

DRAFT

West Berkshire Council

Anti Fraud and Corruption Strategy

March 2011

1. INTRODUCTION

1.1 Good Corporate Governance requires that the authority must demonstrate clearly that it is firmly committed to dealing with fraud and corruption 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 benefits and those that do not. This Strategy, however, will not compromise the Council's Equal Opportunities Policy or the requirements of the Human Rights Act 1998.

1.2 This Strategy embodies best practice, as outlined the CIPFA Anti Fraud Guide, and contains a series of measures designed to frustrate any attempted fraudulent or corrupt act and the steps to be taken if such action occurs. For ease of understanding it is separated into six areas as below:-

Culture	Section 2
Prevention	Section 3
Deterrence	Section 4
Detection and Investigation	Section 5
Training	Section 6

1.3 The Council is also aware of the high degree of external scrutiny of its affairs by a variety of bodies such as External Audit and Inspection, other Government Inspection bodies, the Local Government Ombudsman, HM Revenue and Customs. These bodies are important in highlighting any areas where improvements can be made.

1.4 The Strategy links closely with the Council's strategic objectives set out in the Council Plan. The Council Plan sets out a range of ambitious objectives that need significant resources to deliver them. Losses due to fraud and corruption will inevitably divert resources away from these objectives. Consequently the Council takes a zero tolerance approach to tackling fraud and corruption.

1.5 Fraud and corruption are defined by the Audit Commission as:-

Fraud – “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”.

In addition, fraud can also be defined as “the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to mislead or misrepresent”.

Corruption – “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.

In addition, this policy statement also covers “the failure to disclose an interest in order to gain financial or other pecuniary benefit.”

1.6 Fraud Act 2006

The Fraud Act 2006 came into effect on 15 January 2007. The Act creates a new general offence of fraud with three ways of committing it:

- Fraud by false representation (dishonest representation) to gain or cause loss or risk of loss (eg phishing) (chip and pin)
- Fraud by failing to disclose information (where there is a legal duty, eg under written or oral contracts – eg heart condition & health insurance)
- Fraud by abuse of position – (eg power of attorney over an elderly relative)

It also creates new offences:

- Obtaining services dishonestly (eg climbing over a fence to watch a football match)
- Possessing, making and supplying articles for use in frauds (eg program or data held on file, draft letters for advance fee frauds)
- Fraudulent trading applicable to non-corporate traders. (extends Companies Acts to sole traders etc)

2. CULTURE

- 2.1 The culture of the Council has always been one of openness and integrity. This culture therefore supports the opposition to fraud and corruption, supported by the Council's Confidential Reporting Code (Whistleblowing), and the Officer and Member Codes of Conduct.
- 2.2 The prevention/detection of fraud/corruption and the protection of the public purse are responsibilities of everyone, both internal and external to the organisation.
- 2.3 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, 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.
- 2.4 Concerns must be raised when Members, employees or the public 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 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
 - Deliberate concealment of any of the above

- 2.5 The Council will ensure that any allegations received in any way, including by anonymous letters or telephone calls, will be taken seriously and investigated in an appropriate manner. The Standards Committee specifically excluded investigation of anonymous complaints against Members.
- 2.6 The Council will deal firmly with 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/Members raising malicious allegations) may be dealt with as a disciplinary matter (employees) or through Group procedures (Members), or through the Standards Committee.
- 2.7 When fraud and corruption has occurred due to a breakdown in the Council's systems or procedures, Corporate Directors / Heads of Service will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence.
- 2.8 A key aim of this Strategy is to work towards reducing the losses to the Council caused by Fraud and Corruption.

3. PREVENTION

3.1 Policies and Procedures

- 3.1.1 The Council maintains a range of related policies and procedures that are designed to minimise the risk of Fraud and Corruption occurring. This Strategy is designed to ensure that all of these policies and procedures are compatible and effective. These include:
- The Whistleblowing Policy (Confidential Reporting Code)
 - Anti Money Laundering Policy
 - Officer Code of Conduct
 - Disciplinary Code
 - Contract and Financial Rules of Procedure
 - Recruitment Procedures
 - Risk Strategy
 - Internal Audit Strategy
 - Housing Benefits Anti Fraud Strategy.

ELECTED MEMBERS

3.2 The Role of Elected Members

- 3.2.1 As elected representatives, all Members of the Council have a duty to the Citizens of the District to protect the Council and public money from any acts of fraud and corruption.

- 3.2.2 This is done through the Anti-Fraud and Corruption Strategy, compliance with the adopted Code of Conduct for Members, the Council’s Constitution, including Financial and Contract Rules of Procedure, and relevant legislation.
- 3.2.3 Elected Members sign and confirm that they have read and understood the Code of Conduct for Members when they take office. Conduct and ethical matters are specifically brought to the attention of Members during induction and include the declaration and registration of interests. The Head of Legal and Electoral Services advises Members of new legislative or procedural requirements and assists in their application of the Code when they are acting as Members of the Council.
- 3.2.4 The Executive will own the Anti Fraud and Corruption Strategy and ensure that it is refreshed annually.
- 3.2.5 The Governance and Audit Committee will monitor and review the implementation of the Strategy.
- 3.2.6 The Standards Committee is responsible for enforcing and dealing with complaints against Councillors insofar as they relate to breaches of the Code of Conduct.

EMPLOYEES

3.3 The Role of the s151 officer

- 3.3.1 The Head of Finance has the statutory responsibilities defined by s151 of the Local Government Act 1972. These responsibilities outline that every local authority in England & 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”.

- 3.3.2 Proper administration encompasses all aspects of local authority financial management including:
- Compliance with the statutory requirements for accounting and internal audit;
 - Ensuring the Authority’s responsibility for ensuring proper administration of it’s financial affairs;
 - The proper exercise of a wide range of delegated powers both formal and informal;
 - The responsibility for managing the financial affairs of the local authority in all it’s dealings; and
 - The recognition of the fiduciary responsibility owed to local tax payers.
- 3.3.3 Under these statutory responsibilities the Head of Finance contributes to the anti-fraud and corruption framework of the Council.

3.4 The Role of Managers

- 3.4.1 Managers at all levels are responsible for the communication and implementation of this strategy in their work area. They are also responsible for ensuring that their employees are aware of the Council's HR policies and procedures, the Council's Financial and Contract Rules of Procedure and that the requirements of each are being met in their everyday business activities. In addition, managers must make their employees aware of the requirements of the Officers Code of Conduct within the Constitution through the induction process.
- 3.4.2 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. Where they are unsure of the procedures they must refer to the Council's Confidential Reporting Code (Whistleblowing).
- 3.4.3 Special arrangements will apply where employees are responsible for cash handling or are in charge of financial systems and systems that generate payments, for example payroll or the cash management system. Managers must ensure that relevant training is provided for all employees.
- 3.4.4 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 and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. As in other public bodies Criminal Records Bureau (CRB) checks are undertaken for employees working with or who may have contact with children or vulnerable clients.

3.5 Responsibilities of Employees

- 3.5.1 Each employee is governed in their work by the Council's Financial and Contract Rules of Procedure, and other policies on conduct (Health and Safety and IT Security policy). Included in the Council policies are guidelines on Gifts and Hospitality, and codes of conduct associated with professional and personal conduct and conflict of interest. These are issued to all employees when they join the Council or are available to all on the Intranet.
- 3.5.2 In addition to paragraph 3.4.1, employees are responsible for ensuring that they follow the instructions given to them by management, particularly in relation to the safekeeping of the assets of the Authority. These will be included in induction training and service procedure.
- 3.5.3 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. If for any reason, they feel unable to speak to their manager they must refer the matter to one of those named below.
- 3.5.4 Concerns must be raised, in the first instance, directly with the Line Manager/Head teacher or if necessary, anonymously (letter, telephone) and via other routes, by the Council's Confidential Reporting Code (Whistleblowing) , eg: -

- Heads of Service, Corporate Directors, the Chief Executive or the Council's Monitoring Officer, who will report such concerns to the Head of Finance
- Directly to the Head of Finance / Chief Internal Auditor
- External Auditor, who depending upon the nature of the concern will liaise with the Head of Finance
- Trade Union Representative

3.6 Conflicts of Interest

3.6.1 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 upon impartial advice and avoid questions about improper disclosure of confidential information.

3.7 Official Guidance

3.7.1 In addition to the Council's Financial and Contract Rules of Procedure, Service Units will have their own procedures to prevent and deter fraud. There will also be audit reports, which recommend methods to minimise risks and losses to the Authority. Managers and employees must be made aware of these various sources of guidance and alter their working practices accordingly.

3.8 Role of Internal Audit

3.8.1 Internal Audit plays a vital preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud and corruption. Internal Audit investigates all employee cases of suspected financial irregularity, fraud or corruption, except Benefit fraud investigations (see below), in accordance with agreed procedures. Within the Financial Procedure Rules in the Constitution, representatives of Internal Audit are empowered to, and will:

- enter at all reasonable times any Council premises or land
- carry out unannounced visits to Council Offices to carry out spot checks
- have access to all records, documentation and correspondence relating to any financial and other transactions as considered necessary
- have access to records belonging to third parties such as contractors when required
- require and receive such explanations as are regarded necessary concerning any matter under examination
- require any employee of the Council to account for cash, stores or any other Council property under his/her control or possession

3.8.2 Internal Audit will normally take the lead in investigating any non Housing Benefit cases of fraud and corruption. The Internal Audit Strategy sets out a

proactive approach to reducing the risk of Fraud and Corruption. The Chief Internal Auditor acts as the “Head of Internal Audit” and has access to the necessary records and staff to be able to deal with any investigations.

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

3.9 The Role of the Benefits Investigation Team

3.9.1 The Benefits Investigation Team is responsible for all of the benefit fraud investigations, in accordance with legislation and agreed codes of conduct. In cases where employees are involved they will work with Internal Audit, HR and appropriate senior management to ensure that correct procedures are followed and that this policy is adhered to.

3.10 The Role of the External Auditor

3.10.1 Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by the KPMG 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 auditors’ 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. The external auditor has a responsibility to review the Council’s arrangements for preventing and detecting fraud and irregularities, and arrangements designed to limit the opportunity for corrupt practices.

3.10.2 Where External Audit is required to undertake an investigation they will operate within legislation and their codes of conduct.

3.11 Co-operation with Others

3.11.1 Internal Audit has arranged, and in compliance of the Data Protection Act, to develop and encourage the exchange of information on national and local fraud and corruption activity in relation to Local Authorities, with external agencies such as:

- Police
- County, Unitary and District Groups
- Audit Commission
- Department of Work and Pensions
- Government Departments
- National Anti-Fraud Network

3.12 The Role of the Public

3.12.1 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.

4 DETERRENCE

4.1 Housing and Council Tax Benefit Administration

- 4.1.1 Benefits administration is recognised nationally as being complex and difficult to administer. This results in the scheme being prone to error and abuse. The Authority is committed to tackling poverty but it must also ensure that the administration of housing and council tax benefit is secure, fair and provides prompt help to those who need it. Equally, it must also be vigilant in tackling fraud and error to ensure value for taxpayers' money.
- 4.1.2 The Benefits & Exchequer Service operates within the Government's policies and guidelines and the National Performance Standards Framework, which aims to improve the quality and accuracy of benefit determinations and both prevent and reduce the incidence of fraud.

4.2 Prosecution

- 4.2.1 To support this policy the Council has a policy to prosecute in all appropriate circumstances. This policy encompasses the public, elected Members and employees. It is designed to clarify and ensure consistency in the Council's action in specific cases and to deter others from committing offences against the Authority.

4.3 Disciplinary Action

- 4.3.1 Theft, fraud and corruption are serious offences against the Authority 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 but in a consistent manner.
- 4.3.2 Members will face appropriate action under this policy if they are found to have been involved in theft, fraud and 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 Code of Conduct for Members then it will also be referred to the Standards Committee. The relevant Group Leader will also be informed.

4.4 Publicity

- 4.4.1 The Council's Public Relations Unit (PR) will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. PR will also try to ensure that the results of any action taken, including prosecutions, are also reported in the press.
- 4.4.2 In all cases (both Member and Officer) where the Council has suffered a financial loss then the Council will seek to recover the loss and advertise this fact.
- 4.4.3 All anti-fraud and corruption activities, including the update of this policy, will be publicised in order to make the employees and the public aware of the Council's commitment to taking action on fraud and corruption, when it occurs.

5 DETECTION AND INVESTIGATION

- 5.1 Internal Audit plays an important role in the detection of fraud and corruption. Included in their audit plan are reviews of system controls including financial controls and specific fraud and corruption tests and spot checks.
- 5.2 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.
- 5.3 In some cases frauds are discovered by chance or “tip-off” and arrangements are in place to enable such information to be properly dealt with.
- 5.4 All suspected irregularities are required to be reported (verbally or in writing) either by the person with whom the initial concern is raised or by the originator as per paragraph 3.4.4 (the Council’s Confidential Reporting (Whistleblowing) Code. This is essential to the strategy and:
- Ensures the consistent treatment of information regarding fraud and corruption; and
 - Facilitates a proper and thorough investigation by an experienced audit team or appropriate officer, in accordance with agreed procedures.
- 5.5 This process will apply to all the following areas:
- a) fraud/corruption by elected Members
 - b) internal fraud/corruption
 - c) other fraud/corruption by Council employees
 - d) fraud by contractors or their employees
 - e) external fraud (the public)
- 5.6 Cases under d) and e) would normally be referred directly to the Audit Commission or Police. Cases under (a) in respect to the Code of Conduct for Members will be referred to the Standards Committee for initial assessment in addition to the Audit Commission and/or the Police.
- 5.7 Any decision to refer a matter to the Police will be taken by the Monitoring Officer in consultation with the Heads of HR and Finance.
- 5.8 Depending on the nature of an allegation under b) to e), the Head of Finance will normally work closely with the Corporate Director / Head of Service concerned to ensure that all allegations are thoroughly investigated and reported upon.
- 5.9 The Council’s Disciplinary Procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. The processes as outlined in paragraph 4.3.2 will cover Members.

6. AWARENESS AND TRAINING

- 6.1 The Council recognises that the continuing success of this strategy and its general credibility will depend in part on the effectiveness of training and

awareness for Members and employees. The policy is an integral part of the induction programme and there is specialist training for certain elected Members and employees.

- 6.2 Regular awareness by managers' briefings, leaflets and information cards will ensure that the policy is kept current. Full copies of the Anti-Fraud and Corruption and Confidential Reporting policies are available on the intranet.
- 6.3 In addition external fraud alerts are circulated to all appropriate staff and will in future appear on the Intranet.

7. CONCLUSION

- 7.1 The Council has always prided itself on setting and maintaining high standards and a culture of openness and integrity. This strategy fully supports the Council's desire to maintain an honest authority, free from fraud and corruption.
- 7.2 The Council has in place a network of systems and procedures to assist it in dealing with fraud and corruption when it occurs. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation.
- 7.3 The Council will maintain a continuous review of all these systems and procedures through Internal Audit.
- 7.4 This policy statement will be reviewed on a regular basis, with a maximum of two years between each review.