

AUDIT COMMITTEE

26 June 2014

COUNCIL

16 July 2014

ANTI-FRAUD AND CORRUPTION POLICY

REPORT OF THE HEAD OF SOUTHERN INTERNAL AUDIT PARTNERSHIP

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RECENT REFERENCES:

AUD064 – Public Sector Internal Audit Standards - Internal Audit Charter

EXECUTIVE SUMMARY:

Winchester City Council has a duty to protect the public funds under its control against fraud and corruption. In administering its responsibilities the Council is committed to the highest standards of accountability, openness and integrity through ensuring adherence to legal requirements and the rules, policies and procedures that promote the principles of good governance.

The updated Anti Fraud and Corruption Policy (Appendix 1) is presented to Members in accordance with the requirements of the Audit Committee's terms of reference, and in particular *“to monitor Council's policies on whistleblowing and the anti-corruption strategy...”*.

RECOMMENDATION:

- 1 That the Audit Committee and Council adopt the revised Anti Fraud and Corruption Policy.

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DETAIL:

1 Introduction

1.1 The purpose of this paper is to provide the Audit Committee with the updated Anti Fraud and Corruption policy. Winchester City Council's Constitution contains the Anti-Fraud and Corruption Policy which brings together the Anti-Bribery Policy, the Whistle Blowing Policy and Anti-Fraud and Corruption Response Plan.

2 Summary

2.1 The Council's Anti Fraud and Corruption Policy sets out for Members and employees of the Council, the key principles and approach to countering fraud and corruption.

2.2 The policy document sets out the key principles in minimising the risk of fraud or corruption and defines the roles and responsibilities of members and officers in the prevention and detection of fraud and corruption.

2.3 The Anti Fraud and Corruption Policy was last updated in May 2012. In accordance with good practice, the Policy has been subject to review to reflect the latest professional guidance and legislative change.

2.4 To ensure the Audit Committee's continued awareness and engagement in corporate arrangements for anti fraud and corruption, the revised policy is enclosed (Appendix 1).

3 Conclusion

3.1 Winchester City Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council and is determined to protect itself against fraud and corruption. The Council is committed to an effective Anti-Fraud and Corruption Policy designed to:

- Ensure prevention.

- Facilitate detection.
- Identify a clear pathway for investigation and remedial action.

OTHER CONSIDERATIONS:

4 COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

- 4.1 The Anti-Fraud and Corruption Policy contributes to the corporate governance arrangements of Winchester City Council, which in turn supports the achievement of the Community Strategy and individual portfolio plans.

5 RESOURCE IMPLICATIONS:

- 5.1 None directly from this report.

6 RISK MANAGEMENT ISSUES

- 6.1 The nature and extent of the Council's exposure to potential external and internal risks of fraud and corruption on its behalf by persons associated with it is periodically assessed and documented as part of the Council's risk management process. This includes financial risks but also other risks such as reputational damage.

BACKGROUND DOCUMENTS:

Winchester City Council's Constitution

APPENDICES:

Appendix 1 – Anti Fraud and Corruption Policy



Winchester
City Council

Anti-Fraud and Corruption

Contents:

1. Anti-Fraud And Corruption Policy
2. Anti-Bribery Policy
3. Whistle Blowing Policy
4. Anti-Fraud And Corruption Response Plan



Winchester

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Document 1 - Anti-Fraud and Corruption Policy

The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.

1 Introduction

In following best practice (CIPFA / SOLACE guidance on Corporate Governance – issued 2001) and managing its responsibilities, Winchester City Council is determined to protect itself against fraud and corruption both from within the Council and from external sources. Winchester City Council already has in place a Constitution, which sets out Codes of Conduct for both Members and Employees; a Whistle Blowing Policy; an Anti-Bribery Policy; an Anti-Money Laundering Policy (see the Council's Treasury Management Practices, TMP9) and Financial Procedure Rules, which provide clarity about accountabilities of individuals, Members, Directors, etc. The Anti Fraud and Corruption Policy brings together these key elements. The Council is committed to an effective Anti-Fraud and Corruption Policy designed to:

- Ensure prevention.
- Facilitate detection.
- Identify a clear pathway for investigation and remedial action.

2 Key Message

1. The authority's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. In all their work, they will adhere to the following General Principles of Conduct which underpin the General Obligations of Members in the Code of Conduct set out in the Council's Constitution:-

Selflessness

Members and officers should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

Members and officers should be truthful and must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Members and officers must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias. This would cover such areas as making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

Members and officers should be accountable to the public for their decisions and actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Members and officers should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so..

Personal Judgement

Members and officers may take account of the views of others, including in the case of Members their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

Members and officers should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

Members and officers should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

Members and officers should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

Members and officers should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence. They should also be willing to challenge poor behaviour wherever it occurs.

2. The authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without actions involving fraud and corruption.

Key Controls

The key controls regarding the prevention of financial irregularities are that:

- (a) The authority has an effective anti-fraud and anti-corruption plan and maintains a culture that will not tolerate fraud or corruption.
- (b) There are effective recruitment and selection procedures.
- (c) Senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt.
- (d) High standards of conduct are promoted amongst Members by the Standards Committee and all Members and staff act with integrity and lead by example.
- (e) A register of interests is maintained and any hospitality or gifts are recorded.
- (f) Whistle blowing procedures are in place and operate effectively.
- (g) Legislation, including the Public Interest Disclosure Act 1998 and the Regulation of Investigatory Powers Act 2000 (RIPA), is adhered to.
- (h) The authority has a policy for combating benefit fraud and error and maintains its profile in the community for tackling benefit fraud.

- (i) The Authority maintains a Benefits Fraud Hotline.

The Council will fully investigate any Member or Officer acting outside these principles and will take appropriate action.



Document 2 – Anti-Bribery Policy

- 1.0 Bribery
- 2.0 The Bribery Act
- 3.0 Penalties
- 4.0 Policy Statement – Anti Bribery
- 5.0 Objectives of this policy
- 6.0 Scope of this policy
- 7.0 The Council’s commitment to action
- 8.0 Anti Bribery procedures
- 9.0 Bribery is not tolerated
- 10.0 Facilitation payments
- 11.0 Gifts and hospitality
- 12.0 Public contracts and failure to prevent bribery
- 13.0 Officer responsibilities
- 14.0 Monitoring and review
- 15.0 Raising a concern

1.0 BRIBERY

- 1.1 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.
- 1.2 Genuine hospitality or similar business expenditure that is reasonable and proportionate is allowable and not covered by the Act. However, facilitation payments are considered bribes (payments to induce officials to perform routine functions they are otherwise obligated to perform).

2.0 THE BRIBERY ACT

- 2.1 There are four key offences under the Act:
 - Bribing a person to induce or reward them to perform a relevant function improperly (Section 1)
 - Requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly (Section 2)
 - Using a bribe to influence a foreign official to gain a business advantage (A foreign public official is defined as “an individual holding legislative, administrative or judicial posts or anyone

carrying out a public function for a foreign country or the country's public agencies") (Section 6)

- In relation to a commercial organisation committing bribery to gain or retain a business advantage, there being no adequate procedures in place to prevent such actions (Section 7)

2.2 The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.

2.3 There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. This is what is known as a "strict liability" offence. This means that there is no need to prove negligence or management complicity. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

3.0 PENALTIES

3.1 An individual guilty of an offence under Sections 1, 2 or 6 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both.
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

3.2 The Council, if convicted under Sections 1, 2 or 6 will also face the same level of fines and, if guilty of an offence under Section 7, is liable to an unlimited fine.

4.0 POLICY STATEMENT - ANTI BRIBERY

4.1 Bribery is a criminal offence. The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor does the Council accept bribes or improper inducements.

4.2 To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery.

4.3 The Council is committed to the prevention, deterrence and detection of bribery and has a zero-tolerance towards bribery. The Council commits to ensuring that anti-bribery compliance is an essential aspect

of its governance process and at the core of its business principles. It is an on-going process and not a one-off exercise.

5.0 OBJECTIVE OF THIS POLICY

- 5.1 This policy provides a coherent and consistent framework to enable the Council's members and officers to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable members and officers to identify and effectively report a potential breach.
- 5.2 All members and officers including those permanently employed, temporary agency staff and contractors must:
- Act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible. Comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates.

6.0 SCOPE OF THIS POLICY

- 6.1 This policy applies to all of the Council's activities. For partners and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.
- 6.2 Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rely solely on the Council's assurance functions.
- 6.3 This policy covers all officers including those permanently employed, temporary agency staff, contractors, non-executives, agents, members (including independent or co-opted members), volunteers and consultants.

7.0 THE COUNCIL'S COMMITMENT TO ACTION

- 7.1 The Council commits to:
- Setting out a clear anti-bribery policy and keeping it up to date.
 - Making all members and officers aware of the Council's policy and procedures and their responsibilities to adhere strictly to this policy at all times.
 - Encouraging its members and officers to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication (e.g. Whistleblowing Blowing Policy) and ensuring sensitive information is treated appropriately.
 - Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution.
 - Taking firm and vigorous action against any individual(s) involved in bribery.

- Provide information to all members and officers to report breaches and suspected breaches of this policy.
- Include appropriate clauses in contracts with suppliers setting out the Council's right to terminate and secure losses in circumstances where an offence under the Bribery Act 2010 has been committed by the Supplier or the Supplier's Agent.

8.0 ANTI-BRIBERY PROCEDURES

8.1 The Council's procedures cover six principles:-

Proportionality

The Council has procedures in place to prevent bribery by persons associated with it. These procedures are clear, practical, accessible, effectively implemented and enforced.

Top level commitment

The Corporate Management Team, Assistant Directors and Heads of Team are committed to preventing bribery and foster a culture within the organisation in which bribery is never acceptable.

Risk Assessment

The nature and extent of the Council's exposure to potential external and internal risks of bribery on its behalf by persons associated with it is periodically assessed and documented as part of the Council's risk management process. This includes financial risks but also other risks such as reputational damage.

Due diligence

The Council takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks. Due diligence will include an evaluation of the background, experience and reputation of business partners. The transactions will be properly monitored and written agreements and contracts will provide references to the Bribery Act 2010 and this policy. Reciprocal arrangements may be required for business partners to have their own policies in place. They will be advised of the Council's policy and be expected to operate at all times in accordance with such policy.

Communication (including training)

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces. The Council's induction programme will include reference to the Bribery Act 2010 and this policy.

9.0 BRIBERY IS NOT TOLERATED

9.1 It is unacceptable to:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given.

- Give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure.
- Accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them.
- Accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return.
- Retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy.
- Engage in activity in breach of this policy.

10.0 FACILITATION PAYMENTS

10.1 Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

11.0 GIFTS AND HOSPITALITY

11.1 The Council's policy regarding the requirements for gifts and hospitality is set out within the Gifts and Hospitality Protocol and Employee Code of Conduct.

12.0 PUBLIC CONTRACTS AND FAILURE TO PREVENT BRIBERY

12.1 Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. This Council has the discretion to exclude organisations convicted of this offence.

13.0 OFFICER RESPONSIBILITIES

13.1 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All officers are required to avoid activity that breaches this policy. Officers must:

- Ensure that the policy has been read and comply with the requirements.
- Raise concerns as soon as possible where this policy has been breached or suspect a breach of this policy has occurred, or may occur in the future.

- 13.2 As well as the possibility of civil and criminal prosecution, officers that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

14.0 MONITORING AND REVIEW

- 14.1 This policy, control arrangements, risk management processes and other related policies and procedures designed to prevent bribery and corruption will be monitored, reviewed and improved where necessary on a regular basis.

15.0 RAISING A CONCERN

- 15.1 The Council has a responsibility to help detect, prevent and report instances of bribery.
- 15.2 In the event that an incident of bribery, corruption, or wrongdoing is reported, the Council will act as soon as possible to evaluate the situation. There are clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.
- 15.3 Details of how to raise a concern are outlined in the Council's Whistle-Blowing Policy.
- 15.4 The Council is aware that staff who refuse to accept the offer of a bribe and who wish to report the incident may worry about the repercussions for themselves and their employment. Therefore, the Council, in encouraging openness, will support anyone who raises a genuine concern in good faith under this policy, even if the alleged act of bribery is established, upon investigation, to be unfounded.
- 15.5 The Council is committed to ensuring that staff do not suffer any detrimental treatment through refusing to take part in any form of bribery.



Document 3 - Whistle Blowing Policy

PREAMBLE

- 1.1. Employees or Members are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3. This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The Whistle Blowing Policy is intended to encourage and enable employees and Members to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.
- 1.4. The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, etc. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, Sheltered Housing Schemes.
- 1.5. These procedures are in addition to the Council's complaints, grievance, bullying & harassment policies and procedures and other statutory reporting procedures applying to some Directorates.
- 1.6. This policy is supported by Unison and is based on the guidance issued by the former Local Government Management Board and the IDeA.
- 1.7. Members are reminded that if they have reasonable grounds to believe that another Member has been in breach of the Model Code of Conduct that they have the duty to report the matter. Advice may be

sought from the Chief Operating Officer as Monitoring Officer in these circumstances.

2. AIMS AND SCOPE OF THIS POLICY

2.1. This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.
- Provide avenues for you to raise those concerns and receive feedback on any action taken.
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2. There are existing procedures in place to enable staff to lodge a grievance relating to your own employment. The Whistle Blowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These major concerns include:

- Conduct which is an offence or a breach of law.
- Disclosures related to miscarriages of justice.
- Health and safety risks, including risks to the public as well as other employees.
- Damage to the environment.
- Poor performance or inappropriate behavior by contractors
- The unauthorised use of public funds.
- Possible fraud and corruption (see also the Anti Fraud and Corruption Response Plan, Document 4).
- Sexual or physical abuse of clients, or
- Other unethical conduct.

2.3. Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under the Whistle Blowing Policy. This may be about something that:

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- Is against the Council's Constitution and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct.

2.4. This policy does not replace the corporate complaints procedure or other procedures operated by Human Resources. The intention is to provide an opportunity to raise issues of concern by another route, if employees feel unable to use those existing procedures.

2.5. It also does not replace the procedure for complaints about a breach by Members of the Model Code of Conduct. If there are reasonable grounds to raise such a complaint then the Chief Operating Officer should be notified.

3. SAFEGUARDS AGAINST HARASSMENT OR VICTIMISATION

3.1. The Council is committed to good practice and high standards and wants to be supportive of employees and Members. The Public Interest Disclosure Act 1998 provides legal protection, in certain circumstances, to employees making disclosures about malpractice. The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

3.2. The Council recognises that the decision to report a concern can be a difficult one to make. Legislation provides protection for employees who raise legitimate concerns about specified matters that the employee reasonably believes are in the public interest. These are called 'qualifying disclosures'. A qualifying disclosure is one made by an employee who has a reasonable belief that:

- a criminal offence
- a miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- a breach of any other legal obligation; or
- concealment of any of the above

is being, has been, or is likely to be, committed. It is not necessary for the employee to have proof that such an act is

being, has been, or likely to be, committed, a reasonable belief is sufficient. An employee who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because he/she has made a disclosure. Protection from detriment also applies to ex-employees making disclosures after the termination of their employment.

Employees will generally be precluded from being able to 'blow the whistle' about breaches of their own employment contract. However, employees making such a complaint can still use the employer's grievance procedure.

3.3. Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

4. CONFIDENTIALITY

4.1. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

5. ALLEGATIONS

5.1. This policy encourages you to put your name to your allegation whenever possible. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

In exercising this discretion the factors to be taken into account would include:

- The seriousness of the issues raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

6. HOW TO RAISE A CONCERN

6.1. As a first step, staff should normally raise concerns with their immediate manager or superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If staff believe that their management is involved, they should approach one of the following:

- Stephen Whetnall – Chief Operating Officer as Monitoring Officer
- Alexis Garlick – Chief Finance Officer and Section 151 Officer
- Alison Gavin – Head of Organisational Development

- Neil Pitman – Chief Internal Auditor

6.2. A Member should raise concerns with the Chief Executive, Chief Operating Officer or the Chief Finance Officer.

6.3. Concerns may be raised verbally or in writing. Those who wish to make a written report should use the following format:

- The background and history of the concern (giving relevant dates);
- The reason why you are particularly concerned about the situation.

6.4. The earlier you express the concern the easier it is to take action.

6.5. Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

6.6. You may obtain advice/guidance on how to pursue matters of concern from any of the officers set out in paragraph 6.1 above.

6.7. You may wish to consider discussing your concern with a colleague or trade union representative first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

6.8. You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

7. HOW THE COUNCIL WILL RESPOND

7.1. The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

7.2. Where appropriate, the matters raised may:

- Be investigated by Management, Internal Audit, Human Resources or through the grievance or disciplinary process
- Be referred to the police
- Be referred to the external auditor
- Be the subject of an independent inquiry

7.3. The individual with whom you raise your concern will obtain advice from the Chief Operating Officer as to how the matter should be investigated.

- 7.4. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate, and, if so, what form it should take. The overriding principle that the Council will have in mind is the public interest. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 7.5. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 7.6. Within ten working days of a concern being raised, the person with whom you raised the concern will write to you:
- Acknowledging that the concern has been received.
 - Indicating how we propose to deal with the matter.
 - Giving an estimate of how long it will take to provide a final response (where possible).
 - Telling you whether any initial enquiries have been made.
 - Supplying you with information on support mechanisms, and
 - Telling you whether further investigations will take place and if not, why not.
- 7.7. The amount of contact between you and the officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 7.8. Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 7.9. The Council will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 7.10. The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

8. HOW THE MATTER CAN BE TAKEN FURTHER

- 8.1. This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. While we cannot guarantee that we will respond

to all matters in the way that you might wish, we will handle the matter fairly and properly. If you are not happy with our response, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- The external auditor.
- Your trade union.
- Your local Citizens Advice Bureau.
- Relevant professional bodies or regulatory organisations.
- A relevant voluntary organisation.
- The Police.

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with your contact point about that, or with the Chief Operating Officer.



Winchester

City Council

Document 4 - Anti - Fraud and Corruption Response Plan

This document provides details on how Winchester City Council employees should respond to suspicion of fraud or corruption of any kind and raises awareness generally.

CONTENTS:

1. What constitutes fraud and corruption?
2. How the Anti Fraud and Corruption Response Plan fits into the overall authority approach on Corporate Governance
3. Detection
4. Reporting Suspicions Procedure
5. Investigation
6. Prevention
7. Recovery of losses
8. Advice on fraud awareness and what to look for
9. Training
10. Conclusion

1. What Constitutes Fraud and Corruption?

- 1.1. The term 'Fraud' is used to describe acts such as criminal deception, forgery, blackmail, corruption, theft, conspiracy, money laundering, concealment of material facts and collusion.
- 1.2. For practical purposes fraud can be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party.
- 1.3. Corruption covers the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of another person.

1.4. The Fraud Act 2006 states that the offence of Fraud can be committed in 3 ways:

- *Fraud by False Representation*
A person is in breach of this section if he/she: **Dishonestly** makes a false representation and **Intends**, by making the representation, to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss Note: the gain or loss need not have taken place.
- *Fraud by failing to disclose information*
A person is in breach of this section if he or she: **Dishonestly** fails to disclose to another person information which he/she is under legal duty to disclose and **Intends**, by failing to disclose the information, to make a gain for himself or another, or cause loss to another or to expose another to a risk of loss.
- *Fraud by abuse of position*
A person is in breach of this section if he/she: **Occupies a position** in which he/she is expected to safeguard, or not to act against, the financial interests of another person. **Dishonestly** abuses that position and **Intends**, by means of the abuse of that position to make a gain for himself or another or to cause loss to another or to expose another to a risk of loss. Note: A person may be regarded as having abused their position even though their conduct consisted of an omission rather than an act.

2. How the Anti Fraud and Corruption Response Plan fits into the overall authority approach on Corporate Governance

2.1. The Anti Fraud and Corruption Response Plan aims to give staff and Members more information about the prevention and detection of fraud and how the Authority deals with fraud when it is discovered.

2.2. Well-framed internal regulations usually play a passive yet vital role in preventing or substantially reducing fraud. The Council's Financial Procedure Rules serve this purpose. In addition the Council has several policies and procedures which cover non-financial anti-fraud measures such as recruitment, conduct and discipline. The Codes of Conduct for Members and Employees set out the local standards expected by Winchester City Council. The Green Book sets out national standards and has the following extract on official conduct:

- Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.
- Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.

- 2.3. The Council also has a Whistle Blowing Policy, which aims to provide avenues for staff to raise concerns without fear of reprisals or victimisation, and a policy for combating benefit fraud and error which specifically relates to Housing Benefit and Council Tax Benefit fraud.
- 2.4. The Council's Benefit Investigation Team will investigate benefits related matters. Internal Audit will investigate other Council related matters in association with Human Resources where it involves staff.

3. Detection

- 3.1. The array of preventative systems, particularly internal control systems within the Council, help to provide indicators of, and help to deter, any fraudulent activity. Where fraudulent activity is suspected, this will normally be investigated by Internal Audit/Human Resources working in cooperation with each other. It is not Internal Audit's or Human Resources responsibility to detect fraud; the role of Internal Audit is to check the adequacy of the controls within systems. However, the assessment of the risk of fraud is routinely taken into account in planning all internal audits. The role of Human Resources is to determine whether there is a case to be heard under the disciplinary procedure.
- 3.2. It is the responsibility of Directors and their managers to prevent and detect fraud and corruption. However, it is often the alertness of staff, Members and the public to the possibility of fraud and corruption which enables detection to occur. This allows appropriate action to take place when there is evidence that fraud or corruption may have been committed or is in progress.
- 3.3. Allegations can be a key source in the detection of fraud and as such the Council treats all allegations and complaints seriously and is committed to investigate all such matters.
- 3.4. The Council's Whistle Blowing Policy allows employees and Members to raise any concerns they may have in confidence and anonymously should they so wish.

Employees

- 3.5. On suspicion of Fraudulent Activity:

DO:

- Make an immediate note of your concerns.
- Convey your suspicions to someone with the appropriate authority and experience e.g. your manager, provided they are not implicated, or Internal Audit/Human Resources/Section 151 Officer.

- Retain any evidence you may have securely.

DON'T:

- Do nothing.
- Be afraid of raising your concerns.
- Approach or accuse any individual directly.
- Try to investigate the matter yourself.
- Convey your suspicions to anyone other than those with the proper authority.

Managers

- 3.6. There are some common sense guidelines issued by the Audit Commission that managers should apply in all cases where fraud or corruption is suspected in the workplace.

DO:

- Be responsive to staff concerns.
- Note details.
- Evaluate the allegation objectively.
- Deal with the matter promptly if you feel your concerns are warranted.
- Advise Internal Audit and Human Resources management immediately.

DON'T:

- Ridicule suspicions raised by staff.
- Approach or accuse any individuals directly.
- Try to investigate the matter yourself.
- Convey your suspicions to anyone other than those with the proper authority.

4. Reporting Suspicions Procedure

- 4.1. Council employees and Members should report to Internal Audit any concerns they may have regarding fraud and corruption, whether it relates to dishonest behaviour by Council employees, Members or by others. This includes reporting of any instances of money

laundering (please refer to the Council's Treasury Management Practices, TMP9 Money Laundering).

- 4.2. Internal Audit has a duty to monitor instances of financial irregularities within the Council as a whole, and to report certain details to external bodies. It also has a duty to ensure that appropriate investigations are carried out. For this reason Financial Procedure Rules require the immediate notification of a suspected or actual irregularity to the Chief Internal Auditor. A maliciously false complaint may result in disciplinary/grievance proceedings being taken.
- 4.3. Internal Audit will consult with Human Resources regarding any allegations received and further investigatory work required concerning staff, and vice-versa if the allegation is received initially via Human Resources.
- 4.4. Management has the responsibility for ensuring that reasonable measures are taken to prevent fraud and corruption. Staff will usually report suspicions first to their manager. However, if staff are uncomfortable about approaching their manager, there are alternatives. For example, the Chief Internal Auditor may be approached when management are suspected of being implicated in a malpractice. In any event it is common practice for managers to request assistance and advice from Internal Audit/Human Resources on suspicion or discovery of fraud.
- 4.5. Internal Audit will be pleased to hear from you directly either by phone, in writing or by paying a visit. If you wish to remain anonymous you may but a name helps to validate the information being supplied.
- 4.6. There is a genuine need for staff to be able to voice their concerns in confidence. The Council aims to provide such a facility. However, it is not trying to encourage staff to spy on colleagues or to create an acrimonious environment of suspicion and counter-claim.
- 4.7. Personal visits can be made to the Internal Audit office and discussions will be conducted in a meeting room or the audit office as appropriate.
- 4.8. If the suspicion is related to Housing Benefit or Council Tax Benefit then it should be reported to the Benefit Investigation Team (see Housing and Council Tax Benefit Anti-Fraud Policy). Your information will be treated seriously and will not be considered too insignificant or in any other way unimportant, and will be investigated fully. Again all information received is treated in the strictest confidence.

- 4.9. On suspecting fraud or theft, try to avoid touching anything in the area where funds or data were located; seal the area; don't attempt to examine records or any remaining funds and then contact us.
- 4.10. Alternatively, any person with a concern may use the Council's Whistle Blowing Policy.
- 4.11. The Monitoring Officer (Chief Operating Officer) shall report to the Standards Committee any concern with regard to Members which is thought to require consideration of disciplinary action.
- 4.12. Where investigation reveals evidence of suspected criminal activity with regard to fraud and corruption the Section 151 Officer, in consultation with the relevant Director, will normally refer the matter to the Police. Where an employee is involved, the Section 151 Officer will first consult with the employee's Director, and, where appropriate, the Chief Executive, Head of Organisational Development and the Monitoring Officer (Chief Operating Officer).
- 4.13. Contact with the Police in fraud cases will normally be co-ordinated by the Internal Audit Manager.
- 4.14. The Council will do all it can to recover monies or assets misappropriated by employees or others as a result of dishonest behaviour. (See Section 8 on Recovery of Losses).

5. Investigation

- 5.1. Investigation into suspected fraudulent activity will normally be carried out by Internal Audit in co-operation with Human Resources and liaising as appropriate with the Chief Executive, Chief Finance Officer, other Directors and the Police. Internal Audit / Human Resources may not undertake covert surveillance of an individual without a separate authorisation under the Regulation of Investigatory Powers Act 2000 from the Head of Legal and Democratic Services or Chief Operating Officer.
- 5.2. All referrals are treated in the strictest confidence, treated seriously and fully investigated and the outcome reported to the informant.
- 5.3. On receiving information from a member of staff, a preliminary interview to determine whether an investigation is warranted will be conducted.
- 5.4. Where the criminal law appears to have been broken, Internal Audit will refer, with the agreement of the Chief Executive, the case to the Police and continue to assist them throughout their investigation. The Police or the Council may bring about a prosecution. Where an apparent irregularity arises between an employee and a third party the wishes of the third party concerning police involvement should be carefully considered and respected. Normally police involvement

should only arise if that party is prepared to agree to it, but there may be occasions when the employer considers that it is obliged to involve the Police.

- 5.5. In carrying out such work, strict working practices are required to be followed, which include full observation of authorisations and protocols put in place to ensure that any actions are carried out both fairly and lawfully, safeguarding the rights of privacy owed to the individual. This is governed by legislation including:
 - Data Protection Act (1998)
 - Human Rights Act (1998)
 - Regulation of Investigatory Powers Act (2000)
 - Freedom of Information Act (2000)
- 5.6. In all cases of misuse reported to Internal Audit/Human Resources where RIPA applies, a reasoned decision-making process is required to be documented, showing the extent of any adverse impact on the employee in conducting covert monitoring, and ensuring that this is properly considered and justified by the benefit to the Council. In such cases, any decision to go ahead with the exercise is subject to the independent authorisation by the Head of Legal and Democratic Services or Chief Operating Officer to undertake RIPA surveillance, and is strictly time limited. A central file is kept of all authorisations as required by the Act.
- 5.7. Internal audit and Human Resources staff have a role in monitoring the activities of employees in the event of any allegations of impropriety being reported. This could involve the covert monitoring of activities using electronic surveillance equipment or the monitoring/interception of electronic communications (e.g. e-mail, Internet, telephone usage). Monitoring is a recognised component of the employment relationship and this is well publicised within the Council's ICT Security and Conduct policy regarding the acceptable use of its electronic and ICT systems. Within this document clear warning is given that any unacceptable use or breach of policy may result in disciplinary action being taken against the person responsible.
- 5.8. Managers of the Authority will also:
 - Co-operate fully with Internal Audit, Human Resources and the Police during any investigation.
 - Implement the Council's Disciplinary Procedure, where appropriate.

- Take prompt action to remedy any weaknesses discovered in internal control procedures.
- Deal swiftly, fairly and firmly with those who offend against the Council.

5.9. Internal Audit/Human Resources in respect of any case of suspected fraud or corruption discovered by or referred to them, will:

- Deal promptly with the matter in accordance with the disciplinary procedures.
- Immediately liaise with each other and jointly decide on an appropriate course of action.
- Notify the relevant Director and Head of Team.
- Maintain full documentation of all evidence received.
- Ensure that the evidence is sound and adequately supported.
- Report findings to the Chief Finance Officer and also to the Chief Executive and Chief Operating Officer, where appropriate.
- With the agreement of the Chief Executive or Chief Operating Officer, refer the matter to the Police, as appropriate.
- Assist in any disciplinary proceedings.

5.10. Where the suspicion involves a Member the Monitoring Officer will be notified immediately.

6. Prevention

6.1. There are many ways of preventing fraud and corruption. The Council has adopted the following preventative measures including:

6.2. An adequate and effective internal audit service is provided to carry out an on-going review of financial and other systems in use and to test those systems for weaknesses in internal controls. In carrying out this work Internal Audit will have regard to the relative risk associated with particular systems as agreed with the Council's external auditor.

6.3. The Council's Recruitment and Selection procedure requires that references should always be taken up when recruiting posts externally. This is intended amongst other reasons to prevent people with a history of dishonest behaviour being employed by the Council in positions of trust. Human Resources check qualification certificates with the issuing bodies for key posts in the Council to ensure validity. Human Resources will also carry out Disclosure

Barring Service (DBS) checks where appropriate in accordance with the Council's document titled Children, Young People and Vulnerable Adults Protection, Policy and Procedures.

- 6.4. Employees who hold professional, trade or other appropriate qualifications are expected to comply with codes of conduct issued by the organisations of which they are members.
- 6.5. By creating an organisation that actively supports an anti-fraud culture through its policies and procedures, by supporting them and actively advocating them to staff/colleagues.
- 6.6. By considering the risks to the Authority before designing a system or making a decision, and considering how to minimise or control the risk. (Internal Audit provides this advice when carrying out an audit assignment and can assist if systems are undergoing a change).
- 6.7. By ensuring that no one single person controls an operation from start to finish or can carry out an income or purchasing transaction on their own (separation of duties).
- 6.8. By good systems design, ensuring that systems are effective and efficient and that staff understand their responsibilities for control where the system is relying on that control as a prevention measure and the monitoring of the adherence to this.
- 6.9. Responsibilities should be clearly set out and allocated to individual senior managers. It is important that managers at all levels within the Council are alert to potential problems in their work area and that adequate and effective safeguards are in place to prevent financial irregularities. However, managers should also satisfy themselves that checks are in place at the appropriate levels, so that in the event of a breach any irregularity would be picked up promptly, so minimising any loss to the Council.
- 6.10. Specific preventive fraud advice can be given and often is when a service is audited. Make the most of your audit by drawing attention to areas of risk or concern. If your service requires additional assistance because you are changing your working practices Internal Audit will be pleased to assist in giving fraud prevention advice. Please contact Internal Audit through your Director.
- 6.11. The Officers' Code of Conduct makes it clear that the conduct of its employees should be of the highest possible standard and that dishonest behaviour by employees will not be tolerated by the Council.
- 6.12. The Members' Code of Conduct similarly sets out a recommended standard of conduct in carrying out their duties together with requirements to disclose details of Personal/Prejudicial Interests. The Authority has in place a Standards Committee that promotes

and maintains high standards of Member conduct and assists Members to observe the Code of Conduct.

- 6.13. The Council's Whistle Blowing Policy gives protection to anyone with genuine concerns which they wish to report but feel that they cannot follow normal channels.
- 6.14. The Constitution provides for executive decisions to be made in an open and accountable manner.
- 6.15. Financial Procedure Rules prescribe the minimum standards for financial controls that must be in place within all processes in all Teams of the Council.
- 6.16. It is the responsibility of each Head of Team to ensure that employees are aware of the measures set out above, that their Team complies with them and that sound financial controls do exist within their financial systems and procedures.
- 6.17. Heads of Team should also ensure that guidelines, rules or other written procedures exist and are complied with for specific activities at risk from fraud and corruption.
- 6.18. Each individual employee and Member is responsible for observing these rules and codes. This will go a long way to preventing and detecting improper practice.

7. Recovery of Losses

- 7.1. The Council will seek to recover the losses incurred as a result of fraud and corruption.
- 7.2. The Council's Risk and Insurance Officer should be informed as soon as possible of any potential loss. Details of the case should also be given together with an indication of what recovery action is being attempted.
- 7.3. If anyone under investigation offers money in settlement of any losses to the Council, it should be made clear that any monies offered will be accepted on the following terms:
 - Without prejudice to any other action the Council may wish to take.
 - That acceptance is only in respect of losses identified to date.
 - The Council reserves the right to seek recovery of any further losses that may come to light in the future.
- 7.4. Claims under the Council's insurance arrangements in fraud and corruption cases should be regarded as a "last resort", and will only

be instigated once all other avenues of recovery have been fully explored.

8. Fraud Awareness

8.1. What motivates a person to commit a fraudulent act is not always easy to determine. Experience and surveys carried out of known frauds show that motivation falls into the following categories:

- Personal financial problems.
- A corporate ethos that is conducive to corruption (“everyone else is doing it – so I can” syndrome).
- Rivalry or co-operation problems caused by malice or low staff morale.
- Staff feeling they are under-rewarded.
- Egotistical reasons - staff who want to beat the system.
- Peer pressure.
- Strong religious or political beliefs.

8.2. Opportunity can be created by all or some of the following circumstances:

- Changes in systems (procedures, computers, location etc.).
- Changes in personnel (new management, new staff).
- A position of trust.
- The ability to carry out a transaction from start to finish with no other intervention or accountability (e.g. being able to make a payment, cancel a debt etc).
- Lack of audit trail - so cannot trace who committed a fraud.
- An organisational culture that does not support accountability and control.

9. Training

9.1. The Council recognises that the success and credibility of its Anti-Fraud and Corruption Policy will depend largely on how effectively it is communicated throughout the organisation and beyond. To this end, details of the Policy will be provided to all Members and all staff and will be included on induction. The Policy will also be shown on the Council’s web page and be available on the Intranet. It is

managers' and individuals' responsibility to ensure that staff refresh their knowledge of the policies and procedures as necessary.

- 9.2. The Council supports the concept of induction training, particularly for officers involved in internal control systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. The possibility of disciplinary action against officers who ignore such training and guidance is clear.
- 9.3. The officers involved in the review of internal control systems and investigative work should be properly and regularly trained. The training plans of Internal Audit will reflect this requirement.
- 9.4. It is the responsibility of Head of Team to communicate the Anti-Fraud and Corruption Policy to their staff and to promote a greater awareness of fraud within their directorates.

10. Conclusion

- 10.1. The Council will maintain a continuous overview of these arrangements and, through the Section 151 Officer, will ensure in particular a regular review of Financial Procedures, Financial Management and Audit Arrangements.
- 10.2. This Policy Statement will also be subject to regular review at least every other year.