



# ANTI-FRAUD AND CORRUPTION STRATEGY

November 2024



**BOROUGH OF  
BROXBOURNE**  
[www.broxbourne.gov.uk](http://www.broxbourne.gov.uk)

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# 1. PURPOSE OF THE ANTI-FRAUD AND CORRUPTION STRATEGY

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The Council is committed to high legal, ethical and moral standards and the proper accountability of public funds. The Council views fraud and corruption very seriously and does not tolerate fraud or corruption in the administration of its responsibilities, whether from inside or outside the authority. The Council's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, policies, procedures and practices. The Council also expects that individuals and organisations who have dealings with the Council, will conduct their business in accordance with the law, with integrity, and without fraud and corruption.

The Council recognises that fraud can:

- Undermine the standards of public service that the Council is attempting to achieve
- Reduce the level of resources and service delivery for the residents of Broxbourne
- Reduce public confidence in the Council.

This strategy applies to:

- All Council employees (including volunteers and agency staff) and Councillors
- Staff and Committee Members of Council funded voluntary organisations
- Council partners
- Council suppliers, contractors and consultants

The purpose of this Anti-Fraud and Corruption Strategy is to support the Council's 2020-24 Corporate Plan by protecting the Public Purse as every pound lost through fraud cannot be spent on services. In particular, this strategy:

- sets out the aims and long term vision of the Council's Anti-Fraud and Corruption framework
- outlines the Council's approach to Anti-Fraud and Corruption
- outlines the expected outcomes along with how the Council intends to achieve and monitor this

The Council is a member of the Hertfordshire Shared Anti-Fraud Service. This service provides fraud awareness, prevention and investigation services for all fraud affecting the Council.

*This strategy does not set out the steps to take if a fraud is suspected. If fraud is suspected it needs to be reported immediately in line with the Fraud Response Plan (Appendix 1)*

## 2. AIMS AND OBJECTIVES

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The key aims and objectives of the Council's Anti-Fraud and Corruption framework are to:

- maintain a culture that will not tolerate fraud or corruption
- ensure staff and Members demonstrate the highest standards of honesty and integrity at all times
- commit to an Anti-Fraud and Corruption Strategy that covers the best practice principles of governance, acknowledgement, prevention, detection, deterrence, investigation, sanctions and redress
- establish and maintain effective systems of internal controls that prevent fraud and corruption occurring
- promote efficiencies to tackle fraud and corruption through collaboration, partnership, innovation and regional/national partnership working
- support the work of the police and other external agencies, such as the Ministry of Housing, Communities and Local Government (MHCLG), Department for Work and Pensions (DWP), the Public Sector Fraud Authority (National Fraud Initiative) and the National Audit Office in fighting fraud in the public sector

The strategy is based upon four key themes: Govern, Acknowledge, Prevent and Pursue, and the overarching aim to Protect. It adheres to the Fighting Fraud and Corruption Locally - A Strategy for the 2020s published by CIPFA in March 2020 which advocates turning strategy into action by Councils considering their counter fraud response and performance against each of these six 'C' themes:

- **culture** - creating a culture where fraud and corruption is unacceptable and measurable
- **capability** - assessing the full range of fraud risks and ensuring that the range of anti-fraud measures deployed are appropriate
- **capacity** - deploying the right level of resources to deal with the level of fraud risk that is monitored by those charged with governance
- **competence** - having the right skills and standards commensurate with the full range of counter fraud and corruption activity
- **communications** - raising awareness internally and externally, deterring fraudsters, sharing information and celebrating successes
- **collaboration** - working together across internal and external boundaries, with colleagues, with other local authorities, and with other agencies; sharing resources, skills and learning, good practice, innovation and information

## 3. DEFINITIONS OF COMMONLY USED TERMS

### **Fraud**

The Chartered Institute of Public Finance and Accountancy (CIPFA) defines fraud as:

“Any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss”

As a crime 'Fraud' is defined by the Fraud Act 2006 as:

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

In addition, the Fraud Act deals with offences relating to the possession of articles for use in fraud, making or supplying articles for use in frauds, participation by a sole trader in fraudulent business, and obtaining services dishonestly, either personally or for another.

## **Bribery**

The Bribery Act 2010 came into force in the UK on 1 July 2011. It amends and reforms UK criminal law and provides a modern legal framework to combat bribery in the UK and internationally. Staff need to be aware of their obligations under this Act, which sets out offences of accepting and giving bribes. This applies to both staff and the Council corporately. These responsibilities are set out within Appendix 2.

## **Corruption**

Corruption is the deliberate misuse of your position for direct or indirect personal gain. "Corruption" includes offering, giving, requesting or accepting a bribe or reward, which influences your actions or the actions of someone else. The Bribery Act 2010 makes it possible for Senior Officers to be convicted where they are deemed to have given their consent or tacit approval in giving or receiving a bribe.

The Act also creates the Corporate Offence of "Failing to prevent bribery on behalf of a commercial organisation" (corporate liability). To protect itself against the corporate offence, the Act also requires organisations to have "adequate procedures in place to prevent bribery". This strategy, and the Council's Codes of Conduct and the Council's Confidential Reporting Procedure (Whistleblowing), are designed to meet that requirement.

This definition can be extended to cover "*the failure to disclose an interest in order to gain financial or other pecuniary gain*".

## **Money Laundering**

The process by which criminals attempt to 'recycle' the proceeds of their criminal activities in order to conceal its origin and ownership whilst retaining use of the funds.

Any service that receives funds from an external person or body is potentially vulnerable to a money laundering operation. The need for vigilance is vital and any suspicion concerning the appropriateness of a transaction should be reported, receiving advice from the Money Laundering Officer who is the Head of the Shared Anti-Fraud Service (SAFS). High risk areas include the processing of cash, and the administration of refunds from customer accounts. The Council recognises its responsibilities under the Money Laundering Regulations 2017 and the Proceeds of Crime Act 2002. These responsibilities are set out within the Council's Anti-Money Laundering Policy found at Appendix 3.

## **Economic Crime**

Refers to a broad category of activity involving money, finance or assets, the purpose of which is to unlawfully obtain a profit or advantage for the perpetrator or cause loss to others.

## 4. RISK AND RISK MANAGEMENT

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It is important that the Council recognises and actively manages its risks relating to fraud and corruption, using its Risk Management Strategy in helping to achieve this. Therefore, fraud and corruption risks are routinely considered as part of the Council's strategic risk management arrangements using both pro-active and reactive components as part of its robust response to fraud risk management.

### Types of Fraud

The key fraud risk areas for Councils have been identified in the Fighting Fraud and Corruption Locally Strategy 2020 and those relevant to Broxbourne Council are listed below, although this is not an exhaustive list:

**Housing Benefit Fraud (HB)** Although the DWP investigate HB fraud, the Council administers the scheme locally and has a duty to support the DWP; deter, prevent and investigate fraud of this nature.

**Council Tax** including Council Tax Support Scheme, Council Tax discounts, business rates.

**Housing Fraud** including false applications for housing or homelessness, nomination to social housing providers, fraud against schemes such as 'Simple Lets'.

**Business and Organised Crime Fraud** including procurement, grants, cyber-crime, identity fraud, insurance fraud, Disabled Facilities Grants, money laundering and partnerships.

**Internal Fraud** including recruitment, payroll, pensions, expenses, cash handling and theft as well as other areas where staff could abuse their position such as misuse of resources, procurement and other Council services or assets.

The 2020 MHCLG *Review into the risks of fraud and corruption in local government procurement* sets out a long term framework for tackling corruption in local government, for Broxbourne, this sets out the following goals:

- greater procurement transparency, enabling better identification and mitigation of corruption risks
- strengthened awareness and capability within contracting authorities leading to a stronger awareness of corruption risks and more capability to detect and defer illegality

# 5. APPROACH

The prevention and detection of fraud and corruption, and the protection of the public purse is everyone’s responsibility. This strategy sets out below the key components in achieving this:

### Proactive

- strengthening the anti-fraud and corruption culture to increase resilience to fraud and corruption
- preventing fraud and corruption through the implementation of appropriate and robust internal controls and cyber security measures
- increasing fraud and corruption awareness for Members and Officers
- deterring fraud and corruption by publicising the actions the Council takes **against fraudsters**

### Reactive

- detecting fraud and corruption through data and intelligence analysis
- implementing effective whistleblowing arrangements
- investigating fraud and corruption referrals
- applying sanctions, both civil and criminal
- seeking redress, including the recovery of assets and money

The principles of the Council’s Anti-Fraud and Corruption Strategy are focussed on the following four pillars of activity (as taken from the 2020 Fighting Fraud and Corruption Locally Strategy): govern, acknowledge, prevent and pursue, and the overarching aim of protect.

Govern	Executive Support	The Corporate Management Team (CMT) will set the tone for zero tolerance of fraud and corruption and will ensure that an anti-fraud culture is embedded across the Council and the services it delivers.
	Robust Arrangements	The Council will adopt and apply a variety of policies and procedures that seek to reduce the risk of fraud and corruption and encourage staff to report fraud.
Acknowledge	Committing Support	The Council’s commitment to tackling the threat of fraud is clear. There are strong whistleblowing and fraud reporting procedures in place to support those who come forward. All reports will be treated seriously and acted upon. However, malicious or vexatious allegations will not be tolerated.
	Assessing Risks	Those areas most vulnerable to the risk of fraud will be assessed as part of risk management arrangements. Risk assessments will inform internal controls and anti-fraud priorities.
	Robust Response	Measures to prevent fraud will be strengthened where detected or suspected. Where fraud is reported or suspected, appropriate action will be taken. All incidences of fraud will be reviewed to ensure that any weaknesses in systems or processes that allowed the fraud to occur are removed.

Prevent	Better use of information technology	Use of data and analytical software to prevent and detect fraudulent activity. Opportunities to share data and fraud intelligence to increase the capability to uncover potential and actual fraud will be investigated.
	Anti-Fraud culture	Development of a strong counter fraud culture, including raising awareness, and providing information on aspects of anti-fraud work. This will include publicising the results of proactive work, fraud investigations and any recovery of losses due to fraud where appropriate.
Pursue	Fraud Recovery	Recovering any monies lost through fraud is an important part of this strategy and will be rigorously pursued, where possible.
	Punishing Fraudsters	Realistic and effective sanctions for individuals or organisations where an investigation reveals fraudulent activity will be pursued. This may include legal action, criminal or disciplinary action, where appropriate.
	Enforcement	Appropriately trained investigators will investigate any fraud detected through; planned and proactive work, cases of suspected fraud referred from internal or external stakeholders, or received via the whistleblowing process. The Council will work with relevant internal and external partners/external agencies and organisations.
Protect	Executive Support	The Shared Anti-Fraud Service (SAFS) will produce reports and data to officers and the Audit and Standards Committee detailing anti-fraud activity.
	Better use of information technology	Measures are in place to protect the Council against cyber-crime, malware, and fraudulent attacks aimed at the IT infrastructure.
	Robust Arrangements	SAFS will work with external organisations to develop national strategies which will support fraud prevention in local government.

## 6. REPORTING, REVIEW AND MONITORING PERFORMANCE

The Section 151 Officer will develop a rolling anti-fraud action plan to support the strategy, in conjunction with the Head of Internal Audit, senior managers and the Shared Anti-Fraud Service. It will be the responsibility of the Chief Executive to ensure there are adequate resources to support the action plan.

The Section 151 Officer will ensure the review and amendment of this strategy and the relevant associated policies as necessary to ensure that it remains compliant with good practice, national public sector Codes of Practice and meets the needs of the Council.

Review date: Annually

The Audit and Standards Committee will receive periodic fraud reports from Internal Audit and the Shared Anti-Fraud Service to assist in its oversight of the Council's anti-fraud and corruption strategy and arrangements.

The expected outcomes from this strategy are detailed in the table above. Performance will be reported periodically to the Corporate Management Team (CMT) and the Audit and Standards Committee.



## 7. ROLES AND RESPONSIBILITIES

Responsibility	Role
Members	As elected representatives, all Members of the Council have a duty to the public to maintain the highest standards of conduct and ethics, and to ensure the Council is open and transparent in all the decisions it makes. Members are required to adhere to the Council's constitution, which incorporates a Member Code of Conduct.
Audit and Standards Committee	To satisfy itself, there are adequate arrangements in place to manage risk (including that relating to fraud and corruption) effectively. To monitor Council policies on anti-fraud and corruption and to receive periodic reports on fraud and corruption. Monitor the operation of the Member Code of Conduct.
Chief Executive	Overall corporate management and operational responsibility for all Officers and for setting the tone for the anti-fraud culture.
Deputy Chief Executive (Section 151 Officer)	Ensure that appropriate advice is given on all financial matters for keeping proper financial records and accounts and for maintaining an effective system of internal financial control. Ensure that the Council has adopted an appropriate anti-fraud and corruption strategy.
Monitoring Officer	Statutory responsibility to advise the Council on the legality of its decisions and to ensure the Council's actions do not give rise to illegality or maladministration. Also encourages the promotion and maintenance of high standards of conduct within the Council.
Managers (all levels)	Promote an anti-fraud and corruption culture, promote staff awareness and ensure that all suspected or reported irregularities are immediately referred as per the Council's reporting procedure. Establish sound systems of internal control and the management of risk in their services' operations. Such systems must safeguard the Council's assets and interests from fraud, bribery, corruption and theft.
All staff	Comply with Council policies and procedures, to be aware of the possibility of fraud and corruption. To report any genuine concerns to management, Internal Audit or via the Whistleblowing Policy. Undertake mandatory, relevant or recommended anti-fraud and corruption training.
External Audit	Ensure the Council has adequate arrangements in place for the prevention and detection of fraud, corruption and theft
Internal Audit	Assist the Section 151 Officer in developing and implementing the Anti-Fraud and Corruption Strategy and monitoring the investigation of any such reports. Support managers in minimising fraud and corruption related risk Work in partnership with the Shared Anti-Fraud Service.

<p>Shared Anti-Fraud Service</p>	<p>To be responsible for developing and promoting the requirements of the Anti-Fraud and Corruption Strategy and monitoring and/or undertaking the investigation of any reported issues. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this strategy and that action is identified to improve controls and reduce the risk of recurrence.</p> <p>To provide support for the Council's mandatory participation in the Cabinet Office National Fraud Initiative, voluntary participation in the Hertfordshire Fraud Hub and other data-analytics projects to help identify and prevent fraud.</p> <p>Providing guidance and support to senior management on new and emerging fraud risks and management recommendations where fraud has arisen due to system weaknesses.</p>
<p>Public, Service Users, Partners, Suppliers, Contractors and Consultants</p>	<p>To report any fraud concerns/suspicions in accordance with the Council's reporting procedure</p>

## 8. SUPPORTING POLICIES, PROCEDURES AND PROCESSES

The Council has a wide range of policies, procedures and processes that are in place to formalise arrangements for the prevention, detection and investigation of fraud. These include:

- Anti-Fraud and Corruption Strategy (this document)
- Fraud action plan (reported to the Audit and Standards Committee)
- Whistleblowing Policy
- Fraud Response Plan (Appendix 1)
- Anti-Bribery Policy Statement (Appendix 2)
- Prevention of Money Laundering procedures (Appendix 3)
- Employee and Member Codes of Conduct (Officer Code of Conduct can be found on the Staff Hub)
- Financial Regulations (located on the Council's intranet and are part of the constitution)
- Contract Standing Orders (located on the Staff Hub and are part of the Constitution)

# FRAUD RESPONSE PLAN

## 1. Introduction

The Fraud Response Plan defines how the Council applies its policies and procedures to suspected theft, fraud, corruption and bribery.

It links with various other documents, including the Anti-fraud Strategy and the Whistleblowing Policy. The procedures for dealing with suspected money laundering are different (refer to the Prevention of Money Laundering procedures (Appendix 3) for the necessary actions).

This fraud response plan, guides managers on how to react to suspicions of fraud, theft, corruption and bribery.

Additionally, it outlines how investigations will be progressed, the manager's role, and the role of the Investigating Officer.

## 2. Aim and Objectives of the Fraud Response Plan

The aims and objectives of the Fraud Response Plan is to Protect the Council from fraud and corruption. This is achieved by:

- Enhanced governance through all levels of the organisation, which creates a positive anti-fraud culture.
- Acknowledge the threat of fraud through emerging and current risk alerts, fraud risk assessment, and comprehensive fraud training.
- Prevent occurrences of fraud through strong controls and mitigation measures.
- Prevent further losses of funds or other assets where fraud has occurred.
- Minimise the risk of inappropriate action or disclosure taking place which would compromise an investigation.
- Ensure there is a clear understanding over who will lead any investigation and to ensure managers, Human Resources, and Internal Audit are involved as appropriate.
- Establish and secure evidence necessary and ensure containment of any information for disciplinary, civil and/or criminal action.
- Maximise recovery of losses.
- Ensure appropriate and timely action is taken against those who are suspected of fraud.
- Identify the perpetrators and take appropriate action with any disciplinary, civil and/or criminal action.
- Minimise any adverse publicity for the Council.

### **3. Notifying Suspected Fraud**

The Council relies on its employees, its agents and the public to help prevent and detect fraud and corruption. Often employees are the first to realise there is something wrong, as they are in positions to be able to spot any possible cases of fraud or corruption at an early stage.

Council employees and Members should report any concerns they may have regarding fraud, bribery and corruption, whether it relates to dishonest behaviours by Council employees, Members or by others.

### **4. Reporting Fraud**

When fraud is discovered or suspected, matter should be reported immediately to a line manager, head of service, Head of Internal Audit, Section 151 Officer or the Shared Anti-Fraud Service (SAFS), who will decide what further action is appropriate. Staff should refer to the Whistleblowing Policy and decide if the allegation should be made as a whistleblower.

#### **First response**

Where managers suspect a fraud has taken place, the first course of action must be to contact the Deputy Chief Executive as Section 151 Officer who will in turn ensure the Chief Executive, the Head of Internal Audit, the Monitoring Officer and the HR Manager are informed as appropriate, calling a case conference if appropriate to agree the approach and scope of any investigation.

The only exception to this is where the matter is clearly related to the benefits system. In such cases, the matter is referred to the Department of Works and Pensions (DWP). Alternatively, it can be referred to the Shared Anti-Fraud Service, who will liaise with the DWP on the Council's behalf.

The Section 151 Officer will retain overall responsibility and control for any investigation but will delegate responsibility for leading the investigation to an Investigating Officer ensuring they are independent of the service area under investigation and appropriately experienced and trained. Internal Audit will provide advice and guidance to the Investigating Officer if necessary. Investigations can also be referred to the Shared Anti-Fraud Service. Investigations of suspected fraud should only be undertaken by officers authorised by the Section 151 Officer.

Any suspected fraud by a customer or a member of the public against the Council or its services should be reported to the Shared Anti-Fraud Service who will liaise with the Section 151 Officer and the Head of Internal Audit.

There may be circumstances where it is appropriate for a Head of Service to undertake some preliminary exploration to check on the validity of an allegation or irregularity to establish whether there is a case to be investigated. Where this occurs, advice should be sought from the Section 151 Officer or Internal Audit as such activity may alert the fraudster, resulting in the destruction of evidence or compromising the collection of further evidence.

Where initial investigations point to the likelihood of a criminal act having taken place, the Section 151 Officer or Monitoring Officer will inform the Police. Crime numbers should be obtained and provided to Internal Audit and Insurance for reporting purposes.

## 5. Confidentiality

Details of any investigation are strictly confidential and will not be discussed with anyone other than the relevant management representatives.

If the media becomes aware of an investigation and attempts to contact employees or Members, no disclosure of the alleged fraud and investigation can be given. All matters relating to statements to the media will be dealt with through the Council's communications team.

## 6. Initial Enquires

Speed is of the essence, therefore the Investigating Officer should make discreet initial enquires to determine if there actually appears to be an irregularity. During this initial enquiry, the Investigating Officer should:

- determine the facts and factors that gave rise to the suspicion.
- examine the factors to determine whether a genuine mistake has been made or whether an irregularity has occurred.
- document their findings, ensuring access is restricted i.e. not held in an 'open area' of the network.
- secure any relevant documentation and records if this can be done without alerting the perpetrator.
- The Investigating Officer should not formally interview staff at this stage.

## 7. Formal Investigation

The Section 151 Officer will instigate a formal investigation, in consultation with Internal Audit and the relevant Head of Service, to be undertaken by the appointed Investigating Officer or the Shared Anti-Fraud Service. In the absence of the Section 151 Officer, their responsibilities are transferred in the first instance to the Resources Service Director as Deputy Section 151 Officer, then the Monitoring Officer or Chief Executive.

Consideration will be given by the Section 151 Officer whether to involve other agencies such as Police, HM Revenue and Customs, Cabinet Office, the Department for Work and Pensions, the National Anti-Fraud Network, the Serious and Organised Crime Agency, External Audit and other Councils.

The Section 151 Officer, in consultation with Human Resources, will consider whether it is necessary to suspend one or more employees to protect evidence, colleagues or assets in line with disciplinary procedures.

## 8. Conducting the Investigation

The exact format of an investigation is fluid but some general principles will apply to all investigations:

- investigate and report back to the Section 151 Officer promptly. If the investigation extends more than two or three days, then the Section 151 Officer should be given regular updates.
- comply with legislation on interviewing (Police and Criminal Evidence Act, PACE) and surveillance (Regulation of Investigatory Powers Act, RIPA). However, it is not normally necessary, even when there may be a criminal offence, to conduct interviews under PACE rules. The police can re-interview witnesses and suspects later on in the process.
- record all evidence received, ensuring that it is sound and adequately supported (see further guidance below).
- keep written records of all fact-finding meetings.
- email correspondence about the investigation should be discreet and use an agreed case name rather than real names or locations.
- all sensitive attachments should be password protected (or, preferably, not emailed).

- hold evidence securely, with appropriate restriction to access (both manual and electronic documentation).
- maintain confidentiality and discretion throughout and share information on a need to know basis. In particular, be mindful that senior officers may need to hear disciplinary cases, and therefore should not know details of cases.
- where appropriate, contact other enforcement agencies e.g. Police, HM Revenue and Customs. This should be always enacted via Internal Audit or the Shared Anti-Fraud Service as they may have established lines of communication and referral protocols.
- investigators must not accept any offer of repayment of money or resignation at any stage, as this could prejudice the investigation. Any such offers should be recorded in the interview notes, and passed on to the Section 151 Officer for consideration (in consultation with the Human Resources Manager).

The Council has the right to suspend any employee involved, pending the outcome of an investigation. Suspension does not imply guilt but suspension can prevent the removal or destruction of vital evidence. When suspects are not suspended, supervision will usually need to be increased. Always seek advice from HR on suspensions and any subsequent disciplinary action. If the police are pursuing a criminal offence, the Council will begin the disciplinary process without waiting for the outcome of any court case.

The Section 151 Officer will report losses to the Council's Treasury, Risk and Insurance Manager at the earliest stage.

## **9. Actions Following the Completion of an Investigation**

Upon completion of an investigation, the Investigating Officer will report findings in an appropriate format (usually written) to the Section 151 Officer. The final report will identify any control weaknesses that need rectifying. It will also be issued to the Chief Executive, the Monitoring Officer and the Head of Internal Audit, and if appropriate to the relevant Director and HR Manager.

In all cases, the Council's insurers should be informed of actual losses as soon as these have been established.

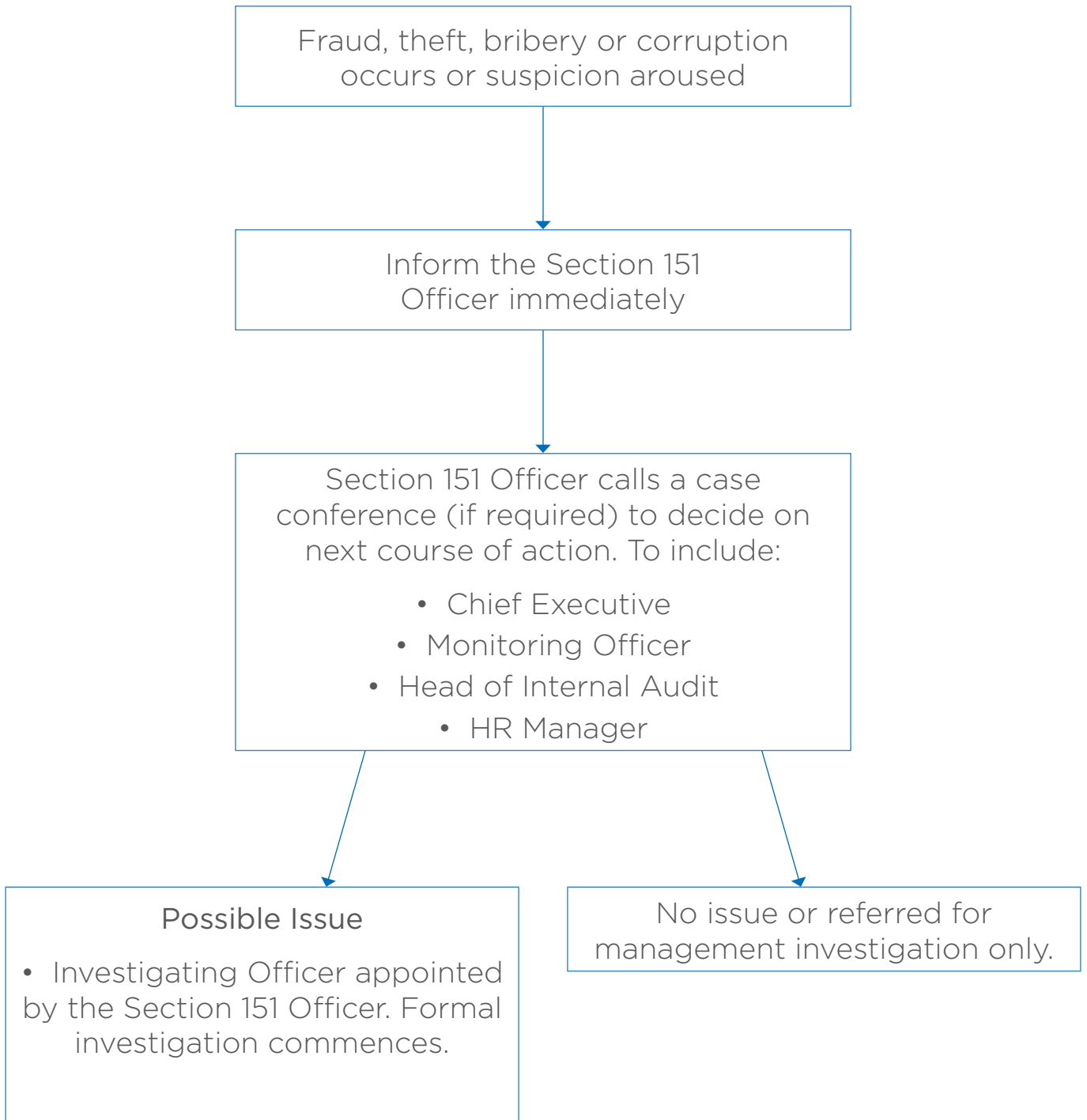
The service manager must remedy control weaknesses identified during the course of the investigation. Internal Audit will provide advice and support on effective controls.

Internal Audit in conjunction with the Shared Anti-Fraud Service will keep a record of all investigations and final outcomes in the theft, fraud, corruption and bribery register, including crime numbers. This information informs of future prevention strategies and is used in reporting fraud and corruption at the Council.

The Communications Team should be informed (so that publicity can be managed effectively).

Whenever fraud has been proved, the Council will make every effort to recover the losses. The method used will vary depending on the type of loss and the regulations and powers available. All means of recovery including recovery under the Social Security Administration Act 1992, attachments to earnings, civil court proceedings and criminal court compensation will be used as appropriate to the offence.

# OUTLINE OF FRAUD RESPONSE PROCESS



# ANTI-BRIBERY POLICY STATEMENT

The Council is committed to the prevention, deterrence and detection of bribery and has zero tolerance towards bribery.

## **Bribery**

Bribery is defined as an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given.
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to facilitate or expedite a routine procedure.
- accept payment from a third party that you know, or suspect is offered with the expectation that it will obtain a business advantage for them.
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by the Council in return.
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy.
- engage in activity in breach of this policy.

The Bribery Act 2010 ('the Bribery Act') aims to promote anti-bribery practices amongst businesses. It applies to both the private and public sectors, and so applies to the Council. An organisation will commit a criminal offence under the Bribery Act if it fails to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business for the organisation. An individual can also be guilty of an offence under the Bribery Act.

There are four key offences under the Act

- Section 1 - Bribing another person
- Section 2 - Taking a bribe
- Section 6 - Bribing a foreign public official
- Section 7 - Failing to prevent bribery.

The Bribery Act applies to all staff in the organisation, and an organisation may be guilty of bribery even if only the individual offender knew of the bribery.



An organisation will have a defence to the corporate offence if it can demonstrate that it had adequate procedures in place to prevent bribery by, or of, persons associated with the organisation.

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine, not exceeding £5,000 or both.
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine or both.

Organisations are also liable for these fines, and if guilty of an offence under section 7, are liable to an unlimited fine.

### **Objective of this policy**

This policy provides a consistent framework to enable staff to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents, it will also enable employees to identify and effectively report a potential breach of policy. The Council requires that all staff, including those directly employed, agency staff, contractors, and Members:

- act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible.
- comply with the laws and regulations of all jurisdictions in which the Council operates.

The policy forms part of the Council's Anti-Fraud and Corruption Framework.

### **Scope of this policy**

This policy applies to all the Council's activities. For partners, subsidiaries, joint ventures and suppliers, the Council will seek to promote the adoption of policies consistent with the principles set out in this policy.

The responsibility to control the risk of bribery occurring resides at all levels of the Council. It does not rest solely within assurance functions, but in all service areas.

The Council commits to:

- setting out a clear up-to-date anti-bribery policy.
- making all employees aware of their responsibilities to adhere strictly to this policy at all times.
- training all staff so that they can recognise and avoid the use of bribery by themselves and others.
- encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately.
- rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution.
- taking firm and vigorous action against any individuals involved in bribery.
- provide information to all employees to report breaches and suspected breaches of this policy.
- include appropriate clauses in contracts to prevent bribery.

### **Gifts and hospitality**

This policy is not meant to change the requirements of the Council's gifts and hospitality policy (included in the Officer Code of Conduct). This makes it clear that:

Staff should refuse the offer or invitation (or return the gift) unless the relevant Director has advised that it may be accepted or retained. Tokens of modest value bearing the name or insignia of the organisation giving them (for example pens, diaries or calendars) whether given personally, or received in the post, may be retained unless they could be regarded as an inducement or reward.

## Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2006, a company was automatically and perpetually debarred from competing for public contracts where it was convicted of a corruption offence. This is no longer the case under the Public Contracts Regulations 2015 as a business can no longer be permanently debarred. Instead, it will face a term of debarment which can be no longer than the maximum statutory term of exclusion and public authorities are obliged to bring debarment to an end where a company satisfactorily demonstrates “self-cleaning”.

## Staff responsibilities

All staff are required to avoid activity that breaches this policy. Staff must:

- ensure that they read, understand and comply with this policy.
- raise concerns as soon as possible as they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in summary dismissal for gross misconduct.

## Raising a concern

This Council is committed to ensuring that all of its officers have a safe, reliable, and confidential way of reporting any suspicious activity. Officers have a responsibility to help detect, prevent and report instances of bribery. If an officer has a concern regarding a suspected instance of bribery or corruption, they should report it.

There are multiple channels to help staff raise concerns and should refer to the Whistleblowing Policy and determine their favoured course of action. Staff who do not have access to the intranet should contact the Head of Internal Audit, or their Service Director. Concerns can be raised anonymously.

Alternatively, staff can report concerns of bribery to the Council's Section 151 Officer.

In the event that an incident of bribery, corruption, or wrongdoing is reported, the Council will act as soon as possible to evaluate the situation. The Council has a clearly defined Anti-Fraud and Corruption Strategy which sets out procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not anonymous.

The Council aims to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

Only the Director of Public Prosecutions (DPP) or the National Crime Agency (NCA) can bring criminal sanctions for any alleged/proven offences under the Bribery Act, therefore any allegations received which can be corroborated, if only in part, must be reported to the Police or the National Crime Agency (NCA) by the Section 151 Officer or by a nominated representative (including SAFS).

Any questions about these procedures may be directed to the Head of Internal Audit.

# PREVENTION OF MONEY LAUNDERING PROCEDURES

## Introduction

The Council is committed to the prevention of money laundering. These procedures are to be followed by all staff to ensure compliance with the Counter-Terrorism and Security Act 2015, the Proceeds of Crime Act 2002 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) which came into force on 26 June 2017 and, for any offences committed after 26 June 2017, replaces the Money Laundering Regulations 2007 and the Transfer of Funds (Information on the Payer) Regulation 2007 which were previously in force.

A key difference is that relevant persons are obliged to adopt a more risk-based approach towards anti-money laundering, in particular in how they conduct due diligence. Determining the appropriate level of due diligence requires analysis of risk factors based on the EU Directive and which are set out in MLR 2017.

This policy includes the appointment of a Money Laundering Reporting Officer (MLRO) to comply with legislation and to oversee the reporting of suspicious activity and money laundering to the National Crime Agency.

## Scope of the policy

This policy aims to maintain the high standards of conduct that currently exist within the Council by preventing criminal activity through money laundering and to enable the Council to comply with legal obligations.

This policy applies to all employees, whether permanent or temporary, Members of the Council, contractors and anyone providing a service for the Council. Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council, and also places a duty upon them to report suspicious activity and money laundering to the MLRO.

Individuals who have a concern relating to a matter outside of work should contact the Police.

## Definition

Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 (POCA) as the following 'prohibited acts':

- a) Concealing, disguising, converting, transferring or removing criminal property from the UK. (s327 POCA).
- b) Becoming involved in an arrangement which an individual knows, or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person. (s328 POCA).
- c) Acquiring, using or possessing criminal property (s329 POCA).
- d) Doing something that might prejudice an investigation e.g. falsifying a document (s333 POCA).

- e) Failure to disclose one of the offences listed in a) to c) above, where there are reasonable grounds for knowledge or suspicion (s330-332 POCA).
- f) Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation. (s333 POCA).

Provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of 'failure to disclose' and 'tipping off' do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism.

Although the term 'money laundering' is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

Potentially very heavy penalties (unlimited fines and imprisonment up to 14 years) can be handed down to those who are convicted of one of the offences detailed above.

### **Requirements of the Money Laundering Legislation**

The main requirements of the legislation are:

- To appoint a Money Laundering Reporting Officer (MLRO).
- Maintain client identification procedures in certain circumstances.
- Implement a procedure to enable the reporting of suspicions of money laundering.
- Maintain record keeping procedures.

### **The Money Laundering Reporting Officer (MLRO)**

The Council has designated the Head of the Shared Anti-Fraud Service (SAFS) as its Money Laundering Reporting Officer. The MLRO can be contacted in the following ways:

- by email at [MLRO@hertfordshire.gov.uk/fraud.team@hertfordshire.gov.uk](mailto:MLRO@hertfordshire.gov.uk/fraud.team@hertfordshire.gov.uk)
- by telephone on 01438 844705
- in writing to the Head of Shared Anti-Fraud Service - Hertfordshire County Council, Shared Anti-Fraud Service (SAFS) Robertson House, Six Hills Road, Stevenage. Hertfordshire. SG1 2FQ Postal Point CHN 341.

In the absence of the Head of the SAFS the SAFS Counter Fraud Managers are authorised to deputise.

## How the Council may become involved in money laundering

The Council recognises that most customers and contracts are not money launderers nor terrorist financiers, and the systems and controls in place to mitigate the risk should focus on identifying the high risk customers, contracts or situations and responding to them appropriately.

Generally, the Council's business will pose a low-to-moderate risk of being used as a vehicle for money laundering. The Council is involved in relatively few transactions, compared to a bank, building society or law firm, and the nature of the transactions are with participants that have likely come under considerable scrutiny as to their bona fides and financial status. Opportunities to pass criminal property through the Council with relative anonymity are limited.

The Council carries out transactions for a variety of purposes during which it handles money from customers. These transactions include but are not limited to the administration of council tax, dealing with leaseholders/commercial rent, income for the disposal of Council assets, and financial contributions from planning legal agreements.

It is therefore feasible for the Council to become unwittingly involved in the money laundering process via customers or businesses who are carrying out apparently normal transactions, if the money used in the transactions are from the proceeds of crime.

Accepting cash can increase the likelihood of money laundering. It is crucial to maintain precise records of cash deposits, ideally identifying the depositor and the frequency of deposits. To safeguard the Council from unintentional involvement in money laundering activities, it is important not to surpass the set limits on the amount of cash a customer can pay. Cash is no longer accepted at Council sites except at the Golf Centre.

High risk areas include:

- accepting large cash amounts either as a single transaction or a group of related transactions
- the request of a large refund
- property investments or purchases

Indicators which may suggest money laundering activity include:

- payments to the Council of large cash amounts – the Council's Financial Regulations previously set a limit of 15,000 Euros (or the sterling equivalent) for reporting purposes
- cash overpayments made by a customer resulting in a large refund request
- cash transactions made that are significantly outside of normal expectations
- involvement of third parties when dealing with the Council and cash payments, without logical reason
- customers, contractors or suppliers who are unwilling to provide proof of identity or information on the source of the funds.

## Controls in place to minimise the risk of money laundering

In addition to the Council's usual anti-fraud measures, Financial Regulations and Contract Standing Orders must always be applied. Where there is considered to be any risk of money laundering it is necessary to verify the identity of the person dealing with the Council. The officer dealing with the transaction will require the other party to produce satisfactory evidence of identity in the form of:

- a passport
- a driving licence
- a birth certificate
- a marriage certificate
- evidence of current address such as:
  - o a bank statement (less than three months old)
  - o a credit card statement (less than three months old)
  - o mortgage or insurance details (less than 12 months old)
  - o a utility bill (less than 12 months old)

Dealings with a company should be verified by:

- checking the organisation's website to confirm the business activities.
- checking the company details with Companies House using the online web check service to confirm the nature and business of the company and confirm the identities of any directors.
- meeting the customer at their business address (if necessary).
- asking the key contact officer to provide evidence of their personal identify and position within the organisation.

If for any reason it is not practicable for the other party to be present when identified, consideration must be given to the greater potential for money laundering. In such cases, the other party should be required to provide copy documents certified as true copies of the originals by a practising solicitor or accountant. The officer should check with the Law Society (this can be done online at **www.lawsociety.org.uk** 'Find a solicitor') to ensure that the solicitor is known to them and then obtain confirmation from the solicitor that they signed the copies. As the solicitor for any person dealing with the Council also has the legal duty to prevent money laundering the identification requirement can also be met by that solicitor certifying they have proof of identity of their client.

Cash payments should not be accepted and the Money Laundering Reporting Officer (MLRO) advised accordingly.

WHERE SATISFACTORY EVIDENCE OF IDENTITY IS NOT AVAILABLE THE BUSINESS ARRANGEMENT OR ONE OFF TRANSACTION SHOULD NOT PROCEED AND BE REPORTED TO THE MONEY LAUNDERING REPORTING OFFICER (MLRO).

The MLRO is responsible for receiving disclosures regarding suspected money laundering activity, evaluating the information provided, and determining when to report suspicions of money laundering to the National Crime Agency (NCA).

## what do employees do if they suspect money laundering?

Where an employee suspects Money Laundering activity, they are required to:

- immediately notify the MLRO
- not take any money until guidance has been sought from the MLRO
- not to make any further enquires into the matter themselves
- not to disclose or otherwise indicate their suspicions to the suspect as this may constitute a criminal offence of tipping off
- not discuss the matter with others and note on the file or system a report has been made to the MLRO

In doing so the employee has fulfilled their obligations under the legislation and the Council's internal policy.

## Record Keeping

Where evidence of identification is obtained in accordance with the above the Council is required to keep records of that evidence.

The records required to be kept are:

- a copy of the evidence (note 1)
- information as to where a copy of that evidence may be obtained (note 2)
- where it is not reasonably practicable to comply with the above, information as to where the evidence of identity may be reobtained

In all cases the Council must also keep a record containing details relating to all transactions carried out by the Council in the course of relevant business;

Records must be maintained:

- Note 1 - for a period of six years commencing from the date the business relationship ends or (in the case of a one off transaction or transactions) six years from the conclusion of all activities arising in the course of that transaction or (if a series of transactions) the last of them to end.
- Note 2 - Copies of identification documents and the records required to be kept by this paragraph shall be kept on the relevant transaction file or files.