

NORTH HERTFORDSHIRE DISTRICT COUNCIL

ANTI-FRAUD AND CORRUPTION POLICY

1. INTRODUCTION

1.1 North Hertfordshire District Council takes its duty to ensure proper stewardship of public money very seriously. The Council is, therefore, committed to the prevention, detection and investigation of all forms of fraud and corruption, whether these are attempted from within or outside the organisation.

1.2 This document supports the Council's objective of continuous improvement through its contribution to the sound governance of the Council's resources and finances. It summarises the responsibilities of Members, management and employees and outlines the procedures to be followed where suspicion of financial irregularity is raised. Reference should also be made to the Council's Anti-Bribery Policy if relevant.

1.3 For the purposes of this document, fraud and corruption are defined as follows:

Fraud "Fraud encompasses an array of irregularities and illegal acts characterised by intentional deception with intent to make a gain or to cause a loss, or to expose another to a risk of loss. It can be perpetrated for the benefit of or to the detriment of North Hertfordshire District Council and by persons outside as well as inside the Council".

Corruption "Corruption is the offering, giving, soliciting or acceptance of an inducement or reward that may influence the action of a Member or officer of the Council."

1.4.1 The Anti-Fraud and Corruption Policy consists of a series of procedures designed to deter any attempted fraudulent or corrupt act:

- Culture Section 2
- Prevention Section 3
- Deterrence Section 4
- Detection and Investigation Section 5
- Awareness and Training Section 6
- Sanction and Redress Section 7

2. THE COUNCIL'S CULTURE

2.1 North Hertfordshire District Council is committed to creating an environment that is based on the prevention of fraud and corruption. This is achieved by promoting a culture of openness and honesty in all Council activities.

2.2 The Council's Members and employees play an important part in creating and maintaining this culture. They are encouraged to voice any serious concerns about any aspect of the Council's work. The Nolan Committee set out the seven guiding principles that apply to people who serve the public and the Council expects individuals' working behaviour to live up to these principles.

- 2.3 The Council has adopted a Confidential Reporting Code or "Whistleblowing" policy (Appendix 2) that allows concerns to be raised in the certainty that they will be properly investigated in a confidential manner. The Code seeks to reassure individuals that they will be protected from possible reprisals if they made disclosures in the public interest. The Council is committed to honouring this policy and to formally investigating any breaches.
- 2.4 The Council has adopted an Anti-Money Laundering Policy (Appendix 3a) in response to the Proceeds of Crime Act 2002, Terrorism Act 2000 and the Money Laundering Regulations 2003. It has established procedures and a designated Money Laundering Officer to enable reporting of knowledge or suspicion of money laundering. Guidance on what to do should an individual suspect or have knowledge of money laundering can be found in the Council's Anti-Money Laundering Guidance Notes attached as Appendix 3b.
- 2.5 In addition to expecting the very highest standards from its Members and staff, there is an expectation and requirement that all individuals and organisations associated with the Council, such as contractors, partners, suppliers and users of Council services, will act with integrity. The Council's expectation on propriety and accountability is that Members and staff at all levels will lead by example. This is reinforced through the learning and development programme. The Council will seek the strongest available sanctions against Members or staff who commit fraud against the Council, its clients, or the public purse.
- 2.6 The Council has formally assessed its exposure to potential fraud risks and has made appropriate entries in the Council's risk register. The Risk Management Group reviews the entries periodically to ensure that key fraud risks are being identified and effectively managed. Should existing controls be deemed inadequate, revised controls will be recommended for implementation.

3. PREVENTION

Employees

- 3.1 Everyone has a role to play in the prevention of fraud and corruption. The Council expects its entire staff to follow its rules, codes and procedures. A range of documents have been issued to reinforce these, including:
- Code of Conduct
 - Employee Handbook
 - Financial Regulations
 - Procurement Rules

The Council's Code of Conduct draws together in one Policy the following adopted Policies and Protocols:

- Conflicts of Interest Policy
- Confidential Reporting Code
- Gifts & Hospitality Policy
- Anti-Fraud & Corruption Policy
- Anti-Bribery Policy
- Political Restriction

- Elected Member and Officer Relations
 - Working Outside the Authority
 - Confidentiality
 - Email and Internet Usage
- 3.2 In addition to complying with the Staff Code of Conduct, Staff are expected to comply with the ethics and standards associated with any professional body to which they may belong.
- 3.3 The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff in terms of their propriety and integrity. Therefore written references are obtained prior to appointing staff, including those employed on a temporary or contract basis. This is also a requirement of the Council's Fidelity Guarantee insurance. Additionally, where appointment is dependent on the holding of specific qualifications, HR manages the process for ensuring that stated qualifications are verified and copies of certificates retained on the individual's personal file.
- 3.4 The Council's Managing Misconduct, Improving Performance and Attendance Procedures are designed to help and encourage the achievement and maintenance of agreed standards of conduct, attendance and performance. The procedures apply to all staff and aim to ensure consistent and fair treatment of all individuals across the Council.
- 3.5 The role that individual staff are expected to play in maintaining the Council's internal control framework must feature in induction programmes and adequate ongoing training must be provided by the Strategic Director responsible.
- 3.6 Effective management and supervision is the most effective internal control mechanism. The attention of management should be alerted where staff do not regularly take annual leave, or where through sickness/vacancy levels, recognised checking mechanisms break down. Additionally, external sources of information, such as complaints from customers or other stakeholders could provide an indication of potential problems.
- 3.7 Staff must operate within the terms of the Local Government Act 1972, regarding pecuniary interests in contracts relating to the Council, or for fees and rewards other than proper remuneration. This is particularly important with regard to senior officers and officers involved in the letting of contracts who should ensure that they comply with Contract Procurement Rules (particularly paragraphs 3.1 – 3.13).
- 3.8 Members of staff remain responsible for ensuring that information relating to personal conflicts of interest are reviewed regularly and remain up-to-date. The Council's Conflicts of Interest Policy is attached as Appendix 4.

Members

- 3.9 As elected representatives, all Members of the Council have a duty to the citizens of North Hertfordshire to ensure that the Council uses its resources prudently and in accordance with the law. As such, they are required to operate and adhere to amongst others:

- Government legislation;
 - Code of Conduct for Members;
 - Procurement Rules;
 - Financial Regulations;
- 3.10 Members are required to declare specific information concerning their financial and other interests in the Register of Members Interests, on election or appointment to office. Members are responsible for ensuring that information in this Register is kept up to date and notified to the Monitoring Officer as soon as they occur.
- 3.11 Members are required to declare their interests at all meetings, both internal and external, whether decision making or not.
- 3.12 Members are required to declare the receipt of all gifts and hospitality in a Register maintained by the Monitoring Officer. Periodic reports on declarations are presented by the Monitoring Officer to the Standards Committee.
- 3.13 All members are required to sign an undertaking to abide by the Council's Code of Conduct on election or appointment to office. Complaints regarding breaches of the Code of Conduct by Members in a representative capacity are handled in accordance with the Council's adopted policy. Any person can report a breach of the Code directly to the Council's Monitoring Officer.
- 3.14 The role of the Council's Standards Committee is to promote and maintain high standards of conduct amongst Members, monitor the operation of the Code and consider matters referred to them for determination under the Code of Conduct. The Monitoring Officer is the lead officer for this Committee. The Standards Committee and the Monitoring Officer have the same functions in respect of town and parish Councils within the district.

Management

- 3.15 Each Strategic Director is responsible for the successful implementation of controls designed to prevent and/or detect fraud within their service areas.
- 3.16 Management at all levels is responsible for ensuring that their staff are aware of the Council's Financial Regulations and Procurement Rules and that the requirements of each are being met. They should also ensure that their staff are aware of their responsibilities in relation to safeguarding the resources for which they are responsible and for reporting suspected irregularities.
- 3.17 Managers should also strive to create an environment in which their staff feels able to approach them with any concerns they may have about suspected irregularities.
- 3.18 Special arrangements may apply where employees are responsible for receiving income or are in charge of systems that generate payments. Managers should ensure that adequate and appropriate training is provided for staff and that checks are carried out from time to time to ensure that proper procedures are being followed.

Working with others

- 3.19 Arrangements are in place, and continue to develop, to facilitate the exchange of information between the Council and other Agencies on national and local fraud and corruption activity in relation to Local Authorities and other public bodies. Information is exchanged in compliance with the Data Protection Act 1998, other relevant legal requirements and NHDC's Data Sharing Protocol.

The Council currently has established links with amongst others:

- The Audit Commission (until April 2015)
- The Council's external auditors
- DWP
- HM Revenues and Customs
- Hertfordshire Constabulary
- Hertfordshire Probation Service
- Registered Social Landlords
- Other Local Authorities
- PCTs

Investigations Team

- 3.20 The Benefits Investigation Team is responsible for all benefit fraud investigations. All investigations are carried out in accordance with legislation and agreed codes of conduct. In cases where an employee is suspected of having submitted a fraudulent claim or being party to such a claim, the Benefits Investigation Team will work closely with the Shared Internal Audit Service to ensure the correct internal and external procedures are followed and that the guidelines laid out in this policy are adhered to.

Risk and Insurance

- 3.21 The Performance & Risk Section is responsible for submitting and/or handling insurance claims made by the public and employees. In cases where it is suspected that a fraudulent or over exaggerated claim has been submitted this is notified to the Council's external insurers. The Council's external insurance providers have a National Fraud Section who will then conduct an appropriate investigation and will consider pressing criminal charges.

Internal Audit

- 3.22 The Accounts and Audit Regulations 2006 require the Council to maintain an adequate and effective system of internal audit. Since July 2011 this function has been provided by the Shared Internal Audit Service (SIAS). The Strategic Director of Finance, Policy and Governance has a personal statutory duty under Section 151 of the Local Government Act 1972 to ensure that there are proper arrangements in place to administer the Council's financial affairs. Reliance is placed on the work of the Shared Internal Audit Service to provide assurance that such arrangements are in place.
- 3.23 The adequacy, appropriateness and effectiveness of internal controls are independently monitored by the Shared Internal Audit Services (SIAS) as part of their programme of work. Any weaknesses identified in internal control are reported to management whose duty it is to ensure that corrective action is taken. Improvements suggested by internal audit may include those to prevent, detect or deter fraud and corruption.

3.24 The SIAS function is required to provide in particular assurance that:

- (i) The Council's internal controls are sound, adequate and appropriately applied;
- (ii) The Council's assets and interests are safeguarded against losses rising from inefficient management, poor value for money, waste, theft, fraud, or any other cause;
- (iii) Financial and other management data is suitable and reliable;
- (iv) Rules, regulations, legislation, policy and procedures are being followed; and
- (v) Risk management action is appropriately applied.

To assist them in their work, the Strategic Director of Finance, Policy and Governance and his/her 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 his/her control; and
- (v) Have direct access to the Chief Executive and the Chairs of the Overview & Scrutiny and Finance, Audit and Risk Committees.

3.25 It is the responsibility of the SIAS Audit Manager to ensure that all SIAS staff have the appropriate skills and expertise to carry out their duties. They should also have sufficient knowledge of the area to be reviewed to enable them to recognise that fraud may have been committed, or that the potential for fraud exists.

External Audit

3.26 Independent external audit is an essential safeguard of the stewardship of public money. All external auditors are required, under the Local Government Finance Act 1982, to carry out their audits in accordance with the Code of Audit Practice.

3.27 This Code emphasises management's role in preventing and detecting fraud and corruption. It is the external auditor's role to review the Council's arrangements for meeting this responsibility.

- 3.28 The Council's external auditors are notified of all frauds over £1,000 (£5,000 for benefits) and of any corrupt acts.

4. DETERRENCE

- 4.1 The Council's Communications Section will optimise the opportunities available to publicise to the public any anti-fraud and corruption activity being undertaken within the Council. The Communications Section will also try to ensure that the results of any investigation undertaken, including prosecutions, are also reported in the local press.
- 4.2 In all cases where the Council has suffered a financial loss, it will seek to recover the loss and advertise this fact.
- 4.3 All anti-fraud and corruption activities, including updates of this policy, will be publicised in order to make employees, and the public aware of the Council's commitment to taking action on fraud and corruption, when it occurs.

5. DETECTION AND INVESTIGATION

Raising concerns

- 5.1 Concerns about any irregularity, be it financial or otherwise, can be raised in a number of ways. These include:
- a) Raising the concern with an immediate manager or supervisor;
 - b) Notifying the appropriate Strategic Director;
 - c) Informing the Head of Finance, Performance and Asset Management or
 - d) Reporting under the Council's Confidential Reporting Code.

If a concern is raised through routes a), b) or c) above, the manager, Head of Service or Strategic Director concerned have a responsibility to pass on the information obtained to the Strategic Director of Finance, Policy and Governance who will then inform the SIAS Audit Manager as appropriate.

- 5.2 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.

- 5.3 Concerns relating to Council Tax or Housing Benefit 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.

- 5.4 Council has a Fraud Response Plan (Appendix 6) to ensure that a consistent approach is applied to any investigation following the discovery or notification of an irregularity. This plan sets out the objectives, key steps and scope of the investigation to be undertaken.
- 5.5 Where investigations require the detailed examination of computer files and equipment, guidance is provided in the IT Fraud Response Plan which supplements the Fraud Response Plan.

Internal Audit and investigations

- 5.6 Although auditors may detect fraud and corruption as a result of the work that they are undertaking, the responsibility for the detection of financial irregularities primarily rests with management.
- 5.7 SIAS uses appropriately trained and experienced staff to confidentially investigate suspected cases of fraud and corruption. These staff will follow the guidelines detailed in the relevant Fraud Response Plan, but will also need to be flexible enough to react to the situations found as they arise.
- 5.8 The assigned auditor(s) is responsible for ensuring that the allegation is properly investigated and reported upon and where appropriate, maximum recoveries are made for the Council.
- 5.9 Involvement of SIAS offers the following advantages to the investigation process:
- A consistent approach across the Council to the carrying out of investigations;
 - The provision of a focal point for the gathering of information and noting of trends; and
 - Access to officers who have research experience and can bring objectivity and independence to the investigative process.
- 5.10 The Council's external auditor also has powers to independently investigate fraud and corruption. Its services may be used in instances where it is felt important for an investigation to be seen publicly as external to the Council.
- 5.11 If the decision to proceed with an investigation is taken, all available supporting prime information will be gathered and relevant individuals interviewed. Liaison will continue with the Strategic Director of Finance, Policy and Governance and advice will be sought from Human Resources and Legal Services as required. During this phase, informal contact with the Police may be undertaken.
- 5.12 Conclusions will be drawn based on the evidence available and the findings of the investigation will be reported to the Strategic Director concerned. If a loss to the Council is identified, the Council's Risk Manager will be informed.
- 5.13 If evidence collected substantiates the allegation made, the Strategic Director of Finance, Policy and Governance and the investigating officer, in conjunction with the Monitoring Officer will determine if and when the Police should be formally notified.

- 5.14 If the decision is taken to refer the matter to the Police, the Chief Executive and the relevant Strategic Director will normally be informed.
- 5.15 The Council may still use its Managing Misconduct Procedure where the outcome of the investigation indicates improper behaviour regardless of whether the case has been passed to the Police. Internal action must not be delayed pending the results of any Police investigations, as the standards of criminal and employment law are different. Guidance regarding the Managing Misconduct Policy is available from Human Resources.
- 5.16 As appropriate, the investigating officer will advise managers on the appropriate future course of action. Recommendations relating to working practices must be implemented immediately to prevent the reoccurrence of malpractice.

6. AWARENESS AND TRAINING

- 6.1 The Council recognises that the continued success of its Anti-Fraud and Corruption Policy and its credibility will depend largely on the effectiveness of staff throughout the organisation.
- 6.2 To facilitate awareness, the Council supports the concept of full induction, training and follow-up training. This applies particularly to officers involved in internal control systems and financial and finance related systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. It is also important that adequate training is provided to casual, temporary and agency staff, and those newly entering local government employment who may not be aware of the high standards of probity that are required of those who work in the public sector. It is “essential learning” for all staff to undertake the anti-fraud e-learning, and Members are also encouraged to do so.
- 6.3 It is a manager’s responsibility to ensure that staff are adequately trained to carry out their duties. Staff who ignore such training and guidance may face the possibility of disciplinary action.
- 6.4 Officers involved in the review of internal control systems and investigatory work should be properly and regularly trained; the Learning and Development Plans of staff within the Shared Internal Audit Service and the Benefits Investigation Team reflect this requirement.
- 6.5 The Council provides training to Elected Members including ethics training to all Members. Specific training is provided to Members of the Standards Committee on their role in assessing and determining breaches in the Code of Conduct for Members.

7. SANCTION AND REDRESS

- 7.1 In all cases where the Council has suffered a financial loss, it will seek to recover it in full along with any costs incurred by the authority as a result of pursuing this repayment. As a deterrent and to make public its position with regard to the misappropriation of public money or other resources, the Council seeks to publicise its successful sanctions in the local press.

Members

The Council will seek the strongest available sanctions against Members who commit fraud against the Council, its clients or the public purse. This will include disciplinary action, prosecution and civil proceedings. The Council will also utilise its own Standards Committee to the fullest extent to promote high standards and regulate the conduct of Members.

Staff

The Council will seek the strongest available sanctions against staff who commit fraud against the Council, its clients or the public purse. This will include disciplinary action, prosecution and civil proceedings. Employees found guilty of gross misconduct at disciplinary hearings for offences of fraud, theft, serious financial malpractice, using their position for personal gain or for the gain of others, will be subject to immediate dismissal. As with all disciplinary matters, the level of proof required is that of the balance of probability. Disciplinary cases involving allegations of fraud, corruption and financial malpractice will be handled on this basis. The decision to refer the matter on for further action, such as Police prosecution, will be taken by the Strategic Director of Finance, Policy and Governance and the investigating officer, in conjunction with the Council's Monitoring Officer.

System weaknesses identified as a result of an investigation will be addressed through an agreed action plan which the relevant service area manager is responsible for implementing. As appropriate, SIAS will monitor implementation of agreed actions and report progress to the Council's Finance Audit and Risk Committee

Contractors

The terms of the Council's contracts require that contractors take all reasonable steps, in accordance with good industry practice, to prevent any fraudulent activity by the Staff, the Contractor (including its shareholders, members, directors) and/or any of the Contractor's suppliers, in connection with the receipt of monies from the Authority. The Contractor must notify the Council immediately if it has reason to suspect that any fraud has occurred, is occurring or is likely to occur. In response to this information, the Council will decide how to respond. Its response will usually involve one of the following steps:

- Investigation by management or internal audit or by disciplinary procedures;
- Referral to the police;
- Referral to the external auditor; or
- Set up an independent inquiry

At the conclusion of an investigation, the investigator will produce a report. The manager whose responsibility encompasses the area of that investigation must formally accept the report and take the appropriate action (disciplinary or other).

The Public and external organisations

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.

8. CONCLUSION

- 8.1 The Council has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments, in both prevention and detection techniques, regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.
- 8.2 To this end the Council maintains a continuous overview of such arrangements and, in particular through the roles of the Monitoring Officer and the Strategic Director of Finance, Policy and Governance, Financial Regulations and Procurement Rules, accounting instructions and audit arrangements.
- 8.3 This policy statement will be subject to regular review to ensure its currency. The responsibility for this rests with the Head of Finance, Performance & Asset Management in consultation with the Strategic Director of Finance, Policy and Governance and the Monitoring Officer.
- 8.4 This policy will be made available to all staff through the intranet and to the wider public via the Council's website.

9. EQUALITIES STATEMENT

- 9.1 The Council aims to ensure that all groups and individuals within North Hertfordshire are given full opportunity to benefit from the services, work and employment opportunities provided. No service user, contractor, officer or elected member will be discriminated against on any ground because of their age, race, disability, ethnicity, gender, sexual orientation, marital status or level of income.
- 9.2 The Council believes in openness and equality in all its dealings with residents, partners and colleagues. This commitment extends to how this anti-fraud policy is applied both to those under investigation or those making their concerns known, since care for service users goes hand in hand with care as an employer or contractual partner.

Links to relevant information:

Policies:

Confidential Reporting Code
Anti Money Laundering
Anti-Bribery
Code of Conduct for Officers
Code of Conduct for Members
Financial Regulations
Procurement Rules
Conflict of Interest
Gifts and Hospitality

**Political Restriction
Email and Internet Usage
Managing Misconduct**

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

Last Updated :
September 2014

To be reviewed no later than :
September 2017

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