

**TEST VALLEY BOROUGH COUNCIL
ANTI-FRAUD AND CORRUPTION POLICY including Whistle-blowing
(Revised May 2021)**

1. Introduction

- 1.1 The purpose of this policy is to demonstrate the Council's commitment to the prevention, deterrence, detection and investigation of all forms of fraud and corruption.
- 1.2 Fraud and corruption are sensitive and damaging issues which can lead to financial loss, bad publicity and loss of public confidence in the way public money is being used. It is therefore important that the Authority has robust systems and procedures in place to ensure that the risk of impropriety is minimised, as far possible, and that where instances do occur, there is a prompt and effective response to them
- 1.3 The policy covers the following main areas:
- Definitions of fraud and corruption
 - Roles and responsibilities of Members and Officers
 - Anti-fraud and corruption framework
 - Responding to allegations and concerns raised internally and externally (Whistle-blowing)
 - Actions to be taken when fraud or corruption is discovered

2. Definitions of Fraud and Corruption

- 2.1 Fraud is defined as "The intentional distortion of financial statements or other records by persons internal or external to the organisation which is carried out to conceal the misappropriation of assets or otherwise for gain". Fraud is a deliberate act by an individual or group of individuals and is therefore always intentional and dishonest. This includes failure to report any instances of money laundering (please refer to the Council's Money Laundering Policy).
- 2.2 Internal fraud refers to fraudulent acts undertaken by Council Members and employees. Examples of such fraud would include: falsification of expenses claims, theft of cash and alteration of records to conceal the deficiency, falsification of invoices for payment, failure to account for monies collected, dealing inappropriately with benefits claims of friends or relatives.
- 2.3 It is also worth noting that there may, in some instances, be potential for those in positions of trust within the Authority to perpetrate frauds against third parties. The Authority has responsibility for the integrity of staff employed in such positions of trust.

- 2.4 Procurement of services or goods can be an area particularly open to the potential of fraud and/or corruption. The Council has in place robust Financial Regulations and Contract Standing Orders and it is important that the correct procedures are followed when engaging in new contracts/business.
- 2.5 External fraud is defined as fraud committed against the Authority by persons outside of the organisation. Examples include false statements in benefits applications and applications for grants.
- 2.6 Corruption is defined as, "The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person". This would normally mean a payment, favour or gift given to a Member or Officer as a reward, or an incentive, to that person for any actions (or inactions) contrary to the proper conduct of their duties. Please also refer to the Council's Anti-Bribery Policy.
- 2.7 Examples of areas where corruption can occur include tendering and awarding of contracts, appointment and reward of outside consultants, awarding of permissions, planning consents and licences.
- 2.8 Types of inducement include cash, 'free' holidays, 'free' professional services/advice, provision of goods or materials, 'free' entertainment such as tickets for sporting events.
- 2.9 The Fraud Act 2006 states that the offence of Fraud can be committed in 3 ways:
- *Fraud by False Representation*
A person is in breach of this section if he/she: **Dishonestly** makes a false representation and **Intends**, by making the representation, to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss Note: the gain or loss need not have taken place.
 - *Fraud by failing to disclose information*
A person is in breach of this section if he or she: **Dishonestly** fails to disclose to another person information which he/she is under legal duty to disclose and **Intends**, by failing to disclose the information, to make a gain for himself or another, or cause loss to another or to expose another to a risk of loss.
 - *Fraud by abuse of position*
A person is in breach of this section if he/she: **Occupies a position** in which he/she is expected to safeguard, or not to act against, the financial interests of another person, **Dishonestly** abuses that position and **Intends**, by means of the abuse of that position to make a gain for himself or another or to cause loss to another or to expose another to a risk of loss. Note: A person may be regarded as having abused their position even though their conduct consisted of an omission rather than an act. Example of an omission could be an employee who fails to take up the chance of a crucial contract in order that an associate or rival company can take it up instead at the expense of the employer.

3. **Roles and Responsibilities**

3.1 **Council Members**

Members have a duty to ensure that Council assets are safeguarded from fraud and abuse and to ensure that the Council's powers, duties and responsibilities are exercised in an open, fair and proper manner to the highest standards of probity. These issues need to be borne in mind when considering reports, making decisions and scrutinising the Council's activities. Members should endorse and support all policies and measures taken to prevent, deter, detect and resolve instances, or suspected instances, of fraud and corruption throughout the Authority. Members have a personal responsibility to abide by the Council's constitution, in particular Standing Orders and Codes of Conduct.

3.2 **Statutory Officers**

The Chief Financial Officer (Head of Finance & Revenues) has been delegated, through the Council's Financial Standing Orders and Financial Regulations, the powers to control and regulate the Council's finances. These include the promotion of systems and practices to minimise the risk of fraud and corruption. An important part of the control framework is the maintenance of an adequate and effective internal audit of the Council's accounting records and of its system of internal control, as required by the Accounts and Audit Regulations 2011. The Head of Finance & Revenues (as section 151 officer or "Chief Financial Officer") should be provided with sufficient resources to allow him to be able to fulfil his responsibility to ensure the proper administration of financial affairs. The Monitoring Officer's (Head of Legal & Democratic Services) duties include ensuring that the Constitution is up to date, that decisions are made fairly and lawfully, establishing and providing support to the work of the Standards regime and maintaining registers of Members' Interests and Gifts and Hospitality. The Council has a statutory duty to provide the Monitoring Officer with sufficient resources to perform this enhanced role.

3.3 **Managers**

Managers are responsible for ensuring there are adequate measures to prevent and detect fraud and corruption within the areas under their control. Achievement of this is assisted by:

- compliance with Council policies, rules and regulations;
- ensuring staff understand their responsibilities through adequate supervision, written procedures and job descriptions;
- responding positively to points raised and advice given by internal and external audit.

Management need to be vigilant in guarding against fraud and corruption, be aware of any circumstances which may indicate that there may be a problem and report any such suspicions to the Head of Finance & Revenues or the

Internal Audit Manager for an independent investigation or advice. In carrying out their responsibilities, all managers (and staff) should be conscious of the fact that they are spending public money collected through taxes. This provides an extra responsibility not only to spend it economically and effectively but also fairly.

3.4 Employees

Staff have a duty to make management aware of any concerns they have about the conduct of Council affairs or the use of Council assets and resources. Any matters raised by them should be taken seriously and properly investigated. In the event that a matter raised does not turn out to be one of concern then no action should be taken against the member of staff unless the member of staff was shown to be acting maliciously and this would be dealt with through the Council's disciplinary procedure.

The Council has a Confidential Reporting Code for Employees, following the introduction of the Public Interest Disclosure Act 1998 which protects "whistleblowers" from unjust recrimination where they have an honest and reasonable suspicion of malpractice and they act on it. The Council, in the interests of probity and good local government, wishes to encourage staff to raise concerns so that they can be properly investigated.

3.5 Internal and External Auditors

Internal Audit

Internal Audit have an important role in assisting management in the prevention and detection of fraud by:

- Independently reviewing systems, procedures and controls to ensure that there are adequate safeguards to prevent, deter and detect fraud and corruption; particular attention is paid to the review of contracts and computer systems where there is potentially a significant risk
- Through specific audits and testing of systems, identifying areas of concern
- Responding to requests for advice from managers on controls to put in systems
- Independently investigating suspected frauds and irregularities and reporting conclusions to management and, where necessary, the Police
- Producing, and advising on the production, of rules, regulations and policies which deter fraud and corruption.

The Council's Financial Regulations give Internal Audit its powers of access to all relevant records, to require explanations from Members and Officers of areas of concern and to be informed of all suspected fraud and irregularities across the Council.

External Audit

External Auditors (currently District Audit) certify that the Authority's accounts represent a true and fair view of the Council's financial position. In reaching this conclusion, they must satisfy themselves that control systems are sound and that measures are being taken to minimise the chances of fraud and corruption.

They have limited time and resources to carry out this work and consequently there is a co-operation with the Council's Internal Auditors who are able to examine the Council's activities in more detail. In serious cases of fraud and corruption, External Audit have wide powers to investigate and act should the need arise.

Benefits Team

The payment of benefits is an area where most external fraud is perpetrated against local authorities nationally. The Council has a legal duty to administer a benefits service to all those who qualify. At the same time, there is a responsibility to ensure that benefit payments are only made to those who have a genuine entitlement. Therefore, the Council's role is to try and stop fraud from taking place, catch those who are making false claims and reduce the number of fraudulent claims made each year.

The Council works closely with the Department for Work and Pensions (DWP) who operate a Single Fraud Investigation Service responsible for:

- Prevention and detection of fraud and error
- Prosecution of those people found to have defrauded the system

The Single Fraud Investigation service now investigates all fraud for Housing Benefit, Income Support, Jobseekers Allowance, Employment & Support Allowance, Tax Credits and Universal Credit.

4. **Anti-Fraud and Corruption Framework**

4.1 Constitution

The Council's Constitution includes a number of measures which can assist in the prevention or detection of fraud and corruption, it is perhaps worth highlighting the following examples:

- **Scrutiny** - checks and balances are built into the Council's structure e.g. Overview and Scrutiny committees review Cabinet decisions.
- **Openness** - members of the public can attend meetings and participate in them within pre-defined limits, they have access to Council agendas and minutes (apart from areas exempted by law), they can inspect the Council's accounts and raise objections with External Audit.
- **Delegations** - the extent of powers delegated to Committees, individual Members and Council Officers is laid down.

- **Conduct** - The General Purposes Committee oversee and advise on issues of Officer conduct. Codes of Conduct are in force for Members and Officers generally and for specific areas such as dealing with Planning issues.
- **Disclosure** - registers of interests are maintained for Members and Officers; similarly gifts and hospitality registers are kept. Members and Officers are required to declare any interests in matters they are dealing with and, where appropriate, not be involved in decisions or processing matters in which they have an interest. Officers employed within Benefits administration and internal audit are required to provide a signed declaration of interest in respect of the payment of benefits.
- **Regulation** - rules such as Standing Orders, Contract Standing Orders and Financial Regulations promote the carrying out of Council business in an open, fair and honest manner.
- **Vigilance** - the Confidential Reporting Code encourages employees to raise issues of concern and requires these to be dealt with in a proper manner.

4.2 Monitoring, Investigation and Review

Those with responsibility for the monitoring, investigation and review of Council business, decisions and systems include:

- **Statutory Officers** - the Chief Financial Officer and Monitoring Officer are responsible for ensuring that the conduct of the Council's business is well regulated, that policies and regulations are kept up to date and monitored and that where there are breaches, these are promptly investigated and action taken.
- **Internal Audit** - their role is to review financial systems across the Authority and advise on controls which can minimise the chances of fraud and corruption occurring. Where irregularities do occur, these will be investigated in an objective and timely manner and progress reported to management and, where appropriate, Council Members in accordance with Financial Regulations and section 5 of this Policy.
- **External Audit** – their role is to promote anti-fraud and corruption practices within local government generally and at a local level they review the preventative measures put in place at each Council.
- **Benefits Team** - The Council works closely with the Department for Work and Pensions (DWP) who operate a Single Fraud Investigation Service.

5. **Response to Allegations and Concerns**

5.1 Allegations and concerns about fraudulent or corrupt activity may come from different sources e.g.

- Members of the public, sometimes anonymously
- Other local authorities
- Council Members
- Council managers or staff
- Resulting from internal or external reviews
- From the work of the Benefits Team

- 5.2 Wherever these concerns come from they must be treated seriously and confidentiality will be respected as far as possible. A thorough investigation will be made of all concerns but the level of resources applied to this will be dependent on the nature of the concern e.g. sums or resources involved, sensitivity of the area, source of concern, evidence provided or available, risk inherent in that area.
- 5.3 For cases of internal fraud, investigations should be closely managed and documented. Appropriate Council Members and managers, as referred to in Financial Regulations, will be kept informed of progress. If the matter may involve disciplinary action against a member of staff, the HR Manager will be informed. If Police action is required, the Leader of the Council, Portfolio Holder, Chief Executive and Monitoring Officer will be consulted or informed.
- 5.4 For cases of external fraud, evidence needs to be gathered which is sufficient to justify actions to be taken e.g. withdrawal of benefit payment, referral to Police. Where external fraud involves significant sums of money, is likely to be sensitive or may cause embarrassment to the Authority, the lead investigatory officer will inform as soon as possible the Monitoring Officer and the S151 Officer and then the Chief Executive. The Chief Executive will inform the Leader of the Council and Portfolio Holder.
- 5.5 At all times confidentiality must be maintained and information disclosed only to those who need to know it, in order not to prejudice any disciplinary or criminal action.
- 5.6 There is a confidential process to support Whistle-blowing on any concerns relating to alleged fraudulent or corrupt practices that a person believes may be taking place within the Council. Details of the process can be found on the Council's website and intranet under 'Speak Up' which provides clear guidance on how to contact Internal Audit and other routes of reporting suspicions or concerns.

6. Actions to be Taken when Fraud and Corruption is Uncovered

- 6.1 Where there is sufficient evidence of fraud or corruption, or there is strong suspicion but internal investigations are unable to obtain further evidence required, the Police should be involved, where it is in the Council's/Public's interests.
- 6.2 Determination of the "Council's/Public's interests" will include factors such as the sums or resources involved, the strength of the evidence obtained or available, the potential cost to the Council of pursuing the matter, the sensitivity of the area concerned. Referral to the Police will be the normal course of action unless there are good reasons not to do so.

6.3 The decision to refer cases to the Police (excluding Housing Benefit cases) will be made as follows:

Person Involved	Decision to refer to Police
External parties (not Housing Benefit cases) and Officers up to and including Business Unit Manager level	Two from Head of Finance & Revenues, Head of Legal & Democratic Services, Head of Service concerned.
Head of Service and Deputy Chief Executive	Chief Executive and either Head of Finance & Revenues or Head of Legal & Democratic Services.
Chief Executive	Leader of the Council, Heads of Finance & Revenues and Legal & Democratic Services
Council Member	Chief Executive and either Head of Finance & Revenues or Head of Legal & Democratic Services

The appropriate Portfolio Holder should be kept informed of decisions made, whether these result in referrals to the Police or not.

- 6.4 Where involvement of the Police is not appropriate, none the less action must be taken. This may involve disciplinary action including dismissal against members of staff, recovery of any sums of money or resources misappropriated.
- 6.5 Wherever practicable, the Authority should attempt to recover sums of money it may have lost through fraudulent or corrupt activity.
- 6.7 At the conclusion of any fraud or corruption investigation, systems and procedures should be reviewed and any lessons learned from the case, whether or not there was sufficient evidence to prove any wrongdoing.