

Anti-Fraud &
Anti-Corruption Strategy



FINANCE & ASSET MANAGEMENT

Finance & Asset Management Service
August 2007

CONTENTS

	Page No.
1. Introduction	2
2. Culture & Values of the Council	2
3. Prevention of Fraud & Corruption	3-4
4. Detection and Investigation of Fraud & Corruption	4-5
5. Prosecution	5
6. Review	5
7. Appendices	
Appendix 1 - Fraud Response Plan	6-10
Appendix 2 - Seven Principles of Public Life	11
Appendix 3 - Whistle blowing Policy	12-14
Appendix 4 - Benefit Fraud & Prosecution Policy	15-17
Appendix 5 – List of Council Policies & Procedures	18

1. Introduction

East Ayrshire Council is committed to providing the highest level of service provision possible, and in doing this will take all possible measures to protect itself and the public against loss from either fraudulent or corrupt practices.

The Council has committed itself to the highest standards of corporate governance which requires that it protects the public funds entrusted to it by being proactive in the prevention and detection of fraud & corruption. The public is entitled to expect that the Council will carry out its business with integrity, honesty and openness and will demand the highest standard of conduct from those working for it.

This policy sets out the Council's approach to tackling fraud and corruption. Appropriate and decisive action will be taken against those committing or attempting to commit fraudulent or corrupt acts against the Council. The Strategy applies equally to:

- ❖ Clients and Service users
- ❖ Contractors
- ❖ Elected Members
- ❖ Employees
- ❖ Employees and Committee members of organisations funded by the Council
- ❖ Suppliers

In addition to the above East Ayrshire Council expects the residents of East Ayrshire to be honest in their dealings with the Council.

2. Culture & Values of the Council

East Ayrshire Council is committed to the vision of East Ayrshire being a place with strong vibrant communities where everyone has a good quality of life and access to opportunities, choices and high quality services which are sustainable, accessible and meet people's needs.

This anti-fraud and corruption strategy will assist in the delivery of more effective risk management, on which the Council has approved a separate policy and strategy. This is in turn fundamental to the achievement of the Council's objectives and the successful delivery of public services

The core values of the Council which provide a purpose and direction for the way in which services are provided and how employees should operate are:

- ❖ **Quality** – of local services
- ❖ **Equality** – of opportunity and treatment
- ❖ **Access** – to services on an equal basis
- ❖ **Partnership** – working to deliver more effective, joined up services

The Council expects that all people and organisations that are associated with it in any way to be honest and fair in their dealings with the Council and its clients and customers at all times. Members and employees are expected to lead by example in this respect.

The respective Codes of Conduct for members and employees set out an approach that is fair and honest. Members and employees should act with reference to these codes of conduct at all times.

Information received alleging or supporting the investigation of fraud or corruption will be dealt with fairly and in a confidential manner. All efforts will be taken to protect the identity of people who provide this. Further details of our approach are set out in our Fraud Response Plan (Appendix 1).

The Committee on Standards in Public Life sets out seven guiding principles (Appendix 2) that all apply to all people who serve the public. The Council is committed to developing our working behaviour around these principles.

3. Prevention of Fraud & Corruption

Definitions

This strategy sets out the Council approach to tackling fraud and corruption. The definitions of the terms used within it are:

- ❖ **Fraud** – “The intentional distortion of financial statements or other records by persons within or out with the organisation which is carried out in order to conceal the misappropriation of assets or otherwise for gain.”
- ❖ **Corruption** – “The offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person.”

Internal Controls & Procedures

The Council has a range of policies and procedures that provide a corporate framework to counter fraudulent activity. These include:

- ❖ Standing Orders
- ❖ Scheme of Delegation
- ❖ Financial Regulations
- ❖ Accounting Policy Bulletins
- ❖ National Code of Conduct for Elected Members
- ❖ Employee Code of Conduct
- ❖ Defalcation/Corrupt Practices Procedures
- ❖ Disciplinary Procedures

A full list of policies and practices together with how these may be accessed is set out in Appendix 5.

Responsibility of Elected Members

Elected Members are responsible for:

- ❖ Their own conduct
- ❖ Ensuring that management arrangements are in place and are maintained that will secure economic, efficient and effective use of resources and safeguard the assets of the Council.
- ❖ Ensuring that the disclosure requirements of the register of Members interests are fully complied with.

Responsibility of Management

All Managers are responsible for:

- ❖ Maintaining systems of internal control and ensuring that the Council's resources and activities are properly applied in the manner intended
- ❖ Identifying risks to which control systems and procedures are exposed
- ❖ Developing and maintaining effective controls to prevent and detect fraud
- ❖ Ensuring compliance with the Council's Recruitment and Selection Policy & Procedures, and in particular ensuring that references and qualifications of all proposed new employees are checked
- ❖ Ensuring that their staff are aware of and understand the context of the control elements listed at 3.2 above and Appendix 2 together with ensuring that these are complied with.

Responsibilities of Employees

All employees are responsible for:

- ❖ Their own conduct and for ensuring that they understand and follow instructions given to them, particularly in relation to the safeguarding of the resources and assets of the Council
- ❖ Reporting immediately to their line manager if they suspect that a fraud has been committed or any significant impropriety or breach of procedure
- ❖ Compliance with the Council's policy on the acceptance of gifts and hospitality.
- ❖ Where they are a member of a professional body or institute complying with the standards of conduct relevant to their profession.

Responsibility of Internal Audit

- ❖ Internal Audit is an assurance function that primarily provides an independent and objective opinion to the organisation on the control environment comprising risk management, control and governance by evaluating its effectiveness in achieving the organisation's objectives.
- ❖ Internal Audit objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.

Responsibility of External Audit

- ❖ External Audit should examine and assess the arrangements in place for the prevention and detection of fraud.
- ❖ External Audit also has powers to independently investigate fraud and corruption.

Liaison With Other Organisations

- ❖ East Ayrshire Council will continue to maintain and develop links with other organisations in its efforts to pursue anti fraud and anti corruption policies at both local and national levels. In particular the Council participates in the National Fraud Initiative whereby computerised techniques are used to compare information about individuals held by different public bodies and separate electronic systems.

4. Detection and Investigation of Fraud & Corruption

This section should be read in conjunction with the Council Fraud Response Plan (Appendix 1) and the Benefit Fraud & Prosecution Policy (Appendix 4). Reference should also be made to the defalcation policy and the whistleblowing arrangements.

The Fraud & Overpayments Team within the Revenues & Benefits Section is responsible for the prevention, detection, investigation and prosecution of Benefit Fraud. This team works closely with other agencies including Department for Works & Pensions, Jobcentre Plus, HM Revenue & Customs, together with all Council Services to identify and prevent fraud in relation to Council tax and Housing Benefits.

The Chief Auditor, in consultation with the appropriate Executive Director will be responsible for ensuring that following an investigation any action to strengthen or review existing control systems is implemented. Consideration will also be given to making public the outcome of the investigation as a deterrent to others.

It is the responsibility of Executive Directors and Heads of Service to ensure that all procedures include appropriate levels of control to prevent and detect fraud and corruption. However it is recognised that it is often the alertness of employees, Members and the general public to the possibility of fraud & corruption, which allows detection to occur and appropriate action to be taken.

Notwithstanding the best efforts of Managers it is recognised that many frauds and unethical activity will still only be discovered by chance or by whistleblowing. The Council's Code of Conduct for Employees and Financial Regulations require employees to report concern or reasonable suspicion of fraud or other unethical conduct. Guidance in this respect is contained within the Council's Whistleblowing Policy & Procedure. (Appendix 3).

The Council's Whistleblowing Policy & Procedure is intended to allow employees to raise serious bone fide concerns. Employees who report concerns will be supported and protected from reprisals; this will include protecting as far as possible their confidentiality. The Public Interest Disclosure Act 1998 affords employees certain rights when reporting concerns in this way.

The Chief Auditor, in consultation with the appropriate Executive Director will be responsible for ensuring that following an investigation any action to strengthen or review existing control systems is implemented. Consideration will also be given to making public the outcome of the investigation as a deterrent to others.

5. Prosecution

Appropriate and decisive action will be taken against those committing or attempting to commit fraudulent or corrupt acts against the Council.

Where an investigation has established to the satisfaction of the Council that a fraud has been committed it is Council policy to seek full redress through the legal processes available.

The decision to report the incident to the police will be taken by the Chief Executive, in consultation with the Chief Auditor and appropriate Executive Director.

The Benefit Fraud and Prosecution Policy sets out the arrangements in respect of any alleged offences relating to either housing or council tax.

The Council will take all reasonable action to recover any monies goods or assets lost as a result of a fraudulent or corrupt activity.

Notwithstanding that a case has been passed to the Police the Council may still take action under the Council's Disciplinary Policy & Procedures. Advice will be taken as appropriate from the Head of Personnel.

6. Review

The Council has in place systems and procedures to assist in the detection and prevention of fraud and corruption which will be reviewed on a regular basis to ensure this strategy remains effective.

Alex McPhee
Executive Head of Finance & Asset Management
August 2007

FRAUD RESPONSE PLAN

1. Introduction

The purpose of this Plan is to demonstrate and set out the procedures to be followed by East Ayrshire Council where a fraud is suspected or detected. It is part of the overall Anti-Fraud and Anti-Corruption Strategy and therefore applies to all Elected Members and employees.

The Council's Policy towards the notification, investigation and reporting of circumstances which may involve irregularities is set out in the Anti-Fraud and Anti-Corruption Strategy and is aimed to ensure that any concerns in respect of fraud and corruption are properly identified and investigated, whether the source is internal or external to the Council.

2. Objectives of the Fraud Response Plan

To ensure that prompt and effective action can be taken to:

- ❖ Prevent loss of funds or assets where fraud has occurred and to maximise recovery of losses
- ❖ Reduce adverse impact on the business of the Council
- ❖ Minimise the occurrence of fraud by taking prompt action at the first sign of a problem
- ❖ Minimise the adverse publicity for the organisation suffered as a result of fraud
- ❖ Identify any lessons which can assist in reducing further fraud
- ❖ Identify the perpetrator and maximise the success of any disciplinary or legal action taken

3. Confidentiality

The Council will strive to ensure that the identity of any individual is protected when he or she raises a concern, and requests that their name is not disclosed

It should however be appreciated that the investigation of any such claim may lead to the identity of the claimant being revealed, and could require a statement from that person as part of the evidence.

Individuals are encouraged to put their names to any allegations made. It should be noted that allegations made anonymously are less powerful and can only be investigated at the discretion of the Council. Factors that will influence any decision to investigate will include:

- ❖ The seriousness of the allegation
- ❖ The credibility of the concern raised.
- ❖ The possibility of confirming or corroborating the allegation or concern

Allegations made in good faith which subsequently are not proven after investigation will not lead to action being taken against the original source. If however the claims prove to be either malicious or vexatious further action will be considered against those making the allegation.

4. What Do We Want to Know About

The Council is committed to combating fraud and corruption within the services it provides. This Plan is intended to be used where suspicions of fraud and/or corruption have been notified.

Fraud – “The intentional distortion of financial statements or other records by persons within or out with the organisation which is carried out in order to conceal the misappropriation of assets or otherwise for gain.”

Corruption – “The offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person.”

Examples of possible acts include:

RISK	EXAMPLE
Financial	An individual or Company has obtained money through the submission of false documents (E.g. False or misstated Invoices; Benefit Fraud; False Expenses Claims)
Systems	An individual or company seeks to distort the tendering process.
Assets & Resources	Misuse; theft; or inappropriate use of Council property and resources
Other	Deliberate breach of standing orders or financial regulations.
Corruption	This includes inappropriate relationships, for example, employees, elected members, contractors, including entering into agreements with relatives and associates for financial gain.

Clearly this is not an exhaustive list and further guidance and advice can be obtained by contacting the Chief Auditor on 01560 323836.

5. What Should an Employee Do If They Suspect Fraud or Corruption

It is often the case that employees will be the first people to realise that fraud or corruption has taken place. They may however feel that it is not their responsibility to report this, or may feel threatened or worried about potential reprisals.

The Council's Whistleblowing Policy & Procedures are designed to provide employees with a confidential means of raising serious bona fide concerns with the Council. Employees who report concerns in this way are afforded certain rights through the Public Interest Disclosure Act 1998. A copy of the Whistleblowing Policy & Procedures available from Departmental Personnel Officers.

Any concerns should be raised with a line manager or Head of Service, if this is not appropriate then any of the following Officers may be contacted

- ❖ Chief Auditor
- ❖ Executive Head of Finance & Asset Management
- ❖ Depute Chief Executive/Executive Director of Corporate Support
- ❖ Chief Executive

The Council is committed to ensuring that Housing Benefit and/or Council Tax Benefit are only awarded to those persons with a genuine entitlement. Claiming benefit fraudulently is a criminal offence, anybody found guilty of this will be dealt with in line with guidance issued by the Department for Work and Pensions.

The Council has a Fraud and Intervention Team dedicated to dealing with suspected Benefit Fraud. Employees and members of the public can report suspected fraud by contacting:

Intervention Manager: -	Karen McNeil
Telephone	01563 554400
E Mail	benefits@east-ayrshire.gov.uk
Post	Benefits Service, East Ayrshire Council, P.O. Box 13, Civic Centre, Kilmarnock KA1 1BY

Alternatively there is a confidential Benefit Fraud hotline – 0800 328 6340, or write to:

Benefit Fraud
PO Box No 647
Preston
PR1 1WA

The nature of the complaint will determine the Council action in each case.

If a Manager has any reason to suspect fraud or corruption in their area of responsibility they should:

- ❖ Listen to the concerns expressed by staff and treat every report received seriously and sensitively.
- ❖ Ensure all employee concerns are given a fair hearing. Employees should also be reassured that they will not suffer because they have reported their suspicions.
- ❖ Gather as much information from the employee, including any notes or evidence they may have to support the allegation –the evidence should not be interfered with and should be kept secure.
- ❖ Do not try to investigate as this could prejudice any subsequent action by either Internal Audit and/or the Police.
- ❖ Report the matter immediately to the Chief Auditor.

6. What Should a Member of the Public do if they suspect fraud or corruption within the Council

The Council encourages members of the public who suspect that there is, or has been fraud or corruption within the Council to contact either the Chief Executive, or the Chief Auditor in the first instance. Members of the public who wish to report possible benefit fraud can either following the arrangements set out in paragraph 5.5 above, or alternatively use the following contacts:

Contact Details

Chief Executive: -	Fiona Lees
Telephone	01563 576019
E Mail	Chief.Executive@east-ayrshire.gov.uk
Post	Chief Executive, East Ayrshire Council, London Road, Kilmarnock, KA3 7BU
Chief Auditor: -	Colin Houston
Telephone	01560 323836
E Mail	Internal.Audit@east-ayrshire.gov.uk
Post	Chief Auditor, East Ayrshire Council 4 Craigview Road, Newmilns, KA16 7DQ

Internal Audit is a key function of the Council, responsible for monitoring the effectiveness of internal controls within East Ayrshire Council. Its work includes establishing procedures to deter, prevent, detect and investigate fraud and corruption. The responsibility for the detection of financial irregularities rests primarily with Management. Internal Audit will assist management in fulfilling this responsibility.

7. How Allegations of Fraud or Corruption will be Dealt With by the Council

The action taken by the Council in each instance will be based upon the nature of the concern. This may result in:

- ❖ The matter being investigated internally by either Internal Audit or the appropriate Executive Director
- ❖ The matter being referred to the Police
- ❖ The matter being referred to the External Auditor
- ❖ a report to the Standards Commission
- ❖ an independent inquiry being held

Concerns or allegations raised or identified with the Council which are covered by specific policies (e.g. Discrimination; Child Protection) will, in the first instance, be considered with reference to these.

The Council will, within 7 days of being notified of a concern or allegation, write formally to the complainant and acknowledge receipt of the concern and that appropriate action will be taken.

Anonymous allegations will be investigated. It is however recognised that concerns notified in this way are much less powerful and may not allow sufficient investigation to be carried out.

8. Alternative methods for taking a complaint forward

A member of the public, or an employee of the Council may feel that that they do not wish to follow the above processes. In this case they may wish to consider the alternatives which include:

- ❖ **Local Councillor** – They can be contacted at the Council Headquarters, London Road, Kilmarnock, or through their normal surgery in your area.

Telephone 01563 576000

E Mail: [www.east-ayrshire.gov.uk/Elected Members](http://www.east-ayrshire.gov.uk/Elected_Members)

- ❖ **The Accounts Commission** – This is the organisation appointed to scrutinise the Councils finances and performance. It is independent of the Council

Telephone **0131 477 1234**

E Mail www.audit-scotland.gov.uk

- ❖ **Scottish Public Services Ombudsman** – This is an independent body set up by the Government to deal with complaints against public bodies in Scotland

Telephone **0800 377 7330**

E Mail ask@spsso.org.uk

- ❖ **Strathclyde Police** –suspicions of fraud and corruption can be reported directly to the Police

Telephone **0800 377 7330**

E Mail ask@spsso.org.uk

THE SEVEN PRINCIPLES OF PUBLIC LIFE

The Committee on Standards in Public Life sets out seven guiding principles that all apply to all people who serve the public. The Council is committed to developing our working behaviour around these principles.

1. Selflessness:

Holders of public office should act solely 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.

2. Integrity:

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

3. Objectivity:

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

4. 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.

5. 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.

6. Honesty:

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

7. Leadership:

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

WHISTLEBLOWING POLICY AND PROCEDURE

1. POLICY STATEMENT

East Ayrshire Council is committed to creating an environment that encourages and supports employees to express their concerns freely. Accordingly, the Council considers it appropriate to have a procedure that allows employees, without fear of recrimination, to disclose information relating to some danger, fraud or other illegal or unethical conduct connected with the workplace. This would cover conduct of a colleague, a Councillor, a member of the public or another organisation connected with the work of the Council.

2. SCOPE

Individual employees have a right and a responsibility to raise any matters of concern regarding serious malpractice, wrongdoing or maladministration within the Council or in an organisation wholly or partly funded by the Council. This procedure therefore applies to all employees of East Ayrshire Council.

It is emphasised that this procedure is designed to deal with concerns of serious malpractice, wrongdoing or maladministration.

This procedure is not designed to replace the Grievance or Personal Harassment Procedures, which are used to consider employee concerns relating to terms and conditions of service and personal harassment, respectively.

3. PURPOSE

The purpose of this procedure is to provide employees with a confidential means of raising serious bona fide concerns with the Council. East Ayrshire Council will not tolerate malpractice, wrongdoing or maladministration and examples of concerns that may be raised in accordance with this procedure are as follows:-

- an offence or breach of any statutory instrument or legal obligation
- improper or unauthorised use of public funds or assets
- abuse of authority
- miscarriage of justice
- danger to the health or safety of any individual or the environment
- the deliberate concealment of any of the above

The above categories are by no means mutually exclusive e.g. the concern may relate to a health and safety failure which is also a criminal offence.

This procedure should only be used by employees whose concerns are soundly based and made in good faith. If, after investigation, an employee is believed to have made false allegations with malicious intent, they may be subject to the Council's disciplinary proceedings.

4. REPORTING PROCEDURE

An employee who wishes guidance on the interpretation and/or application of this Policy and Procedure prior to raising a concern should discuss this matter with the Head of Personnel or their Trade Union Representative.

An employee who wishes to raise a concern has the option of contacting their Executive Director, the Chief Executive or the Council's Monitoring Officer (Solicitor to the Council). Alternatively, the Head of Personnel can be approached. Contact can be made in person, in writing or by telephone and it is the responsibility of the employee to confirm to the Senior Officer concerned that they wish to raise their concern in accordance with this procedure in order to avoid any misunderstanding of the status of the concern.

The senior officer concerned will personally interview the employee, as soon as reasonably practicable, and assess what further action, if any, should be taken, which may include formal investigation of the concern under the disciplinary or defalcation / corrupt practices procedures.

Should further investigation be required under the Council's defalcation/corrupt practices procedures, the matter will be referred to the Council's Chief Auditor.

The employee raising the concern will be informed of the outcome of any investigation, as soon as reasonably practicable, and where no action is taken an explanation will be provided.

If a concern has been addressed by the Service Executive Director or the Head of Personnel but the employee continues to have concerns or feels that Senior Managers are implicated then the employee can contact either the Chief Executive or the Council's Monitoring Officer (Solicitor to the Council).

This Policy and Procedure provides a mechanism for employees to raise serious concerns and demonstrates the Council's commitment to ensuring that they are considered seriously, with the aim of being resolved by the Council. However, in the unlikely event that after exhausting these procedures the employee continues to have concerns of serious malpractice, then they may contact Public Concern at Work on 0171 - 404 – 6609. Public Concern at Work is an independent charity whose main objectives are to promote good practice and compliance with the law in the public, private and voluntary sectors. They provide a confidential service, enabling employees to talk through their concerns and consider the various options available to them.

At the end of the procedure details of the case will be forwarded to the Council's Monitoring Officer (Solicitor to the Council) who will maintain a record of cases in a central location. The purpose of this record is to ensure a central register is maintained which can be used to monitor any common areas of concern.

5. ASSURANCES

Concerns raised by employees will be promptly dealt with in a serious and sensitive manner.

Employees are assured that their concerns will be dealt with in a confidential manner. Where anonymity is requested every effort will be made to meet that request. However, there may be circumstances where it is necessary to involve the employee in processes which may disclose their identity e.g. where the matter is considered serious enough to be reported to the police or the Health and Safety Executive or where the disciplinary / defalcation procedures are invoked.

Employees who make use of the procedure may be accompanied by their Trade Union Representative or a colleague at any meeting which is arranged.

The purpose of this procedure is to provide employees with a confidential means of raising serious bona fide concerns with the Council. Accordingly, the Council will not tolerate any harassment or victimisation or any other form of punitive action of any employee who raises concerns within the procedure.

6. CONTACT WITH THE MEDIA

This procedure has been developed to enable employees to express certain concerns on the basis that it is in the public interest to make such matters known to the nominated officer within the Council. However, the reporting of concerns does not mean that such matters should be made available for public consumption through the media. Employees are reminded that in accordance with the Code of Conduct for Employees, in their work with the Council contact should not be made with the media unless such contact is authorised by the Head of Democratic Services.

7. MONITORING AND REVIEW OF POLICY AND PROCEDURE

The Head of Personnel will be responsible for the ongoing monitoring and review of this Policy and Procedure.

BENEFIT FRAUD & PROSECUTION POLICY

1. BENEFIT FRAUD – PREVENTION AND DETECTION

East Ayrshire Council is committed to protecting the public purse and will investigate any alleged offences relating to housing and/or council tax benefits. It is determined that housing and/or council tax benefit will only be awarded to claimants with a valid entitlement and will put in place procedures designed to verify the circumstances of all claimants prior to award.

The Council has established within the Benefits Service a dedicated Fraud & Overpayments Team which is responsible for the prevention, detection, investigation and prosecution of Benefit Fraud. This team will work closely with other agencies including Department for Work & Pensions, JobCentrePlus, HM Revenue & Customs, together with all Council Services to identify and prevent fraud.

2. BENEFIT FRAUD – PROSECUTION POLICY

Benefit fraud is where someone knowingly claims benefit to which they are not entitled. The Council recognises the submission of incomplete or inaccurate information in order to obtain benefit fraudulently is a criminal offence and will consider all such instances for submission to the Procurator Fiscal.

Where a case has been identified as being suitable to be forwarded to the Procurator Fiscal the Council will consider the powers provided within the Social Security Administration Act 1992 and subsequent amendments which allow for the imposition of Administrative Cautions and Administrative Penalties in place of prosecution.

The use of Administrative Cautions & Penalties will be at the discretion of the Council. Any refusal to accept such a sanction will require the Council to report the individual involved to the Procurator Fiscal.

The following criteria will be considered in assessing whether to apply a Caution; Penalty or Prosecute.

- ❖ Social Factors: - Claimants age and any mental or physical health problems
- ❖ Whether criminal intent can be evidenced together with the quality and suitability of the evidence.
- ❖ Previous fraud history and offences against the Council.
- ❖ Value and duration of fraudulent claim
- ❖ Would the public interest be served through prosecution

3. USE OF ADMINISTRATIVE PENALTIES

The use of financial penalties as an alternative to prosecution is available to the Council where, although the criteria to prosecute have been met the assessment of the individual's circumstances has indicated that a financial penalty would be more appropriate.

The application of a penalty is provided by the Social Security Administration (Fraud) Act 1997 which allows a penalty equivalent to 30% of fraudulently obtained benefit to be imposed. This is recovered along with any repayment of the overpaid benefit.

Should the financial penalty not be accepted, or subsequently defaulted upon the matter will be referred back for pursuit as a criminal prosecution.

The Officer with delegated responsibility for authorising administrative penalties is the Executive Head of Finance & Asset Management or others acting on his/her instruction.

4. USE OF ADMINISTRATIVE CAUTIONS

Administrative Cautions may be more appropriate than prosecution where the amount involved is relatively small or for a first time offence, or where the offender has a debt problem. The absence of financial penalties will mean that the debt problems are not exacerbated.

This sanction can only be considered where there is sufficient evidence to justify instituting criminal proceedings and where the person has admitted the offence during an interview under caution.

Should the caution be refused then criminal proceedings must commence.

5. FRAUDULENT CLAIMS BY EMPLOYEES OR MEMBER OF THE COUNCIL

Any case of benefit fraud identified which involves a Council employee will not only be subject to the actions outlined above but will also be subject to the Council's Disciplinary Policy & Procedures. In all such cases the matter will be reported to the Head of Personnel who will liaise with the appropriate Executive Director as required.

Any case of benefit fraud which involves an Elected Member will be reported to the Chief Auditor, who will liaise with the Chief Executive as required.

6. INVESTIGATION OF CASES

Responsibility for the investigation of Benefit Fraud lies with the Executive Head of Finance & Asset Management and authorised staff within the Finance Service.

All operational employees who are routinely involved in benefit fraud investigation will have sight of this Policy. In the course of their investigations, they will take account of the possible sanctions that could be applied. In particular, they will:

- seek to establish the facts in every alleged or suspected case,
- seek to gather sufficient admissible evidence,
- approach each investigation with an open mind,
- take into account any likely Police requirements if it is decided at the outset of the investigation that the Police are to be called in,
- operate with due regard to the rights of the suspect and potential witnesses, particularly as contained in the Human Rights Act 1998 and the Regulation of Investigatory Powers (Scotland) Act 2000,
- record and file their investigation work appropriately, confidentially and securely, and with due regard to Data Protection Act 1998 requirements,
- conduct their investigations with fairness, sensitivity, tact and discretion,
- act promptly in accordance with this policy,
- operate in accordance with the provisions of any other relevant legislation; the Council's financial regulations; other relevant Council regulations, policies and codes of conduct; the relevant codes of conduct of applicable professional organisations.

7. PUBLICITY & REPORTING

The principal objective of this Policy is to deterrence of fraud, as a result of this any successful prosecutions or other administrative sanctions will be suitably publicised whenever appropriate.

While any successful prosecution result will be considered for publicity, particular attention will be given to frauds that are large in value and/or where the offender has received a significant sentence..

Following a successful prosecution the Intervention Manager and/or Assistant Benefits Manager shall arrange with the Council's Press Officer for a suitably worded press release to be issued.

Other press releases may be considered from time to time, regardless of particular recent cases, such as reports of sanctions applied over a period.

The Revenues & Benefits Manager shall, at least annually, provide the Benefits assessment employees with a summary of results. Many of the results will be due to the vigilance of employees and it is in the Council's best interest that this is carried out.

The Revenues & Benefits Manager shall periodically provide the Executive Head of Finance and Asset Management with reports summarising the results of investigations.

8. UPDATING & COMMUNICATION OF THE POLICY

This Policy will be widely available to all interested parties via the Council internet and intranet sites. It will also be made available in hardcopy to all external parties. This could include those against whom it is intended to apply sanctions i.e. witnesses, solicitors, and advisors.

The Revenues & Benefits Manager shall review the Policy at least every two years, or more regularly to reflect changes in legislation and statutory requirements.

List of Council Policies & Procedures for the Prevention of Fraud & Corruption

Document	Located/Access Via
Standing Orders for Contracts	INTERNET/INTRANET
Scheme of Delegation	INTERNET/INTRANET
Financial Regulations	INTERNET/INTRANET
Accounting Policy Bulletins	INTRANET
Corporate Procurement Policy	INTERNET/INTRANET
National Code of Conduct for Elected Members	INTERNET/INTRANET
Employee Code of Conduct	INTERNET/INTRANET
Employees' Conditions of Service	INTERNET/INTRANET
Disciplinary Policy & Procedures	INTRANET
Effective Internal Audit	INTRANET
Local Code of Corporate Governance	INTERNET/INTRANET
Risk Management Strategy	INTERNET/INTRANET
IT Security Policy	INTRANET
Defalcation/Corrupt Practices Procedures	INTERNET/INTRANET
Recruitment & Selection Policy & Procedures	INTERNET/INTRANET
Benefit Fraud – Operational Plan	INTERNET/INTRANET
Freedom of Information/Records Management Policy	INTERNET/INTRANET