

**NORTH LINCOLNSHIRE COUNCIL**

**AUDIT COMMITTEE**

**ANTI FRAUD THEFT AND CORRUPTION STRATEGY AND COUNTER  
FRAUD WORK**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To provide the Audit Committee with an appropriate level of assurance that counter fraud arrangements are adequate.
- 1.2 To ask the Committee to approve the updated anti-fraud, theft and corruption strategy.

**2. BACKGROUND INFORMATION**

- 2.1 The Anti Fraud Theft and Corruption Strategy sets out the council's approach to deter, prevent and detect fraud and safeguard its assets. The Strategy is revised periodically to reflect changes in legislation and recommended best practice guidance. It has been revised to take account of the counter fraud self assessment against CIPFA guidance completed in 2008. This ensures that the council remains at the forefront of the prevention and detection of fraud and corruption.
- 2.2 The Audit Committee receives reports throughout the year on counter fraud work to provide assurance on the adequacy of arrangements the council has in place. Two types of work are reported; proactive – designed to evaluate controls in place to prevent and detect fraud occurring; and reactive – the outcome of fraud investigated.
- 2.3 The council's strong commitment to deter, prevent and investigate all fraud is set out clearly in the Anti Fraud Theft and Corruption Strategy. The Audit Committee has lead responsibility for ensuring arrangements are robust. In June 2008 the Committee commissioned Internal Audit to evaluate arrangements against best practice as defined by CIPFA. The 'Managing the Risk of Fraud' self assessment tool was applied to current anti fraud arrangements and a risk assessment and exposure profile produced as a result. A number of areas for

improvement were included in an action plan, which was subsequently approved by the Audit Committee.

- 2.4 Two of the most significant actions were that the Anti Fraud Theft and Corruption Strategy be reviewed and that the council's approach to Anti Money laundering be established and included in the revised Strategy.
- 2.5 All requirements of the self assessment action plan are reflected in the revised strategy (attached in appendix A), these include
- a clear link to the councils ambitions
  - a new section on how effectiveness of the Strategy will be measured
  - the explicit requirement that the council applies all possible sanctions when fraud is proven and the various recovery methods that may be applied
- 2.6 Also included in the Strategy is the council's approach to Anti Money Laundering in response to the Proceeds of Crime Act, The Terrorism Act and the Money Laundering Regulations 2003 and 2007. Whilst local authorities are not classified as part of the regulated sector and therefore not bound to comply with Money Laundering Regulations in a prescribed way, CIPFA's professional guidance supports compliance. This view is echoed by the Audit Commission through the National Anti Fraud Network which recognises the crucial support councils can provide the police in tackling the illegal funding of crime. Emphasis is borne out through the revised Use of Resources criteria, which includes Money Laundering arrangements. The Commission believes that councils could be targeted by money laundering attempts and one potential Money Laundering attempt has been reported to the Serious Organised Crime Agency (SOCA) on behalf of North Lincolnshire Council (the case was subsequently cleared following a full police investigation).
- 2.7 The Money Laundering Reporting Officer will be the Service Director Finance but day to day operational activities including the training of staff, raising of awareness and responding to cases will be line managed by the Audit and Risk Manager. Appendix 9 of the Strategy sets out the Anti Money Laundering arrangements in more detail. CIPFA recently announced further guidance for local authorities will be issued in April/May along with training material that can be used to raise awareness in areas of highest risk. Revised guidance will be considered and reflected in the council's Money Laundering policy as appropriate and changes will be reported to the Audit Committee.

- 2.8 The Audit Committee has received reports throughout the year to provide assurance on the adequacy of counter fraud arrangements in place (summarised in appendix B). The council participates fully in the Audit Commission's National Fraud Initiative (Data Matching) and good progress is being made on this years exercise. All data match sets are currently being screened and investigated. The Commission's reporting deadline is February 2010 however updates on the outcome of this work will be reported to the Committee in June, September and December to provide the Committee with sufficient assurance on progress made.
- 2.9 Members were previously informed of an ongoing fraud investigation at one of the council's leisure facilities which could result in reaching the Audit Commission's reporting threshold. The staff concerned resigned. The case has now been concluded and resulted in police cautions for the two ex employees and recovery proceedings in respect of funds stolen totalling £6k (this is below the Commission's reporting threshold). Internal Audit also reviewed cash handling, petty cash, vending and stock procedures and payroll claims at other leisure facilities to ensure internal control arrangements were adequate.
- 2.10 The Council's benefit fraud section continues to work proactively and has achieved successful outcomes, scoring the maximum of 4 in this area of the comprehensive performance assessment in 2008. During 2007/8, 889 allegations of fraudulent activity regarding benefit claimants were received. These were subjected to detailed investigations and resulted in a total of 84 sanctions and prosecutions.

The benefit fraud section works very closely with all other agencies including in particular the Department for Work and Pensions (DWP) and during the past year the council has conducted its first 2 prosecution cases on behalf of DWP. The police have also prosecuted another cheque fraud case on our behalf.

The benefit fraud section is currently working with the council tax section, the DWP and a credit reference agency to identify claimants fraudulently claiming both single resident discount and committing benefit fraud. This is receiving attention from other councils and is being held as good practice.

A further area of work of the fraud section is preventing errors in the benefit system. In relation to this, after implementing an improvement plan we are currently on target to achieve good results in the new NI180 Numbers of changes in circumstance processed.

### **3. OPTIONS FOR CONSIDERATION**

- 3.1 The Committee is asked to consider whether the Anti Fraud Theft and Corruption Strategy will provide sufficient assurance on the council's counter fraud arrangements in 2009/2010. If it concludes that it does provide sufficient assurance the Committee is invited to approve the Strategy. The Committee may make amendments or seek clarification as necessary. Members are also asked to consider whether regular reports on proactive and reactive fraud work (similar to those shown in appendix B) will provide sufficient assurance on the adequacy of counter fraud arrangements during 2009/2010.
- 3.2 The Committee may decide not to approve or amend the Anti Fraud Theft and Corruption Strategy. The Committee may also decide that a system of regular update reports will not provide sufficient assurance on the adequacy of counter fraud arrangements in place and may seek alternative arrangements.

### **4. OPTIONS FOR CONSIDERATION**

- 4.1 The Anti Fraud Theft and Corruption Strategy complies with statutory requirements and professional guidance available and is designed to provide this Committee with the assurance required. Members should ask sufficient questions to ensure the Strategy will provide sufficient assurance to fulfil their role as set out in the Committee's terms of reference.
- 4.2 The option set out in 3.2 represents an opportunity missed to receive an important source of assurance to assist the Committee to fulfil its role effectively.

### **5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

- 5.1 Costs of revising the strategy, and implementing the counter fraud actions are met from the Internal Audit budget and have been incorporated into the 2009/2010 Audit Plan. Minor costs associated with the telephone and publicity for the Hotline will continue to be maintained within the Finance Service budget. Savings should continue to accrue as a result of improved efficiency and the avoidance of loss.
- 5.2 There are no additional staffing implications, as the internal audit section will continue to operate the Hotline from within existing

resources. Training of staff in revisions to the strategy and investigation procedures will be met from the training contingency included in the audit plan. Training of staff outside the audit team will be resourced from time set aside in the Audit plan to develop counter fraud arrangements.

- 5.3 An effective Anti Fraud Theft and Corruption Strategy demonstrates the council has good arrangements in place to support the Annual Governance Statement and to promote good corporate governance.

**6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 – CRIME AND DISORDER, RISK AND OTHER)**

- 6.1 The Chief Financial Officer has a statutory duty under the provisions of the Local Government Act 1972 to ensure the proper administration of the council's financial affairs.

The council's arrangements to prevent, detect and deter fraud and corruption comply with relevant legislation such as, Public Interest Disclosure Act 1998, Regulation of Investigatory Powers Act 2000 Proceeds of Crime Act 2002, Terrorism Act 2000 and the Money Laundering Regulations 2003 and 2007.

- 6.2 The Diversity Impact Assessment tool has been applied to ensure that further consultation is not required.

**7. OUTCOMES OF CONSULTATION**

- 7.1 The Anti Fraud Theft and Corruption Strategy has been revised in consultation with relevant staff from Finance, Human Resources and Legal and Democratic Services to ensure compliance with relevant legislation and council procedures.

**8. RECOMMENDATIONS**

- 8.1 The Audit Committee should consider whether the Anti Fraud Theft and Corruption Strategy delivers a sufficient level of assurance on the adequacy of counter fraud arrangements.
- 8.2 The Audit Committee approves the Anti Fraud Theft and Corruption Strategy.

SERVICE DIRECTOR FINANCE

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**Background Papers used in the preparation of this report :**

CIPFA - Code of Practice for Internal Audit in Local Government in the UK  
Money Laundering Regulations 2007  
CIPFA - Proceeds of Crime (Anti Money Laundering) practical guidance for  
public service organisations



**Anti – Fraud, Theft and Corruption Strategy**

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# Anti – Fraud, Theft and Corruption Strategy

## 1. FOREWORD

- 1.1 The public is entitled to expect the council to conduct its affairs with integrity, honesty and openness and demand the highest standards of conduct from those working for it. This Anti-Fraud, Theft and Corruption Strategy outlines the council's commitment to creating a culture of zero tolerance of fraud theft and corruption and maintaining high ethical standards in its administration of public funds. The minimisation of losses to fraud, theft and corruption is essential and is part of our remit for ensuring that resources are used for their intended purpose, that of providing services to the citizens of North Lincolnshire. Specifically having this strategy contributes to the achievement of the councils overall aim of 'Transforming North Lincolnshire towards a better future for all'.
- 1.2 The council will ensure probity in local administration and governance by making sure that the opportunity for fraud, theft and corruption is reduced to the lowest possible risk with losses minimised and also taking positive action against all forms of fraud, theft and corruption.
- 1.3 The Anti-Fraud, Theft and Corruption Policy Statement and the associated Anti-Fraud Theft and Corruption Strategy are binding on all councillors and employees<sup>1</sup> of the council. It should also be a key element in setting out the provisions of partnership arrangements.

## 2. INTRODUCTION

- 2.1 We (the council) employ approximately 7,200 staff and have an annual revenue budget of **£135m** and capital budget of over **£58m**. As with other large organisations, the size and diverse nature of our services puts us at risk to loss due to fraud, theft and corruption both from within the council and outside it.
- 2.2 The Strategy is based on a series of comprehensive and inter-related procedures, designed to prevent, detect and deter fraud and to take effective action against any attempted or actual fraudulent act affecting the council. The Strategy also satisfies the legislative requirements of having effective arrangements for tackling fraud and conforms to professional guidance laid down in the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Internal Audit in Local Government. The strategy is subject to periodic refresh and at the time latest guidance is used to confirm the policy meets the very latest requirements. Specifically this document also complies with the recently assessed arrangements of the CIPFA Counter Fraud requirements and the ALARM (Association of Local Authority Risk Managers) guidance Managing the Risk of Fraud.

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<sup>1</sup> Including agency and contracted staff and outsourced services

- 2.3 Although there is no precise legal definition of fraud, the term is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, money laundering and collusion. This Strategy covers all the above. Separate definitions are shown at Appendix 1.
- 2.4 The purpose of this Strategy is to outline the council's approach, as well as defining roles and responsibilities, for dealing with the threat of fraud and corruption, both internally and externally. It applies to:
- Councillors
  - Employees
  - Contractors/ Suppliers
  - Partners
  - Consultants, agency and contracted staff
  - Service users
  - Staff and committee members of organisations funded by the council.
  - Governors
- 2.5 All parties above are expected to demonstrate integrity and honesty and provide help and advice.

### **3. CORPORATE FRAMEWORK AND CULTURE**

- 3.1 The Corporate Framework relating to fraud, theft and corruption comprises a range of high level component strategies, policies and functions that contribute to the council having an effective counter fraud arrangements. Some of the key ones are:-
- An Anti-Fraud, Theft and Corruption Strategy and Fraud Response Plan
  - Full support from councillors, the Chief Executive, Executive Management Team, and Service Directors
  - Leadership by the Audit Committee, those charged with managing the risk of fraud
  - A published code of Corporate Governance that is reviewed annually against the CIPFA/SOLACE framework in full
  - A Standards Committee
  - An effective Scrutiny Process
  - The Constitution
  - Codes of Conduct for Councillors and officers, incorporating registers of interests and a gift and hospitality Code of Practice
  - A confidential reporting (Whistleblowers') policy providing guidance to Councillors, employees, the public and third parties
  - Corporate complaints process and procedures
  - Contract Procedure Rules, Financial Regulations, Finance Manual, and a Procurement Manual

- An effective risk management and internal control environment, an Annual Governance Statement is completed by Internal Audit
- Effective internal and external audit arrangements including proactive counter fraud work such as Data Matching exercises
- An effective Benefit Fraud Investigation Team
- Proper operation of the Benefits Verification Framework
- Effective Human Resources policies, particularly those relating to recruitment and selection, induction and training
- Investigation and Disciplinary Procedures
- Associated legislation such as, The Regulation of Investigatory Powers Act (RIPA) Procedure

#### **4. RESPONSIBILITIES FOR MANAGING THE RISK OF FRAUD**

4.1 Everyone has an important role to play in the management of risks. We all want to reduce risks and hence unnecessary costs to our service, which, in turn, protects our jobs. As part of the daily routine in your work all staff will carry out risk assessments and therefore exercise risk management, the management of fraud risk is no different. The roles are as follows

##### **Employees**

4.2 All employees have an important role to play in combating fraud. Specific responsibilities include;

- Acting with propriety in the use of any council resources.
- Reporting details to their line manager or internal audit directly if they suspect that fraud has been committed or see any suspicious acts or events.

##### **Councillors**

4.3. Councillors are required to play a vital role in promoting an anti-fraud, theft and corruption culture by leading by example and demonstrating active support of the Strategy and by reporting all incidents or concerns about fraud, theft and corruption to the council's Monitoring Officer or the Service Director Finance.

##### **Service Director Finance**

4.4 The role of the Service Director Finance rests on a number of statutory provisions, and the council's own Contract Procedure Rules and Financial Regulations.

4.5 Section 151 of the Local Government Act 1972 requires that every authority shall

"...make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers has responsibility for the administration of those affairs".

For North Lincolnshire Council the Service Director Finance has been appointed as the Section 151 Officer.

- 4.6 The Service Director Finance in fulfilling his statutory duties will be involved in the following activities:-
- provision of financial advice in the strategic planning and policy making process
  - provision of advice on the optimum use of resources
  - provision of advice on the management of capital and revenue budgets
  - provision of financial advice to the Council and members to facilitate service delivery
  - provision of management information
  - preparation of statutory and other accounts, and grant claims
  - provision of an effective internal audit function
  - assistance to management in providing safe and efficient financial arrangements
  - provision of effective income collection and payment systems
  - advising on treasury management and trust funds
  - advice on the safeguarding of assets, including risk management and insurance.

### **Internal Audit**

- 4.7 The maintenance of a continuous internal audit is a statutory obligation placed upon the Chief Executive, on behalf of the council. It's primary purpose may be defined as being the appraisal of the internal controls operating throughout all the council's activities, as an assurance function to management at all levels and in all services. In addition, it has an even wider purpose in complementing and supporting the external auditor's work on behalf of the council and all those who pay Council Tax and other fees and charges to the council.

- 4.8 The council's Financial Regulations state that:-

*"The Service Director Finance on behalf of the Chief Executive shall maintain an adequate and effective audit of the council's accounts, financial procedures, corporate governance arrangements and other processes and policies. For this purpose he/she or his/her authorised representative shall have right of access at all reasonable times to all property, accounts and records and shall be given such explanations as he/she deems necessary. Service Directors shall immediately notify the Service Director Finance of any circumstances suggesting irregularity affecting the finances or property of the council who shall take such action as is deemed necessary."*

- 4.9 The Internal Audit Code of Practice clearly outlines that it is management who are responsible for managing the risks associated with fraud and corruption,

including the introduction and implementation of effective control arrangements to help prevent and detect fraud and corruption. 1.4.4 of the Code states Internal Audit does not have responsibility for the prevention or detected of fraud and corruption. Internal Auditors should, however, be alert in all their work to risks and exposures that could allow fraud or corruption and to any indications that fraud or corruption has been occurring. Audit procedures alone, even when performed with due professional care, cannot guarantee that fraud or corruption will be detected.

### **Operational managers**

- 4.10 Outside the formal delegations highlighted above, all levels of management are responsible for
- Implementing and maintaining effective controls in the systems for which they are responsible, and for deterring, preventing and detecting fraud
  - Ensuring there are systems in place to monitoring compliance with any policies and procedures for which they are responsible.
  - Ensuring that they and their staff comply with policies, including the AFT&C

## **5. PREVENTION**

5.1 We believe fraud, theft and corruption are costly, both in terms of reputational risk and financial losses. To reduce the risk of loss we must aim to prevent it from happening in the first place. There are a number of key processes, which can assist in prevention of fraud and corruption;

- Employee Recruitment and Conduct
- Councillors' Roles and Conduct
- Audit Committee
- Internal Control Systems
- Combining with others to prevent and combat fraud

### **5.2 Employee Recruitment and Conduct**

5.2.1 A key preventative measure against fraud, theft and corruption is at the recruitment stage by establishing, as far as possible, the previous record of potential employees, in terms of their propriety and integrity. In this regard, temporary employees and casual workers should be treated in the same manner as permanent employees.

5.2.2 Employee recruitment should be in accordance with procedures laid down by legislation, council decisions, policies, procedures and codes of practice. Written references must be obtained with specific assurances regarding the known honesty and integrity of potential employees before unconditional employment offers are made.

Also checks are made on an individual's right to work in the UK, qualifications produced in accordance with desirable/essential criteria for the post being applied for and any relevant health and criminal record checks.

- 5.2.3 All employees are to be inducted in accordance with induction checklists in place. The Anti Fraud Theft and Corruption strategy and other policies are discussed with employees as part of the induction process. All employees must abide by the Code of Conduct for Employees, which forms part of each employee's contract of employment. Employees of the Council are also expected to follow any code of conduct related to any professional body and immediately notify the council if they come into conflict with any such code.
- 5.2.4 The council has in place employee disciplinary procedures. Any breach of conduct will be dealt with under these procedures and may result in a number of actions and even dismissal, in the most serious cases.
- 5.2.5 Employees are required to declare any interest and the offer of any gift or hospitality to the Service Director Legal and Democratic to enable a record to be kept. Appropriate advice will be given.
- 5.2.6 The Code of Conduct for Employees requires that employees shall not accept the offer of any fees or rewards whatsoever other than their proper remuneration. Any such offer is to be recorded centrally as part of the Interests, Gifts and Hospitality Code of Practice.
- 5.2.7 Employees are also expected to declare any interests they may have which could cause conflict of interest in their current role. For example Internal Audit complete an annual return declaring any pecuniary interests.

### **5.3 Councillor Roles and Conduct**

- 5.3.1 Councillors are currently required to operate within various laws, regulations and codes of practice, the main ones being
- Part III Local Government Act, 2000
  - Part 10 Local Government and Public Involvement in Health Act 2007
  - The Member Code of Conduct;
  - The council's Constitution and those of associated bodies.
- 5.3.2 These matters and other guidance are specifically brought to the attention of Councillors at the induction course for new Councillors and are in each Councillor's Handbook; they include rules on the declaration and registration with the Monitoring Officer of interests and of potential areas of conflict between Councillors' council duties and responsibilities and any other areas of their personal or professional lives.

5.3.3 The council has in place an Overview and Scrutiny process. Its remit includes the review of decisions and actions undertaken by the council. Any matter arising from this process, in which fraud is suspected, will be referred to Internal Audit for independent investigation.

5.3.4 The council has an established Standards Committee, which has independent representatives within its membership, to examine issues of misconduct by Councillors. An annual report is produced.

#### **5.4 Internal Control Systems**

5.4.1 The council has Contract Procedure Rules, Financial Regulations, Financial Procedures and various rules and codes of conduct in place. Staff are required to comply with this best practice when dealing with the council's affairs.

5.4.2 The Service Director Finance has a statutory responsibility under Section 151 of the Local Government Act 1972, to ensure proper arrangements are made for the council's financial affairs. In addition, under the Accounts and Audit Regulations 2003, as the 'responsible financial officer' he is required to determine the accounting control systems which shall include:

**"measures to enable the prevention and detection of inaccuracies and fraud,"**

**"identification of the duties of officers dealing with financial transactions and the division of responsibilities of those officers in relation to significant transactions."**

5.4.3 The council's aim is to have sound financial systems and procedures, which incorporate efficient and effective internal controls. As part of the strategy, it is essential that accurate records are kept and preserved, a management/audit trail is maintained and the principle of "separation of duties" adopted where appropriate.

5.4.4 The Council's Finance Manual requires that senior officers are responsible for establishing adequate internal control such that the activities within their control are dealt with efficiently and effectively. The existence, appropriateness, and effectiveness of these internal controls is independently monitored and reported upon by the council's Internal Audit Service and reviewed by the Service Director Finance.

#### **5.5 Combining with Others to Prevent and Fight Fraud**

5.5.1 There are a variety of arrangements in place, which facilitate the regular exchange of information between the council and other local authorities and agencies, for the purpose of preventing and detecting

fraud. These involve national, regional and local networks of investigators such as internal auditors, trading standards officers, housing benefits investigators etc. The council will liaise where appropriate with outside organisations to encourage closer working. However these arrangements will be subject to compliance with data protection regulations.

5.5.2 There is a protocol in place, which covers when referrals are to be made to the police, how they will be managed and the role the two parties will play in the investigation.

5.5.3 The council operates the Verification Framework (VF) in line with central government initiatives to reduce fraud and error.

5.5.4 There is also an intelligence gathering, collation and dissemination service on fraud, theft and corruption known as the National Anti-Fraud Network (NAFN), of which the council is a member. CIPFA are also a source of counter fraud best practice, which is utilised.

5.5.5 Data matching and analytical review techniques are also undertaken. This is recognised as an important tool in the prevention and detection of fraud, and is used by many other public bodies. The Audit Commission has drawn up a Code of Data Matching Practice for its National Fraud Initiative (NFI), which is recognised by the Information Commissioner as complying with Data Protection legislation. Other data matching exercises outside of the NFI exercise are considered by the Internal Audit team as part of their counter fraud work.

5.5.5 The council has a benefit Fraud Hotline (01724 296137/8), and introduced an online form, to allow members of the public to report individuals who are suspected of abusing the benefits system.

5.5.6 Internal Audit also have a whistleblowing hotline (01724 296666) and email Hotline@northlincs.gov.uk for the confidential reporting by staff or members of the public of irregularities. Internal Audit log calls and liaise with the various departments including Housing Benefits and Human Resources to ensure calls are investigated.

## **6. DETERRENCE**

6.1 There are a number of ways to deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside or outside of the council, and these include

- publicising widely the council's stance on fraud and seeks to prosecute whenever possible, e.g. statements in contracts, on claim forms, and in publicity literature. The council will also publicise outcomes of investigations where it is considered appropriate and will not prejudice any possible police action.

- acting robustly and decisively when fraud, theft and corruption is suspected and proven, e.g. the termination of contracts, the dismissal and/or prosecution of offenders.
- taking action to effect the maximum recoveries for the council, e.g. through outstanding pay, court action, insurance etc
- robust preventative measures such as sound internal control systems that still allow for innovation and calculated risk, but at the same time minimising the opportunity for fraud and corruption.

## **7. DETECTING AND INVESTIGATING FRAUD, THEFT AND CORRUPTION**

- 7.1 This section should be read in conjunction with the Fraud Response Plan (Appendix 4) and the Prosecution Policies (Appendices 5 and 8).
- 7.2 It is the responsibility of, the Executive Management Team (EMT), Service Directors, Senior Officers and managers to maintain good control systems and ensure that all employees comply with these systems.
- 7.3 Internal Audit has a planned programme to undertake a cyclical programme of audits to test the adequacy of anti fraud, theft and corruption measures, based on a risk assessment model that is refreshed periodically. This includes liaison with external audit when considering the programme of audits.
- 7.4 Despite the best efforts of managers and auditors to detect them, some frauds are discovered by chance or "tip off", either through the alertness of staff or from a member of the public. In such cases there is a requirement within the council's Financial Regulations for staff to:
- Report actual or suspected instances of fraud to Internal Audit.
  - Report findings to the police **only** when advised to do so by Internal Audit
- 7.5 Reporting suspected irregularities is essential to ensure to comply with the Anti-Fraud, Theft and Corruption Strategy and ensures:
- consistent treatment of information regarding fraud and corruption,
  - the Fraud Response plan is carried out properly,
  - proper investigation by an independent and experienced audit team, and engagement of all relevant parties,
  - people and our interests are protected, and
  - internal control implications are considered.
- 7.6 The council's Confidential Reporting (Whistleblowing) Code provides a clear path for individuals to raise concerns of malpractice in any

aspects of the council's work, without the fear of recrimination or victimisation. The council's Whistleblowing Policy (Appendix 3) is intended to encourage and enable staff to raise serious concerns. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998).

7.7 The Audit and Risk Manager will work with Service Directors and specifically the Service Director Finance to decide on the type and course of the investigation. This will include referring cases to the police where necessary. The council will ensure management action is always taken and may prosecute offenders, after carrying out our disciplinary procedures where appropriate. Any internal proceedings do not prejudice any criminal case.

7.8 Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with:

- Departmental Management
- Human Resources Sections
- Legal Services
- Other agencies, such as the Police

This is to ensure that all allegations and evidence are properly investigated and reported upon, and that where appropriate, recoveries are made for the council.

7.9 Internal Audit has staff that undertake fraud investigations. All allegations of fraudulent activity are reviewed and subject to a risk assessment. In all cases control issues will be reviewed and weaknesses identified. Some cases are followed up with a full investigation, others are better dealt with as management issues. Where appropriate departments shall:

- report allegations swiftly
- record all evidence received
- ensure that evidence is sound and adequately supported
- secure all evidence collected
- where appropriate, contact other agencies, e.g. Police (via Internal Audit), DWP
- report to senior management, and where appropriate, support the council's disciplinary procedures

7.10 There is also a dedicated visiting team responsible for conducting evidence checks in line with VF procedures, the Housing Benefit (General) Regulations and the Council Tax Benefit (General) Regulations.

7.11 Evidence checks will include

- Identity
- Residency and rent
- Household composition
- Earnings, employed and self- employed
- Benefits
- Income
- Capital

7.12 The Investigation and Prosecution Policy is shown at Appendix 5. the Strategy for Housing Benefit Fraud including the prosecution policy for such cases is shown at Appendix 8.

7.13 The council's External Auditor, the Audit Commission, also has powers to independently investigate fraud and corruption.

7.14 Where financial impropriety is discovered relating to employees, members, or grant aided voluntary organisations, the matter may be referred to the police in accordance with the Criminal Acts Procedure. Such decisions are a matter for the Service Director Finance. Referral to the police will not necessarily prohibit action under the disciplinary procedure. In most cases disciplinary action will be concluded prior to referral to the police.

## **8 SANCTION AND RECOVERY WHERE FRAUD IS PROVED**

8.1 A number of sanctions are available to the council to ensure that proven offences are punished appropriately and seek to promote a culture of zero tolerance of fraud. The possible sanctions should be considered throughout the investigation and appropriately recorded. The following sanctions will be considered;

- internal disciplinary sanctions can range from management counseling and warnings to dismissal in the most serious cases,
- police action can range from cautions to prohibition orders and ultimately custodial sentences for the most serious offences.
- Civil recovery, where the case is not investigated by the police the council can still apply for recovery under civil law. In these cases, the Monitoring Officer in consultation with the Service Director Finance and relevant Service Director will determine whether a private prosecution or civil action would be in the council's interest.
- For benefits cases prosecution may also be sought but under criminal law and other sanctions of cautions and administrative penalties may also be applied

8.2 As part of Internally investigated cases, recovery of funds obtained fraudulently can be made, the value and amount will be decided upon at the outcome of the investigation, and as a result must be sufficiently recorded, by Internal Audit. Recovery can be through the civil prosecution where recovery of losses and court costs can be

recovered. Or through other internal mechanisms including withholding pay or the raising of an invoice charged to the guilty party.

- 8.3 Recovery may also be made through the Council's insurance policy, for losses incurred as a result of fraud, theft and corruption. Advice on whether a claim can be made can be sought from the Insurance and Risk Management section

## **9. TRAINING**

- 9.1 The council recognises that the success and credibility of its Anti-Fraud, Theft and Corruption Strategy will depend largely on how effectively it is communicated throughout the organisation and beyond. To this end, details of the Strategy have been provided to all members and all employees and have been included on induction programmes. A booklet has been designed for this purpose. The Strategy is also shown on the Council's web page and available on the Intranet, along with other associated material.
- 9.2 The council will provide relevant training to managers with responsibility for internal control systems, and encourages managers to contact Internal Audit when changes to systems and procedures which could affect internal controls are proposed. Breaches of procedure and misconduct will be dealt with seriously. If appropriate disciplinary action may be taken.
- 9.3 Officers who are involved in investigating fraud and corruption will be provided with suitable training.
- 9.4 Internal Audit raises fraud awareness, to promote the Anti-Fraud, Theft and Corruption Strategy and to give guidance on fraud prevention and detection. Fraud related issues will be publicised periodically with details of the outcomes of some of its investigations. These newsletters are periodically displayed on the Intranet.
- 9.5 It is the responsibility of Service Directors and Service Managers to communicate the Anti-Fraud, Theft and Corruption Strategy to their staff and to promote a greater awareness of fraud within their departments.

## **10. CONCLUSIONS**

- 10.1 The council has in place a robust network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments, in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation or related responsibilities. To this end, the council maintains a continuous overview of such

arrangements.

- 10.2 The Anti-Fraud, Theft and Corruption Strategy provides a comprehensive framework for tackling fraudulent and corrupt acts against the authority. The approval of the Strategy by the Audit Committee, on behalf of the council, demonstrates the council's commitment to protecting public funds and minimising losses to fraud and corruption. Having made this commitment, it is imperative that Service Directors put in place arrangements for disseminating the Strategy and promoting fraud awareness, throughout their Services.

## **11 MONITORING EFFECTIVENESS OF THE STRATEGY**

- 11.1 As part of the councils commitment to creating a culture of zero tolerance of fraud, it is not sufficient to simply have a policy that is updated regularly and is well publicised. There needs to be a mechanism that monitors the effectiveness of the policy and makes any necessary adjustments identified.

- 11.2 Targets and measures cannot be used since measures such as number of referrals can mean increased instances of fraud but they could also indicate the referral mechanism, or publicity of it, has improved. Instead it is appropriate to use other measures, such as those stated below. Where having implemented all the actions contained within this Strategy that a negative result demonstrates by default that the anti fraud culture aimed for as part of this policy is being achieved in so far as is possible

- 11.3 Measures include;

- Internal audit periodically risk assess the councils exposure to fraud, and weak areas are addressed and there should be no reduction in controls identified as part of this assessment
- Internal audit periodically assess counter fraud arrangements against best practice and identify any areas for improvement, and there should be no reduction in effectiveness of current counter fraud arrangements identified as part of this assessment
- A report to Audit Committee members of sources assurance of an anti fraud culture, this report should provide sufficient evidence from which they can derive assurance
- An annual governance statement to the Audit Committee which should not highlight increasing areas of weakness or diminishing levels of internal control
- An annual assessment of the Corporate Governance Framework which should state continued and not diminishing compliance

- 11.4 Where any of these measures shown declining results we would take prompt action to identify the reasons and address them accordingly through the strategy to ensure continued effectiveness.

**DEFINITIONS****Introduction**

The Council's Anti Fraud and Corruption Strategy aims to cover all wrongdoings which may result in a loss to the Council. This appendix includes a description of a range of acts included within this definition. Due to the inventiveness and ingenuity of people, it would be impossible to list every such act. The most common forms of wrongdoing which this Strategy aims to combat are, however, listed below.

**Fraud**

Fraud is an irregularity deliberately carried out with the intention to deceive. Fraud only occurs where a person unlawfully converts to their own use, the property or assets (including cash) of another person or persons, or attempts to do so, by the falsification of records. As a deliberate act, fraud is quite distinct from and can not include negligence and accidental error

Fraud incorporates: -

Benefit fraud offences under Sections 112 and 111(A) of the Social Security Administration Act 1992, embezzlement, fraudulent conversion, false pretences, (criminal) deception, forgery, corrupt practices and false accounting (including the falsification of timesheets). Most of these offences are dealt with in the provisions of the Theft Act 1968

**Theft**

1968 Act. Section 1 (1) - a person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it: and "theft" and "steal" shall be construed accordingly. Section 1(2) - it is immaterial whether the appropriation is made with a view to gain, or is made for the thief's own benefit.

**Criminal Deception**

1968 Act. Section 15(1) - a person who by any deception, dishonestly obtains property belonging to another with the intention of permanently depriving the other of it.

Section 15(4) - deception means any deception, whether deliberate or reckless, by words or conduct as to fact or as to law and includes a deception as to the present intentions of the perpetrator or any other person.

Section 15(2) - a person obtains property if he obtains possession, control or ownership of it, or obtains it for another or enables another to obtain or retain it.

Section 34(1) - "property" and "belonging to another" have the same meaning as in Sections 4(1) and 5(1) respectively (in relation to theft).

## **False Accounting**

1968 Act. Section 19(1) - where a person dishonestly and with a view to gain for himself or another or with intent to cause loss to another destroys, defaces, conceals or falsifies any account, record or document made or required for accounting purpose; or produces or makes use of any such account, record or document in furnishing information which to his knowledge is or may be misleading, false or deceptive in a material particular.

Section 17(2) - a person who makes or concurs in making or who omits or concurs in omitting a material particular is to be treated as having falsified the document. The offence may be committed by any person. A person may be guilty of false accounting when he procures the entry by an innocent agent.

## **Money laundering**

The Proceeds of Crime Act 2002 (the POCA) consolidated, updated and reformed criminal law in the UK with regard to money laundering. As a result, the following acts constitute the act of money laundering:

Concealing, disguising, converting, transferring or removing criminal property from England and Wales, from Scotland or from Northern Ireland

Being concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property.

There is CIPFA interim guidance on the obligations and responsibilities of public service organisations under money laundering legislation and regulations which recommends a prudent and responsible approach. CIPFA's view is that all public service organisations should put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations.

The obligations, responsibilities and risks to the council have been considered and have been set out separately at Appendix 9.

## **Corruption**

Corruption, which normally occurs in connection with contracts or consultancy engagements, involves the offering and acceptance of a reward for performing an act or for failing to perform an act, which leads to a gain for the person offering the inducement.

Corruption must involve more than one person who knowingly conspire together to achieve the fraudulent gain and must involve a fraudulent offer of reward for a dishonest purpose and the fraudulent receipt of that reward

An example would be where a contractor offered a reward, which was accepted by a council employee, in return for which, the council employee arranged for work to be awarded to that contractor.

## **Other**

There is a wide range of other wrongdoings, which, whilst important, are normally dealt with outside the Anti Fraud, Theft and Corruption Strategy. Examples include: - health and safety violations, racial, personal or sexual harassment, malicious falsehood, maladministration, downloading inappropriate material from the internet, physical and verbal assault, negligence, damage to reputation, alcohol and drug abuse, and mismanagement. Sabotage, malicious damage, vandalism, deliberate waste or spoiling of assets and computer hacking also lie outside this policy, but can be reported via the whistleblowers hotline to be appropriately investigated.

## THE SEVEN PRINCIPLES OF PUBLIC LIFE

### **Selflessness**

Holders of public office take decisions in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in their performance of the official duties.

### **Objectivity**

In carrying out public business, including making public appointments, awarding contract, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties to take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

Holders of public office should promote and support these principles by leadership and example.

## WHISTLEBLOWERS' CHARTER

### Introduction

Employees 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.

The council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, employees, members of the public and other interested parties are encouraged to voice those concerns. The charter encourages and enables serious concerns to be raised within the council on a confidential basis and without fear of reprisals.

This Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns within the council rather than overlooking a problem or blowing the whistle to the media or other external bodies. This policy has been discussed with the relevant Trade Unions and professional organisations and has their support.

### Aims

- To provide a facility to raise concerns and receive feedback on action taken
- Inform staff on how to take the matter further if they are dissatisfied with the response
- To demonstrate the council's commitment to investigate concerns
- To provide protection from reprisals and victimisation for whistleblowing

There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This Whistleblowing policy is intended to cover concerns which may be about something that: -

- Is unlawful
- Is against council's Standing Orders or policies
- Falls below established standards or practices
- Results in waste or loss to the council
- Amounts to improper conduct

Examples of malpractice may include concerns about possible corruption, financial irregularities and dangerous procedures.

## Safeguards

The Whistleblowers' Charter contains a number of safeguards:

- **Harassment or victimisation.** The council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The council will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. This does not mean that if a member of staff is already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of their whistleblowing.
- **Confidentiality.** The council will do its best to protect your identity if you raise a concern and do not want your name disclosed. However, you must appreciate that the investigation process may reveal the source of the information and a statement may be required as part of the evidence.
- **Anonymous Allegations.** Allegations / concerns can be made anonymously, however it should be noted that such cases can be more difficult to investigate. The likelihood of action will depend on:
  - The seriousness of issues raised
  - Credibility of the concern
  - Likelihood of confirming the allegation from attributable sources.
- **Untrue Allegations.** No action will be taken against whistleblowers if allegations are made in good faith. However, malicious or unfounded allegations may result in disciplinary action taken against the whistleblower.

## Public Interest Disclosure Act 1998

The Act gives statutory protection, with defined parameters, to employees who make disclosures, which they believe to be happening within the authority employing them.

The Act has rules for making a protected disclosure: -

- You must disclose the information in good faith
- You must believe it to be substantially true
- You must not act maliciously or make false allegations
- You must not seek personal gain

By regulations issued under the Act, the Audit Commission has taken on new responsibilities as a "prescribed person" that involves receiving disclosures internally.

The Audit Commission has the responsibility to ensure that disclosures are properly investigated and will report its findings to the person making disclosures.

## **Disclosure Procedures**

### **5.1 Raising a concern**

- In the first instance, employees should bring the matter to their line manager
- If that person is involved, they should approach the next level of management
- Access to management in these circumstances should be confidential
- Concerns can be raised in writing or alternatively the Whistleblowers' Hotline can be used. Trained Internal Audit staff manage the telephone line during office hours and an answer phone facility covers other periods. The Hotline telephone number is 01724 296666. Information is considered and passed to the appropriate section for further investigation, if necessary. Feedback is provided to Internal Audit, who monitor the progress of each call.

### **5.2 How the complaint will be dealt with**

The action taken by the council will depend on the nature of the concern. The matters raised may:

- be investigated internally
- be referred to the Police
- be referred to the external Auditor
- be the subject of advice to refer to the Local Government Ombudsman or Standards Board as appropriate

In order to protect individuals and the council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other, existing procedures (eg child protection or discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. Some concerns or allegations which fall within the scope of other specific procedures (for example child protection, or personnel policy) will be referred to appropriate sections.

Within ten working days of a concern being received, the council will write to the complainant:

- acknowledging that the concern has been received
- indicating how it proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response

- telling them whether any initial enquiries have been made
- telling them whether further investigations will take place, and if not, why not

The amount of contact between the body considering the issues and the complainant will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the individual.

When any meeting is arranged, staff have the right, if they so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.

The council will take steps to minimise any difficulties which staff may experience as a result of raising a concern. For instance, if staff are required to give evidence in criminal or disciplinary proceedings, the council will advise them about the procedure.

The council accepts that staff need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, staff will receive information about the outcomes of any investigations.

The council has appropriate procedures to receive and to investigate all concerns / allegations which should be followed. However, if you feel unable to talk to anyone within the council under the terms of the Public Interest Disclosure Act 1998, you may contact the Audit Commission on a special telephone line on 020 7630 1019.

If you are still not satisfied, you may wish to contact Public Concern at Work, by telephoning 020 7404 6609 or e-mail [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk). Public Concern at Work is an independent charity providing free advice for persons who wish to express concern about fraud and other serious malpractice in the workplace.

## **Confidentiality**

People who provide information to the Hotline are asked to appreciate that, although the investigation will be carried out in the manner described above, it will not be possible for feedback on the progress of any investigation to be provided to the Whistleblower. However, if a contact name or telephone number is provided, this may be used in order to obtain further information or clarification during the course of the investigation.

## **7. The Responsible Officer**

The **Service Director Finance** has overall responsibility for the maintenance and operation of this policy. Internal Audit maintain a record of concerns

raised and the outcomes (but in a form which does not endanger confidentiality) and will report as necessary to the council/Audit Committee.

**FRAUD RESPONSE PLAN****1. Introduction**

- 1.1 The council is committed to the highest possible standards of openness, probity and accountability in all its affairs. It is determined to develop a culture of honesty and zero tolerance of fraud, theft and corruption.
- 1.2 In line with that commitment, the council's Anti-Fraud, Theft and Corruption Strategy outlines the principles we are committed to in relation to preventing, reporting and managing fraud and corruption.
- 1.3 This Fraud Response Plan reinforces the council's robust approach by setting out the ways in which employees or members of the public can voice their concerns about suspected fraud or corruption. It also outlines how the council will deal with such complaints.

**2. What Do We Want To Know About?**

- 2.1 This Plan is intended to be implemented where suspicions of fraud, theft or corruption have been raised. Please refer to Appendix 1 for definitions
- 2.2 Concerns or allegations which fall within the scope of other, existing, procedures (eg child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 2.3 Fraudulent or corrupt acts may include:

**Systems Issues** - i.e. where a process/system exists which is prone to abuse by either employees or public (eg Planning Applications)

**Financial Issues** - i.e. where individuals or companies have fraudulently obtained money from the council (eg invalid invoices/work not done, Housing Benefit fraud, or where criminal gains are being laundered through the council. See the Anti Money Laundering Policy)

**Equipment Issues** - i.e. where council equipment is used for personal use, (eg personal use of council vehicles or misuse of the internet )

**Resource Issues** - i.e. where there is a misuse of resources (eg theft of building materials)

**Other Issues** - i.e. activities undertaken by officers of the council which may be:

- unlawful
- against the council's Contract Procedure Rules or policies
- falls below established standards or practices

- amounts to improper conduct (eg receiving hospitality)

2.4 This is not an exhaustive list. If you are in any doubt about the seriousness of your concern, advice and guidance can be obtained from Internal Audit on 296666

### 3. Safeguards

**Harassment or Victimisation** – The council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The council will not tolerate harassment or victimisation and will take action to protect those who raise a concern in good faith.

**Confidentiality** – The council will do its best to protect an individual's identity when he or she raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.

**Anonymous Allegations** – This policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they 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
- the likelihood of confirming the allegation from attributable sources

**Untrue Allegations** – If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, individuals make malicious or vexatious allegations, action may be considered against the individual making the allegation.

### 4. What Should An Employee Do If They Suspect Fraud Or Corruption?

4.1 Employees are often the first to realise that there is 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.

4.2 The council's Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns within the council rather than overlooking a problem or blowing the whistle to the media or other external bodies. This policy has been discussed with the relevant Trade Unions and professional organisations and has their support.

- 4.3 A full copy of the Whistleblowing Policy can be seen at Appendix 3 and is available from the website.
- 4.4 In essence, employees should approach the relevant Service Manager, who, if they find the claim to be substantiated, will inform the Service Director and the Audit and Risk Manager. It is also possible to contact Internal Audit directly, if necessary. The nature of the complaint will determine the council's course of action.
- 4.5 Internal Audit can be contacted by completing the internet on-line reporting facility or by emailing [Hotline@Northlincs.gov.uk](mailto:Hotline@Northlincs.gov.uk) or by phone on 01724 296666, or by writing to The Audit and Risk Manager, Pittwood House, Ashby Road Scunthorpe.

## **5. What Should A Member Of The Public, Contractor, Supplier or Partner Do If They Suspect Fraud Or Corruption?**

- 5.1 The council encourages all members of the public, and those who deal with the council such as suppliers, contractors and partners who suspect fraud, theft or corruption to contact the Chief Executive, Service Director, or Internal Audit Section in the first instance.
- 5.2 Internal Audit Section is a unit, which operates independently of all other council Services, whose work includes establishing procedures with the following aims:
- To develop an anti-fraud culture
  - To deter, prevent, detect and investigate fraud, theft and corruption
  - To see appropriate action against those who commit or seek to commit some sort of fraud, theft or corruption
  - To obtain compensation in respect of any losses to the council
- 5.3 The possible courses of action taken by the council are outlined in the sanctions policy, but to summarise include, internal disciplinary action, referral to the police for criminal investigation and prosecution, and civil prosecution. In all events the council will seek to minimise losses and recover them where possible.
- 5.4 Internal Audit can be contacted by completing **the internet on-line reporting facility**, by email on [Hotline@Northlincs.gov.uk](mailto:Hotline@Northlincs.gov.uk) or by phone on 01724 296666, or by writing to The Audit and Risk Manager, Pittwood House, Ashby Road Scunthorpe

## **6. How Will Allegations Of Fraud, Theft Or Corruption Be Dealt With By The council?**

- 6.1 For issues raised by employees or members of the public, the action taken by the council will depend on the nature of the concern. The matters raised may:
- be investigated internally

- be referred to the Police
- 6.2 Within 10 working days of a concern being received, the Chief Executive or designated officer will write to the complainant:
- acknowledging that the concern has been received
  - indicating how it proposes to deal with the matter
  - giving an estimate of how long it will take to provide a final response
  - telling them whether any initial enquiries have been made
  - telling them whether any further investigations will take place, and if not, why not
- 6.3 The council accepts that those people who reported the alleged fraud theft or corruption need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will receive information about the outcomes of any investigation.

## 7. Alternative methods for raising concerns

- 7.1 If either a member of the public or an employee feel it is right to take the matter outside these processes, the following are possible ways forward:
- **your local Councillor** – if you live within the North Lincolnshire boundary, your Councillor can be contacted at through the Local Link offices, Pittwood House reception, or at their regular surgery in your area. If you are unsure how to contact them, call the council on 01724 296296.
  - **the Audit Commission** – who are the organisation appointed to scrutinise the council's finances and performance. By law, they must be completely independent from the council.
  - **your Trade Union** – employees may invite their Trade Union to raise a matter on their behalf.
  - **the Local Government Ombudsman** – this is an independent body set up by the Government to deal with complaints against councils in the United Kingdom.
  - **Public Concern at Work** – this is a charity which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They operate a helpline on 0171 404 6609 or can be e-mailed at [whistle@pcaw.demon.co.uk](mailto:whistle@pcaw.demon.co.uk).

## INVESTIGATION AND PROSECUTION POLICY

### 1. Introduction

North Lincolnshire council is committed to the values of probity and accountability, but the determined perpetrator will always find a way round systems and procedures. It is therefore necessary for all managers to be aware of what is required in the event of being notified of a suspected fraud.

This document sets out the process for staff who wish to notify any suspicions and also how the council's officers should respond. It also provides details of the prosecution policy.

Members also formally adopted a prosecution policy in respect of Housing Benefits claimants, which also clearly demonstrates the council's commitment to anti-fraud measures. This policy was last revised in April 2002.

### 2. Notifying Suspected Fraud.

Suspected fraud can be detected in a number of ways, but in all cases it is important that staff feel able to report their concerns and are also aware of the means by which they are able to do so.

There are several means of reporting available to staff:

- **Line Management**

If an employee discovers a suspected fraud than it should be reported to the line manager as a matter of urgency. Whilst line managers should establish the basic facts and accuracy of the problem only a minimum of investigation should be undertaken. The matter must then be formally reported to the service manager and, if necessary, the appropriate head of service who must then notify Internal Audit.

- **Independent Person**

In some cases the notifying individual may prefer to report the suspicion to an independent officer. They too should report the matter to the Service Director and Internal Audit.

- **Whistleblowers' Hotline**

The council's Anti Fraud, Theft and Corruption Strategy provides an independent and confidential telephone "hotline" available to both staff

and members of the public to enable them to voice any concerns they may have about possible fraud, theft and corruption. The telephone number, which is manned during office hours and provides an answerphone service outside office hours, is 01724 296666. The caller may remain anonymous if they wish and all calls are investigated.

- **Internal Audit**

The primary role of Internal Audit is to report on the adequacy of systems and procedures (the internal control environment). However, they are also charged with the responsibility for being the usual means of investigating fraud. The Audit and Risk Manager and internal audit staff will always be receptive to discussing concerns raised by staff or the general public.

### **3. Investigating Suspected Fraud**

Once fraud is suspected it is critical that any investigation is conducted in a professional manner aimed at ensuring that the council and the suspected individual are protected. The latter is equally important, as a suspicion should not be seen as guilt to be proved.

It is crucial that the notifying employee does not feel threatened. The council undertakes to protect the identity of such employees wherever possible, however cases resulting in disciplinary or criminal action may necessitate the corroboration of witnesses in order to proceed.

The Public Interest Disclosure Act offers some safeguards and remedies intended to make it easier for staff to report instances of fraud and criminal behaviour.

The Human Rights Act and Regulation of Investigatory Powers Act place responsibility on public bodies such as Local Government to conduct investigations in a fair and equitable manner. Surveillance, in particular, is covered by these two pieces of legislation. Surveillance is covered in more detail at Appendix 6 (Surveillance under Human Rights Act) and Appendix 7 (the RIPA policy)

To demonstrate this, all potential investigative work must be authorised by an independent / senior officer.

At North Lincolnshire Council a request will be completed prior to all investigations carried out by Internal Audit detailing the circumstances and the nature of the proposed action to be taken. No further work will commence without the authorisation of the Service Director Finance or Audit and Risk Manager.

Similar arrangements have been introduced in respect of Housing Benefit investigations and the Investigations Manager will supervise

investigations. Investigations within the scope of the Regulation of Investigatory Powers Act 2000 will be authorised by the Service Director Finance.

For each notified suspicion the service manager, in conjunction with internal audit, will appoint an investigating officer from within the service. Advice on personnel matters, such as precautionary suspension and disciplinary procedures, will be provided by the service's Human Resources staff.

The investigating officer must:

- Initially assess, in consultation with the Human Resources section, whether there is a need for any employee to be suspended. The decision should be kept under review at all stages of the investigation.
- Identify a course of action, which will also include the role of Internal Audit, if any financial loss or impropriety is suspected.
- Identify the reporting process.
- Ensure that strict confidentiality is maintained.

#### **4. The role of Internal Audit**

Whilst the investigating officer is responsible for leading the investigation including carrying out any interviews necessary and gathering information that might be required for the disciplinary procedures to proceed, Internal Audit's role is also important.

Internal Audit will carry out an initial investigation when fraud is suspected in order to substantiate whether there is sufficient evidence for the case to proceed. Comprehensive records will be maintained of evidence gathered in accordance with standards set out in the audit manual, this will include an early assessment of the potential losses incurred, which will be forwarded to the investigating officer, Human Resources or the police as appropriate.

As providers of evidence Internal Audit staff may be called upon as witnesses to provide statements and explanation in disciplinary or criminal proceedings.

#### **Interim Report**

Initial investigations carried out by internal audit will result in an audit report setting out:

- The findings to date

- The interim conclusions drawn from those findings
- A recommendation whether there is evidence to suggest that a fact-finding interview is warranted.

This report will be sent to the investigating officer only. The appropriate Director of Service will only receive details of significant systems weaknesses that may have been identified and need to be addressed urgently.

If the investigations are to continue then future reporting arrangements and any changes to the planned action should be confirmed.

### **Final Report**

This report will supersede all other reports and be the definitive document on which management base their decision on disciplinary action.

The format of the final audit report will not always be the same as each case is unique, but will frequently set out:

- How the investigation arose
- Who the suspects are
- Their position in the council and their responsibilities
- How the investigation was undertaken
- The facts and evidence which were identified
- Summary of findings, including a financial estimate of potential losses incurred and recommendations, both regarding the fraud itself and any additional work required on the system weaknesses identified during the investigation.

## **5. Disciplinary Proceedings**

### **Steps to be taken**

The investigating officer will:

- Determine whether there is a disciplinary case to answer based on Internal Audit's findings.
- Undertake an investigation in accordance with disciplinary procedures.
- Ensure interviews are conducted in the right manner. Internal audit staff will always offer advice and guidance to the investigating officer and in some circumstances it may be appropriate to conduct joint fact-finding interviews with Internal Audit.

## **6. Liaison with External Audit and the Police**

### **External Audit**

All suspected frauds are reported by internal audit each month to the external auditors.

### **Police**

The police are the experts at investigating fraud. Initial contact with the police and formal referral must be undertaken by Internal Audit staff only. It is Police policy to welcome early notification of suspected fraud, and the approach to be taken is included within an agreed protocol.

A number of considerations must be taken into account to help determine whether police referral is appropriate. These include:

- The quality of the evidence available. The burden of proof is higher in criminal cases (beyond reasonable doubt) than in the case of disciplinary cases (balance of probabilities).
- The involvement of third parties such as contractors, suppliers or ex employees. In such cases internal audit's role may be curtailed as their powers of investigation are limited and police investigations may be the only real option available.
- Whether the action constitutes a criminal act as opposed to non-compliance with council policies and procedures.
- The nature of the fraud and possible impact on the council. Theft and deception of frail and vulnerable clients may demand police referral because of the offensive nature of the incident. Equally widespread corruption resulting in significant losses to the council may also be viewed as so serious to call for police referral.

All cases must be referred to the Police by Internal Audit, under the terms specified in the agreement. Authorisation for police referral must be received from the Service Director Finance as the S151 officer. Where the Police decide that a formal investigation is necessary, all staff should co-operate fully with any subsequent requests.

Police investigation should not prejudice any internal disciplinary procedures; these should continue as normal if possible. It is important to secure the interests of the council by concluding the internal disciplinary process as speedily as possible thereby avoiding prolonged and expensive suspensions. In some cases police referrals will be made after disciplinary action has concluded to avoid delays to the disciplinary process caused by police investigations.

7. **Housing Benefit Fraud Strategy and Prosecution Policy**  
**Refer to specific policy below Appendix 8**

**SURVEILLANCE UNDER THE HUMAN RIGHTS ACT**

As part of our response to allegations of fraud, theft and corruption it may be necessary to carry out surveillance in the course of the investigation. This is permitted provided that it is reasonable, necessary and proportionate and that it is appropriately authorised.

Surveillance can be obtained directly through observation, or via mechanical means for example, CCTV, alarm systems and electronic communications such as email, provided that it complies with the data protection act

The type of allegation will determine initially, how the authorisation should be obtained. The distinction provided by the Surveillance Commissioners is that,

- Surveillance necessary for internal disciplinary action needs to be considered in context of the Human Rights Act.
- Surveillance necessary for the prevention and detection of crime is covered under the Regulation of Investigatory Powers Act (RIPA)

All allegations of fraud, theft and corruption are referred to Internal Audit. On referral we will take the decision with Legal Services as to whether surveillance is necessary and under what legislation it may be authorised. Internal Audit surveillance will be authorised by the Audit and Risk Manager or nominated deputy, and surveillance as part of investigations will be authorised by the Service Director Human Resources or nominated deputy.

Appendix 7 shows the RIPA policy, and this shows in detail how authorisation is obtained, reviewed and cancelled. This is a comprehensive policy and contains all the relevant detail. The principles are the same for both types of authorisation and this policy should be referred to for all applications. The only difference is the forms that are to be used. The policy and arrangements are currently under review in conjunction with the relevant service areas.

**NORTH LINCOLNSHIRE COUNCIL**

**CORPORATE POLICY & PROCEDURES DOCUMENT**

**ON**

**THE REGULATION OF INVESTIGATORY POWERS  
ACT 2000**

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Key facts for anyone who uses surveillance as an investigative tool or accesses communications data

Introduction

The Regulation of Investigatory Powers Act 2000 (hereafter RIPA) came into force on 25 September 2000. The Act introduced a system of authorisation which will serve to secure the lawfulness of surveillance activities and ensure that they are consistent with the Council's obligations under the under Human Rights Act 1998.

The Regulation of Investigatory Powers (Communications Data) Order 2003 came into force on 5 January 2004 and added to the powers available to local authorities with regard to the accessing of communications data.

Steps to ensure RIPA is complied with

The rights of its citizens are paramount to North Lincolnshire Council. In order to protect these rights whilst exercising its new powers under RIPA the council has recognised that it is vital for effective procedures to be put in place and for them to be continuously monitored and reviewed. These procedures will ensure good practice is used council-wide and that a balance is struck between the administration of justice and the rights of the public. Provision shall also be made for raising awareness of these issues both to the public and to council employees, and a method will be established for the dissemination of information. The council will be vigilant in its regulation of its new powers and to this end has:

- ◆ Nominated the Monitoring Officer who is responsible for maintaining and checking a central record of all authorisations, reviews, renewals, cancellations and rejections of surveillance applications.
- ◆ Nominated and appropriately trained a SPOC

The council has prioritised the following objectives in its aim to carry out full implementation of its statutory duties:

- ◆ To ensure an awareness amongst council staff of RIPA issues and the potential for it to affect their work practices
- ◆ To establish a forum for the dissemination of information to employees and the public using the council's website
- ◆ To ensure appropriate training is received by its employees in order that staff are able to comply with the law
- ◆ To establish a system for handling public complaints

### Scope

This document explains:

- ◆ The council's statutory responsibility to comply with RIPA when undertaking covert surveillance, using a covert human intelligence source or accessing communications data
- ◆ What 'covert surveillance' and 'covert human intelligence source' means
- ◆ Definition of communications data
- ◆ Issues council employees must consider
- ◆ The procedure council employees are to follow to comply with RIPA
- ◆ The steps the council will take to ensure RIPA is complied with

### The Council's Statutory Responsibility

North Lincolnshire Council has a statutory responsibility to comply with the Human Rights Act 1998. RIPA was enacted to ensure that public authorities exercise their powers to investigate by way of surveillance with proper regard for citizens' Article 8 (1) right to respect for private and family life, home and correspondence. Any monitoring, observing or listening to individuals or accessing their communications data is likely to infringe this right, as private information will be obtained during the course of this surveillance. 'Private information' is a very broad term and includes personal details such as name and address, details of a person's social life and relationships, and can even include their professional or business activities.

However, the Article 8(1) right is qualified by Article 8(2) and therefore officers may interfere with it but only if such interference is in accordance with the law, is necessary and is proportionate. **Obtaining a RIPA authorisation ensures that an officer has properly considered the private information that may be obtained, the necessity and proportionality of the surveillance, and whether it complies with the subject's human rights.**

An authorisation can only be obtained if the surveillance is for the purposes of preventing or detecting crime or preventing disorder. **Surveillance for other purposes would have to be carefully considered to see if it is justified under other legislation or council powers, and any officer considering this should contact the Legal Department.**

### What Covert Surveillance Means

Surveillance is **monitoring, observing or listening to persons, their movements, conversations or other activities or communications or recording any of the above activities. If you are doing so in a manner calculated to ensure that the individual is**

unaware of your actions then this is covert surveillance. The Council use CCTV equipment overtly in public areas, subject to a code of practice. As such use is overt RIPA does not apply. However, if the existing systems are used for a specific operation or targeted at a specific individual this may be directed surveillance and authorisation may be required.

There are two types of covert surveillance.

- ◆ **Directed surveillance:** This is covert surveillance undertaken for the purpose of a specific operation and in a manner which is likely to result in the obtaining of private information about a person and is not by way of an immediate response to events or circumstances.
- ◆ **Intrusive surveillance:** This is surveillance which takes place on any residential premises or any private vehicle and involves the presence of an individual on the premises or in the car or by the use of a surveillance device that although not in the car/premises consistently provides quality data as though it was. In no circumstances does the Act authorise the carrying out of any form of intrusive surveillance by local authorities.

There is another method of obtaining information which requires authorisation by RIPA but which is not classed as surveillance, which is:

- ◆ **The use of a covert human intelligence source (CHIS):** A CHIS is any person who establishes or maintains a personal or other relationship with a person for the covert purpose of using such a relationship either to obtain information or provide access to information about another person or covertly disclosing information obtained by the use of such a relationship or as a result of its existence.
- ◆ This would not include 'test purchasing', such as an officer or member of the public acting on behalf of the council entering a shop to make a routine purchase, or booking and being carried in a taxi. Case law has determined that this does not establish a sufficiently personal relationship between that person and the target of the investigation. This is because the person acts as a normal consumer.
- ◆ A CHIS situation would arise where a person makes a number of contacts with the target of investigation in order to build up a relationship of trust or familiarity before making a purchase or asking for an action to be done. A CHIS authorisation would also be required if the activity suggested was beyond the usual activity that would be carried out by any normal consumer in a shop, such as asking non-routine questions to the target in an attempt to find out more information about them or the alleged crime.
- ◆ Where a member of the public is used as an 'informant', or where a council officer is used as an undercover operative, more strict procedures must be complied with. These are contained in section 29(5) RIPA and the Regulation of Investigatory Powers (Source Records) Regulations 2000. These specify that:
  - ◆ A risk assessment must be carried out on the operation
  - ◆ Certain records must be kept about the operation, and
  - ◆ There must be three separate officers supervising the operation carrying out different responsibilities in relation to the operation.

For more information about these requirements, please contact the Legal Department for advice before embarking on such an operation.

Please note the definitions of 'surveillance' and 'CHIS' are not comprehensive and that reference should be made to the Home Office Codes of Practice.

Definition of 'Communications Data'

**Communications data includes information relating to the use of a postal service/telecommunications system. It does not include the contents of the communication itself. Examples of communications data include equipment and location details, telephone subscriber details, itemised telephone bill logs, e-mail headers and so on.**

**Any application to access communications data via the RIPA regime must be directed to the council's Single Point of Contact (SPOC). Officers should consult the Association of Chief Police Officers' manual of standards which details general guidance.**

**The council is aware that Housing Benefit officers may still be able to use the Social Security Fraud Act to access communications data rather than use the RIPA regime.**

#### Application of RIPA

**If you believe that your actions fall under the definition of covert surveillance, use of covert human intelligence source or accessing communications data as defined above you must obtain a RIPA authorisation. You must also read the Home Office Code of Practice for detailed guidance on the RIPA regime. General points of guidance that you must consider in applying the Act are as follows:**

- ◆ **Whether the surveillance/access is necessary. It will only be deemed necessary if it is for the purpose of preventing or detecting crime or preventing disorder. 'Detecting crime' is defined by RIPA as:  
a) establishing by whom for what purpose by what means and generally in what circumstances any crime was committed; and  
b) the apprehension of the person by whom any crime was committed.**

**Section 32(4) of RIPA also states that when considering necessity, the officer should assess whether the information could 'reasonably be obtained by any other means.' When considering the 'reasonableness' of any other means, factors such as excessive cost, likelihood of gaining the information or 'tipping off' the target of the investigation can be taken into account.**

- ◆ **Whether the surveillance/access is proportionate. If the actions are deemed necessary the person granting the authorisation must also believe that it is proportionate to what is sought to be achieved. The activity will not be proportionate if it is excessive in the circumstances of the case or if the information could be reasonably obtained by other less intrusive means.**
- ◆ **Whether there is a risk of collateral intrusion. This is the risk of intrusion into the privacy of persons other than those who are the direct subject of the investigation. Such a risk must be assessed by all officers and measures should be taken to avoid or minimise such intrusion wherever possible. If the risk is significant this will impact on how proportionate the operation is.**

**The consequences of not using a RIPA authorisation can have an impact on any evidence gathered by using surveillance or CHIS. Use of a RIPA authorisation ensures that a person's human rights are properly considered, and that any evidence obtained as a result can be used in Court. If an authorisation is not obtained, that citizen's human rights may have been breached. If that breach would prejudice the fairness of any criminal trial brought about as a result of the evidence gathered, the Court may**

stay the proceedings as an abuse of process. Also, carrying out activities covered by RIPA without an authorisation may be a breach of section 6 Human Rights Act 1998. This could lead to judicial review and result in damages being awarded against the council.

In addition, without using the correct procedure and going through a SPOC, communications organisations will not allow you to access communications data.

When a RIPA application is made, officers will be required to state on the form the exact nature of the activities to be undertaken. If during the course of the operation, those activities change, a new authorisation must be applied for. If not, the activity will not be authorised and may be subject to challenge as detailed above.

#### Procedure for compliance with RIPA

For surveillance/use of a CHIS council employees must follow the procedure as outlined in the flowchart attached as Appendix A. The procedure for assessing communications data is outlined in Appendix B. The forms required to make a RIPA application can be accessed via the Home Office website, which will ensure the most up to date version of the forms. For advice on completing the forms, please contact the Legal Department.

Authorised Officers: Forms can only be signed by the following Officers: Chief Executive, Deputy Chief Executive, (Article 5 of S1 2003/3171) Monitoring Officer and Chief Financial Officer appointed pursuant to section 151 of the Local Government Act 1972.

#### Exception to the need for a RIPA Authorisation

There is a limited ability in section 26(2) (c) for officers to carry out surveillance without an authorisation. If the surveillance is 'an immediate response to events or circumstances', which is unforeseen and means that there is not sufficient time to obtain an authorisation, some degree of surveillance can be done. This may happen, for example, where the subject of an investigation is suddenly and unexpectedly observed (not during the course of surveillance) and the officer feels vital evidence would be gained by surveilling them. This ability is restricted however, and surveillance cannot be carried on for a prolonged period of time when it would be reasonable to expect an authorisation to be sought.

#### CCTV Procedure

When an officer within the council asks the CCTV operatives to target the use of their cameras on a specific location or individual, this requires a RIPA authorisation as it is directed surveillance, and the surveillance will not be allowed to take place without such authorisation. The only exception would be where an emergency situation existed and there were good reasons why an emergency RIPA application could not be made. The reasons for the operation and its emergency nature should be noted by the CCTV operative and a RIPA application be made as soon as is practical.

When another agency asks to use the council's CCTV and other facilities for its own investigation/operation, it is for that agency to obtain their own RIPA authorisation. They should be asked to put their request in writing, addressed to the Legal Department and containing a certificate from the authorising officer proving that the

operation has been authorised by that agency. If in the judgement of the CCTV operative the request is urgent, i.e. any delay would jeopardise the operation, they can authorise the use of the Council's CCTV system but only upon receiving an undertaking from an officer of the agency that authorisation has or will be obtained. Details of the request should then be recorded by the operative and a copy of the authorisation sought as soon as is reasonably practicable. Copies of these records should then be sent to the Legal Department.

**NORTH LINCOLNSHIRE COUNCIL**

**BENEFIT FRAUD STRATEGY**

**Introduction**

This document outlines the strategy for addressing Housing Benefit and Council Tax Benefit fraud and will be subject to continual review.

The Investigations and Interventions Manager has overall responsibility for the Section reporting to the Local Taxation and Benefits Manager.

The fraud section consists of, the Senior Investigation Officer, and five Investigation Officer posts, of which one is filled by two part time staff.

The council has been compliant with the Verification Framework since 2001. The visiting team consists of one Senior Visiting Officer, and three Visiting Officers. They conduct the High Risk Intervention visits.

Supporting these two teams are 3 Intervention Admin Officers who provide all the relevant admin support.

There are five elements of work within the fraud section and these are broken down as follows: Awareness, Prevention, Detection, Deterrence and Overpayment recovery.

This document should be read in conjunction with the Sections Prosecution Policy, Fraud Business Plan and the Local Taxation and Benefits Service Plan as all documents taken together inform the reader of the work of the fraud section.

**1. Fraud Awareness**

The Council has a duty to make staff aware of fraud and potential fraud. By raising awareness all staff can work together to increase prevention and detection. It is also important that claimants are aware of the consequences of committing fraud.

- A programme of training in fraud awareness for all staff is undertaken. All benefit assessment officers, customer service staff and Local Link staff have attended sessions delivered by the Investigation Manager or Senior Investigation Officer.
- All new starters to the Service spend time within the Fraud Section as part of the Induction process.
- Some of the more experienced staff have also spent time within the section including conducting visits with the visiting staff.

- A detailed booklet has been produced which was given to all staff. That booklet will be revised, updated and re-issued in the financial year 2005/6.
- Other initiatives currently in place to raise awareness of fraud with staff, claimants and the general public are
  - An advertisement is being published in the Community Safety, crime reduction leaflet delivered to all properties.
  - Posters are being displayed at all offices open to the public
  - An article/advertisement in the North Lincolnshire Council magazine "Direct" delivered to all homes.
  - An article in the 'People ' newsletter issued to all council employees.
  - A monthly article about the work of the team in the Local Taxation and Benefits newsletter.
  - Possible advertising on radio. This is always considered when funds allow.
  - The team have had successful prosecutions reported on local radio and even one case on national television and in the national press.
  - Together with our neighbouring Unitary Councils we are purchasing a Fraud Awareness video developed by the Core Cities group of the 10 largest Councils in the country. It is intended to show this video to all staff involved with Housing Benefit and Council Tax Benefit, play the video to members of the public attending the Local Link offices. It will also be made available to all staff and the general public by displaying it on the Council's website.
  - Regular press releases to update the general public on successful prosecutions and of the performance of the section in general.
  - There will also be monthly performance reporting to the Head of Finance and this will be fed through to Members.
  - The Investigation Manager has briefed Members of both parties on the performance of the Section.

Every attempt will be made to ensure that successful prosecutions for fraud are well publicised in the local press. Public Relations will be informed in advance of any prosecution to try and ensure a press presence in court.

## **2. Fraud Prevention**

The current Government initiatives reflect the change in emphasis from detection to fraud prevention, thereby preventing fraud from entering the system in the first instance.

A secure gateway to the benefits system is essential. Staff dealing with incoming applications at the Local Link offices and the post room are trained to verify original documentary supporting evidence. Any doubts they have are referred promptly to the Investigation Manager or any of the Investigation and Visiting team.

In accordance with the Verification Framework, as part of the assessment process, the assessment officers are required to thoroughly check all applications to ensure they have been signed, evidence of identity and National Insurance numbers exist, all income and savings declared have been verified. Any discrepancies are identified and queried with the customer.

The raising of staff awareness should lead to more fraud and error being prevented, and irregularities being spotted at an earlier stage thereby reducing overpayments.

Other initiatives are

- Implementation of a new standard application form that meets if not exceeds the recommended by the Benefit Fraud Inspectorate (BFI). This form asks for more information and requires more proofs, it will assist in obtaining all the required information at the earliest opportunity. The need to write out for more information should be drastically reduced.
- Continued compliance with all elements of the Verification Framework including reviews and visits.
- The Council is meeting the requirement to conduct monthly data matching. The High Risk Intervention data that is supplied by Housing Benefit Matching Service is used to determine the cases that are required to be subjected to intervention.
- The Council is processing the data matches within the required two months and is meeting the number of High Risk Intervention visits and postal interventions, namely 5,500 interventions of which a minimum of 2,800 are to be conducted by visit.

### **3. Fraud Detection**

North Lincolnshire Council has always been strong on fraud detection and continuously exceeded the Weekly Benefits Savings (WBS) thresholds set by the Government prior to the scheme being abolished on 31<sup>st</sup> March, 2002, and the Weekly Incorrect Benefit (WIBS) thresholds that replaced it.

All fraud allegations are examined, are risk assessed, scored and only the highest scoring cases (about 75% of allegations received) are allocated to a fraud investigator. This ensures that scarce resources are maximised.

The Council participates in the National Fraud Initiative and the Section has been commended by the Audit Commission for its thorough work.

It also has taken part in data matching with the Housing Benefit Matching Service (HBMS) with great success for many years.

The team have utilised the Royal Mail ' Do Not Redirect ' service and all outgoing benefit post is sent out in the appropriate envelopes.

The team have been members of the National Anti Fraud Network, and have used all of their services for the purposes of intelligence gathering including the use of Social Security Fraud Act, 2001 Authorised Officer Powers.

The Council subscribes to Local Authority Investigation Officers Group (LAIOG) and attends all the meetings.

The Council used to attend the South Humber MAITS meetings (Multi Agency Investigation Team) and has since it was disbanded attended the GAIN meetings (Government Agencies Intelligence Network).

The team also make use of the DWP's Operational Intelligence Unit (OIU) to gather intelligence particularly as a conduit to the Inland Revenue.

There is good liaison with the local CFIS and local Specialist Teams including regular meetings, which are minuted.

The benefits of partnership working continue to be achieved through joint working on a daily basis. The section prides itself in being a leader in best practice when it comes to joint working having been actively involved with joint investigations for many years.

The Council is also involved with the North East Yorkshire / South Humberside Joint Regional and Operational Boards as part of the Governments Closer Working Initiative, to encourage more joint working between Local Authorities and the Benefits Agency. It always attends and takes an active part in the regular meetings.

Regular meetings to share ideas, good practice and undertake benchmarking continue with our neighbouring unitary authorities.

There is a degree of proactive fraud work done which includes investigations and targeting groups of claimants that are most likely to commit fraud. These have included SSP claimants, Contribution based Jobseekers Allowance recipients, employers where previous experience has indicated employees may be failing to declare their employment, and residency visits both prior to payment and cheque delivery.

In order to improve fraud detection the Government gave fraud officers powers of inspection (Circular F4/2001), this provides designated fraud officers with powers to request wages details and pension information and can visit employers or pension providers to obtain this information if it is not supplied etc. Non-compliance may lead to legal proceedings.

The BFI has recommended that these powers be used. In order to do so the Council requires designated fraud officers who have been trained and authorised by DSS trainers. All fraud officers are fully trained in these procedures.

These powers have been enhanced to obtain information from banks, finance companies and utilities. The Council makes use of these powers by utilising the Operational Intelligence Unit and National Anti Fraud Network.

A training schedule is in place for all new starters, a training needs analysis exists and ongoing training takes place regularly for all fraud officers regarding changes in procedures and policies. Procedures are currently being updated and documented again although all staff have access to the DWP issued Fraud Investigator Guide which is held on the NAFN website.

Regular Employee Development Reviews take place to identify training needs.

A need has recently been identified for the fraud officers to receive basic benefits refresher training and that has recently been undertaken in February and March 2005. An online benefits procedure manual exists supplied as part of the ongoing support and development contract with Atkins.

All fraud staff have a copy of the councils prosecution policy which is regularly reviewed and they work in accordance with this policy.

All fraud staff have been trained to PINS standard (Professionalism in Security) and the manager has obtained the managerial certificate.

A code of conduct for investigation officers and visiting officers is in existence and each officer a copy and has signed to say that it will be complied with.

Any surveillance that is undertaken is correctly actioned in accordance with the Regulation of Investigatory Powers Act and the Human Rights Act. The fraud officer completes the appropriate form and the manager checks it before being submitted to Legal. This authorisation is valid for three months but is continuously reviewed on a monthly basis. All staff have a copy of the relevant procedures. The section has been commended for the quality of its work both by Legal and on inspection by the Office of the Surveillance Commission

The details are well controlled by the fraud manager and the Legal Section who ensure the powers are correctly used in accordance with the legislation.

#### **4. Fraud Deterrence**

A good prosecution policy that is well used and cases are publicised when successful will act as a deterrent to persons considering committing fraud

All relevant staff have a copy of the Council's policy which is regularly reviewed and updated.

The council's legal section, the Department for Works and Pensions Solicitors and when appropriate the Crown Prosecution Service undertake prosecutions.

Fraud officers will attend court to act as prosecution witnesses, and to give evidence. Fraud staff have been trained to conduct taped interviews under caution. These are normally carried out at Church Square House in a special interview room used by trading standards officers. However, the investigation staff also make use of interview rooms at Local Link and Area Housing Offices as well as conducting interviews in customers homes.

External training has been received regarding evidence required for prosecutions etc. (PINS)

The Council uses the full range of sanctions available to it in order to ensure that anyone caught perpetrating benefit fraud is both punished and is deterred from re-offending.

Publicity is always sought for prosecutions, particularly for major cases and the Section has received favourable write ups in the local paper and reports on local radio news.

Regular publicity for major exercises and also of performance in general is also sought.

At the same time it is recognised that being subject to an investigation and an interview under caution can sometimes by itself be sufficient deterrent to prevent someone committing further acts of fraud. The seriousness of the procedure followed often focuses the mind of those people who have never before been subject to a criminal investigation.

It is also true that targeted visiting by the VF team also acts as a deterrent. After being VF compliant for 4 years, most benefit customers have had at least one visit. Being aware that the Council conducts most of these High Risk Intervention visits unannounced ensures that the customers are aware that they need to report any changes promptly to avoid further action.

Due regard is given to the Human Rights Act to ensure that all potential fraud cases are treated equally and that the prosecution policy is not manipulated solely to maximise income.

## **5. Staff Performance**

The Section and each individual officer have a performance target to achieve in respect of prosecutions and sanctions.

The manager or senior investigation officer monitors the work of the fraud staff and checks the number of cases entered on the fraud management system. A sample is checked from the month end reports.

Section performance in general and against the BVPI's in particular is reported on a monthly basis.

## **6. Fraud Management System**

The Sx3 Fraud Module has been purchased and implemented as the management system.

The previous in-house solution has been retained for archive purposes.

## **7. New Fraud Incentive Scheme**

The WBS scheme was replaced, from 1 April 2002, by a new incentive scheme. (SAFE)

The Council's suppliers, Sx3, have produced software for the new scheme.

The Council will be rewarded for its success in achieving prosecutions, cautions and administrative penalties. These will be undertaken having due regard to Human Rights legislation and the Council's prosecution policy whereby every case will be treated on its merits.

## **8. Overpayments**

Three members of staff within the Benefits Technical Section carry out the recovery of benefit overpayments.

Procedures regarding the raising and recovery of overpayments are regularly revised.

Cabinet approval has been granted for the use of external collection agents to assist with the recovery of overpaid benefit. Attempts are made to recover all recoverable overpayments but it is recognised that it is particularly important to recover fraud overpayments.

All methods of recovery are utilised from arrangements on sundry debtor invoices, deduction from ongoing housing benefit, deductions from other social security benefits, referring debts to collection agents, court action and compensation orders from the courts following criminal prosecutions.

Approval has also recently been given to recovering debts from landlords, the so called 'Blameless Tenant' method.

## **BENEFIT FRAUD PROSECUTION POLICY**

North Lincolnshire Council is committed to tackling and countering benefit fraud, recognising the drain it places on public funds.

The measures taken by the council in order to detect and deter housing benefit and council tax benefit Fraud are set out in the Housing Benefit Anti - Fraud Strategy and Business Plan. This document sets out the council's policy on the further action which will be taken following an investigation when it has been established that housing benefit and / or council tax benefit has either been obtained or an attempt has been made to obtain these benefits fraudulently.

### **OPTIONS AVAILABLE**

If, after the investigation of an allegation of fraud, the evidence demonstrates that fraud has been established 'beyond doubt' and the case is considered serious enough to warrant further action being taken, the council has three options: -

1. To prosecute
2. To offer an administrative penalty.
3. To offer a formal caution

Each case will be considered on its own merits and the council will not operate a blanket policy of instigating a sanction purely on the amount of overpayment.

### **PROSECUTION**

Prosecutions will be brought using the following legislation:-

- S111 Social Security (Administration) Act, 1992
- S112 Social Security (Administration) Act, 1992
- Theft Act, 1968
- Criminal Attempts Act, 1981
- Any other relevant legislation.

Cases will be referred promptly to the council's Legal Department.

Following joint investigations with the Department for Work and Pensions, cases will be referred to their solicitors, SOLP.

Cases may be referred to the police and / or the Crown Prosecution Service (CPS) should a case be deemed to be very serious.

## **DECISION TO PROSECUTE**

The decision to prosecute an individual is a serious matter. Each case should be considered on its own merits.

A ' Decision to Prosecute' pro-forma must be completed in every instance giving details of the offence, the other options that have been considered and why it is proportionate and appropriate to bring proceedings,  
In recommending prosecution there are two tests to consider:-

- The Evidential Test
- The Public Interest Test

### **The Evidential Test**

The investigation must have established sufficient evidence to provide a realistic prospect of conviction against the defendant. That means that a bench of magistrates or a jury are more likely than not to convict the defendant of the offence prosecuted.

### **The Public Interest Test**

The public interest test must be considered after it has been determined that evidence exists which would provide for a realistic prospect of conviction.

If a case is deemed serious enough to bring proceedings, a prosecution will usually follow unless there are any public interest factors tending against prosecution which clearly outweigh the reasons for prosecuting.

Although in many instances there may be some public interest factors against prosecution, usually these are outweighed by the reasons for prosecution and as such the matter should still be brought to court. Advice should be sought from Legal Services if in doubt.

The factors both for and against prosecution must be balanced carefully and fairly. Public interest factors are usually the seriousness of the offence and the circumstances of the defendant. Some factors may increase the need to prosecute whilst others suggest another disposal may be more appropriate

#### **Public Interest Factors in Favour of Prosecution**

- A conviction is likely to result in a significant sentence.
- The defendant was in a position of authority or trust.
- The offence was premeditated.
- The defendant was a ringleader or an organiser of a multiple offence.

- There is evidence that the offence was carried out by a group.
- The defendant has previous convictions for benefit fraud or dishonesty or has such a poor record and is clearly a 'professional criminal' that no other disposal is suitable.
- There are grounds for suspecting that the offence is likely to continue or be repeated.
- The offence, although not serious in itself is widespread in the locality and a prosecution for deterrence purposes is highly desirable.

### **Public Interest Factors Against Prosecution**

- The court is likely to impose a very small or nominal sentence.
- The offence was committed as a result of a genuine mistake or misunderstanding
- The loss or harm can be described as minor and was the result of a single incident, particularly if a genuine mistake as described above.
- There has been an unreasonable delay between the offence being perpetrated and being brought to court. (Article 6 European Convention on Human Rights).
- A prosecution could potentially have a very bad effect on the defendant's physical or mental health, (this must be considered carefully against the seriousness of the offence).
- The defendant is very elderly or is now, or was at the time of the offence being committed, suffering from significant ill health. (this must be considered carefully against the seriousness of the offence).
- The defendant has repaid the overpayment in full (but there must be no suggestion of a defendant buying their way out of a prosecution).

### **FURTHER PROSECUTION CONSIDERATIONS**

If the evidential test and the public interest tests are satisfied, the following factors will also have to be taken into consideration.

These include: -

- The amount of the overpayment
- The duration of the fraud
- Voluntary disclosure

- Failure in benefit administration (official error).
- Prevalence of similar fraud in the area.
- Any evidence of collusion with employer or landlord.
- Deterrence factors of good publicity.
- Did the defendant continue to deny the offence even when confronted with the evidence?
- Whether prosecution would result in any negative publicity for the council.
- Ensuring compliance with the Police and Criminal Evidence Act, 1984 (P.A.C.E.)
- Ensuring compliance with Criminal Procedures and Investigation Act, 1996 (C.P.I.A.)
- Ensuring compliance with the Regulation of Investigatory Powers Act, 2000 (R.I.P.A.)

## **APPLICATION OF SANCTIONS**

A caution or administrative penalty should only be offered if the evidence obtained supports a prosecution.

- **Formal Caution**

This is an alternative to prosecution and is the same as that administered by the Police.

Formal Caution should be applied in cases that are deemed not quite serious enough to warrant prosecution i.e. the overpayment is at the lower end of the scale - normally below £1,500.

The caution should only be considered if the defendant has fully admitted the offence at interview and has no previous convictions. It will therefore be necessary to undertake checks with the Administration and Support Unit at Scunthorpe Police Station and with the Department for Work and Pensions Professional Standards Unit at Leeds.

If cautions or prosecutions for benefit fraud and / or theft or deception offences already exist then the case is probably not suitable for a caution and an administrative penalty or prosecution should be considered.

However, there are instances when it might be appropriate to offer a caution for an amount in excess of £1,500 if either the Investigation Manager or Legal Department

felt it was inappropriate to prosecute but the offence was serious enough to warrant further action. Any reasons will be fully recorded on file.

Similarly, there may be instances when an overpayment falls into the category to consider for a formal caution but because of the nature of the offence it is more appropriate to prosecute. Again any reasons will be fully documented on file.

The caution can be registered with the police on the Police National Computer (PNC) and the defendant is required to sign a certificate admitting their offence. There may be instances when, to ensure the defendant appreciates the serious nature of the offence, a caution is considered more appropriate than an administrative penalty and the Investigation Manager will still have the discretion to make that decision when appropriate.

Following joint investigations with the Department for Work and Pensions a caution may be offered if both parties agree it is appropriate provided that the collective overpayment falls into the financial threshold of either the council or the DWP's prosecution policy.

A 'Decision to Caution' pro-forma must be completed in every instance giving details of the offence, the purpose of the caution and explaining why the offer of a caution is appropriate.

The Investigation Manager is designated as the officer responsible for conducting the formal caution interview and offering the caution. The Senior Investigation Officer may deputise in his absence.

- **Administrative Penalty**

This can be considered for offences, which have resulted in overpayments below £1500. The penalty is essentially a 30% 'fine' of the overpayment amount.

Generally it should be considered when the Investigation Manager or Legal Department are of the opinion that criminal proceedings are inappropriate in the first instance but either the defendant has not fully admitted the offence at interview or his previous convictions preclude a formal caution being offered.

Unlike the formal caution there is no requirement for the defendant to make a written admission of the offence.

However, should the defendant not accept the penalty, a prosecution should follow in most cases.

Although a penalty can be considered for overpayments below £1,500, the Investigation Manager and Legal Department may still consider using a formal caution or commencing criminal proceedings if it was felt more appropriate.

Following a joint investigation with the Department for Work and Pensions an administrative penalty may be offered if both parties agree it is appropriate provided

the collective overpayment falls into the financial threshold of either the Council's or DWP's prosecution policy.

A 'Decision to Offer an Administrative Penalty' pro-forma must be completed in every instance outlining the offence, the purpose of offering the penalty and explaining why an administrative penalty is the most suitable disposal.

The Investigation Manager is designated as the officer to be responsible for conducting the administrative penalty interview. The Senior Investigation Officer will deputise in his absence.

- **Prosecution**

All cases of proven fraud with an overpayment in excess of £1,500 will be considered for prosecution.

However, there is no minimum value to be prescribed and should either the Investigation Manager or Legal Department or the Department for Work and Pensions in joint investigations consider it appropriate, a prosecution may be brought for a lesser amount. There may be circumstances when the Legal Department or Investigation Manager considers it more appropriate to offer an alternative sanction for a case which meets the financial value for a prosecution. In such instances the reasons for doing so will be fully documented.

A 'Decision to Prosecute' pro-forma must be completed in every instance giving details of the offence, the other less serious disposal options that have been considered and why it is suitable and proportionate to prosecute.

Files will be prepared by the investigating officer as soon as possible and referred to the Investigation Manager to check and make recommendations to the council's Legal Department. The Senior Investigation Officer will review files in the Investigation Managers absence.

Publicity will be sought by contacting Public Relations prior to a case being heard at court.

## ANTI-MONEY LAUNDERING POLICY

### 1.0 INTRODUCTION

- 1.1 The Proceeds of Crime Act 2002, The Terrorism Act 2000 and the Money Laundering Regulations 2003 place obligations on the council and its employees with respect to suspected money laundering. The council has considered the requirements of the relevant legislation and researched best practice in arriving at the procedures stated below and in adopting the procedures is committed to the prevention, detection, and reporting of money laundering activities.

### 2.0 SCOPE OF THE POLICY

- 2.1 This Policy, is an integral part of the Anti Fraud, Theft and Corruption Strategy and should be read in conjunction with other sections of it. The policy applies to all employees and elected members of the council, along with contractors and partners engaging with the council. The Policy sets out the procedures, which must be followed to enable the council to comply with its legal obligations.
- 2.2 Failure by an employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the council's Disciplinary Policy.
- 2.3 Service Directors and managers must ensure that all employees are aware of this policy, and the wider Anti Fraud, Theft and Corruption Strategy.

### 3.0 WHAT IS MONEY LAUNDERING?

- 3.1 The definitions within the act are lengthy and cover all specific offences, in summary form the Serious Organised Crime Agency (SOCA), who investigate referrals, refer to it as

*“Any action taken to conceal, arrange, use or possess the proceeds of any criminal conduct. Criminals try to launder ‘dirty money’ in an attempt to make it look ‘clean’ in order to be able to use the proceeds without detection and put them beyond the reach of the law enforcement and taxation agencies. “*

- 3.2 Potentially any employee, member, contractor or partner may be directly involved, and this is punishable by up to 14 years imprisonment. There are also two secondary offences; failure to disclose any of the offences and tipping off. Tipping off is where the suspected offender is informed of the suspicion, in such a way as to reduce the likelihood of them being

investigated or prejudicing the investigation. The secondary offences are punishable by fine (no limit set) and up to 5 years imprisonment.

- 3.3 Any employee could potentially be caught by the money laundering provisions and, if they suspect money laundering and become involved in it or do nothing about it. The policy sets out the process for raising concerns and how they will be addressed.

#### 4.0 OBLIGATIONS ON THE COUNCIL

- 4.1 The act sets out the organisations conducting 'relevant business' and requires them to adopt a number of key measures to counter money laundering. Relevant business includes services where income is collected, accountancy and internal audit, financial company and property transactions. However the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the council; therefore, all employees are required to comply, regardless of where they work. The six measures, are;

**Internal controls and procedures**, which include ensuring employees, are aware of their responsibilities, designing checks aimed at preventing and detecting money-laundering activity, for example

- **no cash payments exceeding £5000 will be accepted,**
- **refunds, where a significant overpayment has been received will need to be considered further before a payment is made**

Also appointing a Money Laundering Reporting Officer (MLRO) to receive disclosures and address them accordingly. (further detail in section 5)

**client due diligence**, the council is required to know their customers, and maintain client identification procedures in some circumstances. (further detail in section 7)

**reporting of suspicious transactions**, there should be standard documents covering reporting to MLRO, a corresponding receipt to be issued for all referrals, and investigation and decision records, and the templates for reporting activity to the SOCA. (further detail in section 6)

**training and awareness**, all relevant employees should understand the money laundering risk, legal obligations and responsibilities

**record keeping**, it must be possible for the council to recover all information relating to a transaction, it can be stored in any format as long as it is readily accessible for 5 years. (further detail in section 8)

**Monitoring**, the council should consider buying an anti money-laundering product.

## **5.0 MONEY LAUNDERING REPORTING OFFICER**

5.1 The officer nominated to receive disclosures about money laundering in the council is the Service Director Finance, the deputy authorised to act in his/her absence is the Audit and Risk Manager.

5.2 The MLRO, is responsible for;

- maintaining this policy,
- providing support and advice on anti money laundering controls, identification procedures, and record keeping
- providing training on request and ensuring awareness is maintained
- maintaining a disclosure procedure, including the reporting system and the documentation shown at the Appendices
- investigating referrals and determining if a Serious Activity Report should be made to the SOCA
- obtaining the necessary consent and responding to the referrer on the course of action that is to be taken.

## **6.0 DISCLOSURE PROCEDURE**

### **6.1 Reporting to the Money Laundering Reporting Officer**

6.1.1 Where you know or suspect that money laundering activity is taking or has taken place, or become concerned that your involvement in a matter may amount to an offence under the Act, you must disclose this as soon as possible to the MLRO, not doing so is a secondary offence itself under the act. This disclosure should be made using the form at Appendix A

6.1.2 The form must include as much detail as possible, and should ideally be completed with the assistance of the MLRO for example

**Section 1** – Is this a suspected offence?

**Section 2** - Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc;

**Section 3** -Full details of the type of transaction being dealt with, the nature of their/your involvement. If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the 2002 Act, then your report must include all relevant details as you will need consent from the Serious Organised Crime Agency (SOCA), via the MLRO, to take any further part in the transaction. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g.

- a completion date or court deadline;

- The types of money laundering activity involved: if possible, cite the section number(s) under which the report is being made e.g. a principal money laundering offence under the 2002 Act (or 2000 Act), or general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act), or both;
- The dates of such activities, including: whether the transactions have happened, are ongoing or are imminent;
- Where they took / are taking place;
- How they were / are being undertaken;
- The (likely) amount of money/assets involved;

**Section 4** - Why you are suspicious – the SOCA will require full reasons, together with any other available information to enable the MLRO to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his report to the SOCA, where appropriate, if reasons for your suspicion are not given to SOCA they may return your form. You should also enclose copies of any relevant supporting documentation

**Section 5** – Are you aware of any investigation already being undertaken by your Department or others in relation to this matter.

**Section 6** – For example other employees or team leaders

**Section 7** – State full details of who you have contacted, their response / guidance / action to be taken.

**Section 8** – If you are a lawyer advising clients in the course of litigation you are exempt of Proceeds Of Crime Act 2002 to report suspicions of money laundering.

6.1.3 Once you have reported the matter to the MLRO you must follow any directions he may give you. **You must NOT make any further enquiries into the matter yourself:** any necessary investigation will be undertaken by the SOCA. Simply report your suspicions to the MLRO, who will decide whether a disclosure is required and complete part B of the forms. The MLRO will in turn refer the matter on to SOCA if appropriate. All employees will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

## **6.2 Money Laundering Disclosure Form Part 2 : Money Laundering Reporting Officer**

6.2.1 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it

He/she should also advise you of the timescale within which he expects to respond to you.

6.2.2 The MLRO will consider the report and any other available internal information he thinks relevant e.g.

- reviewing other transaction patterns and volumes;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held; and undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the SOCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

6.2.3 Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- whether he needs to seek consent from the SOCA for a particular transaction to proceed.

6.2.4 Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the SOCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the SOCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

6.2.5 Where the MLRO suspects money laundering but has reasonable cause for non-disclosure, then he must note the report accordingly (the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the SOCA), he can then immediately give his consent for any ongoing or imminent transactions to proceed. Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.

6.2.6 Where consent is required from the SOCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the SOCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the SOCA.

6.2.7 All disclosure reports referred to the MLRO and reports made by him to the SOCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

6.2.8 ***The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the SOCA.***

## 7.0 CLIENT IDENTIFICATION PROCEDURE

7.1 Service Directors and managers shall ensure that where the council is carrying out 'relevant business' and:

- a) forms an ongoing business relationship with a client; or
- b) undertakes a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £10,000) or more; or
- c) undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £9,500) or more; or
- d) it is known or suspected that a one-off transaction (or a series of them) involves money laundering; then this Client Identification Procedure must be followed before any business is undertaken for that client. **Please note that unlike the reporting procedure, the client identification procedure is restricted to those operating relevant business.**

7.2 In the above circumstances, employees in the relevant section of the council must obtain satisfactory evidence of the identity of the prospective client, as soon as practicable after instructions are received (unless evidence of the client has already been obtained). This applies to existing clients, as well as new ones.

7.3 Once instructions to provide relevant business have been received, and it has been established that any of paragraphs 7.1 (a) to (d) apply, evidence of identity should be obtained as follows:

7.3.1 The Service Directors and managers maintain a client identification file of general client identification evidence. This file should be checked for that the organisation that identification is included. If the organisation is not included you should also then obtain the following additional evidence:

7.3.2 With instructions from new clients, or further instructions from a client not well known to you, you may wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself.

7.4 In all cases, the evidence should be retained for at least five years from the end of the business relationship or transaction(s).

7.5 ***If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot proceed any further. If there is an unjustified delay in the evidence of***

***identity being obtained from the client or where the client is deliberately not providing the evidence a disclosure will have to be made.***

## **8.0 RECORD KEEPING PROCEDURES**

- 8.1 Each area of the council conducting relevant business must maintain records of:
- client identification evidence obtained; and kept for 5 years from the completion of the transaction
  - details of all relevant business transactions carried out for clients for at least five years from the completion of the transaction. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.
- 8.2 The precise nature of the records are not prescribed by law, however, they must provide an audit trail during any subsequent investigation, e.g. distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, each section of the council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.
- 8.3 **At no time and under no circumstances should suspicions be voiced** to the person(s) suspected of money laundering, even if the SOCA as given consent to a particular transaction proceeding, otherwise you may commit a criminal offence of “tipping off”. Do not, therefore, make any reference on a client file to a report having been made to the MLRO. Should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner

## **9.0 REVIEW**

- 9.1 This Anti Money Laundering Policy will be reviewed annually by the MLRO to ensure that it remains up to date

## **10.0 CONCLUSION**

- 10.1 The legislative requirements are lengthy and complex. The policy has been written so as to enable the council to meet the legal requirements in a way, which is proportionate to the low risk to the council of the contravening the legislation.
- 10.2 Any concerns should be referred to the MLRO

**Counter Fraud Activity Reported to the Audit Committee  
2008/2009**

Report/ date	Assurance provided
<p>April 2008 National Fraud Initiative</p> <p>Internal Audit Plan</p> <p>Risk Management Strategy</p> <p>Review of effectiveness of Audit Committee</p> <p>Internal Audit Progress report</p> <p>Annual Audit &amp; Inspection Letter</p>	<p>All potential matches adequately investigated in a timely manner. Few cases were found indicating the strength and effectiveness of underlying controls. Positive outcome from Audit Commission inspection</p> <p>Resources are designated to carry out proactive and reactive counter fraud work within the audit plan.</p> <p>Strategic and operational risks that could result in fraud are being adequately considered</p> <p>Committee was generally effective but further work necessary to evaluate the council's arrangements against best practice as defined by CIPFA</p> <p>Work of the team in raising awareness of the counter fraud approach and the use of publicity to deter and prevent fraud was included</p> <p>Effective governance arrangements are in place</p>
<p>June 2008</p> <p>Internal Audit Annual Report</p> <p>Anti Fraud work</p> <p>Annual Governance Statement</p>	<p>Proactive counter fraud work was carried out. All potential frauds were investigated and internal control issues considered. Overall opinion on the adequacy of the control environment was positive.</p> <p>An overview of arrangements against best practice as defined by CIPFA. Although there was full compliance in most areas further work on a detailed risk assessment was agreed, to ensure compliance in all areas possible.</p> <p>The AGS provided an evaluation of the adequacy of the council's governance arrangements (including counter fraud measures). These were generally good and meet best practice in most areas. Any areas for</p>

	improvement were highlighted.
<p>Sept 2008</p> <p>Corporate Governance review</p> <p>Anti fraud work</p>	<p>Good level of compliance with CIPFA/SOLACE framework (includes Codes of Conduct), and that progress had been made on the previous years audit findings.</p> <p>Follow up work to June report – Risk assessment carried out to evaluate the level of compliance with best practice appropriate for the council. Council was assessed as low risk and the level of compliance was good based on this risk profile. A plan of actions necessary to further enhance the anti fraud culture was agreed.</p>
<p>December 2008</p> <p>Strategic Controls</p> <p>External Audit review of internal Audit</p> <p>Internal Audit progress report</p> <p>Data Quality</p>	<p>Strategic risks that could result in fraud are being adequately managed</p> <p>Work (including counter fraud) performed to professional standards and can be relied on by external audit.</p> <p>An update on current issues provided. Sufficient progress is being made on the authorised signatory lists – a counter fraud control. Specific counter fraud training for members was reported as well received.</p> <p>Measures are in place to ensure reliable data underpins performance information produced to ensure that potential areas of concern can be identified and addressed promptly</p>