

Anti-fraud, bribery and corruption policy

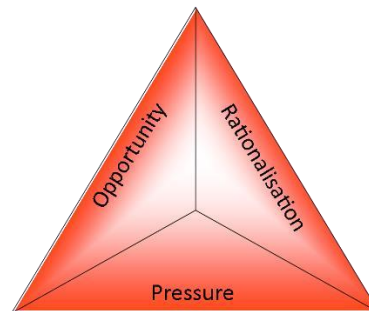
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1. Introduction

- 1.1 The council takes its responsibilities to protect the public purse very seriously and is fully committed to the highest ethical standards, in order to ensure the proper use and protection of public funds and assets, aligned to the Nolan Principles for public life.
- 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 council will not tolerate fraud or corruption by its councillors, employees, suppliers, contractors, sub-contractors, partners or service users and will take all necessary steps to investigate all allegations of fraud, corruption or theft which it recognises can:
- Undermine the standards of public service that the Council is attempting to achieve
 - Reduce the level of resources and services available for the residents of Herefordshire
 - Result in major consequences which reduce public confidence in the Council.
- 1.4 Any proven fraud, theft or corruption will be dealt with in a consistent and proportionate manner. Appropriate sanctions and redress will be pursued against anyone

perpetrating or attempting to perpetrate, fraud and every effort will be made to recover any losses incurred by the Council as a consequence of fraud, theft or corruption.

2. Definitions

2.1 **Fraud** is an act of deception intended for personal gain to cause loss to another party. The Fraud Act 2006 identifies fraud as a single offence which can be committed in three separate ways:

- False representation
- Failure to disclose information where there is a legal duty to do so
- Abuse of position

2.2 Whilst the Act does not provide a single definition, fraud may be described as: *“Making dishonestly false representation with the intention to make a gain for oneself or another, or, to cause loss to another or expose him to a risk of loss” Or “Dishonest conduct with the intention to make gain, or cause loss or risk of loss to another”.*

2.3 **Bribery** is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. Staff need to be aware of their obligations under this Act, which sets out the criminality of accepting and giving of bribes. There are four key offences under the Bribery Act 2010:

- Active bribery: promising or giving a financial or other advantage; Passive bribery: agreeing to receive or accepting a financial or other advantage;
- Bribing of foreign public officials;
- The failure of commercial organisations to prevent bribery by an associated person (corporate offence)

The penalty under the Bribery Act is an unlimited fine and/or imprisonment up to a maximum of 10 years.

2.4 **Corruption** is the deliberate misuse of a position for direct or indirect personal gain and so includes offering, giving, requesting or accepting a bribe or rewards which influences your actions or the actions of someone else. The Bribery Act 2010 makes it possible for individuals to be convicted where they are deemed to have given their consent or tacit approval in giving or receiving a bribe. The Act also created the corporate offence of ‘Failing to prevent bribery on behalf of a commercial organisation’ (corporate liability)

2.5 To protect itself against the corporate offence, the Act requires an organisation to have “adequate procedures in place to prevent bribery”. This strategy, together with the Council’s Codes of Conduct and Whistleblowing policy are designed to meet the requirement.

2.6 **Theft** is the physical misappropriation of cash or other tangible assets. The 1968 Theft Act defines “a person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it”.

3. Scope

3.1 The Council will not tolerate fraud, bribery, corruption or other forms of financial irregularity by anyone. This strategy therefore applies to:

- All Council employees (including volunteers, temporary staff and agency staff);
- Elected members;
- Staff and Committee members of Council funded voluntary organisations;
- Council partners;
- Council suppliers, contractors, sub-contractors and consultants (whether engaged directly or indirectly through partnership working);
- Service users; and
- Members of the Public.

4. Aims and Objectives

4.1 The aims and objectives of this Anti-Fraud, Bribery and Corruption Strategy are to:

- Protect the Council's valuable resources by ensuring they are not lost through fraud but are used to provide quality services to Herefordshire residents and visitors;
- Create and promote a robust 'anti-fraud' culture which highlights the Council's zero tolerance of fraud, bribery, corruption and theft;
- Have in place a Counter Fraud Service which:
 - Proactively deters, prevents and detects fraud, bribery, corruption and theft
 - Investigates suspected or detected fraud, bribery, corruption and theft
 - Enables the Council to apply appropriate sanctions and recover all losses;
 - Provides recommendations to inform policy, system and control improvements, thereby reducing the Council's exposure to fraudulent activity
- Create an environment that enables the reporting of any genuine suspicions of fraudulent activity, ensuring that the rights of people raising legitimate concerns are properly protected. However, we will not tolerate malicious or vexatious allegations or those motivated by personal gain and, if proven, we may take disciplinary or legal actions; and
- Work with our partners and other investigative bodies to strengthen and continuously improve our arrangements to prevent fraud and corruption.

5. Managing the Risk of Fraud and Corruption

5.1 As with any risk faced by the Council, it is the responsibility of managers to ensure that fraud risk is adequately considered when preparing risk assessments in support of achieving strategic priorities, business plans, projects and programmes objectives and outcomes. In making this assessment it is important to consider the risk of fraud occurring rather than the actual incidence of fraud having occurred in the past. Once the fraud has been evaluated, appropriate action should be taken to mitigate those risks on an ongoing basis.

- 5.2 Any changes in operations or the business environment must also be assessed to ensure any impacts, which might increase the risk or otherwise change the risk of fraud, bribery, theft and corruption, are properly taken into account.
- 5.3 Good corporate governance procedures are a strong safeguard against fraud and corruption. Adequate supervision, recruitment and selection, scrutiny and healthy scepticism must not be seen as distrust but simply as good management practice shaping attitudes and creating an environment opposed to fraudulent activity.
- 5.4 Whilst all stakeholders in scope have a part to play in reducing the risk of fraud, Herefordshire Council's members, directors and management are ideally positioned to influence the ethical tone of the organisation and play a crucial role in fostering a culture of high ethical standards. 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 council 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 Good corporate governance procedures are a strong safeguard against fraud and corruption. The Audit and Governance Committee is a key member forum for ensuring sufficient weight is given to counter fraud, theft, bribery and anti-corruption activity and is positioned to review assurances from managers, members, risk and other business data.
- 5.6 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 (listed at paragraph 10).
- 5.7 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.

5.8 The council will work with partner organisations to develop where possible a joint approach to antifraud activity.

6. Fighting Fraud and Corruption Locally: Acknowledge, Prevent, Pursue

ACKNOWLEDGE	Committing Support	The council's commitment to tackling the threat of fraud is clear. We have strong whistleblowing procedures and support those who come forward to report suspected fraud. All reports will be treated seriously and acted upon. We will not, however, tolerate malicious or vexatious allegations
	Assessing Risks	We will continuously assess those areas most vulnerable to the risk of fraud as part of our risk management arrangements. These risk assessments will inform internal controls and counter fraud priorities. In addition, Internal Audit will carry out work in these high risk areas to assist management in detecting existing and new types of fraudulent activity.
	Robust Response	We will strengthen measures to prevent fraud. Internal Audit will work with our internal partners such as management, HR, Finance, Legal, policy makers and external partners to ensure new and existing systems and policy initiatives are adequately fraud proofed.

PREVENT	Better use of Information Technology	We will make greater use of data and analytical software to prevent and detect fraudulent activity. We will look for opportunities to share data and fraud intelligence to increase our capability to uncover potential and actual fraud. Any such exchange or use of information will be undertaken in according with GDPR.
	Fraud Controls and Processes	We will educate managers on their responsibilities for operating effective internal controls within their service areas. We will promote strong management and good governance that provides scrutiny and independent challenge to risks and management controls. Routine audit reviews will seek to highlight vulnerabilities in the control environment and make recommendations for improvement.
	Anti-Fraud Culture	We will promote and develop a strong counter fraud culture, raise awareness and provide information on all aspects of our counter fraud work. This will include publicising the results of all proactive work, fraud investigations, successful sanctions and any recovery losses due to fraud.

PURSUE	Fraud Recovery	A crucial element of our response to tackling fraud is recovering any monies lost through fraud. This is an important part of our strategy and will be rigorously pursued where possible.
	Punishing Fraudsters	We will apply realistic and effective sanctions to tackling fraud for individuals or organisations where an investigation reveals fraudulent activity. This may include legal action, criminal and/or disciplinary action.

Enforcement

We will investigate instances of suspected fraud detected through the planned proactive work, cases of suspected fraud referred from internal or external stakeholders or received via the whistleblowing procedure. We will work with internal and external partners and organisations including law enforcement agencies.

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, Advice, Support

7.1 A flowchart is provided at Appendix 1.

7.2 The council recognises that the primary responsibility for the prevention and detection of fraud rests with management. If you believe someone is committing a fraud or you suspect corrupt practices, these concerns should be raised in the first instance directly with your line manager.

7.3 Where managers are made aware of suspected fraud by employees, they have responsibilities for passing on those concerns to the Section 151 officer. Managers should react urgently to evidence of potential fraud or corruption. Head teachers of

maintained schools should also notify their Chair of Governors. Notifications must be treated with the utmost confidentiality. Any person that is implicated in the alleged offence **should not** be included in the notification process.

7.4 Reporting is essential and:

- Ensures the consistent treatment of information regarding fraud, bribery and corruption
- Facilitates proper investigation
- Ensures the proper implementation of a fraud response investigation plan
- Ensures appropriate employment procedures are followed
- Ensures the interest of the people of Herefordshire are protected.

7.5 The Council's Whistleblowing Policy is intended to encourage and enable employees and/or partners to raise serious concerns. In respect of benefit fraud, the public and employees are encouraged to report it through the dedicated phone and email address available on the council's website. Members of the public can also report concerns through the council's complains procedures or by contacting their elected member, the External Auditor or the Local Government Ombudsman.

8. Investigations

8.1 To avoid potentially contaminating the evidence, managers should not investigate concerns themselves without having sought relevant authority to do so and instead should immediately report all suspicions to the section 151 officer or their deputy.

8.2 In more complex cases, investigations will be carried out by internal audit, otherwise audit will give guidance to service managers on how to carry out investigations.

8.3 The council's employees will work with other public-sector bodies including the Department of Work and Pensions, the Police, HM Revenue and Customs and the Immigration Service for the purposes of preventing, detecting and investigating crime.

8.4 Any allegation of fraud, bribery or corruption received will be followed up through the council's agreed disciplinary procedures. The council must also adhere to the provisions of the Regulation of Investigatory Powers Act and Money Laundering legislation.

8.5 **Criminal offences** – The Monitoring Officer will provide guidance as to whether a criminal offence may have occurred, in such cases the council will seek a prosecution unless the decision is taken, following advice from the Monitoring Officer, that it would be inappropriate to do so.

8.6 **Disciplinary action** – The Director (after taking relevant HR advice) will decide whether disciplinary action should be taken against the employee.

8.7 **Elected members** – The Chief Executive and the Monitoring Officers will advise on action in relation to elected members.

8.8 Summary details of the financial irregularities will be recorded and maintained by corporate finance and reported to the Audit and Governance Committee.

8.9 Where a fraud has occurred, management must make any changes necessary to systems and procedures to ensure that similar frauds will not recur. Any investigation undertaken may highlight where there has been a failure of supervision or a breakdown or absence of control.

9. Recovery of losses

9.1 The council will normally seek to recover losses incurred as a result of fraud, bribery and corruption.

9.2 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.

9.3 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.

10. Related policies and other strategies

10.1 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
- Gifts and hospitality register

11. Review

11.1 This strategy will be subject to continuous review and amendment to ensure that it remains compliant with good practice, national and public sector standards and meets the needs of the council.

Review date: This policy will be reviewed bi-annually unless other factors require the review to be completed earlier

KEY FRAUD INDICATORS

A number of frauds can come to light because of suspicions aroused by, for example, the behaviour of certain individuals. It is impossible to give a definitive list of fraud indications or warning signs. However the following are indicators that may, either alone or cumulatively with other factors, suggest the possibility of fraud and may therefore warrant further investigation or enquiry.

- **Unusual employee behaviour:** Refusal to comply with normal rules and practices, fails to take leave, refusing promotion, managers by-passing subordinates, subordinates by-passing managers, living beyond means, regularly working long hours, job dissatisfaction / unhappy employee, secretiveness or undue defensiveness.
- **Financial Irregularities:** Key documents missing (e.g. invoices, contracts), absence of controls and audit trails, missing expenditure vouchers and official records, general ledger out of balance, bank and ledger reconciliations are not maintained or cannot be balanced excessive movements of cash or transactions between accounts, numerous adjustments or exceptions, constant overdue pay or expense advances, supplicate payments, ghost employees on the payroll, large payments to individuals, excessive variations to budgets or contracts.
- **Poor procurement practice:** Too close a relationship with suppliers/contractors, suppliers/contractors who insist on dealing with one particular member of staff, unjustified disqualification of any bidder, lowest tenders or quote passed over with minimal explanation recorded, defining needs in ways that can be met only by specific contractors, single vendors, vague specifications, splitting up requirements to get under small purchase requirement or to avoid prescribed levels of review or approval.
- **Disorganisation:** Understaffing in key control areas, consistent failures to correct major weaknesses in internal control, inadequate or no segregation of duties. Poor governance.
- **Inadequate supervision:** Policies not being followed, lack of senior management oversight, inadequate monitoring to ensure that controls work as intended (periodic testing and evaluation), low staff morale, weak or inconsistent management
- **Lax corporate culture:** Management frequently override internal control, climate of fear or a corporate culture employees under stress without excessive workloads, new employees resigning quickly, crisis management coupled with a pressured business environment, high employee turnover rates in key controlling functions
- **Poor work practices:** Lack of common sense controls, work is left until the employee returns from leave, post office boxes as shipping addresses, documentation that is photocopied or lacking essential information, lack of rotation of duties, unauthorised changes to systems or work practices

TYPES OF FRAUD

Local authorities have reported a wide range of fraud types. The main areas of fraud that were reported in Fighting Fraud Locally 2011 continue to feature as significant risks. There are also new fraud types emerging and some of these are more prevalent in particular parts of the county. The council needs to remain vigilant and be aware of these types of fraud risks.

Known Fraud Risks Remaining Significant

Blue Badge - Use of counterfeit/altered badges, use when disabled person is not in the vehicle, use of a deceased person's Blue Badge, badges issued to institutions being misused by employees.

Council Tax - Discounts and exemptions, council tax support

Grants - Work not carried out, funds diverted, ineligibility not declared

Identify fraud - False identity / fictitious persons applying for services / payments

Internal fraud - Diverting council monies to a personal account, Accepting bribes, stealing cash, misallocating social housing for personal gain, working elsewhere while claiming to be off sick, false overtime claims, selling council property for personal gain, wrongfully claiming benefit while working

Payroll - False employees, overtime claims, expenses

Pensions - Deceased pensioner, overpayments, entitlement overstated

Personal budgets - Overstatement of needs through false declaration, multiple claims across authorities, third party abuse, posthumous continuation of claim

Procurement - Tendering issues, split contracts, double invoicing

Schools - Procurement fraud, payrolls fraud, internal fraud

Emerging / Increasing Fraud Risks

Business Rates - Fraudulent applications for exemptions and reliefs, unlisted properties

Commissioning of services - Including joint commissioning, third sector partnerships - conflicts of interest, collusion

Concessionary travel schemes - Use of concession by ineligible person

Cyber dependent crime and cyber enabled fraud - Enables a range of fraud

Disabled Facility Grants - Fraudulent applications for adaptations to homes aimed at the disabled

Immigration - including sham marriages, False entitlement to services and payments

Insurance Fraud - False claims including slips and trips

Local Enterprise Partnerships - Voluntary partnerships between local authorities and businesses, Procurement fraud, grant fraud

New Responsibilities - Areas that have transferred to local authority responsibility e.g. Public Health grants, contracts

Money Laundering - Exposure to suspect transactions

No recourse to public funds - Fraudulent claims of eligibility

FRAUD RESPONSE PLAN

