

Anti-fraud and Corruption Strategy

February 2016

1. Introduction

The London Borough of Bexley ('the Council') is responsible for maintaining good systems of control and is committed to combating fraud and corruption. In order to maintain these good systems, this strategy ('the Council's Strategy' or 'the Strategy') aims to reinforce the Council's commitment.

The Council's Strategy is designed to:

- encourage prevention
- promote detection
- identify a clear pathway for investigation.

The Strategy relates to Members, Senior Management, Council staff, contractors (and their staff), consultants, and workers (agency staff or otherwise).

2. Regulatory Framework

The Council expects all staff and elected Members to demonstrate the highest standards of integrity at all times. For staff these standards are clearly set out in the Council's Standing Orders, Financial Regulations, Code of Financial Procedures, Contract Procedure Rules and the Employee Code of Conduct. Other guidance is issued from time to time, in respect of specific issues such as the receipt of hospitality and gifts. A list of the key documents is contained in Annex 1.

The Council's Financial Regulations set out the obligations on staff to report suspected irregularities whilst the Code of Financial Procedures provides further detailed advice. Contract Procedure Rules provide a framework within which staff should operate when purchasing goods and services and letting contracts. The Employee Code of Conduct sets out the obligations of staff with respect to the disclosure of official information, private interests and the need to exercise the utmost discretion in accepting hospitality and gifts. In addition, the Council's disciplinary procedures set out the action which may be taken against staff who are found to be involved in fraudulent or corrupt activity. This may include staff being dismissed.

Elected Members are required to operate within the Council's Standing Orders and to conduct themselves in accordance with the standards set out in the Code of Conduct for Members. Details of the statutory framework relating to fraud and corruption are set out in Annex 2.

The ten Principles of Conduct in Public Life are incorporated in the Council's Constitution and Code of Corporate Governance under the provisions of the Local Government Act 2000. Elected Members must follow these principles in undertaking their duties. An explanation of the principles is included as Annex 3.

The Council has a Standards Committee responsible for overseeing, monitoring, reviewing and enforcing the conduct of Members.

3. Responsibilities

The roles and responsibilities of Members, the Council and its officers are set out below:

- (i) The Council:

The Council is a large and complex organisation, which uses its resources to provide a wide range of services to its residents. Making the best use of those resources is a responsibility shared by elected Members and staff. It is incumbent on both to ensure that value for money and accountability are achieved.

(ii) Elected Members:

As elected representatives, all Members have a duty to act with integrity and only in the public interest, uphold the law and do whatever they can to ensure that the Council uses its resources efficiently and effectively.

(iii) Chief Executive:

The Chief Executive is the Head of the Authority's Paid Service and is informed by the Director of Finance and / or the Head of Legal Services & Monitoring Officer, as appropriate, where irregularities, fraud or corruption are suspected.

(iv) Directors:

Directors are responsible for ensuring that the departments within their directorates have adequate systems for effecting compliance with Financial Regulations and are organised to enable Deputy Directors and Heads of Service (see 3(vii) below) to fulfil their responsibilities.

(v) Monitoring Officer/Head of Legal Services:

The Monitoring Officer is the officer designated under section 5 of the Local Government and Housing Act 1989 as having responsibility for reporting to the Council as Local Authority. A report is required if at any time it appears that any proposal, decision or omission by the Council, the Cabinet, Cabinet Member(s), Committee or officer of the authority has led to or might lead to a contravention of any enactment, rule of law or code of practice or maladministration or injustice. The role of the Monitoring Officer at the Council is performed by the Head of Legal Services. The Director of Finance will consult the Head of Legal Services, as appropriate, where irregularities, fraud or corruption are suspected and seek advice accordingly.

The Council will use the right to prosecute under the Local Government Act 1972, section 222, where it considers it has sufficient evidence to support a prosecution and where it is in the public interest to do so.

In addition, the Council has appointed the Head of Legal Services & Monitoring Officer as the Money Laundering Reporting Officer (MLRO) in accordance with section 332 of the Proceeds of Crime Act 2002 (POCA).

(vi) Director of Finance:

The Director of Finance is the officer designated under section 151 of the Local Government Act 1972 as having responsibility for the proper administration of the Council's financial affairs. Where irregularities, fraud or corruption are suspected he/she should be informed. On being informed of an alleged irregularity, fraud or corruption the Director of Finance will determine the arrangements for investigating the matter. He/she will also consider whether the matter requires investigation by the Police, whether the External Auditor should be notified and, in appropriate cases, will seek the advice of the Head of Legal Services & Monitoring Officer and the Chief Executive. The Director of Finance will also consider whether it is

necessary to report the matter initially to the Leader and, following that, to the Audit Committee and/or the Standards Committee.

(vii) Deputy Directors and Heads of Service:

Deputy Directors and Heads of Service should inform the Director of Finance of any suspected irregularities, fraud or corruption.

Deputy Directors and Heads of Service should also consider the risk of fraud and include this risk in operational risk registers, where appropriate. The Council's Internal Audit, Counter Fraud and Risk Service is available to provide guidance with this task.

(viii) Managers:

It is the responsibility of all managers within the Council to establish and maintain proper systems of internal control and to ensure that the Council's resources are properly applied to the delivery of services in accordance with Council policy. It is also the responsibility of managers to ensure that the purchase of goods and services, the receipt of income and the safeguarding of Council assets are carried out in accordance with the Council's own procedures and regulations. This includes responsibility for the prevention and detection of fraud and corruption. The Council's Internal Audit, Counter Fraud and Risk Service is available to assist in this task.

(ix) Staff:

All staff have a duty to inform their Deputy Director or Head of Service on becoming aware of any suspected irregularity or fraud.

(x) Human Resources:

Allegations of fraud or corruption will be investigated by the Council in line with its duty to protect public funds. Human Resources will be informed of any staff subject to allegations or findings of fraud or corruption and will initiate appropriate disciplinary action.

(xi) Internal Audit, Counter Fraud and Risk Service:

The Council's Internal Audit, Counter Fraud and Risk Service, working closely with the Monitoring Officer and Legal Services, as appropriate, will, on behalf of the Director of Finance, determine the arrangements for investigating alleged fraud and corruption. They will regularly raise awareness of the risk of fraud with Deputy Directors and Heads of Service. Internal Audit will also undertake a continuous review of systems and procedures. Trained and Accredited Counter Fraud staff will undertake investigations, which may be reported to the Police/Action Fraud or prosecuted by the Council itself (section 222 of the Local Government Act 1972).

(xii) External Audit:

Independent external audit is an essential safeguard in the stewardship of public money. It is not the External Auditor's function to prevent fraud and irregularity, but the integrity of public funds is at all times a matter of general concern. The External Auditor has a responsibility to review the Council's

arrangements to prevent and detect fraud and irregularity, and arrangements designed to limit the opportunity for corrupt practices.

(xiii) Audit Committee:

The Audit Committee oversees the Council's arrangements for maintaining internal control, managing risk and financial reporting, as well as providing a forum for the discussion of issues raised by internal and external auditors.

The Orders of Reference for the Council's Audit Committee are set out below:

- to oversee and consider the activities of the Internal Audit Function;
- to oversee and consider the activities of the External Audit Function;
- to monitor the effective development of risk management;
- to monitor policies, in respect of Council Officers, on whistle-blowing, anti-fraud and corruption;
- to oversee the production of the Authority's Annual Governance Statement and to recommend its adoption to the Council;
- to review the Annual Statement of Accounts and whether appropriate accounting policies have been followed;
- to consider the external auditor's report to those charged with governance on issues arising from the audit of accounts.

4. Anti-Money Laundering

Money Laundering is an act falling within section 340(11) of POCA and the Money Laundering Regulations 2007. Money laundering is also an offence under section 18 of the Terrorism Act 2000. The term 'money laundering' is a phrase used in respect of a number of offences involving the proceeds of crime or terrorist funds. The following actions constitute money laundering:

- Concealing, disguising, converting, transferring or removing criminal property from England and Wales, or from Scotland, or from Northern Ireland;
- Becoming concerned in an arrangement in which someone knowingly or suspects or facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- Acquiring, using or possessing criminal property.

The MLRO is responsible for:

- Making those staff most likely to be exposed to or suspicious of money laundering situations aware of the requirements and obligations placed on the Council, and on them as individuals, by the POCA and the Terrorism Act 2000;
- Give targeted training to those considered to be most likely to encounter money laundering;
- Make arrangements to receive and manage the concerns of staff (and contractors) about money laundering and their suspicion of it, to make internal enquiries, and to make reports, where necessary to the National Crime Agency (NCA);
- Establish internal procedures to help forestall and prevent money laundering.

5. Expectations

The Council expects individuals, organisations and suppliers with whom it comes into contact to act with integrity and honesty in their dealings. The Council also expects contractors to have in place a disciplinary policy/procedure and to carry out appropriate disciplinary action in respect of any of their employees in relation to fraud or corruption.

6. Proactive Anti-Fraud Initiatives

The Council will support the Police and other external agencies, such as local Housing Associations, the Department for Work and Pensions (DWP) and the Cabinet Office, in preventing fraud and corruption. The Council has established proper arrangements for co-operation and joint working with outside bodies and supports any initiatives aimed at detecting fraud and corruption.

The Council also recognises the importance of criminal prosecution in deterring fraud and corruption and to this end will seek the prosecution of offenders where it has sufficient evidence to support a prosecution and where it is in the public interest.

The Council supports the National Fraud Initiative (NFI), which is the country's largest public sector anti-fraud programme. It is a computer based system, which matches information held by a number of different organisations including local authorities, the NHS, police authorities, local probation boards and fire and rescue authorities across England. The matching process enables public bodies to share and compare information through a secure website, and to identify those taking services or money that they are not entitled to.

In addition to NFI, the Council will continue to participate in Anti-Fraud initiatives established by the DWP's Housing Benefit Matching Service.

7. Raising concerns (Whistleblowing)

The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council encourages elected Members, employees and others with serious concerns about malpractice, wrongdoing, fraud and corruption or any other aspect of the Council's work to come forward and voice those concerns, without fear of recrimination, victimisation or harassment.

A separate detailed Whistleblowing Policy and Procedure has been prepared by the HR Service, in accordance with the Public Interest Disclosure Act 1998. This Policy is applicable to all employees and contractors working for the Council.

The Council recognises the following principles:

- Malpractice or wrongdoing in the Council's services will not be tolerated
- Respect for the confidentiality of the person reporting their concerns
- Protection from any recriminations, victimisation or harassment for those reporting their concerns
- The need for the rapid investigation of concerns and effective resolution of these concerns

- Persons who are aware of malpractice or wrongdoing, and unreasonably fail to take appropriate action to eliminate it or report it, become implicated themselves in the malpractice or wrongdoing
- The Council will view very seriously anyone who makes false or malicious allegations.

The arrangements for reporting concerns are as follows:

- Members should report their concerns to the Director of Finance or the Head of Legal Services in his/her role as Monitoring Officer
- Staff should report their concerns in accordance with the Whistleblowing Policy and Procedure
- On the Council's website there is a form available to report fraud or corruption for any services for which the Council is responsible. This could be reporting someone who is suspected of committing benefit fraud or injury fraud or reporting a Council employee or contracted representative for fraud or corruption
- In exceptional circumstances there are other routes available for staff to raise concerns as follows:
 - For Housing Benefit related fraud National Benefit Fraud Hotline:
Telephone 0800 854 440 or Textphone 0800 328 0512
<https://www.gov.uk/report-benefit-fraud>
 - For all other fraud and corruption concerns:
Head of Internal Audit, Counter Fraud and Risk Service
Telephone 020 3045 5383
Internal.Audit@bexley.gov.uk

Annex 1 - Bexleys Procedural and Regulatory Framework

Council's Standing Orders (including Contract Procedure Rules and specifically CPR 25 in relation to the Prevention of Corruption)

Financial Regulations (specifically FR15 in relation to Financial Irregularities)

Code of Financial Procedures

Employee Code of Conduct

Staff Recruitment Procedures

Members' Handbook

Code of Conduct for Members

Code of Planning Procedures

Whistleblowing Policy and Procedure

Anti-Money Laundering Policy

Anti-Bribery Policy

Policy and Guidance to Staff on the Regulation of Investigatory Powers Act 2000

Annex 2 - Statutory Framework

A - Staff

Bribery Act 2010

The Bribery Act replaced the Prevention of Corruption Acts, 1889 to 1916, with a consolidated scheme of bribery offences. The Act prohibits bribery, or attempted bribery. Bribery includes business kickbacks, corrupt commissions, and other forms of illicit payments to secure business, government or Local Government contracts. It also prohibits payments made to obtain a business advantage. The key provisions of the Act are:

- Two general offences covering the offering, promising or giving of an advantage (bribe), and the requesting, agreeing to receive or accepting of an advantage;
- A separate offence of bribery of a foreign public official to obtain or retain business or an advantage in the conduct of business;
- A new offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf. It will be a defence if the organisation has “adequate procedures” in place to prevent bribery.

Local Government Act 1972 -Section 117(2)

An officer of a local authority may not, as part of his office or employment, accept any gift or reward whatsoever other than his proper remuneration.

B - Elected Members

Local Government Act 2000 and associated regulations

These regulations deal with Councillors' obligations to declare personal and prejudicial interests, and to register financial and other interests in the Council's register maintained under section 81 (1) of the Act.

C - General

Fraud is defined in the criminal and civil law and in various disciplinary and regulatory processes. A new offence of fraud was introduced into the UK when the Fraud Act 2006 came into force on 15 January 2007. The Act should facilitate the investigation and prosecution of fraud. A summary of the Act is included below.

The Fraud Act 2006

The Act creates a general offence of fraud with three ways of committing it:

- Fraud by false representation
- Fraud by failing to disclose information, and
- Fraud by abuse of position

It also creates new offences:

- Obtaining services dishonestly
- Possessing, making and supplying articles for use in frauds
- Fraudulent trading applicable to non-corporate traders.

It is no longer necessary to prove that the victim was deceived; all that is required is to prove that the fraudster was dishonest in their behaviour and that they intended to make a gain for themselves or cause a loss to another.

In civil law, fraud is described as where someone knowingly or recklessly obtains resources to which they are not entitled and this is generally the concept applied where decisions are made about the application of disciplinary or regulatory sanctions.

Prevention of Social Housing Fraud Act 2013

According to government estimates, at least 100,000 social housing properties are the subject of housing fraud. In response to this, the Prevention of Social Housing Fraud Act has been introduced. Tenancy fraud has been made a criminal offence and local authorities have the power to prosecute those who unlawfully sublet their social housing.

The Act applies to secure and assured tenants of Private Registered Providers of Social Housing and Registered Social Landlords, but assured tenancies which are also shared ownership leases are excluded from its provisions.

Criminal offences

The Act creates two new criminal offences. Offences will be committed when:

- The tenant sublets, or parts with possession of, the whole or part of the property, ceases to occupy the property as an only or principal home and does so knowing that to do so is contrary to the express or implied terms of the tenancy; and/or
- the tenant dishonestly and in breach of an express or implied term of the tenancy sublets or parts with possession of the whole or part of the property and ceases to occupy it as his only or principal home.

The first offence is the lesser offence and only requires proof of knowledge that the subletting is in breach of their tenancy agreement, while the more serious second offence is committed if the act is done dishonestly.

Annex 3 - London Borough of Bexley - Code of Conduct

The Council has adopted the Code of Conduct, which incorporates the mandatory provisions of the Local Authorities Model Code of Conduct issued by the Secretary of State under Section 51 of the Local Government Act 2000.

Every member and co-opted member of the Council must, within statutory prescribed timescales, give a written undertaking to observe the Council's Code of Conduct in performing his or her functions.

General Principles of conduct in Local Government

The following general principles are to govern the Conduct of Members and Co-opted Members of the Council in accordance with Section 49 (1) of the Local Government Act 2000.

The principles are expected to govern only the official conduct of members and co-opted members apart from the second and eighth which have effect on all occasions.

Selflessness

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

Honesty and Integrity

(2) Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

(3) Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

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

Openness

(5) Members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Personal Judgement

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

Respect for Others

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

Duty to Uphold the Law

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

Stewardship

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

Leadership

(10) Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.