**COUNTER FRAUD STRATEGY**

****Reviewed: November 2021

|  |  |
| --- | --- |
|  | **Page** |
| **1. Why do we need a strategy?** | 3 - 4 |
| **2. What is fraud?** | 4 - 5 |
| **3. Aims & Objectives** | 5 - 6 |
| **4. Counter Fraud Response Plan** | 6 -7 |
| **5. Prosecutions and Recovery** | 7-8 |
| **6. Monitoring & Reporting** | 8 |
| **7. Partnership Working** | 8 |
| **8. Contact** | 8 |
| **Appendices** |  |
| Appendix A – Counter fraud response plan | 9 – 12 |
| Appendix B – Prosecution Policy | 13 - 14 |

**1. Why do we need a strategy?**

1. One of the Councils strategic objectives is to safeguard it’s assets, to help achieve this goal and to clarify the roles all staff have in respect of preventing and detecting fraud, this Counter Fraud Strategy has been developed by the Assurance and Risk Manager.
2. The Counter Fraud Strategy is one part of our arrangements. The Council Constitution places additional responsibilities on other officers and Committees as follows:

* The Head of Legal Services is responsible for the development, maintenance and review of an anti-fraud and anti-corruption policy’.
* Standards Committee is responsible for ‘promoting and reviewing the Whistle Blowing Policy’ and ‘overview of whistleblowing policy’. Full Council are repsonsible for approving this policy, which we call the Speak Out Policy.

1. Our best defence in combating fraud is to have a strong counter fraud culture that is properly communicated and fully embedded. The Council is committed to reducing losses due to fraud and corruption to an absolute minimum across the whole of the Council’s activities.
2. The Council requires all members and staff at all times to act honestly and with integrity and to safeguard the public resources for which the Council is responsible. Fraud is an ever-present threat to these resources and hence must be a concern to all members, staff and persons employed in a similar capacity. Fraud may occur internally or externally and may be perpetrated by members, staff, partners, consultants, suppliers, contractors, individually or in collusion with others.
3. Each year fraud and corruption within the public sector results in the loss of millions of pounds of taxpayer monies, the majority being in respect of outside individuals and groups. Examples of fraud include falsification of housing benefit claims and renovation grant claims. An example of corruption is payment or provision of a gift to a Council official to influence a decision or approve a contract.
4. This strategy ensures that everyone is clear about their responsibilities in relation to counter fraud. What to do if they suspect fraud and the action that will be taken by management.
5. This strategy sets out how we will deliver effective counter fraud arrangements for the Council to optimise resources and ensure the public have confidence in the Council and ensure positive outcomes for all of the communities of South Tyneside. We will achieve this by working together to deliver the priorities agreed with our partners in South Tyneside Partnership.
6. The embedding of the strategy is supported by a number of other Council policies and procedures including:

* Speak Out (whistle blowing) policy
* Complaints procedure
* Code of Conduct for Members
* Employees Code of Conduct
* Register of Interests for members
* Register of Interests for officers
* Register of Gifts and Hospitality for members
* Register of Gifts and Hospitality for officers
* Code of Corporate Governance
* Disciplinary procedures;
* Financial Management Standard 14 – Preventing Fraud & Corruption;
* Participation in the Cabinet Offices’ National Fraud Initiative exercise

**2. What is fraud?**

1. The Fraud Act 2006 defines the offence of fraud but many of the offences referred to as fraud are also covered by the Theft Acts of 1968 and 1978, and more recently the Bribery Act 2010. The term is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.
2. For practical purposes fraud may be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party. The criminal act is the attempt to deceive and attempted fraud is therefore treated as seriously as accomplished fraud.
3. Computer fraud is where information technology equipment has been used to manipulate programs or data dishonestly (for example, by altering, substituting or destroying records, or creating spurious records), or where the use of an IT system was a material factor in the perpetration of fraud. Theft or fraudulent use of computer time and resources, including unauthorised personal browsing on the internet, is included in this definition.
4. Taken together, these definitions show that fraudulent behaviour could involve either internal disciplinary action, proceedings in the civil courts or prosecution by the police. Fraud can also be linked to other serious criminal activity taking place outside of the organisation in which it occurs, including extortion and money laundering.
5. South Tyneside Council is committed to preventing any form of bribery carried out by its Members, Officers and Partners wherever possible.
6. The Bribery Act 2010, which came into force in July 2011, introduces a number of criminal offences that relate not only to the offering or giving of a bribe and the taking of one, but also the failure to put in place adequate measures to prevent such activity.
7. Bribery is defined as the offering, giving, receiving, or soliciting of any item of value to influence the actions of an official or other person in charge of a public or legal duty. It may be any money, good, right in action, property, preferment, privilege, emolument, object of value, advantage, or merely a promise or undertaking to induce or influence the action, vote, or influence of a person in an official or public capacity.
8. Allegations of bribery will be investigated in accordance with the procedures established within the Counter Fraud Response Plan.
9. Guidance issued by the Ministry of Justice in relation to hospitality confirms the government does not intend that genuine hospitality that is reasonable and proportionate be caught by the Act.
10. Members and Officers must use discretion when offered hospitality or gifts and must not accept any cash offered to them. Any gift or hospitality must be politely refused where possible.
11. Everything with the exception of smaller work-related items such as calendars and desk diaries, must be reported to managers and recorded in the register of ‘Gifts and Hospitality’ maintained by each Corporate Group. Democratic Services will maintain a register on behalf of Members.
12. Where there is evidence to suggest that a criminal offence has been committed, it is the responsibility of the Assurance and Risk Manager in consultation with the Chief Executive, Director of Business and Resources (Section 151 Officer), Director of Governance and Corporate Affairs (Monitoring Officer) and relevant Director, as appropriate, to submit the case to the Police for investigation and prosecution as appropriate.

**3. Aims & Objectives**

1. The Council’s aim is to prevent fraud and corruption occurring in the first instance but where this is not possible; the remit is to reduce losses to fraud and corruption to an absolute minimum.
2. The objectives and success criteria to meet the aim are:

* To develop an anti-fraud and corruption and zero tolerance culture, we will ensure:
* the Corporate Fraud Strategy is reviewed and agreed on an annual basis by Audit Committee;
* the Corporate Fraud Strategy is publicised to members, officers, partners and members of the public;
* successful prosecutions are publicised;
* an annual summary report to the Audit Committee on compliance with the strategy.
* To create a strong deterrent effect and prevent fraud and corruption by designing and redesigning policies and systems, we will ensure:
* fraud and corruption related policies are embedded across the organisation;
* internal audit has a clear programme of work to create a strong deterrent affect covering fraud risks;
* internal audit is consulted on all major new projects to ensure fraud risks are considered and mitigated.
* To pro-actively detect and thoroughly investigate fraud and corruption, we will ensure:
* internal audit is notified of all frauds at the outset and support provided where required;
* internal audit continues to undertake pro-active fraud reviews of high-risk areas;
* internal audit staff continue to be skilled and experienced to undertake and support investigations;
* internal audit liaises both internally and externally to keep abreast of fraud risks.
* To recover losses and prosecute where fraud and corruption is found, we will ensure:
* amounts able to be recovered are maximised and exhausted;
* the police are notified in line with the Prosecution Policy;
* prosecutions are successfully undertaken.
* To ensure the level of losses is minimised and reduced each year.

**4. Counter Fraud Response Plan**

1. Counter fraud is everyone’s responsibility - by reporting fraud you can make sure that public money is spent where it should be, on services for the community.
2. Attached at **Appendix A** is the Counter Fraud Response Plan which provides a checklist of actions and a guide to follow in the event that fraud is suspected. It covers:

* Notifying suspected fraud;
* The investigation process;
* Liaison with police and external audit;
* Initiation of recovery action;
* Reporting process.

1. A summary however of the roles and responsibilities are identified below.

**The Council**

1. The Council has an obligation to:

* Develop and maintain effective controls to prevent fraud;
* Carry out vigorous and prompt investigations if fraud occurs;
* Take appropriate legal and/or disciplinary action against perpetrators of fraud, and
* Take appropriate action against managers and supervisors where their failures have contributed to the commissioning of fraud.

**Members**

1. The Audit Committee are responsible for considering the effectiveness of corporate governance arrangements including anti-fraud and corruption. To fulfil this responsibility Audit Committee members will approve and monitor the strategy.

**S151 officer**

1. The Director Business and Resources, as the Council’s Section 151 Officer, carries overall responsibility for the prevention of fraud, and is liable to be called to account for specific failures. However, the above responsibilities fall directly online management and involve **all members and staff** in South Tyneside Council and South Tyneside Homes.

**Internal Audit**

1. **Irrespective of the amount** **involved**, the Council’s Financial Management Standards require that all cases of attempted, suspected or proven fraud, shall be reported to the Assurance and Risk Manager who will, in consultation with service management, decide on the appropriate course of action. Internal Audit is required to keep a register of all cases to enable the annual fraud survey to be completed for external audit and the Audit Committee. Internal Audit must:

* Ensure the Council has suitable policies and practices in place to safeguard itself against fraud and theft;
* Ensure that it communicates its policy on fraud to staff in a formal policy statement,
* Prepare an annual report on fraud and theft for the Audit Committee; and
* Investigate cases as per direction from the Assurance and Risk Manager.

**Managers’ responsibilities**

1. Day to day responsibility for the prevention and detection of fraud rests with line managers who are responsible for:

* Identifying the risks to which systems, operations and procedures are exposed;
* Developing and maintaining effective controls to prevent and detect fraud, and
* Ensuring that controls are being complied with.

1. Managers need to consider the risks of fraud in their service area through considering how a fraud could be committed and assessing what controls are in place to mitigate this.
2. Internal Audit is available to offer advice and assistance on control issues and managers are encouraged to make use of this service.

**Staff responsibilities**

1. All staff are responsible for:

* Acting with propriety in the use of South Tyneside Council resources and in the handling and use of public funds whether they are involved with cash or payment systems, receipts or dealing with partners, contractors, suppliers or customers;
* Reporting details **immediately** to the Assurance and Risk Manager if they suspect or believe that there is evidence of irregular or improper behaviour or that a fraud may have been committed.

**Members of the Public**

1. Members of the public, whom for the purposes of this strategy are anyone not mentioned above, have a responsibility to notify the Council of any concerns through the variety of mechanisms available. These include the Speak Out Policy and Complaints Process.

**5. Prosecutions and Recovery**

1. The Council is committed to a zero-tolerance approach and to support this have a policy on the prosecution and recovery of losses. This is attached at **Appendix B**.
2. The Council views fraud very seriously. All instances will be investigated rigorously and promptly, and appropriate action will be taken. The policy on the application of sanctions and recovery of losses where fraud and corruption has been proven will be applied in a consistent way.
3. All possible sanctions, disciplinary, regulatory, civil and criminal proceedings will be considered against those who perpetrate a fraud against the Council.

**6. Monitoring & Reporting**

1. Internal Audit will monitor adherence to strategy on an ongoing basis and where necessary, report any non-compliance to the Director Business and Resources (S151 Officer). The strategy will be reviewed and re-approved on an annual basis by the Audit Committee.
2. On an annual basis a fraud report will be submitted to Audit Committee summarising the outcome of fraud cases throughout the year and progress in achieving the strategy objectives and success criteria.

**7. Partnership Working**

1. As well as Council services working together and sharing information, within Tyne and Wear there are several groups where public sector bodies meet to discuss counter fraud issues and share good practices. These include the National Anti- Fraud Network (NAFN), North East Fraud Forum (NEFF), Institute of Internal Auditors (IIA), CIPFA’s North East Audit Group, Tyne and Wear Heads of Internal Audit Group and participation in the National Fraud Initiative (NFI). The Council is an active participant in all these forums.
2. The Council also has close links with Northumbria Police and the Department for Work and Pensions.

**8. Contact**

1. If you would like any further information or would like to report any concerns please contact Internal Audit on 0191 424 7760.
2. If you would like this document in another language or format, or if you require the services of an interpreter, please contact us on 0191 424 7385

**Introduction**

1. This Counter Fraud Response Plan provides a checklist of actions and a guide to follow in the event that fraud is suspected.
2. Its purpose is to define authority levels, responsibilities for action and reporting lines in the event of suspected fraud, theft or other irregularity.

**Notifying Suspected Fraud**

1. It is important that all members and staff can report their concerns without fear of reprisal or victimisation and are aware of the means to do so. The Public Interest Disclosure Act 1998 (the "Whistleblowers Act") provides appropriate protection for those who voice genuine and legitimate concerns through the proper channels. The Council’s Speak Out Policy has been written to protect those reporting their concerns and encourages people to report any suspected incidents of fraud.
2. In the first instance, any suspicion of fraud, theft or other irregularity should be reported, as a matter of urgency, to your line manager. If that is not appropriate, your concerns should be reported upwards to one of the following persons:

* Head of Service / Corporate Lead;
* Director;
* Assurance and Risk Manager;
* Director Business and Resources (S151 Officer)
* Director of Governance and Corporate Affairs (Monitoring Officer); or the
* Chief Executive.

1. **All concerns must also be reported to the Assurance and Risk Manager at the outset by the manager receiving the disclosure.**  Internal Audit has skills and experience in undertaking investigations and has unfettered access to members, officers and systems which can be used to support management. Internal Audit collate information on all suspected fraud, theft or irregularity and its outcome across the Council not only as part of their determination of the effectiveness of the system of internal control, a key part of the Council’s assurance framework, but also to complete an annual fraud survey for external audit and the Audit Committee.
2. It is the responsibility of the Assurance and Risk Manager to keep the Director of Governance and Corporate Affairs (Monitoring Officer) and the Director Business and Resources (S151 Officer) informed of any suspicions of fraud or irregularity.
3. Every effort will be made to protect an informant’s anonymity if requested. However, the Council will always encourage individuals to be identified to add more validity to the accusations and allow further investigations to be more effective. In certain circumstances, anonymity cannot be maintained. This will be advised to the informant prior to release of information.

**The Investigation Process**

1. Suspected fraud must be investigated in an independent, open-minded and professional manner with the aim of protecting the interests of both the Council and the suspected individual(s). Suspicion must not be seen as guilt to be proven.
2. The investigation process will vary according to the circumstances of each case and will be determined by the Assurance and Risk Manager and service manager. Depending on the circumstances this may also include the Director of Governance and Corporate Affairs (Monitoring Officer), Director Business and Resources (S151 Officer), Chief Executive and the appropriate Director.
3. Should an agreement not be reached, including with those officers with designated responsibilities, the Assurance and Risk Manager will have overall responsibility for determining the process to be followed, regardless of whether accusations of fraud or error were levelled against members, officers or partners.
4. Although Internal Audit is to be notified, in some circumstances the service themselves may be better placed to carry out the investigation and it will be agreed that they will keep Internal Audit informed of the outcome. The investigation will be carried out promptly and appropriately. An "Investigating Officer" will be appointed to take charge of the investigation on a day-to-day basis.
5. The Investigating Officer will appoint an investigating team. This will normally comprise staff from within Internal Audit but may be supplemented with other resources from within the Council or from outside.
6. Where initial investigations reveal that there are reasonable grounds for suspicion, and to facilitate the ongoing investigation, it may be appropriate to suspend an employee against whom an accusation has been made. This decision will be taken by the relevant Head of Service in consultation with support from the Corporate Lead HR and the Investigating Officer. Suspension is a neutral act and not a disciplinary action nor should it imply guilt.
7. The process will follow the guidelines set out in South Tyneside Council’s Terms and Conditions of Service relating to such action.
8. It is important, from the outset, to ensure that evidence is not contaminated, lost or destroyed. The investigating team will therefore take immediate steps to secure physical assets, including computers and any records thereon, and all other potentially evidential documents. They will also ensure, in consultation with management, that appropriate controls are introduced to prevent further loss.
9. Those gathering evidence for use in civil and criminal proceedings must preserve the reliability, credibility, continuity and integrity of the evidence. Evidence must be collected and recorded in accordance with the Police and Criminal Evidence Act (PACE) Regulations 1984 and the Codes and in a manner which complies with the Human Rights Act.
10. The Investigating Officer will ensure that a detailed record of the investigation is maintained. This should include a chronological file recording details of all telephone conversations, discussions, meetings and interviews (with whom, who else was present and who said what), details of documents reviewed, tests and analyses undertaken, the results and their significance. Everything should be recorded, irrespective of the apparent significance at the time.
11. All interviews will be conducted in a fair and proper manner. Where there is a possibility of subsequent criminal action, the police will be consulted and interviews may be conducted under caution in compliance with the Police and Criminal Evidence Act (PACE) which governs the admissibility of evidence in criminal proceedings.
12. Findings of the investigation will be reported to the Assurance and Risk Manager, the relevant Corporate Lead / Head of Service and Director, and Corporate Lead HR who will determine, in consultation with the Investigating Officer, what further action (if any) should be taken in conjunction with the Prosecution and Recovery Policy.

**Liaison with Police & External Audit**

1. The police generally welcome early notification of suspected fraud, particularly that of a serious or complex nature. Some frauds will lend themselves to automatic reporting to the police (such as theft by a third party). Internal Audit should be informed before the police are contacted.
2. For more complex frauds the Chief Executive, following consultation with the relevant Director(s), Corporate Lead HR, Assurance and Risk Manager and the Investigating Officer, will decide if, and when, to contact the police.
3. The Assurance and Risk Manager will report suspected frauds to the external auditors at an appropriate time.
4. All members and staff will co-operate fully with any police or external audit enquiries, which may have to take precedence over any internal investigation or disciplinary process. However, wherever possible, teams will co-ordinate their enquiries to maximise the effective and efficient use of resources and information.

**Reporting Process**

1. Throughout any investigation, the Investigating Officer will keep the Assurance and Risk Manager, Director Business and Resources (S151 Officer), Director of Governance and Corporate Affairs (Monitoring Officer), relevant Head of Service / Corporate Lead, Director and Corporate Lead HR informed of progress and any developments.
2. On completion of the investigation, and subject to not compromising enquiries still being undertaken by other parties e.g. the police, the Investigating Officer will prepare a full written report setting out:

* Background as to how the investigation arose;
* What action was taken in response to the allegations;
* The conduct of the investigation;
* The facts that came to light and the evidence in support;
* Action taken against any party where the allegations were proved;
* Action taken to recover any losses;
* Recommendations and/or action taken by management to reduce further exposure and to minimise any recurrence.

1. A copy of the above report will be restricted to only relevant staff.
2. In order to provide a deterrent to other staff all successful cases will be publicised.
3. South Tyneside Council is committed to preventing fraud and corruption wherever possible.
4. Where fraud and corruption occur, in any form, it will be dealt with in a controlled manner in accordance with the principles in the Counter Fraud Strategy. It will be investigated fully, and South Tyneside Council will prosecute all offenders, where appropriate, including Members, employees, contractors and external partners.
5. When deciding whether to prosecute or not, the Council will consider relevant legislation, such as the Fraud Act 2006, Theft Act 1968, the Social Security Administration Act 1992, the Human Rights Act 1998 and the Bribery Act 2010.
6. Internal Audit should be immediately notified of all suspected fraudulent acts in order they may be investigated fully and appropriately and assessed as to whether this Policy applies. The Assurance and Risk Manager will consult with the service manager and where necessary, the Head of Legal Services, Director of Governance and Corporate Affairs (Monitoring Officer), Director Business and Resources (S151 Officer), and Chief Executive to consider each case on its merits (i.e. likelihood of success) if it is thought appropriate to involve the Police.
7. Regardless as to whether an investigation may result in a civil or criminal prosecution, neither members nor officers of South Tyneside Council should not notify the police direct, except in an emergency, without consulting the above persons. Internal Audit will act, as a rule, as the central point of contact.
8. In general, where the fraud has resulted in Council losses amounting to £1,000 and above, the Council will seek redress through the Criminal Justice System. However, in deciding whether a fraud should be reported to the police, the following will be taken into account:

* The seriousness of the case – the sums may be less than £1,000 but the fraud committed raises greater concern. For example, misuse of Council assets for personal purposes which may endanger lives or the falsification of documents to support employment application;
* The level of evidence available - substantive evidence is essential for conviction and prosecution will not be justified where there is insufficient or inadequate evidence, e.g. because of unreliable or unsuitable witnesses. All evidence that forms the basis of a prosecution must be admissible and sufficient in order to obtain a conviction in accordance with current Regulations and Acts;
* The level of money involved - it may not be practical to prosecute where the amount fraudulently obtained is less than the cost of any proceedings. However, the amount fraudulently claimed may be disregarded in cases of persistent offenders or where a number of other factors apply.
* Whether the public interest will be served - a determination as to whether the possible outcome could justify the use of resources in investigating and bringing the perpetrator to court.
* Offender’s physical or mental condition - where evidence is available to support the existence of a physical or mental debility, prosecution may not be desirable.

1. Where an investigation is undertaken on an employee or Member of the Council, the Assurance and Risk Manager will immediately report the matter to the Director Business and Resources (S151 Officer).
2. In addition to the above procedures, an employee may also be subject to the Council's Disciplinary Procedures and a Member referred to the Council's Standards Committee as appropriate.
3. The Council will take appropriate steps, including legal action if necessary, to recover any losses arising from fraud, theft or misconduct to demonstrate a zero-tolerance approach. This may include action against third parties involved in the fraud or whose negligent actions contributed to the fraud.
4. Each case will need to be judged on merit particularly as to whether the public interest will be served. The approach will be agreed by the Assurance and Risk Manager, Investigating Office, Service Manager, Director Business and Resources (S151 Officer) and Director of Governance and Corporate Affairs (Monitoring Officer).