

CITY OF YORK COUNCIL
COUNTER FRAUD AND CORRUPTION POLICY

1 Introduction

- 1.1 All organisations are at increasing risk of fraud and corruption. It is estimated that total fraud in the UK amounts to approximately £20 billion per annum, of which £6.8 billion relates to the public sector. Around 55% of organisations admit to being a victim of fraud in the last two years. It is therefore a risk that the Council cannot and should not ignore.
- 1.2 Any fraud committed against the Council effectively constitutes the theft of taxpayers money. It is unlawful and deprives the Council of resources which should be available to provide services to the public. By putting in place effective measures to counter the risk of fraud and corruption the Council can reduce losses which impact on service delivery as a contribution to the achievement of overall Council priorities.
- 1.3 This document sets out the Council's policy in relation to fraud and corruption perpetrated against it, and its overall arrangements for preventing and detecting fraud. It forms part of the Council's overall policy framework for combating fraud and corruption and should be read in conjunction with the Constitution, the Financial Regulations and Procurement Rules, the Fraud and Corruption Prosecution Policy, the Whistleblowing Policy, disciplinary procedures, and the Anti-Money Laundering Guidance.

2 Definitions and Scope

- 2.1 For the purpose of this policy, the term fraud is used broadly to encompass:
- acts which would fall under the definition in the Fraud Act 2006
 - anything which may be deemed fraudulent in accordance with the generally held view of fraud as causing loss or making a gain at the expense of someone by deception and dishonest means
 - any act of corruption (ie the giving or receipt of gifts with a view to the giver receiving a more favourable treatment than they would otherwise be entitled to)
 - acts of theft
 - any other irregularity which is to the detriment of the Council whether financially or otherwise, or by which someone gains benefit they are not entitled to.
- 2.2 This policy does not cover fraud or corruption against third parties, even where the Council takes part in its investigation or prosecution. In addition,

it does not cover other acts – for example offences involving violence - which may affect the Council, and which should be to be reported directly to the Police.

3 Principles

- 3.1 The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by Members, officers, customers of its services, third party organisations contracting with it to provide goods and/or services, or other agencies with which it has any business dealings. There is a basic expectation that Members and all staff will act with integrity and with due regard to matters of probity and propriety, the requirement to act lawfully and comply with all rules, procedures and practices set out in legislation, the Constitution, the Council's policy framework, and all relevant professional and other codes of practice.
- 3.2 The Council will seek to assess its exposure to risks of fraud and corruption. It will prioritise resources available to prevent and deter fraud in order to minimise this risk.
- 3.3 The Council will consider any allegation or suspicion of fraud seriously, from whatever source, and if appropriate will undertake an investigation to confirm whether fraud has occurred and determine the appropriate outcome. Any investigation will be proportionate. Due to its nature, the investigation of Housing and Council Tax Benefit Fraud will be subject to prioritisation using formal risk assessment criteria. The Council may refer any incident of suspected fraud to the Police or other agency for investigation, if appropriate.
- 3.4 To act as a deterrent, the Council will take action in all cases where fraud (or an attempt to commit fraud) is proved, in proportion to the act committed. This may include prosecution, application of internal disciplinary procedures, or any other action deemed appropriate to the offence (for example referral to a professional body). Prosecution decisions will be made in accordance with the Fraud and Corruption Prosecution Policy.
- 3.5 As a further deterrent, and to minimise losses, the Council will attempt to recover any losses incurred through civil or legal action. In addition, the Council will seek to apply any appropriate fines or penalties, and recover any costs incurred in investigating and prosecuting cases.

4 Responsibilities

- 4.1 Overall responsibility for the approval of this policy rests with the Executive Member for Corporate Services on behalf of the Council in accordance with the terms of the Council's Scheme of Delegation.
- 4.2 The Audit and Governance Committee has a responsibility to provide advice to the Council on issues arising out of fraud investigations and report any remedial or preventative action that has or which ought to be taken by the Council in relation to such matters. It also monitors Council policies on Whistle blowing and Counter Fraud & Corruption and can consider any matter referred to it in accordance with the Council's Whistle-blowing Policy and procedures.
- 4.3 The Officer Governance Group has a responsibility for ensuring that the Council has effective fraud and corruption procedures embedded across the organisation that comply with best practice and good governance standards and requirements.
- 4.4 The Audit and Fraud Service is responsible for maintenance of the Counter Fraud and Corruption Policy and Fraud and Corruption Prosecution Policy. In addition, the department leads on fraud prevention and detection issues for the Council and is responsible for investigating any suspected cases of fraud or corruption. The Internal Audit team carries out audit work to ensure that systems of control are operating effectively, which contributes to the reduction in opportunities for committing fraud. The Chief Internal Auditor is required to report his/her professional opinion on the Council's control environment to Members of the Audit & Governance Committee on an annual basis in accordance with Financial Regulations and professional best practice requirements.
- 4.5 All directors have a responsibility for preventing and detecting fraud within their service areas. This includes maintenance of effective systems of internal control and ensuring that any weaknesses identified through the work of Internal Audit or by other means are addressed promptly. The Chief Financial Officer is required by statute and non-statutory codified best practice to ensure there are appropriate systems of control in place to prevent and detect fraud.
- 4.6 The Head of Civic, Democratic and Legal Services is the Council's nominated Money Laundering Reporting Officer for the purposes of the Money Laundering Regulations (2003), and has a statutory responsibility for reporting any issues referred in this capacity.
- 4.7 All staff have a general responsibility to be aware of the possibility of fraud and corruption, and to report any suspicions that they may have to the

Audit and Fraud Service. Where appropriate, staff may use the Whistleblowing Policy to raise concerns anonymously.

- 4.8 Officers within Human Resources have a responsibility to support service departments in undertaking any necessary disciplinary process after consultation and initial investigation, where appropriate, by the Audit and Fraud Service.
- 4.9 The Risk Management, Procurement and Insurance Service has responsibilities for ensuring that:
- overall procurement arrangements are robust and designed in such a way as to minimise the risk of fraud and corruption wherever possible;
 - procedures are developed to prevent and detect fraud in respect of all contracting activities undertaken in the name of the Council
 - potential losses due to fraud or corruption are considered by all parts of the organisation further to the Council's corporate Risk Management Strategy & Policy and supporting processes and procedures.

5 Overall Counter Fraud Arrangements

Introduction

- 5.1 The purpose of this section is to set out the Council's overall framework for countering the risk of fraud and corruption. While the Council aims to follow best practice in relation to counter fraud activity¹, it recognises that there are areas for further development. This section therefore also sets out those areas of practice it wishes to develop further.

Measurement

- 5.2 The Council will maintain systems for assessing potential risks and losses due to fraud and corruption (for example through its risk management arrangements), and will use these to prioritise counter fraud activity, and review the resources available to counter those risks. The review will include an assessment of actual levels of fraud² and the effectiveness of counter fraud activity in reducing losses. The outcome of this review will

¹ For example the CIPFA Better Governance Forum publication "*Managing the Risk of Fraud – Actions to Counter Fraud and Corruption*"

² All suspected fraud should be reported to the Audit and Fraud Service. A record of all such information will be maintained on a confidential basis.

be reported to the Audit and Governance Committee on an annual basis as part of the Audit and Fraud planning cycle.

Culture

- 5.3 The Council will promote a culture whereby all staff, Members, service users, and contractors are aware that fraud or corruption in any form is unacceptable. To do this, it will:
- ensure that there are clear arrangements in place for reporting suspicions about potential fraud or corruption, whether that be by staff, Council Members, partners, stakeholders or members of the public;
 - investigate reported suspicions and where evidence of fraud or corruption is found will prosecute where appropriate and take any other action necessary in accordance with the Financial Regulations & Procurement Rules, Fraud and Corruption Prosecution Policy, Disciplinary Process, Members Code of Conduct, or any relevant legislation;
 - ensure that the consequences of committing fraud and/or partaking in corrupt practices are widely publicised.

Prevention and Detection

Controls

- 5.4 As part of its ongoing operating procedures, the Council seeks to ensure that proper systems of internal control are in place. This includes controls to directly prevent and detect fraud, such as separation of duties and management review, along with other procedures such as vetting as part of recruitment processes and systems for declaration of interests and gifts and hospitality. The effectiveness of systems of control are monitored by directorates, and a formal report is made as part of the process for preparing the Annual Governance Statement. The Council maintains a system of Internal Audit to provide independent review of control systems on an ongoing basis, in accordance with a risk assessment.
- 5.5 Services will be encouraged to consider the risk of fraud as part of the Council's risk management process. Any information on risks identified will be used to inform the annual review of counter fraud activity.

Proactive Work

- 5.6 The Council will carry out targeted project work (for example data matching exercises) to identify fraud and corruption in known high risk

areas. This work will be carried out by the Audit and Fraud Service as part of its annual workplan. Work will be prioritised based on a risk assessment as part of the annual review of counter fraud activity. Work may include joint exercises with other agencies, including other local Councils.

- 5.7 The Council will take part in projects led by other agencies such as the DWP and Audit Commission to identify potential fraud. For example the National Fraud Initiative and HBMS Data Matching Service. Resources will be allocated to follow up all data matches as part of the Audit and Fraud Team workplan. The Audit and Fraud Service will work with service departments to ensure that they are aware of the need to include notices to service users stating that any data held may be subject to use for data matching purposes.

Relationships

- 5.8 The Council has established relationships with a number of other agencies. It will continue to develop these relationships and develop new ones to further the prevention and detection of fraud. Organisations which the Council will work with include:

- The Police
- Audit Commission
- Courts
- Department for Works and Pensions
- Other Councils
- Office of Fair Trading
- Community Groups

- 5.9 The Audit and Fraud Service will work with other Council departments to ensure that systems for reporting and investigating suspected fraud and corruption are robust. Where appropriate, formal protocols will be developed setting out departments responsibilities (for example between Audit and Fraud and Human Resources).

Fraud Awareness Training

- 5.10 As part of its annual workplan, the Audit and Fraud Service will provide targeted fraud awareness training to specific groups of staff, based on its annual risk assessment.

Investigation

- 5.11 All suspected cases of fraud, corruption, theft or other irregularity will be investigated. The nature of each investigation will depend on the circumstances of each case. The Audit and Fraud Service will act as a first

port of call for any suspected fraud and will provide advice on whether other agencies should be notified (eg the Police). The Audit and Fraud Service will determine the extent of the investigation to be carried out in consultation with service departments and Human Resources³. Where necessary, the Audit and Fraud Service may refer cases directly to other agencies without consultation (for example the Police or Audit Commission) at the discretion of the Chief Internal Auditor.

- 5.12 All staff involved in the investigation of fraud will be appropriately trained. They will be required to comply with any relevant legislation and codes of practice. For example the Police and Criminal Evidence Act (PACE), Regulation of Investigatory Powers Act (RIPA), the Data Protection Act, and the Criminal Procedures Investigations Act. Investigators will take into account the individual circumstances of anyone involved in an investigation and adjustments to procedure will be made where necessary to ensure that all parties are treated equitably (where it is appropriate and reasonable to do so).
- 5.13 As part of the outcome of every investigation, a review of any weaknesses in control will be made and if necessary recommendations will be made to address any issues identified. These will be set out in a formal report to the managers of the service concerned, and will be followed up to ensure the issues are addressed.
- 5.14 The Chief Internal Auditor will ensure that systems for investigating fraud are reviewed on an ongoing basis, to ensure that they remain up to date and comply with good practice.

Publicity

- 5.15 The Council will publicise all successful prosecutions undertaken either by itself or by partner organisations, to act as a deterrent against future fraud.
- 5.16 In addition, a targeted campaign of publicity will be undertaken each year to raise the awareness of fraud to staff, Members, the public, and other agencies. This will consist of both internal and external publicity and will aim to:
- raise awareness about potential fraud and ensure all stakeholders are alert to the possibilities of fraud
 - inform all stakeholders of the procedures to be followed if they have suspicions of fraud
 - ensure that all stakeholders are aware that the Council will not tolerate fraud and the consequences of committing fraud against it.

³ For suspected Housing Benefit or Council Tax Benefit Fraud the Audit and Fraud Service will determine the extent of investigation required based on a risk scoring system.

Recovery of Monies

- 5.17 Where any loss has been incurred by the Council or additional costs have been incurred as a result of fraud or corruption, the Council will seek to recover these from the individual or organisation concerned. This will help to ensure that the financial impact of fraud on the Council is minimised and act as a deterrent. As a further deterrent, the Council will seek to levy any appropriate fines or penalties where it is possible and desirable to do so.
- 5.18 Methods of recovery may include:
- recovery from assets held by the organisation or individual (using the Proceeds of Crime Act or any other relevant legislation)
 - bankruptcy where appropriate
 - recovery from future salary payments if an individual remains an employee of the Council
 - recovery of pension contributions from employees or Members who are members of the North Yorkshire Pension Fund.

6 Monitoring & review arrangements

- 6.1 The arrangements set out in this policy document will be reviewed on an annual basis as part of the Audit and Fraud planning cycle and will include the Fraud and Corruption Prosecution Policy, and other related guidance. The Audit and Fraud Service will work with other departments to ensure that other related guidance and policy (such as the Whistleblowing Policy) are reviewed on a regular basis and any amendments or necessary changes in policy or approach reported to Members for consideration, update and approval purposes as they arise. Notwithstanding the need for any interim review, that the entire policy framework will be subject to review by members at least once every three years and monitored in-year by Members of the Audit & Governance Committee.