

## APPENDIX A



## ANTI-FRAUD AND BRIBERY POLICY

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## **ANTI-FRAUD AND BRIBERY POLICY**

<b>CONTENTS</b>	<b>PAGE</b>
<b>1 INTRODUCTION</b>	<b>3</b>
<b>2 DEFINITIONS</b>	<b>4</b>
<b>3 RULES AND PROCEDURES</b>	<b>5</b>
<b>4 CULTURE</b>	<b>6</b>
<b>5 RESPONSIBILITIES AND PREVENTION OF FRAUD</b>	<b>7</b>
<b>6 DETECTION AND INVESTIGATION OF FRAUD</b>	<b>10</b>
<b>7 TRAINING AND AWARENESS</b>	<b>11</b>
<b>8 CONCLUSION</b>	<b>11</b>

## **1 INTRODUCTION**

- 1.1 In carrying out its functions and responsibilities, the Council encourages a culture of openness and fairness and expects elected members and employees at all levels to adopt the highest standards of propriety and accountability.
- 1.2 The Anti-Fraud and Bribery Policy recognises that the Council as a large organisation is at risk of loss due to fraud and corruption both from within the Council and outside it. In adopting this Policy, the Council seeks to demonstrate clearly that it is firmly committed to dealing with fraud, corruption and bribery and will deal equally with perpetrators from inside (members and employees) and outside the Council. In addition, there will be no distinction made in investigation and action between cases that generate financial benefit and those that do not.
- 1.3 In meeting the Council's responsibilities relating to fraud and corruption, whether attempted internally or externally, the Council's Anti-fraud and Bribery Policy is designed to:-
- encourage prevention;
  - promote detection;
  - ensure effective investigation where suspected fraud or corruption has occurred; and
  - prosecute offenders where appropriate.
- 1.4 There is an expectation and requirement that all members, employees, consultants, contractors, and service users be fair and honest, and if able to do so, provide help, information and support to assist investigations of fraud and corruption.
- 1.5 The Council is aware of the high degree of external scrutiny of its affairs by a variety of bodies including those as listed below. These bodies are important in highlighting any areas where improvements can be made:-
- Local Government Ombudsman;
  - External Auditors - as part of their statutory duties, External Audit is required to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud and corruption;
  - Council Tax Payers – Annual Inspection of the Accounts;
  - HM Revenues & Customs
  - Department for Works & Pensions; and
  - The Criminal Justice System.

## 2 DEFINITIONS

### Fraud

- 2.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) defines fraud as “*the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain*”.

Similarly, in ‘The Investigation of Fraud in the Public Sector’ (CIPFA 1994) CIPFA defined corruption as “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.

The Fraud Act 2006 is legislation that has been introduced in order to provide absolute clarity on the subject of fraud.

- 2.2 Section 1 of the Fraud Act 2006 introduces a general offence of fraud and three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and
- Fraud by abuse of position.

- 2.3 Fraud by false representation requires:

- Dishonesty;
- An intent to make gain or cause loss; and
- The person makes the representation knowing that it is or might be false or misleading.

- 2.4 Fraud by failing to disclose information requires:

- Dishonesty;
- An intent to make gain or cause loss; and
- Failure to disclose information where there is a legal duty to disclose.

- 2.5 Fraud by abuse of position requires:

- Dishonesty;
- An intent to make gain or cause loss; and
- Abuse of a position where one is expected to safeguard another person’s financial interests.

### Corruption/Bribery

- 2.6 Corruption/Bribery is defined as “*the offering, promising, giving, soliciting agreement to accept or acceptance of a financial or other advantage which may induce or reward a person to perform improperly a relevant function under the Bribery Act 2010*”. Corruption is an offence under the Prevention of Corruption Acts 1906 and 1916 and section 117(3) of the Local Government Act 1972.

2.7 The Bribery Act 2010 came into force on 1 July 2011. It reforms the criminal law to provide a new scheme of bribery offences and it will provide a more effective legal framework to combat bribery. The Act creates the following offences relevant to the Council:-

- Offences of bribing another person;
- Offences relating to being bribed; and
- Offences relating to the bribery of foreign public officials.

Furthermore, if the offence is proved to have been committed with the consent or connivance of a senior officer of the organisation, then the senior officer may be personally liable.

### Money Laundering

2.8 Money laundering is a term applied to any method used to convert or exchange money or assets obtained from criminal activity into money or assets that are “clean”, in such a way that the “clean” money can no longer be linked back to the criminal activity. Whilst the risk of money laundering to the Council is relatively low and the provisions of the Money Laundering Regulations 2007 do not strictly apply, the Council has adopted an Anti-Money Laundering Policy as good practice. This Policy supports all staff in complying with the money laundering provisions included within the Proceeds of Crime Act 2002 and the Terrorism Act 2000. The Anti-Money Laundering Policy is in the process of being updated.

## **3 RULES AND PROCEDURES**

3.1 The Council has rules and procedures to ensure that its day to day operations and activities are properly controlled and these are an important part of the internal control framework.

3.2 These include:-

- The Council's Constitution (hyperlink below);  
<http://www1.bridgend.gov.uk/democracy/constitution.aspx>
- Financial Procedure Rules (Part 4 of the Constitution 'Rules of Procedure');
- Contract Procedure Rules (Part 4 of the Constitution 'Rules of Procedure');
- Code of Conduct for Members including declarations of interest (Part 5 of the Constitution 'Codes and Protocols');
- Code of Conduct for Council Employees (Part 5 of the Constitution 'Codes and Protocols');
- Disciplinary Policy and Procedures;
- ICT Code of Conduct;
- Scheme of Delegation
- The Regulation of Investigatory Powers Act Policy
- The Fraud Act 2006
- The Bribery Act 2010
- Proceeds of Crime Act 2002
- Data Protection Act 1998
- Human Rights Act 1998
- Whistleblowing Policy

- Anti-Money Laundering Policy
- Equal Opportunities Policy
- Effective recruitment and selection procedures
- Training

3.3 Failure to comply with the rules and procedures may result in formal action being taken. In the case of employees this would be through the Council's disciplinary procedures and for Members would involve the Council's Standards Committee which hears allegations of misconduct by Members.

#### **4 CULTURE**

4.1 The Council's culture is one of honesty and opposition to fraud and corruption. The prevention or detection of fraud and corruption and the protection of public money are everyone's responsibility.

4.2 There is an expectation and requirement that all individuals, businesses and organisations dealing in any way with the Council will act with high standards of probity, openness and integrity and that Council employees or its agent(s) at all levels will lead by example in these matters.

4.3 The Council's elected Members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, irrespective of seniority, rank or status, in the knowledge that such concerns will, be treated in confidence.

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

- a criminal offence;
- a failure to comply with a statutory or legal obligation;
- improper unauthorised use of public or other funds;
- a miscarriage of justice;
- maladministration, misconduct or malpractice;
- endangering of an individual's health and safety;
- damage to the environment; or
- deliberate concealment of any of the above.

4.5 The Nolan Committee recommended that every Council should institute a procedure for whistleblowing, which would enable concerns to be raised confidentially inside and, if necessary, outside the organisation. The Council's Whistleblowing Policy can be located on the intranet. It was reviewed by the Standards Committee in May 2013 and also by Internal Audit. The Whistleblowing Policy seeks to reassure individuals that they will be protected from possible reprisals if they made disclosures in good faith. The Council is committed to honouring this policy and to formally investigating any breaches.

4.6 The Council will ensure that any allegations received in any way, including by anonymous letters or phone calls, will be taken seriously and investigated in an appropriate manner, subject to the requirements of the Human Rights Act 1998.

- 4.7 The Council will deal firmly with those who defraud the Council, or who are corrupt, or where there has been financial malpractice. There is a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees raising malicious allegations) may be dealt with as a disciplinary matter.
- 4.8 When fraud or corruption has occurred because of a breakdown or weakness in the Council's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented to prevent a reoccurrence.
- 4.9 Both elected Members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

## **5 RESPONSIBILITIES AND PREVENTION OF FRAUD**

### The Role of Elected Members

- 5.1 As elected representatives, all Members have a duty to citizens to protect the Council from all forms of abuse and protect public monies. This is done through compliance with the Member code of conduct, the Council's Financial and Contract Procedure Rules, the Anti-fraud and Bribery Policy and other relevant legislation.

The Council's Code of Conduct for Members sets out an approach to work that is honest, fair, accountable and, as far as possible, transparent.

- 5.2 Members sign that they have read and understood the Member code of conduct when they take office. These conduct and ethical matters are specifically brought to the attention of Members during induction and include the declaration and registration of interests. The Monitoring Officer advises Members of new legislative or procedural requirements.

### The Role of the Monitoring Officer

- 5.3 The Monitoring Officer has responsibility for:-

- ensuring that this policy is current
- initiating action if fraud, bribery or corruption may have been identified
- the lawfulness and fairness of decision making
- ensuring that councillors are aware of the protocols, policies and procedures, as set out at the end of this policy that apply when carrying out their duties.

### The Role of the Section 151 Officer

- 5.4 The Section 151 Officer has responsibility for:-

- the proper administration of the council's financial affairs under s.151 of the Local Government Act 1972 and s.114 of the Local Government Finance Act 1988. This includes the employee nominated by his/her to act in his/her absence and any employee of his/her staff acting on his/her behalf.
- reporting to councillors and the Audit Commission if either council, or one of its representatives makes, or is about to make a decision which is unlawful, or involves

illegal expenditure or potential financial loss (Local Government Finance Act 1988 s.114).

### The Role of Managers

- 5.5 Managers at all levels are responsible for the communication and implementation of the Anti-Fraud and Bribery Policy in their work area. They are also responsible for ensuring that their employees are aware of all of the Council's policies, procedure rules (as detailed in 3.2 above), and that the requirements of each are being met in their everyday business activities. They are required to ensure that their staff are aware of their responsibilities in relation to safeguarding the resources for which they are responsible and for reporting suspected irregularities.
- 5.6 Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities.
- 5.7 The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts. The Council's Equal Opportunities Policy will be adhered to during this process.
- 5.8 The Council has a formal recruitment procedure, which contains appropriate safeguards on matters such as written references and verifying qualifications held. Applicants complete an application form and must declare any criminal convictions that are not spent. Where appropriate, applicants may also be subject to a Disclosure and Barring Service (DBS) check.
- 5.9 The Council's disciplinary procedures apply to all employees.

### The Role of Individual Employees

- 5.10 Each employee is governed in their work by the Council's procedure rules, as detailed in Part 4 of the Constitution, and other codes of conduct and policies (e.g. health and safety, disciplinary policy, ICT Code of Conduct). They are also governed by the Code of Conduct for Council employees (Part 5 of the Constitution). Included in these are guidelines on gifts and hospitality and codes of conduct associated with professional and personal conduct and conflicts of interest. These are issued to all employees when they join the authority or will be provided by their manager. Also employees are expected to follow any Code of Conduct related to their membership of a professional institute.
- 5.11 Employees are responsible for ensuring that they follow the instructions given to them by management, particularly in relation to the safekeeping of Council assets. These will be included in induction training and procedure manuals.
- 5.12 The Council has a protocol on secondary employment for employees. The purpose of this is to safeguard both the Council and employees' interests in recognising that some employees may wish to undertake secondary employment whilst being required to provide the highest standards of service to our customers. These could be affected if an employee were to have secondary employment which conflicted with their Council work.



- 5.13 Employees must operate within Section 117 of the Local Government Act 1972 regarding the disclosure of financial interests in contracts relating to the Council, or the non-acceptance of any fees, gifts, hospitality or any other rewards, other than their proper remuneration. . Further information is available from the Monitoring Officer.
- 5.14 Employees are expected always to be aware of the possibility that fraud, corruption or theft may exist in the workplace and be able to share their concerns with management. If for any reason, they feel unable to speak to their manager they must refer the matter to one of those named below.
- 5.15 Concerns must be raised, in the first instance, directly with their line manager, or, if necessary, anonymously (by letter or phone), and via other routes, in accordance with the Council's Whistleblowing Policy.

#### The Role of Committees

- 5.16 The Standards Committee includes amongst its roles and functions the promotion and maintenance of high standards of conduct by Members, assisting Members to observe the Member's code of conduct and the monitoring and operation of it. It also considers reports submitted by the Public Services Ombudsman for Wales, the Monitoring Officer or any other representations relating to alleged breaches of the Code. The Committee also monitors the operation of the Council's Whistleblowing policy.
- 5.17 The Audit Committee has to consider, as one of its functions, the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and corruption arrangements. It will also monitor this policy. Every year, the Committee receives the Head of Internal Audit's annual opinion report which provides detailed information on the work of the Internal Audit Section and the effectiveness of the overall internal control environment for the Council as a whole.

#### The Role of Internal Audit

- 5.18 Internal Audit is within the Resources Directorate and it plays a vital preventative role in trying to ensure that systems and procedures are in place to prevent and detect fraud and corruption. Internal Audit investigates cases of suspected irregularity, except benefit fraud investigations, in accordance with the requirements of the Human Rights Act 1998. They liaise with management to recommend changes in procedures to prevent or mitigate losses to the Council.
- 5.19 Internal Audit has arranged and will keep under review procedures and arrangements to develop and encourage the exchange of information on national and local fraud and corruption activity in relation to Councils with external agencies such as:-
- Police
  - Society of Welsh Treasurers
  - Welsh Chief Internal Auditor's Group
  - External Audit
  - Wales Audit Office
  - National Anti-Fraud Network
  - HM Revenues and Customs
  - Welsh Benefits Investigation Group

- Benefits Agency
- Benefit Fraud Inspectorate
- Other outside agencies.

#### The Role of the Housing Benefits Fraud Team

- 5.20 The Fraud Investigation Team (Benefits) is responsible for all benefit fraud investigations, in accordance with the requirements of the Human Rights Act 1998 and other relevant legislation. In cases where employees are involved, the team will work with Internal Audit, Human Resources and appropriate senior management to ensure that correct procedures are followed and that this Policy is adhered to. At some point in the future, the Housing Benefits Fraud Team will transfer (in part or totally) to the DWP's Single Fraud Investigation Service (SFIS).

#### The Role of External Audit

- 5.21 Independent external audit is an essential safeguard in the stewardship of public money. This role is delivered through the carrying out of specific reviews that are designed to test (amongst other things) the adequacy of the authority's financial systems, and arrangements for preventing and detecting fraud and corruption. It is not the external auditor's function to prevent fraud and irregularity, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity, and will act without undue delay if grounds for suspicion come to their notice. The external auditor has a responsibility to review the Council's arrangements to prevent and detect fraud and irregularity, and arrangements designed to limit the opportunity for corrupt practices.

## **6 DETECTION AND INVESTIGATION OF FRAUD**

- 6.1 The preventative measures described in the previous section significantly reduce the risk of fraud and corruption but cannot eliminate it entirely. Financial Procedure Rules require Corporate Directors to be responsible for the accountability of employees, and the security, custody and control of all other resources including plant, buildings, materials, cash and stores appertaining to their individual Directorates in accordance with the procedures agreed with the Council's Section 151 Officer. If a Corporate Director suspects any irregularities concerning cash, stores or other property of the Council or held on trust by the Council, the Corporate Director concerned will notify the Section 151 Officer, who will take such steps as considered necessary by way of investigation and report.
- 6.2 Internal Audit plays an important role in the detection of fraud and corruption. Included in the Audit Plan are reviews of system financial controls and specific fraud and corruption tests, spot checks and unannounced visits. Any decision to refer a matter to the police will be taken by the Chief Internal Auditor. Internal Audit may also seek informal advice from the Police in the early stages of an investigation. Care will be taken to ensure that internal disciplinary procedures are followed but do not prejudice any criminal case.
- 6.3 In addition to Internal Audit, there are numerous systems controls in place to deter fraud and corruption, but it is often the vigilance of employees and members of the public that aids detection. The Council's Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns. Employees reporting concerns in this way are afforded

certain rights under the Public Interest Disclosure Act 1998. All employees can raise their concerns under this policy, as well as contractors working for the Council (e.g. agency staff, builders etc.) and the voluntary sector. This would normally be with the immediate line manager. However, if the concerns are so serious or sensitive then they should be raised with a Chief Officer, for example a Director, the Chief Executive Officer, the Section 151 Officer, the Monitoring Officer, or the Chief Internal Auditor. This Policy also applies to suppliers of goods and services under a contract. However, this policy is not available for use by members of the public who should instead use the Corporate Complaint's Policy.

- 6.4 Within the Council's Constitution, Members and employees shall comply with the requirements of Section 117 of the Local Government Act 1972, the Bribery Act 2012, and the Members and Employees Codes of Conduct in respect of the declaration of interests in contracts. Such interests must be declared to the Monitoring Officer for inclusion in the appropriate registers. All are required to give notice in writing of pecuniary (financial) interests in contracts relating to the Council or the offer of any fees or rewards other than their proper remuneration. All employees must declare any offers of gifts or hospitality, which are in any way related to the performance of their duties.
- 6.5 Theft, fraud and corruption are serious offences against the Council and employees will face disciplinary action if the outcome of an investigation indicates improper behaviour by an employee. Depending on the circumstances of each individual case, criminal proceedings may also be instigated.
- 6.6 Members will face appropriate action under this Policy if they are found to have been involved in theft, fraud or corruption against the Council. Appropriate action will be taken including referring the matter to the Monitoring Officer and/or the Public Ombudsman for Wales. Depending on the circumstances of each individual case, criminal proceedings may also be instigated.

## **7 TRAINING AND AWARENESS**

- 7.1 The Council recognises that an important aspect of its Anti-Fraud and Bribery Policy is the general awareness and responsiveness of employees throughout the Council. To facilitate this, the Council supports induction and training, particularly for employees involved in internal control systems. All employees are made aware of the Anti-Fraud and Bribery Policy via various channels of communication e.g. team meetings and the Intranet.
- 7.2 In addition the Council will seek via appropriate publicity to increase and maintain the general public awareness of the facilities available to report concerns about fraud and corruption.
- 7.3 The investigation of fraud and corruption is carried out in consultation with Services by the Council's Internal Audit Team whose skillbase in investigative techniques is maintained by appropriate training. Staff within the Housing Benefits Team and Regulatory Service receives specific training on fraud and corruption and the Fraud Act to help support their work on financial investigations.

## **8 CONCLUSION**

- 8.1 The Council sets high standards, with core values of accountability and openness.

- 8.2 The Council will maintain a continuous review of all systems and procedures through its Internal Audit Plan and responding to recommendations from external regulators. The Anti-Fraud and Bribery Policy and its effectiveness will be periodically reviewed by the Audit Committee.