

E10 - COUNTER FRAUD, CORRUPTION AND BRIBERY POLICY



COTSWOLD
DISTRICT COUNCIL

Cotswold District Council

Counter Fraud, Corruption and Bribery Policy

June 2013

INTRODUCTION

- 1.1 In administering its responsibilities; this Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Councillor. The Council is committed to an effective Counter Fraud and Corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities.
- 1.2 The Head of Finance, Audit and GO Shared Services is the “Section 151 Officer” and has a statutory responsibility under section 151 of the Local Government Act 1972 to ensure the proper arrangements for the Council’s financial affairs and has developed financial codes of practice and accounting instructions. The Section 151 Officer exercises a quality control on financial administration through delegation to the Head of Finance (GO Shared Services).
- 1.3 The Monitoring Officer has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council’s actions do not give rise to illegality or maladministration. It is therefore essential for employees to follow the Council’s policies and procedures to demonstrate that the Council is acting in an open and transparent manner.
- 1.4 The Council will thoroughly investigate all suggestions of fraud, corruption or theft, both from within the Council and from external sources which it recognises can:
 - Undermine the standards of public service that the Council is attempting to achieve.
 - Reduce the level of resources and services available for the residents of Cotswold DC.
 - Result in consequences which reduce public confidence in the Council.
- 1.5 Any proven fraud will be dealt with in a consistent and proportionate manner. Appropriate sanctions and redress will be pursued against anyone perpetrating, or seeking to perpetrate fraud, corruption or theft against the Council.
- 1.6 The Council is committed to the highest possible standards of openness, probity, honesty, integrity and accountability. The Council expects all staff, Councillors and partner organisations to observe these standards. These are defined within the Code of Conduct for employees and the Members Code of Conduct. These values will help achieve the Council’s over-arching priority for the continued delivery of outcomes and value for money for local tax-payers.

DEFINITIONS

2.1 **FRAUD:** Is defined by The Fraud Act 2006 as follows:

A person is guilty of fraud if he is in breach of any of the following:

Fraud by false representation; that is if a person:

- (a) dishonestly makes a false representation, and
- (b) intends, by making the representation:
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Fraud by failing to disclose information; that is if a person:

- (a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
- (b) intends, by failing to disclose the information:
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Fraud by abuse of position; that is if a person:

- (a) occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person,
- (b) dishonestly abuses that position, and
- (c) intends, by means of the abuse of that position:
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

The Fraud Act 2006 repeals certain offences that are detailed in the Theft Acts of 1968 and 1978. The term “fraud” is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or more complicated crimes like false accounting or the supply of false information. In legal terms, all of these activities are the same crime, theft, examples of which include deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

2.2 **CORRUPTION:** Is the deliberate use of one’s position for direct or indirect personal gain. “Corruption” covers the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately.

2.3 **THEFT:** Is the physical misappropriation of cash or other tangible assets. A person is guilty of “theft” if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

2.4 **MONEY LAUNDERING:** Money laundering is the process by which criminals attempt to 'recycle' the proceeds of their criminal activities in order to conceal its origins and ownership and which leaves them with money that cannot be traced back.

All employees are instructed to be aware of the increasing possibility of receiving requests that could be used for money laundering and illicit requests for money through e-mails. Detailed guidance is set out in the Council's Proceeds of Crime / Anti-Money Laundering Policy.

2.5 Any Service that receives money from an external person or body is potentially vulnerable to a money laundering operation. The need for vigilance is vital and if there is any suspicion concerning the appropriateness of the transaction then advice must be sought from Internal Audit. The Council has a separate and more detailed Proceeds of Crime / Anti-Money Laundering Policy and a designated money laundering reporting officer, Section 151 Officer, nominated to receive disclosures about money laundering activity

2.6 The Council's legal team also have their own professional guidance in relation to money laundering which places a duty on solicitors to report any suspicions and these may override their legal professional privilege and confidentiality. All such suspicions must be reported to the Monitoring Officer and the Money Laundering Reporting Officer.

2.7 **BRIBERY:** The Bribery Act 2010 received Royal Assent on 8th April 2010. Previously, bribery has been viewed within the definition of corruption, as defined within the Council's Counter Fraud and Corruption Policy. The Bribery Act 2010 introduces four main offences, simplified as the following:

- Bribing another person: a person is guilty of an offence if he/she offers, promises or gives a financial or other advantage to another person.
- Offences relating to being bribed: a person is guilty of an offence if he/she requests, agrees to receive, or accepts a financial or other advantage. 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 advantage or not.
- Bribery of a foreign public official: a person who bribes a foreign public official is guilty of an offence if the person's intention is to influence the foreign public official in their capacity, duty or role as a foreign public official.
- Failure of commercial organisations to prevent bribery: organisations, which include the Council, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business.

Note: A 'financial' or 'other advantage' may include money, assets, gifts or services.

3. SCOPE

3.1 This document applies to and guides the counter-fraud interaction with:

- All employees (including casual workers and Agency Staff) and Councillors.
- Committee Members of Council funded voluntary organisations.

- Partner organisations (where the Council has a financial or statutory responsibility)
- Council Suppliers, Contractors and Consultants
- General Public.

4. AIMS AND OBJECTIVES

4.1 The aims and objectives of the Counter Fraud and Corruption Policy are to:

- Ensure that the Council is protected against fraud and loss.
- Protect the Council's valuable resources by ensuring they are not lost through fraud but are used for improved services to Cotswold DC residents and visitors.
- Create a 'Counter fraud' culture which highlights the Council's zero tolerance of fraud, corruption and theft, which defines roles and responsibilities and actively engages everyone (the public, Councillors, staff, managers and policy makers).

To provide a best practice 'counter fraud service' which:

- Proactively deters, prevents and detects fraud, corruption and theft.
- Investigates suspected or detected fraud, corruption and theft.
- Enables the Council to apply appropriate sanctions and recovery of losses.
- Provides recommendations to inform policy, system and control improvements, thereby reducing the Council's exposure to fraudulent activity.

5. PRINCIPLES

- 5.1 The Council will not tolerate abuse of its services or resources and has high expectations of propriety, integrity and accountability from all parties identified within this policy. The Council will ensure that the resources dedicated to "counter-fraud" activity are sufficient and all those involved are trained to deliver a professional "counter fraud" service to the highest standards.
- 5.2 All fraudulent activity is unacceptable, and will result in consideration of legal action being taken against the individual(s) concerned. The Council will also pursue the repayment of any financial gain from individuals involved in malpractice and wrongdoing. The Council will ensure consistency, fairness and objectivity in all its "counter-fraud" work.
- 5.3 This policy encourages those detailed in section 3.1 to report any genuine suspicions of fraudulent activity. However, malicious allegations or those motivated by personal gain will not be tolerated and, if proven, disciplinary or legal action may be taken. Sections 8.3 and 8.4 detail the reporting arrangements in relation to incidents of fraud or irregularity.

5.4 The Council will work with its partners (such as the Police, other Councils and other investigative bodies) to strengthen and continuously improve its arrangements to prevent fraud and corruption.

6. RESPONSIBILITIES

STAKEHOLDER	SPECIFIC RESPONSIBILITIES
Chief Executive	Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption.
Head of Finance, Audit and GO Shared Services (Section 151 Officer)	To ensure the Council has adopted an appropriate Counter fraud policy, there is an effective internal control environment in place and there is an adequately resourced and effective Internal Audit and Benefit Fraud service to assist with 'counter fraud' work.
Monitoring Officer	To advise Councillors and Officers on ethical issues, conduct and powers to ensure that the Council operates within the law and statutory Codes of Practice.
Audit and Scrutiny Committee (or appropriate Sub Group)	<p>To receive formal assurance from Internal Audit at each meeting and an annual opinion report in June.</p> <p>A formal counter fraud report will be issued to the Audit and Scrutiny Committee (or appropriate Sub Group) in June each year.</p> <p>The Audit and Scrutiny Committee (or appropriate Sub Group) also receive assurance:</p> <ul style="list-style-type: none"> - from external audit on the Council's Annual Accounts and Annual Governance Statement - on the effectiveness of the corporate governance framework - on the effectiveness of the corporate risk management processes
Councillors	To comply with the Members Code of Conduct and related Council policies and procedures and to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns accordingly.

<p>External Audit</p>	<p>Has a duty to ensure that the Council has adequate arrangements in place for the prevention and detection of fraud, corruption and theft.</p>
<p>Internal Audit</p>	<p>Responsible for assisting the development and implementation of the Counter Fraud and Corruption Policy and monitoring the investigation of any reported issues. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this policy and that action is identified to improve controls and reduce the risk of recurrence.</p> <p>Reporting to the Chief Executive and the Section 151 Officer on the progress and results of investigations.</p> <p>Reporting annually to Audit and Scrutiny Committee (or appropriate Sub Group) on proven frauds.</p>
<p>Counter Fraud Working Group</p>	<p>This is a group comprising of Benefit Fraud Investigators, Internal Audit and other relevant parties. This unit works together to:</p> <p>Proactively deter, prevent and detect fraud, corruption and theft.</p> <p>To investigate suspected fraud, corruption and theft.</p> <p>Enables the Council to apply appropriate sanctions and recovery of losses.</p> <p>To provide recommendations to inform policy, system and control improvements.</p>
<p>Strategic Directors, Heads of Service, and Service Managers</p>	<p>To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption and theft and to reduce these risks by implementing internal controls.</p>

Staff	To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns to management, or through the Whistleblowing Policy Procedures.
Public, Partners, Suppliers, Contractors and Consultants	To be aware of the possibility of fraud and corruption against the Council and report any genuine concerns / suspicions.

7. APPROACH TO COUNTERING FRAUD

- 7.1 The Council has a responsibility to reduce fraud and protect its resources by enabling the Counter Fraud Working Group to complete work in each of the following key areas:
- 7.2 **DETERRENCE:** The Council will promote and develop a strong “counter-fraud” culture, raise awareness and provide information on all aspects of its “counter-fraud” work. This includes advice on the intranet, a fraud e-learning tool, publicising the results of proactive work, investigating fraud referrals and seeking the recovery of any losses due to fraud.
- 7.3 **PREVENTION:** The Council will strengthen measures to prevent fraud. Internal Audit will work with managers and policy makers to ensure new and existing systems, procedures and policy initiatives consider any fraud risks. Audit activity will also consider fraud risks as part of each review.
- 7.4 **DETECTION:** Internal Audit maintains a record of all fraud referrals with the exception of benefit fraud, this is held with the Benefit Fraud Team. This record helps to establish those areas within the Council most vulnerable to the risk of fraud. This also enables a Council wide fraud profile to be created which then informs any detailed work in areas throughout the Council aimed at detecting existing and new types of fraudulent activity.

Internal Audit also leads in the National Fraud Initiative (NFI) run by the Audit Commission. An officer in the internal audit team is designated as the ‘Key Contact’ for this process. Furthermore, an annual survey is submitted to the Audit Commission on behalf of the authority by Internal Audit. Areas indicated in the surveys may receive proactive investigation where appropriate.

Internal controls are established for financial and other systems within the Council. They are designed to discourage fraud and provide indicators of any fraudulent activity. The Council also relies on employees, Councillors and the public to be alert and to report suspicion of fraud and corruption.

Managers should pay particular attention to circumstances which may require additional and sensitive monitoring or supervision.

- 7.5 **INVESTIGATION:** The Council will investigate all reported incidents of fraud or irregularity using the Counter Fraud Working Group.
- 7.6 **SANCTIONS:** The Council will apply realistic and effective sanctions for individuals or organisations where an investigation reveals fraudulent activity. This will include legal action in addition to criminal and disciplinary action, where appropriate.
- 7.7 **REDRESS:** A crucial element of the Council's response to tackling fraud is seeking financial redress. The recovery of defrauded monies is an important part of the Council's strategy and will be pursued, where appropriate. If necessary Proceeds of Crime Act legislation will be considered.
- 7.8 In addition to the above, Internal Audit also prepares a risk based annual Audit Plan that details the key objectives and areas of work for the year. Within these work areas indicators for fraud are considered. Internal Audit will also respond to requests from management where there may be concerns over the effectiveness of internal controls. The work plan is agreed and monitored by the Audit and Scrutiny Committee (or appropriate Sub Group), Corporate Team and the Section 151 Officer.

Guidance

8. REPORTING, ADVICE AND SUPPORT

- 8.1 The Council's expectation is that Councillors and managers will lead by example and that employees at all levels will comply with the Constitution, Council Policies, Financial Regulations, Financial and Contract Procedure Rules and directorate procedures.
- 8.2 The Council recognises that the primary responsibility for the prevention and detection of fraud rests with management. It is essential that employees of the Council report any irregularities, or suspected irregularities to their line manager and if this is not appropriate then to the Service Manager or Director. The Council will provide all reasonable protection for those who raise genuine concerns in good faith.
- 8.3 The line manager, Service Manager or Director who receives the allegation (whether from a Councillor or a Council employee) must refer the matter to the Section 151 Officer or to one of the following people depending on the circumstances, to determine how the potential irregularity will be investigated:
- Monitoring Officer
 - Relevant Director
 - Head of Internal Audit
 - Head of HR GOSS /HR Operations Manager GOSS
- 8.4 Where appropriate, the Director should inform the Chief Executive and Monitoring Officer where the irregularity is material and/or could affect the reputation of the Council. The Section 151 Officer will liaise with the relevant Cabinet Member. The Communications Team should also be informed if the matter is likely to be communicated externally.

8.5 Any investigation will follow the Guidelines for Managers on Investigating Allegations as well as the Protocol for Investigating Irregularities, which includes the need to:

- Deal promptly with the matter.
- Record all evidence received.
- Ensure that evidence is sound and adequately supported.
- Ensure security of all evidence collected.
- Contact other agencies if necessary e.g. Police.
- Notify the Council’s insurers.
- Implement Council disciplinary procedures where appropriate.

8.6 The Council will also work in co-operation with the following bodies that will assist in scrutinising our systems and defences against fraud and corruption:

- Local Government Ombudsman
- External Audit
- the National Fraud Initiative and related Audit Networks
- Central Government Departments
- HM Revenue and Customs
- UK Border Agency
- Department for Work and Pensions
- Police.

8.7 Any concerns or suspicions reported will be treated with discretion and in confidence. Key contacts include:

Head of Finance, Audit and GO Shared Services (Section 151 Officer)	<p>Write to:</p> <p>Cotswold District Council Trinity Road Cirencester Gloucestershire GL7 1PX</p>
Monitoring Officer	
Relevant Director	
Internal Audit	
Audit and Scrutiny Committee Chairman (or equivalent)	

9. FURTHER INFORMATION

9.1 Further information on Council policy can be found in the following documents:

The Constitution.

- Code of Conduct for Employees and the Members Code of Conduct. Which include detailed policy advice on;
 - Gifts, Hospitality and sponsorship
 - Declaring and Registering Interests
- Whistle-blowing policy
- Financial Regulations
- Contract Procedure Rules
- Money Laundering Policy
- Regulation of Investigatory Powers Act (RIPA).

10. STRATEGY REVIEW

10.1 The Council will continue to review and amend this strategy as necessary to ensure that it continues to remain compliant and meets the requirements of the Council.

Responsible Officer: Head of Finance, Audit and GO Shared Services

Date: June 2013

Review frequency every three years

(END)