

FRAUD RESPONSE PLAN

1. INTRODUCTION

1.1 The purpose of this document is two fold:

- a) It provides direction to employees who find themselves tasked with investigating suspected theft, fraud, or corruption; and
- b) It outlines how evidence must be gathered and collated to ensure an informed initial decision is made and that any evidence gathered is lawfully obtained and will be admissible if the matter proceeds to criminal or civil action.

1.2 This Plan is **not** an investigation procedure for staff nor is it a document which provides guidance on fraud prevention. It is quite simply a brief guide on “*what to do if you become aware of fraud*” and details how the Council will respond to allegations of suspected or actual occurrences of fraud. If as an employee you suspect fraud, it is vital that you follow the guidance in this plan, reporting your initial suspicions confidentially to the Head of Finance, Performance & Asset Management who will advise on next steps.

2. COUNCIL POLICY

2.1 The Council is committed to the eradication of fraud and financial irregularity. It recognises the high cost of fraud and both Members and employees have a public duty to ensure that the Council works towards, and maintains, an anti-fraud culture. The Council’s policy towards any type of fraud is one of zero tolerance and decisive action will be taken against anyone who is involved in fraudulent activity.

2.2 In terms of externally perpetrated fraud, the Council seeks to apply a sanction in all appropriate cases of fraud and attempted fraud. This will range from official warnings to criminal prosecution. In all cases, the Council will seek to recover any fraudulently obtained amounts, and where necessary and appropriate its costs incurred in doing so, and will utilise all means available to recover these amounts. This will include freezing assets, confiscation orders, civil litigation and general debt recovery.

2.3 With regard to internal fraud, the Council will seek the strongest available sanctions against Members or staff who commit fraud against the Council, its clients or the public purse. This will include disciplinary action, prosecution and civil proceedings

2.4 In order to ensure a consistent approach to the protection of public funds, all internally perpetrated frauds may be investigated by the Shared Internal Audit Service (see 4.2) who will, as appropriate and in consultation with the Strategic Director of Finance, Policy & Governance, instigate referrals to the Police, and support the pursuing of civil actions, administrative penalties, staff dismissals and recovery actions. Managers who attempt to investigate such matters themselves may find themselves falling foul of Council policy and are likely to encounter difficulties taking the matter forward to a satisfactory conclusion.

3. DEFINITION OF FRAUD

3.1 The term “fraud” covers a number of criminal offences involving the use of deception to obtain benefit or causing detriment to individuals or organisations. Fraud is best defined as “the use of deception with intent to obtain an advantage, avoid an obligation, or cause loss”.

4. REPORTING FRAUD

4.1 Concerns about any irregularity, be it financial or otherwise, can be formally raised in a number of ways. These include:

- a) Raising the concern with an immediate manager or supervisor;
- b) Notifying the Strategic Director for Finance, Policy & Governance directly
- c) Contacting the Head of Finance, Performance & Asset Management; or
- d) Reporting under the Council's Confidential Reporting Code.

If a concern is raised through routes a); or c) above, the manager, supervisor or Head of Finance has a responsibility to pass on the information obtained to the Strategic Director of Finance, Policy and Governance at the earliest possible opportunity.

4.2 Should an allegation be made through the Council's Confidential Reporting Policy, the Council's Monitoring Officer will make initial enquiries to decide whether or not an investigation is warranted by the evidence provided and, if so, what form it should take. The Monitoring Officer's decision to proceed or not will be determined by whether or not it would be in the public interest to do so. The decision taken and the reasons for it will be formally recorded.

As appropriate, the matter raised may be:

- investigated by the Shared Internal Audit Service;
- investigated by management under a relevant human resources policy;
- referred to the Police;
- referred to the external auditor; or
- subject of an independent inquiry.

4.3 Concerns relating to Council Tax, Housing Benefit or other External Fraud, such as Tenancy Fraud, can be raised directly with the Council's Investigation Team. The Council has a Benefits Anti-Fraud Strategy and Policy which is attached as Appendix 5.

4.4 When you become aware that there may be a problem:

- **DO** make an immediate written note of your concerns, the details of any conversations you have heard, or documents you have seen and note the date, time, and names of the people involved.
- **DO** immediately pass any documents that come into your possession to the Head of Finance, Performance & Asset Management.
- **DO** act promptly as delays may result in further financial loss or the loss of evidence.
- **DON'T** ignore your concerns, or be afraid of raising them. You will not suffer

recrimination as a result of voicing a reasonably held suspicion.

- **DON'T** approach individuals yourself or convey your suspicions to other staff, except those authorised to deal with the matter.
- **DON'T** try to investigate the matter yourself.

5. ROLES AND RESPONSIBILITIES

5.1 For all investigations undertaken by the Shared Internal Audit Service, the Audit Manager will maintain a record of each investigation, and will detail actions taken and conclusions reached. S/he will regularly update the Strategic Director of Finance, Policy and Governance and the Council's external auditor if appropriate.

5.2 The Audit Manager will ensure a consistent approach to the conduct of any investigations. This will include ensuring that matters are appropriately reported and that proper records of each investigation are kept from the outset, including accurate notes of when, where and from whom evidence was obtained, and by whom.

5.3 Where a member of staff is to be investigated, Human Resources will be informed. Normally, the member of staff's line manager will also be informed.

5.4 If a suspicion or concern is reported to a manager, s/he must pass that information on to the Strategic Director of Finance, Policy & Governance or the Head of Finance, Performance & Asset Management in confidence.

5.5 Employees reporting suspicions under the Confidential Reporting Code may choose to identify themselves. Whistleblowers who remain anonymous are unable to claim protection under the Public Interest Disclosure Act.

6. OBJECTIVES OF A FRAUD INVESTIGATION

6.1 If investigated by SIAS, the SIAS Audit Manager will establish at an early stage whether a criminal act may have taken place. This will shape the way the investigation is handled, and by whom. If it appears that a criminal act has occurred, it will be referred to the Police.

6.2 If it appears not to be a criminal matter, an internal investigation will be undertaken to:

- determine the facts
- consider what action should be taken against any staff found culpable
- consider what may be done to recover any losses to the Council which could include civil action for recovery
- identify whether the Council's controls or procedures need to be improved

6.3 If the outcome of an investigation is that action should be taken against an employee, the SIAS Audit Manager will liaise with the appropriate service manager and the Corporate Human Resources Manager to determine whether disciplinary action is appropriate for:

- gross misconduct, i.e. dishonesty
- misconduct i.e. negligence or error of judgement

6.4 The service manager will invoke the appropriate disciplinary procedures, which will usually involve a hearing at which the findings of the investigation will be considered.

6.5 Where the SIAS Audit Manager in consultation with the Strategic Director of Finance, Policy and Governance considers that civil action for recovery is appropriate, the case will be referred to the Corporate Legal Manager.

6.6 If at any point during the investigation it emerges that a criminal act has taken place, the SIAS Audit Manager will contact the Corporate Legal Manager and the Police. Thereafter, the Police will normally lead the investigation.

6.7 Where the Police are unable to progress a criminal prosecution, e.g. because the burden of proof is insufficient to convince the Crown Prosecution Service to proceed, the Corporate Legal Manager, in liaison with the Strategic Director of Finance, Policy and Governance and the Audit Manager, will take a view as to the expediency of civil action particularly in relation to recovering losses.

6.8 The SIAS Audit Manager will also liaise with the Council's Risk Manager as to the possibility of recovering losses from the Council's insurers.

7. THE RESPONSE

7.1 **Audit Powers:** The authority to investigate in accordance with this plan is contained in the Council's Financial Regulations, Section D, 5 which states:

To assist them in their work, the Director of Finance, Policy & Governance and her/his authorised representative(s) has/have authority to: -

- (i) Enter at all reasonable times any Council premises or land subject to any statutory or contractual restrictions that might apply;
- (ii) Access all records, documents, correspondence and data relating to the business of the Council, including those of a contractor acting on the Council's behalf and to remove any such records as is necessary for the purpose of their work;
- (iii) Require and receive such explanations from any Council employee, Member or contractor acting as an employee of the Council as are necessary concerning any matter under examination;
- (iv) Require any employee of the Council to produce cash, stocks or any other Council property under her/his control; and
- (v) Have direct access to the Chief Executive and the Chairs of the Overview & Scrutiny and Finance, Audit and Risk Committees.

Evidence Gathering

7.2 Where investigated by SIAS, the SIAS Audit Manager, or officers authorised by him or her, will normally manage investigations and will be responsible for gathering evidence. Where there are reasonable grounds for suspicion, the Police will be involved at an early stage. However, the Audit Manager may still undertake part or all of the investigation on behalf of the Police. All employees MUST cooperate with the investigation process. Failure to co-operate may itself constitute a disciplinary offence.

7.3 The SIAS Audit Manager will seek to establish whether there is any physical evidence that fraud has occurred and will collect the evidence, recording the time and place that the evidence was obtained. S/he will establish whether there are any witnesses to the events and will interview witnesses to obtain written statements. File notes of all actions and discussions will be maintained. The Audit Manager will then consider whether the employee should be interviewed.

Interview Procedure

7.4 The SIAS Audit Manager, having established that there is reasonable suspicion, will advise the employee that he or she is to be interviewed in accordance with Council policies and procedures and will inform the employee of their right to be accompanied by a trade union representative or work colleague.

7.5 The interview will normally be conducted by a member of the Shared Internal Audit Service and, where appropriate, the employee's line manager. The employee will normally be given reasonable notice of the date and time and an explanation of the reason for the interview. Interviews under caution will be attended by a PACE trained member of staff and taped. At such interviews the employee will be informed of his or her rights, and of the fact that s/he is free to leave at any time. Normally the interview will not take place under caution but if the need to caution arises during the course of an interview, e.g., because the employee confesses to a criminal matter, the interview will be terminated to enable the employee to seek legal advice.

7.6 If not recorded under caution, the interview will be recorded with a hand-written note of what has been said and the employee will be given the opportunity at the end of the interview to read the notes and sign each page acknowledging its accuracy. Amendments to the notes can be agreed with the interviewer. Where individuals who are not employees need to be interviewed, this will normally be done by the Police.

8. CLOSING THE INVESTIGATION

8.1 The SIAS Audit Manager will conclude the investigation by deciding whether there is a case to answer and by making recommendations, in a written report to management, as to appropriate action, as well as improvements to systems and procedures. Management will seek advice from Human Resources to establish the correct procedure for progressing the matter through the Council's disciplinary framework. For acts of dishonesty, false accounting, gross negligence, deception, or theft, employees can expect to be dismissed. All matters investigated will be dealt with in accordance with the Council's policies and procedures.

For further advice, contact:
**Head of Finance, Performance
& Asset Management**

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Policy Sponsor:
**Head of Finance, Performance
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