

# Anti-Fraud and Corruption Policy

**Team: Corporate  
Resources**

**Date: June 2021**

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### Version Control

Version	Description of version	Effective Date
1.0	Original Version	March 2012
2.0	Update: Minor Changes	November 2013
3.0	Update: Minor Changes	December 2014
4.0	Update: Minor Changes	April 2016
5.0	Audit Review	June 2021

### Approvals

Approved by	Date
Finance and Management Committee	April 2012
Audit Sub-Committee ( <b>Subject to approval on 28 June 2021</b> )	

### Associated Documentation

Description of Documentation
Fraud Sanctions Policy
Appendix C



## 1.0 Introduction

- 1.1 The purpose of this policy is to set out responsibilities regarding the prevention of fraud, error and corruption and procedures to be followed where a fraud, error or corruption is suspected or detected. The Policy also covers the act of Bribery.
- 1.2 This Policy applies to Members, Employees, the principals and employees of organisations contracted to undertake work on behalf of the Council, agency workers, consultants, suppliers, service users and staff and committee members of organisations funded by the Council.
- 1.3 The Policy is intended to be as comprehensive as possible. However, in the absence of an issue or an act which could be considered to be fraudulent or corrupt, its absence from this policy document does not invalidate it.

## 2.0 Policy Objective

- 2.1 The objective of this Policy is to encourage and promote the prevention of fraud and corruption, the detection and investigation of suspected fraud and corruption, to deter fraud and corruption and to take appropriate and decisive action against any attempted or actual fraudulent or corrupt activity affecting the Council.
- 2.2 In order for the Council to be effective in its approach to dealing with the problem of fraud and corruption, it is important that it creates a culture of intolerance rather than indifference to such matters.
- 2.3 The Policy also draws attention to the prevention or detection of error, which may detrimentally affect the Council both financially and reputationally.
- 2.4 The Policy should be read in conjunction with the Guidelines for dealing with and reporting fraud and corruption, which are detailed in **Appendix B**, together with sanctions that the Council will use in dealing with fraudulent activities (**Appendix C**).

## 3.0 Definitions

- 3.1 Full definitions of Fraud and Bribery are contained in **Appendix A**.
- 3.2 The Fraud Act 2006 describes fraud as unlawfully making a gain of money or other property for yourself or someone else losing money or other property. The Act describes three ways in which fraud might be committed:
  - By making false representation
  - By failing to disclose information
  - By abuse of position
- 3.3 This formal definition does not include misappropriation or petty theft without the distortion of financial statements or other records. However, this Policy is intended to cover all financial irregularities, which may affect the Council, including theft.



3.4 The Bribery Act 2010 makes it a criminal offence to give a bribe in order to induce or reward an individual for the improper performance of a relevant function or activity. It also provides a criminal offence for an individual to request or agree to receive a bribe for the improper performance of relevant function or activity. The Act also provides a corporate offence of failing to prevent bribery.

#### 4.0 Corporate Framework

4.1 The Council has a range of interrelated policies and procedures which link to the Constitution and provide a corporate framework for counter-fraud activity. These have been formulated to comply with appropriate legislative requirements and mainly include:

- Financial Regulations and Procedure Rules
- Anti-Money Laundering Policy
- Whistle Blowing Policy
- Contract Procedure Rules
- Hospitality Register
- Card Payment Procedures
- Disciplinary Procedure
- ICT Security Policy
- Member and Employee Codes of Conduct
- Protocol for Member and Employee Relations
- Procurement Procedures and Guidance
- Recruitment and Selection Policy and Procedure
- Regulation of Investigatory Powers Act 2000 Policy and Guidance

4.2 The Council also supports the seven principles of public life set out in the Nolan Committee's report on Standards in Public Life and the three additional principles set out in The Relevant Authorities (General Principles) Order 2001:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership
  
- Respect for Others
- Duty to Uphold the Law
- Stewardship

#### Key Contacts

4.3 The responsible officer at the Council for Anti-Fraud and Corruption is the Strategic Director of Corporate Resources. This person is also the Council's Chief Finance Officer under Section 151 of the Local Government Act 1972.



#### 4.4 Other lead officers and services are:

- The Head of Legal and Democratic Services and Monitoring Officer
- The Fraud Unit, a service provided to the Council, under a shared service arrangement, by Derby City Council.
- Central Midlands Audit Partnership (CMAP) as the Council's Internal Auditors.

4.5 The above officers and services are the key contacts for reporting suspicions of fraud and financial irregularities, etc. together with obtaining advice and guidance, etc.

#### Audit Sub-Committee

4.6 This Committee oversees the Council's arrangements for preventing and detecting instances of fraud. The Committee also receives reports regarding fraud action plans together with performance of the Fraud Unit.

### 5.0 Responsibilities

#### Elected Members

5.1 Members are expected to act in a manner which sets an example to the community whom they represent and to employees of the Council. In particular, Members are required to operate within:

- The Members' Code of Conduct
- Financial Regulations
- Contract Procedure Rules
- Members' Planning Code of Good Practice
- Licensing Protocol and Procedure
- Protocol on Member/Employee relationships
- Protocol for the use of ICT for Members
- Code of Conduct for Representation on Outside Bodies

5.2 Members are expected to comply with the Members' Code of Conduct, which contains guidance on the disclosure of personal and prejudicial interests, registration of Members' Interests and Gifts and Hospitality.

5.3 Due to their potentially influential position, Members should not use, or be perceived to use, their office for personal gain and should ensure that their actions are not perceived as potentially bringing the Council into disrepute.

5.4 Any allegations of fraud and corruption made against Members will be fully investigated in accordance with provisions contained in Local Government Act 2000.

5.5 The Council's Overview and Scrutiny Committee has a responsibility to review decisions and actions undertaken by the Council. Any matter arising from this process,



in which fraud or corruption is suspected, should be referred immediately to the Monitoring Officer who will review and commission an independent investigation.

- 5.6 Clearly, Members should take seriously and treat with confidence any concerns raised regarding a suspected fraud or corruption.

### Management

- 5.7 Management at all levels is responsible for ensuring that their staff are aware of the Policies and Procedures constituting the Council's Framework as detailed in Section 4. They are also responsible for ensuring that appropriate procedures are in place to safeguard the resources for which they are responsible.
- 5.8 It is essential that managers are alert to potential problems in their work areas and that adequate and effective safeguards are in place to prevent financial and other irregularities. Managers should also satisfy themselves that controls and balances are in place at the appropriate levels, so that in the event of a breach any irregularity would be identified promptly, so minimising any loss to the Council.
- 5.9 Separation of duties will be relevant where employees are responsible for cash handling or are in charge of systems that generate payments. Service Heads and their managers should ensure that adequate and appropriate training is provided for staff and that periodic checks are carried out to ensure that proper procedures are being followed.
- 5.10 A key preventative measure in counteracting fraud and corruption exists within the recruitment process. Managers should therefore adhere to the Council's Recruitment and Selection Policy and Procedure in the recruitment of staff. Managers should also have regard to Government requirements to confirm Eligibility to Work in the UK.
- 5.11 For specific pre-determined posts, managers should refer to the Employee Authentication Service Baseline Security Policy, together with the Disclosure and Barring Service checking process, in liaison with the HR Manager.

### Employees

- 5.12 Employees are expected to conduct themselves in ways which are beyond reproach, above suspicion and fully accountable.
- 5.13 Employees are responsible for ensuring that they follow the instructions given to them by management, including items contained in job descriptions and personnel policies, particularly in relation to the safekeeping of the assets of the Council.
- 5.14 Employees are expected to abide by the Council's Employee Code of Conduct which sets out the Council's standards on personal conduct. In addition, if they are members of professional bodies, Employees are expected to follow the Code of Conduct related to their professional qualification. The Council will report any known impropriety to the relevant Institute to consider appropriate disciplinary action.



- 5.15 Employees are reminded of their statutory requirements under Section 117 of the Local Government Act 1972. This requires the disclosure of any pecuniary interests by Employees in Council contracts and that Employees must not accept any fees or rewards other than that of their contracted remuneration.
- 5.16 Employees should gain agreement from their manager before engaging in outside business or taking up another appointment for financial gain. This is to ensure that additional work does not conflict or detrimentally affect the Council's business or in any way weaken public confidence in the way the Council conducts its business.
- 5.17 Private work should be included within the Declaration of Interests, must only be carried out during hours when not employed by the Council and should not be conducted from Council premises or using any Council resource.
- 5.18 These resources include items such as electronic communications, vehicles, materials and any other resource that is used to deliver services. Additionally, Council facilities should not be used. Employees should also ensure that private work does not affect their performance with regard to their contractual duties.
- 5.19 In addition to employment contract obligations, each employee is responsible for reporting details immediately to their line manager or the most appropriate employee, if they suspect that fraud or corruption has been committed or if they have seen any suspicious acts or events.
- 5.20 The Council has a Disciplinary Procedure for all employees. Those found to have breached the Employee Code of Conduct will be dealt with in accordance with these procedures. Where criminal activity is suspected or found, the matter will be referred to the police for investigation and possible prosecution.
- 5.21 The Council will also seek to recover all monies obtained through fraudulent activity.

### Contractors

- 5.22 The Council will ensure that all contracts conform to the highest standards possible. The Council will also act to ensure that those organisations that work with the Council to deliver services are made aware of the Council's strong anti-fraud and corruption principles and its Confidential Reporting Policy and Procedure.
- 5.23 The Council will seek an assurance that those tendering to provide supplies, goods, services and works to the Council have adequate anti-fraud and corruption recruitment procedures and controls in place; have not colluded with others during the tendering process or canvassed or solicited any elected Member or Employee of the Council in connection with the award or future award of contracts.
- 5.24 Where appropriate, Eligibility to Work and Disclosure and Barring Service checks should also be undertaken.



- 5.25 Where appropriate, the Council may exclude suppliers, contractors and service providers from public contracts following conviction for certain offences including participation in criminal organisations, corruption, bribery, money laundering and fraud.
- 5.26 In awarding a contract, the Council will act in accordance with its Contracts Procedure Rules. Within the terms of a contract, the Council may exercise its right to terminate a contract and recover its losses if there is evidence of fraud in connection with a Council contract by the contractor, its employees or anyone acting on the contractor's behalf.
- 5.27 Where contractors are involved with the administration of council finances, or those for which the Council has responsibility, the Central Midlands Audit Partnership (*the Council's Internal Auditors*) may undertake regular reviews of related processes and the Fraud Investigation Unit may undertake pro-active anti-fraud exercises.
- 5.28 The Council may also require the Contractor to provide evidence of its own control processes of relevant areas as part of the contract management process.
- 5.29 The Council requires that employees of contractors to report any suspicions or knowledge they may have in relation to fraud and/or corruption against the Council. Contractors or their employees should report all concerns to the Council's client-side staff who will in turn report the matter to the appropriate line manager.
- 5.30 Where an employee of a contractor is alleged to be involved in a fraud committed against the Council, the contractor will be required to conduct an investigation into the alleged fraud and will also be required to report to the Council, the findings of the investigation.
- 5.31 The Council will seek the strongest available sanctions against the contractor, their employees or anyone acting on behalf of the contractor who commits fraud against the Council and will request that the relevant organisation takes appropriate action against any individual concerned.

## 6.0 Whistleblowing (Confidential Reporting)

- 6.1 Despite the presence of internal controls, it is acknowledged that some frauds are discovered by chance or as a result of whistleblowing.
- 6.2 The Council's Whistleblowing Policy and Procedure is available on the Intranet. It aims to provide a path for individuals to raise concerns of malpractice in any aspect of the Council's work without fear of recrimination or victimisation. The Council will take appropriate action to protect any individual who has raised a concern in good faith.
- 6.3 The Policy deals with the reporting of fraud or suspected fraud through formal internal channels and also covers making disclosures to external bodies if there is an unsatisfactory outcome to an internal disclosure.





- 6.4 Employees can raise concerns regarding suspected fraud in the first instance with their immediate line manager but where they feel unable to do so, they can deal directly with any of the following:
- The Strategic Director of Corporate Services (Chief Finance Officer)
  - The Head of Legal and Democratic Services (Monitoring Officer)
  - The Chief Executive
  - Service Director
  - The Central Midlands Audit Partnership
  - The Fraud Investigation Unit
  - A Trade Union Representative
- 6.5 Members, contractors and suppliers are also encouraged to report concerns through any of the above individuals.
- 6.6 If an Employee considers that internal options for raising concerns about suspected fraud are not appropriate or if independent advice is required, the Employee may raise their concerns through “**Protect**” <https://protect-advice.org.uk/homepage/> which is an independent, charity based, whistleblowing organisation.
- 6.7 The Council will not tolerate the victimisation or harassment of anyone raising a genuine concern, and the Public Interest Disclosures Act 1998 affords employees protection from such. Any harassment or victimisation of a whistle-blower is treated as a serious disciplinary offence which will be dealt with under the Council’s Disciplinary Policy and Procedure.

## 7.0 Investigations

- 7.1 The Fraud Unit, comprising of Accredited Counter-Fraud Investigators, undertake investigations into reports of suspected fraud and corruption. Investigations are carried out in response to referrals of suspected fraud. In addition, proactive exercises target services areas identified as being at a high risk from fraud.
- 7.2 CMAP ensure that sound and effective audit is undertaken of the Council’s control systems and processes.
- 7.3 The Fraud Unit and CMAP work closely to assist the Strategic Director (Corporate Resources) to implement appropriate controls and provide solutions to control failures.
- 7.4 In accordance with Financial Regulations, all irregularities of a financial nature must be notified to the Council’s Section 151 Officer (Strategic Director Corporate Resources) for investigation.
- 7.5 All suspicions of fraud reported to the Fraud will be reviewed and subject to a risk assessment. Some will be followed up by way of investigation whilst others may be considered better dealt with as a management issue.



- 7.6 Where an employee of a contractor is alleged to be involved in a fraud committed against the Council, the contractor will be required to investigate the alleged fraud in accordance with the terms of the contract. The contractor will also be required to liaise with the Fraud Unit where an employee of the Council is also alleged to be involved in a fraud, to enable a joint investigation to be undertaken and to avoid the contamination or destruction of evidence.
- 7.7 Where investigations are undertaken, the Fraud Unit will work closely with Service Directors to ensure that all allegations are properly investigated. All evidence gathered and interviews conducted will be in accordance with the Police and Criminal Evidence Act 1984, the Regulation of Investigatory Powers Act 2000, the Human Rights Act 1998 and the Criminal Procedure and Investigations Act 1996.
- 7.8 Where an employee is interviewed as part of an ongoing investigation, the investigating officer(s) will consult and take advice from the Council's HR Manager, who will advise those involved in the investigation in matters of employment law and other procedural matters.
- 7.9 Where fraud is proven to have taken place involving an employee, the Council's Disciplinary Procedure will be invoked.
- 7.10 Where it is proven that an employee of a contractor has committed an offence that would otherwise fall within the Council's Disciplinary Procedure, the Council will expect the contractor's own disciplinary procedure to be invoked. This includes the possibility of a suspension of the individual from their duties, where appropriate.
- 7.11 Additionally, the Council will expect that the contractor responsible for any individual found guilty of an offence will take appropriate disciplinary action, including dismissal in cases of gross misconduct. In cases involving employees of contractors, the investigating officer will liaise closely with the Council's Fraud Unit.
- 7.12 Under no circumstances should an employee speak or write to representatives of the media or another third party about a suspected fraud, without the express agreement of the Council's Chief Executive Officer.
- 7.13 If it is found that fraud or corruption has occurred as a result of a weakness in the Council's systems or procedures, senior managers will ensure that appropriate improvements in systems or controls and balances are implemented to prevent a recurrence. This may include a systems audit undertaken by CMAP to establish appropriate improvements.
- 7.14 Where a financial impropriety is discovered the matter may be referred to the Police. Such decisions will be made by the Council's Chief Finance Officer (Strategic Director of Corporate Resources). Referral to the Police will not necessarily prohibit action under the Council's Disciplinary Procedure. An internal investigation need not wait for the conclusion of any investigation by the Police.



7.15 Investigations may also be carried out independently by the Council's External Auditors to satisfy their requirements, or jointly with other agencies such as the DWP, where the fraud may have involved/impacted other parties.

## 8.0 Preventing and Deterring Fraud and Corruption

8.1 There are a number of ways in which the Council may deter potential fraudsters from attempting and committing fraudulent or corrupt acts, whether they are inside or outside of the Council, which include:

- Regular communication of the Council's commitment to dealing with fraud and corruption at every appropriate opportunity. This will include the use of warnings on application forms, statements in contracts, newsletters, internet and other relevant media.
- By publicising the outcome of successful fraud prosecutions where it is considered appropriate and in the public interest to do so.
- Having strong internal control systems in place that allow for innovation and calculated risk, but at the same time minimising the opportunity for fraud, error and corruption. CMAP will regularly undertake audits to test that this is the case.
- The application of efficient and decisive action when an instance of fraud or corruption has been proven. This may include the termination of employment for an offence of gross misconduct, appropriate action under the Members Code of Conduct and criminal prosecution.
- Ensuring that contracts with the Council have provision for termination if fraud and corruption is proven.
- Taking action to recoup losses and costs from the perpetrators of fraud where this is cost effective to do so. Where appropriate, the Proceeds of Crime Act 2002 will be used to maximise the penalty imposed on the fraudster and the level of recovery by the Council.

8.2 It is the responsibility of the Service Directors to communicate the Anti-Fraud and Corruption Policy to their staff and to promote a greater awareness of fraud prevention within their Directorates. This is supported by the Heads of Service.

## 9.0 Counter-Fraud Intelligence

9.1 The Council is a member of the National Anti-Fraud Network (NAFN) a not-for-profit organisation which operates to support its members in protecting the public purse from fraud, abuse and error.

9.2 In supporting its members, the NAFN provides counter-fraud intelligence, both by way of bulletins issued directly to nominated contacts in organisations and by way of alerts which are published on its website.



9.3 Bulletins containing counter-fraud intelligence are circulated to relevant managers. On receiving this intelligence, managers are responsible for:

- Conducting a risk assessment to establish the potential vulnerability of their service area in respect of fraud.
- Making necessary adjustments to processes and controls to ensure that the risk of fraud is minimised.
- Informing relevant staff of the fraud risks and processes/adjusted processes to be followed.

## 10.0 Anti- Money Laundering

10.1 The Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007 place obligations on the Council and its employees with respect to suspected money laundering. The following actions constitute money laundering:

- Concealing, disguising, converting, transferring or removing criminal property.
- Becoming a party in an arrangement in which someone knowingly or suspects or facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person.
- Acquiring, using or possessing criminal property.

10.2 The Council's Anti-Money Laundering Policy, which is contained in the Council's Financial Procedure Rules, provides detailed guidance on money laundering and the relevant procedures that must be followed in all circumstances by employees of the Council, temporary and agency staff, the Council's contractors and partners.

## 11.0 Cyber Fraud

11.1 Cyber fraud is the crime committed via a computer with the intent to corrupt another person's personal and financial information stored on-line. Cyber fraud is fast becoming the most common type of fraud committed and the Council remains vigilant in protecting the information it holds on local residents, etc.

11.2 Consequently, the Council constantly updates its IT security processes in accordance with best practice to minimise the risk of cyber fraud occurring. Members and Employees play an important role in protecting personal information in the course of their work and should adhere to the Council's ICT Security Policy, together with advice and guidance issued by the ICT Unit.

## 12.0 Fraud Awareness

12.1 The success of the Council's Anti-Fraud and Corruption Policy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of employees throughout the organisation.



12.2 The Council recognises the importance of induction training for Members and Employees. As part of the induction process, Members and Employees will be informed of the Council's commitment to dealing with fraud and corruption, its Corporate Anti-Fraud and Corruption Policy and provided with fraud awareness training.

12.3 This is particularly important for those posts involved in internal control systems, to ensure that their responsibilities and duties in this respect are reinforced. All employees will be instructed as to what action to take should they suspect fraud or corruption, through this Policy.

### 13.0 Training for Investigators

13.1 All Counter-Fraud Investigators employed by the Council are required to be appropriately accredited and will receive regular training to ensure Continuous Professional Development. The training plans of relevant staff will reflect this requirement.

### 14.0 Policy Review

14.1 This policy will be reviewed on a regular basis and amended to maintain its relevance, to reflect changes in legislation, guidance or standards, etc. The review of the Policy will confirm that:

- The scope and content of the policy is still appropriate in the light of legal requirements and the Council's practical experience of dealing with fraud and corruption.
- Training and awareness is being provided in accordance with the Policy to ensure standards are still being met.
- All responsible people to whom this policy applies are aware of their responsibilities under this Policy and all related legislation, guidance and standards, etc.

### 15.0 Conclusion

15.1 The Council has put into place a number of arrangements to protect itself from the risk of fraud. It is determined that these arrangements will keep pace with future developments, in both preventative and detection techniques regarding fraudulent and corrupt activity affecting its operation or related responsibilities. Consequently, the Council will maintain a continuous overview of these arrangements.



## Appendix A: DEFINITIONS

### Fraud

**The Fraud Act 2006** provides a definition of fraud, as follows:

- Dishonestly making a false representation and intending, by making the representation to make gain for oneself or another or to cause loss to another or to expose another to a risk or loss; or
- Dishonestly failing to disclose to another person information which they are under a legal duty to disclose and intending, by failing to disclose the information, to make a gain for oneself or another or to cause loss to another or to expose another to a risk or loss; or
- Dishonestly abusing a position in which they are expected to safeguard, or not to act against, the financial interests of another person and intending, by means of the abuse of that position, to make a gain for oneself or another or to cause loss to another or expose another to a risk of loss.

### Bribery

**The Bribery Act 2010** provides a definition of bribery as follows:

- Where a person offers, promises or gives a financial or other advantage to another person, and intends the advantage to induce another person to perform improperly a relevant function or activity, or to reward another person for the improper performance of such a function or activity.
- Where a person offers, promises or gives a financial or other advantage to another person, and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.
- Where a person requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by that person or another person).
- Where a person requests, agrees to receive or accepts a financial or other advantage, and the request, agreement or acceptance itself constitutes the improper performance by that person of a relevant function or activity.
- Where a person requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by that person or another person) of a relevant function or activity.
- Where in anticipation of or in consequence of a person requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly by that person or by another person at that persons request or with that persons assent or acquiescence.
- A person associated with a commercial organisation bribes another person intending to obtain or retain business for that commercial organisation, or to obtain or retain an advantage in the conduct of business for that commercial organisation.



## Appendix B

## Responding to Potential Fraud and Corruption: Guidelines

## 1. If you Suspect Fraud

The scope of fraud that should be referred for investigation is not limited to that which has a direct financial impact upon the Council. For example, the unauthorised access and/or release of confidential information held on strategic decisions, commercial information relating to contracts let or being let and personal information on staff and/or customers, which could have a damaging or undermining effect are also reportable.

There are a number of ways in which you may be alerted to the possibility of fraud. You may have suspicions passed on to you by others or you may notice something yourself which makes you suspicious.

It is important to be discreet not only to protect people from being harmed by false accusations (covered by the Council's Harassment Policy and Procedure but also to ensure that if fraud is occurring, the perpetrator of the fraud is not forewarned. These guidelines apply not only to frauds involving Elected Members and Employees but also to frauds committed by contractors, their employees, suppliers and members of public.

## 2. Reporting your Suspicions

Where you have suspicions of fraud or corruption directed against the Council, or directed at others by staff and contractors of the Council, please raise your concerns immediately to one of the following persons:

- Line Manager
- Fraud Unit
- Strategic Director
- Monitoring Officer
- Chief Executive

Alternatively, or if you have any doubts, "**Protect**" <https://protect-advice.org.uk/homepage/> which is an independent, charity based, whistleblowing organisation, will give free and totally independent advice on how to proceed.

Please do not attempt to undertake any investigation of the suspected fraud yourself, however reasonable that it may seem to do so, as this may prejudice any subsequent investigation.

Likewise, please do not put yourself at risk by attempting to obtain evidence to support your suspicions. Instead, concentrate on providing as much information as is readily available, such as names, dates, times, transactions, circumstances involved etc, but without discussing it with colleagues or removing any physical documentation.

The Council undertakes to protect the identity of employees reporting suspicions and will not release the source of notification at any time during a subsequent investigation, unless required to do so on a confidential basis, under a legal obligation.



It is recognised that in some cases it will be necessary to talk to the person reporting a suspected fraud to clarify matters and to establish how this information came to light. The manner in which this is handled will depend on how the referral has initially been made and the willingness of the informant to be interviewed.

### 3. Counter-Fraud Intelligence

Managers should have regard to all counter-fraud alerts provided to the Council by the National Anti-Fraud Network and conduct risk assessments to establish the potential vulnerability to fraud within their service area.

If as a result of a risk assessment it is suspected that a fraud may have been committed against the Council by an external party, the Manager should report the suspicion to the Fraud Investigation Unit without delay.

### 4. Preliminary Investigation

The investigative process will commence with a preliminary investigation, which will be carried out as quickly as possible after the suspicion has been reported. The purpose of the preliminary investigation is to confirm or repudiate the suspicions that have arisen so that, if necessary, further investigation may be instigated.

Prompt action is necessary to ensure evidence is secured in a legally admissible form as this may subsequently be required to support a prosecution against the offender.

For the purpose of the preliminary investigation, the services of the Fraud Investigation Unit may be called upon for reports of suspected fraud relating to Elected Members and Employee's. In such circumstances, the Unit will liaise with the Monitoring Officer and the Strategic Director (Corporate Resources) to discuss the enquiries to be undertaken and to report subsequent findings.

If the suspected fraud is committed against the Council by a member of the public, such as in an application for financial assistance, the Fraud Investigation Unit will conduct the preliminary investigation and will report its findings to the Strategic Director (Corporate Resources).

### 5. Prevention of Further Losses

Should the preliminary investigation confirm the reported suspicions, consideration will need to be given with regard to the prevention of further losses to the Council. Where an employee is involved in a fraud, this may require the suspension of the suspected individual(s) concerned.

The normal circumstances for suspension would be:

- Where the continued employment of the individual(s) could lead to further losses.
- Where the continued employment of the individual(s) could jeopardise the investigation (where the individuals could destroy or remove evidence).





- Where the Police have charged those involved with a criminal offence relating to the Council.

All suspensions will be carried out in line with the Council's Disciplinary Procedure.

Where the preliminary investigation confirms the reported suspicions relating to a fraud by an external party, consideration will be given to the suspension of any further payments due pending the outcome of a formal investigation.

To prevent further losses and where it will not prejudice any subsequent investigation, any identified control weaknesses that have permitted the act of financial impropriety to be undertaken should be rectified. In this case, the Council's Internal Auditors should be contacted.

## 6. Formal Investigation

The Strategic Director (Corporate Resources) is responsible for making the decision as to whether a formal fraud investigation should be initiated. Should it be decided that a formal investigation is to be undertaken, the Fraud Investigation Unit will conduct the investigation.

For the purpose of suspected frauds which involve employees of contractors, the details of the suspected fraud will be reported to the contractor for investigation. The investigating officer acting on behalf of the contractor will liaise closely with the Strategic Director regarding the investigation.

This is particularly important if the suspected fraud also involves an Employee of the Council or an Elected Member, so as to avoid one investigation compromising the other.

## 7. Interviews

A decision about whether to interview those suspected of fraud should be taken by the Strategic Director (Corporate Resources) in consultation with the Fraud Unit. All interviews must be conducted under properly controlled conditions in order to ensure that the record of the interview and any statement taken, which are subsequently used as evidence in support of a prosecution, will not be rejected as inadmissible.

The Police and Criminal Evidence Act 1984 Codes of Practice should therefore be applied.

## 8. Liaison with External Organisations

In some circumstances the Fraud Investigation Unit will liaise with or conduct a joint investigation with external bodies such as the Police, Department for Work and Pensions, HM Revenue and Customs, UK Border Agency and other Local Authorities.

The decision to notify an external agency should be taken at an early stage so that joint investigation and contact arrangements can be made, as necessary. Liaison with an



external agency will be the responsibility of the Officer in Charge of the internal investigation and a record of all relevant contact should be maintained.

## 9. Police involvement

Where it is appropriate to do so and following consultation with the Strategic Director (Corporate Resources) the Fraud Investigation Unit will involve the Police to assist with an investigation or to assume responsibility for an investigation in its entirety.

The referral of a matter to the Police will be dependent on a number of factors which include the nature of the suspected fraud, those suspected of being involved and resources required to investigate.

If the Police decide that a formal criminal investigation is necessary by them, all staff will cooperate fully with any subsequent requests or recommendations. All contact with the Police following their initial involvement will be via the Strategic Director (Corporate Resources).

When the Police decide to investigate formally this will not prejudice any internal disciplinary action that could be taken by the Council. In such circumstances the Police and Head of Organisational Development will be consulted to ensure that one investigation does not prejudice the other.

A decision by the Police not to undertake a formal investigation does not preclude subsequent criminal prosecution taking place should evidence of an offence emerge.

## 10. Conclusion of the Investigation

At the end of the Investigation, the Fraud Investigation Unit will prepare a report for the Strategic Director (Corporate Resources) which will describe the circumstances leading to the investigation, the individuals who have been the subject of the investigation together with their position within the Council, their responsibilities, how the investigation was undertaken, facts and evidence identified, any control weaknesses in the operational systems and processes, and any recommendations or action taken to prevent a similar situation happening again.

## 11. Recovery of Losses

The Council will seek to recover all cash or assets lost or misappropriated as a consequence of the fraud, where it is cost effective and practical to do so. Where a prosecution takes place arising from a fraud committed against the Council, the Council will act in accordance with the decision of the Court.

For frauds committed by Elected Members, Employees, employees of contractors and members of the public, the individual(s) should be notified of the amount of loss to the Council, and they should be asked to repay the loss incurred. In these cases a statement should be prepared which:



- Explains the results of the investigation, including details of the sum/assets lost as a result of the fraud.
- Seeks agreement to pay back or compensate the Council for the loss resulting from the fraud.
- Details the method of recovery.
- Is signed by the individual.

It should also be made clear to the individual that repayment of losses incurred by the Council will not prejudice disciplinary action and/or further proceedings that may be taken against them in respect of the fraud.

If the individual does not agree to repay or recompense the Council for the losses, the Council should consider commencing civil action to recover the losses.

If an external contractor has perpetrated the fraud, it is advisable for advice to be sought from Legal Services as to the content of any correspondence issued to the contractor in respect of the losses and to consider the action that might be necessary if litigation to recover the losses seems likely.

## 12. Disciplinary Offences by Employees

If the fraud investigation provides sufficient evidence that fraud is likely to have been committed by an employee, the Council's Disciplinary Procedure will be initiated. The information gathered by the Fraud Investigation Unit during their investigation will form the basis of the evidence considered during the formal disciplinary procedure.

## 13. Disciplinary Action against Managers

A fraud investigation will also consider whether there has been any failure of supervision. Where this has occurred, consideration will be given as to whether disciplinary action should also be taken against those responsible.

## 14. Disciplinary Offences by Employees of a Contractor

Where it is proven that an employee of a contractor has committed an offence that would otherwise fall within the Council's Disciplinary Code, the Council will expect the contractor's own disciplinary code to be invoked. This includes, where appropriate, the suspension of the individual from their duties and removal from the contract site.

In addition, the Council will expect that the contractor responsible for any individual found guilty of an offence will take appropriate disciplinary action, including dismissal for an offence of gross misconduct.



## 15. Prosecution

As a deterrent to others, prosecution will be sought where the circumstances of the fraud case meet the evidential and public interest requirements of the Code for Crown Prosecutors. Each case considered for prosecution will be treated on its own merits, ensuring sufficient evidence exists to warrant prosecution. The Strategic Director (Corporate Resources) will consider all relevant cases.

## 16. Publicity

Any public statements regarding pending, current or completed investigations or allegations of financial impropriety should only be made through the Council's Communications Unit.

Elected Members, Employees, together with contractors acting on behalf of the Council, should not make any public statement regarding suspected financial impropriety in order to avoid making potentially libellous statements, or statements that may prejudice investigations and/or any subsequent disciplinary/legal action.

All such statements will be co-ordinated by the Communications team. If contacted by the public or the press, you should refer those making the enquiry to the Communications Manager.

## 17. Confidentiality

No investigation report or supporting documentation is to be made available to any person except as outlined in the Anti-Fraud & Corruption Policy and these Guidelines or as required for any legal reason.

## 18. Learning from experience

Where a fraud has occurred, management must take prompt action to make any necessary changes to systems and procedures to ensure that similar frauds will not recur.

The fraud investigation report will make recommendations for remedial action to address any identified failure of supervision or breakdown in/absence of control. Actions to address these recommendations will be agreed with the relevant manager.



## Sanctions Policy

### 1. Introduction

South Derbyshire District Council takes its responsibility to protect public funds seriously and expects its business to be conducted to the highest ethical and legal standards. The Council has a zero tolerance to fraud, theft and corruption.

Where there is evidence of fraud, theft or corruption against the Council, those responsible, whether internal or external to the Council, will be held accountable for their actions using the full range of sanctions available. The use of sanctions is governed by this Policy that sets out appropriate action to take.

The aims of this Policy are:

- To ensure sanctions are applied fairly and consistently.
- To ensure sanctions are applied in an efficient and cost-effective way.
- To set out the range of sanctions available.
- To ensure the sanction decision making process is robust, transparent and fair.

The Council will investigate allegations of fraud, theft, corruption or irregularity.

Following an investigation, a range of factors will be considered before the appropriate sanction/action is determined, including the individual circumstances of each case, the impact on the individual and the wider community, and the seriousness of the offence.

### 2. Sanction options

Where there is evidence of fraud, theft or corruption, the following options will be considered:

- No further action
- Referral to professional bodies
- Disciplinary action
- Civil proceedings/recovery of funds
- Criminal prosecution

The Council will consider any of the above options and parallel sanctions may be pursued.

#### No Further Action

The Council may consider, following an investigation, closing a case without taking any further action.



## Referral to Professional Bodies

Where there is adequate evidence that a person or entity has breached professional duties or responsibilities, the Council will refer the matter to the relevant professional body.

## Disciplinary Action

In the event that an allegation is made against a Council employee, the Strategic Director (Corporate Resources) will consult with Human Resources and if appropriate, action will be taken through the Council's Disciplinary Process.

If proven, sanctions may include warnings or dismissal and alongside this, additional sanction options will be considered including referral to professional bodies, civil proceedings and criminal prosecutions.

If during the course of disciplinary action, the employee suspected of fraud, theft or corruption chooses to resign, the Council will continue to pursue referral to professional bodies, civil proceedings or criminal prosecution where appropriate.

In the event of an allegation against an Elected Member in relation to fraud, theft or corruption against the Council, this will be reported to the Monitoring Officer, who will agree the action to be taken with the Chief Executive and the Strategic Director (Corporate Resources).

Depending on the circumstances of the case, criminal proceedings may also be instigated.

## Civil Proceedings and Recovery of Funds

The Council may take civil proceedings where appropriate. Regardless of whether or not any other sanctions are taken, the Council will seek, where appropriate, to recover any overpaid, misused or unfairly gained monies.

The following measures may be considered in the pursuit of financial recovery:

- Consultation with the Council's Payroll and Pensions Teams to redress financial loss caused by employees. The Council may attempt to recover the loss from the capital value of the individual's accrued benefits in the Pension Scheme if they are a member, which are then reduced as advised by the Actuary.
- Recovery of money through appropriate legal proceedings.
- Legal action such as search orders and freezing/tracing injunctions to preserve evidence and assets.



## Criminal Prosecution

Where the Council considers it '*expedient for the promotion or protection of the inhabitants of their area*', Section 222 of the Local Government Act 1972 empowers the Council to:

- Prosecute, defend or appear in legal proceedings and, in the case of civil proceedings, institute them in their own name; and
- In their own name, make representations in the interests of residents at any public inquiry held by or on behalf of a public body under an enactment.

Furthermore, Section 223 of the Local Government Act 1972, allows a '*local authority to authorise any member if its staff to prosecute or defend designated matters in a magistrates' court*'. In the most serious of cases, the Council will consider the prosecution of those offenders suspected to have committed fraud or theft.

Where the Council considers there is sufficient evidence (based on the Code for Crown Prosecutors) to indicate a criminal act has taken place, a decision will be made whether to undertake a criminal prosecution utilising the Council's Legal Services. This decision will be made by the Chief Executive, Monitoring Officer and Section 151 Officers.

Before a decision is taken whether or not to prosecute, the Council will be guided by the Code for Crown Prosecutors and will only initiate legal action if, following legal advice, it has satisfied the following two tests:

### 1. Evidential Test – the evidence must be:

- Clear, reliable and admissible in court; and
- Strong enough for a realistic chance of prosecution. i.e. to prove a case 'beyond reasonable doubt'

### 2. Public Interest Test – whether the prosecution is in the public interest, considering:

- Seriousness and/or monetary value of the offence
- Cost and proportionality of the prosecution
- Age and health of the suspect
- Culpability of the suspect
- Circumstances of and harm caused to the victim
- Impact on the community

Where a case has been referred to the Police to investigate, the final decision as to whether or not to pursue the case will be taken by the Police or the Crown Prosecution Service. The Council will conduct the investigation in accordance with the Criminal Procedure and Investigations Act 1996 and the Police and Criminal Evidence Act 1984.



Criminal proceedings may be brought for a suspected offence under the following legislation:

- The Theft Act 1968 (as amended 1996)
- The Fraud Act 2006
- Forgery and Counterfeiting Act 1981
- Computer Misuse Act 1990
- Identity Documents Act 2010
- The Bribery Act 2010
- Road Traffic Regulation Act 1984
- Any other relevant provision in law.

Any criminal proceedings will include an attempt to recover money under the Proceeds of Crime Act 2002.

### 3. Parallel Sanctions

It is preferable for the appropriate sanctions to proceed simultaneously, but it is not necessary for anyone to await the result of another before concluding. However, due consideration must be given to all proceedings to ensure that one does not impact improperly upon another.

The decision to run parallel sanctions will be determined on a case-by-case basis.

### 4. Partnerships

Where appropriate, the Council will work in partnership with other organisations such as the Police, other Local Authorities, Department for Work and Pensions, Her Majesty's Revenue and Customs, UK Borders Agency and the Home Office.

### 5. Publicity

It is the Council's intention to positively promote this Policy, as well as the outcome of any prosecutions, which will deter others from fraudulent activity and reassure the public that the Council does act against those committing, or attempting to commit, fraudulent and or corrupt acts.

Consideration will be given to whether the outcome of any sanction cases should be reported to the community via various media channels. Publicity, where appropriate, will ensure the profile of counter fraud activity remains at a level which will contribute to ensuring the key objectives of preventing and detecting fraud are met.

