

Anti-fraud, bribery and corruption policy

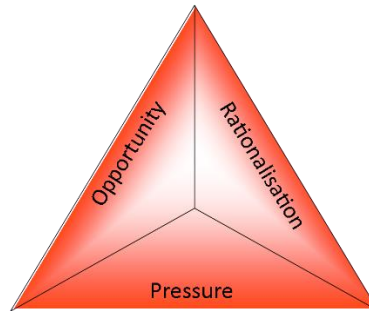
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1. Introduction

- 1.1 The council is determined to pursue a policy of zero tolerance to fraud, bribery and corruption.
- 1.2 Three key elements exist in most acts of theft, fraud and corruption and are shown in the Fraud Triangle below;



Opportunity - The fraudster will usually look for opportunities to commit fraud. They may have heard stories from others who have cheated an organisation in a certain way before and may seek to copy this. Detailed knowledge of internal systems may make it easier for fraud to occur, particularly if the fraudster is aware of its weaknesses or has excessive control responsibility. Weak internal controls make it easier for fraud to be successful and reduce the likelihood of it being identified.

Motive/Incentive/Pressure - A person who commits fraud may be pressured to, or needs to commit fraud. It might be due to a financial need such as living beyond their means, debts, a desire for material goods, or to feed an addiction. The sense of beating the system may also act as a motivator.

Rationalisation - A fraudster will often justify to themselves why they have committed fraud. They may see their act as revenge for inadequate pay or excessive workload. They may convince themselves that they will pay the money back one day; or that the organisation is so big it won't miss the small amount taken.

- 1.3 The purpose of this policy is to set out clearly to councillors, employees, contractors, the councils partners, and the public:
- The council's commitment to tackling fraud, bribery and corruption
 - Its actions to promote the prevention of fraud, bribery and corruption
 - The responsibility of councillors and employees in minimising the risk of fraud and reporting any suspicions they may have
- 1.4 The council has a duty to ensure that it safeguards the public money that it is responsible for and takes very seriously its stewardship of this money and the high expectations of the public and the degree of scrutiny to which the affairs of the council are subject. Proper accountability achieved through probity, internal control and honest administration is therefore essential.

1.5 The government has made it clear as they attempt to reduce public sector spending that they expect both central and local government to take the issue of fraud seriously and do more to tackle the issues from public sector funding to prevent fraud. In June 2011 'Eliminating Public Sector Fraud' set out four priorities to tackle fraud effectively in the public sector:

- Collaboration
- Zero tolerance
- Better assessment of risks and measurement of losses
- Greater focus on fraud prevention activity

1.6 This was followed by the National Fraud Authority (NFA) producing a National Local Government Fraud Strategy (April 2011) 'Fighting Fraud Locally' and more recently the Local Government Counter Fraud and Corruption Strategy 2016-19 the new strategy for local government. It provides a blueprint for a tougher response to fraud and corruption perpetrated against local authorities. By using this strategy local authorities will develop and maintain a culture in which fraud and corruption are understood to be unacceptable, understand their fraud risk and prevent fraud more effectively, use technology to improve their response, share information and resources more effectively to prevent and detect fraud loss, bring fraudsters to account more quickly and efficiently, and improve the recovery of losses. The strategy contains examples of good practice which should enhance the fight against fraud based around three key themes:

- Acknowledge – acknowledging and understanding fraud risks
- Prevent – preventing and detecting fraud
- Pursue – being stronger in punishing fraud and recovering losses

1.7 In November 2014, the CIPFA Counter Fraud Centre issued a code of practice on managing the risk of fraud and corruption which built on the National Local Government Fraud Strategy. This code supports good governance and demonstrates effective financial stewardship and strong public financial management. This strategy contains five key themes:

- Acknowledge the responsibility of senior management for countering fraud and corruption
- Identify the fraud and corruption risks
- Develop an appropriate counter fraud and corruption strategy
- Provide resources to implement the strategy
- Take action in response to fraud and corruption

2. What is fraud, bribery and corruption

2.1 **The Fraud Act 2006** created a criminal offence of fraud and identifies three main ways it can be committed with a maximum penalty of 10 years imprisonment:

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

2.2 The Act also created four related criminal offences of:

- Possession of articles for use in frauds
- Making or supplying articles for use in frauds
- Participating in fraudulent business
- Obtaining services dishonestly

2.3 **The Bribery Act 2010** defines bribery as “giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so”. There are four key offences under the Act:

- Bribery of another person
- Accepting a bribe
- Bribing a foreign public official
- A corporate offence of failing to prevent bribery

2.4 **The Proceeds of Crime Act 2002 and the Terrorism Act 2000** place obligations on the Council and its staff with respect to suspected money laundering and makes it a criminal offence to help a criminal ‘launder’ the proceeds of crime.

2.5 **The UK Anti-Corruption Plan 2014** aims to bring about a co-ordinated and collaborative approach, setting out clear actions and priorities. The plan covers both UK and international activities, and includes local government. There is no universally accepted definition of ‘corruption’. The UN Guide for Anti-Corruption Policies (2003) notes that “definitions applied to corruption vary from country to country in accordance with cultural, legal or other factors and the nature of the problem as it appears in each country.” However, the World Bank definition is widely used and defines a ‘corrupt’ practice as the ‘offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.’

3. **This policy provides an overview of the measures designed to combat any attempted fraudulent or corrupt act. For ease of understanding it is separated into four areas:**

- **Culture**
- **Reporting**
- **Prevention**
- **Detection**
- **Investigations**
- **Discipline and prosecution**
- **Recovery of losses**

**A fraud response plan is included at Appendix B
Warning signs of potential fraud at appendix C**

4. Culture

- 4.1 Whilst there is a need for an anti-fraud, bribery and corruption policy it is equally important to emphasise the faith the council places in the integrity and honesty of its entire staff. The council also expects that all outside individuals and organisations including suppliers, contractors and claimants will act towards the council with honesty and integrity.
- 4.2 All councillors and employees are expected to be aware of standards of conduct and the procedures designed to reduce the risk of fraud, bribery and corruption occurring.
- 4.3 All employees shall be responsible for their own conduct, with managers being additionally responsible for maintaining internal checks and control procedures within their service area.
- 4.4 Fraud, bribery and corruption risks will be considered as part of the council's strategic risk management arrangements.
- 4.5 The council is determined that the culture and tone of the organisation is one of honesty, openness and opposition to fraud, bribery and corruption. The council will not tolerate fraud, bribery or corruption of any form or degree in the administration of its responsibilities whether from inside or outside the council.
- 4.6 There is an expectation that, and requirement that, all individuals and organisations associated in whatever way with the council will act with integrity and that councillors and employees at all levels, will lead by example.
- 4.7 The council's employees are an important element in its stance on fraud and corruption and are positively encouraged to raise any concerns that they may have on these issues, immaterial of seniority, rank or status, where they are associated with the council's activity. This they can do in the knowledge that such concerns will, wherever possible, be treated in confidence and properly investigated. The public also has a role to play in this process and should inform the council if they feel fraud/corruption may have occurred.

5. Prevention

- 5.1 The council recognises that a key preventive measure in the fight against fraud, bribery and corruption is the taking of effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff, in terms of their propriety and integrity. In this regard temporary and contract staff will be treated in the same manner as permanent staff.
- 5.2 The council will regularly review and keep its disciplinary procedures up to date and in line with good practice.
- 5.3 The council has contract procedure rules and financial procedure rules in place that specify procedures to be followed in administering the council's affairs and place a requirement on employees when dealing with the council's affairs to act in accordance with best practices.
- 5.4 The chief finance officer has been designated with the statutory responsibilities of the finance director as defined by section 151 of the Local Government Act 1972. These responsibilities outline that every local authority in England and Wales should: 'make

arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility or the administration of those affairs’.

‘Proper administration’ encompasses all aspects of local authority financial management including:

- Compliance with the statutory requirements for accounting and internal audit;
- Managing the financial affairs of the council
- The proper exercise of a wide range of delegated powers both formal and informal;
- Under these statutory responsibilities the section 151 officer contributes to the anti-fraud and corruption framework of the council.

5.5 The solicitor to the council (monitoring officer) is responsible for ensuring that all decisions made by the council are within the law. The monitoring officer’s key role is to promote and maintain high standards of conduct throughout the council by developing, enforcing and reporting appropriate governance arrangements including codes of conduct and other standard policies.

5.6 The council has developed and is committed to continuing, with systems and procedures that incorporate efficient and effective internal controls, which include adequate separation of duties wherever possible. It is required that the directors, assistant directors and heads of service and other key managers will ensure that such controls, including those in a computerised environment are properly maintained. Their existence and appropriateness will be independently reviewed by the council’s internal audit service.

5.7 The council will work with Partner Organisations to develop where possible a joint approach to antifraud activity.

6. Detection

6.1 Directors, assistant directors, heads of service and all managers shall ensure that internal control is implemented and maintained and will report any matters where internal control has failed to the chief internal auditor.

6.2 Internal audit has a preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud and corruption. Internal audit may be requested to investigate cases of suspected financial irregularity, fraud or corruption, except benefit fraud investigations, in accordance with agreed procedures. Within the financial procedure rules in the constitution, representatives of internal audit are empowered to:

- enter at all reasonable times any council premises or land
- have access to all records, documentation and correspondence relating to any financial and other transactions as considered necessary
- have access to records belonging to third parties such as contractors when required
- require and receive such explanations as are regarded necessary concerning any matter under examination
- require any employee of the council to account for cash, stores or any other council property under his/her control or possession

- 6.3 Herefordshire council will take part in the National Fraud Initiative.
- 6.4 The audit and governance committee will review and approve as part of the annual audit plan the internal audit programme for fraud prevention and detection work.
- 6.5 The council's code of practice on whistleblowing allows employees and councillors to raise any concerns they may have in confidence and anonymously should they wish.

7. Reporting

- 7.1 The council expects all elected members and employees of the council to report any concerns that they may have in respect of fraud and corruption. Members of the public outside individuals and organisations including suppliers, contractors and claimants are also encouraged to report concerns.
- 7.2 As set out in the whistleblowing policy, employees are encouraged and expected to raise any concerns they may have without fear of recrimination. Such concerns will be treated in the strictest confidence and will be properly investigated.
- 7.3 Employees should normally raise concerns with their immediate manager or that manager's manager. This depends, however on the seriousness of the issues involved and who is suspected of the malpractice. If staff believe that their management is involved they should approach:
 - i) The chief finance officer - Tel: 01432 383519
 - ii) The chief internal auditor – (South West Audit Partnership) Tel: 07872500675
 - iii) The chief executive - Tel: 01432 260044
 - iv) The solicitor to the council – Tel: 01432 260657
- 7.4 Elected councillors should normally report any concerns to the appropriate senior management team member or one of the officers listed in 7.3.
- 7.5 The council discourages anybody who has reasonably held suspicions from doing nothing, trying to investigate the matter themselves, approaching or accusing the individual themselves. Any of these actions could result in any counter fraud investigation being compromised.
- 7.6 Senior management is responsible for following up any allegation of fraud or corruption and will do so in line with the council's financial regulations.
- 7.7 Senior management is expected to deal swiftly and firmly with those who have defrauded the council or who are corrupt.
- 7.8 There is a need to ensure that any investigation process is not misused and therefore, any abuse such as raising unfounded malicious allegations will be dealt with as a disciplinary matter.

8. Investigations

- 8.1 The investigation of fraud, bribery and corruption is a complex and specialist area and will usually be undertaken by internal audit, or for less complicated cases, managers, under internal audit advice. Internal audit will ensure that there is a procedure that can

be implemented to ensure that all evidence is correctly obtained, stored and recorded.

- 8.2 Depending on the nature and anticipated extent of the allegations, internal audit will normally work closely with management and other agencies to ensure that all allegations and evidence is properly investigated and reported on.
- 8.3 To facilitate audit work and investigations, internal audit staff are accorded rights, by the Accounts and Audit Regulations 2011, to access all necessary documents, records, information and explanations from any member of staff.
- 8.4 When undertaking fraud investigations, council investigators will observe the Police and Criminal Evidence Act Codes of Practice.
- 8.5 Any decision to refer an investigation to the police will be taken by the chief internal auditor in consultation with the chief finance officer and others, as appropriate.

9. Discipline and prosecution

- 9.1 The council's disciplinary procedures will be used where the outcome of any investigation indicates improper behaviour.
- 9.2 The chief finance officer is responsible for deciding in consultation with the relevant member of management board and the chief internal auditor as appropriate, whether any matter under investigation should be referred for police investigation and take recovery action as appropriate on such matters

10. Recovery of losses

- 10.1 The council will normally seek to recover losses incurred as a result of fraud, bribery and corruption.
- 10.2 If anyone under investigation offers money in settlement of any losses to the council, it should be made clear that any monies offered will be accepted:
 - Without prejudice to any other actions the council may wish to take;
 - That acceptance is only in respect of losses identified to date; and
 - That the council reserves the right to seek recovery any further losses that may come to light in the future.
- 10.3 Consideration will be given to legal action against the perpetrator of fraud or those benefiting from fraud in order to cover the council's losses.

11. The council's human resources policies

- 11.1 All investigations, internal procedures and codes of conduct will comply with and take account of the council's HR policies.

12. Data protection

- 12.1 The council will share any personal data with the police or any other body in connection with the detection, investigation or prosecution of fraud in line with the Data Protection Act 1998.

13. Working with other agencies

13.1 There are arrangements in place to continue to develop and encourage the appropriate exchange of information between the council and other agencies in relation to fraud, bribery and corruption to help prevent, deter and detect fraud. These include, but are not limited to:

- Police
- Department for Work and Pensions (DWP)
- HMRC
- National Anti-Fraud Network
- External Audit
- Other authorities

14. Related policies and other strategies

14.1 The following policies support or are linked to the anti-fraud, bribery and corruption policy.

- Anti-Money Laundering Policy
- Codes of Conduct (employees and councillors)
- Grievance Policy and Procedure
- Financial Procedure Rules
- Contracts Procedure Rules
- Whistleblowing or Confidential Reporting Code
- Equality Policy
- Disciplinary Procedures