitoring Officer or Audit & Information Governance Manager.
- have access to records belonging to third parties such as contractors or partners when required
- require and receive such explanations as are regarded necessary concerning any matter under examination from any employee, member, partner or third party.
- require any employee or member of the Council or any partner/third party to account for cash, stores or any other Council property which is under his/her control or possession on behalf of the Council.