



Counter Fraud Strategy

2018-20

Introduction

South Kesteven District Council is responsible for protecting public assets, acting in the public interest and making best use of resources to achieve intended outcomes. The Council also has a legal responsibility under the Accounts and Audit (England) Regulations 2011 for ensuring that financial management is adequate and effective and has a sound system of internal control which facilitates the effective exercise of functions which includes arrangements for the management of risk. The Council is determined to maintain its reputation of not tolerating theft, fraud, corruption, bribery or abuse of position for personal gain in any area of its organisation or activities. It is committed to the prevention and detection of all forms of fraud and corruption carried out against it both internally and externally.

The purpose of this document is to set out the Council's strategy for developing a structured approach to the management of fraud and corruption risk across the organisation with the aim of minimising losses, or risk of losses, as a result of fraud or corruption. The Strategy is designed to prevent losses due to theft, fraud, corruption, bribery and abuse of position by:

- Maintaining a 'zero tolerance' culture
- Ensuring a good level of awareness of fraud risk across the organisation
- Ensuring that effective mechanisms to prevent and detect fraud are incorporated into policies and systems
- Promoting a culture of openness, integrity and accountability on the part of its Members and employees
- Eliminating, as far as possible, opportunities for theft, fraud, corruption, bribery and abuse of position to take place
- Establishing effective arrangements for the detection and investigation of any malpractice that does occur and for the imposition of appropriate sanctions against offenders
- Providing suitable information and training for Members and employees to ensure that they are aware of their duty and responsibility to assist the Council to achieve these objectives

In addition to the Strategy, the Council has a Counter Fraud Policy which sets out the responsibilities of senior management and employees for ensuring that appropriate actions are taken for the prevention and detection of fraud and corruption, and the procedures to be followed where fraud or corruption is detected or suspected.

Overview of strategy

This Counter Fraud Strategy, with supporting Policy, applies to all employees, contractors and any persons or organisations doing business with the Council. It applies to all aspects of the Council's business. In adopting this Strategy the Council aims to reflect the values set out in the Seven Principles of Public Life formulated by the Nolan Committee (Annex 1).

The Strategy is structured on the *CIPFA Code of Practice on Managing the Risk of Fraud and Corruption* which consists of five principles, detailed overleaf, and the most up to date thinking on good governance for the public sector, the *International Framework: Good Governance in the Public Sector (2014)*. It is in the International Framework that there are the clearest links to the principles in the Code. The International Framework states:

Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.

The fundamental function of good governance in the public sector is to ensure that entities achieve their intended outcomes while acting in the public interest at all times.

Good governance is characterised by robust scrutiny, which places important pressures on improving public sector performance and tackling corruption.

When considering the Code against the International Framework there are two clear messages: the importance of achieving intended outcomes and acting in the public interest and being seen to do so. It is clear from the outset that good governance cannot be achieved if the fraud and corruption risks faced are unacknowledged or inadequately addressed.

CIPFA Code of Practice on Managing the Risk of Fraud and Corruption

This Strategy is structured on the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption which consists of five principles:

Acknowledge responsibility	The governing body should acknowledge its responsibility for ensuring that the risks associated with fraud and corruption are managed across all parts of the organisation
Identify risks	Fraud risk identification is essential to understand specific exposures to risk, changing patterns in fraud and corruption threats and the potential consequences to the organisation and its service users
Develop a strategy	An organisation needs a counter fraud strategy setting out its approach to managing its risks and defining responsibilities for action
Provide resources	The organisation should make arrangements for appropriate resources to support the counter fraud strategy
Take action	The organisation should put in place the policies and procedures to support the counter fraud and corruption strategy and take action to prevent, detect and investigate fraud

Counter Fraud Assessment Tool

In addition to the Code there is a Counter Fraud Assessment Tool which has been designed to help measure counter fraud arrangements against the Code. This will be particularly useful for the Annual Governance Statement which should include an evaluation of the adequacy of counter fraud arrangements.

The Assessment Tool has been designed to:

- Follow the counter fraud code principles (68 questions across the five principles)
- Provide evidence and examples to describe good practice
- Focus on performance not compliance
- Provide an overall rating and identification of areas for improvement
- Provide an auditable, evidenced statement

The Council will undertake regular self-assessments utilising the Assessment Tool in order to evaluate the development and integration of the counter fraud arrangements. This will also provide useful monitoring on further embedding initiatives. It is recommended that officers utilise this tool to assess the current reality and to track progression against the agreed actions.

Monitoring

This Strategy forms part of the Council's arrangements for Corporate Governance. There is a requirement for the Council to monitor the outcome of the Strategy and review its effectiveness. As such the Strategy is periodically reviewed, updated and reported to the Governance and Audit Committee.

Finally, the Code states that when making reference about adherence to the Code within the Annual Governance Statement, the level of conformance should be assessed and therefore is approved by the person responsible for signing off the Annual Governance Statement.

Lincolnshire Counter Fraud Partnership

The Council is part of the Lincolnshire Counter Fraud Partnership which was established to create the framework for a county-wide anti-fraud approach. It provides a forum for counter fraud specialists and subject area experts from Lincolnshire County Council and the seven district councils to develop and deliver proactive exercises and investigate fraud. The key aims of the Partnership are to:

- deliver proactive joint fraud exercises across Lincolnshire
- deliver savings and achieve outcomes which will reduce fraud within the county
- develop and deliver an effective coordinated fraud awareness programme
- share intelligence, investigative resource, expertise and best practice

The governance arrangements of the Partnership are approved and overseen by the Chief Finance Officer Group.

Prevention, including deterrence and detection

The Council recognises the importance of protecting its assets through a planned programme of work directed at deterring fraud.

Internal audit will consider fraud risk, where relevant, in all of the audits it undertakes, as well as carrying out an ongoing programme of audits in spend and revenue areas which, whilst not necessarily high value, are particularly susceptible to fraud risk. In addition, as part of the Lincolnshire Counter Fraud Partnership, there is an ongoing fraud prevention plan including targeted prevention, deterrence, detection and fraud risk assessment activity.

Wherever possible, the results of fraud investigations, including any judicial action taken, will be reported both internally and externally as part of the deterrence process.

National Fraud Initiative (NFI)

The Council participates in the National Fraud Initiative (NFI) which is a sophisticated data matching exercise that matches electronic data within and between participating bodies to prevent and detect fraud. The Council may also participate in similar initiatives run by other bodies such as the Inland Revenue.

This section acts as notification to employees that their data will be provided, upon request, to comply with the requirements of the NFI and in conjunction with the Fair processing Notice.

Participants in the NFI data matching exercise must inform individuals that the individual's data will be processed as required by the General Data Protection Regulations 2018. This is known as the Privacy Notice. The Privacy Notice, which is published on the Council's website, must clearly set out an explanation that the individual's data may be disclosed for the purpose of preventing and detecting fraud, and that their data will be provided for this purpose, as well as how to obtain more information about the processing in question.

Training and awareness

The Council is committed to ensuring all staff are aware of their responsibilities with regard to preventing fraud and corruption, and will ensure that there is an on-going training and awareness programme for staff to minimise the risk of fraud and corruption. The Council also recognises that the organisation is exposed to risk from external partners and suppliers and will ensure there is an on-going programme of awareness to ensure external partners and suppliers understand the Council's commitment to protect its funds against fraud and corruption.

Investigation

The Council is committed to investigating all suspected occurrences of fraud and corruption. Investigations will be undertaken in accordance with the Fraud Response Plan. Updates on fraud investigation work will be provided to Corporate Management Team and Governance and Audit Committee where appropriate.

Identification of systemic issues and lesson learnt

Internal Audit will ensure that controls and/or systemic issues identified during audits are reported in order that similar occurrences are prevented in the future and any lessons learnt are effectively managed.

Sanctions

The Council is committed to pursuing all possible sanctions for proven cases of fraud and/or corruption. The Council will pursue internal disciplinary, criminal and civil sanctions where there is evidence to support the occurrence of fraud and/or corruption.

Recovery of losses

The Council is committed to seeking to minimise any potential loss due to fraud and/or corruption. In all cases of suspected fraud the Council will take action to minimise the risk of further loss. In all cases of proven fraud and/or corruption the Council will take action where it is available to seek to recover any funds lost due to fraud.

Conclusion

The Council expects staff at all levels to lead by example in ensuring adherence to legal requirements, rules, policy and practices. The Council also expects that individuals and organisations with whom it deals will act towards the Council with integrity and without thought or actions involving fraud and corruption.

The Council has put in place this Strategy to assist in the fight against fraud and corruption. These arrangements will be kept under review to ensure that all opportunities to take advantage of developments in techniques for preventing and detecting fraudulent or corrupt activity are maximised. This Strategy fully supports the Council's desire to maintain a culture of openness, fairness, trust and dignity; free from fraud and corruption.

Counter Fraud Policy

Introduction

The Council is committed to promoting an environment of effective corporate governance (the way in which we manage our affairs) through the openness, integrity and accountability of its Members and employees.

The purpose of this policy is to outline the responsibilities for ensuring that appropriate actions are taken for preventing, detecting and deterring fraud, corruption, bribery or other irregularity and sets out the procedures to be followed where fraud or corruption is detected or suspected.

The policy underpins the commitment already made by the Council to provide the highest quality of services to all of our residents and customers by:

- Instilling an anti-fraud culture and demonstrating a zero-tolerance approach
- Promoting clear and positive community leadership
- Consulting with and listening to local people in its planning and decision making
- Making the most efficient and effective use of public resources through the rigorous application of value for money principles
- Encouraging co-operative and partnership working with public, private and voluntary organisations
- Supporting, valuing and developing its Members and staff thereby enabling them to contribute to the continuous improvement of the quality of services

Related documentation that supports the Counter Fraud Policy:

- Whistleblowing Policy
- Fraud Response Plan
- Code of Conduct
- Housing Benefit and/or Council Tax Support Counter Fraud Policy
- Anti-Money Laundering Policy
- Information Security Policy
- Acceptable Use of ICT Assets Policy
- Right to Buy procedures

Responsibilities

The following senior officers have statutory responsibilities for regulating the conduct of the Council:

- Chief Executive is responsible for the overall management and direction of the Council
- Section 151 Officer is responsible for the financial management and financial probity of the Council
- Monitoring Officer is responsible for the legal probity of the Council

The Chief Executive, Strategic Directors and Assistant Directors have responsibility for the proper organisation and conduct of their services. The Council expects them to maintain an environment in which employees and others feel comfortable in raising issues relating to the way in which business is conducted.

The Council expects and requires all of its employees to display honesty and integrity in their personal dealings with the Council, both as members of staff and as users of Council services. The good sense and alertness of employees can also prove vital in drawing management attention to any areas of system weakness which could provide opportunities for fraud.

The Council also expects and requires all individuals and organisations (such as contractors, voluntary bodies and service users) with which it comes into contact, to act towards the Council with honesty and integrity.

All Members and employees must always ensure that they avoid situations where there is potential for a conflict of interest. Such situations can arise with externalisation of services, licensing, tendering, planning and land issues. Effective role separation will ensure that decisions are seen to be based on impartial advice and avoid concern about the improper disclosure of confidential information.

Members of the Council

All Members of the Council are required to comply with relevant legislation, with the Member Code of Conduct and with the Council's Standing Orders including those relating to Finance and Contracts. These are set out in the Council's Constitution.

Members sign to indicate that they have read and understood the Member Code of Conduct when they take office. Conduct and ethical matters are specifically covered within Members' induction and refresher training.

Members are required to register disclosable pecuniary interests in the Register of Members' Interests maintained by the Monitoring Officer. Members are responsible for ensuring that the information recorded about them in the Register is kept up to date.

Members are required, at the earliest opportunity, to declare disclosable pecuniary interests in respect to matters being discussed at meetings of full Council, the Cabinet, Committees, Boards and Panels. They are also expected to comply with the Member Code when representing the Council on external bodies.

Members are required to declare the receipt of all gifts and hospitality over the value of £50 in a separate Register maintained by the Monitoring Officer. Items of a lower value can also be entered in the Voluntary Register.

Member behaviour is also governed by the Planning Code of Good Practice and the Member/Officer Relationship Protocol, which form part of the Constitution.

The Council has arrangements in place to ensure the good conduct of Members. The Monitoring Officer, an Independent Person appointed by Council and a review board of councillors, discharge this function.

Employees

A key preventative measure is for managers to take effective steps at the recruitment stage to establish, as far as possible, the suitability, honesty and integrity of potential employees. Temporary and contract appointments need to be considered in this context as well as permanent appointments.

Managers should consider whether criminal records checks are appropriate for particular appointments. Further advice on the relevant procedures can be obtained from the Monitoring Officer and/or Human Resources.

The Council's Code of Conduct for Employees sets out the Council's expectations and requirements for personal conduct including a policy statement on personal interests. Employees are reminded that they should not use their professional position within the Council to seek advantage. A copy of the Employee Code of Conduct is available on the intranet and reproduced within the Constitution.

Employees must declare to the Monitoring Officer any pecuniary and/or non-pecuniary interests in Council contracts in accordance with Section 117 of the Local Government Act 1972.

Employees are not permitted to accept any fees or rewards whatsoever other than their proper remuneration. Where any gifts, other than small value gifts freely available at conferences/seminars etc, or hospitality are accepted on behalf of the Council these must be recorded in the appropriate Gifts and Hospitality Register which is maintained by the Monitoring Officer.

The Council has Disciplinary Procedures in place which are applicable to all employees. This procedure will be used in the event of any action taken against an employee of the Council.

All managers must actively promote the Council's counter fraud culture. They must pay particular attention to cases where employees, for example, do not regularly take annual leave and to situations where recognised checking mechanisms have broken down due to sickness or vacancies. Such situations could point to the existence of, or lead on to, fraud, corruption and bribery.

The Monitoring Officer

The Council has designated the Solicitor to the Council as being its Monitoring Officer in accordance with the requirements of the Local Government Act 2000. The Monitoring Officer is under a duty to report to the Council if at any time it appears to them that any act, proposal, decision or omission by the Council is contrary to law.

Financial systems and procedures

The Council has appointed the Strategic Director Resources and the Assistant Director Resources as the officers responsible for making arrangements for the proper administration of its financial affairs under the provisions of Section 151 of the Local Government Act 1972.

These officers also have responsibilities under Section 114 of the Local Government Act 1988 to make a formal report to the Council in the event that it appears to them that it has incurred, or may incur, unlawful expenditure or expenditure in excess of the resources available to the Council.

The Council's approved financial procedures are set out in:

- Financial Regulations and accompanying guidance notes
- Standing Orders in Relation to Contracts (linked to the Council's Contract and Procurement Procedure Rules).

These procedures are binding on all employees and on all Members of the Council.

It is the responsibility of Strategic Directors, Assistant Directors and Heads of Service to ensure that the procedures operated by their staff comply with the requirements set out in these two documents. Advice can be obtained from the Assistant Director Resources whenever needed.

The Financial Regulations form the basis on which systems have been designed to cover all aspects of the Council's financial administration. A key element is the requirement for separation of duties to ensure that errors and opportunities for fraud are minimised. Assistant Directors and Heads of Service are responsible for ensuring that the financial systems used within their service areas are properly followed and documented, and that the appropriate controls are maintained.

In accordance with the requirements of the Accounts and Audit Regulations, the Council maintains an effective internal audit service. The Council's internal audit service is supplied on a contract basis.

Internal audit provide an independent review as to whether financial systems are being operated in an appropriate and effective manner. Any weaknesses identified are reported to management who have the duty to take corrective action. All internal audit reviews are also reported to Governance and Audit Committee.

It is a requirement that Local Authorities alert all acts of fraud and/or corruption exceeding £10,000 in value. The Council's Assistant Director Resources will co-ordinate the completion of the appropriate documentation which will be sent to External Audit. Managers are required to notify the Assistant Director Resources of all acts of fraud and/or corruption exceeding £10,000 in value and complete the relevant paperwork.

Housing Benefit and Council Tax Support

Housing Benefit fraud investigations are undertaken by the Department of Work and Pensions (DWP) with the support of the Single Fraud Investigation Service. Council Tax Support fraud is investigated by the Counter Fraud Officer. The Council recognises it faces challenges in ensuring the financial integrity of the benefits system, whilst maintaining a quality service for law abiding applicants and landlords.

IT Security

The Council's IT arrangements are designed to ensure the secure use of systems for their approved purposes. Specific policies have been developed to regulate the following areas of risk:

- Unauthorised access to and use of Council equipment and systems
- Disclosure of confidential information
- Importing of unapproved data and programs
- The threats posed by virus infections
- Improper use of emails and the internet

External Safeguards

The Council's external auditors are required to comply with their own Code of Audit Practice.

The Council is committed to maintaining a positive and constructive relationship with its external auditors. The Code emphasises the responsibility of the authority's own management to prevent and detect fraud, corruption and bribery. An important part of the role of external audit is to review the effectiveness of the Council's arrangements for meeting this responsibility.

The Council co-operates with other local authorities and other bodies in combating fraud, corruption and bribery. Data may be exchanged with these organisations where appropriate and subject to compliance with the General Data Protection Regulations 2018. These bodies include:

- The Council's External Auditor
- Chartered Institute of Public Finance and Accountancy
- The Local Government Ombudsman
- HM Revenue and Customs
- Lincolnshire Police
- The Department for Work & Pensions (DWP)
- Department of Communities and Local Government (DCLG)
- Other local authorities

Information obtained direct from members of the public is also important in bringing issues to the Council's attention. This can include complaints lodged under the Council's complaints procedure and questions raised with the External Auditor during the audit of the Council's accounts.

Money laundering

Any service within the Council 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 a cash transaction this must be reported to the Assistant Director Resources, the Council's nominated Money Laundering Reporting Officer, without alerting the payee.

The possibility of money laundering through corporate borrowing and lending is minimised through the application of best practice in the Council's Treasury Management Function. The Council's Treasury Management Strategy complies with the CIPFA (Chartered Institute of Public Finance & Accountancy) publication, Treasury Management in the Public Services – Code of Practice and Cross Sectoral Guidance Notes.

The Council's Legal & Democratic team have their own professional guidance in relation to Money Laundering which places a duty on solicitors to report any suspicions. These may override their legal professional privilege and confidentiality.

Prevention

The Council recognises that prevention is better than cure. Fraud, corruption and bribery will be minimised where proper procedures are followed, sound financial systems are in place and effective arrangements are made for oversight and monitoring.

The Council has developed a comprehensive network of procedures and systems to provide deterrence against fraud, corruption and bribery and to assist in their detection. These include Right to Buy procedures to verify the source of funds to counteract money laundering. These arrangements will be reviewed and developed as necessary to keep pace with future developments.

The Council has compiled a Fraud Risk Register which highlights key areas of focus within an action plan. This will be reviewed and revised as appropriate, in order to monitor and keep up to date with new and emerging fraud risks.

Raising concerns

Anyone who has a genuine concern about potential fraud, corruption, bribery, or weak financial systems within the Council is encouraged to bring it to the Council's attention (in confidence) through any of the following channels:

- The Chief Executive
- The Section 151 Officer
- Assistant Director Resources
- The Monitoring Officer
- Any other Strategic Director or Assistant Director
- Governance & Risk Officer
- Counter Fraud Officer
- The Council's internal auditors

All of the above are required by the Council to take such concerns seriously and to ensure that they are properly investigated.

If there is uncertainty as to the extent of the problem identified it should still be reported. What appears, on initial consideration, to be only a minor incident can sometimes turn out to be much more serious after investigation.

The only circumstance in which someone raising an issue could face criticism or, in the case of employees disciplinary action, is where a malicious or vexatious allegation has been made which is known to be untrue.

If, for any reason, it is not possible to raise your concern through any of the contacts listed above, the following can also be approached:

- A councillor (name and telephone numbers are available on the internet/intranet or from Legal & Democratic)
- The External Audit Manager (the external auditor is not a Council employee and is not subject in any way to the Council's control). Telephone: 020 73835100
- The Local Government Ombudsman. Telephone: 01904 380200

The Council has adopted a Whistleblowing Policy to encourage and enable members of staff to raise serious concerns.

In addition, members of the public are encouraged to report any concerns. If any person genuinely believes that someone is committing a crime they should immediately report their suspicions.

Lincolnshire Councils now have one confidential hotline and email address:

0800 0853716

whistleblowing@lincolnshire.gov.uk

Detection and investigation

Detection

Internal control procedures are designed to deter fraud and can also provide indicators of where fraudulent activity may be occurring. Where large amounts of data are involved statistical analysis can also highlight individual transactions that fall outside normally expected parameters and are worthy of examination.

It is often the alertness of Members, employees and members of the public to potential fraud that enables detection to occur and appropriate action to take place.

All employees have a duty to report suspected irregularities to their Head of Service or through the other channels that are set out in this Strategy. It is essential that these channels are seen to be fully supported by all managers.

Investigation

Strategic Directors, Assistant Directors and Heads of Service must report all instances of potential fraud or corruption immediately to the S151 Officer or Assistant Director Resources. This duty applies even where the amount of money involved may appear to be relatively trivial as an apparently minor matter can turn out to be much more significant after investigation.

In consultation with the Chief Executive, the Section 151 Officer/Assistant Director Resources will determine how a potential instance of fraud or corruption will be investigated. The options available to them include:

- Conducting an internal investigation by Council staff
- Asking Internal Audit to investigate
- Asking the External Auditor to investigate
- Referring the matter to the Police

The Council may also work in co-operation with one or more of the following bodies who will assist in scrutinising the Council's systems and defend against fraud, corruption and bribery:

- | | |
|---|-------------------------------------|
| – Local Government Ombudsman | – Inland Revenue |
| – Central Government Departments, Inspectorates | – Department For Works and Pensions |
| – HM Customs and Excise | – Police |

Whichever investigation route is chosen senior management will ensure the full co-operation and support of Council staff. Council contractors will also be expected to co-operate with an investigation where appropriate.

Where an investigation includes reference to the actions or conduct of Members full cooperation will be expected from the Members concerned.

All investigations undertaken by the Council will comply with relevant legislation and codes of practice, in particular:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000 (RIPA) – limited use and confined to serious crime only as directed by local Magistrates
- General Data Protection Regulations 2018

Specific investigation procedures involving direct or covert surveillance carried out by Council employees or agents will be properly authorised, documented and reported in accordance with RIPA. Employees are expected to fully comply with the Surveillance Guidelines and Procedures issued by the Council.

Investigations will also have full regard to the provisions of the Council's Equalities Policy. Where the outcome of an investigation indicates improper conduct on the part of an employee the Council's disciplinary procedures will be applied. Referral of any matter to the Police will not be a bar to disciplinary action.

Where financial impropriety is discovered or suspected the Council may call the Police in. Following a Police investigation the Police themselves and the Crown Prosecution Service will determine whether to pursue a criminal prosecution.

Where a suspected irregularity is material, or could seriously affect the reputation of the Council, then The Leader, The Deputy Leader and the relevant Cabinet Member must be informed.

The type and nature of reports to management will vary according to the type of alleged fraud being investigated. These reports, although confidential, may need to be forwarded to specified individuals eg the Police and other Government Agencies.

The Council may initiate prosecutions in the case of benefit fraud, as detailed in its Housing Benefit and/or Council Tax Reduction Counter Fraud Policy. The Council may also decide to initiate civil legal action to recover any losses it has suffered.

Where a court conviction has been secured the Council will normally issue a press release to assist the local media in covering the story. The Council believes that such publicity can serve as a deterrent to the commission of other offences.

Training and awareness

The Council recognises that the continuing success of the Counter Fraud Strategy will depend to a considerable extent on the effectiveness of its training programmes and the responsiveness of its Members and employees. With that in mind, training programmes will be used to reinforce counter fraud awareness throughout the authority.

Member induction courses will stress the need for Members to set the tone for the authority by full compliance with ethical and conduct standards.

Strategic Directors, Assistant Directors and Heads of Service are reminded of their special responsibility for ensuring that opportunities for fraud, corruption and bribery are minimised within their areas of responsibility and, that where such problems are suspected, they are promptly reported to the S151 Officer or Assistant Director Resources.

Induction courses for employees do generally include some coverage of conduct issues including conflicts of interest, gifts and hospitality, and an explanation of the Whistleblowing Policy, although this should be explained in more detail by the Line Manager. For employees involved in internal control systems the importance of adhering to authorised procedures, particularly in relation to separation of duties, is stressed.

Annex 1: Seven Principles of Public Life

as formulated by The Nolan Committee (The Committee on Standards in Public Life)

Selflessness	Holders of public office should act solely in terms of the public interest
Integrity	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships
Objectivity	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias
Accountability	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this
Openness	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing
Honesty	Holders of public office should be truthful
Leadership	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs

Annex 2: Definitions

Fraud

There are many definitions of fraud but the Serious Fraud Office states that:

Fraud is a type of criminal activity, defined as an abuse of position, or false representation, or prejudicing someone's rights for personal gain. Put simply, fraud is an act of deception intended for personal gain or to cause a loss to another party.

The many definitions of fraud all include reference to an act of “deception” and the Fraud Act 2006 (while not providing a clear definition of the term fraud) states that, for there to be fraud, the fraudster must intend to ‘make a gain for himself or another, or cause loss to another or to expose another to a risk of loss’. The Act further states that this must be conducted in a dishonest way. (Annex 3 is a summary of The Fraud Act).

Corruption

Corruption also has a number of definitions. Transparency International states that corruption is ‘the abuse of entrusted power for private gain’.

Bribery

The Bribery Act 2010: Quick Start Guide (Ministry of Justice) defines bribery as ‘giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so. So this could cover seeking to influence a decision-maker by giving some kind of extra benefit to that decision maker rather than by what can legitimately be offered as part of a tender process’. (Annex 4 is a summary of The Bribery Act).

Annex 3: Summary of The Fraud Act 2006

There are a number of other areas that are not included within this summary. This summary focuses on those issues that are more likely to affect fraud within the public sector.

Section 1 – Fraud

A person is guilty of fraud if he/she is in breach of any of the Sections listed in subsection (2) which provide for different ways of committing the offence.

The Sections are:

- Section 2 – Fraud by false representation
- Section 3 – Fraud by failing to disclose information
- Section 4 – Fraud by abuse of position
- Section 7 – Making or supplying articles for use in fraud

Maximum penalty is imprisonment for a term up to 10 years.

Section 2 – Fraud by false representation

A person is in breach of this Section if he/she:

- Dishonestly makes a false representation; and
- Intends, by making the representation to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss

Explanatory notes:

- Note a gain need not have taken place, intent suffices
- 'Gain' includes keeping what one has, as well as a gain by getting what one does not have
- 'Loss' means not getting what one might get, as well as losing something that one has
- Importantly the loss can be permanent or temporary (previously the onus was on intention to permanently deprive)

A representation is false if:

- It is untrue or misleading; and
- The person making it knows that it is, or might be, untrue or misleading
- The term 'representation' is defined under s.2 (3) of the Act as any representation as to fact or law, including a representation as to the state of mind of the person making it, or any other person

Subsection (4) states the representation may be expressed or implied.

Subsection (5) states a representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).

Section 3 – Fraud by failing to disclose information

A person is in breach of this Section if he/she:

- Dishonestly fails to disclose to another person information which he is under a legal duty to disclose; and
- Intends, by failing to disclose the information, to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss

Explanatory notes:

This section applies to all parties where a person is under a duty to disclose something and by not doing so could create some gain or where the failure to disclose causes a loss or puts another at a risk of a loss.

Section 4 – Fraud by abuse of position

A person is in breach of this Section if he/she:

- Occupies a position, in which he is expected to safeguard, or not act against, the financial interests of another person
- Dishonestly abuses that position; and
- Intends, by means of the abuse of that position to make a gain for himself or another, or to cause loss to another or expose another to a risk of loss

Explanatory notes:

S.4 (2) A person may be regarded as having abused his position even though his conduct consisted of an omission rather than an act. This offence focuses on those persons who are in positions of financial trust and have insight and possibly control of another's financial situation. There will be some form of relationship or agreement between both parties for the offence to operate: the relationship can be one of client, employee, family, trustee and beneficiary or simple trust. Although the offence focuses on the area of finance of the victim, it appears by the wording of the section that the actual gain to the offender may not be monetary, although it invariably will be.

Section 7 – Making or supplying articles* for use in frauds

Under section (1) a person is guilty of an offence if he makes, adapts, supplies or offers to supply any article:

- Knowing that it is designed or adapted for use in the course of or in connection with fraud or
- Intending it to be used to commit, assist in the commission of, fraud.

*An article includes any program or data held in electronic form, and can also include anything that can be used to make, alter, remove, supply or store something by electronic means in connection with fraud.

Annex 4: Summary of The Bribery Act 2010

Corruption

Where someone is influenced by bribery, payment or benefit-in-kind to unreasonably use their position to give some advantage to another.

Irregularity

An irregularity may be any significant matter or issue, other than fraud or corruption, which may warrant consideration or investigation. An example of an irregularity may be where a member of staff makes a genuine error or mistake in the course of their duties/responsibilities but where this error or mistake is subsequently hidden perhaps to the on-going detriment of the Council. Additionally, an irregularity may involve consideration of the possible inappropriate use of the Council funds or assets which may or may not constitute fraud, theft or corruption.

Bribery

The Bribery Act 2010 reforms the criminal law to provide a new, modern and comprehensive scheme of bribery offences that will enable courts and prosecutors to respond more effectively to bribery at home or abroad. The Bribery Act will apply to all organisations based or operating in the UK. The Act covers all forms of bribery, directly or indirectly, whether or not it involves a public official in the UK or abroad. There are offences for individuals and a corporate offence for organisations and partnerships. Penalties for non-compliance are serious. In the past bribery has been viewed within the definition given above for corruption.

The Bribery Act introduces four main offences:

Note – A ‘financial’ or ‘other advantage’ may include money, assets, gifts, hospitality or services.

1. Offences of 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.
2. 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.
3. 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.
4. Failure of commercial organisations to prevent bribery – Organisations, which includes Local Authorities, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business.

Further information may be obtained from the internet under ‘Bribery Act 2010’. To protect yourself and the Council, any Council Officer who is offered a bribe by way of money, assets, gifts, hospitality or services must advise their line manager immediately. All gifts and hospitality must be declared and registered.

Abuse of position for personal gain

Defined as: “making, contributing to or influencing a decision of the authority to take or to avoid any action, when such a course is motivated by improper consideration of financial or other advantage for the individual concerned or for any other person.”