

Anti-Fraud and Corruption Strategy

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Anti-Fraud Policy

Chelmsford City Council (CCC) is committed to high legal, ethical and moral standards, and the proper accountability of public funds. In the current climate of reduced funding and financial hardship it is more important than ever that losses to the Council because of fraud and corruption are kept to a minimum to ensure that our limited resources are used for their intended purpose.

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

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.

The Authority also expects that individuals and organisations with which it comes into contact will act towards the Authority with integrity.

The key controls in place to reduce the likelihood of fraud are:

- The Authority has an effective anti-fraud and corruption policy and maintains a culture that will not tolerate fraud or corruption.
- All Members and staff act with integrity and lead by example.
- Senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt.
- High standards of conduct are promoted amongst Members by the standards committee.
- The maintenance of a register of interests in which any hospitality or gifts accepted must be recorded.
- Confidential reporting procedures are in place and operate effectively.
- Legislation including the Public Interest Disclosure Act 1998 is adhered to.
- Standard contract clauses prohibit fraud and corruption.

Additionally, the Authority:

- Maintains a Corporate Fraud presence who play a key role in both the prevention and investigation of matters relating to suspected fraud, corruption and abuse of council services and property.
- Uses the Internal Audit Service as an independent appraisal function for the review of the Council's internal control system as a contribution to the proper, economic, efficient and effective use of resources.
- Recognises the importance of criminal prosecution in deterring fraud and will seek to prosecute offenders where appropriate.

- Supports the work of the police and other external agencies in fighting fraud and corruption in the public sector.
- Is a member of the National Anti-Fraud Network (NAFN), and Participates in the National Fraud Initiative, which is the Cabinet Office's biennial data matching exercise designed to combat fraud?

This policy applies to suspected fraud and corruption, which concerns CCC, involving employees, Members and/or external parties unless the matter is more properly a matter for the Police. Any investigation required will be conducted without regard to any person's relationship to CCC, position or length of service.

Section One

Introduction

Chelmsford City Council aims to provide community leadership and quality services. This strategy document embodies a series of measures designed to frustrate any attempted fraudulent or corrupt act and the steps to be taken if such an act occurs.

In applying this strategy regard will be had to all relevant CCC policies and any obligations as an employer and the requirements of the Code of Conduct for Local Government Employees.

The Chartered Institute of Public Finance and Accountancy (CIPFA) defines fraud and corruption 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 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”*.

The passing of The Fraud Act 2006 into legislation created specific criminal offences surrounding fraud.

They are:

- Fraud by False Representation
- Fraud by Failing to disclose Information (where there is a legal duty to do so)
- Fraud by Abuse of Position
- Possession of Articles for use in a fraud
- Making or Supplying articles for use in Fraud

This policy strongly advocates the following 4 key principles in the Council’s approach to combatting fraud and corruption, namely:

- **Culture** – The ongoing process of maintaining and developing a “top to bottom” anti-fraud and corruption culture throughout the organisation focusing not just on employees, but members, suppliers, contractors and the public also.
- **Prevention** – Ensuring that a range of anti-fraud measures are deployed throughout the Council such as internal audits, fraud awareness sessions etc.
- **Detection and Investigation** – Where fraud and / or corruption is suspected, the Council must ensure that investigations are carried out by professional and qualified investigators to the highest standards of fairness and probity, having due regard to the appropriate legislation at all times.

- **Deterrence** – In the event of fraud and / or corruption being discovered, the Council must take appropriate steps to ensure that further instances do not occur by utilising methods such as criminal prosecution, disciplinary action, etc. The Council will also seek to obtain financial redress where public money has been lost by utilising The Proceeds of Crime Act 2002 wherever appropriate.

Section Two

Culture

CCC will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority. Fraud risk is considered as part of the Authority's overall risk management strategy.

The prevention and detection of fraud and corruption, and the protection of the public purse is everyone's responsibility.

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

To make sure this occurs; the Council has and maintains a separate Whistleblowing Policy.

Members, employees or contractors are encouraged to raise concerns if they reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:

- a criminal offence
- a failure to comply with a statutory or legal obligation
- improper unauthorised use of public or other funds
- improper use or misappropriation of assets
- a miscarriage of justice
- maladministration, misconduct or malpractice
- any other similar occurrences
- deliberate concealment of any of the above.

Management Board will ensure that any allegations received in any way, including anonymous letters or phone calls, will be taken seriously and investigated in an appropriate manner, subject to legislative requirements.

The Council has agreed the provision of a Corporate Fraud presence to bring a uniform approach to fraud investigation and to adequately resource the detection and prevention of fraud.

The Corporate Fraud Team (CFT) has the remit to investigate matters of suspected fraud, theft and corruption within CCC (except for Housing Benefit fraud investigation which transferred to the Department for Work and Pensions). The CFT will, as one of its key operating principles also seek to maintain an anti-fraud and corruption culture by engaging staff, members and the public.

CCC will deal firmly with those who defraud the Authority, or who are corrupt, or who are responsible for financial malpractice.

When fraud or corruption has occurred because of a breakdown in the authority's systems or procedures, the Corporate Fraud Team and Internal Audit will ensure that appropriate improvements in systems of control are implemented to prevent a recurrence.

Section Three

Prevention

It is important that the Council recognises and manages the risks relating to fraud and corruption to prevent them from occurring. Furthermore, it is imperative that these risks are routinely considered as part of the Council's overall approach to risk management. To understand the nature of these risks, the following have been identified as key issues that are relevant to CCC:

- Council Tax – fraudulently claimed discounts (including Local Council Tax Support), refund scams.
- Non-Domestic Rates – fraudulent applications for exemptions, unlisted properties.
- Grants (including Disabled Facilities Grants) – false eligibility and applications, diverted funds, works not carried out.
- Insurance Fraud – suspected false claims particularly those relating to personal injury.
- No recourse to public funds – fraudulent eligibility for Council services such as Social Housing.
- Payroll Fraud – false and “ghost” employees, overtime and mileage claims, expenses.
- Internal Frauds – such as fund diversion, accepting bribes, stealing monies and / or Council property, social housing misallocations for personal gain, working elsewhere whilst off sick, abuse of position such as misuse of assets / resources.
- Procurement Fraud – tendering issues, split contracts, double invoicing.
- Cyber Crime / Fraud – frauds such as false applications for services, fund diversion.
- Social Housing Tenancy Fraud – this includes risks such as fraudulent housing applications, mutual exchanges, illegal subletting etc.
- The Right to Buy scheme – fraudulent applications and suspected money laundering.
- Money Laundering – Exposure to suspect transactions.

It is important to note that the above represents the key fraud risk areas and examples of each. It is not intended to be an exhaustive list. As with the culture, the concept of fraud prevention applies to the organisation from top to bottom.

Members

As elected representatives, all Members of the Authority must act in accordance with statutory requirements and the Members' Code of Conduct.

These matters and other guidance are specifically brought to the attention of Members at their induction and include rules on the declaration and registration of potential areas of conflict between Members' Council duties and responsibilities, and any other areas of their personal or professional lives.

Members sign to the effect that they have read, understood and will comply with the Member's Code of Conduct when they take office.

The Monitoring Officer advises Members of new legislative or procedural requirements.

Managers

Managers at all levels are responsible for the communication and implementation of this policy in their work area.

They are also responsible for ensuring that staff are aware of the Authority's Financial Regulations and Standing Orders, and that the requirements of each are being met in their everyday business activities. In addition, managers must make sure their staff are aware of the requirements of the Officers' Code of Conduct through the induction process.

Managers are expected to strive 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 information regarding Confidential Reporting.

Special arrangements will apply where employees are responsible for cash handling or oversee financial systems and systems that generate payments, for example payroll, the integrated benefits computer system or council tax. Managers must ensure that relevant training is provided for staff. Checks must be carried out at least annually to ensure that proper procedures are being followed.

The Authority recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts.

The Authority has a formal recruitment procedure, which contains appropriate safeguards on matters such as written references and verifying qualifications held.

As with other public bodies, police checks are undertaken on employees working with children.

Further checks will be introduced in areas where an increased risk of potential fraud and corruption has been identified (for example, positions whereby a professional qualification is essential).

Employees

Each employee is governed in their work by the Authority's Procurement Rules and Financial Regulations, the Officer Code of Conduct and various policies.

Guidelines on gifts and hospitality, and codes of conduct associated with professional and

personal conduct and disclosure of interests are contained within the relevant Staff Policies, which are available to all staff via the corporate intranet.

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 procedure manuals.

Employees are expected always to be aware of the possibility that fraud, corruption or theft may exist in the workplace and be able to share their concerns with management. If for any reason, they feel unable to speak to their manager, they can relay their suspicions to either the Senior Financial Investigation Officer the Chief Procurement & Risk Officer or in their absence the Chief Assurance Executive. Employees can also avail themselves of the Confidential Reporting Policy (Whistleblowing).

Conflicts of Interest

Both Members and employees must ensure that they avoid situations where there is a potential for a conflict of interests.

Such situations can arise with externalisation of services, partnering arrangements, internal tendering, planning and land issues, etc.

Effective role separation will ensure decisions made are, and are seen to be made, based upon impartial advice thereby avoiding improper disclosure of confidential information. CCC employees are required to confirm annually their position regarding any potential conflicts of interest.

Official Guidance

In addition to Financial Regulations and Standing Orders, Services will have their own procedures to prevent and detect fraud. There may also be audit reports that recommend methods to minimise losses to the Authority. Staff must be made aware of these various sources of guidance and alter their working practices accordingly.

Role of the Corporate Fraud Team

The Corporate Fraud Team role in both the prevention and investigation of instances of suspected fraud against the Council.

Training is given to officers within the authority to assist in ensuring that any cases referred to the team contain good quality information to assist with the investigation.

All investigations are carried out in accordance with the respective legislation.

In cases where the offence is deliberate and serious enough to warrant prosecution, consideration will be given to the Council's fraud prosecution / sanction policy. If deemed appropriate legal proceedings will be undertaken in conjunction with Legal Services and / or other bodies such as the Police.

Utilising the provisions of Section 222 of The Local Government Act 1972, the Corporate Fraud Team in conjunction with Legal Services are appropriately authorised to undertake investigations and criminal prosecutions into cases of fraud and corruption that involve the Council.

The Role of Internal Audit

Internal Audit plays a vital preventative role in trying to ensure that systems and procedures are in place to prevent and detect fraud and corruption. They liaise with management to recommend changes in procedures to prevent potential or further losses to the Authority. Internal Audit will also work closely in conjunction with the Corporate Fraud Team.

The Role of External Audit

Independent external audit is an essential safeguard in the stewardship of public money.

This role is delivered through the carrying out of specific reviews that are designed to test (amongst other things) the adequacy of the Authority's financial systems, and arrangements for preventing and detecting fraud and corruption.

It is not the external auditor's function to prevent fraud and irregularity, but the integrity of public funds are always 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 Authority's arrangements to prevent and detect fraud and irregularity, and arrangements designed to limit the opportunity for corrupt practices.

Co-operation with Others

The Corporate Fraud Team and Internal Audit have arranged (subject to legislative requirements regarding data sharing) and will keep under review procedures and arrangements to develop and encourage the exchange of information on national and local fraud and corruption activity in relation to local authorities with external agencies such as:

- Police
- County, Unitary and District groups
- External Audit
- Government departments
- National bodies such as The National Fraud Intelligence Bureau, Action Fraud etc.

Section Four

Detection and Investigation

The Corporate Fraud Team and Internal Audit play an important role in the detection of fraud and corruption. Included in their respective business plans are reviews of system financial controls and specific fraud and corruption tests, spot checks and unannounced visits.

In addition to Internal Audit, there are numerous systems control in place to deter fraud and corruption, but it is often the vigilance of employees and members of the public that aids detection.

In some cases, frauds are discovered by chance or 'tip-off' and arrangements are in place to deal with such information properly.

All suspected irregularities are required to be reported (orally or in writing) either by the person with whom the initial concern was raised or by the originator, as detailed in the Authority's Confidential Reporting Policy. This will:

- ensure the consistent treatment of information regarding fraud and corruption.
- facilitate a proper and thorough investigation by the Corporate Fraud Team in accordance with the requirements of current legislation. Should a member of the Corporate Fraud Team be implicated or the subject of an investigation, either the Chief Assurance Executive or Monitoring Officer will provide a suitable, qualified investigator.

This process will apply to all the following areas:

- a) fraud/corruption by Members
- b) fraud/corruption by Authority employees
- c) fraud/corruption by contractors' employees
- d) fraud/corruption by the public/ external parties

In most cases of reported fraud and / or corruption, any allegation or suspicion will, in the first instance be investigated by the Corporate Fraud Team. Depending on the nature of the case, the CFT may consider undertaking joint investigations with other relevant parties (such as other Local Authorities, Government Departments, the Police etc.).

Alternatively, the CFT may, in some cases, refer the investigation on to another investigating body if more appropriate to do so.

Any decision to refer a matter to the police will be taken by the Chief Executive in consultation with the Monitoring Officer, the s151 Officer, the Director of the responsible service and the Senior Financial Investigation Officer the Chief Procurement & Risk Officer or in their absence the Chief Assurance Executive however, any investigation whereby financial impropriety is discovered, will be dealt with, normally, in the first instance by the Corporate Fraud Team.

However, the mere fact that a Corporate Fraud Team and / or police investigation leads to them taking no further action will not compromise any private action / procedure or investigation that the Council may pursue.

The Authority's disciplinary procedure will be used to facilitate a thorough investigation of any allegation of improper behaviour by employees.

Decisions to refer potential criminal activity by a Member to the Police will be taken by the Monitoring Officer in consultation with the Chief Executive and s151 Officer.

If a Member is suspected of the specific offence of failing to disclose a Disclosable Pecuniary Interest as defined by the Localism Act 2011 the decision to refer the matter to the Police will be taken by the Monitoring Officer following an initial report by the Deputy Monitoring Officer.

Section Five

Deterrence

Criminal Prosecution

To strike the correct balance considering punishment and deterrence, the Council will undertake criminal prosecutions where it is considered evidentially appropriate and in the public interest.

A corporate policy will be developed taking account of legal guidelines, to encompass the public, Members, contractors and employees. It is designed to clarify the Authority's action in specific cases and to deter others from committing offences against the authority. However, it also recognises that it may not always be in the public interest to refer cases for criminal proceedings and will seek to always take a fair and balanced view on each matter according to each case's merits.

Disciplinary Action

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.

Disciplinary action may be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner.

Members will face appropriate action under this strategy if they are found to have been involved in theft, fraud or corruption against the Authority.

Action may be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner.

This aspect of the policy is to be read in conjunction with the powers of the Standards Committee, the delegated powers of the Monitoring Officer and deputy Monitoring Officer and the adopted Code of Conduct.

Publicity

The Council will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Authority.

As a matter of course, a press release will be drafted following any successful criminal prosecution and passed to PR for them to ensure that the results of any action taken, are reported positively in the media. This will be particularly relevant where a financial loss to the Council has occurred and any action taken to recover any such losses will also be promoted.

Provision will also be made for publicity to be taken for any such cases whereby details cannot be made public (for example: where Formal Cautions and / or financial penalties are utilised). In these cases, any press release will contain the pertinent details but will not identify individuals by name.

From time to time, the Council may be approached by the media such as television, radio etc. to provide content regarding anti-fraud and corruption activities. It is acknowledged that this type of media publicity can be extremely useful in promoting anti-fraud activities and as a tool for deterrence.

Should such approaches be received, they are to be considered on a case by case basis with the involvement of both PR and relevant Directors at the earliest opportunity.

All anti-fraud and corruption activities, including the update of this strategy, will be publicised to make employees and the public aware of the Authority's commitment to acting on fraud and corruption when it occurs.

Section Six

Bribery Act Policy

Introduction

The Bribery Act 2010 became law on 1st July 2011 and has been enacted to enable robust action to be taken against such activity. Chelmsford City Council is committed to protecting the public purse and the services it provides from being abused. We have a zero-tolerance approach towards bribery and promote the prevention, deterrence and detection of bribery.

What is bribery?

Bribery is defined as the offering, giving, receiving or soliciting of any item of value to influence the actions of an official or other person in charge of a public or legal duty. The act of bribery is the intention to gain a personal, commercial, regulatory or contractual advantage.

Objective of this policy

This policy provides a coherent and consistent framework to enable Chelmsford City Council (CCC) Members and employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable Members and employees to identify and effectively report a potential breach.

We require that Members and all staff, including those permanently employed, temporary agency staff and contractors:

- act honestly and with integrity always and safeguard the organisation'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, in respect of the lawful and responsible conduct of activities.

Scope of this policy

This policy applies to all the Council's activities. For partners, joint ventures, agents and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the Council. It does not rest solely within assurance functions, but in all business units and corporate functions.

This policy covers all staff, including all levels and grades, those permanently employed, temporary agency staff, contractors, agents, elected Councillors, co-opted members of the public, volunteers and consultants.

HM Government published the UK Anti-Corruption Plan in December 2014, putting in place new arrangements requiring local authorities in England to adopt a Code of Conduct

compliant with the seven 'Nolan' principles of standards of public life; selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

All local authorities are also required by the Localism Act 2011 to put in place arrangements for investigating allegations that Members have failed to comply with the CCC Member Code. Failure to comply with the code could lead to the Member being censured.

For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

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

We require that all employees and members:

- read, understand and comply with this policy
- raise concerns as soon as possible if it is believed or suspected that a conflict with this policy has occurred or may occur in the future.
- act honestly and with integrity at all times and safeguard Chelmsford City 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 Chelmsford City Council operates, in respect of the lawful and responsible conduct of activities.

The Council's commitment to action

The Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date.
- Making all Members and employees aware of their responsibilities to adhere strictly to this policy always.
- Training all Members and employees so that they can recognise and avoid the use of bribery by themselves and others.
- Encouraging its Members and employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication 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 employees to report breaches and suspected breaches of this policy.
- Include appropriate clauses in contracts to prevent bribery.

Facilitation payments

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

Gifts and hospitality

This policy does not change the requirements of our gifts and hospitality policy. This makes it clear that:

Sample tokens of modest value bearing the name or insignia of the organisation giving them (for example, pens, diaries or calendars) whether given personally, or received in the post, may be retained unless they could be regarded as an inducement or reward.

You should refuse the offer or invitation (or return the gift) unless your Service Director has advised you that it may be accepted or retained.

Member and Staff responsibilities

All Members and staff are required to avoid activity that breaches this policy.

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.

Members and staff must:

- ensure that they read, understand and comply with this policy.
- raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred or may occur in the future.

Staff

As well as the possibility of civil action and criminal prosecution, staff that breach this policy may face disciplinary action, which could result in summary dismissal for gross misconduct. Dismissal can still be an outcome with or without civil action or criminal prosecution.

Members

The Member Code of Conduct requires that where a Member acts as a representative of the authority he or she must not use or attempt to use their position as a Member, improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.

Allegations against a Member for breach will be routed through the Standards complaints process administered by the Monitoring Officer and Deputy Monitoring Officer.

Key points of the Bribery Act 2010

There are four key offences under the Act:

Section 1 Offence of bribing another person:

This section makes it an offence when a person:

- Offers, promises or gives a financial or other advantage to another person and intends the advantage to induce a person to perform improperly a relevant function or activity
- or to reward a person for the improper performance of such a function or activity; or
- Offers, promises or gives a financial or other advantage to another person and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity

Section 2 Being bribed:

This section makes it an offence when a person:

- Requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly
- Requests, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself constitutes the improper performance of the person of a relevant function or activity
- Requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance of a relevant function or activity; or
- In anticipation of or in consequence of the person requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly

Section 6 Bribery of foreign public officials:

Under this section an offence is committed where a person:

- Intends to influence a foreign official in their official capacity and intends to obtain or retain business or an advantage in the conduct of business; or
- Offers, promises or gives any financial or other advantage to a foreign public official

Section 7 Failure of commercial organisation to prevent bribery:

A relevant commercial organisation is guilty of an offence:

- If a person associated with the organisation bribes another person intending to obtain or retain business for the organisation or to obtain or retain an advantage in the conduct of business for the organisation and the organisation fails to take reasonable steps to implement adequate procedures to prevent such activity

Are we a “commercial organisation”?

Chelmsford City Council is a commercial organisation for the purposes of the Bribery Act 2010.

What are ‘adequate procedures’?

In the first instance it is for each organisation to determine procedures which it considers proportionate. Ultimately, if bribery occurs, a court will decide whether the procedures are adequate.

In determining procedures, we need to have regard to the following six principles which are set out in guidance produced by the Department of Justice:

Proportionate procedures

An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.

Top level commitment

The top-level management (be it a board of directors, the owners or any other equivalent body or person) are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.

Risk assessment

The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented.

Due diligence

The organisation applies due diligence procedures, taking 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.

Communication (including training)

The organisation 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.

Monitoring and review

The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

Chelmsford City Council is committed to proportional implementation of these principles.

Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2015 (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. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts.

However, Chelmsford City Council has the discretion to exclude organisations convicted of this offence.

Penalties

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

- On conviction in a magistrate's 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

A person guilty of an offence under section 7 is liable on conviction on indictment to a fine.

Raising a concern

This Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want Members and every member of staff to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

Preferably the disclosure will be made and resolved internally (e.g. to your Section Manager/Manager/Director). Secondly, where internal disclosure proves inappropriate, concerns can be raised with the External Auditor or relevant professional bodies or regulatory organisations.

Concerns can be reported anonymously. If an incident of bribery is reported, we will act as soon as possible to evaluate the situation. We have a clearly defined Anti-Fraud Strategy which sets out procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.

Members and staff who refuse to accept a bribe, or those who raise concerns can understandably be worried about the repercussions. The Council aims to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

The Council is committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery, or because of reporting a concern in good faith.

Section Seven

Anti-Money Laundering Policy

Introduction

The Proceeds of Crime Act 2002, the Terrorism Act 2000 and Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 place obligations on the Council and its employees to establish internal procedures to prevent the use of their services for money laundering and the prevention of terrorist financing. The Council must also appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity.

We are committed to *robust arrangements* to identify and prevent any attempts to use Chelmsford City Council to launder money.

What is Money Laundering?

The introduction of the Proceeds of Crime Act 2002 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 has broadened the definition of money laundering and has widened the range of activities controlled by the statutory framework. Money laundering has been defined as:

- concealing, disguising, converting, transferring or removing criminal property from the UK;
- entering into or becoming concerned in an arrangement which a person knows, or suspects facilitates the acquisition, retention, use or control of criminal property;
- acquiring criminal property, using criminal property; or possession of criminal property.

When a person knows or suspects that money laundering activity is taking place (or has taken place) or becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, **they must report this as soon as practicable to the Money Laundering Responsible Officer (MLRO) or risk prosecution.** Offences under the Proceeds of Crime Act and Money Laundering Regulations can attract penalties of unlimited fines and up to 14 years imprisonment.

Money laundering is the process of channelling 'bad' money into 'good' money in order to hide the fact that the money originated from criminal activity, and often involves three steps:

- **Placement** - cash is introduced into the financial system by some means;
- **Layering** - a financial transaction to camouflage the illegal source;
- **Integration** - acquisition of financial wealth from the transaction of the illicit funds.

The Council's Financial Regulations have been amended to prevent the acceptance of cash payments greater than £10,000 (including notes, coins or traveller's cheques in any currency). This does not mean that cash transactions below this value will be valid and legal and professional scepticism is encouraged at all times. Any suspicions should be reported to the MLRO (see below) and any advice followed.

Scope of the Policy

This Policy applies to all employees of Chelmsford City Council and sets out the procedures which must be followed (for example the reporting of any suspicions of money laundering activity) to enable the Council to comply with its legal obligations.

Not all staff will need a detailed knowledge of the types of criminal offences covered by the legislation. However, some staff will require additional guidance to raise their awareness of the possibility of money laundering.

Failure by any member of staff to comply with these procedures may lead to disciplinary action being taken against them.

Aims

The policy outlines the Council's arrangements:

- To nominate a Money Laundering Reporting Officer:
- To make arrangements to receive and manage the concerns of staff about money laundering and their suspicion of it, to make internal enquiries and to make reports where necessary, to the National Crime Agency (NCA);
- To make those staff most likely to be exposed to or suspicious of money laundering situations aware of the requirements and obligations placed on the organisation, and on them as individuals, by the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;
- To give targeted training to those considered to be the most likely to encounter money laundering;
- To establish internal procedures to help forestall and prevent money laundering.

The Money Laundering Reporting Officer

The nominated officer at Chelmsford City Council to receive disclosures about money laundering activity is the Senior Financial Investigation officer, who can be contacted as follows:

Garry Chumbley, Senior Financial Investigation Officer

Tel: 01245 606624

E-mail: garry.chumbley@chelmsford.gov.uk

If the MLRO is not available, any suspicion of money laundering should be reported to: Phil Reeves, Chief Accountant, who is the Deputy MLRO,

Tel: 01245 606562

Email: phil.reeves@chelmsford.gov.uk

Reporting a Concern to the MLRO

Staff who know or suspect that they may have encountered criminal activity and that they may be at risk of contravening the money laundering legislation, should contact the MLRO to advise him of their concerns. **The disclosure should be at the earliest opportunity of the information coming to your attention, not weeks or months later.**

Reporting to the National Crime Agency

The initial discussion / disclosure will be noted by the MLRO, and he will promptly evaluate this and determine whether it is appropriate to report it to the National Crime Agency (NCA).

If a report is made, then the relevant NCA forms must be completed by the MLRO.

Up to date 'Suspicious Activity Report' forms can be downloaded from the NCA website at:

[https://www.ukciu.gov.uk/\(d5metm55s41ncf55jjnk5iu\)/saronline.aspx](https://www.ukciu.gov.uk/(d5metm55s41ncf55jjnk5iu)/saronline.aspx)

In the event that a report is not submitted online, a form can be downloaded from the following website:

<http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/ukfiu/how-to-report-sars>

If no report is made, the reason must be recorded by the MLRO.

All disclosure reports referred to the MLRO and reports made to the NCA must be retained by the MLRO in a confidential file for a minimum of 5 years. The Money Laundering Disclosure Form at Appendix 1 should be used to facilitate the recording of any action taken.

The MLRO or deputy will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

Record Keeping

The MLRO will keep a record of all referrals received and any action taken to ensure an audit trail is maintained.

All information obtained for the purposes of money laundering checks and referrals must be kept up-to-date and will be held and processed in compliance with relevant Data Protection legislation.

Staff training and awareness

All staff are required to read this policy which outlines money laundering offences (providing examples) and the protocol for referral.

However, there are some areas of the Council's activities that may be more vulnerable to attempts to launder money. The Internal Audit Team will assess the risk and where appropriate will source appropriate awareness training.

Internal procedures to help forestall and prevent money laundering

In addition to introducing procedures to address specifically the requirements of the money laundering regulations, there are also robust strategies and procedures already in place to fight fraud and corruption that also apply to money laundering.

These are available on the Intranet.

The regulations require a risk-based approach. Chelmsford City Council will focus its resources on the areas of greatest risk within each function. This helps a more efficient and effective use of resources proportionate to the risks faced. This also minimises compliance costs and provides a greater flexibility to respond to emerging risks as laundering and terrorist financing methods change.

Chelmsford City Council will need to consider higher risk transactions based on:

- The origin or destination of the funds,
- Complicated financial or property transactions,
- Transactions that have no apparent economic or legal purpose,
- Where the beneficial owner is a legal person (other than a company listed on a regulated market), trust, company, foundation or similar legal arrangement;
- Providing assistance in setting up trusts or company structures, which could be used to obscure ownership of property,
- Payments that are made or received from third parties,
- Payments made by cash,
- Transactions with a cross-border element,
- A Politically Exposed Person (see definition below),
- where false or stolen identification documentation or information has been provided to the Council on establishing the relationship,

Involving countries identified as high risk by the Financial Action Taskforce (FATF).

There will be circumstances where simplified due diligence is permitted. After consideration, if the transaction does not fall under the conditions for high risk transaction and the transaction presents a low degree of risk as determined by CCC, a simple customer due diligence is permitted to be undertaken.

Internal audit will monitor compliance by the Authority.

Politically Exposed Person (“PEP”)

In considering higher risk transactions, one of the criteria the council has to consider is whether the transaction(s) relate to Politically Exposed Persons (PEP). Set out below is the definition of PEP.

A PEP under the Money Laundering, Terrorist Financing and Transfer of Functions Regulations 2017 now extends to persons who fall under the definition of ‘Politically Exposed Persons’ in the UK, as well as abroad.

A politically exposed person is considered any individual who is entrusted with prominent public functions (as set out in Regulation 35(12) of the Money Laundering, Terrorist Financing and Transfer of Functions Regulations 2017, including:

- A foreign person who has held any time in the preceding year a prominent public function outside the United Kingdom, in a state or international institution
- Members of courts of auditors or of the boards of central banks
- Ambassadors, chargés d’affaires and high-ranking officers in the armed forces
- Members of the administrative, management or supervisory bodies of state-owned enterprises
- Heads of state, heads of government, ministers and deputy or assistant ministers
- Members of parliaments or of similar legislative bodies
- Members of the governing bodies of political parties
- Members of supreme courts, constitutional courts or of other high-level judicial bodies the decisions of which are not subject to further appeal except in exceptional circumstances
- Member of the administrative, management or supervisory bodies of State-owned enterprises
- directors, deputy directors and members of the board or equivalent function of an international organisation

The definition explicitly excludes middle-ranking or more junior officials.

PEP status also extends to relatives and close associates.

Relatives are set out in the Regulations as a spouse or civil partner of the PEP; children of the PEP and the spouses or civil partners of the PEP's children; and parents of the PEP.

Close associates include any individual who is known to have joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations. It also includes any individual who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit of a person referred to in regulation.

The Council will take a risk sensitive approach to identifying PEPs. It will undertake a risk assessment with regards to each individual PEP on a case by case basis.

If you suspect that money laundering activity is taking place (or has taken place), or think that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as possible to the MLRO

You should contact the MLRO as soon as is practicable – certainly not weeks or months later, or you may become liable to prosecution. Considerations of confidentiality do not apply if money laundering is at issue.

In the first instance, the report may be made informally to allow the MLRO to assess the information and decide whether a Suspicious Activity Report (SAR) should be made to the National Crime Agency (NCA). You should include as much detail as possible, for example:

- Details of the people involved – name, date of birth, address, company names, directorships, phone numbers etc;
- Full details of the nature of the involvement;
- The dates of activities;
- Where they took place;
- How they were undertaken;
- Likely amounts of money or assets involved;
- Why you are suspicious.

This will assist the MLRO to make a judgement as to whether there are reasonable grounds for assuming knowledge or suspicion of money laundering. The MLRO may initiate an investigation to enable him to decide whether a report should be made to the NCA.

In cases where legal professional privilege may apply, the MLRO must decide (taking legal advice if required) whether there is a reasonable excuse for not reporting the matter.

If a decision is made that a report should be made, the NCA provide forms for completion, to facilitate processing the information. It is recommended that for reasons of confidentiality, Chelmsford City Council's name should only be included once on the front sheet of the reporting form as the source ID and not anywhere else in the report. It is also recommended that the name or names of those making the report to the MLRO are not included in the report, and that the MLRO is given as contact for queries on the report.

Once the matter has been reported to the MLRO, you must follow any directions he may give you. ***You must not make any further enquiries into the matter yourself.*** Any investigations will be undertaken by the NCA.

If you are still involved with the situation that has given rise to suspicions of money laundering, you must not take any further action ***that might constitute a money laundering offence*** unless permission is given by the NCA to continue with the process. In these circumstances, permission should be sought from NCA when the report is made to continue with the process that may involve money laundering. Permission will be given (or withheld) within 7 working days and this may mean that work for a client has to stop until and unless consent is given.

However, there is no automatic need to stop work for a client when a report has been made, unless the business would commit to one of the main money laundering offences by continuing its work for the client.

Care should be taken that the client who is suspected of money laundering is not alerted that a report has been made to the NCA. 'Tipping off' is a specific offence under the Proceeds of Crime Act, covering situations where disclosures are made following a report to NCA that may prejudice an investigation.

If the NCA has any queries on the report, responses to those queries should be routed via the MLRO to ensure that any reply is covered by appropriate protection against claims for breaches of confidentiality.

You should not make any reference on a client file to a report having been made to the MLRO – the client might exercise their right to see the file, and such a note would tip them off to a report having been made and might make you liable to prosecution.

Appendix 1

Confidential Report to Money Laundering Reporting Officer	
Staff member's name	
Title / Department	
Phone	
Email	
Details of Suspected Offence	
Names and addresses of the persons involved (if a company the nature of their business)	
Nature, value, timing of activity	
Nature of suspicions	
Has any investigation been undertaken?	
Have you discussed your suspicions with someone else?	
Have you consulted any supervisory body e.g. The Law Society	
Do you have any good reason not to disclose the matter to the NCA?	
Signed and dated	
For Completion by the MLRO	
Date received	
Date acknowledged	
Unique case reference no.	
Are there reasonable grounds for suspecting money laundering?	
If yes, confirm date of report to NCA?	
Date consent given to employee for transaction to proceed	
Categories	1. Debt/charge 2. Overpayment 3. Refund 4. Cashier error 5. Land/building resale within 3-12 months 6. House or Asset resale within 3 months
Signed and dated	
THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS	

Section 8

Chelmsford City Council Fraud Response Plan

Introduction

The Fraud Response Plan defines the way in which the Council applies its various policies and procedures to suspected instances of theft, fraud corruption and bribery both staff and non-staff related. It fits in with, and is designed to be read in conjunction with the Council's Anti-Fraud and Corruption Policy, Bribery Policy, Anti Money Laundering Policy and the Whistleblowing / Confidential Reporting Policy.

The aim of this plan is to provide clear guidance for dealing with these issues, access to rapid relevant advice and a guide for managers on how to react and deal with suspicions of fraud, theft, corruption and bribery.

Additionally, it seeks to give a brief outline on how investigations will be progressed (although no detail will be given regarding investigation techniques etc.).

The Fraud Response Plan is designed to ensure timely and effective action in the event of suspected fraud by:

- Seeking to minimise the extent of the fraud by taking prompt action
- Preventing further losses where fraud had occurred.
- Maximising the recovery (or the chances of recovering) any financial losses
- Ensuring the accuracy and integrity of evidence for successful criminal prosecution and / or disciplinary action
- The early identification of any system weaknesses and the lessons to be learnt for preventing them in the future
- Maximising positive publicity where frauds are discovered and dealt with.
- Deterring others from any illegal / inappropriate conduct they may be committing or contemplating.

The Manager's Role in dealing with suspected fraud

First Response

Where managers suspect a staff member of fraud or their involvement in a fraud is taking place, the first course of action **must** be to contact the Senior Financial Investigation Officer the Chief Procurement & Risk Officer or in their absence the Chief Assurance Executive who will ensure that the Section 151 Officer and the Chief Executive are informed.

Although, the Council no longer investigates Housing Benefit fraud, where a suspicion occurs of a staff member's involvement in a Housing Benefit (including Local Council Tax Support) fraud, the above steps must still be followed.

All other suspicions of fraud (including Local Council Tax Support) must be reported to the Senior Financial Investigations Officer. Suspicions involving State Benefits can be reported directly to The Department for Work and Pensions (DWP) via their website (www.gov.uk/report-benefit-fraud) or by calling the National Benefit Fraud Hotline on 0800 854440 or by text phone on 0800 328 0512.

It may be prudent to seek the advice of either Senior Financial Investigations Officer or The Revenue & Benefits Manager before contacting the DWP however, as Local Council Tax Support cannot be investigated by the DWP.

In usual circumstances, the suspicion will be passed to the Corporate Fraud Team to assess and undertake an investigation if appropriate. All Suspicions of any type of fraud (including those that do not involve staff members) can be forwarded to the Corporate Fraud Team.

The Senior Financial Investigation Officer the Chief Procurement & Risk Officer or in their absence the Chief Assurance Executive will retain overall responsibility for the conduct of the investigation, however it is probable that the matter will be allocated to a Corporate Fraud Investigator to undertake any investigation. The Corporate Fraud Team will be independent of any service area under investigation and all the officers comprising the Corporate Fraud Team currently are fully trained and accredited investigators holding the qualification of Accredited Counter Fraud Officer / Specialist.

There may be circumstances where it is appropriate for managers to undertake some preliminary enquiries to ascertain the validity of an allegation or irregularity (for example, to establish whether on the face of it, there is a case to be investigated), however before embarking on such action, advice should always be sought from The Senior Financial Investigation Officer the Chief Procurement & Risk Officer or in their absence the Chief Assurance Executive as such action may alert the fraudster and could result in the concealing or destroying of vital evidence or compromise the investigation and the collection of further evidence.

In cases of suspected fraud involving a staff member, the investigating officer will liaise and work with Human Resources at the earliest available opportunity on disciplinary matters such as suspending the staff member to enable further investigation and protect vital evidence.

Initial Enquiries

As stated above, the manager may make discreet initial enquiries to:

- Determine any facts that gave rise to the suspicion.
- Examine any factors to determine whether there has been a genuine mistake made or whether an irregularity has occurred.

Any actions and findings should be clearly recorded and documented ensuring that access is restricted (for example, not held on an “open” area of the computer network or in the case of paper notes, making sure they are securely locked away).

It is important that the suspected perpetrator is not interviewed at this stage nor any allegations / suspicions put to them. If in doubt at any point, the manager must seek the guidance of the Senior Financial Investigation Officer the Chief Procurement & Risk Officer or in their absence the Chief Assurance Executive.

Formal Investigation

If a formal investigation is required, it will be conducted by a qualified Investigator. The nature of the investigation, lines of enquiry followed and evidence obtained will vary depending on the irregularity being investigated and will, for the most part be fluid and reactive.

Generally, however, the investigating officer will be seeking to gather evidence by way of interviews, the taking of written witness statements and the obtaining of evidence be it physical, documentary etc.

In cases of suspected staff fraud, the investigating officer will consult and take advice from Human Resources particularly on matters regarding employment law, policies and procedural matters. It is imperative however, that a clear distinction must be made in these circumstances between those advising the investigating officer and those advising the staff member.

Legal Services will be consulted as appropriate to advise or seek external advice to support any investigation.

Any investigation will be conducted with full compliance with The Criminal Procedures and Investigations Act 1996 which governs the conduct of a criminal investigation (such as obtaining and recording evidence etc.) as well as any other legislation that may apply such as The Police and Criminal Evidence Act 1984 (PACE), The Regulation of Investigatory Powers Act 2000 (RIPA), The Human Rights Act 1998 and Data Protection Act etc. (this list is meant as an example and is not exhaustive).

In general terms however, the following principles will apply to the investigation:

- Any investigation will be conducted promptly (subject to evidence gathering activities) with periodic updates given as appropriate to the Chief Procurement & Risk Officer and / or the Director of the relevant service.
- All actions and evidence will be recorded either by written or electronic means and stored securely with access given purely on a “need to know” basis.
- Enquiries and evidence gathering activities will be undertaken as discreetly as possible with sensitivities observed where appropriate.
- Confidentiality will be maintained throughout with information only shared where circumstances and the law allows.

Where it is considered appropriate, the investigation may involve the input of other agencies such as local authorities as well as other law enforcement agencies such as the Police and HM Revenue & Customs. Liaison and / or joint working will be conducted in accordance with established guidelines and protocols.

The investigating officer must not and will not accept any offer of repayment of monies or resignation at any stage during the investigation, however any such offers will be noted and recorded on the investigation file and reported to the Chief Procurement & Risk Officer Executive / responsible Director.

The Council has a right to suspend any employee involved pending the outcome of an investigation. Any such suspension, is, in the opinion of the Council, a neutral act and does not imply any guilt on behalf of the suspended employee. The suspension of an employee can, in some circumstances aid the speed in which an investigation can be conducted and serve to preserve vital evidence.

When suspects are not suspended, supervision of the employee will usually need to be increased and any manager should seek the advice of Human Resources and ICT on how this can best be accomplished.

Actions following the completion of an investigation

Upon the completion of an investigation, the investigating officer will report their findings in the first instance to the Chief Procurement & Risk Officer, who will (in staff related cases) in turn, make the findings known to Human Resources, relevant Director or the Chief Executive.

Should any control weaknesses be identified, the Director and relevant manager will be informed and remedies actioned immediately. The Chief Assurance Executive / Internal Audit Unit will be able to provide advice and support regarding effective control mechanisms.

Should there be disciplinary issues identified as part of the investigation, a full report will be made to Human Resources who will work with the relevant Director and manager to decide what happens next. Should any course of action result in a disciplinary hearing, the investigating officer will (if required) make themselves available to give evidence at the hearing.

Although some organisations delay the bringing of any disciplinary action pending the outcome of any criminal prosecution, the Council will seek to deal with any disciplinary matters using the appropriate processes.

Should it be the case that criminal action presents itself as an option, this decision will be fully explored and subject to the Council's Fraud Prosecution Policy.

Should fraud be proven, the Council will make every effort to recover any monetary losses? The method of doing so may vary depending on the type of loss and relevant legislation, however all options will be explored including civil court proceedings and in the case of criminal prosecution, proceedings brought under The Proceeds of Crime Act 2002.