



# **TONBRIDGE & MALLING BOROUGH COUNCIL**

## **ANTI-FRAUD AND CORRUPTION POLICY**

Updated September 2009

## **1. INTRODUCTION**

- 1.1 Tonbridge & Malling Borough Council is opposed to all forms of fraud and corruption and is determined to protect itself from such actions whether attempted from within the Council or by an outside individual, group or organisation.
- 1.2 The Council recognises that fraud and corruption undermine the standards of public service, which it promotes, and reduces the resources available for the good of the whole community. Fraud and corruption activity may therefore impact on the ability of the Council to achieve its corporate objectives, as set out in its Corporate Plan.
- 1.3 In response to this, the Anti-Fraud and Corruption Strategy is designed to: -
  - encourage prevention
  - promote detection; and
  - support investigation.

## **2. DEFINITION OF FRAUD & CORRUPTION**

- 2.1 The Fraud Act 2006 sets out the definitions of fraud although there are some sections of the Theft Acts that may still be applicable.
- 2.2 Under the Fraud Act 2006 a person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence).
- 2.3 The sections are: -
  - section 2 (fraud by false representation),
  - section 3 (fraud by failing to disclose information), and
  - section 4 (fraud by abuse of position).
- 2.4 Under the Act a person who is guilty of fraud is liable: -
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine (or to both).

2.5 This may involve:

- Dishonestly making a false representation to make a gain, to cause loss or to expose another to a risk of loss.
- Dishonestly failing to disclose information for which there is a legal duty to disclose, in order to make a gain, to cause loss or to expose another to a risk of loss.
- Dishonestly abusing a position, where the person occupying the position is expected to safeguard, or not act against, financial interests to make a gain, to cause loss or to expose another to a risk or loss.

2.6 Fraud can be any act of deception which acts to the financial detriment of the Council. Acts such as misappropriation or petty theft will therefore also be considered by the Council as fraud and treated under the arrangements within this strategy.

2.7 Corruption is defined as:

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

### **3. THE COUNCIL’S COMMITMENT**

3.1 In developing and operating its anti-fraud and corruption arrangements, the Council will:

- Where possible, take action to prevent fraud and corruption activity occurring.
- Encourage the detection of fraud and corruption activity.
- Promote Member, officer, the general public and other stakeholder awareness of fraud and corruption.
- Offer specific fraud and corruption training to officers in key positions within the organisation.
- Encourage Members, officers, the general public and other stakeholders to report any concerns or suspicions.
- Investigate any substantiated concerns or suspicions in a fair and confidential manner.
- Take action as appropriate based on the outcomes of investigations.

## **4. PREVENTION OF FRAUD & CORRUPTION**

### **Recruitment and induction**

- 4.1 The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to verify the propriety and integrity of the previous records of potential employees of the organisation. The Council has Recruitment and Selection Policy, Procedure and Guidance in place which should be adhered to in recruiting both permanent and temporary/contract staff. This guidance requires a number of checks at the recruitment stage to establish and confirm the previous records of potential employees, including the take up of written references and Criminal Records Bureau checks for certain identified posts.
- 4.2 The Council has developed a formal induction process for new employees and as part of the induction process attention is drawn to the Personnel Reference Manual. In addition new employees are required to read and indicate understanding of specific documents set out in the Induction Checklist. These are intended to develop an awareness of the Council's internal control arrangements, key policy documents and the Employee Code of Conduct.
- 4.3 As elected representatives of the local community, newly-elected Members are also required to complete an induction to assist them in understanding the Council, its decision-making arrangements and the requirements of the Member Code of Conduct. These matters are also detailed in the handbook issued to all Members.

### **Training**

- 4.4 The Council recognises that training is a vital tool in ensuring that both officers and Members clearly understand their roles and responsibilities within the organisation and carry these out within the Council's framework of policies and procedures. Training is particularly important where employees are required to operate within financial systems or handle monies or personal/confidential information.
- 4.5 The Council will promote a general awareness of fraud and corruption to all employees and Members, with specific training provided to officers engaged in the prevention and detection of fraud to ensure that they have the necessary skills to carry out these functions.

### **Internal Control Arrangements**

- 4.6 The Council as a whole operates within a framework of policies and procedures intended to direct the activity of the Council and ensure transparency in decision making. The Constitution forms the main spine of these arrangements and includes the Council's financial procedure rules and contract procedure rules.

- 4.7 Responsible officers are expected to ensure that effective internal control arrangements are incorporated into the design or development of systems and procedures. Such arrangements would include ensuring adequate segregation of duties, authorisation and physical security controls to protect the Council from error, misappropriation or loss.
- 4.8 Members and officers are required to declare any financial and other interest in any outside bodies or organisations which could be considered or perceived as having an influence on their actions on behalf of the Council.
- 4.9 The Council operates a disciplinary procedure, which applies to all employees. The Council has established a Standards Committee to deal with matters relating to the Member's Code of Conduct.

#### **Organisational Culture and Conduct**

- 4.10 The Council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud and corruption. The Council operates a zero-tolerance approach towards fraud and corruption activity.
- 4.11 The Council supports the Seven Principles of Public Life identified by the Nolan Committee and recognises that these are fundamental to developing an effective working environment which does not allow or tolerate fraud and corruption activity. Further information on the Seven Principles of Public Life is attached to this document. **[Appendix A]**
- 4.12 The Council expects that Members and officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. In particular, Members and officers are expected to adhere to their relevant Code of Conduct.
- 4.13 Managers should strive to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities.
- 4.14 The Council also expects that individuals and organisations (e.g., suppliers, contractors, partners and service providers), that it comes into contact with will act with integrity in their dealings with the Council and without thought or actions involving fraud and corruption.

#### **Internal Scrutiny Arrangements**

- 4.15 The Council has an internal audit function which has the responsibility to objectively examine, evaluate and report on the adequacy of the control environment by evaluating its effectiveness in achieving the organisation's objectives. This work of internal audit will include review

of the existence and effectiveness of the Council's internal control arrangements. Any review work undertaken by the internal audit function will give due consideration to the risk of fraud or corruption with the area subject to audit.

- 4.16 Assurance of the effective operation of internal control arrangements is requested from management annually as part of the Council's arrangements for preparing the Annual Governance Statement. Managers are required to specifically provide assurance on the effective operation of internal control arrangements and staff awareness of the Anti-Fraud & Corruption Strategy.

#### **External Scrutiny Arrangements**

- 4.17 The Council is subjected to a high degree of external scrutiny of its affairs by a variety of bodies and people.
- 4.18 As part of its statutory duties, the External Auditor is required to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud and corruption.

#### **Working with others**

- 4.19 The Council is committed to working with other organisations to prevent and detect fraud and corruption through undertaking specific initiatives and ensuring that arrangements are in place to encourage the exchange of information between the Council and other agencies. Though not intended to be exhaustive, the Council currently works with the following:

- Audit Commission
- Kent Police
- Department for Work and Pensions
- Inland Revenue
- National Health Service
- National Fraud Initiative
- Kent Audit Group
- Local Authority Investigation Officers Group
- Kent Investigation Officers Group
- HM Revenues & Customs

### **5. DETECTION OF FRAUD & CORRUPTION**

- 5.1 The Council has put in place a range of internal control arrangements within its systems and processes to detect fraud and corruption activity, including budget monitoring and reconciliations. These arrangements should be sufficient in themselves to deter fraud and corruption activity should this occur. The Council recognises, however, that the detection of fraud and corruption is often as a result of the alertness of employees, Members, the general public and other stakeholders.

5.2 Members of the public and stakeholders are encouraged to come forward and report any concerns or suspicions they may have through:

- The Council's complaints procedure, which is available at [www.tmbc.gov.uk](http://www.tmbc.gov.uk) , from Council offices or by calling 01732 844522
- The Council's Internal Audit team (01732 87686)
- The Council's External Auditor, the Audit Commission
- Concerns or suspicions directly relating to benefit fraud should be reported to the Housing Benefit Fraud team through the Council website or via the Benefit Fraud Hotline (01732 876337)

5.3 Elected Members are also encouraged to come forward and report any concerns or suspicions they may have of fraud or corruption activity to:

- the Chief Internal Auditor
- the Director of Finance
- the Central Services Director (Monitoring Officer)
- the Chief Executive

5.4 Employees are encouraged to report any concerns or suspicions in the first instance to their Line Manager or Service Manager where it is appropriate to do so. However, if the issues are of a serious or sensitive nature or involve management concerns these may be reported to the Council's Chief Executive, Director of Finance, Monitoring Officer, or the Chief Internal Auditor in accordance with the Confidential Reporting Code.

5.5 The Council recognises that on occasions, employees, Members and organisations working with the Council may not want to express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation.

5.6 The Council's Financial Procedure Rules require that any employee who suspects fraud, financial loss or error must either: -

- Raise their concerns under the Confidential Reporting Code; or
- Inform their Chief Officer, who must notify the Director of Finance

## **6. INVESTIGATION**

6.1 Any Manager with information about suspected fraud or corruption activity must report this immediately to the Director of Finance Managers are also responsible for:

- recording and securing all evidence received and collected;

- ensuring that evidence is sound and adequately supported;
  - implementing Council disciplinary procedures where appropriate.
- 6.2 The Benefits Investigation Section is responsible for all benefit fraud investigations.
- 6.3 These investigations will be undertaken in accordance with the Council's Housing & Council Tax Benefit Anti-Fraud Policy and Prosecution Policy.
- 6.4 The Council has established a corporate approach to co-ordinate the investigation of allegations of fraud and corruption to ensure the effective use of the skills and resources within the organisation. This approach is intended to utilise officers from Internal Audit, Benefits Fraud and Personnel based on the nature of the allegation and the investigatory skills required.
- 6.5 The Council has a formal procedure for conducting such investigations which allows for investigations to be carried out impartially and with complete confidentiality. As well as looking to confirm or refute allegations of fraud and corruption activity reported, investigatory work will also look to identify any improvements in internal control, training needs or other suitable solutions to prevent or deter the reported activity from recurring.
- 6.6 The Council's disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour by a Council employee.
- 6.7 Where financial impropriety is discovered or it appears that a criminal offence may have been committed, the Council's presumption is that it will be treated as a criminal investigation. The decision to make a referral to the Police will be a matter for the Chief Executive.
- 6.8 Referral to the Police will not be seen to prohibit and should not unnecessarily delay action under the disciplinary procedure.
- 6.9 The Council will seek, where appropriate, to maximise the recovery of any loss to the Council.
- 6.10 The investigation process must not be misused. The Council will treat any reporting of unfounded malicious allegations seriously. Where employees are concerned, any such finding from the investigation process may be treated as a disciplinary matter.
- 6.11 Elected Members and employees will be given advice and support, where considered necessary, if they are the subject of an unfounded malicious allegation.



## **7. RESPONSES TO REPORTED CONCERNS AND SUSPICIONS**

7.1 Any person or organisation reporting concerns or suspicions of fraud or corruption activity may request to be kept inform of the progress of any investigation or its outcome. The Council reserves the right to fulfil this request where doing so may be to the detriment of the effectiveness of confidentiality of the investigation process.

7.1 Where people or organisations have raised a concern or suspicion about fraud or corruption activity but are not satisfied with the response they received, they may pursue the matter further by referring the issue through one of the following channels:

- The Council's complaints procedure
- An Elected Member
- The Audit Commission
- Public Concern at Work
- A relevant professional or regulatory body
- A solicitor or the Police.

## **8. ACTION TO DETER FRAUD & CORRUPTION**

8.1 All anti-fraud and corruption activities undertaken by the Council, including the update of this policy, will be publicised in order to make employees, Members, the general public and stakeholders aware of the Council's commitment to taking action on fraud and corruption activity, when it occurs.

8.2 The Council will endeavour to act robustly and decisively when fraud or corruption is suspected and proven. This will be demonstrated through disciplinary action or prosecution.

8.3 The Council will take action to help ensure the maximum recoveries for the Council.

## **9. MEASURING THE EFFECTIVENESS OF THIS STRATEGY**

9.1 The Council has recognised the importance of measuring the effectiveness of its anti-fraud and corruption arrangements and that this cannot consist of one single measure. The Council is currently in the process of developing measures to demonstrate the effectiveness of this Strategy and the actions it contains. It is intended that these measures will focus on outcomes and will include assessments of:

- awareness levels
- number of suspicions and concerns reported

- number of investigations undertaken
- outcomes of investigations undertaken
- level of losses identified
- sanctions applied
- financial losses recovered or, where appropriate, financial savings generated.

9.2 Arrangements will also be developed for future wider reporting of performance targets and achievement against targets.

## **10. REVIEW AND APPROVAL OF THIS STRATEGY**

10.1 The Anti-Fraud and Corruption Policy will be reviewed regularly, with any amendment to the policy subject to the approval of the Cabinet and recommendations from the Audit Committee.

## **Appendix A**

### **The Seven Principles of Public Life**

#### **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

#### **Integrity**

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

#### **Objectivity**

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

#### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### **Honesty**

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

#### **Leadership**

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