

SWINDON BOROUGH COUNCIL

ANTI FRAUD and BRIBERY STRATEGY

Approved by: Standards Committee

Valid from: October 2011

Strategy Principles

- The Council expects the highest standards of probity and integrity from Members and officers when commissioning, delivering services or managing resources.
- The Council will design and implement appropriate policies and systems to mitigate fraud.
- The Council will not hesitate to take the appropriate action against Members and officers proven to have committed fraud, including taking legal action.
- Any fraud or corruption hurts the people the Council provides services for – the people of Swindon especially the elderly and the vulnerable.

Contents

	Page Number
1. Introduction	1
2. Definition of Fraud, Bribery and Theft	1
3. Culture	2
4. Key Principles	3
5. Elected Members' Responsibilities	3
6. Officers' Responsibilities	4
7. Managers' Responsibilities	4
8. Conflicts of Interest	5
9. Internal Audit's Responsibilities	5
10. Benefits Investigation Team's Responsibilities	6
11. The role of External Audit	6
12. Measures to minimise the risk of fraud	6
13. Detection and Investigation	8
14. Action taken when fraud has been proved	8
15. Awareness and Training	9
16. Monitoring of Policy	9
17. Conclusion	10
Appendices:	
1. Whistleblowing Policy	
2. Managers' Fraud Response Plan	

1. Introduction

- 1.1 In carrying out its functions and responsibilities the Council promotes a culture of openness and fairness and expects that Members and officers adopt the highest standards of propriety and accountability. Proper accountability, achieved through probity, internal control and honest administration is essential.
- 1.2 The Council needs to maintain constant vigilance in order to safeguard the resources to which we are entrusted and protect our reputation. We must raise awareness, deter and identify fraud and, at the same time, provide mechanisms for officers to raise legitimate concerns when they feel justified. Hence the need for this strategy.
- 1.3 The principles outlined in this strategy apply to Members and officers of the Council including school based staff. They demonstrate to the community of Swindon, our commitment to the prevention, detection and investigation of all forms of fraud and corruption wherever it is found.
- 1.4 The Council expects partner organisations and contractors to act towards the Council with honesty and integrity.
- 1.5 This strategy document sets out measures designed to frustrate any attempted fraudulent or corrupt acts and the steps to be taken if such action occurs or is suspected.
- 1.6 This strategy will be reviewed at least annually.

2. Definitions of Fraud, Bribery and Theft

- 2.1 **Fraud** – the Fraud Act 2006 established a new general offence of fraud that can be committed in three ways – by false representation, by failing to disclose information and by abuse of position. It also establishes a number of specific offences to assist in the fight against fraud – these include an offence of possessing articles for use in fraud and an offence of making or supplying articles for use in fraud.
 - ***Fraud by false representation:*** a person is in breach of this section if this is done dishonestly and there is intent, by making the representation, to make a gain for themselves or another; or to cause or expose the risk of loss to another.
 - ***Fraud by failing to disclose information:*** a person is in breach of this section if he dishonestly fails to disclose to another person information which he is under a legal duty to disclose; and intends by failing to do so, make a gain for themselves or another; or to cause or expose the risk of loss to another.
 - ***Fraud by abuse of position:*** a person is in breach of this section if he occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person; dishonestly abuses that position with

the intention to make a gain for themselves or another; or to cause or expose the risk of loss to another.

2.2 **Bribery** – the Bribery Act 2010, which came into force on July 1st 2011, introduced a new anti bribery code and repeals all previous legislation. It creates four new offences.

- **Paying bribes** – it is an offence to offer or give financial or other advantage with the intention of inducing a person to perform improperly a relevant function or activity, or to reward a person for the improper performance of such activity or function.
- **Receiving bribes** – where a person receives or accepts a financial or other advantage to perform a function or activity improperly. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient’s ultimate benefit.
- **A corporate offence of failure to prevent bribery** - a commercial organisation could be guilty of bribery where a person associated with the organisation, such as an employee, agent or even a sub-contractor, bribes another person intending to obtain or retain business for the organisation or to obtain or retain an advantage in the conduct of business for the organisation.
- **Bribery of a foreign official** - this is where a person, directly or through a third party, offers, promises or gives any financial or other advantage to a foreign public official in an attempt to influence them as a public servant and to obtain or retain business, or any other related advantage in the conduct of business.

2.3 **Theft** – under the 1968 Theft Act a “person shall be guilty of theft if they dishonestly appropriate property belonging to another with the intention of permanently depriving another of it”.

3. Culture

3.1 The culture of the Council is one of openness and the Council is committed to sound corporate governance, and supports the general principles as set out in The Relevant Authorities (General Principles) Order 2001 i.e.

- Selflessness
- Honesty and Integrity
- Objectivity
- Accountability
- Openness
- Personal Judgement
- Respect for others
- Duty to Uphold the Law
- Stewardship
- Leadership

3.2 **The prevention and detection of fraud and corruption and the protection of the public purse are responsibilities of everyone.** The Council’s Members and officers play an important part in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, in the knowledge that such concerns will, wherever possible, be treated in confidence. To support this the Council has a “Whistleblowing” policy and procedure in operation.

- 3.3 **Concerns must be raised when members, or officers, reasonably believe that one or more of the following has occurred, is in the process of occurring, or is likely to occur:**
- A criminal offence
 - A failure to comply with statutory or legal obligation
 - Improper unauthorised use of public or other funds
 - A miscarriage of justice
 - Maladministration, misconduct or malpractice
 - Endangering of an individuals health and safety
 - Damage to the environment
 - Deliberate concealment of any of the above
- 3.4 The Council will ensure that any allegations received in any way, including by anonymous letters or telephone calls, will be taken seriously and independently investigated in an appropriate manner.
- 3.5 The Council will deal firmly with those who defraud it, or are corrupt, or where there has been financial malpractice. There is a need to ensure that any investigation process is not misused and, therefore, any abuse (such as officers raising malicious allegations) may be dealt with as a disciplinary manner.
- 3.6 When fraud and corruption has occurred due to a breakdown in the Council's systems or procedures, senior managers will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence.
- 3.7 The Council also encourages members of the public who may have concerns that fraud is being committed to contact the Chief Executive Officer, the Director of Law and Democratic Services (the Council's Monitoring Officer) or the Head of Internal Audit.

4. Key Principles

- 4.1 Leading by example, the Council has:
- Introduced appropriate measures to minimise the risk of fraud
 - Adopted formal procedures to investigate fraud when it is suspected
 - Operated a procedure for officers to voice genuine concerns and protect those who do so
 - Deterred officers from making malicious or unfounded allegations
 - No hesitation referring cases of suspected financial irregularity to the attention of the Police
 - Liaised on fraud issues with all organisations with whom we are in partnership

- Worked closely with the Police and other appropriate external agencies to combat fraud

5. Members' Responsibilities

- 5.1 As elected representatives, all Members of the Council have a duty to the citizens of Swindon, to protect the Council from all forms of abuse. This is reflected through the adoption of this Anti-Fraud and Bribery Strategy and compliance with the Council's Code of Conduct for Members, the Council's Financial Regulations and Standing Orders and relevant legislation.
- 5.2 Elected members undertake to observe the Council's Code of Conduct when they take office. These conduct, and ethical matters are specifically brought to the attention of Members during induction and include the declaration and registration of interests. The Director of Law and Democratic Services advises Members on the ethical framework and of new legislative or procedural requirements.
- 5.3 The Council's Standards Committee approves the strategy and along with the Audit Committee they monitor it and the Whistleblowing Policy to ensure that they operate effectively.

6. Officers' Responsibilities

- 6.1 The Council's Standing Orders, Financial Regulations and guidance govern officers, especially the Council's Code of Conduct for Officers. The Code of Conduct includes guidelines on Gifts and Hospitality and conflicts of interest. These matters will be included in induction training and procedure manuals.
- 6.2 Officers are expected to always be aware of the possibility that fraud, bribery and theft may exist and be able to share their concerns with management. If for any reason they feel unable to speak to their manager they must refer the matter to one of those named below:
- Heads of Service, Directors, Group Directors, the Chief Executive, the Council's Monitoring Officer or members of the Standards Committee, who will report such concerns to the Head of Internal Audit.
 - Directly to the Head of Internal Audit
 - The Council's External Auditor, who depending upon the nature of the concern will liaise with the Head of Internal Audit
- 6.3 Concerns can also be raised anonymously (letter or telephone) or via other routes such as the Council's Whistleblowing Policy (see Appendix 1).

7. Managers' Responsibilities

- 7.1 Managers are responsible for the communication and implementation of this strategy in their work area. They are also responsible for ensuring that they and their officers are aware of:
- Standing Orders
 - Financial Regulations
 - Anti-Fraud and Bribery Strategy
 - Whistleblowing Procedure
 - Scheme of Delegation
 - Codes of Conduct
 - Complaints and Disciplinary Procedures
 - Service specific procedure manuals
 - Managers' Guide: Fraud Response Plan
- 7.2 Managers determine the extent of internal control in their systems and are responsible for providing an environment that ensures that resources are properly applied, value for money is secured, fraud and other losses prevented, and the Council Financial Regulations and other policies complied with.
- 7.3 Probity issues should be afforded a very high profile in employee induction and training processes and all new members of staff should be made aware of the Anti-Fraud and Bribery Strategy via their induction.
- 7.4 Information provided to Managers by Internal Audit regarding frauds committed elsewhere should be carefully considered. One source of such information is the fraud bulletin available on the intranet. Managers should consider whether their procedures are sufficiently secure to prevent a similar occurrence within our Council.

8. Conflicts of Interest

- 8.1 Both elected members and officers must ensure that they avoid situations where there is potential for a conflict of interest. Such situations can arise with externalisation of services, tendering, planning issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

9. Internal Audit's Responsibilities

- 9.1 The role of the Head of Internal Audit is to deliver an opinion to the Audit Committee, the Chief Executive, Leader of the Council and the Section 151 Officer, on the Council's risk management, control and governance arrangements.
- 9.2 In relation to fraud this responsibility includes the examination of the adequacy of arrangements for managing the risk of fraud and ensuring that the Council actively promotes an anti-fraud culture and that officers are aware of the Council's Anti-

Fraud and Bribery Strategy and of their responsibilities in relation to combating fraud.

- 9.3 In addition, Internal Audit assists in deterring fraud by examining and evaluating the effectiveness of control, commensurate with the risk, throughout the Council's operations. This includes ensuring that management has reviewed its risk exposure, identified and mitigated against the possibility of fraud as a business risk. As part of this, Internal Audit will undertake an annual programme of proactive fraud testing.
- 9.4 Internal Audit will investigate all employee cases of suspected financial irregularity, fraud or corruption, except Benefits Fraud investigations (see point 10 below) in accordance with agreed procedures and relevant legislation i.e. Regulation of Investigatory Powers Act 2000 (RIPA).
- 9.5 Internal Audit is responsible for following up any allegation of fraud or corruption received and does so through clearly defined procedures and standards:
- Dealing with the matter promptly
 - Recording all evidence received, ensuring that it is sound and adequately supported
 - Consulting with the Police as appropriate
 - Notifying relevant officers i.e. Director/Group Director, Monitoring Officer, Section 151 Officer and Chief Executive where appropriate
 - Assisting the relevant Director/Head of Service and Head of Human Resources in implementing any disciplinary procedures where appropriate
 - Ensuring that appropriate action is taken to minimize the risk of similar frauds occurring in the future

10. Benefit Investigation Team's Responsibilities

- 10.1 The Benefits Investigation team is responsible for all Benefit Fraud investigations. The team report to the Head of Revenues and Benefits. In cases where officers of the Council may be suspected of an irregularity, the Benefits Investigation team will work with Internal Audit, Human Resources and appropriate senior management to ensure that correct procedures are followed and that this policy is adhered to.
- 10.2 To support this policy the Council has a Benefit Fraud Prosecution Policy. The policy encompasses all those in receipt of benefits, be they the public, Members, officers or contractors. It is designed to clarify the Council's action in specific cases and to deter others from committing offences against the Council.
- 10.3 The Benefits Service operates within the Government's policies and guidance, which aims to improve the quality and accuracy of benefit determinations and both prevent and reduce the incidents of fraud.

11. External Audit's Responsibilities

- 11.1 External Audit has an essential role to play in relation to the stewardship of public money. The role is delivered through the carrying out of specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems, and arrangements for preventing and detecting fraud and corruption.
- 11.2 It is not the External Auditor's function to prevent fraud and irregularities, 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 for preventing and detecting fraud and irregularities, and arrangements designed to limit the opportunity for corrupt practices.

12. Measures to minimise the risk of fraud

- 12.1 In order to maintain high standards, procedures and controls have been established, providing an environment that will minimise the opportunity for fraud. Key documents that support the Council's commitment against fraud are published on the intranet. Important anti fraud and bribery procedures include:
- Financial Regulations
 - Codes of Conduct for Members and Officers
 - Disciplinary Procedures
 - Council's Complaints Procedure
 - Whistleblowing Policy
 - Managers' Guide: Fraud Response Plan
 - Membership of National Anti-Fraud Initiatives, including the Housing Benefit Matching Service
 - Money Laundering Guidance
 - Data Protection and Information Security Guidance
 - Standing Orders relating to Contracts
 - Information Technology Security Policy
 - The Royal Mail's service to return re-directed benefit mail
 - A Prosecution Policy (Benefits)
 - The Security Manual in relation to Housing Benefit claims
 - Scheme for the Financing of Schools
 - Departmental Guidance and Procedure Notes
 - Disclosure of Gifts and Hospitality
 - Declaration of Conflicts of Interest
 - Procurement Toolkit
- 12.2 These documents and procedures establish the rules and boundaries to which Members and Officers must adhere. These are supported, as necessary, by detailed procedure manuals that have been prepared for the key functions of the Council.
- 12.3 Officers and Members are expected to comply with any statutory obligations about disclosure, conflicts of interest, pecuniary interests, gifts and hospitality received and offered but refused.

- 12.4 The Council operates rigorous recruitment processes that include the verification of references and the completion of CRB checks for people appointed to sensitive posts e.g. those who will have contact with children or vulnerable adults, prior to them taking up appointment.
- 12.5 It is the responsibility of Directors and Managers (Head teachers and Governors in schools) to operate internal systems to ensure these standards are applied and bring these systems to the attention of their officers. Procedures are operated throughout the Council to ensure:
- An adequate separation in duties (more than one employee involved in key tasks)
 - Proper authorisation procedures (transactions must be approved by an appropriately mandated officer)
 - Independent monitoring and checking of data and documentation (checks and balances)
- 12.6 The Council has a rigorous internal and external audit process that monitors compliance with internal regulations and undertakes a rolling programme of checks to detect, deter and prevent fraud and corruption. However, it is for managers to determine the extent of internal control in their systems and they are responsible for providing an environment that ensures that resources are properly applied, value for money is secured, fraud and other losses prevented, and the Council's Financial Regulations are complied with.

13. Detection and Investigation

- 13.1 There are numerous system controls in place to deter fraud and corruption but it is often the vigilance of officers and members of the public that aids detection.
- 13.2 Internal Audit plays an important role in the detection of fraud and bribery. Included in their annual plan are reviews of system financial controls and specific fraud and corruption tests, spot checks etc.
- 13.3 All suspected irregularities should be reported to the Head of Internal Audit. This is essential to the strategy and:
- Ensures the consistent treatment of information regarding fraud and bribery; and
 - Facilitates a proper and thorough investigation by an experienced audit team.
- 13.4 This process will apply to allegations relating to all the following areas:
- Fraud/bribery by elected members
 - Internal fraud
 - Other fraud by Council officers acting in a personal capacity
 - Fraud by contractors
 - External fraud (the public)

Cases may be referred directly to the External Auditor or Police by complainants. The Council may also consider passing on such allegations to the External Auditor or the Police if considered appropriate.

- 13.5 Depending on the allegation, the Head of Internal Audit will normally work closely with the appropriate senior manager concerned to ensure that all allegations are thoroughly investigated and reported upon.
- 13.6 Any decision to refer a matter to the Police will be taken by the Head of Internal Audit in consultation with the Chief Executive, Monitoring Officer and relevant Group Director/Director as appropriate.

14. Actions taken when fraud has been established

14.1 Disciplinary Action

- Fraud, bribery and theft are serious offences against the Council and will be regarded as gross misconduct. Officers will face disciplinary action if there is evidence that they have been involved in these activities, including Benefit Fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each case and the advice of the Police.

14.2 Prosecution

- In cases of fraud and bribery, where there is evidence to suggest that a criminal offence has been committed, it is the responsibility of the Head of Internal Audit in consultation with the Chief Executive, Monitoring Officer and relevant Group Director/Director, as appropriate, to submit the case to the Police for investigation and prosecution as appropriate

14.3 Publicity

- The Council's Communications team will optimise the publicity opportunities associated with anti-fraud and corruption activity proved. They will endeavour to ensure that the results of any action taken, including prosecutions, are reported to the press and or via the Council's Intranet/Internet sites.
- In all cases where financial loss has occurred, the Council will seek to recover any loss and consider making the public aware of this through the media.
- All anti-fraud and bribery activities, including the review of this policy; the issue of Fraud Bulletins and Warnings, will be publicised to make officers and the public aware of the Council's commitment to taking action on fraud and corruption, when it occurs.
- Regular reports by the Monitoring Officer and Head of Internal Audit will be made to Standards Committee and the Audit Committee with respect to countering fraud and corruption activities and their successes.

15. Awareness and Training

- 15.1 The Council recognises that the continuing success of this strategy and its general credibility will depend in part on the effectiveness of training and awareness on the part of elected Members and officers. To facilitate this, positive and appropriate provision will be made through induction training and specialist training for certain elected Members and officers.
- 15.2 In addition, Internal Audit will circulate Fraud Bulletins and warnings to all Members and officers, including schools. The Director of Finance, the Monitoring Officer and Head of Internal Audit will also provide relevant training.

16. Monitoring

- 16.1 The Standards Committee and Audit Committee will monitor the Anti-Fraud Strategy and Whistleblowing procedure for the Council and ensure that it operates effectively. The Head of Internal Audit and the Monitoring Officer in consultation with the respective Committee Chairs will ensure that any corrective actions identified from investigations are brought to the attention of the Committees.

17. Conclusion

- 17.1 The Council has in place a network of systems and procedures to assist it in dealing with fraud and corruption when it occurs. It is determined that these arrangements will keep pace with any future developments in both prevention and detection techniques, regarding fraudulent or corrupt activity. It will also continue to discipline and prosecute anyone found guilty of fraud or corrupt activities.