

North East Derbyshire District Council

Cabinet

13 January 2016

Draft Anti-Fraud, Bribery and Corruption Strategy (including Money Laundering Policy)

Report No PRK/21/15-16/MK of Councillor P R Kerry, Portfolio Holder with Responsibility for Economy, Finance and Regeneration

This report is public

Purpose of the Report

- To enable Members to consider the proposed Anti Fraud Strategy and to raise any issues which they consider to be appropriate.

1 Report Details

1.1 One key element of effective financial Governance is that the Council has appropriate arrangements in place in respect of Fraud including:

- A clear policy statement setting out the Council's values of a zero tolerance of fraud, corruption, bribery and related misuse of public funds. This policy statement needs to be reflected in the wider culture of the Council.
- Take steps to promote the prevention of fraud and related activities.
- Put procedures and resources in place which promote the detection of fraud.
- Ensure that measures are taken and remain in place which deters all those connected with the Council (Employees, Elected Members, Suppliers, local residents, Partnership organisations) from committing fraud, accepting or offering bribes, or any involvement in corruption.
- Establish appropriate procedures for ensuring effective investigation action where fraud is suspected.

1.2 The Council currently has in place an anti fraud policy previously agreed in July 2012. This document seeks to update that policy to reflect changes in good practice and it is to be launched as a Joint Strategy across the two Councils within the Strategic Alliance. As part of the consultation route it was considered by Senior Management Team, and the Strategic Alliance Joint Committee before being submitted to Cabinet (NEDDC) and Executive (BDC) for approval. The launch will be supported by awareness sessions for both Officers and Elected Members, while the consultation process around the Strategy has served to improve awareness throughout both Councils. The Audit and Corporate Governance Scrutiny Committee considered the draft Anti Fraud, Bribery and Corruption Strategy attached at **Appendix 1** at its meeting on 22 October 2015 and recommended it to Cabinet for approval.

2 Conclusions and Reasons for Recommendation

- 2.1 Cabinet is recommended to approve the Anti Fraud, Bribery and Corruption Strategy to meet the objectives set out at paragraph 1.1 above.

3 Consultation and Equality Impact

- 3.1 There are no issues arising directly from this report.

4 Alternative Options and Reasons for Rejection

- 4.1 Given that the Council is committed to a policy of zero tolerance of Fraud it is important that we maintain an up to date policy which helps ensure that this policy commitment is secured in practice. Given this policy commitment there is no realistic alternative other than to agree an appropriate Strategy designed to set out how the Council will ensure that the impact of fraud and related activities upon the Council is minimised.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Financial issues are covered in the Strategy which is attached as Appendix 1 to this report.

- 5.1.2 If the Council is not successful in operating in a manner which minimises fraud, corruption and related activity there is a significant risk of a critical public response which will undermine the reputation of the Council. Fraud and Corruption bring with them major issues of public credibility which could undermine the ability of the Council to continue to operate effectively.

5.2 Legal Implications including Data Protection

- 5.2.1 Fraud, Bribery, Corruption and Money Laundering are all criminal activities. This policy is intended to minimise the risk that this Council suffers as a result of such activity, or that the Council is unwittingly used to undertake or assist such activity. There are no data protection issues arising directly out of this report.

5.3 Human Resources Implications

- 5.3.1 There are no issues arising directly from this report.

6 Recommendations

- 6.1 That Cabinet approves the Anti Fraud, Bribery and Corruption Strategy attached at Appendix 1.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
District Wards Affected	Not Directly
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
1	Anti Fraud, Bribery and Corruption Strategy (including Money Laundering Policy).
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Bryan Mason Executive Director - Operations	01246 217154

AGIN 6(a) (CAB 0113) 2016/Fraud Strategy/AJD

Bolsover and North East Derbyshire District Council

Anti-Fraud, Bribery and Corruption Strategy (including Money Laundering Policy)

POLICY STATEMENT

The Councils expect that both Elected Members and Officers will demonstrate the highest standards of behaviour in the conduct of public business.

In undertaking their functions and activities, the Councils will not tolerate any form of fraud, corruption, bribery, abuse of position or other malpractice, whether it is attempted by persons or organisations within or external to the Council.

The Councils are committed to working in an open, honest and fair way and will:

- Maintain a policy and a culture characterised by Zero Tolerance of Fraud and Malpractice
- Encourage the prevention of fraud, bribery, corruption or other malpractice
- Promote the detection of fraud, bribery, corruption or other malpractice
- Maintain clear procedures for investigation and for undertaking further action where necessary

It is expected that Elected Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Councils also expect that individuals and organisations (including suppliers and service users), with which it comes into contact, will act towards the Councils with honesty and integrity.

The Councils expect all partners in both public and private sectors to establish robust and transparent governance arrangements.

BOLSOVER AND NORTH EAST DERBYSHIRE DISTRICT COUNCILS

Anti-Fraud, Bribery and Corruption Strategy

1. **INTRODUCTION**

1.1 The Councils are opposed to all forms of fraud and corruption. It recognises that fraud and corruption undermine the standards of public service to which it is committed, reduces the resources available for the benefit of the whole community and erodes public confidence in our governance.

1.2 The Anti-Fraud, Bribery and Corruption Strategy is designed to: -

- Provide a clear statement of values
- Encourage prevention;
- Promote detection,
- Act as a deterrent; and
- Set out a clear approach for investigation of any concerns, complaints, etc.

1.3 **Fraud** can be defined as:

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

Corruption is defined as:

- *The abuse of entrusted power for personal gain.*

Theft is defined as:

“a person shall be guilty of theft if they dishonestly appropriate property belonging to another with the intention of permanently depriving the other of it.

Bribery is defined as:

“an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.”

Or

“giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for already having done so.”

Bribery includes :

- Bribery of another person
- Accepting a Bribe
- Failure to prevent or disclose Bribery

Further details concerning bribery and related offences and in particular concerning the interpretation of the Bribery Act 2010 can be found at the website given below:

<http://www.legislation.gov.uk/ukpga/2010/23/contents>

1.4 Benefit fraud is where a person,

- a) makes a false statement or representation; or
- b) causes or allows a false statement or representation; or
- c) fails to notify a change of circumstances; or
- d) causes or allows another person to fail to notify a change of circumstances for the purpose of obtaining or increasing entitlement to housing/council tax benefit for themselves or others.

1.5 This document presents a Strategy for Open and Honest Councils characterised by a clear policy of Zero Tolerance of Fraud, Bribery, Corruption and related activities. The sections which follow set out the framework which it is intended will help secure that objective.

2. **CULTURE**

- 2.1 The Councils are determined that the culture and tone of the organisation will continue to be one of honesty, openness and opposition to fraud and corruption.
- 2.2 All individuals and organisations associated with the Councils are required to act with integrity. Council staff and Members, at all levels, will lead by example.
- 2.3 The Councils' staff are an important element in ensuring that our stance on fraud and corruption is effective. They are encouraged to raise any concerns and can do this in the knowledge that these will be treated in confidence and properly investigated.
- 2.4 This commitment to investigate the concerns of any members of staff has been formally acknowledged by the Councils by the adoption of a Confidential Reporting Policy.

The Confidential Reporting Policy aims to: -

- encourage individuals to feel confident in raising serious concerns and to question and act upon concerns about working practice.
- provide avenues by which these concerns can be raised and subsequently to give feedback on any action taken.
- ensure that a response is provided to any concerns raised and that people raising concerns are aware of how to pursue them if they are not satisfied.
- reassure individuals that they will be protected from possible reprisals or victimisation if they have made any disclosure in good faith.

A copy of the Confidential Reporting Policy is available on the Council's Intranet, and will be provided in printed format if required. It should be noted that the Confidential Reporting Policy covers all issues (not just fraud and corruption).

- 2.5. The Councils actively promote an 'open' culture whereby decisions are made in public and open to scrutiny. As part of the Transparency Agenda the Councils publish a wide range of expenditure and related data which are available on the website. As such these are open to Scrutiny by the public. The Councils have robust Governance arrangements in place which meet best practice requirements.

- 2.6 Where either staff or members of the public have concerns there are a number of channels available to report these concerns through:
- Directors / Assistant Directors / Managers
 - The Chief Executive
 - Internal Audit Section
 - The Council's External Auditors
 - Through the Councils' Complaints Procedures
 - Both Councils websites provide details of how to report fraud. These details can be accessed by typing "fraud" in the search box which appears on the opening page.
 - Alternatively benefit fraud can be reported directly to the Department for Work and Pensions at their website, or alternatively at the GOV.UK site. Again type "fraud" in the search box which appears on the opening page. The GOV.UK site allows a wide variety of fraud such as taxation matters to be reported.
- 2.7 Senior Management are responsible for following up any allegation of fraud or corruption received and will do so by taking the following action: -
- immediately informing the Head of Internal Audit, or the Chief Financial Officer (Executive Director - Operations), or the Chief Executive.
 - recording and securing all evidence received and collected;
 - ensuring that evidence is sound and adequately supported;
 - implementing Council disciplinary procedures where appropriate;
 - where the matter is raised through the Confidential Reporting Policy, responding in accordance with that Policy.
- 2.8 Senior Management are required to deal swiftly and firmly with those who defraud the Council or who are corrupt.
- 2.9 The investigation process must not be misused and any abuse, such as raising malicious allegations, will be dealt with as a disciplinary matter.
- 2.10 The Councils (Internal Audit) will report on a regular basis (at least annually) to the Audit Committee (Bolsover District Council) and the Audit and Corporate Governance Scrutiny Committee (North East Derbyshire District Council) concerning their performance in respect of fraud and related matters.

3 **PREVENTION**

3.1 **Staff**

- 3.1.1 Staff recruitment will be in accordance with the Councils' Recruitment and Selection procedures particularly with regard to the obtaining of written references. These will be used to assist in verifying the previous record of potential staff in terms of propriety and integrity. All recruitment processes must involve the HR team of the Council.

- 3.1.2 Employees of the Councils must follow the Employee Code of Conduct which is included in Part 5 of the Council's Constitution.

- 3.1.3 Employees must declare any circumstances where their personal interests (financial and non-financial) may conflict with those of the Council e.g. processing a planning application form for a relative or friend. Any concerns regarding a potential conflict of interest must be discussed with a senior manager.

- 3.1.4 The Councils have in place agreed disciplinary procedures which management and employees must follow.

- 3.1.5 Many procedures have been designed to ensure that the work of one member of staff is checked by another. These types of checks are important deterrents to fraud. Managers must ensure that all staff have access to procedural guidance and should ensure – including by periodic checks - that agreed procedures are being operated.

- 3.1.6 Based upon a risk assessment where necessary staff will receive appropriate training to ensure that they are equipped to identify and tackle fraud related matters.

- 3.1.7 Investigation officers will receive appropriate levels of training ensuring high quality investigations. This will include training by other professional investigation bodies such as the police.

- 3.1.8 Computer Payroll details held by the Councils will be compared with computer benefit details and any matches will be investigated. Likewise any data matches raised by the

National Fraud Initiative will be investigated. The provisions of the Data Protection legislation will be applied.

3.2 **Members**

3.2.1 Councillors and co-opted members must follow the rules in Part 5 of the Councils' Constitutions, including:

- General Principles of Conduct
- Members' Code of Conduct
- Code of Conduct on Planning Matters
- Summary of other rules affecting members' conduct
- Protocol on Member / Officer Relations

Councillors are made aware of these rules as part of the Induction Process, and further on going training will be provided as appropriate.

3.2.2 The Councils have in place appropriate procedures to deal with standards of conduct of District and Parish Councillors and co-opted members.

3.3 **Systems**

3.3.1 It is a management responsibility to maintain the internal control system. This includes the responsibility for the prevention of fraud and other illegal acts. By undertaking an agreed plan of work, internal audit will evaluate the adequacy and effectiveness of these controls as a means of assisting management to discharge its responsibilities.

3.3.2 The Chief Financial Officer (Executive Director - Operations) has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure the proper arrangement of the Council's financial affairs. In addition the Monitoring Officer (Assistant Director – Governance and Monitoring Officer) is responsible for ensuring that the Council's business is conducted in accordance with legislation and good practice.

3.3.3 To help ensure that robust systems are maintained the Financial Regulations require that all service financial recording systems must be designed in consultation with and to the satisfaction of the Chief Financial Officer.

3.3.4 The Councils' Financial Regulations and Procedures are set down in Part 4 of the Councils' Constitutions. These Regulations and Procedures set out in detail how the Councils' financial affairs are to be administered and controlled.

3.4 **Combining with Others**

3.4.1 Arrangements are in place to encourage the exchange of information between each Council and other agencies on fraud and corruption activity as an aid to prevention/detection. The agencies involved include: -

- The Councils' External Auditors (KPMG);
- Department for Work and Pensions;
- Inland Revenue;
- Customs and Excise.

In exchanging data with other organisations the Councils will comply with the requirements of the Data Protection legislation.

4 DETECTION AND INVESTIGATION

4.1 The internal control and other monitoring systems outlined above have been designed to highlight fraudulent activity, and they should be sufficient in themselves to deter fraud.

4.2 It is the responsibility of Directors and their managers to prevent and detect fraud and corruption. However it is often the alertness of other staff, Members and the public that enables detection to occur and appropriate action to be taken.

4.3 Financial Procedures require Directors and other Managers to immediately notify the Chief Financial Officer (Executive Director - Operations) or the Head of Internal Audit of any financial irregularity or suspected irregularity. Reporting is essential because it:

- Ensures consistent treatment;
- Enables investigation to be assisted by an independent team;
- Ensures agreed investigation procedure is followed.

4.4 Depending on the nature and the anticipated extent of the allegations, the Internal Audit Section will normally work closely with Management and other Agencies, such as the Police, to ensure that all allegations and evidence are properly investigated and reported upon, and where appropriate, maximum recoveries are secured for the Council.

4.5 The Councils' Disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour by a Council Employee.

4.6 Ignoring potential/possible fraud, including benefit fraud, may be construed as improper behaviour by a Council employee. If an employee has any suspicion, they should make appropriate officers aware, so that the matter can be investigated in accordance with the confidential reporting policy.

The people to contact are:-

- * your Manager
- * your Director/Assistant Director
- * the Chief Financial Officer
- * the Head of Internal Audit
- * the Benefits Team

Where your own Director or Manager is not available or should you so choose then you should contact another senior manager.

- 4.7 Causing or allowing a person to either make a false statement or declaration, or to fail to notify a change of circumstances is an offence under the law relating to the payment of benefit. Any employee / member involved is liable to prosecution.
- 4.8 Where financial impropriety is discovered, the Councils' presumption is that the Police will be called in. Referral to the Police is a matter for the Chief Executive, in consultation with the Chief Financial Officer or other relevant Director. Referral to the Police will not prohibit and should not delay action under the Disciplinary Procedure.

5 HOUSING/COUNCIL TAX BENEFITS

- 5.1 While the Councils encourage genuine claimants to apply for benefits to which they are entitled it has adopted a number of initiatives to detect and prevent fraudulent applications, such as: -
- A Verification Framework; which incorporates checks at the start and during the life of a benefit claim;
 - A page on the Council's website provides a range of information for reporting suspected fraud.
 - Publicity for a national fraud 'hotline' and the reporting tool on the Department of Work and Pensions website together with details on the Council's website of other channels for reporting issues.
 - participation in the DWP sponsored or similar Datamatching exercise;
 - use of the Royal Mail 'do not redirect' facility on benefit payments to private tenants;
 - internal data matching, payroll data to benefit data;
 - using computer links to the Department for Work and Pensions to check entitlements, to receive benefit notifications, and to check National Insurance numbers and other data;
 - having a prosecution policy for alleged benefit / council tax fraudsters;
 - carrying out joint fraud investigations with other bodies such as DWP.
 - Regular articles in the Council's news publication circulated to all residents.
- 5.2 The Councils have a Policy of undertaking the Prosecutions of persons who have committed criminal offences in obtaining housing benefit and/or council tax benefit to which they were not entitled.
- 5.3 Revenues and Benefit staff receive training in fraud awareness. Codes of Conduct have been established for these staff. These explicitly state that no employee should deal with any claimant who is personally known to them or get involved in any case where they have a

pecuniary interest, e.g. the claim is in respect of a property they own or for a member of their family.

6 RAISING AWARENESS OF THIS POLICY STATEMENT

- 6.1 To be effective, it is essential that all staff and Members are aware of the existence of this Policy Statement. This will be achieved through a variety of means, including training, availability on the website, articles in Council publications.

7 CONCLUSION

- 7.1 The Councils have in place a clear set of systems and procedures to assist it in the fight against fraud and corruption.

- 7.2 The Councils will maintain a continuous overview of such arrangements through the annual review of the Constitution and Financial Regulations / Procedures, various Codes of Conduct and audit arrangements.

- 7.3 This Policy Statement will be subject to periodic review to ensure its continued relevance.

October 2015

ANTI MONEY LAUNDERING POLICY
(INCORPORATING TERRORIST FINANCING REQUIREMENTS)

1. INTRODUCTION

The Proceeds of Crime Act (POCA) 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007 place obligations on the Councils and its employees regarding suspected money laundering.

The legislative requirements concerning anti money laundering procedures are lengthy and complex. This policy has been written so as to enable the Council to comply with the Proceeds of Crime (Anti-Money Laundering) Practical Guidance for Public Service Organisations by Chartered Institute of Public Finance and Accountancy (CIPFA) relating to the anti money laundering regulations. While all organisations are required to take appropriate steps to prevent money laundering local authorities do not undertake activities which have been identified as being high risk and the approach outlined is considered proportionate to what is considered to be a low risk to the Council and its employees. While the Councils undertake activities considered to be 'low risk' what constitutes money laundering is very widely defined and it is important that the Council takes appropriate steps to prevent money laundering.

2. SCOPE OF POLICY

This policy applies to all employees of the Councils and aims to maintain high standards of conduct, by reducing the risk of criminal activity through money laundering. This policy sets out the procedures, which must be followed.

The Anti Money Laundering Policy is part of the Councils' Anti Fraud and Corruption Policy and Strategy and sits alongside its Whistleblowing Policy and Employees Code of Conduct.

3. WHAT IS MONEY LAUNDERING?

Money laundering is defined as the process by which the proceeds of crime, and the true ownership of those proceeds, are changed so that the proceeds of crime appear to come from a legitimate source.

Primary money laundering offences include:

- concealing, disguising, converting, transferring of criminal property or removing it from the United Kingdom
- entering into or becoming involved 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
- acquiring, using or possessing criminal property.

There are also two secondary offences:

- failure to disclose any of the three primary offences
- 'tipping off' whereby somebody informs a person or persons 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.

4. WHAT IS TERRORIST FINANCING?

The Terrorism Act 2000 creates a money laundering offence under Section 18 whereby a person commits an offence if he or she enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property:

- by concealment
- by removal from the jurisdiction
- by transfer to nominees, or
- in any other way.

5. OBLIGATIONS ON THE COUNCIL

The obligations on the Councils as set out in the CIPFA Money Laundering Guidance for Local Authorities are to establish appropriate procedures to prevent the Council being used as a vehicle for money laundering:

- identify the potential areas where it may occur
- Ensuring those staff most likely to be exposed to money laundering are aware of the requirements and obligations placed on the Council and on them as individuals.

- provide targeted training for those staff considered to be most likely to encounter money laundering including issuing a staff guidance note and undertake training for staff working in those areas
- nominate an officer to whom concerns regarding cases of suspected money laundering can be reported.

6. REPORTING CONCERNS

The nominated officer who will receive the concerns of staff relating to money laundering is the Executive Director - Operations. All concerns must be reported immediately to either the Director or a senior officer in the Finance Team. Alternatively the Head of Internal Audit or a senior member of the internal audit team may be contacted.

Staff must not discuss their suspicions with the suspect and must not take any action that may alert the suspect to their suspicions. Tipping off a money laundering suspect is an offence punishable by fine or prison sentence.

Money Laundering can be characterised by a number of activities and any suspicions should be raised with the Money Laundering Officer. A money laundering transactions may have some of the following features:

- A large cash transaction.
- An unnecessarily complex transaction involving for instance the use of third party bank accounts, etc.
- A change in the source and or destination of any funding, or the involvement of any unconnected third party.
- Absence of any obvious legitimate source of funds.
- The size, nature and frequency of transactions are out of line with normal expectations.
- Money comes in from or is paid to an unexpected source.