Leicester City Council

WARDS AFFECTED
All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Audit and Risk Committee   **29th September 2014**

_____

Review of the Anti-Fraud, Bribery and Corruption Policy and Strategy

_____

Report of the Director of Finance

1.   PURPOSE OF REPORT

1.1   The Terms of Reference of the Audit and Risk Committee include the requirement "To review and approve, on an annual basis, the Council's anti-fraud and corruption policies and procedures".

1.2   The purpose of this report is to present to the Committee a review of the Anti-Fraud, Bribery and Corruption Policy and Strategy. The aim is to ensure that Members and Officers consider the measures in place to prevent, deter and detect fraud.

1.3   The revised Anti-Fraud and Corruption policy includes a number of key priority areas.

1.4   The purpose of the policy is to ensure that Members and Officers take the necessary steps to prevent, deter, detect and investigate fraud and that the Council has in place proper procedures to prevent corruption including bribery.

2.   RECOMMENDATIONS

2.1   The Audit and Risk Committee is recommended to:

a) Receive the report;

b) Approve the Anti-Fraud, Bribery and Corruption Policy; and,

c)   Make any recommendations or comments it sees fit either to the Executive or Director of Finance.

3.   SUMMARY

3.1   The Council has had an Anti-Fraud and Corruption Policy for a number of years and demonstrates its commitment to addressing fraud and corruption. The policy is

reviewed annually and this latest review focusses on key risk areas identified through investigations undertaken by the Council's fraud teams.

3.2 A key feature of the Counter Fraud Strategy will be to put into place a counter fraud, bribery and corruption plan linked to the Council's overall strategic objectives. High fraud risk areas will be targeted using proactive fraud techniques and appropriate key priorities will be identified.

3.3 The revised Anti-Fraud, Bribery and Corruption Policy is included as Appendix 1.

4. REPORT

4.1 The prevention, detection and investigation of financial irregularities including fraud and corruption (which may involve bribery) are an important activity for local authorities.

4.2 The current economic climate continues to challenge many individuals and some may be tempted to commit fraud. It is important that the Council recognises where the threats lay and what steps can be taken to mitigate the risks.

4.3 The cost of fraud to the public purse is significant. In November 2013 the Audit Commission published its annual document *"Protecting the Public Purse".* It reported that figures provided by the National Fraud Authority indicate that fraud against local government costs more than £2 billion. This is broadly the same as last year when the cost was estimated to be £2.2 billion.

4.4 The Audit Commission reported that in 2012/13 local authorities detected fewer frauds than in 2011/12, had they detected the same number of frauds the reported loss would have been far greater.

4.5 In 2012/13, the National Fraud Authority estimated that procurement fraud would cost local authorities £876 million, making it the single largest area of financial loss to fraud in local government. In 2012/13, the total value of detected procurement fraud by local authorities was £1.9 million. This suggests that far greater attention should be given to tackling procurement fraud.

4.6 £2.3 million of fraud was committed against schools, £1.9 million of this involved internal fraud.

4.7 Local government bodies are targeting their investigative resources more efficiently and effectively. Nationally, excluding housing tenancy frauds, more than 107,000 cases of fraud, with a value of £178 million were detected in 2012/2013. This compares with 124,000 cases of fraud, with a value of £179 million in 2012/2013. Whilst the majority of these frauds relate to Housing Benefit and Council Tax some Councils are noticing an increase in fraud in other areas. In 2012/2013 102 cases of Right To Buy fraud were detected, an increase of 168% since 2011/2012 and 200 cases of social care fraud worth £4 million were reported, a 64% increase in value since 2011/2012.

4.8 The Councils' Counter Fraud specialists recognise that emerging and growing risks include business rates, Right to Buy discounts, tenancy fraud, social care fraud, frauds

perpetrated against schools and external fraudsters attempting to extract money from the Council. Ongoing risks include procurement fraud and insurance fraud.

4.9 The Head of Procurement is introducing new contracting and procurement procedures which will provide better value for money for the Council and reduce the risk of fraud, bribery and corruption.

4.10 The Summary, Conclusions and Recommendations from "Protecting The Public Purse" are attached at Appendix 2. These include recommendations specifically aimed at Local Authorities.

4.11 The Audit Commission's checklist for those responsible for governance and questions for Councillors are attached at Appendix 3.

4.12 The Annual Counter Fraud Report for 2013/14 and the first three months of this financial year is also being presented to this Committee and appraises Members of the Council's position in relation to the checklist.

4.13 Fraud awareness training is available and is routinely delivered in some parts of the Council. The Corporate Counter Fraud Team have provided customised training to address specific risks, including risks associated primarily with schools and details are available on Interface and the School's Extranet. The Benefits Investigations Team have also provided training to Housing Benefits Officers to assist them in identifying potentially fraudulent claims.

4.14 There continue to be a number of attempted frauds against the Council from external organisations. These include invoices being received for goods neither ordered nor received, in some cases followed up by demands made by telephone. There have also been numerous forged and counterfeit cheque frauds, mostly affecting schools. Fraud Warning Notices are posted on Interface and the School's Extranet to alert employees of the danger. The Corporate Counter Fraud Team has worked closely with the bank to ensure that misappropriated funds are reimbursed and to find out what steps the Council can take to prevent losses.

4.15 The Anti-Fraud and Corruption Policy sets out the Council's stance on fraud, bribery and corruption. The Executive, Members, Directors, Heads of Service, managers and employees need to ensure that processes and procedures are in place to prevent, deter, detect and investigate fraud. Where the Council suffers loss, procedures for recovery also need to be in place.

4.16 Any act of dishonesty by or on behalf of, or against the Council, e.g. theft of monies, could fall within the ambit of this policy.

4.17 For the purposes of this report the terms fraud, bribery and corruption are defined as follows:

Fraud – the theft of monies or goods from the Council or any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss.

Bribery - giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.

Corruption - Forms of corruption vary, but include bribery, extortion, cronyism, nepotism, patronage and embezzlement. By its nature corruption can be difficult to detect as it usually involves two or more people entering into a secret agreement.

5.   REVIEW OF THE CURRENT ANTI-FRAUD & CORRUPTION POLICY AND STRATEGY

5.1   The policy identifies the need to embed the risk of fraud and bribery into the culture of the organisation, in other words to ensure that managers and employees consider the risks as part of their day-to-day duties.   Guidance on this and further advice for managers is provided in documentation supporting the Policy.

5.2   The Policy also identifies the need to provide adequate investigative resources to support managers in deterring, detecting and preventing fraud, bribery and corruption. An organisational review of the Counter Fraud Service has been undertaken and The Head of Revenues and Benefits will present a report to Members explaining the new arrangements later in the year.

5.3   The Head of Revenues and Benefits is also developing a mechanism to measure the level of fraud across the Council and assess potential losses. This piece of work is in its early stages and will be developed following the completion of the organisational review.
.

6.   FINANCIAL, LEGAL AND OTHER IMPLICATIONS

6.1   **Financial Implications**

There are no direct financial implications arising from this report. However, theft, fraud and corruption, including bribery, are all offences of a financial nature and can cause significant financial loss to the Council.

Colin Sharpe
Head of Finance

6.2   **Legal Implications**

Fraud is a criminal offence and therefore represents breach of the law. Other forms of financial irregularity, though not criminal, may be in breach of Council Regulations. The conduct of counter-fraud work of all kinds is bound by law and regulation and the Council is careful to ensure that its activities in this area are properly discharged.

The Bribery Act 2010 applies to the Council and/or senior Council personnel (Officers and/or Members) to the extent that it is covered by the offences of bribing another person, being bribed and bribing a foreign public official. Council Officers could be liable for offences committed with their 'consent or connivance'.

In addition, to the extent that it engages in commercial activities, the Council (and any company established by it) is also covered by an offence of failure to prevent bribery (subject to the defence that is available). A defence is available in respect of the offence of failing to prevent bribery if the Council (or company) can show that it had in place adequate procedures designed to prevent persons associated with the Council from undertaking such conduct (bribery).

Guidance about commercial organisations preventing bribery may be issued from time to time and there needs to be a mechanism in place for adopting such guidance as and when it is issued.

Kamal Adatia

City Barrister & Head of Standards

6.3 Climate Change Implications

This report does not contain any significant climate change implications and therefore should not have a detrimental effect on the Council's climate change targets.

Louise Buckley, Graduate Project Officer (Climate Change)

7. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	**No**	
Policy	**Yes**	Whole document
Sustainable and Environmental	**No**	
Crime and Disorder	**Yes**	Whole document
Human Rights Act	**No**	
Elderly/People on Low Income	**No**	
Corporate Parenting	**No**	
Health Inequalities Impact	**No**	
Risk Management	**Yes**	Whole document

8. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

9. CONSULTATIONS
None

10. REPORT AUTHOR
Linda Fletcher, Principal Investigations Officer 0116 4544044

Leicester City Council Anti-Fraud, Bribery and Corruption Policy and Strategy

1. Policy Statement

Leicester City Council is totally committed to maintaining a zero tolerance towards fraud, bribery and corruption and to the prevention, deterrence, detection and the investigation of all forms of fraud, bribery and corruption affecting its activities. It is also the policy of the Council to prosecute perpetrators of financial irregularity in accordance with the Council's Prosecution Policy. Additionally the Council vigorously pursues any overpaid or fraudulently obtained monies and applies for compensation orders where appropriate.

This policy applies equally to the Executive, elected Members, directors, managers, employees (including those employed through agencies) consultants, those contracted to deliver services for or on behalf of Leicester City Council and agents of Leicester City Council. It also applies to third parties including members of the public and third party organisations.

2. Policy Objectives

To establish and promote a culture of integrity, openness and honesty in the conduct of the Council's business, thereby reducing levels of fraud, bribery, corruption and financial irregularity by:

- Embedding risk management including fraud and bribery into the culture and operations of the Council.

- Providing a framework for managers to enable them to detect, deter and prevent fraud, bribery and corruption.

- Providing adequate investigative resources to support managers to deter, detect and prevent fraud, bribery and corruption.

3. Desired outcomes from the Policy

- Higher profile and awareness of fraud, bribery and corruption throughout the Council.

- Greater management awareness of the risks of fraud, bribery and corruption.

- Improved management controls arising from better risk assessments.

- Improved compliance with Council policy, procedures and practices, for example Finance Procedure Rules and Contract Procedure Rules, as evidenced by ongoing management monitoring, Internal Audit reviews and the level of identified fraud and irregularity.

4. **Strategy**

In order to implement its policy objectives the Council will:

- Put in place a counter fraud, bribery and corruption plan linked to the Council's overall strategic objectives. The plan will incorporate a risk-based approach to managing threats of fraud, bribery and corruption and will identify a small number of key priorities.

- Stimulate commitment from the Executive, elected Members, directors, Heads of Service and managers to reducing fraud, bribery and corruption losses to an absolute minimum.

- Ensure that policies and procedures designed to prevent and deter fraud, bribery and corruption are adopted and consistently implemented across the Council. This will be demonstrated by including the risk of fraud and bribery in operational risk registers and the Strategic Risk Register.

- Ensure that any new policies and procedures consider the risk of fraud, bribery and corruption and are designed to minimise the risk of financial irregularity and loss.

- Utilise the full range of integrated actions available to prevent, deter, detect, sanction and seek redress for fraud, bribery and corruption.

- Measure the level of fraud and corruption across the Council and introduce and maintain measures to reduce it.

- Require support by the Executive, elected Members and directors to foster a zero tolerance culture against fraud, bribery and corruption in the organisation.

- Provide the necessary resources and appropriate authority to management and those tasked with countering and dealing with fraud, bribery and corruption.

- Provide clear and easily accessible advice and guidance, both on Interface and on the Council's website, about how suspected fraud or irregularity should be reported.

5. **Measuring success**

The following indicators will be used to report on the outcomes arising as a result of the application of the Anti-Fraud and Corruption Policy and Strategy

- The number of suspicions of fraud identified by, or referred to, the Corporate Counter Fraud Team or the Revenues & Benefits Investigations Team.

- The number of cases investigated in which fraud or corruption is proven.

- The value of amounts misappropriated (of all kinds including employee time)

- Housing Benefit and Council Tax Benefit Fraud sanctions.

- The number of employees disciplined for offences involving fraud, bribery or corruption

Summary and recommendations

Summary

This report shows those responsible for governance in local government bodies how they can fight fraud more effectively.

- Fraud costs the UK public sector more than £20 billion a year and local government more than £2 billion.
- In a time of austerity, preventing fraud is even more important to protect the public purse.
- Every pound lost through fraud cannot be spent on providing public services.

Local government bodies detected fewer frauds in 2012/13, excluding housing tenancy frauds, compared with the previous year. For these frauds:

- local government bodies detected 107,000 cases, with a value of £178 million, down by 14 per cent and 1 per cent respectively compared with 2011/12;
- housing benefit (HB) and council tax benefit (CTB) fraud accounted for over two-thirds of the total fraud loss value in 2012/13, at £120 million, but only 44 per cent of the total cases detected;
- the average value of all detected non-tenancy frauds increased by 15 per cent in 2012/13; and
- had local government bodies detected the same number of cases as in 2011/12, the reported loss would have been far greater.

London boroughs detected more fraud than in 2011/12.

- London boroughs increased both the number and value of frauds detected by 36 per cent in 2012/13.
- But most non-London regions showed a decline in the number of detected fraud cases in 2012/13, ranging from 6 per cent to 46 per cent.

The pace of local authority activity to tackle housing tenancy fraud is accelerating.

- Local authorities recovered over 2,600 homes from tenancy fraudsters, a 51 per cent increase since 2011/12.
- London councils detected over half (58 per cent) of all tenancy fraud, although the capital accounts for only a quarter of all council housing in England.
- Councils outside London more than doubled the number of tenancy fraud cases they detected, reflecting their increasing commitment to, and success in, tackling this fraud.

107,000 cases, with a value of **£178m**

There is significant variability in detected non-benefit fraud levels between similar councils.

- Over three-quarters (76 per cent) of all detected non-benefit fraud cases are found by one quarter (25 per cent) of councils.
- Some councils, notably 79 district councils, reported no detected non-benefit fraud.

Some councils' capacity to investigate fraud is reducing. All councils need to consider how they prioritise resources.

- In all regions, more councils reduced investigative capacity in 2012/13 than increased it, although most stayed the same.
- London boroughs have done more than other councils to re-focus their counter-fraud resources towards non-benefit frauds.

Some councils are starting to focus more attention on those fraud risks that are growing. In 2012/13, they detected:

- 102 cases of Right to Buy fraud, up 168 per cent since 2011/12; and
- 200 cases of social care fraud worth £4 million, a 64 per cent increase in cases and 82 per cent increase in value since 2011/12.

Councils face reduced funding and new national counter-fraud arrangements. They need to assess fraud risks effectively to target resources where they will produce most benefit. They should:

- maintain their capacity to investigate non-benefit fraud following the introduction of the Single Fraud Investigation Service (SFIS);
- follow the lead of London boroughs and focus more effort on detecting non-benefit fraud, which directly affects their revenue; and
- ensure they have the right skills to investigate all types of fraud, which vary in complexity.

Councillors have a crucial role in supporting the right approach to deter and detect fraud. They can draw on a wide range of assistance to help them do so. They can:

- ensure their council understands local fraud risks;
- compare their council's performance in countering fraud with similar councils;
- ensure their council deploys counter-fraud resources proportionate to risk and focuses on areas of greatest local harm;
- encourage their council to focus more on deterrence, by widely publicising action against fraudsters; and
- increase staff confidence in whistle-blowing arrangements by providing corporate leadership of, and support for, whistle-blowers.

76% of all non-benefit frauds found, were detected by 25% of councils

200 cases of social care fraud, worth £4m, were found in 2012/13

10

Recommendations

All local government bodies should:

- use our checklist for councillors and others responsible for governance (Appendix 2) to review their counter-fraud arrangements; and
- actively pursue potential frauds identified through their participation in the National Fraud Initiative (NFI).

Councils in particular should:

- Actively promote a **vigorous counter-fraud culture** (para 110) by:
  - enforcing robust sanctions for fraud and publicise the action taken, to enhance local deterrence (para 115);
  - encouraging councillors to play an enhanced role in managing the risk of fraud effectively (para 71 & 113); and
  - reviewing their own whistle-blowing arrangements in line with current best practice and applying the lessons learned from the findings of the 2013 Public Concern at Work research on whistle-blowing (para 133).
- Develop a **clear strategy** to tackle fraud by:
  - reviewing their own counter-fraud strategies in the context of the national Fighting Fraud Locally (FFL) strategy to tackle local authority fraud (para 120); and
  - reviewing their own arrangements against FFL good practice guidance to be issued in 2013 and 2014 about frauds in schools, business rates and personal budgets (para 123).
- **Work in partnership** to reduce fraud by:
  - considering how best to maximise the benefit of the Prevention of Social Housing Fraud Act, including closer partnership working with local housing associations (para 63);
  - exploring joint working with other councils, particularly smaller councils with limited investigative capacity (para 43); and
  - realising the benefits of county councils and district councils working together to tackle blue badge fraud (disability parking) in two-tier areas (para 94).
- Prepare effectively for the introduction of the **Single Fraud Investigation Service** by:
  - considering the impact that SFIS will have on their capacity to tackle non-benefit frauds (para 45);
  - maintaining a capability to investigate non-benefit related fraud, proportionate to the risk (para 35);
  - working with SFIS to ensure the approach taken to tackling benefit fraud continues to reflect local priorities and risks (para 46).

11

- Allocate **sufficient resources** to tackling fraud by:
  - focusing more on detecting and recording non-benefit fraud, particularly district councils (para 25); and
  - targeting their counter-fraud resources where they will produce the most benefit, assessing the risk of harm against the measures needed to reduce it (para 18).

- Improve their use of **data to measure their performance** in tackling fraud by:
  - challenging their performance in tackling non-benefit frauds, in particular against the results achieved by the top performing councils (para 25);
  - considering whether to apply the National Fraud Authority's (NFA's) Annual Fraud Indicator methodology to assess the local impact of the most financially significant frauds (para 18);
  - maximising the benefits of reporting frauds through the Action Fraud website (para 146); and
  - requesting an individual fraud briefing from their external auditor (para 144).

The Department for Communities and Local Government should consider:
- extending powers for councils to investigate all frauds, to protect the public purse (para 49); and
- what arrangements need to be put in place to collect and publish data on detected fraud against local public bodies, after the closure of the Audit Commission (para 152).

Action Fraud should provide regular and timely feedback to all local government bodies that use the Action Fraud reporting arrangements (para 147).

Fighting Fraud Checklist for Governance

Protecting the public purse 2013

November 2013

audit
commission

General	Yes	No
1. Do we have a zero tolerance policy towards fraud?	○	○
Previous action		
2013 Update		
2. Do we have the right approach, and effective counter-fraud strategies, policies and plans? Have we aligned our strategy with *Fighting Fraud Locally*?	○	○
Previous action		
2013 Update		
3. Do we have dedicated counter-fraud staff?	○	○
Previous action		
2013 Update		
4. Do counter-fraud staff review all the work of our organisation?	○	○
Previous action		
2013 Update		
5. Does a councillor have portfolio responsibility for fighting fraud across the council?	○	○
Previous action		
2013 Update		
6. Do we receive regular reports on how well we are tackling fraud risks, carrying out plans and delivering outcomes?	○	○
Previous action		
2013 Update		
7. Have we assessed our management of counter-fraud work against good practice?	○	○
Previous action		
2013 Update		

General	Yes	No
8. Do we raise awareness of fraud risks with:		
■ new staff (including agency staff);	○	○
■ existing staff;	○	○
■ elected members; and	○	○
■ our contractors?	○	○
Previous action		
2013 Update		
9. Do we work well with national, regional and local networks and partnerships to ensure we know about current fraud risks and issues?	○	○
Previous action		
2013 Update		
10. Do we work well with other organisations to ensure we effectively share knowledge and data about fraud and fraudsters?	○	○
Previous action		
2013 Update		
11. Do we identify areas where our internal controls may not be performing as well as intended? How quickly do we then take action?	○	○
Previous action		
2013 Update		
12. Do we maximise the benefit of our participation in the Audit Commission National Fraud Initiative and receive reports on our outcomes?	○	○
Previous action		
2013 Update		
13. Do we have arrangements in place that encourage our staff to raise their concerns about money laundering?	○	○
Previous action		
2013 Update		

General	Yes	No
14. Do we have effective arrangements for:		
■ reporting fraud?; and	○	○
■ recording fraud?	○	○
Previous action		
2013 Update		
15. Do we have effective whistle-blowing arrangements? In particular are staff:		
■ aware of our whistle-blowing arrangements?	○	○
■ have confidence in the confidentiality of those arrangements?	○	○
■ confident that any concerns raised will be addressed?	○	○
Previous action		
2013 Update		
16. Do we have effective fidelity insurance arrangements?	○	○
Previous action		
2013 Update		

Fighting fraud with reduced resources	Yes	No
17. Have we reassessed our fraud risks since the change in the financial climate?	○	○
Previous action		
2013 Update		
18. Have we amended our counter-fraud action plan as a result?	○	○
Previous action		
2013 Update		
19. Have we reallocated staff as a result?	○	○
Previous action		
2013 Update		

Current risks and issues	Yes	No
Housing tenancy		
20. Do we take proper action to ensure that we only allocate social housing to those who are eligible?	◯	◯
Previous action		
2013 Update		
21. Do we take proper action to ensure that social housing is occupied by those to whom it is allocated?	◯	◯
Previous action		
2013 Update		
Procurement		
22. Are we satisfied our procurement controls are working as intended?	◯	◯
Previous action		
2013 Update		
23. Have we reviewed our contract letting procedures since the investigations by the Office of Fair Trading into cartels, and compared them with best practice?	◯	◯
Previous action		
2013 Update		
Recruitment		
24. Are we satisfied our recruitment procedures:		
▪ **prevent us employing people working under false identities;**	◯	◯
▪ **confirm employment references effectively;**	◯	◯
▪ **ensure applicants are eligible to work in the UK; and**	◯	◯
▪ **require agencies supplying us with staff to undertake the checks that we require?**	◯	◯
Previous action		
2013 Update		

Current risks and issues	Yes	No

Personal budgets

25. Where we are expanding the use of personal budgets for adult social care, in particular direct payments, have we introduced proper safeguarding proportionate to risk and in line with recommended good practice?　○　○

Previous action

2013 Update

26. Have we updated our whistle-blowing arrangements, for both staff and citizens, so that they may raise concerns about the financial abuse of personal budgets?　○　○

Previous action

2013 Update

Council tax discount

27. Do we take proper action to ensure that we only award discounts and allowances to those who are eligible?　○　○

Previous action

2013 Update

Housing benefit

28. When we tackle housing benefit fraud do we make full use of:

■ National Fraud Initiative;　○　○

■ Department for Work and Pensions Housing Benefit matching service;　○　○

■ internal data matching; and　○　○

■ private sector data matching?　○　○

Previous action

2013 Update

Emerging fraud risks	Yes	No
29. Do we have appropriate and proportionate defences against emerging fraud risks:		
■ business rates;	○	○
■ Right to Buy;	○	○
■ Social Fund and Local Welfare Assistance;	○	○
■ council tax reduction;	○	○
■ schools; and	○	○
■ grants?	○	○
Previous action		
2013 Update		

Source: Audit Commission (2013)