

Anti Fraud, Corruption and Bribery Policy and Fraud Response Plan

Date: June 2017 **Version:** 1.0 **Author:** Internal Audit





North Tyneside Council

NORTH TYNESIDE COUNCIL

ANTI FRAUD, CORRUPTION AND BRIBERY POLICY

1 INTRODUCTION

- 1.1 North Tyneside Council will not tolerate fraud, corruption or bribery in the administration of its responsibilities, whether from inside or outside the Authority. The Authority will deal firmly with those who seek to defraud the Authority, or who are found to be corrupt, in accordance with this policy.
- 1.2 The Authority's expectation of propriety and accountability is that members and employees at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. The Authority must maintain a culture which does not tolerate fraud, corruption or bribery, and which is based on openness, fairness, trust and value.
- 1.3 The Authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers, and partners) with whom it comes into contact will act towards the Authority with integrity and without thought or actions involving fraud, corruption or bribery.
- 1.4 This policy document demonstrates North Tyneside Council's firm, clear and unambiguous commitment to preventing fraud, corruption and bribery, in conjunction with other policies such as the Code of Conduct for Employees. However, if fraud, corruption or bribery is discovered, the Authority will deal swiftly with the perpetrators in accordance with this policy.
- 1.5 The Authority has in place a series of measures to prevent, deter and detect potentially fraudulent or corrupt acts, which are supported by policies designed to reinforce a culture of integrity and accountability of Elected Members, employees, strategic partners and stakeholders. The Fraud Response Plan (at Appendix A) documents the steps to be taken if a fraudulent or corrupt act occurs, which are illustrated by means of a flowchart (at Appendix B).

2 WHAT ARE FRAUD, CORRUPTION AND BRIBERY?

- 2.1 Fraud is defined by the Chartered Institute of Public Finance and Accountancy (CIPFA) 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'*.
- 2.2 The Fraud Act 2006 repealed deception offences under The Theft Act 1968 and 1978 and introduced new offences of fraud the primary ones being:
 - Fraud by false representation (Section 2);
 - Fraud by failing to disclose information (Section 3); and
 - Fraud by abuse of position (Section 4).

- 2.3 There is no requirement to actually gain or cause loss, as long as the intention to do so can be established. Fraud offences can overlap with offences of theft.
- 2.4 The penalties for Fraud Act offences are set out in Section 1 of the Act are:
- A summary conviction of up to 12 months in prison or a fine up to £5,000; and
 - An indictment conviction of up to 10 years in prison or unlimited fine.
- 2.5 Corruption is defined by CIPFA as “*the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person*”. Corruption will often include bribery.
- 2.6 Bribery is defined by CIPFA as “*an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage*”.
- 2.7 Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment of hospitality during a business trip or tickets to an event.
- 2.8 The Bribery Act 2010 has incorporated all bribery and corruption offences into one single piece of legislation by repealing all previous related acts and creating new bribery offences the primary ones being:
- Bribing another person (Section 1)
 - Accepting a bribe (Section 2)
 - Failure of a commercial organisation to prevent bribery (Section 7)
- 2.9 The penalties for Bribery Act offences for individuals are set out in Section 11 of the Act which are:
- A summary conviction of up to 12 months in prison and/or a fine up to £5,000;
 - An indictment conviction of up to 10 years in prison and/or an unlimited fine.
- 2.10 The Authority may also be liable for prosecution if a person associated with it bribes another person intending to obtain or retain business or to gain an advantage in the conduct of business for the organisation.
- 2.11 The Authority will have a full defence where it can demonstrate that despite a particular case of bribery it nevertheless had adequate procedures in place to prevent persons associated with it from bribery. In accordance with established case law, the standard of proof which the Authority would need to discharge in order to prove the defence, in the event it was prosecuted, is the balance of probabilities.
- 2.12 If found guilty of an offence of failing to prevent bribery the Authority can be punishable by an unlimited fine.
- 2.13 In addition to the provisions of the Bribery Act, Section 117(2) of the Local Government Act 1972 as amended requires that employees must disclose any personal interest in contracts that have been, or are proposed to be, entered into by the Authority.

2.14 This policy sets out the Authority's arrangements to prevent and detect fraud, corruption and bribery.

3 PREVENTION

3.1 The responsibilities of all parties including stakeholders and partners of the Authority in relation to the prevention of fraud, corruption and bribery are detailed below.

3.2 Roles of Elected Members

3.2.1 Elected Members have a responsibility for approving major policies on the use of the Authority's physical, financial and human resources and participating in the governance and management of the Authority.

3.2.2 All Elected Members should be familiar with the Anti Fraud, Corruption and Bribery Policy and support its application in all activities, in order to help maintain a culture of zero tolerance to fraud, corruption and bribery.

3.2.3 The Localism Act 2011 places a statutory obligation on the Authority to promote and maintain high standards of conduct by its Elected Members. At all times, Elected Members must maintain the highest standards of conduct and ethics as the public would expect of their elected representatives and observe the Members' Code of Conduct and the Protocol on Member / Officer Relations set out in the Authority's Constitution.

3.3 Role of the Audit Committee

3.3.1 The role of the Authority's Audit Committee, in relation to fraud, corruption and bribery includes:

- receiving Internal Audit's annual report summarising the work undertaken during the year, and the opinion of Internal Audit on the Framework of Governance, Risk Management and Control;
- receiving formally external audit reports covering any work done on the audit of the Authority and conclusion on Value for Money and use of resources;
- undertaking the annual review of the effectiveness of the Authority's system of internal control; and
- agreeing the methodology for preparation of the Annual Governance Statement, and monitoring the Action Plan prepared to address issues identified in the Annual Governance Statement.

3.4 Role of Management

3.4.1 The Authority's Chief Officers - Head of Service level and above - are responsible for establishing sound systems of internal control in all of their service's operations. 'Internal control' means the systems of control devised by management to ensure the Authority's objectives are achieved in a manner that promotes economic, efficient and effective use of resources. This includes the responsibility for the prevention and detection of fraud, corruption or bribery. Where fraud, corruption or bribery has occurred because of a breakdown in the Authority's systems or procedures, management must ensure that appropriate improvements in systems of control are implemented to prevent a reoccurrence.

- 3.4.2 Chief Officers must ensure that employees are properly trained to discharge the responsibilities allocated. Once training has been provided, performance must be managed and the use of proper practices enforced. In addition, Chief Officers are responsible for ensuring that all employees are aware of the existence and content of the Financial Regulations and all other regulatory documents and the requirements of each are met.
- 3.4.3 The Authority recognises that a key preventative measure in dealing with fraud, corruption and bribery is for managers to take effective steps at recruitment to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts. The Authority's recruitment policy must be adhered to during this process, and adequate employment references and employment checks performed.
- 3.4.4 Chief Officers must monitor and maintain a register of interests, gifts and hospitality, in accordance with the Code of Values and Behaviours Policy (April 2017).

3.5 Role of Employees

- 3.5.1 All employees are expected to give the highest possible standard of service and act with propriety in the use of official resources and public funds. Employees must comply with the Authority's Code of Values and Behaviours Policy, which states how the Authority expects all employees to conduct themselves, and specifically requires offers of gifts, hospitality, and potential conflicts of interest to be declared.
- 3.5.2 All employees are required to make themselves familiar with and comply with the Authority's Anti Fraud, Corruption and Bribery Policy. Employees must also be alert to the possibility that fraud, corruption and bribery exist and that unusual events or transactions could be indicators of fraud, corruption or bribery. Employees must be aware of procedures to be followed if they suspect that fraudulent or corrupt acts have been committed.

3.6 Role of Internal Audit

- 3.6.1 Internal Audit independently monitors the existence, appropriateness and effectiveness of internal controls, as a service to management. Their work assists management to fulfil their responsibilities through the strengthening of internal control.
- 3.6.2 Internal Audit assists in the prevention, detection and investigation of fraud across all the Authority's services including those undertaken by the Authority's partners.

3.7 Role of External Audit

- 3.7.1 As part of work undertaken, the Authority's External Auditors are required to assess the arrangements in place for the prevention and detection of fraud, corruption and bribery.

3.8 Role and Expectations of the Authority's Stakeholders and Partners

- 3.8.1 The Authority expects that individuals and organisations that it comes into contact with (i.e. partners, suppliers, contractors, service providers and service users) will act towards the Authority with integrity and without thought or action involving fraud, corruption or bribery.
- 3.8.2 The policy should be used for any issue which affects the Authority whether internally or externally. The Authority now delivers a number of its services through several strategic partnerships. It is expected that these strategic partners will maintain counter fraud plans and policies which are at least as stringent as those contained within this document. Where an investigation relates to North Tyneside Council's assets, finances, data or personnel, it is expected that the procedures set out in this policy will prevail.

4 **DETERRENCE**

4.1 Anti Fraud Culture

- 4.1.1 The Authority is committed to maintaining a culture of zero tolerance to fraud, corruption and bribery and will deal swiftly and firmly with any persons who defraud or attempt to defraud the Authority, or who are corrupt.
- 4.1.2 In cases where fraud, corruption and bribery are discovered the Authority will take criminal, civil or disciplinary action or a combination of these.

4.2 Disciplinary Action

- 4.2.1 Fraud, corruption and bribery are serious offences against the Authority. The Authority's corrective and disciplinary process will be invoked in respect of any employee who is found to have acted fraudulently or corruptly. Corrective and disciplinary action may be taken in addition to, or instead of, criminal proceedings, subject to the advice of Human Resources.
- 4.2.2 Any Elected Member found to have acted fraudulently or corruptly will also face action, taken in addition to, or instead of, criminal proceedings. Action taken will be in liaison with the Authority's Monitoring Officer in consultation with the Chief Executive and the Authority's Standards Committee where appropriate.

4.3 Prosecution

- 4.3.1 In the case of fraud or financial irregularity where evidence exists to suggest that a criminal offence may have been committed, it is the policy of the Authority to refer the matter to the Police for investigation and seek to recover losses incurred.

4.4 Benefits and Council Tax Reduction

- 4.4.1 The Department for Work and Pensions (DWP) are now responsible for the investigation and prosecution of all welfare benefits including Housing Benefit. The Authority is committed to co-operating with the DWP in the investigation and prosecution of those persons found to be committing benefit fraud.
- 4.4.2 In respect of the Council Tax Reduction scheme (formerly Council Tax Benefit), the Authority is responsible for investigating suspected fraud. The Authority is

committed to taking appropriate action against those persons found committing Council Tax Reduction fraud.

- 4.4.3 The Authority will seek to recover repayment of any Housing Benefit, or Council Tax Reduction overpayment, which has arisen as a result of fraudulent activity.
- 4.4.4 Disciplinary action may be considered in cases where employees are found to have made fraudulent Housing Benefit or Council Tax Reduction claims to this or any other Authority.
- 4.5 Publicity
 - 4.5.1 The Authority's Communications Team will liaise with the press, to publicise any anti fraud and corruption initiatives undertaken by the Authority to employees and members of the public. This includes the promotion of the Anti Fraud, Corruption and Bribery Policy and any updates.
 - 4.5.2 In all cases, successful prosecutions of perpetrators of fraud, corruption or bribery will be publicised where appropriate.

5 DETECTION

5.1 The Role of Management

- 5.1.1 The responsibility for the prevention and detection of fraud, corruption and bribery lies with management, who must ensure that adequate controls are in place to prevent and detect fraud, corruption and bribery.

5.2 Reporting Suspected Incidents of Fraud or Corruption

- 5.2.1 All Elected Members, employees have a vital role in the detection of fraud, corruption and bribery and must be vigilant against the possibility of fraudulent and corrupt activity.
- 5.2.2 All Elected Members and employees are required to report to a manager, supervisor, other responsible senior officer, a Human Resources Advisor, the Monitoring Officer or Internal Audit, any suspicion of illegality, financial impropriety or breach of procedure. If concerns relate to Elected Members, then the Authority's Monitoring Officer and the Chief Executive should be informed.
- 5.2.3 The Authority has a Whistleblowing Policy to give confidence to anyone who wishes to raise concerns about behaviour and practice, which provides a framework for reporting, investigating and following up such concerns in accordance with the Public Interest Disclosure Act 1998.

5.3 The Role of Internal Audit

- 5.3.1 Internal Audit assists management in fulfilling their responsibility for the detection of fraud, corruption and bribery. Internal Audit will investigate suspicions of fraud and corruption reported and may detect fraud or corruption as a result of work undertaken.
- 5.3.2 Planned Internal Audit and counter fraud work is prioritised, based on the continuous identification and assessment of risks within the Authority.

5.3.3 Internal Audit will carry out a risk based programme of proactive counter fraud initiatives to prevent and detect fraud.

5.4 Data Matching

5.4.1 Arrangements are in place, and will continue to be developed, which encourage the exchange of information between the Authority and other agencies on national and local fraud and corruption activity. This includes participation in the National Fraud Initiative (NFI). All such arrangements will adhere to data protection legislation.

5.4.2 The NFI is conducted under statutory powers set out in the Local Audit and Accountability Act 2014. The Authority is legally required by the Cabinet Office to participate in the NFI which matches data within and between public sector organisations to prevent and detect fraud. Internal Audit reviews identified matches and takes appropriate further action, in accordance with relevant service areas, where potential fraud is identified.

5.5 Intelligence Sources

5.5.1 The Authority subscribes to work with the National Anti Fraud Network to ensure access to all intelligence sources.

6 FRAUD RESPONSE PLAN

6.1 The Authority has prepared a Fraud Response Plan as an Appendix to this Anti Fraud, Corruption and Bribery Policy. The Fraud Response Plan clearly details how concerns regarding suspected instances of fraud, corruption and bribery can be reported, and how investigations into suspicions will be conducted and concluded.

June 2017



North Tyneside Council

NORTH TYNESIDE COUNCIL

FRAUD RESPONSE PLAN

1 INTRODUCTION

- 1.1 This Fraud Response Plan forms part of the Authority's Anti Fraud, Corruption and Bribery Policy and details how suspected instances of fraud, corruption and bribery can be reported, and how investigations into suspicions will be conducted and concluded.
- 1.2 Where fraud, corruption or bribery does occur, it is the Authority's objective to ensure that it is detected promptly and investigated properly and that appropriate action is taken against all perpetrators of fraud including the recovery of monies obtained. The purpose of this plan is to help ensure that effective and consistent action is taken in the event of suspected irregularities and defines responsibilities for action and reporting lines.
- 1.3 It is vital that all employees and line managers are aware of procedures to be followed in the event of suspected irregularities. Swift and consistent action must be taken and the Authority can become aware of potential fraud, corruption and bribery in a variety of ways, including:
- i) management procedures and arrangements;
 - ii) systems of internal control;
 - iii) internal review arrangements, such as Internal Audit;
 - iv) reports by employees; and
 - v) reports by members of the public or other third parties.
- 1.4 The Fraud Response Plan is one of a series of policies and procedures which the Authority has introduced to prevent, deter and detect fraudulent or corrupt acts. It reinforces a culture of integrity, accountability and zero tolerance to fraud, corruption and bribery. Other documents that should be referred to in conjunction with the Plan include:
- Financial Regulations;
 - Codes of Conduct;
 - Disciplinary Procedure;
 - Whistleblowing Policy;
 - Computer Security Policy; and;
 - Anti Money Laundering Policy.

2 DEFINITION OF FRAUD, CORRUPTION AND BRIBERY

- 2.1 Fraud is defined by the Chartered Institute of Public Finance and Accountancy (CIPFA) 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"*.

2.2 The Fraud Act 2006 introduced new fraud offences of:

- Fraud by false representation (Section 2)
- Fraud by failing to disclose information (Section 3)
- Fraud by abuse of position (Section 4)

2.3 Corruption is defined by CIPFA as *"the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person"*. Corruption will often include bribery.

2.4 Bribery is defined by CIPFA as *"an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage"*.

3 REPORTING SUSPECTED INCIDENTS OF FRAUD, BRIBERY OR CORRUPTION

3.1 The Authority's Anti Fraud, Corruption and Bribery Policy (paragraph 5.2.2) requires that:

"Elected Members and employees are required to report to a manager, supervisor, other responsible Senior Officer, a Human Resources Advisor, the Monitoring Officer or Internal Audit, any suspicion of illegality, financial impropriety or breach of procedure".

3.2 Managers must ensure that reports of suspected irregularity are recorded and investigated, and the Authority's Financial Regulations require that Chief Officers must notify the Head of Finance and the Chief Internal Auditor as soon as possible, where any irregularity is suspected. The Head of Finance is then responsible for investigating suspected financial irregularities, with this function normally undertaken by Internal Audit.

3.3 It is imperative that confidentiality is maintained at all times and where potential fraud or corruption is discovered, no action should be taken which may alert persons suspected of irregularity.

3.4 In addition to the procedures above, the Authority's Whistleblowing Policy provides guidance on how suspected incidents of fraud or corruption should be reported and how alleged irregularities will be investigated and responded to. Any suspected irregularities may also be reported directly to Internal Audit, the Head of Finance, the Monitoring Officer or a Head of Service.

3.5 If concerns relate to Elected Members, the Authority's Monitoring Officer must be informed.

4 INVESTIGATING ALLEGATIONS OF IRREGULARITIES

4.1 Managers must ensure that reports of suspected irregularity are recorded and investigated, in accordance with the Whistleblowing Policy. Where it appears that fraud or financial impropriety has occurred, the manager must notify their Head of Service, the Head of Finance, the Chief Internal Auditor and the Head of Human Resources and Organisational Development. If corruption is suggested, the manager must in addition notify the Monitoring Officer.

4.2 All welfare benefit investigations including Housing Benefit and Council Tax Benefit (prior to 1 April 2013) are now carried out by the Single Fraud Investigation Service

at the DWP. To ensure referrals are dealt with effectively and efficiently DWP require a dedicated Single Point of Contact (SPOC) for exchange of information between the Authority and their organisation. The Senior Counter Fraud Officer (Internal Audit) fulfils the SPOC role for the Authority. Housing and Council Tax Benefit fraud referrals should be sent via the SPOC who will forward these onto the DWP.

- 4.3 All other internal investigations, including allegations of Council Tax Reduction fraud, are normally undertaken by Internal Audit in conjunction with Human Resources where applicable, with the objective of establishing the facts in an objective and equitable manner.
- 4.4 Internal Audit will ensure that:
- (a) potential fraud and irregularity is responded to quickly and discreetly;
 - (b) all evidence is recorded;
 - (c) evidence is sound and adequately reported;
 - (d) all evidence is held securely;
 - (e) the Authority's insurance section is notified where appropriate;
 - (f) findings are reported promptly to management; and
 - (g) the rules of natural justice are applied.
- 4.5 All investigations must comply with the requirements of the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, The Criminal Procedure and Investigation Act 1996 and The Data Protection Act 1998. Any investigation into actions which constitute a criminal offence must also be undertaken in accordance with the Police and Criminal Evidence Act 1984. For this reason, all investigations undertaken will be controlled and managed by the Chief Internal Auditor, who will regularly review progress.
- 4.6 In the case of fraud or financial irregularity, where sufficient evidence exists to suggest that a criminal offence may have been committed, The Chief Internal Auditor will refer this to the Police. The Police, in consultation with the Crown Prosecution Service (CPS), will determine whether any prosecution takes place.
- 4.7 The Head of Finance and the Chief Internal Auditor will ensure that fraud or financial irregularity necessitating Police involvement is reported to the relevant Head of Service, the Chief Executive, and the Elected Mayor.
- 4.8 If during the course of an investigation it transpires that any corrupt action has occurred, the Chief Internal Auditor will notify the Monitoring Officer.
- 4.9 At the conclusion of an investigation, Internal Audit will provide a report for the Head of the Service area(s) concerned as soon as is possible, in order that a decision may be made as to action to be taken.

5 FURTHER ACTION

- 5.1 Where the outcome of an audit investigation indicates improper behaviour by an employee, Chief Officers must instigate the Authority's corrective and disciplinary processes. Corrective and disciplinary action may be taken in addition to, or instead of, criminal proceedings, subject to the advice of the Head of Human Resources and Organisational Development.
- 5.2 Following all investigations into suspected irregularities, work will be undertaken with the relevant service area(s) in order to address any weaknesses in procedures identified during the investigation.
- 5.3 Where appropriate, the Authority will liaise with the Police if sufficient evidence exists for prosecution. This approach may be adopted in conjunction with the Authority's own disciplinary procedures.
- 5.4 Wherever an investigation indicates that fraud or corruption has occurred, the Authority will always seek to recover losses incurred. This may be achieved using a number of methods including making deductions from benefit payments or superannuation contributions, and taking civil proceedings or seeking compensation orders as appropriate.
- 5.5 The Authority's Communications Team will liaise with the press to publicise any anti fraud and corruption initiatives undertaken by the Authority. Any cases of identified fraud or corruption will also be publicised where appropriate including cases which have been prosecuted at Court.
- 5.6 Any employee who is approached by the press should advise them that all media enquiries are handled through the Communications Team. The employee should immediately report the press interest to their Head of Service or their nominated representative.

6 CONTACTS

| | |
|---|----------------|
| Chief Internal Auditor | (0191) 6435720 |
| Head of Finance | (0191) 6435701 |
| Communications Team | (0191) 6435077 |
| Internal Audit Fraud Hotline (24 hr) | (0191) 6432400 |
| Monitoring Officer | (0191) 6435339 |
| Head of HR & Organisational Development | (0191) 6435012 |

Copies of key documents such as the Council's Whistleblowing Policy, Employees' Code of Conduct and Financial Regulations can be found on the Council's website: <http://www.northtyneside.gov.uk>

DETECTION AND INVESTIGATION OF FRAUD, CORRUPTION, BRIBERY AND FINANCIAL IRREGULARITY

