



TORFAEN COUNTY BOROUGH COUNCIL

Anti Fraud and Corruption Policy

Version 3

Document Owners: Head of Internal Audit Chief Legal Officer Head of Strategic Human Resources & Pensions	Document History: Version 3: Draft to Cabinet March 2016 Version 2: Updated June 2011 Version 1: July 2006
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1. INTRODUCTION

- 1.1 Torfaen County Borough Council is committed to its duty to ensure effective stewardship of public money and other assets and resources for which it is responsible. The Council is therefore committed to the prevention, detection and investigation of all forms of fraud and corruption which could threaten the security of its assets or its reputation as a strong and respected organisation. Bribery and fraud also reduces public trust and belief in the fair and transparent operation of public services.
- 1.2 The Principles outlined in this Policy apply to Members and Employees of the Council and demonstrate to the public, the commitment to the prevention, deterrence, detection and investigation of all forms of fraud and corruption.
- 1.3 Torfaen Council recognises that it has a statutory duty under the Local Government Act 1972 and the Public Interest Disclosure Act 1988 to minimise, investigate and act upon potential instances of fraud and corruption occurring within the authority.
- 1.5 The policy aims to make all Members and Employees:
- aware of the Council's views on fraudulent activity; and
 - aware of their personal responsibilities in relation to their conduct.
- 1.6 The Fraud Response Guidance (Appendix 1) aims to make all Members and Employees:
- aware of the action they should take if they become aware of fraudulent activity.

2. DEFINITION

- 2.1 The Fraud Act 2006 provides a formal definition of fraud which, for the purposes of this policy, can be summarised as *“obtaining money, property or services dishonestly by making a false or misleading representation, failing to disclose information or abusing a position of trust”*.
- 2.2 The Bribery Act 2010 has incorporated bribery and certain corruption offences into a single piece of legislation. Bribery is defined as *“an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage”*. In its guide to the Bribery Act, the Ministry of Justice *advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.”*

- 2.3 The Bribery Act 2010 contains the following four key offences:
- The offering, promising or giving of a bribe (active bribery);
 - The requesting, agreeing to receive or accepting of a bribe (passive bribery);
 - The bribing of foreign officials; and
 - Failing to prevent bribery.
- 2.4 Theft is defined in the 1968 Theft Act as “*a person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.*”

3. LEGISLATION

- 3.1 The Council will have full regard to the following legislation:
- Regulation of Investigatory Powers Act 2000 (RIPA);
 - Terrorism Act 2006;
 - Proceeds of Crime Act 2002;
 - Police and Criminal Evidence Act 1984;
 - Money Laundering Regulations 2007;
 - Fraud Act 2006;
 - Public Interest Disclosure Act 1988;
 - Bribery Act 2010 (Consequential Amendments) Order 2011;
 - International Criminal Court Act 2001;
 - Serious Crime Act 2007;
 - Competition Act 1998;
 - Companies Act 2006; and
 - Local Government Act 1972 - Section 117.

4. LINKS TO STRATEGIC OBJECTIVES

- 4.1 Torfaen Council has adopted a Corporate Plan which identifies corporate priorities. One of the Key Strategic Activities of the Resources Service Area is ensuring Compliance and Control by ensuring there are effective Governance Arrangements in place which support the front line services of the Authority. An effective Anti Fraud and Corruption Policy is one of the key documents in ensuring effective Governance arrangements are in place.

5. SCOPE AND ROLES AND RESPONSIBILITIES

- 5.1 The risk of fraud cannot be dealt with in isolation. The management of the risk of fraud is a key aspect of corporate governance and it is essential that all Members and Employees should have a level of understanding of the policy.
- 5.2 The Policy covers any fraud or corrupt activity committed against the Council by all employees, agency staff, elected members, contractors, consultants, suppliers, partners, other external organisations and the public.
- 5.3 Torfaen CBC supports induction and work related training for employees to ensure that their responsibilities and duties are regularly highlighted and reinforced.
- 5.4 The Council's Internal Audit Section will assess potential instances of non housing benefit fraud and corruption allegations and carry out investigations as appropriate.
- 5.5 The Council has invested resources in establishing a team dedicated to the identification, investigation and prevention of Housing Benefit and Council Tax Reduction fraud. All staff with an involvement in the process of administration of benefits will receive appropriate fraud awareness training.
- 5.6 The Shared Benefits Service fraud team carries out a substantial amount of work in conjunction with the Department for Works and Pensions in terms of joint investigations to identify and investigate benefit fraud. From March 2015 the Department for work and Pensions has assumed responsibility for the investigation of Housing Benefit fraud and the Council works closely with them to ensure they have the information necessary to pursue investigations. The Council has retained responsibility for the investigation of Council Tax reduction fraud.
- 5.7 The Council will continually review on a regular basis the framework of systems and procedures to ensure the risk of fraud and corruption is reduced.
- 5.8 All the activities that are undertaken by the Council are covered by this policy. This not only includes direct income and expenditure but also that administered as a third party or by a third party.

6. STATEMENT OF INTENT

- 6.1 The Council aims to provide excellent public services and needs to ensure propriety and accountability in all matters. It will not tolerate fraud by its clients, Employees or Members of the Council. The aim of the policy is to reduce and eliminate any losses arising due to fraud and corruption to an absolute minimum. All substantiated allegations of fraud will be thoroughly pursued and the form of action taken will depend on the level of fraud and circumstances of each case.
- 6.2 The Council will operate under a framework that has the following objectives:
- A zero tolerance to all forms of fraud including, without limitation, bribery and money laundering and also acts of terrorism or Convention offences;
 - Top level commitment from management in developing bribery prevention procedures;
 - Proportionate procedures in place which are clear, practical and accessible to the bribery risks that the Council may face;
 - Periodic risk assessments of the nature and extent of exposure to internal and external risks of bribery;
 - Due diligence on the appointment of Employees and third party representatives;
 - High standards of conduct and probity from Members and Employees and requires them at all times to act honestly, with integrity and to safeguard the public resources for which they are responsible;
 - Council business is carried out fairly, honestly and transparently;
 - A culture which aims to meet the expectations of the Committee Standards of Public Life and is committed to the 7 Nolan Principles of objectivity, openness, leadership, accountability, honesty, selflessness and integrity;
 - All individuals and organisations associated with the Council, such as contractors, partners, suppliers and users of council services, to act with integrity and have the same high standards of probity as the Council expects of its officers. In addition, the Council expects all its partners, in both the private and public sectors, to establish sound and transparent governance arrangements;
 - To encourage fraud deterrence and prevention;
 - To raise awareness of Fraud and Corruption and promote its detection;
 - To ensure that allegations are investigated and all losses are recovered;
 - To appropriately discipline any member of staff who has engaged in fraud and to refer matters to the police where appropriate;
 - Publicity targeting the areas of greatest fraud losses (e.g. Housing Benefit and Council Tax Claims); and
 - To ensure the policy is publicised and updated along with related procedures.

7.0 REPORTING

7.1 Council Employees and Members of the public are positively encouraged to raise concerns they may have on issues which may impact on Council activities using any one of the methods currently available e.g. Whistleblowing Policy.

8.0 CREATING AND MAINTAINING A STRONG STRUCTURE

8.1 There is a framework of written procedures and controls that sets out best practice and aims to reduce the risk of fraud and corruption. This supports the objective to fight fraud and corruption and includes:

- Council Constitution;
- Contract and Financial Standing Orders;
- ICT Security Policy;
- Money Laundering Policy;
- Recruitment Procedures for Employees (written references and DBS Disclosures);
- Code of Conduct for Officers, Members and School Employees;
- Declarations of Interest Register for Members;
- Register for Members Gifts and Hospitality;
- Housing and Council Tax Benefit Anti Fraud Strategy;
- Council Tax Reduction Anti Fraud Policy;
- Anti Fraud Sanctions Policy;
- Confidential Reporting Code;
- Fraud Response Plan; and
- Disciplinary Policy.

8.2 All Chief Officers of Service are fully responsible for ensuring that all operational systems, particularly financial procedures, incorporate an appropriate level of internal control to allow system users to demonstrate transparently the basic accuracy and integrity of the systems. It is also essential that, where possible and practicable, a clear division of duties exists in the operation of a particular system.

8.3 The adequacy and appropriateness of the Council's Internal Control Systems are independently monitored, assessed and reported to Management by both Internal and External Audit on an annual basis.

- 8.4 Employee recruitment is required to be in accordance with the corporate procedures laid down, and written references must be obtained to confirm the honesty and integrity of potential employees before appointments are made. A satisfactory DBS Disclosure should be in place, where applicable, prior to the employee commencing work.
- 8.5 The Council requires all Members to declare interests whether pecuniary or otherwise in relation to any matter where they are involved in decision making in accordance with the Council's Code of Conduct. A record of all such interests is available on Torfaen's Website. Members are also required to complete annual declarations of any transactions involving the Council with them as individuals or through companies or voluntary organisations which they own or help to manage. The Monitoring Officer also maintains a register of Members gifts and hospitality.
- 8.6 The Council is committed to exchanging information with other local and national agencies in order to identify and prevent fraud using data matching techniques. Such activities include the National Fraud Initiative Data Matching.
- 8.7 Housing Benefit and Council Tax Benefit is dealt with by the Department for Work and Pensions.

9.0 TAKING ACTION TO TACKLE THE PROBLEM

9.1 Deterrence

The Council has several measures in place to deter potential fraudsters, which include:

- Publicising the Council's "zero tolerance" towards fraud and corruption (e.g. Whistleblowing policy; advertising the fraud hot line, publications and disciplinary policy);
- Training staff and raising awareness; and
- Publicising successful fraud investigations and outcomes.

9.2 Prevention

The Council will strengthen its measures to prevent fraud and will ensure that new and existing systems and policy initiatives are adequately 'fraud proofed'. The primary responsibility for the prevention and detection of fraud rests with managers throughout the organisation. They have the responsibility to manage the risk of fraud and will be supported and trained so that this responsibility is discharged effectively. The risk of fraud is

considered as part of the corporate approach to risk management. The Internal Audit Section will support managers by providing advice on the management of risk and design of controls.

9.3 Detection

- The Council has effective “whistle blowing “ arrangements in place, including Confidential Reporting Code (on Council’s Intranet; Fraud hotline (on Council’s Website);
- The Council has a pro-active dedicated Counter Fraud Section who work exclusively on the prevention and detection of fraud within the Shared Benefits Service (responsible for benefit administration in Monmouthshire and Torfaen);
- The Council participates in the biennial National Fraud Initiative and detects certain types of fraud by this means; and
- Fraud Response Guidance – provides details of arrangements in place to ensure that suspected cases of fraud or corruption are reported promptly to the appropriate person for further investigation.

9.4 Investigation

- Investigations of any cases of suspected fraud and bribery referred from internal or external stakeholders or received via the Council’s Whistleblowing Policy are carried out in accordance with the Confidential Reporting Code by appropriately trained staff in a timely manner. Depending upon the nature of the allegation, Internal Audit will work closely with Senior Management, Human Resources and Legal and other agencies such as, the Police; and
- Investigations are undertaken in accordance with the Police and Criminal Evidence Act (PACE) and the Regulation of Investigatory Powers Act (RIPA).

9.5 Sanctions

- Where fraud or corruption is proven to be present, the Council has clear policies in place detailing the sanctions which apply, i.e. Disciplinary Policy and Procedures; Prosecution Policy; Housing and Council Tax Benefit Anti-Fraud Strategy and Anti-Fraud and Sanctions Policy; and
- The Council will apply realistic and effective sanctions against individuals or organisations where an investigation reveals fraudulent activity. This may include disciplinary action as appropriate and referral to the Police for possible criminal investigation.

9.6 Redress

- The Council will seek to recover all financial losses through whatever means it considers to be appropriate with compliance with the Proceeds of Crime Act 2002. The Corporate Debtors System will monitor the outstanding debts and use legal proceedings where appropriate.

10. DEFINING SUCCESS

10.1 Success will be measured by focusing on real outcomes achieved from the key actions outlined in this strategy. The outcomes to be measured will include the following:

- Awareness levels;
- Successful investigations;
- Sanctions applied; and
- Recoveries.

FRAUD RESPONSE GUIDANCE INTRODUCTION

This document provides guidance to all members and employees of the Council in the event of them becoming aware of: a fraudulent or corrupt act being committed on the Council by a Council member, Council employee or a member of the public.

The fraud response plan aims to ensure that timely and effective action can be taken to:

- Prevent losses of funds / other assets where fraud has occurred and to maximise recovery of losses;
- Minimise occurrence of fraud by taking rapid action at the first signs of a problem;
- Identify the fraudsters and maximise the success of any disciplinary / legal action taken;
- Minimise any adverse publicity for the Council, suffered as a result of the fraud;
- Identify any lessons which can be acted upon in managing fraud in the future;
- Reduce adverse impacts on the business of the Council.

RESPONSIBILITIES

REPORTING SUSPECTED FRAUD

If you suspect that a fraud has / is being committed it is recommended that depending on who the suspected individual(s) are, you should contact the most appropriate individual from the following:

- Head of Internal Audit;
- Line Manager;
- Chief Officer;
- Headteacher;
- Chair of Governing Body;
- Chief Executive;
- Assistant Chief Executive (Resources);
- Assistant Chief Executive (Communities);
- Head of Financial Services;
- Head of Employee Services and Pensions;
- Chief Legal Officer; and
- External Auditor.

AFTER YOU HAVE REPORTED A FRAUD

Following receipt of the information by one of the above recipients there will be liaison with the Head of Internal Audit who will conduct an initial investigation into the allegation and decide on the most appropriate action in accordance with line management and the Head of Employee Services and Pensions.

CONFIDENTIAL REPORTING CODE

Torfaen Council has developed a Confidential Reporting Policy - Whistleblowing which is available on the Council Intranet. This allows employees to raise concerns about any financial, or other, malpractice in the Council without fear of being subject to victimization or discrimination. You must only report genuine concerns.