



Buckinghamshire Council

# Anti-Fraud and Corruption Policy

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## Version Control

| Version | Date       | Sign Off                                              | Action                                                                                                               | Responsible Officer |
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# Anti-Fraud and Corruption Policy

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## **1. Introduction/Policy Statement**

1.1 This policy sets out Buckinghamshire Council's commitment to tackling fraud and corruption.

Buckinghamshire Council has a zero-tolerance stance to all forms of fraud, corruption, bribery, and theft, both from within the Council and from external sources, which it recognises can:

- undermine the standards of public service that the Council is attempting to achieve;
- reduce the level of resources and services available for the residents of Buckinghamshire; and
- result in consequences which reduce public confidence in the Council.

1.2 The Council is one of the largest business organisations in Buckinghamshire. In administering its responsibilities, the Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee, or Councillor. The Council is committed to an effective Anti-Fraud and Corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities.

1.3 Any proven fraud will be dealt with in a consistent and proportionate manner. Appropriate sanctions and redress will be pursued against anyone perpetrating, or seeking to perpetrate fraud, corruption, or theft against the Council.

1.4 The Council is committed to the highest possible standards of openness, probity, honesty, integrity, and accountability. The Council expects all staff, Councillors, and partners to observe these standards which are defined within the Code of Conduct.

1.5 The Service Director - Finance, as the "Section 151 Officer" has a statutory responsibility under section 151 of the Local Government Act 1972 to ensure the proper arrangements for the Council's financial affairs and has developed financial regulations and accounting instructions. The Service Director - Finance (S.151 Officer) exercises a quality control on financial administration through delegation of responsibilities to the Assistant Director of Finance (Procurement, Pensions & Revenue & Benefits).

1.6 The Deputy Chief Executive, as the "Monitoring Officer" has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council's actions do not give rise to illegality or maladministration. It is therefore essential for employees to follow the Council's policies and procedures to demonstrate that the Council is acting in an open and transparent manner.

## 2. Definitions

### 2.1 **FRAUD:** Is defined by The Fraud Act 2006 as follows:

A person is guilty of fraud if he is in breach of any of the following:

**Fraud by false representation;** that is if a person:

- (a) dishonestly makes a false representation; and
- (b) intends, by making the representation:
  - (i) to make a gain for themselves or another, or
  - (ii) to cause loss to another or to expose another to a risk of loss.

**Fraud by failing to disclose information;** that is if a person:

- (a) dishonestly fails to disclose to another person information which they are under a legal duty to disclose; and
- (b) intends, by failing to disclose the information:
  - (i) to make a gain for themselves or another, or
  - (ii) to cause loss to another or to expose another to a risk of loss.

**Fraud by abuse of position;** that is if a person:

- (a) occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person;
- (b) dishonestly abuses that position; and
- (c) intends, by means of the abuse of that position:
  - (i) to make a gain for themselves or another, or
  - (ii) to cause loss to another or to expose another to a risk of loss.

The Fraud Act 2006 repeals certain offences that are detailed in the Theft Acts of 1968 and Theft (Amendment) Act 1996. The term “fraud” is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or more complicated crimes like false accounting or the supply of false information. In legal terms, these activities include deception, forgery, extortion, corruption, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

In addition, the Fraud Act deals with offences relating to the possession of articles for use in fraud, making or supplying articles for use in frauds, participation by a sole trader in fraudulent business and obtaining services dishonestly, personally or for another.

For social housing related offences, the Council has powers pursuant to the Prevention of Social Housing Fraud Act (PoSHFA) 2013 to take action to prevent, detect and deter social housing fraud in partnership with Local Housing Providers, who do not have prosecution powers under PoSHFA. The fraudulent misuse of social housing may be any of the following:

- Non-occupation by the tenant(s) as their only or principal home.
- Wrongly claimed succession – retention of a tenancy following the death of the tenant(s).

- Unauthorised assignment of the tenancy – mutual exchange or transfer of tenancy without permission from the Housing Provider.
- Key selling, this is where the tenant leaves the property and passes on the keys in return for a one of lump sum payment or favour.
- Fraudulently obtaining a social housing tenancy by misrepresentation of identity or circumstances.
- Fraudulent Right to Buy and Right to Acquire applications.
- Unauthorised sub-letting:
  - a) Sub-letting the whole property to other individuals or;
  - b) Sub-letting part of the property without the prior consent of the Housing Provider.

2.2 **CORRUPTION:** is the deliberate use of one’s position for direct or indirect personal gain. Corruption often includes acts of bribery, which cover the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately.

2.3 **THEFT:** is the physical misappropriation of cash or other tangible assets. A person is guilty of “theft” if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it. Theft offences are covered by the Theft Act 1968 and Theft (Amendment) Act 1996.

2.4 **MONEY LAUNDERING:** is any process used by criminals to conceal the origins of illegally obtained gains (including money and other assets), through criminal activities, so that they appear to have come from legal and legitimate sources.

All employees are instructed to be aware of the increasing possibility of receiving requests that could be used for money laundering and illicit requests for money through e-mails. Detailed guidance is set out in the Council’s Anti-Money Laundering Policy.

2.5 Any service that receives money from an external person or body is potentially vulnerable to a money laundering operation. The need for vigilance is vital and if there is any suspicion concerning the appropriateness of the transaction, then advice must be sought from the Council’s Money Laundering Reporting Officer (MLRO): Service Director - Finance (S.151 Officer). To report any incidents, please see the guidance notes detailed on the Council’s intranet page.

2.6 Legal Services also have their own professional guidance in relation to money laundering which places a duty on solicitors to report any suspicions and these may override their legal professional privilege and confidentiality. All such suspicions must be reported to the Monitoring Officer (Deputy Chief Executive) and the MLRO.

2.7 **BRIBERY:** The Bribery Act 2010 came into force in the UK on 1st July 2011. It amends and reforms the UK criminal law and provides a modern legal framework to combat bribery in the UK and internationally. Staff need to be aware of their obligations under this Act, which sets out the

criminality of accepting and giving of bribes. This applies to both individual staff and the Council corporately. The Bribery Act 2010 introduces four main offences, simplified as the following:

- **bribing another person:** a person is guilty of an offence if he/she offers, promises, or gives a financial or other advantage to another person;
- **offences relating to being bribed:** a person is guilty of an offence if he/she requests, agrees to receive, or accepts a financial or other advantage. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate advantage or not;
- **bribery of a foreign public official:** a person who bribes a foreign public official is guilty of an offence if the person's intention is to influence the foreign public official in their capacity, duty, or role as a foreign public official; and
- **failure of commercial organisations to prevent bribery:** organisations, which include the Council, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business.

Note: A 'financial' or 'other advantage' may include money, assets, gifts, or services.

2.8 Prior to entering into any business arrangements, all Council officers and/or business units should ensure that they have taken all reasonable steps to identify any potential areas of risk relating to bribery or corruption.

### 3. Scope

3.1 This document applies to:

- All Council Employees (including volunteers, agents, and agency staff) and Councillors;
- Staff and Committee Members of Council funded voluntary organisations;
- Partner organisations;
- Schools;
- Council Suppliers, Contractors and Consultants;
- Service Users;
- General Public; and
- Assisting with external investigations (see 5.4).

### 4. Aims and Objectives

4.1 The aims and objectives of the Anti-Fraud and Corruption Policy are to:

- ensure that the Council is protected against fraud and loss;
- protect the Council's valuable resources by ensuring they are not lost through fraud but are used for improved services to Buckinghamshire residents and visitors;

- create an “anti-fraud” culture which highlights the Council’s zero tolerance of fraud, bribery, corruption, and theft, which defines roles and responsibilities and actively engages everyone (the public, Councillors, staff, managers, and policy makers); and
- provide a best practice “counter-fraud” service which:
  - proactively deters, prevents, and detects fraud, corruption and theft;
  - investigates suspected or detected fraud, bribery, corruption and theft;
  - enables the Council to apply appropriate sanctions and recovery of losses; and
  - provides recommendations to inform policy, system, and control improvements, thereby reducing the Council’s exposure to fraudulent activity.

## 5. Principles

5.1 The Council will not tolerate abuse of its services or resources and has high expectations of propriety, integrity and accountability from all parties identified within this Policy. The Council will ensure that the resources dedicated to “counter-fraud” activity are sufficient and all those involved are trained to deliver a professional “counter-fraud” service to the highest standards.

5.2 All fraudulent activity is unacceptable and will result in consideration of legal action being taken against the individual(s) concerned. The Council will also pursue the repayment of any financial gain from individuals involved in malpractice and wrongdoing. The Council will ensure consistency, fairness, and objectivity in all its “counter-fraud” work and ensure that everyone is treated equally.

5.3 This Policy encourages those detailed in section 3.1 to report any genuine suspicions of fraudulent activity. However, malicious allegations or those motivated by personal gain will not be tolerated and, if proven, disciplinary or legal action will be taken. Sections 8.3 and 8.4 detail the reporting arrangements in relation to incidents of fraud or irregularity.

5.4 The Council will work with its partners to strengthen and continuously improve its arrangements to prevent fraud and corruption. The Council has a variety of arrangements in place with other agencies to encourage and facilitate the exchange of information and investigations in relation to the detection and prevention of fraud and corruption. These include, but are not limited to, arrangements with the following:

- External Auditor;
- Department for Work & Pensions (DWP);
- The Police;
- National Anti-Fraud Network; and
- Social Housing Landlords.

The Council expects all its partners to operate to the same high standards as itself with relation to Anti-Fraud and Corruption.

5.5 This policy is aligned to the best practice counter fraud strategy for local government: Fighting Fraud and Corruption Locally – A Strategy for the 2020s. It focuses on five pillars of activity that are deemed necessary to develop and enhance a counter fraud response. These pillars are:



- **Govern:** settings out the executive support for anti-fraud measures to be embedded throughout the organisation and describing the roles and responsibilities of key stakeholders.
- **Acknowledge:** focusing on a general approach to tackling fraud, with acknowledgement of the various fraud risks to which the Council could be exposed. Fraud can be perpetrated both by staff or others who work within the organisation (internal fraud) or by contractors or members of the public who unlawfully take advantage of the many services that the Council provides (external fraud). Examples of the types of fraud risk to which the Council is exposed, are listed in Appendix D. This identifies 21 different types of fraud and corruption, of which 20 could be external in nature.
- **Prevent:** focusing on preventing and detecting fraud.
- **Pursue:** committing to deterrence from sanctions if perpetrators are caught, including prosecution, disciplinary action, and restitution.
- **Protect:** recognizing the harm that fraud can cause the Council and the community and protecting against future frauds.

## 6. Responsibilities

| Stakeholder                                                                              | Specific Responsibilities                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Chief Executive</b>                                                                   | Ultimately accountable for the effectiveness of the Council’s arrangements for countering fraud and corruption.                                                                                                                                                                                                                                                         |
| <b>Deputy Chief Executive (Monitoring Officer)</b>                                       | To advise Councillors and Officers on ethical issues, standards, and statutory responsibility to ensure that the Council operates within the law and statutory Codes of Practice.                                                                                                                                                                                       |
| <b>Service Director - Finance (S.151 Officer and Money Laundering Reporting Officer)</b> | To ensure the Council has adopted an appropriate Anti-Fraud Policy, there is an effective internal control environment in place and there is an adequately resourced and effective Internal Audit service to deliver “counter-fraud” work.                                                                                                                              |
| <b>Audit and Governance Committee</b>                                                    | To monitor the Council’s strategies and policies and consider the effectiveness of the arrangements for Raising Concerns at Work, Confidential Reporting Procedures, Anti-Fraud and Corruption and the Complaints Process.                                                                                                                                              |
| <b>Councillors</b>                                                                       | To comply with the Code of Conduct and related Council policies and procedures, to be aware of the possibility of fraud, corruption, and theft, and to report any genuine concerns accordingly.                                                                                                                                                                         |
| <b>External Audit</b>                                                                    | Statutory duty to ensure that the Council has adequate arrangements in place for the prevention and detection of fraud, corruption, and theft.                                                                                                                                                                                                                          |
| <b>Internal Audit</b>                                                                    | Responsible for developing and implementing the Anti-Fraud and Corruption Policy and monitoring the investigation of any reported issues. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this Policy and that action is identified to improve controls and reduce the risk of recurrence.                       |
| <b>Corporate Directors, Service Directors, Heads of Finance and Managers</b>             | To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit or via the Confidential Reporting Policy. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption, and theft and to reduce these risks by implementing strong internal controls. |
| <b>Staff</b>                                                                             | To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption, and theft, and to report any genuine concerns to management, Internal Audit or via the Confidential Reporting Policy and Procedure.                                                                                                                                |

| Stakeholder                                 | Specific Responsibilities                                                                                                |
|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Public, Partners, Suppliers and Contractors | To be aware of the possibility of fraud and corruption against the Council and report any genuine concerns / suspicions. |

## 7. Approach to Countering Fraud

- 7.1 Buckinghamshire Council will fulfil its responsibility to reduce fraud and protect its resources by completing work in each of the following key areas, which are aligned to the five pillars of the counter fraud strategy for local government: Fighting Fraud and Corruption Locally – A Strategy for the 2020s:
- 7.2 **DETERRENCE (Govern and Protect):** The Council will promote and develop a strong “counter-fraud” culture, raise awareness, and provide information on all aspects of its “counter-fraud” work. This includes dedicated fraud web pages, guidance, publicising the results of proactive work, investigating fraud referrals, and seeking the recovery of any losses due to fraud.
- 7.3 **PREVENTION (Prevent, Acknowledge and Protect):** The Council will strengthen measures to prevent fraud. Internal Audit will work with managers and policy makers to ensure new and existing systems, procedures and policy initiatives consider any fraud risks. Audit activity will also consider fraud risks as part of each review.
- 7.4 **DETECTION (Prevent, Acknowledge and Protect):** Internal Audit maintains a log of all fraud referrals. The log helps to establish those areas within the Council most vulnerable to the risk of fraud. This also enables a Council wide fraud profile to be created which then informs any detailed work in areas throughout the Council aimed at detecting existing and new types of fraudulent activity.
- Internal controls are established for financial and other systems within the Council. They are designed to discourage fraud and provide indicators of any fraudulent activity. The Council also relies on employees, Councillors, and the public to be alert and to report suspicion of fraud and corruption.
- Managers should pay particular attention to circumstances which may require additional and sensitive monitoring or supervision. Examples of Fraud Indicators are detailed in Appendix C.
- 7.5 **INVESTIGATION (Acknowledge):** The Council will investigate all reported incidents of fraud or irregularity. Please see Appendix A for the Protocol for Investigating Irregularities.
- 7.6 **SANCTIONS (Pursue):** The Council will apply realistic and effective sanctions for individuals or organisations where an investigation reveals fraudulent activity. This will include legal action in addition to criminal and disciplinary action, where appropriate.
- 7.7 **REDRESS (Pursue):** A crucial element of the Council’s response to tackling fraud is seeking financial redress and the recovery of defrauded monies will be pursued, where appropriate.

7.8 In addition to the above, Internal Audit also prepares an annual Counter-Fraud Work Plan that details the key objectives and areas of work for the year and when actions are due to be completed. The work plan is agreed and monitored by the Regulatory and Audit Committee and Section 151 Officer.

## **8. Reporting, Advice and Support**

8.1 The Council's expectation is that Councillors and managers will lead by example and that employees at all levels will comply with the Constitution, Council Policies, Financial Regulations and Contract Standing Orders.

8.2 The Council recognises that the primary responsibility for the prevention and detection of fraud rests with management. It is essential that employees of the Council report any irregularities, or suspected irregularities to their line manager and if this is not appropriate then to the Corporate Director or Service Director/Manager. The Council will provide all reasonable protection for those who raise genuine concerns in good faith, in accordance with the Whistleblowing Policy and Procedure.

8.3 The line manager, Service Manager, Director, or Corporate Director who receives the allegation (whether from a Councillor or a Council employee) must refer the matter to the following people, to determine how the potential irregularity will be investigated:

- Service Director - Finance (Section 151 Officer);
- Deputy Chief Executive (Monitoring Officer);
- Corporate Director;
- Head of Business Assurance (& Chief Internal Auditor); and
- Head of HR Operations.

8.4 Where appropriate, the Monitoring Officer should inform the Leader, Deputy Leader, and relevant portfolio holder where the irregularity is material and/or could affect the reputation of the Council. The Section 151 Officer will liaise with the Cabinet Member for Resources, as appropriate. The Media Team should also be informed if the matter is likely to be communicated externally.

8.5 The investigating officer will follow the 'Guidelines for Managers on Investigating Allegations' as well as the 'Protocol for Investigating Irregularities' (Appendix A), which includes the need to:

- deal promptly with the matter;
- record all evidence received;
- ensure that evidence is sound and adequately supported;
- ensure security of all evidence collected;
- contact other agencies if necessary e.g. Police;
- notify the Council's insurers;
- implement Council disciplinary procedures where appropriate; and
- recover monies lost, whether through error or fraud.

8.6 The Council will also work in co-operation with the following bodies that will assist in scrutinising our systems and defences against fraud and corruption:

- Local Government Ombudsman;
- External Audit – Relationship Manager;
- National Fraud Initiative and related Audit and Counter Fraud Networks;
- Central Government Departments;
- HM Revenue and Customs;
- UK Border Agency;
- Department for Work and Pensions; and
- Police.

8.7 Any concerns or suspicions reported will be treated with discretion and in confidence. Key contacts include:

- Head of Business Assurance (& Chief Internal Auditor) – Tel: 01296 387327
- Audit, Assurance and Fraud Manager (Fraud Lead) – Tel: 01296 383717
- Confidential Reporting Facility - Tel: 01296 382237
- Confidential e-mail - [audit@buckinghamshire.gov.uk](mailto:audit@buckinghamshire.gov.uk)

8.8 Other Council means for raising concerns:

|                                                                                                               |                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>▪ Chief Executive</li> </ul>                                           | <p>Write to:</p> <p><b>Buckinghamshire Council</b></p> <p>The Gateway</p> <p>Aylesbury</p> <p>Buckinghamshire</p> <p>HP20 1UA</p> |
| <ul style="list-style-type: none"> <li>▪ Deputy Chief Executive (Monitoring Officer)</li> <li>▪</li> </ul>    |                                                                                                                                   |
| <ul style="list-style-type: none"> <li>▪ Service Director - Finance (S.151 Officer)</li> </ul>                |                                                                                                                                   |
| <ul style="list-style-type: none"> <li>▪ Corporate Director</li> </ul>                                        |                                                                                                                                   |
| <ul style="list-style-type: none"> <li>▪ Service Director/Manager</li> </ul>                                  |                                                                                                                                   |
| <ul style="list-style-type: none"> <li>▪ Head of Business Assurance (&amp; Chief Internal Auditor)</li> </ul> |                                                                                                                                   |
| <ul style="list-style-type: none"> <li>▪ Audit and Governance Committee Chairman</li> </ul>                   |                                                                                                                                   |

8.9 External means of raising concerns:

|                                                                                     |                                                                                     |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>▪ External Audit (Grant Thornton)</li> </ul> | 020 7728 3328                                                                       |
| <ul style="list-style-type: none"> <li>▪ Citizens Advice Bureau</li> </ul>          | Website: <a href="http://www.citizensadvice.org.uk">www.citizensadvice.org.uk</a>   |
| <ul style="list-style-type: none"> <li>▪ Police</li> </ul>                          | Website: <a href="http://www.thamesvalley.police.uk">www.thamesvalley.police.uk</a> |

8.10 Attached are the following Appendices:

- Appendix A: The Protocol for Investigating Irregularities
- Appendix B: The Council’s Fraud Response Plan
- Appendix C: Examples of Fraud Indicators

## **9. Further Information**

9.1 Further information on Council policy can be found in the following documents:

- The Constitution;
- Codes of Conduct (Councillors and Officers);
- Whistleblowing Policy;
- Commercial Practices, Gifts and Hospitality;
- Financial Procedure Rules and Instructions;
- Contract Procedure Rules and Exemptions;
- Anti-Money Laundering Policy; and
- Investigatory Powers Act (IPA).

## **10. Policy Review**

10.1 The Audit and Governance Committee will continue to review and amend this Policy as necessary to ensure that it continues to remain compliant and meets the requirements of the Council.

|                      |                                                       |
|----------------------|-------------------------------------------------------|
| Responsible Officer: | Head of Business Assurance (& Chief Internal Auditor) |
| Date:                | February 2023                                         |
| Next Review Date:    | February 2024                                         |

## **APPENDIX A**

### **Protocol for Investigating Irregularities**

#### **a) Fraud Referral / Allegation**

The primary responsibility for the prevention and detection of fraud, corruption and theft rests with Corporate Directors, Directors, and Service Managers. Internal controls have been established for financial and other systems within the Council. They are designed to discourage fraud and provide indicators of any fraudulent activity. Employees, Councillors, and other groups are encouraged to report suspected irregularities in accordance with the Council's Confidential Reporting Policy and Procedure.

When a referral or allegation is received, the Corporate Director, Director or Service Manager will report the incident to the key contacts and officers detailed in section 8.3 above, as well as any other relevant contacts, to determine the course of action.

All referrals will be risk-assessed to determine the requirement for further investigation. In some cases, an allegation may be of a routine or minor nature that can be dealt with by service management without the need for a formal investigation. If this is the outcome, a record of the decision and who made it must be kept enabling the course of action to be justified. Alternatively, if the matter is of a nature that requires immediate Police involvement, please refer to section f) below on reporting issues to the Police.

All investigations should be reported to Internal Audit, who will monitor the investigation, ensuring action is initiated, effectively managed, and brought to a proper conclusion.

If it is agreed that an internal investigation is required, this protocol details the stages that should be followed. It is the Corporate Director, Service Director, and Head of Services' responsibility to initiate the investigation of potential cases of fraud, corruption, or theft, and to agree the approach with the Head of Business Assurance (Chief Auditor) and/or the Audit, Assurance and Fraud Manager.

#### **b) The Investigation**

The Corporate Director, Service Director or Head of Service will agree with the Head of Business Assurance (Chief Auditor) and/or the Audit, Assurance and Fraud Manager who should lead on the investigation, they must be independent of the activity. The investigation team will take specialist professional advice and investigation skills from Internal Audit, Human Resources, and a legal adviser from Legal Services. The team will also have open access to service management to ensure all appropriate enquiries can be undertaken. The Corporate Director or Service Director should arrange for regular briefing meetings from the investigation team.

The team will agree a plan for the investigation having regard to the initial evidence and/or allegation. The investigation plan should be kept under regular review whereby the scope of the case is considered, progress against the plan and the costs of the investigation are evaluated with key relevant officers. Investigation progress will be reported to the Corporate Director, Service Director, Head of Service and other relevant officers on a regular basis. Where any key decisions are required i.e. whether to stop an investigation due to

costs or other external factors; agreement will be obtained from the Corporate Director, Service Director and Head of Service; with final approval of the decision required from the Statutory Officers (Chief Executive, Monitoring Officer, Section 151 Officer and Chief Auditor).

### **c) Evidence**

All evidence gathered will be regarded as strictly confidential and will be the property of the investigation team. It will only be made more widely available on agreement with the necessary officers. The team will be responsible for gathering all evidence, whether verbal, written or electronic, which may include the need to interview individuals, including employees, councillors, service users etc.

If it is necessary to interview employees, the Corporate Director, Service Director, or Head of Service should be informed. HR should also be contacted to ensure the interview is arranged, conducted, and managed correctly to ensure the employee is supported and the investigation is not compromised. Interviews with employees must be conducted in accordance with the relevant Council standards and procedures, with allowances for proper representation. Advice should also be obtained from Internal Audit as to the overall approach in undertaking the interview.

When obtaining written evidence, the source version of any documentation should be obtained. Electronic evidence will be stored on a PC, laptop, tablet, mobile phone, etc. When obtaining electronic evidence, the main issue is how to capture the evidence before it is changed. To do this, the equipment should be secured at the earliest opportunity to ensure evidence is not altered. This is a specialist activity and should be undertaken under the supervision of an IT specialist on which Internal Audit can advise.

Some investigations may require either covert surveillance or a covert operation to obtain information. If this is required, formal authorisation will need to be obtained under the Investigatory Powers Act 2016 (IPA). Authorising any action under IPA regulation needs to be obtained from the Monitoring Officer and Head of Legal Services.

The conduct of interviews and gathering of evidence which may subsequently be used as criminal evidence is governed by specific rules and acts. In this respect, the following statutes are relevant:

- Police and Criminal Evidence Act 1984 (PACE);
- Investigatory Powers Act 2016 (IPA);
- Human Rights Act 1998; and
- General Data Protection Regulation. Data Protection Act 2018.

Specialists trained in investigation and interviewing could be made available to the investigation team. Legal Services and Business Assurance may be able to assist if this is required. The need for specialist advice would be a part of the discussion when an investigation is initiated.

The investigation team should ensure that a fully referenced investigation file is maintained, which includes all documentation, records and notes collated during the investigation. Advice on the best approach to



referencing investigation files can be obtained from Internal Audit. Any evidence obtained will be recorded and retained in line with relevant legislation and take into account regulatory and legal considerations.

Potential avenues of investigation may include gathering digital evidence, surveillance, financial investigations, search and seizure and arrest.

#### **d) Reporting**

Once the investigation work has been concluded, the team will prepare a written report detailing the initial referral or allegation, the work completed (including documents obtained and interviews conducted) and an opinion or conclusion on the outcome of the investigation. Depending on the severity of the investigation outcome, the report may lead to a disciplinary hearing or prosecution. Police referral will be made as soon as possible if there is well-founded concern about criminal activity, particularly if reasonable evidence is uncovered to support a case for prosecution.

The report should also highlight any breakdown in management, operational or financial controls to the Corporate Director, Service Director, or Head of Service, who will agree the necessary actions to address the issues.

The investigation team, in consultation with the Corporate Director or Service Director/Head of Service, should make arrangements for the Service Director - Finance (S.151 Officer), Monitoring Officer, Head of Business Assurance (& Chief Internal Auditor) and Head of HR Operations to be informed of the investigation outcome. Other officers should be notified on a strictly confidential, need to know basis.

#### **e) Disciplinary and Criminal Proceedings**

Corporate Directors and Service Directors/Managers will be expected to take action in accordance with the Council's Disciplinary  
Policy [http://portal.oxfordshire.gov.uk/content/public/corporate/hr/hr\\_toolkits/policies/DisciplinaryCapabilityMarch2010.pdf](http://portal.oxfordshire.gov.uk/content/public/corporate/hr/hr_toolkits/policies/DisciplinaryCapabilityMarch2010.pdf), where the outcome of the investigation indicates improper behaviour. School Governors are also required to take similar action where the outcome of the investigation indicates improper behaviour.

If an investigation requires that an employee is suspended, this must be done in accordance with the Disciplinary Policy and Procedure. The procedure states that the suspension period should be as short as is reasonably practical. Senior employees (Corporate/Service Directors) should record in writing a decision to suspend and any subsequent review of that decision, setting out the reasons for the decision and whether alternative options have been considered.

The Corporate Director or Service Director/Head of Service should ensure, normally through the investigation team, that the relevant written reports are available timely, for disciplinary and criminal proceedings. Necessary members of the investigation team may be required to give written evidence and attend at hearings to give verbal evidence and answer questions.

Normally the line manager will make the complaint at the disciplinary hearing, but in exceptional circumstances and with the Corporate Director and HR's agreement, it may be made by a member of the investigation team.

Where there is a possibility of criminal proceedings, the investigation team should ensure that any relevant evidence, including witness statements, is gathered, and reported in such a way that it could be admissible in court. Legal Services will advise on a case by case basis as appropriate.

#### **f) Police Involvement**

Reporting incidents to the Police must be considered on an individual basis. If criminal activity is suspected, the matter should be promptly reported to the Police by the Corporate Director or Service Director. Approval to report the matter to the Police must be obtained from the Service Director - Finance (S.151 Officer), Monitoring Officer and/or Head of Legal Services. Advice should be sought from Internal Audit on how the matter should be reported and who would be best placed to meet with the Police and discuss the details of the investigation. In the unlikely event that none of the above officers are immediately available, the Corporate Director, Director and Service Manager must judge how quickly the matter should be reported to ensure any Police investigation is not affected.

Continuous liaison with the Police is vital as there may be parallel enquiries undertaken by the Police in addition to those by the in-house team. Also, the Police have specialist skills to interview under caution that will be needed if evidence is to be used in court. Normally, any internal disciplinary process can take place at the same time as the Police investigation. However, this should be agreed in advance by both the Police and the Council to ensure both investigations are not compromised.

#### **g) Investigation Costs**

Internal Audit plans a small contingency for anti-fraud work. The Head of Business Assurance (& Chief Internal Auditor) will determine whether the contingency should be used for undertaking work on a specific investigation. Where resources are not directly available through Internal Audit, any contribution may disrupt planned work so there may be an additional direct charge to the service concerned. If external specialist advice is required, this will only be after agreement both in terms of scope and cost, with the Corporate Director or Service Director. Charges for Legal Services advice will be in accordance with the normal service agreements with Directorates.

#### **h) Post Investigation**

The Council wishes to see that following an investigation, action is taken to minimise future occurrence. This may involve improvements in control, changes to systems and procedures, employee training or promoting "lessons learnt" advice.

Any publicity arising from an investigation will be co-ordinated by the Council's Media Team. It is the responsibility of the Corporate Director or Service Director to ensure that the Media Team is informed of developments following completion of an investigation.

## **i) Training**

The Council acknowledges that the continuing success of its Anti-Fraud and Corruption Policy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of employees and Councillors throughout the organisation.

Investigation of fraud and corruption may require specialist training, not only for the Council's Internal Audit Service, but also employees within Directorates. Fraud awareness staff training plans will reflect this requirement.

## **j) Sanction and Redress**

The Council will seek financial redress whenever possible to recover losses to fraud, bribery, and corruption. Redress can take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the organisation and the offender to repay monies lost.

Each matter will be considered individually on its own facts and merits. However, applying a consistent and thorough approach in all cases will ensure that:

- Investigations are undertaken in the most effective manner, including the gathering and assessment of all relevant material which may form evidence of fraud, bribery, corruption or related misconduct;
- The most appropriate sanction or combination of sanctions is sought where fraud, bribery, corruption, or related misconduct is identified.

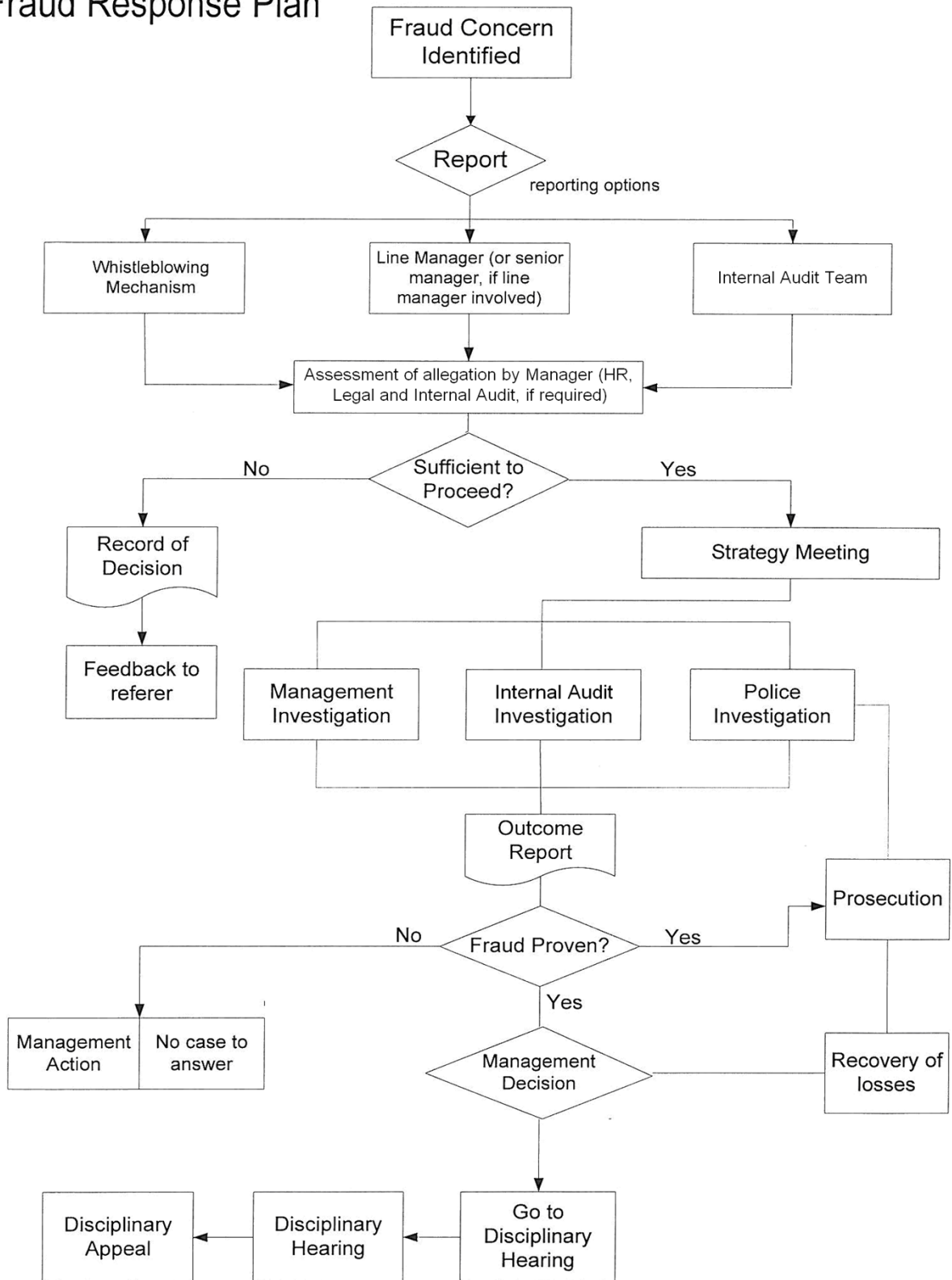
An outline of the types of sanction which the Council may apply when an offence has occurred:

- Civil – civil sanctions can be taken against those who commit fraud, bribery, and corruption to recover money and/or assets which have been fraudulently obtained, including interest and costs.
- Criminal – the investigation team will work in partnership with the police and/or the Crown Prosecution Service to bring a case to court against an alleged offender. Outcomes can range from a criminal conviction to fines and imprisonment, community penalty, confiscation and / or compensation order).
- Disciplinary – the Council's disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act.
- Professional body disciplinary – If warranted, staff may be reported to their professional body following a successful investigation/prosecution.
- Recovery of losses – individuals will be required to repay monies that they have gained in error or through irregular/fraudulent activity. If the case is not taken to court, this will be pursued by the HR contact for the investigation with advice from the investigation team.

The range of available sanctions, which may be pursued by the Council, following approval of the Service Director - Finance (S.151 Officer), Monitoring Officer and/or Head of Legal Services, includes one or a combination of any sanctions listed above.

APPENDIX B

# Fraud Response Plan



## APPENDIX C

### *Fraud Indicators*

A number of frauds can come to light because of suspicions aroused by, for instance, the behaviour of certain individuals. It is impossible to give a definitive list of fraud indicators or warning signs. The following are types of risk factors that may, either alone or cumulatively with other factors, suggest the possibility of fraud and may therefore warrant further investigation or enquiry.

- **Unusual employee behaviour:** Refusal to comply with normal rules and practices, fails to take leave, refusing promotion, managers by-passing subordinates, subordinates by-passing managers, living beyond means, regularly working long-hours, job dissatisfaction/unhappy employee, secretiveness, or undue defensiveness.
- **Financial irregularities:** Key documents missing (e.g. invoices, contracts); absence of controls and audit trails; missing expenditure vouchers and official records; general ledger out of balance; bank and ledger reconciliations are not maintained or cannot be balanced; excessive movements of cash or transactions between accounts; numerous adjustments or exceptions; constant overdue pay or expense advances; duplicate payments; ghost employees on the payroll; large payments to individuals; excessive variations to budgets or contracts; multiple payments under authorisation thresholds.
- **Bad procurement practice:** Too close a relationship with suppliers/contractors; suppliers/contractors who insist on dealing with only one particular member of staff; unjustified disqualification of any bidder; lowest tenders or quotes passed over with minimal explanation recorded; defining needs in ways that can be met only by specific contractors; single vendors; vague specifications; splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval; missing documents/contracts.
- **Disorganisation:** Understaffing in key control areas; consistent failures to correct major weaknesses in internal control; inadequate or no segregation of duties; frequent complaints.
- **Inadequate supervision:** Policies not being followed; lack of senior management oversight; inadequate monitoring to ensure that controls work as intended (periodic testing and evaluation); low staff morale; weak or inconsistent management.
- **Lax corporate culture:** Management frequently override internal control; climate of fear; employees under stress without excessive workloads; new employees resigning quickly; crisis management coupled with a pressured business environment; high employee turnover rates in key controlling functions.
- **Poor work practices:** Lack of common sense controls; work is left until the employee returns from leave; post office boxes as shipping addresses; documentation that is a photocopy or lacking essential information; lack of rotation of duties; unauthorised changes to systems or work practices.

## APPENDIX D

### *Fraud risks relevant to Buckinghamshire Council*

Research for the Fighting Fraud and Corruption Locally – A strategy for the 2020s highlighted the following types of fraud risks that are relevant to local authorities, indicating whether they are most likely to be perpetrated from inside the Council (internal) or from outside (external):

| <b>Fraud type</b>                                       | <b>Description of fraud</b>                                                                                                                                                                                                                                                                       | <b>Internal / External</b>                                                   |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Social care fraud: personal budgets and direct payments | Overstatement of needs through false declaration, multiple claims across authorities, third party abuse by carer, family or organisation, posthumous continuation of claims                                                                                                                       | External                                                                     |
| Right to buy                                            | Fraudulent applications under the right to buy/acquire                                                                                                                                                                                                                                            | External                                                                     |
| Money laundering                                        | Exposure to suspect transactions                                                                                                                                                                                                                                                                  | External                                                                     |
| Commissioning of services                               | Including joint commissioning, joint ventures, commercial services, third sector partnerships – conflicts of interest, collusion                                                                                                                                                                  | Both                                                                         |
| Tenancy                                                 | Fraudulent applications for housing or successions of tenancy, and subletting of the property                                                                                                                                                                                                     | External                                                                     |
| Procurement                                             | Tendering issues, split contracts, double invoicing                                                                                                                                                                                                                                               | Both                                                                         |
| Payroll                                                 | False employees, overtime claims, expenses                                                                                                                                                                                                                                                        | Internal                                                                     |
| Identity fraud                                          | False identity/fictitious persons applying for services/payments                                                                                                                                                                                                                                  | Both                                                                         |
| Council tax                                             | Discounts and exemptions, council tax support                                                                                                                                                                                                                                                     | External                                                                     |
| Blue Badge                                              | <ul style="list-style-type: none"> <li>Use of counterfeit/altered badges, use when disabled person is not present, use of a deceased person's badge.</li> <li>Badges issued to institutions being misused by employees</li> </ul>                                                                 | <ul style="list-style-type: none"> <li>External</li> <li>Internal</li> </ul> |
| Grants                                                  | Work not carried out, funds diverted, ineligibility not declared                                                                                                                                                                                                                                  | External                                                                     |
| Business rates                                          | Fraudulent applications for exemptions and reliefs, unlisted properties                                                                                                                                                                                                                           | External                                                                     |
| Insurance fraud                                         | False claims including slips and trips                                                                                                                                                                                                                                                            | External                                                                     |
| Disabled facility grants                                | Fraudulent applications for adaptations to homes aimed at the disabled                                                                                                                                                                                                                            | External                                                                     |
| Concessionary travel schemes                            | Use of concession by ineligible person, including freedom passes                                                                                                                                                                                                                                  | External                                                                     |
| No recourse to public funds                             | Fraudulent claims of eligibility                                                                                                                                                                                                                                                                  | External                                                                     |
| New responsibilities                                    | Areas that have transferred to local authority responsibility                                                                                                                                                                                                                                     | External                                                                     |
| Local Enterprise Partnerships                           | Partnerships between local authorities and businesses. Procurement fraud, grant fraud. All LEPs should now be incorporated, with a local authority as accountable body, in a more formal and regulated relationship. Key issues are LEP governance, procedures for allocating/prioritising grants | External                                                                     |
| Immigration                                             | Sham marriages. False entitlement to services and payments                                                                                                                                                                                                                                        | External                                                                     |
| Cyber-dependent and cyber-enabled                       | Enables a range of fraud types resulting in diversion of funds, creation of false applications for services and payments.                                                                                                                                                                         | Both                                                                         |
| Schools                                                 | Many fraud types listed above are also issues for schools                                                                                                                                                                                                                                         | Both                                                                         |