

Appendix 2

CHERWELL DISTRICT COUNCIL & SOUTH NORTHAMPTONSHIRE COUNCIL JOINT ANTI-FRAUD AND CORRUPTION & BRIBERY STRATEGY

1. INTRODUCTION

- 1.1 Fraud is one of the fastest growing areas of crime in modern society and the residents and stakeholders of both districts have a right to expect that their public funds are secure and handled honestly. They also have a right to expect that their elected members and council employees are honest and that their integrity is above reproach. Any dishonest act reflects badly on both authorities and Local Government in general.
- 1.2 In administering a wide range of responsibilities and undertaking of many functions, both Councils' agree to take a firm stance against fraud and corruption with a commitment of an open and effective Joint Anti-Fraud, Corruption and Bribery Strategy designed to:-
- encourage prevention;
 - deter the would be fraudster;
 - promote detection;
 - and identify a clear pathway for investigation.
- 1.3 The Anti-Fraud, Corruption & Bribery Strategy supports the corporate priorities to preserve what is special, to protect the vulnerable, to encourage potential and to enhance performance.
- 1.4 Fraud, corruption and bribery are defined as:
- 1.4.1 **Fraud:** is the intentional distortion of financial statements or other records to conceal the misappropriation of assets or otherwise for gain. Areas within a council that may commonly encounter fraud are council tax, housing grants, creditor payments, cheques, stores, contracts and expense claims.
- 1.4.2 **Corruption or Bribery:** is the offering, giving, soliciting or accepting of an inducement or reward which may influence a person to act against the interests of a council. Areas within a council where corrupt practices might be found include the tendering and award of contracts, settlement of contractors' accounts, prejudicial interests of members, pecuniary interests of employees, canvassing for appointments, hospitality, pressure selling, the award of permissions and licences and the disposal of assets.

1.5 The Fraud Act 2006 represents a new way of investigating fraud. It is no longer necessary to prove a person has been deceived. The focus is now on the dishonest behavior of the suspect and their intent to make a gain or cause a loss.

1.6 The new offence of fraud can be committed in three ways;

- Fraud by false representation (s.2) – lying about something using any means e.g. by words or actions,
- Fraud by failing to disclose (s.3) – not saying something when you have a legal duty to do so and:
- Fraud by abuse of a position of trust (s.4) – abusing a position where there is an expectation to safeguard the financial interests of another person or organisation.

1.7 The Act also created four new offences of: -

- Possession of articles for use in fraud
- Making or supplying articles for use in fraud
- Obtaining services dishonestly
- Participating in fraudulent business

1.8 Corruption in the public sector is an offence under the Prevention of Corruption Acts of 1889, 1906 and 1916. Areas of the Council where corrupt practices might be found include the tendering and award of contracts, settlement of contractors' accounts, prejudicial interests of Members, pecuniary interests of employees, canvassing for appointments, hospitality, pressure selling, the award of permissions and licences and the disposal of assets.

1.9.1 The Bribery Act 2010 gained Royal assent on the 8th April 2011 and creates a corporate offence of failure to prevent bribery, and requires the Council to implement adequate procedures to prevent bribery. Ministry of Justice Guidance in relation to the Bribery Act guidance was issued in March 2011 and this can be found at the following link:

<http://www.justice.gov.uk/guidance/making-and-reviewing-the-law/bribery.htm>

1.10 The Bribery Act introduces four offences:

- The offence of bribing another person – This can occur where a person offers, promises or gives a financial or other advantage to another individual to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function of activity. It is not an issue whether the person given the bribe is the same person who will perform the function or activity concerned.
- The offence of being bribed – This is where a person receives or accepts a financial or other advantage to perform a function or activity improperly. 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 benefit or not.

- Bribery of a foreign public official – This is where a person directly or through a third party offers, promises or gives any financial or other advantage to a foreign public official in an attempt to influence them as a public servant and to obtain or retain business, or any other related advantage in the conduct of business.
- A corporate offence of failure to prevent bribery – A commercial organisation could be guilty of bribery where a person associated with the organisation, such as an employee, agent or even sub-contractor, bribes another person intending to obtain or retain business for the organisation or to obtain or retain an advantage in the conduct of business for the organisation.

1.11 **Money Laundering** is the process of moving illegally generated funds through a cycle of transformation in order to create the end appearance of legitimately acquired funds. There is a separate policy for dealing with money laundering.

1.12 This Joint Anti-Fraud, Corruption and Bribery Strategy is based on a series of comprehensive and interrelated procedures designed to frustrate any attempted fraudulent or corrupt act against either council. These cover:-

- Culture
- Deterrence
- Prevention
- Detection and Investigation
- Training

1.13 To achieve policy objectives and priorities, both Councils' must conserve and protect resources and reputation, so as to be able to achieve those objectives, and demonstrate openness, integrity and accountability to residents and taxpayers. Both Councils' accept that the degree of openness may be restricted by statutory or procedural requirements.

1.14 Both Councils' also expect that individuals and organisations (e.g. suppliers/contractors) with whom they comes into contact, will act towards them with integrity and without thought or actions involving fraud or corruption.

1.15 Both Councils' are also aware of the high degree of external scrutiny of their affairs by a variety of bodies including:-

- Local Government Ombudsman;
- External Auditor;
- The Public/Council Tax payers – Annual inspection of accounts;
- The Public/Service users – through the Council's complaints procedure;
- Central Government departments and Parliament;

- H.M. Revenues and Customs;
- Department of Work and Pensions;
- External Inspectorates.

1.16 This Joint Anti-Fraud, Corruption and Bribery Strategy also satisfies the legislative requirements to have effective arrangements for tackling fraud, and conforms to professional guidance laid down in the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Internal Audit in Local Government.

2. CULTURE

2.1 Both Councils' are determined that the culture of each organisation will continue to be one of honesty, openness and opposition to fraud and corruption.

2.2 The purpose of this policy is to also outline roles and responsibilities for dealing with the threat of fraud and corruption, both internally and externally. It applies to:-

- Councillors
- Employees
- agency staff
- contractors
- consultants
- suppliers
- service users
- staff and committee members of organisations funded by either council
- staff and principals of partner organisations

2.3 Members and employees of both authorities are important elements on the stance against fraud and corruption and they are positively encouraged to raise any concerns that they may have. They can do this in the knowledge that such concerns will be treated in confidence and properly investigated and fairly dealt with.

2.4 In furtherance of this both Councils' have in place a joint whistleblowing policy to ensure that all members and employees are able to follow a defined route to bring alleged instances of fraudulent, unlawful or otherwise improper conduct to attention. This can involve the Monitoring Officer, the Corporate Fraud Team, the employee's line manager or Head of Service or, if more appropriate, an officer external to the individual's department or even external to either Council (via Internal Audit which is provided via an outside firm). An individual will also have direct access to a member of the Senior Management Team if they feel that this is the most appropriate route to follow.

2.5 Members of the public are also able to report concerns to appropriate council officers or relevant external agencies such as the police and the Audit Commission.

2.6 Concerns must be raised when members or employees reasonably believe that one or more of the following has occurred, is occurring, or is likely to occur:-

- a criminal offence
- a failure to comply with a legal obligation
- improper/unauthorised use of public or other funds
- maladministration, misconduct or malpractice
- endangering of an individual's health and safety
- deliberate concealment of, or complicity in, any of the above

2.7 There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse such as raising unfounded malicious allegations may be dealt with as a disciplinary matter.

3. DETERRENCE

3.1 There are a number of ways to deter potential fraudsters from committing or attempting fraudulent or corrupt acts against either Council, and these include:-

- Publicising the fact that the Councils' are firmly set against fraud and corruption and state this at every appropriate opportunity, e.g. statements in contracts, at employee induction, and in publicity literature.
- Acting robustly and decisively when fraud and corruption is suspected and proven, e.g. the termination of contracts, the dismissal and/or prosecution of offenders, press releases
- Taking action to maximise recoveries for either Council, e.g. through agreement, court action, penalties, insurance, etc. Where appropriate the Proceeds of Crime Act will be used to maximise the penalty suffered by the fraudster, and the level of recovery by either Council.
- Having sound internal control systems, that minimise the opportunity for fraud and corruption.

4. PREVENTION

4.1 Employees

4.1.1 It is recognised that fraud and corruption are costly, both in terms of reputational risk and financial losses. Both Councils' are aware that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, in terms of their propriety and integrity. In this regard

temporary and agency employees should wherever practicable be treated in the same manner as permanent employees.

4.1.2 Employees are expected to follow any Code of Conduct related to their personal Professional Body (if any) and also to abide by the Councils' Code of Conduct for Officers. This Code is incorporated in every employee's contract of employment and is also dealt with as part of induction of new employees. Employees must operate within the requirements of s117 of the Local Government Act 1972 and comply with their statutory obligations regarding pecuniary interests in contracts relating to either Council or fees and rewards other than proper remuneration. They are also required to complete positive declarations of any interests which they have which may conflict with the impartial performance of their duties.

4.1.3 **Managers** at all levels are responsible for the communication and implementation of this strategy and for ensuring that all of their employees are aware of the Financial Procedure Rules and other relevant constitutional requirements. Managers must strive to create an environment in which employees feel they are able to approach them with any concerns they may have relating to fraud or corruption. Managers must initially follow up any allegation of fraud or corruption that they receive. It is the responsibility of the Senior Management Team to communicate the Anti-Fraud, Corruption and Bribery Strategy to their staff and to promote a greater awareness of fraud within their departments.

4.1.4 **Members** are required to operate in accordance with:-

- National Code of Local Government Conduct
- Sections 95 – 96 of the Local Government Act 1972
- Local Authorities Members' Interest Regulations 1992
- Council Standing Orders and local codes of conduct

These matters are specifically brought to the attention of members when they are elected to office and include the declaration and registration of the interests that they are required by the Local Government Act 2000 and their Code of Conduct to register. Any complaints concerning alleged fraud or corruption by members would be dealt with by the Standards Committee on the advice of the Statutory Monitoring Officer which happens to be the Head of Law and Governance.

4.1.5 **Partners** should ensure that there are adequate arrangements in place to minimise fraud and corruption and protect the public funds they are spending on behalf of the either Council. All Partners have a duty to report any suspected fraud or corruption that relates to council funds to the Head of Finance and Procurement. Each Council will ensure that there are standard clauses in commercial contracts requiring compliance with the Bribery Act 2010.

5 GIFTS AND HOSPITALITY

5.1 The Bribery Act 2010 emphasises that any gifts and hospitality may be accepted where the offer is deemed proportionate. (SNC's procedure for gifts and hospitality offered to employees and members is contained within the Employee Handbook Section 5.12).

5.2 The acceptance of a gift, however modest, may arouse suspicion and needs to be capable of public justification. The question to be considered is whether acceptance is likely to raise reasonable doubts about the person's integrity.

5.3 The introduction to the Bribery Act (2010) Guidance provides the following foreword from the Secretary of State for Justice:

“Combating the risks of bribery is largely about common sense, not burdensome procedures. The core principle it sets out is proportionality. It also offers case study examples that help illuminate the application of the Act. Rest assured – no one wants to stop firms getting to know their clients by taking them to events like Wimbledon or the Grand Prix”. (The Bribery Act 2010 – Guidance)

5.4 Offer of gifts from a contractor, consultant, supplier or other firm or person doing business with or receiving a service from the Council should, as a general rule, be declined. The only exceptions are:

- a. Small gifts of office equipment or stationery given by way of trade advertisements (e.g. calendars, diaries, inexpensive pens, etc.);
- b. Small gifts given on the conclusion of an official visit -these must be of only token value; and
- c. Gifts where the donor is a personal friend - extreme care must be taken in accepting gifts in this category and, if made to a member of staff, their manager must be informed if the gift is from a person doing business with the Council.

If a gift outside the above exceptions is received by a member of staff it must be handed over to the officer's Chief Officer to determine whether it should be returned to the donor.

These rules also apply where members of staff receive offers of discounts greater than those on general offer from firms.

5.5 Offers of hospitality should always be approached with caution. They must be refused where any suggestion of improper influence could be construed. They should only be accepted when reasonably incidental and on a scale appropriate to the circumstances.

5.6 Offers such as holiday accommodation are clearly unacceptable. Invitations to events such as sporting fixtures or the theatre are acceptable only when clearly required for the conduct of Council business. Particular care should be taken in dealing with contractors, developers, consultants, suppliers, and firms or persons in a comparable position.

Examples of acceptable hospitality include:

- official hospitality at a public function;
- modest refreshments following a site visit; and
- a modest working lunch where the parties discuss business

The decision to accept must depend on the scale of hospitality and the circumstances.

Invitations to attend receptions, luncheons, cocktail parties, etc. may be accepted provided that:

- a. where the member of staff is below second tier level, they first obtain the approval of their manager; and
- b. where the function is outside normal working hours, they obtain the approval of their Chief Officer.

5.7 The Chief Executive shall maintain a register of gifts, commercial sponsorship and hospitality.

6 SYSTEMS:

6.1 The Head of Finance and Procurement has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure the proper arrangements of both Councils' financial affairs. Under the Accounts and Audit Regulations 2006 as amended by the Accounts and Audit Regulations (amendment) 2011 both Councils' are also required to maintain an adequate and effective internal audit of accounting records and control systems.

6.2 Effective managerial arrangements for the prevention of fraud and corruption are essential if risk is to be minimised. Internal control is the whole system of controls, financial and otherwise, to provide reasonable assurance of:-

- proper aims and objectives
- effective and efficient operations
- reliable management information and reporting
- compliance with laws and regulations
- safeguarding of assets

6.3 The system of internal control is reported annually in the Annual Governance Report which is signed by the Leader of the Council and the Chief Executive. This statement is audited on an annual basis.

6.4 Weaknesses in the design and operation of administrative and financial systems may increase the risk of fraud. Systems should contain efficient, effective and well documented internal controls. In particular systems should contain:-

- adequate separation of duties
- proper authorisation and approval procedures
- adequate physical security of assets
- reliable monitoring and reporting arrangements

6.5 Managers should take steps to protect and control computerised systems and be alert to their vulnerability. To prevent misuse of computers managers should ensure that there are:-

- adequate physical access controls
- adequate logical access controls
- adequate clerical controls
- adequate audit trails

Full advantage should be taken of new technology in order to provide effective management and financial information systems which highlight potential irregularities.

6.6 To help managers discharge their responsibilities, systems are subject to continuous review by External and Internal audit, both of which are available to offer advice on control.

6.7 **Internal Audit (PWC)** will apply a risk assessment process to all financial systems, and non-financial systems where assets are at risk. Particular regard will be given to the corporate and divisional risk registers.

6.8 **External Audit (Ernst & Young)** has specific responsibility for examining arrangements for the prevention, detection and investigation of fraud and corruption. They also review the activities of internal audit.

6.9 **Corporate fraud investigations are dealt with by the relevant team in the Finance Division. That team is charged with:-**

- **investigating suspected frauds, overclaims and errors**
- **making random checks on customers**
- **Supporting the recovery of debts raised through fraud.**

6.10 Careful consideration is given to the circumstances of each case of suspected fraud before a prosecution is initiated. Successful prosecutions will be publicised to deter fraud

6.11 In addition, insurance providers, (Zurich Municipal for both SNC and CDC), have an independent fraud and crime line, primarily to report on insurance fraud and anti social behaviour problems.

7 COMBINING WITH OTHERS

7.1 Arrangements are in place and continue to develop to encourage the exchange of information between both councils' and other agencies on national and local fraud and corruption activity in relation to Local Authorities.

7.2 These agencies include:-

- Police
- Department of Works and Pensions
- HM Customs and Excise
- Inland Revenue
- National Anti-Fraud Network

7.3 Employees, members and the public can also report fraud by contacting CDC and SNC's joint fraud hotline or Northamptonshire County Council Anti-Fraud Hotline (0800 731 6202). There is also Public Concern at Work (0207 404 6609) which is a registered charity whose services are free and strictly confidential.

8 DETECTION AND INVESTIGATION.

8.1 The array of preventative systems, particularly internal control systems within each council, has been designed to provide indicators of any fraudulent activity, although generally they should be sufficient in themselves to deter fraud.

8.2 It is often the alertness of employees, members and the public to indicators of fraud and corruption that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may be in progress.

8.3 Despite the best efforts of managers and auditors many frauds are discovered by chance or "tip-off". Both councils' have in place arrangements to enable such information to be properly dealt with.

8.4 Senior management are responsible for following up any allegation of fraud or corruption received and will do so by immediately informing the Chief Executive and the Head of Finance and Procurement as required by the Financial Procedure Rules.

8.5 The investigating officer, who may (depending on the circumstances) be internal or external, will:-

- Deal promptly with the matter
- Record all evidence received
- Ensure that evidence is sound and adequately supported
- Ensure security of all evidence collected
- Contact Internal Audit and/or the Benefits Investigation Manager, who will arrange for the allegation to be investigated and, where appropriate notify the Insurance Officer
- Implement the disciplinary procedures where appropriate

8.6 As previously mentioned, Senior Managers are required by the Financial Procedure Rules to report all suspected irregularities to the Head of Finance and Procurement and the Chief Executive. Reporting is essential to the Anti-Fraud, Corruption and Bribery Strategy and:-

- Ensures the consistent treatment of information regarding fraud and corruption.
- Ensures the proper implementation of a fraud response investigation plan.
- Facilitates proper investigation (involving where necessary an experienced audit team).

8.7 Depending on the nature and anticipated extent of the allegations, the relevant officers will normally work closely with Internal Audit and other agencies such as the police to ensure that all allegations and evidence are properly investigated and reported upon.

8.8 Disciplinary procedures will be used where the outcome of the investigation indicates improper behaviour. (Both Councils' have in place full and rigorous disciplinary procedures. Fraud and corruption are specific instances of gross misconduct and will therefore be treated accordingly).

8.9 Police are only made aware of and asked to independently investigate and (where applicable) prosecute offenders where financial impropriety is discovered. Referral to the Police is a matter for the Senior Management Team or an individual Elected Member (acting on the advice of at least one of these officers). Unless a member of the Senior Management Team is implicated in the matter concerned, no referral to the police will occur without the agreement of a Senior Management Team member.

8.10 Officers suspecting money laundering activities should follow the procedures set out in the Joint Money Laundering Avoidance Policy.

9. TRAINING

9.1 Both councils' recognise that the continuing success of the Joint Anti-Fraud, Corruption and Bribery Strategy depends largely on the effectiveness of programmed training and an awareness of members and employees throughout both organisations.

9.2 This will be achieved by:

- Including awareness of the strategy in induction training for new employees;
- Ensuring that managers and staff with the responsibility for the maintenance of systems of internal control are aware of their responsibilities and duties and that these are regularly re-enforced and updated;
- All staff are aware of the whistleblowing policy and the procedures it contains.
- Employee training will be complemented by training of members on induction and at regular intervals thereafter.

9.3 Both Councils' will use good management practices to ensure that such training and guidance is not ignored including, as a last resort, the possible use of disciplinary action.

10. ASSOCIATED DOCUMENTATION

10.1 The following is a list of documents that are closely associated with the Anti-Fraud, Corruption & Bribery Strategy. The documents are referred to or compliment this strategy and are reviewed on a rolling basis. The last review dates are indicated in each case.

- Joint Money-Laundering Avoidance Policy (January 2015)
- Joint Whistleblowing Policy (March 2015)
- Code of Conduct for Officers (CDC Oct 2012)
- Joint Disciplinary Procedures (March 2012)
- Constitution (May 2011)
- Financial Procedure Rules (Sept 2012)
- Members Local Code of Conduct (May 2009)
- Annual Governance Statement (June 2014)
- Risk Management Policy (January 2010)
- Internal Audit Annual Report (June 2014)

11. CONCLUSION

11.1 Both councils' have placed a clear network of systems and procedures to assist in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect the operation of either authority.

11.2 To this end, both councils' maintain a continuous overview of such arrangements.

11.3 This Policy Statement will be subject to review annually by the Resources Audit Committee to ensure its currency.

Sue Smith

Chief Executive

March 2015