

Anti-Fraud and Corruption Policy

1 Introduction

- 1.1 The Council's approach
- 1.2 Criminal offences
- 1.3 Issues of misconduct
- 1.4 Counter Fraud Strategy

2 Roles and Responsibilities

- 2.1 Members
- 2.2 Section 151 Officer
- 2.3 Monitoring Officer
- 2.4 Chief Officers
- 2.5 Management
- 2.6 Employees
- 2.7 School Governors
- 2.8 Audit Services
- 2.9 External Audit

3 Reporting Fraud and Concerns

- 3.1 What to do when fraud is suspected?
- 3.2 How to report fraud
- 3.3 Staff Training

4 Investigations by the Counter Fraud Unit

- 4.1 Conducting an investigation
- 4.2 Conclusion of investigation
- 4.3 The decision to prosecute and alternative actions
- 4.4 Recovery of Loss
- 4.5 Publicity and Deterrent

5 Other Related Documents and Links

- 5.1 Other Council Policies
- 5.2 Officer contacts

Appendix 1 - Prosecution criteria and alternatives to prosecution

Policy Statement

Sandwell Council is committed to creating and maintaining an environment where fraud, corruption and bribery will not be tolerated. The Council operates a zero tolerance on fraud, corruption and bribery. All instances will be investigated and the perpetrator(s) will be dealt with in accordance with established policies. Action will be taken to recover all misappropriated money and assets from the Council. Where appropriate, arrangements will be made to ensure that such cases receive maximum publicity to deter potential fraudsters.

1 Introduction

1.1 The Council's approach

The policy confirms the council's approach, as well as defining roles and responsibilities for dealing with the threat of fraud, corruption and bribery both internally and externally. It applies to:

- Employees
- Councillors
- Agency Staff
- Contractors
- Consultants
- Governors
- Suppliers
- Service Users

1.2 Criminal offences

The [Fraud Act 2006](#) defines fraud as: 'the intention to make gain or cause loss by false representation, failing to disclose information or abuse of position'.

Offences under this act include misrepresentation / supplying false information or document, failing to disclose information, abuse of position and obtaining services dishonestly.

The [Bribery Act 2010](#) defines bribery as: 'the giving or taking of a reward in return for acting dishonestly and / or in breach of the law. The reward could relate to money, payment in kind, goods or services.

There are four offences under the Bribery Act 2010:

- The giving or offering of a bribe
- The request for or acceptance of a bribe
- Bribing a foreign public official
- The failure of a commercial organisation to prevent bribery

The Act supports the council's principle of free and fair competition in contracting and procurement.

Genuine hospitality or similar business expenditure that is reasonable and proportionate is allowable by the Act. The council's [Gifts and Hospitality procedure](#) and [Member Code of Conduct - Gifts and Hospitality](#) detail the council's approach.

Other legislation and offences relating to specific schemes and services exist, including:

- Local Council Tax Reduction Scheme (Fraud and Enforcement) Regulations 2013
- Prevention of Social Housing Fraud Act 2013
- Housing Act 1985
- Road Traffic Regulations Act 1984
- Proceeds of Crime Act 2002

Offences and alleged criminal conduct relating to other legislation will be reviewed and investigated when deemed necessary.

1.3 Issues of misconduct

In addition to criminal offences - corrupt, fraudulent and improper practice or improperly seeking an advantage on any person or for a financial gain are outlined as employee disciplinary issues and breaches of the members code of conduct respectively.

Both employees and elected members are expected to adhere to the relevant code of conduct.

1.4 Counter Fraud Strategy

In conjunction to this document the Counter Fraud Unit (CFU) has produced a Counter Fraud Strategy which outlines how the council identifies and tackles fraud, as well as looking to comply with best practice and national bench marking.

2 Roles and Responsibilities

2.1 Members

Members have a responsibility as the duly elected representatives of Sandwell for ensuring that the assets and resources of the Council are protected from all forms of abuse, including fraud and corruption.

2.2 Section 151 Officer

In accordance with the Local Government Act 1972, the council has an appointed Section 151 Officer. It is the responsibility of the Section 151 Officer to ensure proper arrangements are made for the council's financial affairs and that there are effective procedures in place to investigate any suspected fraud or irregularities.

To comply with the Council's Financial Regulations the Section 151 Officer should be made aware of any fraud, theft, irregularity, improper use or misappropriation of the Council's property or services or financial misconduct. Incidents of this nature will be reported to Audit Services by the Section 151 Officer for investigation.

2.3 Monitoring Officer

The Monitoring Officer has responsibility for administering the Council's Confidential Reporting Code (Whistleblowing Policy). Incidents of whistleblowing shall be reported to the Monitoring Officer. The Monitoring Officer may decide to investigate whistleblowing concerns or delegate the matter to someone else, such as Audit Services.

2.4 Chief Officers

In instances of any fraud, theft, irregularity, improper use or misappropriation of the council's property or services or financial misconduct. Chief Officers should immediately inform the Council's Section 151 Officer.

Where an Audit Service's investigation outlines improper behaviour, Chief Officers are responsible for ensuring the council's disciplinary procedures are initiated.

2.5 Management

It is the responsibility of each manager to establish the internal control systems for their service. The systems in place should ensure that if there is a breach it is promptly identified and the necessary action taken to minimise any potential loss. Management should ensure employees feel able to approach them with any concerns regarding suspected irregularities.

2.6 Employees

All employees of the council should be aware of their role and responsibilities as well as the policies / procedures that they need to comply with. Any employees who are unsure of their role and responsibilities should speak to their line manager.

All employees have a general responsibility for taking reasonable action to ensure the security of the assets under their control and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.

Employees are the best people to identify fraud and corruption. Anyone who suspects any irregularity should report it. Any employee who intentionally ignores or disregards their duty to report fraud or financial misconduct could face disciplinary action.

2.7 School Governors

All governors should ensure they are aware of their responsibilities and be familiar with the code of conduct outlined by their governing body. Should a governor suspect or detect fraud, financial mis-management or corruption it should be reported to the council. Concerns can also be reported to the Department of Education via their email address: fraud.reports@education.gov.uk

2.8 Audit Services

Audit Services provide an independent and objective function, which includes reviewing system controls, evaluating governance arrangements, risk management and conducting investigations.

In line with the Council's Financial Regulations, Audit Services will be made aware of any fraud or irregularities reported to the Section 151 Officer to investigate. The Counter Fraud Unit (CFU), based within Audit Services have qualified and trained officers, experienced in conducting investigations. It is their role to investigate and prove or disprove allegations of fraud and any related criminal offences.

2.9 External Audit

As part of their statutory responsibilities, External Audit will determine whether the council has adequate arrangements in place for standards of financial conduct and preventing and detecting fraud and corruption.

3 Reporting Fraud and Concerns

3.1 What to do when fraud is suspected?

The council is committed to increasing and actively promoting an anti-fraud and corruption culture where individuals can feel comfortable in voicing their concerns.

Procedures are in place to raise concerns. The council has an established Confidential Reporting Code (Whistleblowing Policy), which enables employees to raise concerns in a confidential manner.

If someone suspects fraud or corruption is taking place it should be reported as soon as possible. Anyone who has concerns is advised to carry out the following where possible:

- Record dates, times or other significant details.
- Make a written note to ensure concerns / irregularities are recalled correctly.
- Secure any evidence
- Ensure concerns are supported with evidence

3.2 How to report fraud

Reporting methods include:

- The Counter Fraud Unit: fraud_investigation@sandwell.gov.uk
- The Council's whistleblowing reporting routes [online whistleblowing](#) or [whistleblowing form \(Word doc download\)](#)
- National Audit Office 020 7798 7999 or [report online](#)
- Crimestoppers - 0800 555 111
- Protect - 020 3117 2520 www.protect-advice.org.uk

3.3 Training

Good fraud awareness training for employees and members can help reduce the amount of fraud that enters the system. It also ensures employees and members understand what fraud is and when to refer the matter. The Counter Fraud Unit will look to:

- Provide a rolling program of fraud awareness to employees where appropriate, as well as to specific teams.
- Distribute fraud alerts, including advice if necessary.
- Ensure Counter Fraud Unit staff undergo professional training and receive regular updates to maintain high quality investigations.

4 Investigations by the Counter Fraud Unit

4.1 Conducting an investigation

Counter Fraud Officers will assess all allegations reported to them to determine the suitability of the matter for investigation.

The objective of any investigation is to obtain evidence, establish the facts and to prove or disprove any allegation. Information will be collected and collated with a view to bringing the matter to an appropriate conclusion.

Where employees are believed to be involved in any fraud or misconduct, consideration will be made to inform the relevant Service Manager, Director and HR representative (the Monitoring Officer in the case of elected members).

If there is evidence that a criminal offence may have been committed the standards of a criminal investigation will be maintained through:

- Police and Criminal Evidence Act 1984 (PACE)
- Criminal Procedure and Investigations Act 1996 (CPIA)
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Investigatory Powers Act 2016
- Data Protection Act 2018 (DPA)
- Human Rights Act 1998 (HRA)

Consideration will always be given as to whether other organisations, such as West Midlands Police, Department for Works and Pension, HMRC, etc are better placed to investigate allegations of fraud or other criminal behaviour. If required, details will be forwarded to other agencies for their consideration or to conduct a co-operated joint investigation.

4.2 Conclusion of Investigation

The completion of an investigation could result in one or more of the following:

- Report to Director / Chief Executive
- Report to Service Area
- Handing case over to HR
- Report to the Monitoring Officer
- Referring to another investigation agency
- Consideration for prosecution proceedings or alternative sanctions
- No further action

4.3 The decision to prosecute and alternatives to prosecution

Once an investigation has been concluded a decision will be made as to whether the case meets the necessary criteria for a prosecution to be considered. Where it does, any potential prosecution or alternative sanction will be authorised by the Counter Fraud Lead and Director of Finance / Section 151 Officer. If the matter is referred for prosecution, Legal Services will additionally review the evidence. Further information of prosecution criteria and alternatives to prosecution are detailed in Appendix 1.

4.4 Recovery of Loss

The Counter Fraud Unit will always aim to identify the full extent of fraud and loss so that cost to the council can attempt to be recovered, where appropriate. Civil proceedings as well as the use of Proceeds of Crime Act 2002, Criminal Justice Act 1998 and Prevention of Social Housing Fraud Act 2013 - Unlawful Profit Orders, will be considered. In the case of employees and former employees, pension contributions can be used to recover loss.

4.5 Publicity and Deterrent

In proven cases of fraud and corruption, publicity will always be a consideration in order to act as a deterrent to anyone who may consider committing fraud against the council and to demonstrate such behaviour will not be tolerated.

5 Other Related Documents and Links

5.1 Other Council Policies

This document is not the Council's sole document in relation to fraud and corruption. The following documents / processes have also been introduced by the council to promote an anti-fraud and anti-corruption culture as well as maintain conduct and standards:

- Confidential Reporting Code (Whistleblowing Policy)
- Gifts and Hospitality
- Code of Conduct for Members and Officers
- Officers Code of Conduct
- Employee declarations of interest
- Anti-Money Laundering Policy
- Financial Regulations
- Procurement and Contracts Procedure Rules
- Disciplinary Policy
- Grievance Policy

5.2 Officer contacts

- Simone Hines – Director of Finance and Section 151 Officer
email: Simone_Hines@sandwell.gov.uk
- Surjit Tour - Director of Law and Governance and Monitoring Officer
email: Surjit_Tour@sandwell.gov.uk
- Peter Farrow - Audit Services Manager
email: Peter_Farrow@sandwell.gov.uk
- Oliver Knight - Counter Fraud Lead
email: Oliver_Knight@sandwell.gov.uk

Appendix 1 - Prosecution criteria and alternatives to prosecution

Prosecution

The Local Government Act 1972, allows the council to prosecute (Section 222) and to appear at court in legal proceedings (Section 223).

When considering matters of criminal conduct the principles under the [Code for Crown Prosecutors](#) will be considered. These include the 'evidential test' and the 'public interest test'. It is only when both these tests are satisfied that a case can be considered for prosecution.

In instances when the evidential and public interest tests are met and the loss to the Council exceeds £5,000 the case will usually be referred for prosecution. A prosecution may still be considered where the loss is below this threshold or if there has been no financial loss. However other aggravating factors would need to be present (e.g. previous warnings not being adhered, number of offences, impact on victim, etc).

In investigations when a person fails to attend an interview under caution and sufficient evidence exists, a prosecution will be the preferred option.

In the case of a joint investigation the lead agency will be responsible for initiating further proceedings. Generally, the organisation that initially identify any fraud and invites the other agency to jointly investigate will be the lead.

In cases where a joint investigation is conducted with the DWP their sanction decision should be considered in the first instance to create uniformity between the two investigation agencies.

Where the loss to the Council exceeds £5,000 and a prosecution is not the preferred option suggested by both the Investigation Officer and the Counter Fraud Lead, agreement will be sought from the Section 151 Officer to consider and, where necessary, authorise the alternative sanction.

Prosecution will be the preferred option in cases where a member or council employee, who is in a position of trust and / or authority, has been investigated (only when the evidential and public interest tests have been met).

Council Tax Support Penalty

Section 11 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 allows a financial penalty to be offered to an individual, in relation to Council Tax Support offences.

The penalty is set at £100 or 50% of the overpayment, whichever is greater (up to a maximum of £1,000). Penalties can be offered when an overpayment has occurred, or in the case of an 'attempt' if the fraud is detected before payment is made.

Should the penalty not be accepted the matter should be referred for prosecution.

Caution

A formal caution is an oral warning given to a person who has committed an offence and who is then required to make a written admission to the offence acknowledging that they have received a caution in return for not being prosecuted through the criminal courts.

In order to offer a caution the individual must have admitted the offence during the interview under caution and the loss to the council should not exceed £5,000. If the caution is not accepted the matter should be referred for prosecution.