

**FINANCE, AUDIT AND RISK COMMITTEE
16 SEPTEMBER 2019**

PUBLIC DOCUMENT

TITLE OF REPORT: FRAUD PREVENTION POLICY

REPORT OF : *SERVICE DIRECTOR - RESOURCES*

EXECUTIVE MEMBER : EXECUTIVE MEMBER FOR FINANCE AND IT

COUNCIL PRIORITY : PROSPER AND PROTECT / RESPONSIVE AND EFFICIENT

1. EXECUTIVE SUMMARY

The overarching fraud prevention policy attached at appendix A has been written to replace the existing policies and guidance that cover: fraud, corruption, money laundering and bribery. It also covers additional requirements in relation to tax evasion. The intention of the new policy is to provide all the information in one place and reduce duplication.

2. Recommendations

2.1 That Cabinet approve the Fraud Prevention Policy attached at Appendix A.

3. REASONS FOR RECOMMENDATIONS

The new policy provides all the information in relation to fraud and similar offences. This makes it more accessible, especially as the total length of documentation is shorter. By making it easier to read and understand policies, it should aid compliance.

4. ALTERNATIVE OPTIONS CONSIDERED

It was considered whether to just continue to review and update the existing policies. This was discounted due to the expected benefits of a combined policy. Whilst most other Authorities continue to have separate policies, there is no requirement for this.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

The Finance, Audit and Risk Committee will be consulted on this policy and asked to provide any comments.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 Policies should be reviewed on a regular basis to ensure that they remain current in relation to any new legislation or other guidance. The review is also an opportunity to consider whether the policy has remained relevant and accessible.
- 7.2 The policies that this policy is proposed to replace have evolved separately over time, and they have a lot of similar content. The current anti-bribery policy was approved by Cabinet in March 2016, the anti-fraud and corruption policy was approved by the Senior Management Team in April 2014 and the money laundering policy had a minor update in April 2017.
- 7.3 The Criminal Finances Act 2017 introduced a corporate offence of failing to prevent tax evasion. Whilst the Council's financial regulations and other policies already provide the controls in relation to this, it is felt to be appropriate to add it in to this policy as well.

8. RELEVANT CONSIDERATIONS

- 8.1 As this new policy replaces three existing policies, it is not possible to provide a tracked changes version. A link to the existing policies is provided in background papers. The philosophy that has been applied is that a policy only fully serves its purpose if it has been read by all of the intended audience and the required actions have been understood. There have been no changes to the fundamental content or requirements of the policy. Therefore the aim has been to:
- Retain all necessary content in the body of the policy
 - Provide a brief summary of essential actions
 - Remove any duplication
 - Provide practical examples of how it applies
 - Move additional information (especially where it is not relevant to everyone) in to 'toolkits' or appendices
 - Minimise references to legislation and external guidance, unless it is expected that it would be used on a regular basis
- 8.2 The Council has essential e-learning for fraud awareness and prevention and anti-bribery. Both of these modules are short and remain very relevant. The fraud training has recently been promoted again to Officers. Checks on who has completed it will then take place and those Officers that have not completed it will be sent personal reminders, with the intention of achieving 100% completion. The same approach will be adopted for the anti-bribery module after that. At its meeting on 11th April 2017, Full Council resolved that all Officers and Members undertake the anti-bribery e-learning module. The completion rate of the module by Members at the time was very low, and there have been new Members since. As such, Members will be reminded that the anti-bribery module is essential learning and therefore must be completed by all. It is also intended to provide Member and Officer training sessions (in conjunction with the

Shared Anti-Fraud Service) covering all aspects of this new policy. This will not replace the e-learning modules, but will allow more in-depth training in some of the key areas.

- 8.3 The Bribery Act 2010 created a corporate offence of failure to prevent bribery. This means that if an Officer or Member were to be found guilty of a bribery offence, then the Council could also be prosecuted. The Council would have a defence if it can show that it has put in place adequate procedures. Adequate procedures are not defined by the legislation, but the Ministry of Justice provided guidance that included 6 principles. These principles are detailed below, as well as detailing how the Council will meet them. The Criminal Finances Act also references guidance about procedures that organisations should put in place. This guidance has the same 6 principles. The 6 principles have therefore been applied across the whole policy, as this would seem to be good practice.
- 8.4 **1. Proportionality of risk-based prevention procedures and 3. Risk Assessment.** These are covered by the policy in section 3 in sub-section entitled “Risk Assessment and Proportionate Action”. It is also considered that the policy itself makes it clear what the individuals it covers are required to do.
- 8.5 **2. Top Level Commitment.** This policy has been reviewed by the Senior Management Team, and they will implement it in practice if it is adopted by Cabinet. Training in relation to this area will continue to be mandatory for all Officers.
- 8.6 **4. Due diligence.** This is covered by the policy in section 3 in sub-section entitled “Working with third parties and contractual terms”.
- 8.7 **5. Communication and Training.** See paragraph 8.2 above in relation to internal communication and training. The Council’s contract terms make it clear to suppliers that we have a zero-tolerance approach to the various offences covered by this proposed policy.
- 8.8 **6. Monitoring and Review.** This policy and all linked policies and procedures (including the financial regulations) will be kept under regular review by Senior Management, and the Service Director: Resources and Service Director: Legal and Community in particular. These reviews will not be at set intervals but will react to changes to legislation, any concerns raised and any other relevant factors. Examples of triggers could be a whistle-blowing complaint or an Internal Audit finding and recommendation.

9. LEGAL IMPLICATIONS

- 9.1 As reference in paragraph 8.3, there is a requirement to have procedures in place in relation to preventing bribery and tax evasion. This report details the proposed policy and other actions that are planned in relation to this.
- 9.2 Under paragraph 5.6.1 of the Constitution, Cabinet “prepare and agree to implement policies and strategies other than those reserved to Council”. The Finance, Audit and Risk Committee “review and comment on the development of anti-fraud and anti-corruption strategies” (Constitution paragraph 10.1.5 (n)).

10. FINANCIAL IMPLICATIONS

- 10.1 There are no significant capital or revenue implications arising from the content of this report. It is expected that any training sessions provided by the Shared Anti-Fraud Service will be covered by the existing partnership agreement and payment.

11. RISK IMPLICATIONS

- 11.1 The proposed fraud prevention strategy is being put in place as part of the Council's overall control framework that helps to reduce risk. Any incidences of the offences covered by this policy could result in financial, legal and reputational risks for the Council.
- 11.2 The Council has an overarching "Fraud, Corruption and Bribery" risk on its risk register. This incorporates a number of sub-risks that are kept under regular review. This includes the risks from both within the Council, and from outside. It also covers financial and other (e.g. reputational) risks.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 There are no equalities implications arising from this report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and "go local" policy do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 As detailed in the report, it is intended that there will be a requirement for Officers to continue to undertake mandatory e-learning in relation to this policy.

15. APPENDICES

Fraud Prevention Policy.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

<https://www.north-herts.gov.uk/home/council-data-and-performance/policies/anti-fraud-and-corruption-policy>