



## Anti-Fraud, Bribery and Corruption Policy

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## Appendix A

### Reporting

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 Executive – Tel : 01432 260044
- ii) The Chief Financial Officer - Tel: 01432 383519
- iii) The Assistant Director - Governance - Tel: 01432 260200
- iv) Internal Audit Manager - 01432 260294 or 07872500675

Elected councillors should normally report any concerns to the appropriate Senior Leadership Team Member or one of the officers listed above.

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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 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

1.3 The council controls millions of pounds of public money 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.

1.4 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 the National Fraud Authority published 'Eliminating Public Sector Fraud' which 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

1.5 This was followed by the National Fraud Authority (NFA) producing a National Local Government Fraud Strategy (April 2012) 'Fighting Fraud Locally'. 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

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- 1.6 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.
- 1.7 All councillors and staff are expected to be aware of standards of conduct and the procedures designed to reduce the risk of fraud, bribery and corruption occurring.
- 1.8 All staff shall be responsible for their own conduct, with managers being additionally responsible for maintaining internal checks and control procedures within their service area.
- 1.9 Fraud, bribery and corruption risks will be considered as part of the Council's Strategic Risk Management arrangements.

## 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”. This Act came into force on 1<sup>st</sup> July 2011 and embraces offences of both bribery and corruption. There are four key offences under the Act:

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- 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.

### 3. Culture

3.1 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 or corruption of any form or degree in the administration of its responsibilities whether from inside or outside the council.

3.2 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 staff at all levels, will lead by example.

3.3 The council's staff 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 where they are associated with the council's activity. This they can do in the knowledge that such concerns will be treated in confidence and properly investigated.

### 4. Reporting

4.1 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:

- v) The Chief Executive – Tel : 01432 260044
- vi) The Chief Financial Officer - Tel: 01432 383519
- vii) The Assistant Director - Governance - Tel: 01432 260200
- viii) Internal Audit Manager - 01432 260294 or 07872500675

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- 4.2 Elected councillors should normally report any concerns to the appropriate Senior Leadership Team Member or one of the officers listed in 4.1
- 4.3 The council also 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.
- 4.4 Senior Management are responsible for following up any allegation of fraud or corruption and will do so in line with the Council's Financial Regulations.
- 4.5 Senior Management are expected to deal swiftly and firmly with those who have defrauded the council or who are corrupt.
- 4.6 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.

## **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 Standing Orders for the Regulation of Contracts, Financial Standing Orders and Financial Regulations in place that provide a lead and requirement on staff ,when dealing with the council's affairs to act in accordance with best practice.
- 5.4 The Chief Financial officer will ensure that Financial Standing Orders and Financial Regulations are kept up to date and made available to all staff.
- 5.5 The Assistant Director - Governance will ensure that the Code of Conduct and Standing Orders for the Regulation of Contracts are up to date and made available to all staff.

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- 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 the primary Care Trust and NHS Trust to develop where possible a joint approach to antifraud activity.

### **6. Detection**

- 6.1 Directors, Assistant Directors, Heads of Service and other key 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 shall from time to time, inspect systems to give assurance to the Audit and Governance Committee that internal control is adequate and operating satisfactorily.
- 6.3 Herefordshire Council will take part in National Fraud Initiative operated by the Audit Commission.
- 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. Investigations**

- 7.1 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.

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- 7.2 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.
- 7.3 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.
- 7.4 When undertaking fraud investigations, council investigators will observe the Police and Criminal Evidence Act Codes of Practice.
- 7.5 Any decision to refer an investigation to the Police will be taken by the Audit Manager in consultation with the Chief Financial Officer and others, as appropriate.

### **8. Discipline and Prosecution**

- 8.1 The council's Disciplinary Procedures will be used where the outcome of any investigation indicates improper behaviour.
- 8.2 The Chief Financial Officer is responsible for deciding in consultation with the relevant member of Management Board and the Internal Audit Manager as appropriate, whether any matter under investigation should be referred for police investigation and take recovery action as appropriate on such matters

### **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.



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### **10. The Council's Equal Opportunities Policy**

11.1 All investigations, internal procedures and codes of conduct will comply with and take account of the council's Equal Opportunity Policy.

### **11. 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.

### **12. Working with Other Agencies**

13.1 There are arrangements in place to continue to develop and encourage the 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

- Police
- DWP
- HMRC
- Audit Commission (NFI)
- Other Authorities

### **13. 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
- Code on Gifts and Hospitality
- Equality and Diversity Policy