

## Anti-Fraud and Corruption Response Plan

### INTRODUCTION

1.1 This Anti-Fraud and Corruption Response Plan compliments the Council's response to suspected or apparent irregularities affecting resources belonging to or administered by the Council or offences perpetrated by contractors and suppliers against the Council.

1.2 It is important that all staff know what to do in the event of encountering fraud so they can act appropriately and without delay. The Anti-Fraud and Corruption Response Plan provides guidance to ensure effective and timely action is taken. It also shows that the organisation acts in an effective and lawful manner and that it does not tolerate fraud.

Other documents that should be referred to when reading the Plan:

Anti- Fraud and Corruption Policy  
Anti-Bribery Policy  
Anti-Money Laundering Policy  
Whistleblowing Policy  
Prosecutions and Sanction Policy  
Local Code of Conduct for Employees  
Disciplinary Procedure  
Financial Procedure Rules  
Constitution

1.3 This document provides guidance to all employees of the Council in the event of them becoming aware of :-

- Offences being committed against the Council by a Council member or another Council employee;
- Offences being committed against the Council by a member of the public;
- Offences being committed against the Council by a contractor or supplier to the Council;
- A Council Member or an Officer carrying out a corrupt Act.

It is in 4 parts;

**Part A - General:** this explains the reasons for having the document and what the document should be used for;

**Part B – Employee responsibilities;** this explains how employees should react if they suspect fraud or corruption;

**Part C – Contractor and third party responsibilities;** this explains how contractors and third party suppliers should react if they suspect fraud or corruption;

**Part D - Management responsibilities;** this explains what managers need to do if they receive an allegation of fraud or corruption. It also outlines the position of managers in the overall control framework of the Council.

This document is available to all employees of the Council by being accessible through the Council's Intranet and Internet pages.

## **PART A – GENERAL**

### **2 Objectives**

2.1 The objectives of a fraud and corruption response plan are to ensure that timely and effective action can be taken to:

- Prevent loss of funds or other assets where fraud has occurred and to maximise recovery of any loss;
- Minimise the occurrence of fraud by taking rapid action at the first signs of a problem;
- Deter people from committing fraud against the Council;
- Identify offenders and maximise the success of any disciplinary and/or legal action taken;
- Be open with members and the public about fraud;
- Demonstrate that the Council acts to protect the public purse when fraud is identified, which in turn will help minimise any adverse publicity for the Council;
- identify any lessons which can be acted upon in managing fraud in the future;
- Reduce adverse impact on the business of the Council.

### **3.1 Fraud**

Fraud is commonly defined as:

‘an intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss.’

Below are some potential indicators of fraudulent activity. Be aware that not all circumstances where these signs are exhibited will necessarily constitute fraud and nor is this an exhaustive list:

- Employees, consultants or agency workers who never take leave;

- Employees, consultants, agency workers or contractors who work outside normal working hours for no obvious reason;
- Employees, councillors, consultants, agency workers or contractors with serious personal financial problems;
- Employees, councillors, consultants, agency workers or contractors whose lifestyle is disproportionate to their income;
- Unusual concerns or nervousness about visits by senior managers and/or internal auditors;
- Employees, councillors, consultants, agency workers or contractors who often break rules or fail to comply with procedures;
- Complaints about members of staff, councillors, consultants, agency workers or contractors from customers or other employees;
- Lack of effective internal control;
- Undocumented activities;
- Unexplained falls in income levels or increases in expenses;
- Deliveries of goods to premises other than official Council buildings;
- General disregard by management and employees, consultants or agency workers towards security;

In addition, the Fraud Act 2006 introduced three offences of fraud, namely:

- Fraud by false representation (s.2);
- Fraud by failing to disclose information (s.3);
- Fraud by abuse of position (s.4);

These offences sit alongside other existing legislation that can be used to prosecute 'fraud' offences.

### **3.2 Corruption**

Corruption is commonly defined as:

'Corruption is the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.'

In addition, the Bribery Act 2010 created four new bribery offences, namely:

- Bribery of another person (section 1);
- Accepting a bribe (section 2);
- Bribing a foreign official (section 6);
- Failing to prevent bribery (section 7);

### **3.3 Irregularity.**

Irregularity is quite a vague term, and indeed, there are many other terms that may be used in its place or in addition to it, for example, malpractice, wrongdoing, misconduct, misdemeanour, etc. all of which are used to describe behaviour or actions that fall short of expectations.

Behaviour or actions that fall short of expectations is also quite a broad description but generally covers an act, which is unlawful; or is against the Council's Standing Orders or policies; or is not in accordance with established standards of practice; or amounts to improper conduct by an employee, councillor, consultant, agency worker or contractor. It may provide evidence of fraud or corruption, or be a breach of a statutory or corporate code in itself.

Potential examples would be:

- Breaches of statutory or professional codes of practice;
- Breaches of, or failure to implement or comply with any policy determined by the Council or any of its Committees;
- Actions which are likely to cause physical danger to persons, or give rise to a significant damage to property;
- Failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income to the Council, or would otherwise seriously prejudice the Council;
- Abuse of power, or the use of the Council's powers and authority for any unauthorised or ulterior purpose;
- Unlawful discrimination in the Council's employment or services.

## **4 Review**

4.1 This plan will be reviewed at least annually and whenever experience dictates a need for a revision.

## **Part B – EMPLOYEES AND ELECTED MEMBERS.**

### **5. Employee and Elected Member Responsibilities**

5.1 It is the responsibility of all staff and members of the Council to report suspected fraud or corruption whenever they come across it within their work or in connection with their duties. This could be by an employee, their manager, a contractor or agency worker, councillor or an external organisation. It is not acceptable to turn a blind eye to suspected wrongdoing and disciplinary action may be instituted if a member of staff or member has been complicit in ignoring a fraud or instance of bribery. As a result, the Council wants to make reporting fraud and corruption as easy as possible and to reassure staff and members that their identity will be protected as far as possible.

5.2 In addition to reporting fraud, staff and members have a duty to report instances where they believe that the Council's assets are at risk, failure to do so exposes the Council to risk through the misuse of such assets. For example this may be because there is physical security risk and an asset could be stolen or it may be a breach in IT system and it is information that is vulnerable.

5.3 Staff and members must always report instances of breaches in IT security to their Manager (or the Chief Executive for Members). The IT security available on the Intranet sets out specific requirements on how staff and members should maintain a secure IT environment.

5.4 For information on reporting suspected fraud, corruption or irregularity please see Part D.

## **PART C – CONTRACTOR AND OTHER THIRD PARTY SUPPLIER RESPONSIBILITIES**

### **6. Contractor and other Third Party Supplier Responsibilities.**

6.1 It is a contractual obligation for all contractors and third party suppliers of the Council to report fraud or corruption whenever they come across it within their work, or in connection with their duties. It is not acceptable to turn a blind eye and action may be taken if a contractor or third party supplier has been complicit in ignoring a fraud or instance of bribery. As a result, the Council wants to make reporting fraud and corruption as easy as possible and to reassure contractors and third party suppliers that their identity will be protected as far as possible.

6.2 In addition to reporting fraud, contractors and third party suppliers have a duty to report instances where they believe that the Council's assets are at risk, failure to do so exposes the Council to risk through the misuse of such assets. For example this may be because there is physical security risk and an asset could be stolen or it may be a breach in IT system and it is information that is vulnerable.

6.3 Where a Contractor or third party supplier has access to Council systems they must ensure usernames and passwords provided are kept secure. Any breach in IT security must be reported The Council's IT Policies and User Guides set out specific requirements about how system users should maintain a secure IT environment. Where a Contractor or third party has no access to the Intranet the Policies should be provided.

6.4 For information on reporting suspected fraud, corruption or irregularity please see Part D.

## **PART D REPORTING SUSPECTED FRAUD, CORRUPTION OR IRREGULARITIES**

### **7 To whom should you report suspected fraud, corruption or irregularities.**

7.1 The route you should take will depend on whether you are reporting a suspected fraud or corrupt act by a member of the public, by another Council employee or by an elected Member. When you report a fraud or a corrupt act ,you should not discuss it with any other work colleagues, either before or after reporting it to the appropriate person.

#### ***7.2 Fraud or corrupt act by a member of the public***

If you suspect the fraud or corrupt act is being committed in your service area then under normal circumstances you should report the matter to your line manager. If it is not in your service area or you feel you cannot report the matter to your line manager then report the matter to the Corporate Fraud Manager emailing it to:

[\\_investigations@slough.gov.uk](mailto:investigations@slough.gov.uk)

#### ***7.3 Fraud or corrupt act by a Benefit Claimant***

If a member of the public claiming Housing Benefit , Council Tax Benefit and/or Universal Credit is committing benefit fraud you should report the suspected fraud or corrupt act directly to the *Department for Work and Pensions(DWP) on 0800 854 440.*

#### **7.4 Fraud or corrupt act by a person in receipt of Council Tax Support.**

If a person is claiming Council Tax Support fraudulently you should report the suspected fraud to The Corporate Fraud Team emailing it to: [\\_investigations@slough.gov.uk](mailto:investigations@slough.gov.uk)

#### **7.5 Fraud or corrupt act by a Social Housing Tenant**

If you suspect the fraud or corrupt act is being committed by a social housing tenant such as the unlawful sub-letting of a Council or Housing Association property you should report the fraud or corrupt act to the Corporate Fraud Team of the Council or by emailing: [\\_investigations@slough.gov.uk](mailto:investigations@slough.gov.uk)

#### **7.6 Fraud or corrupt act by another Council Employee**

If you suspect a work colleague is committing fraud or a corrupt act, then you should report it to your line manager. You may not wish to report directly to your line manager. You may report your concerns to the Corporate Fraud Manager or refer to the Whistleblowing policy.

#### **7.7 Fraud or corrupt act by an Elected Member**

Suspected fraud or a corrupt act by an elected member should be reported to the Council's Monitoring Officer (8.6 Whistleblowing Policy). If you are unable to do this then you may report a fraud or corrupt act by an elected member to any of the following officers in the Council:

The Chief Executive

Finance and Audit 151 Officer

#### **8.0 What happens when you report a fraud or corrupt act?**

8.1 When a fraud or corrupt act is reported to an appropriate officer they will decide if the allegation requires a full investigation this is usually based on the information provided at the time of referral. If it is decided that a further investigation is required the allegation will be passed to the Corporate Fraud Team Internal Auditor or another law enforcement agency outside of the Council if the nature of the allegation warrants this. Any allegation of fraud or corruption by an elected member must be reported to The Monitoring Officer and will be dealt with under the Council's Code of Conduct for elected members or serious cases will be reported directly to the Police. In the course of an investigation your identity will remain confidential.

8.2 Investigations often have to be carried out without alerting the person being investigated. Depending on the type of the allegation the case may have to be investigated for disciplinary proceedings, civil court proceedings or criminal court proceedings. Strict rules apply to investigations carried out for any type of court/tribunal proceedings and compliance with these is essential. Sometimes the process can appear slow.

## **9.0 Whistle-blowing policy**

9.1 The Council has developed a Whistle-blowing policy in accordance with the provisions of the Public Interest Disclosure Act 1998. All Council employees and members can access the Whistle-blowing policy on the Councils Intranet. Staff and members may find it difficult to raise their concerns and would sometimes welcome the opportunity to discuss them with someone in confidence in the first instance. The independent charity –Public Concern at Work (2.1 Whistleblowing Policy) are available to give independent advice at any stage ([www.pcaw.co.uk](http://www.pcaw.co.uk)).

9.2 Subject to the constraints of the Council's duty of confidentiality to employees and elected Members, staff will be given as much information as possible about the outcome of any investigation.

9.3 The Responsible Officer for the maintenance and operation of the Whistle-blowing policy is The Monitoring Officer Slough Borough Council St Martins Place 51 Bath Road Slough SL1 3UF. ([linda.walker@slough.gov.uk](mailto:linda.walker@slough.gov.uk)).

## **PART E- MANAGEMENT RESPONSIBILITIES**

### **10 Defined by the Council's Financial Regulations.**

10.1 The Council's Financial Procedures Rules form part of the Council's Constitution and set out a range of responsibilities that apply to management. Some of these relate to the prevention of fraud and corruption, while others relate to internal control and safeguarding of assets, which include the loss or misuse of assets as a result of fraudulent or corrupt activity.

10.2 All Council Members and employees are personally responsible for ensuring integrity in the conduct of the Council's business and in particular by ensuring that they are aware and abide by:

- The Councils Anti-Fraud and Corruption policies.
- The Whistleblowing Policy
- The Anti-Money Laundering Policy
- The Council's Codes of Conduct for Employees and Members.
- The Anti-Bribery Policy



10.3 Directors are responsible for ensuring that managers have adequate systems of internal control to prevent or detect fraudulent activity.

## **11 Evaluation and Investigation of allegations.**

11.1 As soon as an allegation is received Managers should assess the information and make initial enquiries to ascertain the facts. Managers should determine the factors that give rise to the suspicion and examine factors to assess if a genuine mistake has been made or whether any irregularity has occurred. These enquiries should be carried out as quickly as possible.

Consideration should also be given to a review with HR in line with the Council's Disciplinary Policy (3.1).

11.2 Following a preliminary enquiry a more detailed investigation may be needed, if results indicate this, Managers should contact the Corporate Fraud Manager immediately for advice and guidance.

Managers must inform the Corporate Fraud Team of the following:

- All the evidence that they have gathered including notes of conversations conducted with employees.
- Actions they have taken with regard to the employee (suspension or re-deployment) or any other measures to prevent further loss.
- Managers should be aware that they have a primary role in securing evidence and minimising any further losses.

11.3 Specialist services may be commissioned to assist with an investigation for example IT specialists to preserve and secure information held on computer systems; Legal Services; surveyors to assess building works etc. In all cases the Corporate Fraud Team will liaise with the Manager.

11.4 The Corporate Fraud Team will carry out any further investigation with the Line Manager or other appointed person.

**Remember:** Make a note of anything which made you think a fraud was happening; keep things confidential initially; do not confront the suspect(s); only take away any evidence if there is any risk that it will be destroyed or thrown away. Leave the investigation to the Corporate Fraud Team.

11.5 All cases referred to the Corporate Fraud Team are evaluated and risk assessed prior to investigation.

11.6 It is not uncommon for allegations of irregularities, fraud or corruption to be received from an anonymous source. These allegations may be malicious but initial enquiries should be carried out on the assumption that there is a substance to the allegation.

11.7 When anonymous allegations are received managers are advised to seek the advice and guidance of the Corporate Fraud Manager at an early stage.

## **12 Regulation of Investigatory Powers Act 2000**

12.1 The investigation of suspected fraud and corruption can involve surveillance of the suspect or suspects. This will often be a breach of a suspects rights under the Human Rights Act (HRA) 1998.

12.2 To protect the Council from such breaches, certain types of surveillance can be authorised under the Regulation of Investigatory Powers Act 2000(RIPA).

12.3 There are also powers to obtain communications data.

12.4 There is clear and detailed authorisation process under RIPA that must be followed to undertake any form of surveillance. If you need advice please speak to The Corporate Fraud Team.

## **13.Proceeds of Crime Act 2002**

13.1 The Proceeds of Crime Act 2002 (POCA) was put in place to demonstrate that crime does not pay. We will use POCA (and its predecessor legislation, such as the Criminal Justice Act 1988 (as amended)) wherever we can, to obtain confiscation orders, including compensation, as well as recovery of the full overpayment of benefits. We will use our own Accredited Financial Investigator (AFI) or those employed by an external partner, such as the Police or DWP.

13.2 All monies recovered using POCA or predecessor legislation (excluding compensation), will be distributed by the Home Office to SBC under the "Asset Recovery Incentivisation Scheme" (ARIS).

The ARIS scheme apportions funds in the following way:

- 50% to HM Treasury;
- 18.75% to the investigating body;
- 18.75% to the prosecuting authority; and
- 12.5% to Her Majesty's Court Service.

13.3. All monies recovered through ARIS will be used, in accordance with Home Office guidance, namely:

- funding the cost of asset recovery;
- crime reduction initiatives;
- community projects;
- miscellaneous activities supporting the above.

13.4 Chief Finance/151 Officer will determine the allocation of funds.

## **14.0 Determining the type of investigation**

### **14.1 Allegation against an Employee**

If an allegation is substantiated after the preliminary enquiry and further investigation is needed, consideration should be given to two objectives that will determine the progress of the case. The investigation should be conducted in line with the Council's Disciplinary Policy and the Code of Conduct for Employees, or if there is evidence that an employee has committed fraud against the Council or has committed a corrupt act, the employee should be the subject of a criminal investigation, undertaken by the Corporate Fraud Team.

Where it is clear that the issues being investigated fall into both categories the management investigation and the Corporate Fraud Team investigation should be carried out at the same time. However, it is unlikely that they will be concluded at the same time as fraud investigations can take some time, particularly if the outcome results in a prosecution through the courts. As it is possible that an employee may have been suspended on full pay, it is important for the investigation teams to work in harmony to ensure that the management investigation is undertaken promptly, arrives at a timely outcome, and reduces the cost of the suspension to the Council.

Where the police are involved, and this decision must be taken in accordance with the Anti-Fraud Prosecution and Sanctions Guidelines it will be the responsibility of the Corporate Anti-Fraud Team Manager to provide the liaison and ensure that they are appraised of the investigation at the earliest opportunity so that the above objectives are not jeopardised.

### **14.2 Allegation against a member of the public**

If an allegation is substantiated after the preliminary enquiry and further investigation is needed, the type of investigation will very much depend on the nature of the allegation, and whether the allegation relates to criminal or civil offence(s).

The decision to prosecute will be taken by Chief Finance /151 Officer and will be subject to the provisions of the Council's Guidance for Prosecution and other Sanctions as well as the Crown Prosecution Services' 'The Code for Crown Prosecutors'.

In most cases the Council may bring the prosecution for a criminal offence, if the relevant legislation provides for this, without reference to the police. The Council's Guidance for Prosecution and other Sanctions is available on the Council's Intranet and Internet pages.

### **14.3 Allegation against an Elected Member**

In these cases, the Chief Executive and the Monitoring Officer must be informed in order for them to determine the nature and type of investigation, and who will carry it out.

An allegation against a member may also need to be considered as an allegation that they have breached the Members' Code of Conduct or constitute one of the offences relating to the Code of Conduct and the declaration of pecuniary interests in the Localism Act 2011.

It should be noted that electoral offences (including corruption) must be reported to the Police and are not investigated by the Council or the Chief Executive in their role as Returning Officer.

In addition to the criminal route, wherever applicable, investigations will also follow a civil route. This will be with a view to recovering and/or withdrawing any service and/or monies from the person who has committed an offence.

It is the responsibility of the Manager, with the advice of the Corporate Fraud Team Manager, to ensure that this recovery takes place.

### **15.0 Preservation of Evidence**

15.1 When the initial enquiry has revealed that further investigation needs to take place, it may be necessary to preserve the available evidence. Evidence may take various forms. The most common forms of evidence and a brief note of how they should be preserved is given below:

- **Original documents.**

This is the best form of evidence and original documents should be obtained and retained if possible. The documents should be handled as little as possible and should be put in a protective folder. Under no circumstances should they be marked in any way. One person should be responsible for keeping these documents and should keep a record of how and where they were obtained.

- **Computer held data.**

When evidence is held on a computer, the computer should be secured and the Corporate Fraud Team Manager should be consulted about the most appropriate way of retrieving the data in accordance with the rules of Court evidence. Under no circumstances should the computer be switched on or files viewed by anyone.

- **Cash.**

It may be necessary to count cash. If possible this should be counted by the person responsible for it in the presence of his/her manager. The person should then sign a statement confirming the amount of cash held and the manager should sign it as a correct record. If the person responsible for the cash is not available, two people should count the cash and sign a statement confirming amount held. The cash should be kept secure at all times, preferably in a locked safe.

- **Stock or shares.**

As far as possible, these should be recorded in the presence of the person responsible for them who should sign a statement confirming the amount held. If the person responsible for assets is not available, two people should record the amount held and sign a statement confirming it. For large stock holdings, however, this will be impractical.

- **Video evidence.**

There may be video evidence available, which may indicate a problem, for instance CCTV footage or static security cameras. If you suspect that a video may have information of value, secure the recording so that it can be treated in accordance with the rules of evidence. Under no circumstances should it be viewed by anyone. Advice can be sought from the Corporate Fraud Team about how to proceed.

## **16.0 Suspension of an Employee**

Suspension or temporary removal of an employee from the workplace may be necessary in serious cases pending completion of an investigation and any disciplinary hearing. This will be undertaken in line with The Councils Disciplinary Policy and Procedures (4.1- 4.5)

The Council has an Employee Assistance Programme which can be called at any time for legal advice and counselling as well as the option to approach Human Resources.

## **17 Management responsibilities regarding the investigating officers**

17.1 The need to investigate thoroughly and as quickly as possible may put undue stress on the investigating officer. Managers should be supportive throughout an investigation; make sure that the investigating officer is given the necessary co-operation, allowed sufficient time to undertake the investigation.

## **18 Press and Publicity**

18.1 The Communications Team will deal with the press and publicity in all matters regarding fraud and corruption. If any officer speaks to the press without the express authority of the Communications Manager it may be regarded as a breach of the Employee Code of Conduct. The Council will actively encourage the publicising of all successful investigations and prosecutions so as to deter those considering committing an offence against the Council. The Corporate Fraud Team Manager will work with the Communications Section to produce press releases and anti-fraud material using as many opportunities and resources as possible.

## **19.0 The control framework to minimise and prevent fraud and corruption**

19.1 It is the responsibility of management at all levels to ensure that effective internal control systems are in place and operating to minimise the potential for fraud and corruption.

The Council has approved Financial Procedure Rules and Contract Procedure Rules, which between them set out the control frameworks that must exist to minimise and prevent fraud and corruption. These regulations apply to all employees and must be complied with in relation to all financial, procurement and contractual transactions.

When fraud or corruption has been identified, management, in consultation with the Corporate Fraud Team Manager and the Head of Internal Audit

should review the control procedures to ensure that the opportunity to repeat the fraud or corrupt act is minimised.

## **20.0 Asset Recovery**

20.1 Whenever fraud has been proven, the Council will make every effort to recover any loss. The method used will vary depending on the type of loss and the regulations and powers available. All means of recovery, including attachments to earnings, civil court proceedings, proceeds of crime legislation and criminal court compensation will be used as appropriate to the offence.

## **21.0 Training**

20.1 Being aware of fraud issues that can affect the Council and how to identify and prevent them are key elements to building an anti-fraud culture within the Council.

20.2 The level and extent of any additional fraud awareness training required by service units will depend on the work those individual employees, consultants, agency workers and contractors carry out. Ensuring that the Council's Investigators are appropriately trained is the responsibility of the Corporate Fraud Team Manager. All investigating officers will be trained to a recognised professional standard.