

Corporate Anti Fraud Policy



**Hinckley & Bosworth  
Borough Council**

*A Borough to be proud of*

## **1.0 INTRODUCTION**

- 1.1 Hinckley and Bosworth Borough Council (“the Council”) has a zero tolerance approach to all forms of fraud and corruption, including bribery, and is determined to protect itself from such actions whether attempted from within the Council or by an outside individual, group or organisation.
- 1.2 The Council recognises that fraud, bribery and corruption undermine the standards of probity and public service and reduce the resources available to meet corporate objectives. In response to this, the Corporate Anti Fraud Policy (“the Policy”) is designed to: -
- Encourage fraud prevention
  - Promote fraud detection
  - Support fraud investigation
- 1.3 The Council is subject to external scrutiny of its affairs by a number of bodies who also have an interest in the Council’s Policy to combat fraud and corruption. These organisations include:-
- The Local Government Ombudsman
  - External Audit
  - Internal Audit
  - Government Departments (e.g Department of Communities and Local Government and Department for Work and Pensions)
  - HM Revenues and Customs.
- 1.4 This Policy has been created with due regard to the CIPFA Better Governance Forum’s Red Book 2 ‘Managing the Risk of Fraud’ and the Audit Commission Publication ‘Protecting the Public Purse’. The Policy also reflects the requirement of the Bribery Act (2010).

## **2.0 OTHER RELEVANT POLICIES**

A number of Council policies contribute to and compliment the Corporate Anti Fraud Policy. These include:

### **2.1 Whistleblowing Policy**

The Council’s employees are encouraged to raise any concerns involving fraud and corruption where they are associated with the Council’s activities.

Employees will be made aware that such concerns will be treated seriously and will be properly investigated; the Whistleblowing Policy is located on the Council’s intranet site or a copy can be made available upon request.

### **2.2 Benefit Fraud**

The Council maintains a separate anti-fraud strategy relating directly to Benefits. This is supported by the retention of an investigating officer solely for the purpose of enquiring into Benefit fraud. Investigations are conducted in accordance with best practice and the Police and Criminal Evidence Act.

### 2.3 The Disciplinary and Grievance Policy

The Council has a comprehensive policy which deals with grievance and disciplinary matters for employees and is updated when required to comply with all legal requirements and the development of case law.

### 2.4 ICT Acceptable Usage Policy

This Policy covers appropriate use of email, internet and Council networks and addresses the risk of Technological Abuse.

### 2.5 Equality and Diversity Policy

The Council will discharge all the duties and responsibilities required by Equality Act 2010 , the Human Rights Act 1998, Enterprise and Regulatory Reform Act 2013 and all other statutory requirements during the implementation of this Corruption and Anti Fraud Policy.

## 3.0 **OBJECTIVES**

3.1 In whatever form it occurs, fraud is corrosive. It undermines an organisation's principles and it destroys trust and confidence. Fraud frequently devastates reputations, including those of innocent employees in whose area of responsibility the dishonesty took place. For this reason, frauds are best prevented, or, where this is not possible, quickly detected, efficiently investigated and recoveries made.

3.2 The objectives of this Policy are to ensure that the risks of fraud are acknowledged and suspicions of dishonesty are detected and effectively investigated so that recoveries can be maximised and future losses prevented. Investigation is also critical to clear the names of people and organisations wrongly suspected of dishonesty.

## 4.0 **EFFECTIVE POLICY**

4.1 Hinckley and Bosworth Borough Council is an organisation which is open honest and transparent and actively seeks to protect itself from fraud and corruption. Members and officers at all levels are expected to lead by example by following legal and best practice procedures and practices.

4.2 All individuals and organisations associated in any way with the Council should act with integrity, without thought or actions involving fraud or corruption. Failure to act in such a manner is not tolerated.

- 4.3 In this Policy, the term fraud covers any deception or dishonesty by which one person or organisation intends to gain an improper advantage over others.

There are 7 main categories of fraud with which this Policy is concerned. The examples provided are not exhaustive.

**1. Misappropriation of assets**

Examples include:

- *Theft, false accounting and deception*
- *Misuse of assets for personal or inappropriate use*
- *Theft of time paid by the Council*
- *Theft or misuse of proprietary information*

**2. Bribery and Corruption**

Examples include:

- *Acceptance by an employee of a personal benefit for influencing a decision made on behalf of the Council*
- *Indefensibly lavish entertaining of an employee by any third party with which the Council does business.*

**3. Conflicts of interest**

Examples include:

- *Engaging in part time work or consultancy, without permission*
- *Using sensitive information for a personal benefit*
- *Failure to declare related party interests by senior officers and members*
- *Nepotism*
- *Procurement bias*

**4 False Reporting**

Examples include:

- *Submitting false accounts to conceal inadequate performance*
- *Using false accounts to deceive a third party*
- *Manipulating financial or performance results*

**5. Suppression**

Examples include:

- *Falsely reporting compliance with environmental, anti-discriminatory or other regulatory requirements*

- *Fraudulently concealing violations of health and safety, Human Rights or other regulations.*

## **6. Technological Abuse**

Examples include:

- *Accessing computer files without authority*
- *Unauthorised internet browsing*
- *Computer-related fraud*

## **7. Money Laundering**

Examples include

- *“Black” salaries*
- *Trade based laundering involving over charging*
- *Structuring*

## **5.0 GENERAL PRINCIPLES**

- 5.1 All suspected offenders will be dealt with fairly and consistently, commensurate with the Council pursuing its rights to the maximum extent under the law
- 5.2 Employees are not expected to guarantee that fraud will never take place in operations under their control. They are, however, expected to react effectively when suspicions are aroused. The Council will support employees and others wrongly accused of impropriety
- 5.3 The Council’s Monitoring Officer and Section 151 Officer are the focal point for the Council’s counter-fraud measures.
- 5.4 Employees and others who report suspected dishonesty in good faith and in compliance with this Policy (and the Whistleblowing Policy) will be protected, and any person who attempts to dissuade them may be subject to disciplinary action
- 5.5 All employees are responsible for ensuring that all allegations of fraud or corruption are dealt with urgently by referring them immediately to the Monitoring Officer or a person identified in the Whistleblowing Policy.
- 5.6 Internal Audit or any other person or body as agreed appropriate by the Monitoring Officer and the Section 151 Officer will conduct a thorough investigation ensuring that the Chief Executive and, where appropriate, the Strategic Leadership Board are kept fully informed of potential fraud and corruption. Where it is required a member of the Strategic Leadership Board will:-
- Notify the Officer responsible for the Council’s Insurance
  - Implement the Council’s Disciplinary and Grievance Policy

- Consider possible Police action
- Notify the External Auditor
- Notify HMRC
- Notify the Leader of the Council
- Notify the Chairman of the Finance, Audit and Performance Committee.

5.4 The Council will thoroughly investigate to establish the facts, prosecute and take other appropriate action against any person or organisation whom it suspects of dishonesty. This is true even where the incident could be of interest to the media.

5.5 Persons who are found to be guilty of fraud and corruption through investigation will be dealt with swiftly and firmly under the Council's Disciplinary and Grievance Policy.

## **6.0 SYSTEMS**

6.1 The Deputy Chief Executive (Corporate Direction) is currently delegated as having the statutory responsibility under Section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Council's financial affairs. The Section 151 Officer is also the Council's delegated Anti Money Laundering Officer. The Council's Financial Regulations have been developed to assist in discharging these responsibilities.

6.2 Systems and procedures will continue to incorporate efficient and effective controls including separation of duties. Independent monitoring and assessment of such controls will be undertaken by both internal and external audit as part of the annual programme of audit activity.

6.3 These internal controls are subject to the provision of the "Annual Governance Statement" produced by the Council and reviewed by External Audit. A further mechanism for testing the effectiveness of controls is through the conduct of Internal Audit reviews.

6.4 In addition the Council's robust approach to risk management ensures that the risk of fraud can be addressed within service areas.

## **7.0 WORKING WITH OTHERS**

7.1 The Council will continue to encourage the exchange of information with other organisations in respect of fraudulent and corrupt activities. These bodies include:-

- The Police
- The appointed External Auditor
- Internal Audit
- CIPFA
- Department for Works and Pensions
- Department for Communities and Local Government
- National Anti Fraud Network

- 7.2 This collaboration provides a base for combating potential criminal activity of a fraudulent nature against this and other public sector organisations.
- 7.3 In addition to the exchange of information the Council will undertake an active role in raising the awareness of reporting fraudulent activity across the organisation by means of email bulletins or other appropriate media. Members and employees will be informed of areas at risk and will be encouraged to report any concerns.
- 7.4 The Council ensures that all legal agreements entered into allow the Council to terminate any arrangement where there is evidence of fraud or corruption

## **8.0 REPORTING INCIDENTS**

### **8.1 Routine Procedure**

Every employee is expected to remain alert to the possibility that fraud will occur. When concerns are first aroused, the employee must:

- Treat his/her suspicions, including anonymous letters with the utmost care and must not discuss them with anyone who does not have both an immediate and obvious need to know. The first points of contact for reporting suspected dishonesty is the Monitoring Officer or the Section 151 Officer, and no employee will be criticised for not first informing his immediate supervisor.
- Secure all information or evidence on which suspicions are based, providing this will not alert the people under suspicion.
- Not take disciplinary, investigative or any other action against the person or persons suspected.
- Thereafter, the employee will be guided by the Monitoring Officer, Section 151 Officer, or by their designated representatives.

## **9.0 ELECTED MEMBERS**

9.1 Elected Members are required to operate within:-

- The Council's Constitution
- Member Code of Conduct
- Sections 94 to 96 of the Local Government Act 1972
- Section 102 of the Local Government Act 1985
- Local Authorities Members' Interests Regulations 1992 (SI618) as amended by the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

9.2 The Monitoring Officer maintains the appropriate registers, in relation to interests and gifts and hospitality.

## **10.0 THE BALANCE OF RISK AND TRUST**

- 10.1 Although employees are primarily responsible for preventing and detecting dishonesty under delegated authority the Council does not expect a guarantee of success in every case. In fact, it would be intolerable to work in any organisation where controls were so tight, and trust so low, that fraud was rendered impossible.
- 10.2 The principles are that employees are trusted and advised on risks and the specified controls they are to maintain. Employees must report their suspicions, co-operate in investigations and will be subject to disciplinary and other action if they wilfully or negligently fail to comply with an investigation process. Finally breaches of trust will be prosecuted to the maximum extent permitted under the law.
- 10.3 To create an environment in which employees gain job satisfaction and the Council achieves its objectives, there must be trust, and this inevitably results in a degree of risk. Fraud subverts trust and takes victims by surprise. Often the hardest working employees are the easiest to deceive because they are heavily focused on their primary work goals.
- 10.4 Whilst the organisation holds trust in employees, this belief must be based in assurance and, as such, checks may be performed on data (e.g. mileage claims) and procedures (e.g. through audit processes) to obtain this assurance.

## **11.0 PREVENTION**

### Employees

- 11.1 Employees have a responsibility for
- Identifying potential risks
  - Fully understanding the laws, rules and regulations with which they must comply
  - Accepting their ownership responsibilities for all assets and processes entrusted into their care
  - Reporting suspected dishonesty and potential control failures and assisting in investigations
- 11.2 A key preventative measure in counteracting fraud and corruption exists within the recruitment process where, as far as possible, the previous record of all potential employees, in terms of propriety and integrity, can be established. Where references are requested, the candidate's suitability for the post needs to be in accordance with the employee specification. Individuals should not commence employment with the Council until satisfactory references are obtained and reviewed.
- 11.3 Officers are expected to abide by the Employee Code of Conduct that sets out the Council's requirement on personal conduct. In addition, if they are



members of professional bodies, officers are expected to follow the Code of Conduct related to their professional qualification.

- 11.4 The Code of Conduct also ensures that Officers are aware of their statutory requirements under section 117 of the Local Government Act 1972 regarding declaration of pecuniary and non-pecuniary interests.
- 11.5 Where the post requires, the Council undertakes appropriate checks through the Disclosure and Barring Service.
- 11.6 Finally, and most importantly, all employees should comply with the Council's values and encourage others to do the same.

## **12.0 TRAINING**

- 12.1 The Council supports the training of appropriate officers in the prevention, detection and investigation of fraud and corruption by the provision of internal and external instruction. The courses are organised by recognised professional organisations.
- 12.2 The Council supports the management in the provision of induction and refresher training for officers involved in internal control systems to ensure that they are fully aware of their responsibilities and duties.

## **13.0 FAILINGS AND INVESTIGATIONS**

### **13.1 Investigative Principles**

Although employees will never be criticised only because fraud has taken place in an area for which they are responsible they will be subject to disciplinary action if they:

- Ignore their responsibilities under this Policy
- Were wilfully or negligently blind to the risks, or covered up obvious control weaknesses or signs of dishonesty
- Gave misleading or deceptive information during an investigation or attempted to censure a person who has reported suspicions
- Placed blind trust in people or organisations whose reliability should have been verified
- Failed to respond to recommendations in audit reports or wilfully disregarded other advice that may have prevented the fraud

In all cases, the greatest failing of any employee is to suppress suspicions of dishonesty or to impede an investigation.

### **13.2 Authority and Reporting Lines**

The Monitoring Officer and the Section 151 Officer have authority delegated by Council to carry out such investigations, as they may deem necessary, without reference to the line managers responsible for the area in which dishonesty is suspected.

In addition to normal reporting lines, the Monitoring Officer and Section 151 Officer have a right of direct access, in all matters relating to fraud, to the Chief Executive, Chair of the Finance, Audit and Performance Committee and External Audit.

### **13.3 Effectiveness of Investigations**

In some cases, stages within an investigation may not appear to be justified by the potential benefits. This is not a reason for failing to investigate thoroughly because:

- The Council is driven on principles, rather than on short-term financial considerations: thoroughly investigating and cutting out fraud is the proper course
- Often major losses emerge from minor suspicions
- It is impossible to say what an investigation step might reveal before an event
- If the people responsible for minor incidents are not identified and dealt with, they may be encouraged into further dishonesty.

Thus every case should be investigated thoroughly through a defined process.

### **13.4 Resources**

The Monitoring Officer and Section 151 Officer will provide competent investigative resources. These will be either qualified employees, internal auditors or external advisers who have been individually identified and approved.

### **13.5 Investigation Planning and Control**

Investigation processes should ensure that in each investigation:

- A theory of the fraud is developed and is kept under review as the case moves forward
- An action plan is defined that tests and obtains evidence in support of the fraud theory. This too should be kept under review
- A recovery strategy is determined as early as possible in the investigation and kept under review thereafter
- Any potentially controversial investigative techniques, such as covert surveillance or interception of communications, must be approved in accordance with the Regulation of Investigatory Powers Act (2000)
- All information and evidence that could be relevant to the person under suspicion is recorded and preserved
- A detailed diary is maintained of all significant steps taken in each investigation.

### **13.6 Requirement of Employees to Cooperate in Investigations**

All employees are required to co-operate with investigations conducted by the Council and to secure and volunteer all records and other information that may be relevant.

The contract of any employee who fails to comply with this paragraph, for whatever reason, may be subject to disciplinary action

### **13.7 Responsibilities of Line Management in Investigations**

Under no circumstances will an employee working in, or responsible for, an area in which fraud is suspected have any control over an investigation, unless specifically invited, in writing, by the Monitoring Officer or the Section 151 Officer or their delegated representative, to provide assistance. Any improper interference in an investigation by any employee will result in disciplinary action.

### **13.8 Rights of Employees**

Employees and others are permitted to use Council premises, telephones, computer systems, communication networks and other facilities in accordance with the Councils procedures and policies.

### **13.9 Rights to Representation**

At fact-finding or investigative interviews, employees suspected of dishonesty will be entitled to representation by a colleague or Trade Union Representative. However, where:

- Criminal prosecution is a likely outcome of an interview
- **And** as soon as the Monitoring Officer, Section 151 Officer or their designated representative believe that evidence affording “reasonable grounds” of guilt has emerged. (*This is evidence and not mere suspicion*)

The employee will be told that he/she need not say anything further and may seek assistance from a legal representative. (*Investigators and those carrying out investigative duties need to comply with the provisions of the Police and Criminal Evidence Act 1984 (PACE) when criminal proceedings are contemplated.*)

If the employee makes a request for representation in circumstances described above, the interview will be suspended until a legal adviser is available.

### **13.10 Access to Records of Interviews**

Interviews with people suspected of dishonesty may, at the Monitoring Officer, Section 151 Officer or their representative’s discretion, be tape recorded, with or (where permitted by law) without their permission, to ensure that an accurate record is obtained.

Providing, in the opinion of the Monitoring Officer, Section 151 Officer or their representative, this does not impede an investigation, the person suspected of dishonesty will be provided with notes or transcripts of his interview and a copy of any tape recording, notes or written statement.

A person suspected of fraud will not be entitled to copies of notes of interviews with other people, statements or investigation reports until such time as they are required to be officially disclosed

### **13.11 Disciplinary Interviews**

When, in the opinion of the Monitoring Officer, Section 151 Officer or their representative, the facts of a case have been established, the employee will be invited to attend a disciplinary interview at which he will be entitled to representation by a colleague or Trade Union Representative. At such interviews, the evidence will be produced and the person invited to provide an explanation. Thereafter, he/she will be subject to the Council's normal disciplinary procedures.

### **13.12 Dealing with Grievances/Threats during the Investigation Process**

People under investigation may threaten to expose malpractice by the Council, make other damaging allegations or raise grievances if the case against them is pursued. These complaints should be dealt with under the Grievance Procedure and may not effect the investigation although each case will be judged on its own merit.

### **13.13 Disciplinary Action**

The Monitoring Officer or Section 151 Officer, in consultation with Human Resources and line management, will determine the appropriate disciplinary or other action to be taken, in accordance with the Disciplinary Policy.

### **13.14 Rights of Employees Dismissed for Dishonesty**

The dismissal of employees for a breach of this Policy should be with immediate effect and, subject to legal advice, should be without compensation of any kind.

In addition, the Council will take appropriate action against any employee dismissed for dishonesty, including where possible the recovery of losses and costs from salary, expenses and pension funds.

### **13.15 Obligations of Employees During Notice Periods**

An employee serving a notice period on termination of employment is required to comply fully with the provisions of this Policy and with any specific instructions given by the Monitoring Officer, Section 151 Officer or their designated representative. His/her line managers, will take a decision after consultation with the Monitoring Officer and Human Resources, on whether or not he/she will be required to return to work.

Non-compliance with this Policy during the notice period will be construed as an indication of bad faith and appropriate remedial action will be taken, including the suspension or recovery of salary, expenses and benefits.

### **13.16 References on Employees Dismissed for Dishonesty**

The personnel file for any employee dismissed for dishonesty will be prominently marked by the Human Resources Department and will contain an extract of the final investigative report and final disciplinary papers. Requests for references on ex-employees dismissed for dishonesty will be truthful, stating the precise reasons for dismissal.

Any employee who with knowledge of the fraud/dishonesty and without the specific written approval of Human Resources, provides a work reference or a personal reference in his official capacity for an employee who has been dismissed for dishonesty, will be subject to disciplinary action. All requests for references should be referred to Human Resources.

### **14.0 NOTIFYING THE POLICE**

14.1 There is no legal obligation to notify the police of a suspected fraud. The Council will prosecute those accused of fraud. As soon as practicable, the Monitoring Officer, Section 151 Officer or their nominated representative will make an initial report to the police, clearly explaining the Council's objectives and, if necessary, agreeing an action plan under which the investigation should move forward.

14.2 If an action plan cannot be agreed, the Monitoring Officer, Section 151 Officer or their nominated representative may decide to delay a formal complaint until internal investigations have been completed.

14.3 If the police refuse to accept the complaint, the Monitoring Officer, Section 151 Officer or their nominated representative should progress the investigation using the resources available to him. If evidence is subsequently uncovered, he/she should invite a senior officer to reconsider the initial decision.

### **15.0 DISCLOSURE**

15.1 The Monitoring Officer, Section 151 Officer, nominated representative and people working under their authority are not permitted to pass reports, statements or investigative work to the police other than through a Legal Adviser.

### **15.2 Briefing Line Managers**

The Monitoring Officer, Section 151 Officer or their delegated representative will report the results of investigations to line management, as he/she believes appropriate. It should be noted, however, that line management has no right to demand reports.

### **15.3 Interim Reports**

At significant points in each investigation, written reports will be submitted to the Strategic Leadership Board. The Monitoring Officer, Section 151 Officer or their nominated representative has a prime responsibility for ensuring that reports are accurate and professionally compiled. The Council, based on legal advice, will determine what further distribution of investigative reports is justified.

### **15.4 Closing Down Cases**

In addition, at the close of an investigation, the Monitoring Officer or Section 151 Officer or the appropriate delegated representative should:

- Advise all witnesses and others innocently involved of the outcome and in accordance with Data Protection Principles
- Fully brief the line managers of the area concerned, if necessary making recommendations for improving controls
- Ensure that the personnel files of those rightly and wrongly suspected are endorsed

### **16.0 ANNUAL REPORTS**

The External Auditor will comment annually on fraud as part of their ISA(260) report to those charged with governance. In addition controls in respect of fraud will be considered under ISA(240) which covers the auditors considerations in respect of fraud.

### **17.0 CONCLUSION**

- 17.1 This Corporate Anti-Fraud Policy sets out the procedures which will assist in the prevention, detection and investigation of fraud and corruption. Consequently the protection of public funds and assets will be strengthened.
- 17.2 The Council will maintain a continuous overview of the arrangements through its Officers, particularly the S151 Officer and the Monitoring Officer and through the Internal Audit Service, Financial Regulations and Codes of Conduct.