



## **1. Introduction**

- 1.1 This Fraud Response Plan reinforces the Council's robust approach by setting out the ways in which employees, Members of the Council or members of the public can voice their concerns about suspected fraud or corruption.
- 1.2 The Council's Policy towards the notification, investigation, and reporting upon circumstances which may involve irregularities is described in the *Anti-Fraud and Corruption Policy*. The Policy applies equally to employees and elected Members, and aims to ensure that any serious concerns are properly raised and addressed as part of the Council's commitment to combating fraud and corruption, whether the perpetrators are from inside or outside of the Authority.
- 1.3 The Corporate Director (Central Services) as the Council's Monitoring Officer is responsible for providing support and advice to the Standards Committee, and, as and when further Regulations are made under the Local Government Act 2000, is likely to develop a close working relationship with the Standards Board for England. The Monitoring Officer also has a statutory responsibility to report to the Council on any proposal, decision or omission by the Council or any officer which is likely to give rise to any contravention of any enactment or rule of law.
- 1.4 The Fraud Response Plan formalises the responsibilities and procedures that will be adopted by the Council in the investigation, reporting, and handling of alleged irregularities. The Plan, in conjunction with the Anti-Fraud and Corruption Policy, forms the Council's Anti-Fraud and Corruption Strategy, which complements the Council's Constitution.
- 1.5 Irregularities referred to fall within the following broad categories:
- **THEFT;**
  - **FRAUD;**
  - **BRIBERY AND CORRUPTION;**
  - **Failure to observe, or breaches of the Council's Constitution, including Financial Regulations and Contract Procedure Rules;**
  - **Failure to observe, or breaches of, established Council / Service policies, procedures, or practices which, in some circumstances can constitute an irregularity. This includes any failure by employees and elected Members to properly declare interests that may materially affect the carrying out of their respective roles, as laid down in the relevant Code of Conduct.**
- 1.6 This is not an exhaustive list. If you are in any doubt about the seriousness of your concern, advice and guidance can be obtained from the Internal Audit Manager on 01524 - 582045.

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## 2. Confidentiality

- 2.1 As detailed within the Council's Whistleblowing Policy, an employee should normally raise any concerns with his / her line manager, supervisor, or Service Head in the first instance. For concerns of a very serious nature, which may constitute a financial irregularity, fraud, or corruption, these should be raised with one of the five nominated contact officers named in the Policy document.
- 2.2 It is a requirement of the Code of Conduct for Members that if a Member becomes aware of any conduct by another Member which that Member reasonably believes involves a failure to comply with the Council's Code of Conduct, the Member must make a written allegation to that effect to the Standards Board for England as soon as it is reasonably practicable to do so. Failure to do so is in itself a breach of the Code and likewise may be the subject of an allegation to the Standards Board.
- 2.3 Accordingly, if any Member wishes to report conduct that amounts to a breach of the Code of Conduct by another Member of the Council, the report or complaint must be made to the Standards Board. A complaint from a Member about another Member that does not involve breach of the Code of Conduct, or by a Member about an officer, should be referred to the Chief Executive or the Monitoring Officer.
- 2.4 The need for confidentiality regarding concerns raised and their subsequent investigation places a responsibility on both the Council as an employer, and on the employee or Member raising the concern:
- The Council will do its best to protect the identity of any employee raising a concern if they do not wish their name to be disclosed. It must however be appreciated that the investigation process may reveal the source of the information and require a statement from the person raising the concern as part of the evidence process;
  - The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect those who raise a concern in good faith.
  - Employees should not disclose details of any suspected irregularity or malpractice to anyone except their line manager, Service Head, or any of the nominated officers stated in the Council's Whistleblowing Policy, assuming that none of these individuals are the subject of the allegations.
  - Information relating to the matter must be treated as confidential throughout the process. If information must be released, the express permission of the Chief Executive, Head of Financial Services, or Internal Audit Manager must be obtained. If the matter has been referred to the Police, only the Internal Audit Manager may release documents to them.
  - **Under no circumstances must an employee or Member communicate with members of the press, media, or to another third party about a suspected illegal act or irregularity.**

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### **3. Fraud Response - Conduct of an Investigation**

- 3.1 Investigations of suspected or alleged Benefits fraud are performed by the Benefits Investigation Section of the Revenues and Benefits Service under their own detailed Code of Practice.
- 3.2 For non-Benefit related matters where a serious concern has been raised and documentary evidence provided to support the suspicions, the Chief Executive should be informed (if this has not already been done) and the next course of action determined. If an investigation is warranted, the Chief Executive will nominate an officer as the "Investigating Officer" in accordance with the Council's Disciplinary Policy to be in charge of the investigation on a day to day basis. This will normally be the Internal Audit Manager, but each case will be judged individually. Only those officers that have received appropriate training should be required to perform the role of Investigating Officer.
- 3.3 The event will be recorded in the Fraud Log held and maintained by Internal Audit. This contains details of all reported suspicions, including those dismissed as minor or groundless. It also contains details of actions taken and conclusions reached. The Audit Committee will review details of all entries in the fraud logs at least annually.
- 3.4 Where it would not prejudice any subsequent investigation, whether internal or external, the Chief Executive will take immediate action to prevent any further losses and remedy any control weaknesses. Advice may need to be taken at this stage from the Police, external auditors, or Corporate Director (Central Services).
- 3.5 The investigation must be properly managed from the outset, including the drawing up of an outline investigation programme detailing the intended direction to be followed and the establishment of the available resources.
- 3.6 Any investigation into fraud or other irregularities must be carried out with the utmost confidentiality. As much information as possible should be gathered before interviewing any suspected parties. If, after preliminary investigation, a criminal act is suspected, the Investigating Officer should contact the Police and their advice sought as to further investigations. It is important that these are carried out in liaison with the Police and in accordance with the Police and Criminal Evidence Act 1984 where appropriate.
- 3.7 The decision to involve the Police should include the following considerations:
- The sufficiency and quality of accumulated evidence;
  - Prosecution of the perpetrator(s) through criminal action; a successful prosecution can often assist recoveries in the civil court;
  - The potential seriousness of the malpractice involved;
  - Whether the malpractice is fraudulent;
  - Whether the malpractice is thought to be continuing;
  - The involvement of people, contractors, or companies external to the Council;
  - The need to take deterrent action; and
  - Adverse publicity

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## **Police Investigations**

- 3.8 Where there is Police involvement, the following points should be borne in mind:
- The Police will normally remove original documentation. Copies should, therefore, be taken of documents required for operational purposes, prior to them being handed over to the Police.
  - All evidence relating to the investigation should be removed to a secure place, in such a way as to ensure confidentiality. Depending upon the nature of the irregularity, it may be appropriate to remove documents or software in a way that does not raise the suspicions of the person under investigation.
  - It is important to collect as much documentary evidence as soon as possible since the onset of an investigation may trigger its destruction, if this has not happened already.

## **Internal Investigations**

- 3.9 Prior to the commencement of any investigation, the nature and seriousness of each matter must be determined on its merits, in order to decide upon the course of action to be followed:
- Where a criminal offence is suspected and the matter is potentially of a serious nature, an internal investigation may be undertaken whilst maintaining a close liaison with the Police. (In these cases, it may be appropriate to consider handing the case over to the Police for them to take on. This may occur at the conclusion of the Council's own investigation).
  - Liaison with the Head of Personnel Services should be undertaken at all stages of the investigation process. This is particularly important where action is required at an early stage, including the possible suspension of the officer involved, in accordance with the Council's disciplinary procedure.
  - Where a criminal offence is suspected but the matter is not considered material in terms of value or seriousness (for example, petty theft), the matter may be dealt with under the Council's disciplinary procedure.
  - Where the incident is not of a criminal nature, it should be dealt with under the Council's disciplinary procedure.
- 3.10 Irrespective of the nature of the course of action to be taken, the Investigating Officer should adhere to the following guidelines in accordance with the Council's Disciplinary Policy:
- The terms of reference for the investigation should be agreed between the Chief Executive and the Investigating Officer, together with the scope and target dates for reporting.
  - It is essential that any investigation is carried out as quickly and efficiently as possible. This is so that there is no unnecessary delay in disciplinary proceedings that may need to take place.
  - The Chief Executive should be kept informed of progress at each stage of the investigation.

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## Interviews

- 3.11 Within the investigatory process, an interview may be held in order to gather information and ascertain facts, or more formally to examine and review information, verify and confirm facts, and if appropriate seek explanations for the interviewees conduct / actions.
- 3.12 When planning interviews, regard should be given to the following:
- All relevant facts pertinent to the investigation should be obtained prior to the interview.
  - If possible, the interviews should be held on neutral territory so that the persons being interviewed do not feel threatened.
  - Representation should be offered to the interviewee, in terms of accompaniment by their Trade Union official, a friend, or other such person. If the interviewee requests representation, the interview should only take place when this representation is adequately provided.
  - A management representative should be present, who should have the power to suspend the employee if need be.
  - The need for a note-taker to be present that is able to quickly and accurately record the contents of the interview.
  - Legal advice should be sought from the Head of Legal Services on the strength of the evidence obtained.
- 3.13 Where a decision is made to interview an employee, the arrangements should be made as soon as possible.
- 3.14 If, during the course of an interview, it becomes clear that a criminal offence has been committed, the interviewee must be cautioned before further questioning takes place, in order to comply with the Police and Criminal Evidence Act 1984. It is critical at this point that the suspect is informed that he / she may leave the interview at any time. If he or she does remain they must be informed that they may seek legal advice if they wish.
- 3.15 **Officers undertaking investigations are however advised to terminate the interview immediately and inform the Police should reasonable grounds exist for suspecting that an offence has been committed. The Police will then make a decision as to whether or not to interview the suspect.**

## Interview Notes / Statements

- 3.16 When compiling interview notes or statements regard should be given to the following:
- When an interview with a suspect or witness takes place, questions and answers must be recorded contemporaneously and the suspect / witness must sign the statement.
  - If the suspect / witness refuses to sign the record, this fact should be noted and the interview notes signed by the two interviewers. Any other notes from an interview, whether shorthand or longhand, must be kept. Any change in persons in the interview room should be recorded, including time of changes, and people entering and leaving.
  - If a statement is obtained from a suspect / witness, it must be in the correct format. Specific stationery is available for such records. It must begin with the name and job title of the suspect / witness making the statement and it must be dated and timed.

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- The suspect may write the statement or it may be written for him / her. The person giving the statement must not be prompted, and they must sign at the bottom of each page and initial every alteration. When the statement has been completed, the suspect / witness should sign after the final word. The two interviewers should also witness the suspect's / witness' signature. Where representation has been taken up, the representative should also sign any written statements made by the interviewee.
  - The suspect / witness must be allowed to re-read the statement before the final signing and must be allowed to alter anything written. The suspect / witness must initial all amendments.
  - It is imperative that record keeping is comprehensive, legible, and accurate. It should be noted that all documents, including rough working papers, might be required as evidence.

3.17 **An interview under caution should only be considered when the Police have been informed and advice taken. The skill and knowledge of the interviewer and the strength of the evidence will be relevant factors.**

3.18 An employee must be given every opportunity to explain his / her conduct / actions, and no unfair pressure or method should be used to obtain information. Where applicable, the Police and Criminal Evidence Act 1984 (Code of Practice C) will be followed.

#### **4. Finalising the Investigation**

4.1 At the end of the investigation, the Investigating Officer should ensure that a report is produced which sets out all of the facts relating to the case. The subject of the investigation should be provided with a copy of the draft report at this stage, and given the opportunity to comment on, but not change the report. Following which, the final report, including the conclusions drawn and recommendations made, should be produced and submitted to the Chief Executive and copied to the relevant Director and Service Head, if appropriate.

4.2 Where it is clear that no irregularity has occurred, the suspected person must be told as soon as possible and this should be confirmed in writing. If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the person who made the allegation. **If, however, an allegation is suspected to have been made frivolously, maliciously, or for personal gain, disciplinary action may be taken against the accuser.**

4.3 When the Service Head has received the advice and conclusions following from the investigation, and where appropriate has sought and received advice from the Corporate Director (Central Services) and Head of Personnel Services, he/ she shall take appropriate action without delay.

4.4 If it is felt that there is a case to answer, the employee should be informed of the action that the Council proposes to take as soon as possible. If disciplinary action is to be considered, the Council's disciplinary procedure must be carefully followed. If the Council is satisfied that an irregularity has occurred, and the Police are notified, the employee should not be suspended indefinitely solely because of subsequent Police investigations and / or court proceedings. Disciplinary proceedings should be completed as a matter of urgency.

4.5 Written records should be kept at every stage of the inquiry. The employee should be personally informed of the final conclusions of the Council and a formal letter should subsequently confirm these.

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- 4.6 Any systems weaknesses highlighted by the investigation should be included in the report and recommendations made as to how they can be overcome. Internal Audit will then obtain management responses to the recommendations made and ensure that a post audit review is carried out at a later date to assess progress in implementing the agreed recommendations. Details of the investigation, its findings and any recommendations will be reported to the Audit Committee as part of regular Internal Audit reporting procedures.

## 5. Prosecution Policy

- 5.1 The policy and guidance regarding prosecutions arising from Benefit irregularities is covered by a separate document produced by the Revenues and Benefits Service.

- 5.2 Where an investigation in respect of non-Benefit cases has established to the satisfaction of the Council that a fraud has been committed, decisions must be made on:

- whether there is a case to prosecute;
- which act to prosecute under;
- whether the Police or Council staff should undertake the prosecution.

- 5.3 **Council policy will be to consider each case on its individual merits but attempt to secure prosecution where the following criteria are met:**

- **There is clear evidence of a criminal offence having been committed;**
- **There is a good chance of obtaining a conviction.**

- 5.4 **In addition, where the incident involves theft, a prosecution will only be attempted where there is a reasonable chance that the offender can be detected and located.**

- 5.5 The final decision as to whether to prosecute will generally be made by the Police in conjunction with the Crime Prevention Service.

## 6. Alternative methods for taking a complaint forward

- 6.1 If either a member of the public, employee or Council Member feels it is right to take the matter outside these processes, the following are possible ways forward:

- **Your Local Councillor** - if you are unsure of how to contact them, call the Council on 01524-582000.
- **The Audit Commission and District Audit** - who are appointed to scrutinise the Council's finances and performances. By law, they must be completely independent from the Council. The local District Audit office can be contacted by telephoning Lancaster 842443.
- **Your Trade Union** – employees may invite their Trade Union to raise a matter on their behalf.
- **The Police** – by telephoning Lancaster 63333.
- **The Local Government Ombudsman** – this is an independent body set up by the Government to deal with complaints against Councils in the United Kingdom.
- **Standards Board for England** - to report any Council Member suspected of failing to comply with the Code of Conduct for Members. The Standards Board for England can be contacted on 0845 078 8181 or at PO Box 36656, London SE1 0WN.
- **Public Concern at Work** - this is a charity that provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They can be contacted on a helpline number 0171-404-6609 or can be e-mailed at [whistle@pcaw.demon.co.uk](mailto:whistle@pcaw.demon.co.uk).