

KIRKLEES COUNCIL

FRAUD PREVENTION,
AND
ANTI-BRIBERY
AND
ANTI-CORRUPTION
POLICY

January 2023

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Additional operating procedures, information and instructions to officers and advice to Members and officers support this policy document.

KIRKLEES COUNCIL
FRAUD PREVENTION, ANTI-BRIBERY AND ANTI CORRUPTION POLICY

POLICY STATEMENT

The Council has a duty to prevent fraud, bribery and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Councillor. The Council is committed to a zero-tolerance approach to fraud, corruption and bribery.

Fraud is not a victimless crime, it takes resources from those who need them, and can undermine public confidence, resulting in both physical loss and reputational damage.

Fraud is unacceptable. The Council is committed to addressing fraud and corruption issues and will take action to prevent, protect, investigate, and act upon any suspicion of fraud, corruption or bribery of any kind.

Neither the Council nor anyone acting on its behalf will pay bribes or offer improper inducements to anyone for any purpose, nor will bribes or improper inducements be accepted in any circumstances.

It is the Policy of the Council to:

- Take all reasonable steps to proactively deter, prevent and detect fraudulent activity
- Investigate where any suspicion of fraud, bribery or corruption exists
- Apply available sanctions and pursue recovery of losses where instances of fraud, bribery or corruption are identified
- Develop a culture of fraud awareness ensuring that all Members and Officers receive appropriate training and know how to report concerns

The Council expects that individuals and organisations will act towards it with integrity and without thought or actions involving fraud, corruption or bribery. However, the Council recognises that a small minority will attempt to act fraudulently and corruptly, and it is against those individuals and organisations that this policy and supporting strategy is directed.

All Members and employees must lead by example, by following the organisation's rules and always behaving in a way that is beyond criticism.

The Council will regularly monitor and review the effectiveness of this policy.

Chief Executive
January 2023

1 Policy scope

This policy applies to all of the Council's activities. The Council expects that partners, and suppliers, will adopt policies consistent with the principles set out in this policy.

Managers and staff at all levels within the Council are responsible for ensuring implementation of this policy, including appropriate assessment of risk, training of staff members and reporting of any suspected irregularity.

This policy covers all staff at all levels and grades and includes those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent Members), volunteers and consultants.

Contractors and partners whose activities create particular risk to the Council (financial, legal or reputational) are also covered by specific requirements.

2 Policy aims & objectives

Ensure the Council is protected against loss through fraudulent activity, bribery or corruption.

Protect the Council's resources by ensuring they are not lost through fraud but are used for improved services to Kirklees residents and visitors.

Maintain the Council's reputation as a well governed and well controlled organisation, operating as a trusted partner to businesses, suppliers, VSCE organisations, and all service users and citizens.

Create an anti-fraud culture which highlights the Council's zero tolerance of fraud corruption and theft, which defines roles and responsibilities.

3 Definitions

3.1 Fraud Definition

Under UK law, fraud is defined as: making a dishonest representation for your own advantage or to cause another a loss dishonestly neglecting to disclose information when you had a duty to do so. The primary pieces of legislation are the Fraud Act 2006 and the Bribery Act 2010.

Those who commit fraud, or are involved in corruption or bribery, normally do so for gain for themselves or another person, or to intentionally expose someone else to a loss. This includes:

- Failure to disclose information- where a person dishonestly fails to disclose information which they are under a legal duty to disclose (e.g., the level of savings when applying for means tested support)

- False representation- where a person knowingly makes an untrue or misleading statement (e.g., submitting a grant request to the Council knowing that the grant objectives have not been delivered)
- Abuse of position – where a person occupying a position intended to safeguard the financial interests of the organisation dishonestly abuses that position (e.g., an employee initiating false or unjustified payments)
- Theft, misappropriation and false accounting
- Money laundering, forgery and extortion
- Bribery (see below)
- Deception
- Conspiracy, corruption and collusion such as the use of authority, action or advice in order to prevent or distort a decision.

3.2 Bribery & Corruption Definition

Corruption is a broad term used to describe any attempt to abuse power for personal gain. Bribery represents a specific example. Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. This includes, but is not limited to, the following instances:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- Give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to “facilitate” or expedite a routine procedure
- Accept payment from a third party that you know, or suspect, is offered with the expectation that it will obtain a business advantage for them
- Accept a gift or hospitality from a third party if you know, or suspect, that it is offered or provided with an expectation that a business advantage will be provided by the Council in return
- Retaliate against or threaten a person who has refused to commit a bribery offence, or who has raised concerns under this policy

The Bribery Act 2010 is designed to combat bribery and corruption in the public and private sector. The act makes it an offence to offer, promise or give a bribe or to request, agree to receive, or accept a bribe “intending that, in consequence, a relevant function or activity shall be performed improperly”. There is also a corporate offence of failure by a commercial organisation (the definition of which covers local authorities, and associated bodies, such as

schools) to prevent bribery that is intended to obtain or retain business, or obtain an advantage in the conduct of business, for the organisation. The only defence to this corporate offence is if the organisation can prove on the balance of probabilities that it had in place “adequate procedures” designed to prevent persons “associated with” the organisation from bribing.

4 Organisational Culture

The Council will not tolerate fraud, bribery or corruption in any circumstances.

The Council expects that all individuals and organisations, associated in whatever way with the Council, will act with integrity. All citizens, service users and claimants must be honest, open and truthful, and comply with all obligations when requesting services, or seeking reductions in charges, subsidies or grants. Suppliers and others transacting with the Council commercially must be open, honest and fair in their dealings with the Council.

Members and employees at all levels must always lead by example. (See the Instructions & Advice to Members & Employees)

Senior management are responsible for acting as required by this Strategy in respect of any allegation of fraud, bribery or corruption received. (See Instructions & Advice to Managers)

In addition to the possibility of civil and criminal prosecution, any staff who breach this policy will face potential disciplinary action, which could result in dismissal for gross misconduct.

5 Responsibilities

The Council has a Constitution, Financial Procedure Rules and Contract Procedure Rules (and other operating rules) intended to promote the operation of the Council's business in a way which ensures probity, openness and minimises the risk of fraud, corruption and bribery.

The Cabinet is responsible for ensuring the Council has a Fraud Policy, with the Cabinet Member for Resources having a specific responsibility to act as a champion of this Policy.

It is the responsibility of the Chief Executive, the Executive Team and the Statutory Officers to ensure that the arrangements required by this strategy are properly implemented, embedded and amended as necessary.

The Cabinet and Corporate Governance & Audit Committee have a role in overseeing the operation of this Strategy.

Council Directors are responsible for ensuring the adequacy of all anti-fraud and bribery corruption arrangements within their service areas. (See Instructions & Advice to Managers)

All employees have a responsibility to help detect, prevent and report instances of fraud, bribery or corruption. Anyone with concerns regarding a suspected instance of bribery or corruption should speak up – any information and assistance will help.

The Council is committed to ensuring that staff have a safe, reliable, and confidential way of reporting any suspicious activity. Every member of staff should know how they can raise concerns. The process is detailed in the Councils Whistleblowing Policy.

Employees with concerns should raise the matter with their manager or Service director or the Head of Audit & Risk. Managers must report the concern to the Head of Audit and Risk.

All Members, and employees and associates must ensure that they:

- read, understand and comply with this policy and supporting documents
- raise concerns as soon as possible where they believe or suspect that a conflict with this policy has occurred or may occur in the future.

6 Governance, Monitoring & Review

The Chief Executive and Executive Team discharge their responsibilities through the Fraud Risk Panel. The Fraud Risk Panel meets quarterly and comprises of representatives from across the Council, being chaired by the Head of Audit & Risk. It identifies potential sources of fraud by reviewing operational processes, assesses the controls that are in place to prevent fraudulent activity and monitors the effectiveness of existing controls. Where controls are found to be ineffective or absent the panel will make recommendations to rectify.

An annual report is provided to the Corporate Governance & Audit Committee.

The Council has a range of interrelated policies, procedures and legislation that form the corporate framework to counter fraudulent activity. These have been formulated in line with appropriate legislative requirements and professional best practice, and include:

- Code of Conduct for Members?
- Code of Conduct for Employees?
- Employee Handbook (Terms & Conditions of Service) with specific reference to Gifts & Hospitality and Conflicts of Interest
- Whistleblowing Policy
- Fraud Risk Assessment
- Bribery & Corruption Risk Assessment
- Instructions & Advice to Members & Employees
- Fraud Response Plan

This Policy will be reviewed regularly. The review shall consider the following inputs prior to recommending any changes:

- the nature of specific instances of fraud, bribery or corruption that have been identified
- the outcomes of relevant risk and audit assurance activity
- developments across the regulatory and legislative landscape
- changes in operational processes and procedures
- elements of best practice identified from peers

7 Approach

7.1 Prevent: Capability, Capacity & Competence

- 7.1.1 The Council will regularly assess the range of fraud risks that it faces, by the production of an annual risk assessment.
- 7.1.2 The Council will have adequate system design and controls arrangements in place (both digital and manual) to prevent and detect fraud, with sufficient employees to carry out operational assessments, and to carry out investigations where irregularity is suspected to have occurred. This will include appropriate data collection arrangements. (Compliant with any statutory obligation).
- 7.1.3 The Council's Internal Audit and Fraud Team will be informed of all fraud related issues and concerns and will undertake investigations or be responsible for oversight of fraud investigation by others.
- 7.1.4 There will be general and specific training to relevant employees on fraud, bribery and corruption risk prevention and detection, and specialist training for the Internal Audit and Fraud Team.
- 7.1.5 The Council will continue to make employees aware of their responsibilities to adhere strictly to this policy.
- 7.1.6 Various strategies will be used to encourage its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately.
- 7.1.7 All instances of alleged bribery will be rigorously investigated, and assistance provided to the Police and other appropriate authorities in any resultant prosecution.
- 7.1.8 Inclusion of appropriate clauses in contracts to prevent bribery.

7.2 Communication

- 7.2.1 The Council will be clear in both its external and internal communication about the importance of fraud prevention, its impact on both the Council and community, and will appropriately publicise fraud related matters.

7.3 Collaboration

- 7.3.1 The Council will work as one organisation to prevent and detect fraud.
- 7.3.2 It will work with other local authorities, and with the Police and other agencies sharing information, resources, skills and learning, good practice and innovation.

7.4 Pursue

- 7.4.1 The Council will take all steps to pursue those it believes may be guilty of fraud. It will investigate all cases where it believes there is strong suspicion of fraudulent activity.
- 7.4.2 It will, where appropriate, collaborate across geographical and sectoral boundaries in pursuit of suspicion of fraud.
- 7.4.3 The Council will use a range of methodologies to address fraud ranging from denial of service, through use of civil sanctions and criminal prosecutions. It will seek to recover costs of investigation from those who perpetrate fraud against it, using all appropriate means.

7.5 Protect

- 7.5.1 The Council will acknowledge the harm that fraud can cause in the community. This includes the effect that fraud has by depriving the community of resources for services that they expect.

Appendix 1

ANTI BRIBERY POLICY STATEMENT

This statement should be read alongside the more comprehensive Fraud Statement

1. The Council is committed to applying the principles which are set out below and within the Counter Fraud, Bribery & Corruption Policy, to implement bribery prevention procedures which are proportionate to risk.
2. Due diligence procedures are in place where contractors, associated persons or organisations perform activity on behalf of the Council. This will include assessment that sufficient control procedures are in place to prevent as far as is practicable bribery taking place within those organisations.
3. Bribery prevention measures will be communicated, embedded and understood throughout the organisation through regular engagement and training.
4. Ongoing monitoring and review of procedures, including making improvements where necessary.
5. It is unacceptable to:
 - a. give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
 - b. give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to “facilitate” or expedite a routine procedure
 - c. accept payment from a third party that you know, or suspect, is offered with the expectation that it will obtain a business advantage for them
 - d. accept a gift or hospitality from a third party if you know, or suspect, that it is offered or provided with an expectation that a business advantage will be provided by the Council in return
 - e. accept “facilitation payments”; these are unofficial payments made to public officials in order to secure or expedite actions and are illegal.
 - f. retaliate against or threaten a person who has refused to commit a bribery offence, or who has raised concerns under this policy
 - g. engage in activity in breach of this policy.
6. Anyone who gives or receives a bribe is liable to legal penalties of fines and terms of imprisonment. The Council could also be subject to fines if its employees (etc.) were found to be party to bribery.
7. A company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council does have the discretion to exclude organisations convicted of this offence and will consider these on a case-by-case basis.

Appendix 2

ANTI CORRUPTION POLICY STATEMENT

This statement should be read alongside the more comprehensive Fraud Statement

1. All large organisations face a threat of corruption. Corruption causes harm to the organisation, its aims and objectives and to its service users.
2. Corruption is not tolerated. Everyone must behave in a way which makes clear that any corrupt- or apparently corrupt- behaviour is unacceptable.
3. The Council will establish governance oversight and systems and processes to minimize the risk of corruption. (For example, all decisions and appointments will be based on merit, all contract awards will follow compliance obligations and due diligence)
4. The Council will ensure that all Members and employees are aware of corruption risks and provide appropriate training.
5. The Council will ensure that all staff declare any conflicts of interest and any gifts or hospitality.
6. There will be a regular corruption risk assessment (and risk management process) including a check that adequate resources are devoted to corruption prevention and investigation.
7. There will be annual report on corruption risk.
8. The Council will address any corruption risk in any partnership arrangements.
9. The Council will take proactive steps to assess corruption risk where appropriate (including the use of data matching and analytics).
10. The Council will investigate any apparent corruption, using specialist resources if appropriate.

This statement aligns with the draft CIPFA Draft Anti-Corruption Code of Practice (July 2022)