



COUNTER FRAUD, CORRUPTION AND BRIBERY FRAMEWORK

[MARCH 2011]

Incorporating:

- Annex 1 Seven Principles of Public Life**
- Annex 2 Whistle-blowing Policy**
- Annex 3 Housing Benefit & Council Tax – Counter Fraud Policy**
- Annex 4 Fraud Response Plan**
- Annex 5 Anti-Money Laundering Policy**

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1. Introduction

- 1.1 South Kesteven District Council is committed to reducing the risk of fraud, corruption, bribery or abuse of position for personal gain in all areas of the organization.
- 1.2 The Council has therefore adopted this Counter-Fraud, Corruption and Bribery Framework, which is designed to:
 - Promote a culture of openness, integrity and accountability on the part of its members and employees.
 - Eliminate, so far as possible, opportunities for theft, fraud, corruption, bribery and abuse of position to take place.
 - Establish effective arrangements for the detection and investigation of any malpractices that do occur and for the imposition of appropriate sanctions against offenders.
 - Provide 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.
- 1.3 The Framework 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. The Council may actively involve the police, pursue prosecution, wherever relevant, and consider disciplinary action against employees where fraud, corruption and bribery is suspected or identified.
- 1.4 In adopting this framework, the Council aims to reflect the values set out in the Seven Principles of Public Life formulated by the Nolan Committee. These principles are set out in **Annex 1**.
- 1.5 The Council will act swiftly and firmly to deal with any person who is suspected of theft, fraud, corruption, bribery or abuse of their position. Disciplinary action will be taken as necessary and the police will be involved where appropriate.
- 1.6 The Council will always seek to ensure that persons subject to investigation are treated fairly and will comply with all applicable legal safeguards.

2. Definitions:

- 2.1 **Theft** is defined as "intentional and dishonest borrowing, misappropriation or misuse of Council assets or facilities, including actions that may fall short of offences under criminal law".
- 2.2 **Fraud:** The Fraud Act 2006, effective from January 2007, states that the offence of fraud can be committed in three ways:
 - **Fraud by false representation** (Section 2 of the Act) - representation must be made dishonestly, and is made with the intention of making a gain or causing a loss or risk of loss to another. A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. Representation can be stated by words or communicated by conduct i.e. written, spoken or by electronic means
 - **Fraud by failing to disclose information** (Section 3 of the Act) - Fraud by failing to disclose information details that a fraud will have been committed, if a person fails to declare information which he/she has a legal duty to disclose. There is a requirement that the person acts dishonestly and intends to make a gain for himself/herself, cause a loss to another or expose another to a risk of loss
 - **Fraud by abuse of position** (Section 4 of the Act) - Fraud by abuse of position requires a person who is in a privileged position to act dishonestly by abusing the position held; and by doing so, fails to disclose to another person, information which he/she is legally required to disclose. The dishonest act must be with the intention of making a gain for

him/her or another. Alternatively, it may be with the intention of causing a loss or risk of loss to another. The offence may be committed by omitting to make a declaration as well as by an act.

2.3 Further offences introduced in the Act are:

- Possession of articles for use in Fraud (Section 6)
- Making or supplying articles for use in Fraud (Section 7)
- Participating in fraudulent business carried on by a sole trader (Section 9)
- Obtaining services dishonestly (Section 11)

2.4 Further information may be obtained from the Internet under 'The Fraud Act 2006'.

2.5 **Corruption:** where someone is influenced by bribery, payment or benefit-in-kind to unreasonably use their position to give some advantage to another.

2.6 **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. Additionally, an irregularity may also involve consideration of the possible inappropriate use of the Council funds or assets, which may or may not constitute fraud, theft or corruption

2.7 **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 Bill received Royal Assent on 8 April 2010 but will not be enforceable until April 2011 affording the Ministry of Justice time to consult and issue 'adequate procedures'. 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 this involves a public official, in the UK or abroad. There are offences for individuals, a corporate offence for organisations and partnerships and penalties for non-compliance are serious. In the past, Bribery has been viewed within the definition given above for Corruption.

2.8 The Bribery Act introduces four main offences:

[Note: A 'financial' or 'other advantage' may include money, assets, gifts 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 include Local Authorities, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business.

2.9 Further information may be obtained from the Internet under 'Bribery Act 2010'. To protect yourselves and the Council, any Council Officer who is offered a bribe, by way of money, assets, gifts or services must advise their line manager immediately.

2.10 All Gifts and Hospitality must be declared and registered.

2.11 **Abuse of position for personal gain** is 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.”

3. Maintaining Effective Corporate Governance

3.1 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.

3.2 Members and employees are expected to adhere at all times to legally sound and honest procedures and practices.

3.3 The Counter Fraud, Corruption and Bribery Framework underpins the commitment already made by the Council to provide the highest quality of services to all of our residents and customers by:

- 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 enabling them to contribute to the continuous improvement of the quality of services.

3.4 Elected members set the tone for the Council as a whole. By being seen to take seriously all matters involving financial probity and standards of personal conduct, members will provide a clear lead to all persons involved with the Council in any capacity.

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

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

3.6 The Chief Executive, Strategic Directors and Heads of Service 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.

3.7 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 systems weakness, which could provide opportunities for fraud.

3.8 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.

3.9 All members and employees must ensure always that they avoid situations where there is potential for a conflict of interest. Such situations can arise, for example, with externalisation of

services, licensing, tendering and 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.

4. Raising Concerns

4.1 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
- Head of Finance
- The Monitoring Officer
- Any other Strategic Director or Head of Service
- Governance & Risk Officer
- The Council's internal auditors

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

4.3 If you are not certain as to the extent of the problem you have identified, you should still report it. What appears, on initial consideration, to be only a minor incident can sometimes turn out to be much more serious after investigation.

4.4 The only circumstance in which someone raising an issue could face criticism or (in the case of employees) disciplinary action is where they have made a malicious or vexatious allegation, which they know to be untrue.

4.5 If, for any reason, you feel unable to raise your concern through any of the contacts listed above, you can also approach any of the following:

- A councillor (name and telephone numbers are available on the internet/intranet or from Democratic Services)
- The External Audit Manager, currently Simon Lacey (the external auditor is not a Council employee and is not subject in any way to the Council's control.) tel: 01522 894402
- The Local Government Ombudsman, tel. 01904 380200

4.6 The Council has adopted a **Whistleblowing Policy** to encourage and enable members of staff to raise serious concerns. The Whistleblowing Policy is set out in full as **Annex 2**.

4.7 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: **0800 0853716** and one confidential email address: whistleblowing@lincolnshire.gov.uk.

5. Prevention

5.1 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.

5.2 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 arrangements will be reviewed and developed as necessary to keep pace with future developments.

5.3 The following paragraphs provide a summary of the arrangements that the Council currently has in place:

5.4 Members of the Council

5.4.1 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.

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

5.4.3 Members are required to register financial and other 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.

5.4.4 Members are required, at the earliest opportunity, to declare their personal and prejudicial interests in respect of 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.

5.4.5 Members are required to declare the receipt of all gifts and hospitality over the value of £25 in a separate Register maintained by the Monitoring Officer. Items of a lower value can also be entered in the Voluntary Register.

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

5.4.7 The Council's Standards Committee sets and monitors standards of conduct. It includes independent members who are neither members nor employees and is chaired by an independent member.

5.5 Employees

5.5.1 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.

5.5.2 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.

5.5.3 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 is available on the intranet and reproduced within the Constitution.

5.5.4 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.

- 5.5.5 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, maintained by the Monitoring Officer.
- 5.5.6 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
- 5.5.7 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 onto, fraud, corruption and bribery.

5.6 The Monitoring Officer

- 5.6.1 The Council has designated the Head of Legal and Democratic Services 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 her that any act, proposal, decision or omission by the Council is contrary to law.

5.7 Financial Systems & Procedures

- 5.7.1 The Council has appointed the Strategic Director (Corporate Focus) and the Head of Finance 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.
- 5.7.2 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 him that it has incurred, or may incur, unlawful expenditure or expenditure in excess of the resources available to the Council.
- 5.7.3 The Council's approved financial procedures are set out in:
- Financial Regulations and accompanying guidance notes
 - Standing Orders in Relation to Contracts
- 5.7.4 These procedures are binding on all employees and on all members of the Council.
- 5.7.5 It is the responsibility of directors, heads of Service and service managers 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 Head of Finance whenever needed.
- 5.7.6 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. Heads of Service and service managers are responsible for ensuring that the financial systems used in their sections are properly followed and documented, and that the appropriate controls are maintained.
- 5.7.7 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.

5.7.8 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.

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

5.8 **Housing and Council Tax Benefits**

5.8.1 In relation to Housing Benefit fraud, the Council has a dedicated Housing Benefit Investigation Team which is responsible for the investigation of potential benefit fraud. The Council recognises it faces special challenges in ensuring the financial integrity of the benefits system, whilst maintaining a quality service for law abiding applicants and landlords. It has therefore adopted a detailed Counter-Fraud Policy for the benefits service, which is integral to the overall policy framework set out in this document (see Annex 3).

5.9 **IT Security**

5.9.1 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 e-mails and the internet.

5.10 **External Safeguards**

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

5.10.2 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.

5.10.3 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 Data Protection Act 1998. These bodies include:

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

5.10.4 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.

6.0 Money Laundering

6.1 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 Head of Finance, the Council's nominated Money Laundering Reporting Officer, without alerting the payee.

6.2 The possibility of money laundering through corporate borrowing and lending is minimised through 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.

6.3 The Council's Legal Services 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.

6.4 The Council's current Anti Money Laundering Policy is attached as Annex 5.

7. Detection and Investigation

7.1 Detection

7.1.1 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.

7.1.2 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 be put in hand.

7.1.3 All employees have a duty to report suspected irregularities to their service manager, or through the other channels that are set out in this framework. It is essential that these channels are seen to be fully supported by all managers.

7.2 Investigation

7.2.1 Strategic directors, heads of service and service managers must report all instances of potential fraud or corruption immediately to the S151 Officer/Head of Finance. 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.

7.2.2 In consultation with the Chief Executive, the Section 151 Officer/Head of Finance 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.

- 7.2.3 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
 - Central Government Departments, Inspectorates
 - HM Customs and Excise
 - Inland Revenue
 - Department For Works and Pensions
 - Police
- 7.2.4 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.
- 7.2.5 Where an investigation includes reference to the actions or conduct of members, full co-operation will be expected from the members concerned.
- 7.2.6 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
 - Data Protection Act 1998
- 7.2.7 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.
- 7.2.8 Investigations will also have full regard to the provisions of the Council's Equalities Policy.
- 7.2.9 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.
- 7.2.10 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.
- 7.2.11 Where a suspected irregularity is material or could seriously affect the reputation of the Council then the Leader, Deputy Leader and relevant Cabinet Member must be informed.
- 7.2.12 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 e.g. Police, other Government Agencies, Heads of Service and Executive Directors.
- 7.2.13 The Council may initiate prosecutions in the case of benefit fraud, as detailed in its Benefit Counter-Fraud Policy (see Annex 3).
- 7.2.14 The Council may also decide to initiate civil legal action to recover any losses it has suffered.

7.2.15 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.

8. Training & Awareness

8.1 The Council recognises that the continuing success of the counter-fraud framework 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.

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

8.3 Directors, heads of service and service managers 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/Head of Finance.

8.4 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.

8.5 For employees involved in internal control systems, the importance of adhering to authorised procedures, particularly in relation to separation of duties is stressed.

9.0 National Fraud Initiative (NFI)

9.1 The Council also 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.

9.2 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.

9.3 Participants in the NFI data matching exercise must inform individuals that their data will be processed, as required by the Data Protection Act 1998. This is known as the Fair Processing Notice. The Fair Processing Notice, which is published on the Council's web-site, must clearly set out an explanation that their data may be disclosed for the purpose of preventing and detecting fraud and that their data will be provided for this purpose, and where to obtain more information about the processing in question.

10.0 Monitoring

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

SEVEN PRINCIPLES OF PUBLIC LIFE AS FORMULATED BY THE NOLAN COMMITTEE (THE COMMITTEE ON STANDARDS IN PUBLIC LIFE)**1 Selflessness**

Holders of public office should take decisions solely in terms of public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

2 Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

3 Objectivity

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards or benefits, holders of public office should make choices on merit.

4 Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

5 Openness

Holders of public office should be as open as possible about all decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

6 Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7 Leadership

Holders of public office should promote and support these principles by leadership and example.

WHISTLEBLOWING POLICY

1. Introduction & Context

- 1.1 In the main, this policy is designed for employees. However, the Council's partners or members of the public can also raise concerns in the knowledge that they can raise such matters without fear of subsequent victimisation, discrimination or disadvantage as a result of their complaint. It also covers suppliers and those providing services under a contract with the Council within their own premises.
- 1.2 Accordingly, this policy complies with the **Public Interest Disclosure Act 1998**, which gives statutory protection to any person who raises any reasonable concerns in good faith about a possible wrong-doing. In particular, the Act protects staff from detrimental action, including denial of promotion or withdrawal of training opportunities which would otherwise have been made available. The Act also protects staff from unfair dismissal as a result of making a protected disclosure of information in the public interest. Further information can be found in the Act on the Internet.
- 1.3 Employees have an individual and collective responsibility regarding their conduct and practices. As individuals, employees are required to work within the Code of Conduct which is made available to all employees. The Council's regulatory framework also includes financial regulations and procurement standards that must be met along with ensuring that the relevant codes of conduct including the standards appropriate to professional organisations or associations are met.
- 1.4 All employees have a duty to bring to the attention of management any deficiency in the provision of service and any impropriety or breach of procedure in accordance with Financial Regulations whether affecting cash, stores, property, financial records or otherwise.
- 1.5 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they may feel that speaking up would be disloyal to their colleagues or to the Council. They may fear harassment or victimisation. In these circumstances, it may seem easier to ignore the concern rather than report what may just be a suspicion of malpractice. However, if the Council has the chance to deal with a potentially serious problem at the earliest opportunity this can minimise the risks before serious damage can be caused to persons, property or reputation.
- 1.6 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council expects employees, and others that the Council deal with to raise any serious concerns about any aspect of the Council's work. It is recognised that most cases will have to proceed on a confidential basis.
- 1.7 The Council is committed to the principles of safeguarding children and vulnerable groups. The Council will monitor employee performance to ensure compliance to the Council's policies and procedures for safeguarding and promoting the welfare of children and vulnerable groups who are using the Council's Services. Employees, the Council's partners, contactors or members of the public **must** raise any concerns or practices that they believe fall below the expected standard for dealing with children and vulnerable groups. This could include abusive, inappropriate or unprofessional behaviour.

- 1.8 It is important to note that if an employee is aware of another employee committing any acts of wrong-doing but he/she decides to ignore these actions and not report their concerns, then this employee may also be subject to disciplinary action being taken against them for knowingly allowing this wrong-doing to continue. Therefore, this Policy is intended to encourage and enable individuals to raise serious concerns within the Council rather than overlooking the problem or “blowing the whistle“ outside of the Council.
- 1.9 These procedures are in addition to other statutory reporting procedures applying to some departments. Employees of the Council are responsible for making partners and members of the public aware of the existence of these procedures.
- 1.10 This policy forms part of the Council’s Counter Fraud, Corruption, & Bribery Framework and should be read in conjunction with other linked policies, including Codes of Conduct and Disciplinary Policy.

2. Aims & Scope Of This Policy

- 2.1 This policy aims to:
- encourage employees and others to feel confident in raising serious concerns and to question and act upon concerns about malpractice
 - provide avenues for employees and others to raise their concerns and receive a response to their concerns
 - reassure potential whistleblowers that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made any disclosure in good faith.
 - reassure potential whistleblowers that officers who are assigned responsibility for dealing with allegations are suitably trained in interview techniques and in how to respond effectively to information or evidence that is received.
- 2.2 Any concerns that an individual has about any aspect of service provision or the conduct of employees or Members of the Council or others acting on behalf of the Council can be reported under this Whistle-blowing Policy.
- 2.3 There are existing procedures in place to enable the employee to raise matters relating to their **own** employment, e.g. Dispute Resolution Procedure and Bullying and Harassment at Work Procedure. This policy is intended to cover concerns that fall outside the scope of such employment procedures.
- 2.4 This concern may be about something that makes the individual feel uncomfortable in terms of known standards, their experience or the standards they believe the Council subscribe to; or is against the Council’s Policies and Procedures; or falls below established standards of practice; or amounts to improper conduct, and can include:
- ◆ conduct which is an offence or a breach of law (e.g. theft, fraud, corruption, bribery, false claims)
 - ◆ disclosures related to miscarriages of justice
 - ◆ health and safety risks, including risks to the public as well as other employees
 - ◆ dangerous issues or working practices
 - ◆ conduct which has led or could lead to damage to the environment (for example inappropriate disposal of waste)
 - ◆ the unauthorised use of public funds
 - ◆ sexual, physical or verbal abuse of customers, employees, members of Public or others
 - ◆ improper or other unethical conduct.
 - ◆ showing undue favour over a contractual matter or to a job applicant

- ♦ information on any of the above has been, or is being, or is likely to be concealed.

3. Safeguards

- 3.1 The Council is committed to good practice and high standards and wants to be supportive of the individual. It recognises that the decision to report a concern can be a very difficult one to make. If what the individual is saying is true, they have nothing to fear. Also employees will be doing their duty to their employer, the Council, and those for whom they are providing a service.
- 3.2 The Council will not tolerate any harassment or victimisation including informal pressures and will take appropriate action to protect the individual when they raise a concern in good faith.

4. Confidentiality

- 4.1 All concerns will be treated in confidence and every effort will be made not to reveal the individual's identity if they so wish. At the appropriate time, however, they may need to come forward as a witness or provide a statement as part of evidence for a disciplinary hearing or Court proceedings.
- 4.2 The Responsible Officers will do all that they reasonably can to support the individual once they have taken the decision to voice their concerns, including providing the employee with access to external confidential advice, if requested.

5. Anonymous Allegations

- 5.1 This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. Discretion will be used in determining:
- the seriousness of the issues raised;
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

6. Deliberate, False and Malicious Allegations

- 6.1 The Council will ensure that adequate resources are put into investigating any allegations of fraud, corruption, bribery or malpractice received. If an individual makes an allegation in good faith, but it is not confirmed by the investigation, no further action will be taken. However, if an employee makes an allegation maliciously or for personal gain, disciplinary action may be taken against the employee.

7. Prevention of Recrimination, Victimisation or Harassment

- 7.1 The Council will not tolerate any attempt on the part of any employee to apply any sanction or detriment to any person who has had a serious and genuine concern regarding fraud, corruption, bribery or malpractice. The Council will treat any such recrimination, victimisation or harassment by an employee of the Council as a serious disciplinary matter.

8. Reporting Your Concerns & How the Council Will Respond

- 8.1 Specific details on what to do if you suspect fraud, corruption, bribery or malpractice, together with details showing how the Council will respond are set out in paragraph 4 of the Fraud Response Plan – Annex 4.

9. How the Matter Can Be Taken Further

9.1 This policy is intended to provide an avenue to raise concerns **within** the Council. The Council hopes you will be satisfied. However, if you are not, and you feel it is right to take the matter further i.e. outside the authority, the following are possible contact points:

- A Council Member - Telephone numbers are available on the Council's web site and intranet
- The External Auditor - Tel: 01522 894419
- The Ombudsman - Tel: 01904 663200
- Your Solicitor
- The Police
- Social Services

HOUSING BENEFIT/COUNCIL TAX BENEFIT - COUNTER-FRAUD POLICY**Statement of Intent**

South Kesteven District Council is committed to the delivery of Housing Benefit and Council Tax Benefits to all eligible residents in the District. Benefits are for those who are most vulnerable in society and should be assessed and paid within Government Guidelines.

The Council is committed to ensuring that claimants receive the benefits to which they are entitled and will seek to ensure that benefits are taken up by all those people who are entitled to them.

However, the Council recognises that some people will obtain benefits to which they are not entitled. Where this is done deliberately, the Council will consider prosecution under the Social Security Administration Act (1992) and other relevant legislation.

Benefit Administration and Counter-Fraud Action

The Council believes that it is important to discourage and prevent fraud from taking place in the first instance and will implement rigorous procedures for the verification of claims. The minimum standard for verification will be the guidelines given in the Department of Works and Pensions (DWP) Verification Framework. However, although claims for benefit will be subject to close scrutiny, the Council is committed to delivering benefit within the official government time scales. Assistance will be given by the Council to claimants of benefits in completing and applying for benefit and to maximise take-up.

Procedures have been developed to ensure that all post and documents received by the Council are handled in a secure manner.

The Council's application form for Housing Benefit/Council Tax Benefit includes questions and instructions in plain language giving the customer clear directions as to what is required of them. The form carries warnings and information, so that the claimants will understand the risks, should they choose to misinform the Council of their personal circumstances. The form contains all the information that applicants will require to understand their rights.

The Council has put in place systems which allow customers to request assistance to complete their application form and to inform the Council of changes to their circumstances.

The Council is committed to controls designed to prevent fraud being perpetrated by its own staff. Therefore, all staff employed in the Benefits and Investigation Units will be rigorously vetted at the time of application and throughout their employment. If misrepresentation is found to have occurred on the application form or interview or during their employment, disciplinary action will be considered.

Claimants of Housing Benefit/Council Tax Benefit will be asked to attend interviews, complete regular postal reviews or be visited at home by a visiting officer in accordance with the DWP Verification Framework. Third parties may be contacted to verify information given to the Council in accordance with the Council's Data Protection Act Registration, Social Security Acts and Police and Criminal Evidence Act.

Where it is deemed necessary the Council will allow for

- an interpreter or relevant support mechanisms to ensure a fair and consistent level of understanding.
- Flexibility, where possible, in scheduling meetings to accommodate childcare or parental responsibilities /issues
- suitable rooms with easy access for those with disabilities, hearing loop service/sign language support and an appropriate adult for those with learning difficulties or under the age of 18.
- flexibility in scheduling meetings to accommodate religious days and beliefs.

Working in Partnership with other Organisations

Working In Partnership

The Council will work with other organisations such as those indicated below to protect public funds and prevent, detect, investigate and prosecute cases of benefit fraud.

- The Police;
- DWP;
- HM Revenue and Customs;
- Other Councils;
- Other Council Departments.

The Council is committed to the exchange of information with other organisations, either on a case basis or through the mechanism of data-matching, and will observe the law on Data Protection and the rules of confidentiality at all times.

Data Matching Exercises

The Council uses the DWP Housing Benefit Matching Service, which checks claims of benefits for duplicate claims against other local authorities and the Benefit Agency's computer systems. The Council also uses the National Fraud Initiative which allows comparison of Housing Benefit data against other data sources. The Council will also run data matching exercises against its own databases, which will include databases holding information on Council employees and Council Members.

At all times, the Council will observe the advice and guidance of the Data Protection Registrar in the area of Data Matching.

Resources

The Head of Finance will appoint Fraud Investigators and provide training to enable these officers to carry out investigations in a skilled and professional manner.

The Chief Executive, as Head of Paid Service, is also empowered to appoint inspectors giving powers of entry and inspection in accordance with S.110 of the Social Security Administration Act 1992. Fraud investigators who are deemed to be fit and proper persons and trained to exercise S.110 powers will be appointed as Inspectors with a warrant card under this specific provision. The warrants may be withdrawn in the event of abuse, misconduct, termination of employment or transfer from fraud duties. Inspectors may inspect business premises and documents and interview persons who may have information relevant to a Housing Benefit or Council Tax Benefit claim.

Fraud investigators and appointed inspectors may be subject to vetting prior to appointment and throughout their employment to demonstrate their integrity and probity. An external organisation may be contracted to provide these services.

Publicity

- A balanced approach to publicity will be adopted ensuring that those who qualify for benefit take up their entitlement, but that misrepresentation and abuse of the benefits system will not be tolerated.
- The existence of an investigation team will be advertised in Council publications and notifications and through other media where appropriate.
- An Counter-fraud Hotline to enable the public to report suspected benefit fraud will be maintained. The Hotline will treat all calls received on a strictly confidential basis. Tel: 01476 406262
- Fraud investigators will investigate information received.
- Successful prosecutions will be reported to the media. Joint publicity activity with other organisations may be appropriate where prosecutions have been undertaken jointly with one or more organisations.

Whistleblowing

The Council will investigate all allegations received and investigations will be carried out in accordance with the Council's Whistleblowers Policy and Fraud Response Plan. (See Annex 2 & Annex 4)

Data Protection Act

The Council will be registered under the Data Protection Acts for the purposes of detecting, investigating and prosecution of benefit fraud. The Council will also use the exemptions granted under the Acts for investigating criminal offences.

Duties and Considerations of Counter-Fraud Officers

When investigating fraud, Council fraud investigators, inspectors and visiting officers will work within the guidelines of the Police and Criminal Evidence Act and apply the Council's policies on equal opportunities and customer care. The Council's officers will at all times apply appropriate procedures to maintain confidentiality.

It is the duty of the fraud investigators, inspectors and visiting officers to investigate all referrals of suspected or alleged benefit fraud and to establish the facts of each case.

Duties and Considerations of all Council Employees

The Council requires all Council officers involved in the administration of finance and/or benefits to report to the Head of Finance details of any property that they are renting to tenants and any benefit claims to which they have some connection. This may be a benefit claim where the officer is the landlord, the claimant, a partner, dependant or non-dependant on the application. If a benefits officer has knowledge of a claim where they are a “relative”, as described by Regulation 2 of the Housing Benefit (General) Regulations, that officer must report this case to Head of Finance¹.

Council Officers involved in finance and/or benefits will also need to declare any secondary employment to ensure that it does not conflict with their Council employment.

All Council officers are reminded on appointment of the rules of confidentiality and Data Protection Acts. Any breach may be subject to disciplinary proceedings and may also be the subject of a criminal proceeding under the Social Security Acts.

The interest of a member of the benefits staff in a benefit claim must be registered in the Register of Interests in accordance with established procedures. Council officers must remain above suspicion when dealing with benefit claims. They must not administer, determine or investigate a claim where the claimant or household is known personally to them. To avoid conflicts of interest these claims must be handled by another officer decided by the Head of Finance.

Gifts and hospitality offered to Council employees as a consequence of their role as an employee of the Council must be reported to a senior officer and registered in the Register of Gifts and Hospitality in accordance with established procedures. This recognises that Council Officers should not be placed in a position which may affect their impartiality in dealing with customers and their claims.

Any Council officer found to be involved in a offence under the Social Security Act 1992, or any other criminal offence involving claims of benefit either at this Council, any other Council or the Benefits Agency will be disciplined under the Council's Disciplinary Procedures, in addition to any prosecution proceedings that may occur.

Training

The Council will expect its fraud investigators to be fully trained and to maintain this training. Obtaining suitable qualifications will be encouraged. Investigators will be reviewed regularly and their training needs identified to maintain professional skills, up-to-date knowledge and to comply with best practice.

All Council employees dealing with benefit claims will receive fraud awareness training to enable them to prevent and detect potential fraud and abuse.

Recovery of Overpayments

¹ Housing Benefit (General) Regulations 1987 Reg. 2

“relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece. “Close Relative” means a parent, parent-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple.

Only in exceptional cases will the Council **not** seek to recover a benefit overpayment resulting from misrepresentation of facts or fraud. It is not the Council's intention to cause individual hardship, but failure to make reasonable arrangements to repay overpayments will result in civil recovery action through the Courts. In certain cases, mainly where the overpayment is less than £1,500, where the suspect agrees to an Administrative Penalty adding 30% to the overpayment instead of prosecution, the penalty will be recoverable along with the original overpayment.

It is recognised that successful recovery of overpayments is an effective deterrent to further abuse taking place and recovers public funds otherwise lost from the system.

Prosecution Policy

Investigation officers will approach every investigation with an open mind and gather evidence and information to either prove or disprove the suspicion of fraud or abuse. The Police and Criminal Evidence Act and Codes of Practice will be observed at all times.

When deciding whether to prosecute the amount of the overpayment will be taken into account along with any extenuating circumstances. Therefore the following policy is a guide only as issued by the Department for Work and Pensions.

- **Over £2000 overpaid benefit**
Prosecution will be undertaken.

- **Under £2000 overpaid benefit first time offence cases**
 - Fraud Investigator makes sure the case is suitable for proceedings and undertakes an IUC
 - If suitable evidence exists to instigate proceedings and the customer
 - admits the offence, consider issuing a caution or offering an administrative penalty, subject to the 'less than £50' de minimis
 - does not admit the offence, offer an administrative penalty, and subject to the 'less than £50' de minimis.
 - If the claimant refuses to accept the caution or the offer of an administrative penalty, consider the case for prosecution

Any extenuating circumstances are considered before deciding on prosecution. Extenuating circumstances include:

- Amount of money obtained, the duration and number of offences.
- Suspect's physical and mental condition (in respect of which medical reports may be sought).
- Voluntary disclosure.
- Any previous incidence of fraud.
- Social factors.
- How clear-cut the evidence is.
- Failure in investigation.
- Failure in benefit administration.

Summary

- The Council is committed to ensuring that its residents receive all the benefits to which they are entitled.
- The Council will act decisively against those people who obtain benefits to which they are not entitled.
- As a general rule the council will seek to recover all overpayments.
- The Council will respect the Civil Liberties of all persons involved in an investigation of alleged fraud.
- The Council will undertake to implement effective detection, investigation and deterrence procedures against benefit fraud.

FRAUD RESPONSE PLAN

1. Introduction

This document provides guidance to employees and management in the event of them becoming aware of, or suspecting a fraudulent or corrupt act being committed against the Council by employees, contractors or service users. Its objective is to ensure that timely and appropriate action is taken.

The Council has Policies and Procedures in place that minimise the likelihood and opportunity of Fraud occurring. These include the Council's Constitution, Financial Regulations, Delegation of Powers, Counter Fraud, Corruption & Bribery Framework, Whistleblowing Policy and documented procedures and systems of internal control. The Council is determined to develop a culture of honesty and counter fraud with zero tolerance. All of the above policies are available on the Intranet.

One of the basic principles of public sector organisations is to ensure the proper use of public funds. Therefore, it is important that all those who work in the public sector are aware of the risks of Fraud, Corruption & Bribery, and the measures in place for embedding and enforcing the procedures and rules in relation to fraud, corruption & bribery and other illegal acts involving dishonesty or damage to property. For simplicity all such offences are hereafter referred to as "fraud", except where the context indicates otherwise.

This Fraud Response Plan reinforces the Council's robust approach to countering fraud by setting out ways in which employees or members of the public can voice their concerns about suspected Fraud and/or Corruption. This Fraud Response Plan is also intended to provide general direction and help to officers who are appointed to deal with alleged cases of Theft, Fraud, Corruption & Bribery. The Fraud Response Plan provides a framework for response and advice on the various aspects and implications of an investigation. This document is not intended to provide direction on the prevention of Fraud.

The arrangements for housing benefit fraud are subject to separate procedures where suspected or actual cases are investigated by the in-house Benefit Fraud Team – see Annex 3.

2. Objectives

The objectives of the Fraud Response Plan are to ensure that, once a fraud is reported, timely and effective action can be taken to:

- minimise the risk of inappropriate action taking place which would compromise an investigation;
- ensure there is a clear understanding over who will lead any investigation and to ensure relevant managers and Human Resources are involved as appropriate;
- secure evidence and ensure containment of any information or knowledge of any investigation into the matter reported;

- prevent further losses of funds or other assets where Fraud has occurred and maximise recovery of losses;
- ensure there is justification and/or corroborative evidence to support any allegation against an employee before that employee is subject to disciplinary action;
- minimise the effect of a fraudulent or corrupt acts by taking appropriate and timely action at an early stage;
- identify all individuals involved, and secure sound evidence to support disciplinary /legal action taken;
- minimise any adverse publicity for the Council, as a result of the fraud.
- reduce adverse impacts on the business of the Council.

3. Definitions & Law Relating To Fraud

Reference to these can be found in paragraph 2 of the Counter Fraud, Corruption & Bribery Framework.

4. What To Do If You Suspect Fraud, Corruption, Bribery Or Malpractice

Those who wish to raise concerns over fraud, corruption, bribery or malpractice should adhere to the following guidelines:

- Make an immediate note of your concerns – there must be reasonable grounds.
- Note all relevant details, such as what has occurred, the date, time and name of any parties involved.
- Report your suspicions promptly to the relevant manager; any delay may cause the Council to suffer further financial loss.
- Do not ignore the matter.
- Do not be afraid of raising your concerns; you will not suffer recrimination.
- Do not approach or accuse individuals directly.
- Do not try to investigate the matter yourself.
- Do not convey your suspicions to anyone other than those with proper authority.
- Do not illegally record a conversation.
- If you believe that a manager is involved, you are advised to report your suspicions to the Chief Executive, Strategic Director or Head of Finance at South Kesteven District Council, Council Offices, St Peter's Hill, Grantham NG31 6PZ.

Any concerns raised regarding an employee in relation to inappropriate, abusive or unprofessional behaviour against vulnerable groups **must** always be referred to the Designated Person for Safeguarding Children and the Manager of Human Resources.

Employees may wish to consider discussing their concerns with a colleague first and they may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concerns. Employees may invite a Council work colleague to be present during any meetings or interviews in connection with the concerns they have raised.

Individuals who raise a concern outside the direct employment of the Council may elect to bring a friend with them to attend any meetings.

Employees with a disability or learning difficulties can contact Human Resources for further assistance in raising their concern(s).

Members of staff who have concerns over a possible irregularity can also report these under the Council's Whistleblowing Policy. The Council has a designated email address to which concerns may be reported. The email address is: whistleblowing@southkesteven.gov.uk.

In addition, the Council has joined forces with all other Lincolnshire authorities to combat fraud and corruption and a protocol has been put in place whereby suspicions can be reported through one confidential hotline (0800 0853716) managed by Lincolnshire County Council (LCC). The process is as follows:

- LCC will assign a unique security number for the referral and enter brief details in a log (accessible only to staff who operate the hotline)
- the unique number will be given to the whistleblower and they can then quote this in all future contacts
- LCC will obtain as much information about the suspected fraud from the whistleblower (including contact numbers & addresses etc)
- LCC will inform the whistleblower that they will receive confirmation (if not an anonymous caller) and details of who within the Council will be handling the matter
- LCC will pass on the fraud referral to the Council's nominated officer(s) initially via phone but will follow this up with email confirmation
- LCC will forward any documentation received in support of the initial fraud referral but the whistleblower will be advised to pass on any potential documentary evidence they have direct to the Council's nominated officer
- Once LCC have passed the fraud referral to the Council's nominated officer that will be the end of their involvement
- LCC will only share the fraud referral with the Council's nominated officer(s) detailed in this fraud response plan

5 How The Council Will Respond - Managing The Investigation

The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be investigated internally by internal audit, management or through the disciplinary process and if necessary;
- be referred to the Police;
- be referred to social services
- be referred to the external Auditor; or
- form the subject of an independent inquiry.

Reporting to the Head of Finance, the Governance & Risk Officer will record details of the reported irregularity immediately on a log. The log will contain details of all reported suspicions, including those dismissed as minor or otherwise

not investigated. The log will also contain details of actions taken and conclusions reached.

The Governance & Risk Officer will undertake preliminary discussions with the Head of Finance and Human Resources to determine whether an investigation is required based on the information provided. Concerns or allegations which fall within the scope of specific procedures (for example, harassment or discrimination issues) will normally be referred for consideration under those procedures, e.g. Disciplinary Policy etc.

The Governance & Risk Officer and/or Head of Finance will notify all relevant Officers of any suspected irregularity, including Senior Management Team in all significant cases.

Within ten working days of a concern being received, the Council will write to the individual in confidence:

- acknowledging that the concern has been received;
- indicating how it proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- informing the individual whether any initial enquiries have been made;
- informing the individual whether further investigations will take place, and if not, why not; and
- where appropriate, giving the individual information on staff support mechanisms in place

Where it is decided that an investigation is to be undertaken, the Governance & Risk Officer and/or Head of Finance will meet with Human Resources to determine whether the investigation is to be undertaken by the Service area, or by the Governance & Risk Officer – possibly with help from internal audit. Depending on the circumstances of the fraud or irregularity, a joint investigation with the Police and other authorities may be appropriate.

If the Service area or nominated officer undertakes the investigation, they will be responsible for gathering the evidence to support or disprove the allegation. The nominated Investigating Officer will be responsible for keeping the Governance & Risk Officer informed of the progress of the case, to formally report the findings of the investigation and any action to be taken. The Governance & Risk Officer will retain responsibility for monitoring and advising the nominated Investigator.

Discussions will also be held on how communication will be conducted. The amount of contact between the Investigating Officer considering the issues and the individual will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Investigating Officer will seek further information from the individual. Where a meeting is arranged, this can be off-site if the individual wishes.

If the Governance & Risk Officer is to undertake the investigation he/she will initiate a Diary of Events to record the progress of the investigation and will be responsible for ensuring that the investigations log is kept up to date.

Before the investigation is started, the purpose and nature of the investigation must be defined by establishing the:

- terms of engagement of the Investigating Officer, including the responsibilities, objective, scope, timing and possible outcomes of the investigation;
- nature of the allegations being investigated;
- location and nature of potential evidence sources; and
- resource requirements for investigation.

During the investigation the Governance & Risk Officer will keep the Head of Finance and any other relevant officers informed of the progress of the investigation.

6 Involving The Police

The Council should decide whether Police action is necessary or appropriate. If it is believed that a criminal act has taken place the Police should be contacted immediately prior to any detailed investigations being undertaken. Approval must be sought from the Section 151 Officer/Head of Finance prior to contacting the Police.

In the first instance, the Council's Governance & Risk Officer should contact the local Police Station (Grantham), telephone number 01476 0300 111 0300, and explain the nature of the irregularity and what action the Council proposes to take. The Police may then contact the CID Division and inform them of the Council's concerns. Depending on the nature and the seriousness of the irregularity CID may take on the investigation, help with the Council's investigation, or give advice on the Council's investigation.

Where the Police agree to investigate or help with the Council's investigation the Governance & Risk Officer should liaise with the Police and provide them with the necessary documentation and information to support or disprove the allegation.

If Police assistance is requested but is not considered appropriate by the Police this does not mean that all further enquiries or investigations will cease, further internal investigations may well be necessary.

Note that in an Emergency the Council should dial the local Grantham Police Incident room 0300 111 0300.

There are instances where it may be appropriate for the Police to be contacted without approval of the S151 Officer/Head of Finance. These will include; break in, threat to staff safety, or when an incident happens over the weekend. In these circumstances, the S151 Officer/Head of Finance should be notified as soon as practically possible.

7. Gathering Evidence

Evidence of Fraud usually takes the form of documents or statements by witnesses. It may also include computer based or CCTV/Video evidence. Any surveillance work must be undertaken in line with the Human Rights Act and RIPA. The Council has a RIPA policy detailing how and when authorisation to conduct surveillance work may be applied for. Accordingly, the Investigating Officer must be aware of how to obtain evidence properly and lawfully, as well as how to conduct interviews of witnesses and related parties. Appropriate advice will be given by the Head of Legal & Democratic Services.

Prior to the commencement of the gathering of evidence an action plan should be prepared. This should detail the evidence required to prove or disprove the allegations. The action plan should be kept up to date.

In addition, a chronology of events should be commenced early in the investigation; the purpose is to establish the chain of events leading to the evidence, provide an audit trail and demonstrate a timely investigation.

The investigation working papers must demonstrate that proper procedures have been followed for:

- Securing evidence
- Reviewing evidence
- Interviewing personnel, and
- Evaluating findings.

8. Reporting the Results Of The Investigation

Once evidence has been obtained and the appropriate witnesses have been interviewed, the Investigating Officer is responsible for writing a clear, accurate and unbiased report reflecting the nature of the fraud and the findings of the Investigation. The report ultimately may be used by management, Police, lawyers and others to determine the facts.

Once the investigation has been completed, the evidence assembled and the report written. The investigator may be called to testify/give evidence about the findings, either before judicial proceedings or at a disciplinary hearing. The Council's disciplinary procedures must be followed in any disciplinary case/action taken by the Council towards/against an employee (including dismissal).

9. Learn From Past Experience

Make changes to policies and procedures and internal control and review risk profile of service area affected

10. Recovery Of Losses

Seek legal advice to recover financial losses

11. Publicity & Dealing with The Media

Consult with legal and the Communications Team and optimize publicity opportunities

12. Training

At the commencement of employment with the Council, all staff are required to attend fraud awareness training. Managers should ensure that all staff receive refresher fraud awareness training throughout the duration of their employment. Fraud awareness training will be arranged by the Governance & Risk Officer.

13. Roles & Responsibilities

- **Strategic Director** (Corporate Focus): Section 151 Officer

- **Head Finance:** Deputy Section 151 Officer with day to day responsibility for the Council's response to fraud
- **Heads of Service:** Specific directorate responsibility
- **Service Managers & Team Leaders:** specific service responsibility under the direction of the Head of Service
- **Governance & Risk Officer:** investigating fraud, reporting on individual fraud cases and advising on appropriate action
- **Designated Investigating Officers:** investigating and reporting on individual fraud cases under the direction of the Governance & Risk Officer
- **Employees:** act in accordance with Officer Code of Conduct and promptly report all suspected or actual cases of fraud
- **Human Resources & Legal:** provide employment and legal advice and guidance as required
- **Partners/External Contractors/Third Parties:** promptly report all suspected or actual cases of fraud to the relevant service manager
- **Councillors:** act in accordance with Member Code of Conduct

14. Contact Details

Daren Turner, Strategic Director (Corporate Focus): Section 151 Officer
d.turner@southkesteven.gov.uk
 01476406301

Richard Wyles Head of Finance & Deputy s151 Officer
r.wyles@southkesteven.gov.uk
 01476406210

David Scott, Finance Team Leader
d.scott@southkesteven.gov.uk
 01476406218

Tracey Elliott, Governance & Risk Officer
t.elliott@southkesteven.gov.uk
 01476406038

SOUTH KESTEVEN DISTRICT COUNCIL
ANTI-MONEY LAUNDERING POLICY (JUNE 2009)

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1 Introduction

- 1.1 The Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007, place obligations on the Council and its employees with respect to suspected money laundering.
- 1.2 This Council will do all it can to prevent the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.
- 1.3 This policy applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist by preventing criminal activity through money laundering. The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering and activity) to enable the Council to comply with its legal obligations.
- 1.4 This Policy forms part of the Council's Anti-Fraud and Corruption Framework and sits alongside the Whistle-blowing Policy and other governance policies and strategies.
- 1.5 Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

2 What is Money Laundering?

- 2.1 Money laundering is the term used for a number of offences involving the proceeds of crime or terrorism funds and these apply to all persons in the United Kingdom in a personal or professional capacity. The following acts constitute the act of money laundering:
- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the Proceeds of Crime Act 2002);
 - entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328) ; or
 - acquiring, using or possessing criminal property (section 329).
- 2.2 These are the primary money laundering offences, and are thus prohibited acts under the legislation. There are also two secondary offences: failure to disclose any of the three primary offences and tipping off. Tipping off is where someone informs a person or

people who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

- 2.3 Any member of staff could potentially be caught by the money laundering provisions, if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This policy sets out how any concerns should be raised.
- 2.4 While the risk to the Council of contravening the legislation is low, it is important to put in place appropriate and proportionate anti money laundering safeguards and reporting arrangements. These are designed to enable the Council to detect and avoid involvement in the crimes described in the legislation and regulations.

3 Policy Statement

- 3.1 Our policy is to do all we can to prevent, wherever possible, the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. We cannot stress too strongly, however, that it is every member of staff's responsibility to be vigilant.

4 The Money Laundering Reporting Officer (MLRO)

- 4.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Head of Finance. He can be contacted as follows:

Richard Wyles,
Council Offices, St Peter's Hill
Grantham, Lincs
NG31 6PZ
Tel: 01476 406210
E-Mail: rwyles@southkesteven.gov.uk

5 Procedures

Reporting

- 5.1 Any employee who suspects money laundering activity must report their suspicion promptly to the MLRO, using the attached form (Appendix). If you would prefer, you can discuss your suspicions with the MLRO first.
- 5.2 The employee must follow any subsequent directions of the MLRO and must not themselves make any further enquiries into the

matter. They must not take any further steps in any related transaction without authorisation from the MLRO.

- 5.3 The employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. They must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.
- 5.4 The MLRO must promptly evaluate any Disclosure Report to determine whether it should be reported to the Serious and Organised Crime Agency (SOCA).
- 5.5 The MLRO must, if they so determine, promptly report the matter to SOCA on their **standard report form** and in the prescribed manner. Up to date forms can be downloaded from the SOCA website at www.soca.gov.uk.
- 5.6 The MLRO will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to SOCA.

Customer Due Diligence

- 5.7 Where the Council is carrying out certain regulated activities then extra care needs to be taken to check the identity of the customer or client – this is known as carrying out Customer Due Diligence. “Regulated activity is defined as the provision ‘by way of business’ of: advice about tax affairs, accounting services; treasury management; investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of 15,000 or more Euros”.
- 5.8 The regulations regarding customer due diligence are detailed and complex, but there are some simple questions that will help you decide if it is necessary:
 - Is the service a regulated activity (see the list above)?
 - Is the Council charging for the service i.e. is it ‘by way of business’?
 - Is the service being provided to a customer other than a UK public authority?

If the answer to all these questions is **yes** then you must carry out customer due diligence before any business is undertaken for that client. If you are unsure whether you need to carry out customer due diligence then you should contact the MLRO.

It is not expected that work of the Council will fall under the definition of “relevant business” but staff must be aware of the need to carry out appropriate checks on new partners in accordance with the Council’s Standing Orders and Financial Regulations

5.9 If at any time, you suspect that a client or customer for whom you are currently, or are planning to carry out a regulated activity is carrying out money laundering or terrorist financing, or has lied about their identity then you must report this to the MLRO.

5.10 In certain circumstances enhanced customer due diligence must be carried out for example where:

- The customer has not been physically present for identification;
- The customer is a politically exposed person. A politically exposed person is an individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution/ body, their immediate family members or close associates.
- There is a beneficial owner who is not the customer- a beneficial owner is any individual who: holds more than 20% of the shares, voting rights or interest in a company, partnership or trust.

5.11 Enhanced customer due diligence could include any additional documentation, data or information that will confirm the customer’s identity and/ or the source of the funds to be used in the business relationship transaction. If you believe that enhanced customer due diligence is required then you must consult the MLRO prior to carrying it out.

6 Guidance and Training

6.1 In support of the policy and procedure, the Council will:

- make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the anti-money laundering legislation and
- give targeted training to those most likely to encounter money laundering.

7 Summary of Key Points

- The Council is committed to the prevention, detection and reporting of money laundering.
- All employees must be vigilant for the signs of money laundering.
- Any employee who suspects money laundering activity must report this promptly to the Money Laundering Reporting Officer (MLRO).

- Where the Council is carrying out certain regulated activities by way of business then the customer due diligence procedure must be followed.
- The Money Laundering Regulations are detailed and complex – if you are in any doubt about the application of this Policy please contact the MLRO.

8 **Review**

This Anti-Money Laundering Policy will be reviewed as required, having regard to legislative changes, etc.

9 **Further Information**

Further information can be obtained from the **MLRO** and the following sources:

- 9.1 www.soca.gov.uk – Serious and Organised Crime Agency
- 9.2 www.cipfa.org.uk - “Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations” – CIPFA
- 9.3 www.ccab.org.uk - “Anti-Money Laundering (Proceeds of Crime and Terrorism) – Second Interim Guidance for Accountants “ – CCAB
- 9.4 www.lawsociety.org.uk - Money Laundering Guidance
- 9.5 SI 2007 No. 2157 The Money laundering Regulations 2007 at http://www.hm-treasury.gov.uk/consultations_and_legislation/money_laundering_directive/consult_moneylaundering_2007.cfm

CONFIDENTIAL

Report to Money Laundering Reporting Officer

Re Money Laundering Activity

To: Richard Wyles, Head of Finance

From: _____

[insert name of employee]

Directorate: _____

[insert post title and service area]

Ext/Tel No: _____

URGENT YES/NO

Date by which response needed: _____

Details of suspected offence:

Name(s) and address(es) of persons involved:

[if a company/public body please include details of nature of business]

Nature, value and timing of activity involved:

[Please include full details, e.g. what, when, where, how. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)?

[Please tick the relevant box]

Yes

No

If yes, please include details below:

Have you discussed your suspicions with anyone else?

[Please tick relevant box]

Yes

No

If yes, please specify below, explaining why such discussion was necessary:

Have you consulted any supervisory body guidance re Money laundering ? (e.g. the Law Society)

[Please tick relevant box]

Yes

No

If yes, please specify below:

Do you feel you have a reasonable excuse for not Disclosing the matter to the SOCA? (e.g. are you a Lawyer and wish to claim legal professional privilege)

[Please tick relevant box]

Yes

No

If Yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act under sections 327-329 of the Act and which requires appropriate consent from the SOCA ?

[Please tick relevant box] Yes
 No

If Yes, please enclose details in the box below:

Please set out below any other information you feel is relevant:

Signed: _____ **Dated:** _____

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence which carries a maximum penalty of 5 years' imprisonment.

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLRO

Date report received: _____

Date receipt of report acknowledged: _____

CONSIDERATION OF DISCLOSURE

Action Plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a report be made to the SOCA ?

[Please tick relevant box] Yes
 No

If yes, please confirm date of report to SOCA: _____ and complete the box below:

<u>Details of liaison with the SOCA regarding the report:</u>	
Notice period:	_____ to _____
Moratorium Period:	_____ to _____

Is consent required from the SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts ?

[Please tick relevant box] Yes
 No

If yes, please confirm full details in the box below:

--

Date consent received from SOCA: _____

Date consent given by you to employee: _____

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the SOCA, please set out below the reasons(s) for non-disclosure:

[Please set out any reasonable excuse for non-disclosure]

Date consent given by you to employee for any prohibited act transactions to proceed: _____

Other relevant information:

Signed: _____ **Dated:** _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS