



# Anti-Fraud & Bribery Policy & Strategy Statement

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**FOREWORD****1. The Current Climate and Council Stance**

1.1 It is important that the United Kingdom public sector maintains high standards of probity and has a good reputation for protecting the public purse at any time but even more so in the current climate of reduced funds and budget cuts. The minimisation of losses to fraud and bribery is therefore essential for ensuring that resources are used for their intended purpose and sound systems of public accountability and transparency are vital to effective management and in maintaining public confidence. Wakefield Council shares these high standards and is committed to protecting the public funds entrusted to it, so as to maximise the resources available for providing community leadership and quality services to its citizens.

1.2 The public is entitled to expect Wakefield Council to conduct its affairs with integrity, honesty and openness and demand the highest standards of conduct from those working for it. This Corporate Anti-Fraud & Bribery Policy & Strategy Statement outlines the Council's commitment to:

- A firm approach and the maintaining of high ethical standards in its administration of public funds;
- Strengthening its anti-fraud and bribery culture;
- Minimising the incidence of, and losses to, fraud and bribery; and
- Developing greater capability and capacity to punish offenders and recover costs as well as losses.

The Policy & Strategy Statement also outlines the mechanisms in place to acknowledge the Council's fraud and bribery risks, to prevent them from occurring and to fully pursue anyone intent on defrauding the Council.

1.3 In considering the Council's policy and strategy issues, account has been taken of Government, Law Enforcement and Professional Institution publications, guidance, fraud alerts, and best practice in addition to legislative requirements.

1.4 The success of the strategy will be measured by the extent to which:

- Fraud is minimised, particularly within the areas that Councils are deemed most at risk from fraud as per the annual Fraud & Corruption Survey commissioned by the Chartered Institute of Public Finance & Accountancy (CIPFA);
- Proven cases of fraud, bribery or other irregularity are subject to the severest sanctions being imposed, depending on the circumstances of each case;
- Proven cases involving employees are dealt with through the Council's disciplinary process;
- Any identified losses are recovered where possible;
- Successful prosecutions and disciplinary hearings are publicised, taking account of any restrictions on reporting; and
- Employees and Members are provided with training and are aware of their anti-fraud and bribery responsibilities.

## THE POLICY

### 2. Aims

2.1 Wakefield Council's policy on fraud and bribery (including theft and other general wrongdoing) is to take firm action in all cases in accordance with relevant policies and procedures.

2.2 With this in mind the Council aims to:

- Continually review and assess its fraud and bribery risks and implement actions to minimise the likelihood of them materialising;
- Ensure all employees and Members are aware of their individual and collective responsibilities relating to the prevention and detection of fraud;
- Discourage and prevent incidents of fraud and bribery from occurring, particularly in the areas of greatest risk;
- Promote and enhance detection routines to identify any incidents that do occur;
- Investigate and respond effectively to minimise the impact of any suspected or identified incidents of fraud and bribery affecting Wakefield Council;
- Strengthen any weaknesses in control systems identified from the investigative process to prevent any recurrence of the situation;
- Take the strongest possible action against proven perpetrators of fraud or bribery, including offences committed by employees, taking account of the circumstances of each case; and
- Recover any identified losses stemming from confirmed cases of fraud or bribery in addition to any associated investigation costs.

### 3. Definitions

3.1 The policy requires that there is a good understanding of what constitutes fraud, bribery or other general wrongdoing so that relevant actions can be taken that are commensurate with a zero-tolerance approach. The following definitions are provided with this in mind:

**Fraud:** is the intentional distortion of financial statements or other records by persons internal or external to the Council, which is carried out to obtain an advantage, avoid an obligation or cause loss to another party.

Fraud is therefore a deliberate, dishonest act by an individual or group of people, which can be committed, as per The Fraud Act 2006, by:

- False representation
- Failing to disclose information
- Abuse of position

**Bribery:** is offering, promising or giving someone a financial or other advantage to induce or reward that person to perform their functions or activities improperly as per The Bribery Act 2010, which came into force 1<sup>st</sup> July 2011. It is also an offence to request, receive or accept a bribe.

The Bribery Act 2010 also introduces a corporate offence of failing to prevent bribery, which requires adequate procedures to be in place and appropriately supported from the very top of the organisation.

**Theft:** is the dishonest appropriation of property belonging to another with the intention of permanently depriving the other of it.

**Note: For the purpose of this Policy, “borrowing” of any Council funds for personal use will be classed as theft.**

3.2 The above definitions cover such acts as deception, forgery, extortion, blackmail, conspiracy, collusion, embezzlement, false accounting / false representation, concealment of material facts, the offering of a gift or reward to influence a person's actions and misappropriation.

#### **4. Desired Outcome**

4.1 The overall objective is to minimise the incidence of fraud, bribery or other wrongdoing from both internal and external sources and in this respect the Council recognises the importance of a strong governance framework and culture and the provision of adequate training and awareness sessions for employees and Members. This will enable everyone to be alert to the possibility of fraud, bribery and other wrongdoing and allow suspect activity to be recognised and appropriately reported; ensuring matters are sufficiently investigated and action taken in line with the aims noted at 2 above.

## THE STRATEGY

### 5. Corporate Framework and Culture

5.1 Good Corporate Governance requires that the Council is firmly committed to dealing with fraud and bribery and will deal equally with perpetrators from inside and outside the Council. To this end the Council has adopted the National Strategy for countering fraud and bribery in Local Government "Fighting Fraud Locally", which depicts objectives of **Acknowledge, Prevent and Pursue**, whereby the Council will aim to:

- **Acknowledge** and understand its fraud risks;
- **Prevent** and detect more fraud; and
- **Pursue** fraudsters through stronger punishments and recovery of losses.

All cases will therefore be viewed seriously and following investigation the action taken will be as strong as possible in line with the merits of each case and in accordance with various Codes, Rules, Procedures, Protocols, Policies and other documents applicable to Wakefield Council.

5.2 The wide range of interrelated documents referred to above provide a corporate framework to counter the possibility of fraudulent activity and / or bribes. These have been formulated taking account of appropriate legislative requirements and expected standards relating to public sector life and are referred to within the Council's Constitution, which includes, or refers to, amongst others:

- Codes of Conduct for Members and Employees;
- Financial and Contract Procedure Rules;
- Disciplinary Procedure;
- Whistleblowing Policy;
- Complaints Procedure;
- Code of Corporate Governance;
- Protocol for Gifts and Hospitality;
- Register of Employee Interests;
- Anti-Money Laundering Policy.

Such documents guide Members and employees alike and set the ethical standards to which they should operate.

5.3 The expectation is that elected / co-opted Members and employees of all levels will adopt the highest standards of propriety and accountability and demonstrate that the Council is acting in a transparent and honest manner. Consequently, any Member / co-opted Member of the Council who commits a fraudulent act against the Council or is involved with bribery in the performance of their duties will be subjected to the Council's procedures for dealing with complaints of misconduct against Members operated via the Council's Monitoring Officer / Standards Committee and may be reported to the Police.

- 5.4 Any Wakefield Council employee committing a fraudulent act against the Council or found to be involved with bribery in the performance of their duties will be subjected to the Council's disciplinary procedures and may be reported to the Police (whether or not the act is outside of their direct employee role). For instance Housing Benefit fraud, the misuse of a Disabled Person's Blue Badge, submitting a false / fraudulent Insurance Claim against the Council, Council Tax evasion, Council Tax Support fraud or falsely claiming Single Person's Discount are all offences against the Council that can be committed by employees outside of their direct role and which are likely to be subject to investigation under the Council's Disciplinary Procedure. The internal action in relation to both Members and employees will be entirely separate to any criminal sanction which may be pursued
- 5.5 The highest standards are also expected from all organisations that have dealings with Wakefield Council. Suppliers, contractors, consultants, partners and other organisations funded by the Council are therefore expected to adopt or abide by the Council's policies, procedures, protocols and codes of practice. The Council will consider the extent to which it has further involvement with any organisation that fails to abide by the expected standards.
- 5.6 Wakefield Council believes that the maintenance of a culture of honesty and openness, based on values such as fairness, trust and integrity is a key element in tackling fraud and bribery. In this respect, each Member and employee of the Council is under a duty to report any reasonable suspicions and is encouraged to raise any concerns about fraud and bribery, in the knowledge that such concerns will be properly investigated. To this end, the Council has a Whistleblowing Policy to protect anyone who wishes to raise concerns in good faith about behaviour / practice.
- 5.7 When fraud and / or bribery has occurred due to lack of internal control or an identified breakdown in controls, the relevant Corporate Director will be responsible for ensuring appropriate improvements in the systems of control are implemented in order to minimise the risk of recurrence. Where investigations are undertaken by Internal Audit, an audit report will be produced on any control weaknesses and follow up action undertaken as appropriate to ensure the implementation of improvements.

## **6. Acknowledging Fraud and Bribery Risks**

- 6.1 Wakefield Council's Internal Audit & Risk Service lead on undertaking a Corporate Fraud Risk Assessment (CFRA) and liaise with Service Management across the Council with a view to ensuring the Council identifies and understands its key fraud risks and can take the necessary action to mitigate those risks to the desired level. The CFRA takes account of the content of annual fraud reports and other publications regarding fraud within the Public Sector published by various professional bodies.
- 6.2 There is a Corporate Risk Management process whereby all service areas are required to review their risks on a regular basis and should consider their "Financial Crime / Fraud Risk" (as outlined in the internal guidance) within their own areas of activity and take action accordingly.

- 6.3 There is a variety of arrangements in place, which facilitate the regular exchange of information between Wakefield Council and other Councils / Public Bodies and Agencies, for the purpose of maintaining an awareness of developing fraud and bribery issues and particularly emerging risks as fraudsters develop increasingly innovative schemes for committing fraud. Such arrangements include national, regional and local networks, which meet on a periodic basis with a view to increasing awareness of current issues and information to enable appropriate action to be taken to address emerging risks by adopting best known practice.
- 6.4 There is also an intelligence gathering, collation and dissemination service on fraud known as the National Anti-Fraud Network (NAFN), of which Wakefield Council is a member. NAFN issue regular alerts of recent fraudulent activity from several sources, including member feedback, and provide services to support investigations that its members may feel warranted. The Council also regularly receives alerts from Action Fraud, the UK's national fraud and cyber crime reporting centre.

## 7. Preventing Risks Materialising

Wakefield Council recognises that incidents of fraud and bribery are costly; both in terms of reputational risk and financial losses (either directly through the loss of cash / assets and / or through the utilisation of resources in dealing with and resolving any identified cases). The prevention of fraud and bribery is therefore a key objective of the Council and respective roles and responsibilities are outlined below with a view to developing a preventative culture and environment:

### *Role of Elected Members*

- 7.1 As elected representatives, all Members of the Council have a duty to the citizens of the District to protect the Council from any acts of fraud and bribery and ensure that resources are used prudently and within the law to safeguard public money. Members are required to operate and adhere to the Council's Constitution, which incorporates a Code of Conduct for Members. The Code includes rules regarding:
- The disclosure of relationships;
  - The declaration of gifts and hospitality; and
  - Registering personal interests.

Elected Members sign a declaration that they have read and understood the Code of Conduct for Members when they take office. Conduct and ethical matters are specifically brought to the attention of Members during induction and officers advise Members of new legislative or procedural requirements, with the expectation that training will be provided to Members where required. In this context, any offence committed by a Member of the Council in their private life, for which they are convicted of a criminal offence, should be brought to the attention of the Monitoring Officer by the Member concerned, with a view to enabling an appropriate risk assessment of any possible impact on their Council role. It should be noted that conviction of a criminal offence does not necessarily mean attendance at court, as in the case of accepting a speeding offence and paying the fine. All such offences should be disclosed to ensure that a full risk assessment can be undertaken.



*Role of Monitoring Officer*

- 7.2 Wakefield Council's 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. The Monitoring Officer also encourages the promotion and maintenance of high standards of conduct within the Council, particularly through the provision of support to the Standards Committee.

*Role of Section 151 Officer*

- 7.3 Section 151 of the Local Government Act 1972 places a statutory responsibility on Wakefield Council to appoint a 'Section 151 Officer' to ensure the proper administration of the Council's financial affairs. To this end, the Section 151 Officer will advise all Members and employees regarding financial propriety, probity and budgetary issues. The Section 151 Officer role is very much supported by the work undertaken by Internal Audit.

*Role of Management*

- 7.4 Managers at all levels are responsible for establishing sound systems of internal control in all of their service's operations, both financial and otherwise, such that Wakefield Council has sound methodologies for administering its responsibilities in the provision of services to its citizens. 'Internal control' means the systems of control devised by management to ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources. Such systems must safeguard the Council's assets and interests from fraud, bribery and other wrongdoing and steps must be taken to enhance them as necessary following any identified incident of fraud, bribery or other wrongdoing, or if weaknesses in controls are identified through other means.
- 7.5 Managers are also responsible for ensuring that their employees are aware of Wakefield Council's Constitution (including the related policies, protocols, codes and procedures and in particular the Council's Code of Conduct for Employees and the Anti-Fraud and Bribery Policy) and that the requirements of each are being met in their everyday business activities.
- 7.6 Managers are expected to create an environment within which employees feel able to approach them with any concerns they may have about suspected irregularities and adhere to the Whistleblowing Policy when applicable.
- 7.7 Wakefield Council recognises that a key preventative measure in dealing with fraud and bribery is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent or temporary posts and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. Disclosure Barring Service (DBS) checks, formerly Criminal Records Bureau, are undertaken for employees working within relevant areas (e.g. contact with children or vulnerable adults).

7.8 Additionally, managers are required to ensure that there is sufficient segregation of duties (or alternative effective control arrangements must be considered where this is not possible) when allocating tasks. In particular:

- The duties of providing information about sums due to or from the Council, and calculating, checking and recording these sums, should be separated from the duty of collecting or spending them;
- Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions; and
- Separation of duties between ordering / receiving goods and approving / paying the related invoices.

7.9 Management is also required to ensure that employees are properly trained to discharge the responsibilities allocated. Once training has been provided, performance is monitored and action taken where appropriate to ensure adherence to proper practices / agreed procedures.

#### *Role of Employees*

7.10 Wakefield Council's employees are governed in their work by the various policies, protocols, codes, rules and procedures, particularly regarding conduct issues and are responsible for ensuring that they follow any instructions given to them by management, particularly in relation to the safekeeping of assets. In this context, any act committed by an employee of the Council in their private life, for which they are convicted of a criminal offence, should be brought to the attention of their line manager by the employee concerned, (in line with the requirements of the Employee Code of Conduct), with a view to enabling an appropriate assessment of any possible impact on their job role and the instigation of any action to address associated risks. Failure to do so, should the matter come to light through other means, may result in investigation under the Council's Disciplinary Procedure.

7.11 It should be noted that conviction of a criminal offence does not necessarily mean attendance at court, for example one could pay a fine, accept a caution or plead guilty by letter. All such offences should be disclosed to ensure that a full risk assessment can be undertaken with regards to the employee role.

7.12 Line managers should consult with Internal Audit and Human Resources in assessing risks to the Council regarding any notification by an employee of a criminal conviction.

7.13 Employees also have a duty to be alert to the possibility that fraud and bribery may exist in the workplace and are obliged to share (with management or other agreed body as detailed in the Fraud Response Plan at Appendix 1) any concerns they may have. Employees are protected under the Whistleblowing Policy, where required, regarding any concerns they raise in good faith.

*Role of Internal Audit*

- 7.14 Internal Audit independently monitors the existence, appropriateness and effectiveness of internal controls as a service to management and thereby plays a vital preventative role. Internal Auditors are empowered through the Council's Financial Procedure Rules and specifically agreed Terms of Reference to:
- Enter at all reasonable times any Council premises or land;
  - Have access to all records, documentation and correspondence relating to any financial and other transactions as considered necessary;
  - Have access to records belonging to third parties such as contractors when required (dependent on rights of access clauses within individual contracts / agreements);
  - Require and receive such explanations as are regarded necessary concerning any matter under examination; and
  - Require any employee of the Council to account for cash, stores or any other Council property under their control or possession.
- 7.15 Internal Audit work results in a liaison / reporting process whereby changes in procedures are recommended / agreed with management with a view to reducing risks and preventing losses to the Council.
- 7.16 Internal Audit also follows up and informs management as to the extent that such agreed action has been implemented. Internal Audit has reporting lines to the highest levels of authority within the Council, enabling any failure to implement agreed action to be appropriately challenged.
- 7.17 In addition to the independent assurance role outlined above, Internal Audit has a significant pro-active and reactive role to play in the Council's fight against fraud. In supporting the Council's s151 Finance Officer, Internal Audit fulfils the following role:
- Production and periodic update of this Policy document and also the Anti-Money Laundering Policy;
  - Coordinating completion and ongoing review of a CFRA in liaison with relevant Managers, aimed at assessing and evaluating the Council's vulnerability to significant fraud;
  - Dealing with fraud concerns in line with the Fraud Response Plan detailed at Appendix 1 of this Policy;
  - Periodic review of the Council's arrangements for acknowledging; preventing and pursuing fraud.
  - Coordinating training to Members and officers on anti-fraud related issues; and
  - Proactive testing of Council transactions / activity in areas at risk of fraud in order to provide levels of assurance on processes in place.

*Role of External Audit*

- 7.18 Independent external audit is an essential safeguard of the stewardship of public money. The Council's appointed External Auditor currently carry this out through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and bribery. It is not the external auditor's function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud, bribery and other irregularity, and will act without undue delay if grounds for suspicion come to their notice. The External Auditor has a responsibility to review the Council's arrangements for preventing and detecting fraud and irregularities within financial statements, and arrangements designed to limit the opportunity for bribery.

*Role of Partners, Contractors, Suppliers and other Organisations associated with the Council*

- 7.19 All organisations associated with Wakefield Council are expected to take a proactive role in ensuring the occurrence of fraud and bribery is minimised regarding any dealings with the Council, in line with the due diligence expectations portrayed by the Bribery Act 2010. The standards expected are often set out through legal agreements, which specify the requirements of the Council, when setting up partnerships and other contractual arrangements. However in the interests of good working relationships and continued dealings with the Council, all associated organisations have a general duty to be vigilant regarding the possibility of fraud and bribery, irrespective of any legal agreement, with a view to reporting any suspicions in accordance with the principles stemming from the Council's own policies, procedures and standards, which includes possible referral to the Police.

*Role of the Public*

- 7.20 Whilst this policy is primarily aimed at those within or directly associated with Wakefield Council, the public has a role to play in that they should be honest in their dealings with the Council and inform appropriate Members / employees of the Council if they feel that fraud, bribery or other wrongdoing may have occurred.

*Other arrangements*

- 7.21 Both elected Members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information. Where such conflicts do arise, these should be openly disclosed and recorded and the relevant Member / employee should not be involved in the decision-making process. Additionally, Members / co-opted Members and employees have a duty to be open and honest about any incidents that they may have been involved in outside of their Council role, which could adversely impact on the Council's reputation or the ability to fulfil their Council role with impartiality.

7.22 Deterrence also acts as a preventative measure against potential wrongdoers by outlining the consequences of committing or attempting fraudulent acts or becoming involved with bribery. Wakefield Council seeks to deter would-be fraudsters by publicising that:

- The Council is firmly against fraud and bribery and will take stern action against perpetrators which may include dismissal of employees, prosecution of offenders and termination of contracts for services;
- The Council will act robustly and decisively when fraud and / or bribery are suspected and, if proven, will take the strongest action as appropriate bearing in mind all relevant factors of each case. To this end the Council has developed a General Prosecutions & Sanctions Policy, (Appendix 2 refers) with a view to the Council pursuing the most appropriate action, which may include criminal sanction;
- The Council will always seek to maximise recoveries through agreement, repayment, court action, penalties and fines, insurance, employee superannuation benefits or any other means that may be open to the Council, such as the Proceeds Of Crime Act (POCA) – paragraph 8.9 refers;
- The Council has specific powers to impose a penalty or a fine in addition to recovering the actual values involved with some acts of fraud and bribery and will publicise any penalties and fines actually imposed, taking account of any relevant reporting restrictions;
- All cases will be referred to the Police where there is sufficient evidence that criminal offences are likely to have occurred as per the Fraud Response Plan (see Appendix 1); and
- The Council will liaise with the Press with a view to promoting any anti-fraud and bribery initiatives and disclosing the outcomes of investigations undertaken by the Council or its representatives, with a view to creating a naming and shaming ethos, where deemed appropriate, and taking account of relevant reporting restrictions.

## **8. Pursuing Offenders**

8.1 Detecting incidents of suspected fraud and bribery is the first step towards pursuing offenders and recovering any identified losses. Whilst it is not solely an Internal Audit responsibility to detect fraud and bribery (this is the responsibility of management as well), Internal Audit plays an important role in such detection. Internal Audit Plans include reviews of systems of internal control, specific fraud, error and bribery tests, spot checks (for example on the correct use of Blue Badges) and unannounced visits to Council establishments. Such work invariably contributes to improved controls / procedures that may aid detection of fraud, bribery and error or otherwise deter it from happening.

- 8.2 Corporate Directors and their managers have responsibility for detecting fraud and bribery and incorporate the following into daily work routines, which may identify concerns requiring further investigation:
- Supervisory checks;
  - Authorisation procedures;
  - Random spot checks / observations;
  - Other operational control procedures such as 'Segregation of Duties'; and.
  - Other internal checks where the work of one person acts as a check on another person such as 'reconciliation procedures'.

Where management has any concerns about the effectiveness of their control systems they should request specific reviews to be undertaken by Internal Audit.

- 8.3 Notwithstanding paragraph 8.2 above, it is often the alertness of employees or members of the public who report their suspicions, which leads to the detection of fraud or bribery. Allegations and complaints are by far the most common means by which incidents of fraud and bribery are detected and as such Wakefield Council treats this type of information seriously; maintaining confidentiality as far as possible and operating in line with the Whistleblowing Policy as applicable.
- 8.4 Awareness of the main indicators of fraud and bribery is also advantageous to the detection of these offences as this aids employees to spot suspicious circumstances and report them accordingly. To this extent Wakefield Council is committed to training and communicating relevant issues with a view to Members of the Council, managers and employees being updated with the relevant facts that will aid their vigilance regarding the identification of fraud and bribery.
- 8.5 In the 2013 Autumn Statement, the Chancellor of the Exchequer announced the formation of a Single Fraud Investigation Service (SFIS) to be based within the Department for Work & Pensions (DWP). SFIS brought together investigators from the DWP, HMRC and local authorities to investigate all types of Benefit and Tax Credit fraud. As a result, Wakefield Council no longer has the power to investigate Housing Benefit fraud although it shares information with SFIS when requested via a Service Level Agreement to maximise the prospects of a successful investigation. SFIS and the Council may undertake joint investigations / prosecutions where fraud exists in cases where both Housing Benefit and Council Tax Support are in payment. Any Member / co-opted Member or employee of the Council who is found to be involved in Housing Benefit / Council Tax Support fraud is likely to be to be subject to further investigation by the Council (paragraphs 5.3 and 5.4 refer).
- 8.6 Data matching is recognised as an important tool in the prevention and detection of fraud. Wakefield Council participates in National Fraud Initiative data matching exercises (NFIs) managed by the Cabinet Office. Participation is coordinated by Internal Audit who may also conduct their own proactive Local Fraud Initiatives (LFIs). Both NFIs and LFIs have to comply with the Code of Data Matching Practice which takes account of the Information Commissioner's guidance on data protection legislation. Data matching only provides an indication that something may be wrong but matches can occur for legitimate reasons. Consequently all data matches are further analysed and reviewed with a view to clearing them or setting up specific investigations as referred to in paragraph 8.8.

- 8.7 Wakefield Council's Internal Audit team uses Interactive Data Extraction and Analysis (IDEA) software to review its key systems data and search for potential fraud and error. As with data matching, the output from the data analysis is further investigated with a view to determining whether fraud or error has taken place and reporting outcomes to Service Management to take action as may be necessary. The intention is to continually make better use of information and technology with a view to enhancing detection of suspected fraud and other wrongdoing, and engaging with management as necessary to further investigate.
- 8.8 Investigation into any suspected or discovered fraudulent activity or bribes will be carried out in accordance with the Wakefield Council's Fraud Response Plan (see Appendix 1) and its General Prosecutions & Sanctions Policy (see Appendix 2).
- 8.9 Subject to the outcome of an investigation providing evidence of wrongdoing then the Council will seek to pursue offenders to the full extent of its powers with a view to concluding the case with the most severe and appropriate sanctions possible under the circumstances of each case. Additionally where a successful criminal prosecution has been achieved and there is evidence of a criminal lifestyle, a financial investigation will be considered in relation to the Proceeds Of Crime Act (POCA) 2002.
- 8.10 Where adverse issues are noted in terms of the progress of an investigation or which leads to any subsequent challenge of outcomes from an investigation, then a note will be made of such issues and reported as necessary throughout the Council with a view to learning any appropriate lessons and ensuring future investigations avoid such pitfalls. The note will take the form of a 'lessons learned' log, which must be communicated to all those that need to know to ensure continuous learning and suitability of arrangements.

## **9. Training / Continuing Awareness**

- 9.1 Wakefield Council recognises that the success of the anti-fraud and bribery arrangements will, to a degree, depend on the effectiveness of programmed training and continuing awareness of officers throughout the Council and of facilitating the ability of officers to be alert and responsive to fraud and bribery issues.
- 9.2 To facilitate awareness of these arrangements, the Council supports the concept of including anti-fraud responsibilities and procedures within induction training for all new Members and employees of the Council. Support is also given to any more detailed anti-fraud and bribery training that is subsequently deemed to be required with a view to ensuring everyone knows their responsibilities and duties regarding fraud and bribery and that these are reinforced from time to time. To this end, consideration will be given to the most effective ways of increasing Member and employee knowledge / awareness of the Council's anti-fraud and bribery arrangements and their associated responsibilities in complying with them, including completing any e-learning training / awareness packages that may be available to the Council.

**10. Conclusions**

- 10.1 Wakefield Council has in place a robust network of systems and procedures to assist it in the fight against fraud and bribery. It is determined that these arrangements will keep pace with any future developments for countering fraud and bribery. To this end, the Council will maintain a continuous overview of such arrangements.
- 10.2 These anti-fraud and bribery arrangements provide a comprehensive framework for dealing with fraudulent acts, bribes and other wrongdoing against the Council, which should limit the possibility of any adverse impact on the Council. The approval of this Policy & Strategy Statement demonstrates the Council's commitment to protecting public funds, minimising losses to fraud and bribery and maintaining its reputation. Having made this commitment, it is imperative that Corporate Directors put in place arrangements for informing staff of the Anti-Fraud & Bribery Policy & Strategy; the related Policies, Procedures, Protocols, Codes, Rules and other documents; promoting fraud awareness throughout their service areas and ensuring staff complete the available training.



## FRAUD RESPONSE PLAN

### 1. Introduction

1.1 The purpose of this Fraud Response Plan is to set out the action to be taken when a fraud is suspected or discovered and reported to management or an appropriate officer within the Council. The Plan is part of the Council's overall Anti-Fraud & Bribery Policy & Strategy Statement, embodied within the Council's Constitution and, as such, will be applied to all reported or identified incidents of fraud and bribery that affect the Council; whether committed by elected Members, employees, or persons from outside the Council such as contractors, suppliers, partners, members of the public or other bodies associated with the Council.

1.2 The Plan covers the following areas:

- Reporting concerns or suspicions about fraud, bribery or irregularity within the Council;
- Reacting to reported incidents;
- Conducting the investigation;
- Action to be taken against perpetrators of fraud and bribery; and
- Training and review.

1.3 Adhering to the Plan will enable the Council to:

- Deal with fraud and bribery in a consistent and responsible manner;
- Ensure any loss or damage is minimised;
- Take appropriate action against the perpetrators;
- Recover any identified losses to the fullest degree possible;
- Review the reasons for the incident and, where necessary, take action to prevent a recurrence; and
- Deter would-be fraudsters through communicating outcomes, taking account of any legislative restrictions.

### 2. Reporting Concerns and Suspicions

2.1 General concerns or actual suspicions of fraud, bribery or other irregularity may arise through supervisory arrangements or other checks and observations of employees or simply through overheard comments or knowledge regarding particular issues. In such circumstances employees are required to report genuine concerns or suspicions without delay to an appropriate manager within the Council to allow consideration as to the best way forward by way of review or investigation.

- 2.2 Whilst it is accepted that people may wish to remain anonymous, investigations are often much more efficient when there is opportunity to go back to the referrer so that any ambiguity can be clarified and further questions asked where initial detail may be sketchy. It is therefore preferable for people reporting their concerns to be open, leave contact details and co-operate with any investigators allocated to the case. This ensures that all relevant information is likely to be obtained and helps progress matters much more quickly and efficiently.
- 2.3 In the first instance, reports of alleged fraudulent activity (except for Benefit fraud - see paragraph 2.5 below) should be made verbally in person / via telephone or in writing by letter / e-mail directly to:
- An appropriate Service Director / Service Manager; or
  - The relevant Corporate Director where it may not be appropriate to inform the Service Director / Service Manager; or
  - The Council's Internal Audit Section (where there are concerns as to whether it should be reported within the relevant service area (e.g. where there is a possibility of the relevant Corporate Director or Service Director being associated with the concerns raised)); or
  - The Council's Corporate Fraud Team where a fraud is committed against the Council by a member of the public. Further information and contact details can be found by searching for 'Fighting Fraud Wakefield Council' on the internet; or
  - The Council's Monitoring Officer where a Councillor, the Chief Executive or a Corporate Director is purported to be directly involved; or
  - An appropriate higher level of management if previous concerns do not appear to have been acted upon within a reasonable period of time.

It should be noted that matters can be reported to external organisations if there is good reason to think these will not be dealt with properly by reporting them within the Council or where staff feel dissatisfied with an internal investigation into their concerns. The Council's Whistleblowing Policy outlines the options available for reporting matters outside the Council.

- 2.4 Regardless of which of the above officers receive initial notification of suspected fraud, bribery, theft or other irregularity the matter must be brought to the attention of Internal Audit immediately to facilitate proper consideration and investigation of matters and to follow up on progress as necessary.
- 2.5 For Benefit fraud referrals, reports can be made via the Council's Benefit Fraud Hotline on (01977) 727088 or the DWP's National Benefit Fraud Hotline on (0800) 854 4400.
- 2.6 Wakefield Council may decide to utilise the services of Financial Investigators based within West Yorkshire Joint Services to further investigate cases where the proceeds from crime, including money laundering, can be seized, confiscated and recovered to deprive criminals of the use of their assets and to show that crime doesn't pay.

- 2.7 Members / employees of the Council reporting an irregularity on reasonable grounds and in good faith can do so under the Council's Whistleblowing Policy if they feel they may be victimised by raising their concerns. The Policy, contained within the Council's Constitution, provides protection in such instances, including anonymity where requested, to ensure that suspected wrongdoing can be reported without fear of reprisal.
- 2.8 For all other people outside of the Council, confidentiality will be maintained as far as possible in respect of reports made reasonably and in good faith, whether or not they are subsequently substantiated.

### **3. Reacting to Reports of Potential Fraud, Bribery or Irregularity**

- 3.1 All reported cases of suspected wrongdoing will be treated seriously and investigated in accordance with relevant legislation and the Council's Anti-Fraud and Bribery Policy & Strategy Statement, unless there is reason to believe that there is no foundation to the report or that the report has been made maliciously. Where concerns or suspicions are found to have been made maliciously, the Council will consider the options open to it for taking action against the person making them and instigate proceedings as may be appropriate, including the possibility of taking action under the Council's Disciplinary Procedure where employees are involved.
- 3.2 All investigations will be carried out thoroughly with a view to establishing the facts, but will be sensitive to the alleged wrongdoers to ensure minimisation of any possible damage where matters cannot be substantiated.
- 3.3 Once a concern is reported, appropriate steps will be taken to secure all possible evidence and ensure a complete and objective investigation takes place in all cases, whether financial or not. Management will liaise with Internal Audit to ensure full consideration of the issues and the extent to which immediate action needs to be taken and who will take it.

### **4. Conduct of the Investigation**

- 4.1 Internal Audit is responsible for overseeing all fraud, bribery and other irregularity investigations (with the exception of Housing Benefit fraud – see paragraph 4.3) to ensure that they conform to the same standard and are in accordance with legislation, professional practice and any agreed procedures.
- 4.2 Investigation of the suspected fraud, bribery or other irregularity will be carried out by Service Management, Internal Audit or jointly, following consultation. The method of conducting the investigation will be determined when the initial facts are known and the potential severity of the issue is ascertained, but as a minimum will establish Terms of Reference setting out:

- The people who will conduct the investigation;
  - Arrangements for collecting and documenting evidence, taking account of the Council's formal Management Investigation Guidance where appropriate;
  - Estimated time span;
  - Adherence to legislation / professional standards;
  - Consideration of referral to / liaison with the Police;
  - Consideration of the need to suspend / transfer from duty the individual(s) concerned if a Council employee;
  - Agreed reporting mechanism;
  - Consideration of who may chair the Disciplinary Hearing / Appeal should the need arise; and
  - Contacts within Human Resources allocated to the case for liaison purposes.
- 4.3 Matters involving suspected Housing Benefit fraud will be referred to the Single Fraud Investigation Service (SFIS) in accordance with the agreed procedures outlined in the Service Level Agreement between Wakefield Council and the DWP. Where Council Tax Support is also in payment and potential fraud exists, SFIS may consider inviting Wakefield Council to conduct a joint investigation.
- 4.4 Internal Audit has responsibility for notifying the Police of incidents that are likely to have involved criminal acts. Referral will be subject to liaison with the appropriate Corporate Director(s), but where there is any conflict of opinion the Section 151 Officer, in conjunction with the Chief Executive, will make the final decision. Any case referred will not normally impact upon investigative work undertaken by officers of the Council, unless instructed otherwise by the Police. All employees will co-operate fully with Police enquiries and, wherever possible, Council and Police enquiries will be co-ordinated to maximise the effective and efficient use of resources and information.
- 4.5 Any necessary investigation will be conducted without regard to any person's relationship with the Council, position, status or length of service, but subject to any legislative requirements relative to the extent of envisaged action, (i.e. whether the matter is likely to be dealt with under internal disciplinary procedures or involving the Police / Courts).
- 4.6 Regardless of who undertakes the investigation, following an examination of records and / or the conduct of interviews with relevant persons, findings will be documented and a report made to management for appropriate action to be taken. Where such a report is compiled by Service Management, Internal Audit will be given opportunity to comment on such documentation / reports in the interests of consistency and upholding relevant standards. All reports will outline any control weaknesses that enabled the incident to occur and make recommendations to strengthen control systems with a view to preventing any recurrence.

- 4.7 In certain circumstances where work is undertaken within the Service Area as part of the role of management, e.g. fact finding to establish a possible inaccurate / false Insurance Claim made against the Council, there will be a need to assess whether there has been a fraudulent attempt or simply an error, mistake or oversight. In supporting Service Management in making this judgement, the intention is for the facts of each case to be presented to a Fraud Panel by the Service Area concerned with a view to making a determination as to whether or not to prosecute the offender. A Fraud Panel will be made up from various disciplines within Corporate Services and include Internal Audit, Legal Services and Human Resources (where an employee is involved). When required, a Fraud Panel will hear the facts of the case (bearing in mind the need to comply with any time barring issues relevant to the case) with a view to making a recommendation as to whether the case is referred for a criminal investigation.

## **5. Consideration of Further Actions**

- 5.1 Where initial enquiries provide reasonable grounds for suspecting an elected Member or a Council employee, appropriate consideration will be given to the need to suspend from duty, or transfer to other duties, the individual(s) concerned. Any suspensions will result in the individual(s) being escorted off the premises, having been allowed to collect personal property only. Items such as security passes, petty cash floats, mobile telephones and keys to premises, offices and furniture will be recovered instantly and where Council property is held at the individual's home, he / she will be accompanied by a member of staff to recover any such items.
- 5.2 Management will consider the need for / process of denying suspended or transferred individuals access to colleagues, premises / property / records relevant to the investigation. Where necessary, steps will be taken to change locks, withdraw access to computer systems and instruct colleagues accordingly to ensure a complete and objective investigation can take place.
- 5.3 Following an investigation, disciplinary action will be considered where appropriate and any such action required will be conducted in line with relevant employment legislation, recognised Codes of Practice and the Council's own documented procedures.
- 5.4 It is the responsibility of management to ensure that losses arising from an investigation are recovered, provided that there are reasonable grounds for doing so. Recovery will be by one of the following methods:
- Agreement by the perpetrator to repay amounts due, either in full or by instalments as agreed with management;
  - Through a pension scheme;
  - Following a civil action, in which case the advice of the Council's Legal Section will be sought;
  - Through the Council's insurers; or
  - Through confiscation proceedings under POCA / court rulings.

- 5.5 The person raising the initial concerns will be informed of progress / completion of the investigations (but not outcomes) irrespective of whether allegations were substantiated or not.
- 5.6 Where investigations do not substantiate the allegations, the outcome will only be communicated to persons who have a legitimate need to know so as to minimise any possible damage to the reputation of individuals suspected, but subsequently found innocent, of fraud.
- 5.7 To act as a deterrent and reduce the risk of recurrence, outcomes of investigations where fraud, bribery or irregularity is substantiated will be communicated internally to employees and Members in broad terms, where deemed appropriate by management after consultation with Internal Audit. Additionally, taking into account legislative restrictions, wider communication of outcomes to the community / press will be considered at a corporate level on a case by case basis with a view to promoting the Council's stance on fraud, bribery and irregularity and that the Council will do what it needs to do to combat such instances as and when they are identified.

## **6. Training and Review**

- 6.1 A comprehensive training programme will be established and led by Internal Audit with support from other Service Areas within the Council, to ensure consistency of approach in identifying / dealing with fraud, bribery and other irregularities. Training issues will include:
- Ability to identify any possible fraud, bribes or other irregular activity;
  - Dealing with reports of suspected fraud and bribery;
  - Carrying out investigations;
  - Conducting interviews;
  - Attendance at Disciplinary Hearings; and
  - General awareness of responsibilities for fraud & bribery.
- 6.2 Training requirements will be reviewed to take account of Council policies and procedures, new legislation and any need arising from changes in circumstances with a view to ensuring continued compliance with the Anti-Fraud & Bribery Policy and Strategy Statement.
- 6.3 The Fraud Response Plan will be reviewed periodically taking account of all incidents of fraud, bribery and irregularity, to ensure that it remains appropriate and relevant. Any requirement for amendment, resulting from the review, will be agreed between Internal Audit, Legal Services and Human Resources as appropriate.

## GENERAL PROSECUTIONS & SANCTIONS POLICY

### Introduction

1. Wakefield Council acknowledges that a decision to prosecute is serious and that such decisions should be made on a fair and consistent basis. Consequently, this Policy takes account of the Attorney General's guidelines on the criteria for prosecuting offenders, which advocates that suspected criminal offences should not automatically be the subject of prosecution.
2. Whilst it is accepted that each case is different and will therefore be considered according to its own unique circumstances, there are general principles to be followed to ensure a consistency of approach.
3. A decision to prosecute will only be made by an officer not involved with the investigation of the offence and shall be authorised to arrive at such decisions on behalf of the Council. To this extent they will be fair, independent and objective in arriving at their decision.
4. Authorised officers have a responsibility to ensure the right person is prosecuted for the right offence and will always act in the interests of justice and not solely for the purposes of obtaining a conviction.

### The Decision to Prosecute

5. In making a decision to prosecute, the authorised officer will apply two tests to ensure that all relevant factors are considered and in line with a fair and consistent approach.
6. The first test is consideration of the evidence. If the case does not pass the evidential test a prosecution will not go ahead. If the Evidential Test is satisfied then the authorised officer will consider if it is in the public interest to prosecute. A prosecution will only be taken if both tests are satisfied.

### The Evidential Test

7. Authorised officers must be satisfied that there is sufficient, admissible and reliable evidence to provide a realistic prospect of conviction.
  - 7.1 **Sufficient** evidence is based on a jury being more likely than not to convict the defendant of the charge alleged. Whilst this part of the test is subjective the authorised officer will aim to be impartial and have regard to any statutory defence that is available.

- 7.2 **Admissible** evidence is that which is allowed to be given at trial. However, there are legal rules which might not allow evidence that appears relevant to be given at trial. In the event that some evidence falls within this category, authorised officers will ensure there is enough other evidence for a realistic prospect of conviction.
- 7.3 **Reliable** evidence is that which is not affected by factors such as age, intelligence or level of understanding, by the background of witnesses (for example a motive that may affect their attitude to the case or a relevant previous conviction), or a general concern over the accuracy or credibility of the evidence. Where such concerns arise authorised officers will not ignore the evidence rather look at it closely in conjunction with other evidence to decide whether there is a realistic prospect of conviction.

### The Public Interest Test

8. The general principle of this policy is that having satisfied the Evidential Test a prosecution will usually take place unless the public interest factors against prosecution clearly outweigh those in favour of prosecution or it appears more appropriate to the circumstances of the case to administer some other sanction that is open to the Council.
9. The public interest factors will vary from case to case. Not all factors will apply to each case and there is no requirement to restrict consideration to just the factors listed.
- 9.1 Public interest factors in favour of prosecution:
- A conviction is likely to result in a significant sentence;
  - A conviction is likely to result in a confiscation order;
  - The offence involved the use of a weapon or violence;
  - The offence was committed against a person serving the public;
  - The risk presented to the public was serious or widespread;
  - The defendant acted fraudulently, wilfully or negligently;
  - Harm was caused to human health, animal health or the environment;
  - The defendant was in a position of authority or trust;
  - The defendant was a ringleader or organiser of the offence;
  - Evidence shows the offence was premeditated or solely for personal gain;
  - Evidence shows that a group of people have conspired or colluded to commit the offence;
  - The victim was vulnerable or suffered personal attack, damage or disturbance;
  - The offence was motivated by discrimination;
  - Evidence shows an element of corruption or bribery;
  - The offence was committed in the presence of a child;
  - The defendant has previous relevant convictions;
  - There is reason to believe the offence is likely to be repeated;
  - The offence, whilst not serious in itself, is widespread in the area;
  - A prosecution would have a serious positive impact on maintaining community confidence; and
  - Where a prosecution outcome might establish an important precedent or draw public attention to a national or local campaign.



## 9.2 Public interest factors against prosecution:

- The alleged offence was committed as a result of a genuine mistake or misunderstanding of the circumstances or of the law;
- The loss or harm is considered minor and was the result of a single incident;
- The defendant has put right the loss or harm that was caused (but defendants must not be able to avoid prosecution simply by offering compensation);
- There has been a long delay between the alleged offence and the decision to prosecute (unless the offence has only recently come to light, the offence is serious, the offence is complex and has resulted in a long investigation, the delay has been caused by the defendant);
- The court is likely to impose a very small or nominal penalty;
- A prosecution is likely to have a bad effect on the **victim's** physical or mental health but this needs to be balanced against the seriousness of the offence;
- The defendant is elderly (over 70 for the purposes of this policy) or young (under 18 for the purposes of this policy) or has significant mental or physical ill health issues;
- Details may be made public that could harm sources of information, international relations or national security.

10. Deciding on the 'Public Interest' is not simply a matter of adding up the number of factors for and against as some factors will be more important than others. As such authorised officers will be required to 'weight' factors in assessing each case and concluding on a decision to prosecute or not.

## Other Considerations

11. Authorising officer's assessments regarding decisions on whether to prosecute or not should be briefly justified for the benefit of investigating officers to enable them to take account of relevant factors when investigating future cases and deciding on the depth of investigation required and extent of resources to be utilised. This will ensure investigations are commensurate with the circumstances of each case particularly as 'case history' and investigatory experience develops.
12. When deciding whether a case should be prosecuted, authorised officers will consider the alternatives to prosecution in pursuit of the aim to change inappropriate behaviour and to deter future non-compliance. Such alternatives include sanctions such as the imposition of fines or penalties, civil action to recover costs as well as losses, disciplinary action in the case of employees or direct action to stop further offences such as the confiscation of a Blue Badge or the cessation of a Taxi Licence.

13. As a general principle and to meet with the requirements of the Anti-Fraud & Bribery Policy & Strategy Statement, sanctions will be the severest and most appropriate taking account of the circumstances of each case and consideration will be given to instigating action at multiple levels where appropriate (e.g. an employee who commits wrongdoing may be disciplined, subject to prosecution and action to recover losses and costs).
14. In order to deter would be offenders, Wakefield Council will aim to publish details of any prosecution or other sanction taken within the limits of the legislative requirements and any other obligations to which the Council is subjected.
15. Any decision to prosecute must also consider the merits of instigating a Proceeds of Crime Act (POCA) investigation where there may be significant assets held by the offender that cannot be accounted for through legitimate means. Internal Audit must be notified where POCA investigations are being considered so that they can liaise appropriately with the Financial Investigators at West Yorkshire Joint Services.