

ANTI-FRAUD AND CORRUPTION POLICY

**A guide to the Council's approach to
preventing fraud and corruption and
managing suspected cases**

Version Control

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ANTI-FRAUD AND CORRUPTION POLICY

1. INTRODUCTION

1.1 North West Leicestershire District Council has a duty to ensure that it safeguards the public money that it is responsible for. The Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, members, contractors, volunteers and the public. It is committed to the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly and to the highest standard of openness and accountability so as to protect public safety and public money.

1.2 All suspicions or concerns of fraudulent or corrupt practise will be investigated. There will be no distinction made in investigation and action between cases that generate financial benefits and those that do not. Any investigations will not compromise the Council's commitment to Equal Opportunities or the requirements of the Human Rights Act or any other relevant statutory provision.

2. SCOPE

2.1 This policy provides an overview of the measures designed to combat any attempted fraudulent or corrupt act, whether attempted internally or externally. The policy is designed to:

- encourage prevention;
- promote detection;
- ensure effective investigation where suspected fraud or corruption has occurred;
- prosecute offenders where appropriate; and
- recover losses in all instances of fraud or financial irregularity where possible.

3. DEFINITIONS

3.1 Fraud

3.1.1 The Fraud Act 2006 is legislation that has been introduced in order to provide absolute clarity on the subject of fraud. Section 1 of the Act introduced a new 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.

3.1.2 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 untrue or misleading.

3.1.3 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.

3.1.4 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.

3.2 Corruption

3.2.1 Corruption is a form of dishonesty or criminal activity undertaken by a person or organisation entrusted with a position of authority, often to acquire illicit benefit.

3.3 Bribery

3.3.1 Broadly the Bribery Act 2010 defines bribery as giving or receiving a financial or other advantage in connection with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith.

3.4 Money Laundering

3.4.1 Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Whilst the risk of money laundering to the Council is relatively low and the provision of The Money Laundering Regulations 2007 do not strictly apply to the Council, the Council has adopted an Anti-Money Laundering policy as good practice. This policy supports staff in complying with the money laundering provisions included within the Proceeds of Crime Act 2002 and the Terrorism Act 2000.

4. **CULTURE**

4.1 We have determined that the culture and tone of the organisation will be one of honesty and opposition to fraud and corruption. We will not tolerate malpractice or wrongdoing in the provision of our services and are prepared to take vigorous action to stamp out any instances of this kind of activity. The fight against fraud and corruption can only be truly effective where these acts are seen as anti-social unacceptable behaviour and whistle blowing is perceived as a public-spirited action.

4.2 The prevention/detection of fraud/corruption and the protection of public money are responsibilities of everyone, both internal and external to the organisation. 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, immaterial of seniority, rank or status, in the knowledge that such concerns will wherever possible be treated in confidence. The public also has a role to play in this process and should inform the Council if they feel that fraud/corruption may have occurred. The Nolan Committee on Standards in Public Life set out the seven guiding principles (Appendix A) that apply to people who serve the public.

4.3 Concerns must be raised when members, employees or the public reasonably believe that one or more of the following has occurred or 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 or unauthorised use of public or other official funds;
- a miscarriage of justice;
- maladministration, misconduct or malpractice;
- endangering an individual's health and/or safety;
- damage to the environment; and
- deliberate concealment of any of the above.

4.4 The Council will ensure that any allegations received in any way, including by anonymous letter or telephone call, will be taken seriously and investigated in an appropriate manner. The Council has a [Confidential Report \(Whistleblowing\) policy](#) that sets out the approach to these types of allegation in more detail.

4.5 The Council will take action against those who defraud the Council or who are corrupt or where there has been financial malpractice. There is, of course, 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.

4.6 Where fraud or corruption has occurred due to a breakdown in the Council's systems or procedures, the Head of Service will ensure that appropriate improvements in systems of control are implemented in order to prevent re-occurrence.

5. RESPONSIBILITIES

5.1 Responsibilities of Elected Members

5.1.1 As elected representatives, all members of the Council have a duty to protect the Council and public money from any acts of fraud and corruption. This is done through existing practice, compliance with the Members' Code of Conduct, the Council's Constitution including Financial Regulations and Standing Orders and relevant legislation.

5.2 Responsibilities of the Monitoring Officer

5.2.1 The Monitoring Officer is responsible for ensuring that all decisions made by the Council are within the law. The Monitoring Officer's key role is to promote and maintain high standards of conduct throughout the Council by developing, enforcing and reporting appropriate governance arrangements including codes of conduct and other standards policies.

5.3 Responsibilities of the Section 151 Officer

5.3.1 The Head of Finance has been designated as the statutory officer responsible for financial matters as defined by s151 of the Local Government Act 1972. The legislation requires that every local authority in England and Wales should 'make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility for the administration of those affairs'.

5.3.2 Under the Head of Finance's responsibilities, 'proper administration' encompasses all aspects of local authority financial management including:

- compliance with the statutory requirements for accounting and internal audit;
- managing the financial affairs of the Council;
- the proper exercise of a wide range of delegated powers both formal and informal;

- the recognition of the fiduciary responsibility owed to local tax payers.

Under these statutory responsibilities the Section 151 Officer contributes to the anti-fraud and corruption framework of the Council.

5.4 Responsibilities of Employees

5.4.1 Each employee is governed in their work by the Council's Standing Orders and Financial Regulations, and other codes on conduct and policies (Employee Code of Conduct, Health and Safety Policy, ICT and Cyber Security Policy). Included in the Employee Code of Conduct are guidelines on Gifts and Hospitality, and advice on professional and personal conduct and conflicts of interest. These are issued to all employees when they join the Council. Appropriate disciplinary procedures will be invoked where there is a breach of policy.

5.4.2 Employees are responsible for ensuring that they follow instructions given to them by management, particularly in relation to the safekeeping of the assets of the Council.

5.4.3 Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management.

5.5 Role of the Leicestershire Revenues and Benefits Partnership Fraud Investigation Team

5.5.1 The Fraud Team based at the Leicestershire Revenues and Benefits Partnership are responsible for the investigation of all revenues and benefit related alleged/suspected fraud cases. Due to the specialised nature of these investigations, a separate sanctions policy has been developed that covers all aspects of the investigation process.

5.6 Role of the External Auditors

5.6.1 Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by Mazars LLP through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditor's function to prevent fraud and irregularities, 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.

5.7 Role of the Public

5.7.1 This policy, although primarily aimed at those within or associated with the Council, enables concerns raised by the public to be investigated, as appropriate, by the relevant person in a proper manner.

5.8 Conflicts of Interest

5.8.1 Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based on impartial advice and avoid questions about improper disclosure of confidential information.

6. PREVENTION AND DETERRENCE

6.1 Responsibilities of the Senior Management Team

- 6.1.1 Managers at all levels are responsible for the communication and implementation of this policy. They are also responsible for ensuring that their employees are aware of the Council's policies and procedures relating to financial management and conduct and that the requirements are being met. 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. Special arrangements may be applied from time to time for example where employees are responsible for cash handling or are in charge of financial systems and systems that generate payments, for example payroll or the Council Tax system. These procedures should be supported by relevant training.
- 6.1.2 Management has responsibility for the prevention of fraud and corruption within all departments. It is essential that managers understand the importance of soundly-designed systems which meet key control objectives and minimise opportunities for fraud and corruption. They are responsible for assessing the potential for fraud and corruption within their own department's activities and for implementing appropriate strategies to minimise this risk.
- 6.1.3 The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff. The Council's formal recruitment procedures contain appropriate safeguards in the form of written references, the verification of qualifications held and employment history. Disclosure and Barring Service (DBS) checks are undertaken for employees working with or who may have contact with children and vulnerable adults.

6.2 Role of Internal Audit

- 6.2.1 Internal Audit plays a preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud and corruption. Internal Audit may be requested to investigate cases of suspected financial irregularity, fraud or corruption, except Benefit fraud investigations and Single Person Discount fraud, in accordance with agreed procedures. Within the Financial Procedures Rules in the Constitution, representatives of Internal Audit have the authority to:
- enter any Council owned or occupied premises or land at all times (subject to any legal restrictions outside the Council's control);
 - have access at all times to the Council's records, documents and correspondence;
 - require and receive such explanations from any employee or member of the Council as he or she deem necessary concerning any matter under examination; and
 - require any employee or member of the Council to produce cash, stores or any other Council owned property under their control.

Internal Audit liaises with management to recommend changes in procedures to reduce risks and prevent losses to the Authority.

6.3 Working with Others and Sharing Information

6.3.1 The Council is committed to working and co-operating with other organisations to prevent fraud and corruption and protect public funds. The Council may use personal information and data-matching techniques to detect and prevent fraud, and ensure public money is targeted and spent in the most appropriate and cost-effective way. In order to achieve this, information may be shared with other bodies for auditing or administering public funds including the Cabinet Office, the Department of Work and Pensions, other local authorities, National Anti-Fraud Network, HM Revenues and Customs, and the Police.

6.4 National Fraud Initiative (NFI)

6.4.1 The Council participates in the National Fraud Initiative (NFI). This requires public bodies to submit a number of data sets, for example payroll, Council Tax, and accounts payable (but not limited to these) which is then matched to data held by other public bodies. Any positive matches (e.g. an employee on the payroll in receipt of housing benefit) are investigated.

6.5 Data Sharing

6.5.1 In the interests of protecting the public purse and the prevention and detection of fraud, members of staff are actively encouraged to report any instances of fraud. We have published fair processing notices on our website and also display this information in our public areas, notifying members of the public that we will share information held between departments and other third party organisations as appropriate in order to prevent and detect crime.

6.6 Training and Awareness

6.6.1 The successful prevention of fraud is dependent on risk awareness, the effectiveness of training and the responsiveness of staff throughout the Council. The Council recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of training and awareness for members and employees and will therefore take appropriate action to raise awareness levels.

6.7 Disciplinary Action

6.7.1 The Council's Disciplinary Procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. Theft, fraud and corruption are serious offences which may constitute gross misconduct against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities, including benefit fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case.

6.7.2 Members will face appropriate action under this policy if they are found to have been involved in theft, fraud or corruption against the Authority. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case but in a consistent manner. If the matter is a breach of the Members' Code of Conduct then it will be dealt with under the arrangements agreed by the Council in accordance with the Localism Act 2011.

6.8 Prosecution

6.8.1 In terms of proceedings the Council will endeavour to take action in relevant cases to deter others from committing offences against the Authority. Any prosecution will be in

accordance with the principles contained within The Code for Crown Prosecutors.

6.9 Publicity

6.9.1 The Council will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. Wherever possible, where the Council has suffered a financial loss action will be taken to pursue the recovery of the loss.

6.9.2 All anti-fraud and corruption activities, including the update of this policy, will be publicised in order to make employees and the public aware of the Council's commitment to taking action on fraud and corruption when it occurs.

7. **DETECTION AND INVESTIGATION**

7.1 Although audits may detect fraud and corruption as a result of the work that they are undertaking, the responsibility of the detection of financial irregularities primarily rests with management. Included within the audit plans are reviews of system controls including financial controls and specific fraud and corruption tests, spot checks and unannounced visits.

7.2 In addition to Internal Audit, there are numerous systems and management controls in place to deter fraud and corruption but it is often the vigilance of employees and members of the public that aids detection. In some cases frauds are discovered by chance or 'tip-off' and the Council will ensure that such information is properly dealt with within its Confidential Reporting (Whistleblowing) policy.

7.3 The Council is committed to the investigation of all instances of actual, attempted and suspected fraud committed by employees, members, consultants, suppliers and other third parties and the recovery of funds and assets lost through fraud.

7.4 Any suspected fraud, corruption or other irregularity should be reported to Internal Audit. The Audit Manager will decide on the appropriate course of action to ensure that any investigation is carried out in accordance with Council policies and procedures, key investigation legislation and best practice. This will ensure that investigations do not jeopardise any potential disciplinary action or criminal sanctions.

7.5 Action could include:

- investigation carried out by Internal Audit staff;
- joint investigation with Internal Audit and relevant directorate management;
- directorate staff carry out investigation and Internal Audit provide advice and guidance;
- referral to the Police.

7.6 The responsibility for investigating potential fraud, corruption and other financial irregularities within the Council lies mainly (although not exclusively) with the Internal Audit section.

8. **RAISING CONCERNS**

8.1 All suspected or apparent fraud or financial irregularities must be raised, in the first instance, directly with the manager or if necessary in accordance with the Council's [Confidential Reporting \(Whistleblowing\) Policy](#). Advice and guidance on how to pursue

matters of concern may be obtained from the Council's nominated contact points who are:

- Chief Executive: bev.smith@nwleicestershire.gov.uk
Telephone 01530 454500
- Monitoring Officer: elizabeth.warhurst@nwleicestershire.gov.uk
Telephone 01530 454762
- Section 151 Officer: tracy.bingham@nwleicestershire.gov.uk
Telephone 01530 454707
- Audit Manager: lisa.marron@nwleicestershire.gov.uk
Telephone 01530 454728

9. Review

- 9.1 This policy will be reviewed bi-annually or if legislation changes if this is sooner,

THE SEVEN PRINCIPLES OF PUBLIC LIFE

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisation that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and action that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Committee on Standards in Public Life - The Nolan Report (1995)