

TONBRIDGE & MALLING BOROUGH COUNCIL

AUDIT COMMITTEE

27 January 2014

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Council

1 UPDATE OF ANTI-FRAUD POLICIES

Summary

This report informs Members of the outcome of a review of the Anti-Fraud Policies of the Council. The review has identified that some changes are required and recommends that these changes are adopted.

1.1 Introduction

- 1.1.1 Members will be aware that the Anti-Fraud policies are designed to raise fraud awareness within the organisation and to provide a clear statement of intent when dealing with fraud.
- 1.1.2 These policies are reviewed annually and as part of the partnership agreement with Gravesham for Fraud Management the policies mirror each other where practical.
- 1.1.3 This review has been undertaken by the joint Fraud Manager shared with Gravesham Borough Council.

1.2 Anti-Fraud & Corruption Policy

- 1.2.1 This policy was reviewed and approved by Council in February 2013. This was a comprehensive review and it is considered that there are some changes required to the policy. A copy of the revised draft policy is attached. **[Annex 1]**
- 1.2.2 Paragraph 5.3 of the policy has been expanded to include reference to Council Tax Reduction Scheme, other Council Tax related fraud and Housing Fraud to include all areas that the section is now investigating.
- 1.2.3 Paragraph 5.5 of the policy has been amended to permit matters of a serious nature directly to the Audit & Fraud Team but it also retains a reference to the Whistleblowing Charter and where it can be found. This is to give another less formal channel for raising concerns.

- 1.2.4 Paragraph 6.1 has been amended to include the Audit and Fraud Manager as a source for reporting information. This is to ensure that there is a contact available to cover flexible and partnership working.
- 1.2.5 Paragraph 6.2 has been amended and moved to become paragraph 6.10. The amendment is introduced to widen the remit of investigation areas of the Fraud Team in line with changes in areas of responsibility.
- 1.2.6 References to the Director of Finance have been changed to the Director of Finance and Transformation.
- 1.2.7 The last paragraph of the policy requires it to be reviewed annually and it will be approved by Council following consideration by the Audit Committee and the Policy Overview Committee. Where there are no material changes required it is considered that this process is not necessary. The following revision is suggested: -
- The Anti-Fraud and Corruption Policy will be reviewed at least annually by the Audit Committee with any significant changes being approved by Council following consideration by the Overview & Scrutiny Committee.
- 1.2.8 Members are asked to recommend approval of the revised policy to the Council via Cabinet.

1.3 Housing and Council Tax Benefit Anti-Fraud Policy

- 1.3.1 Members will be aware that when Council Tax Benefit ceased in April 2013 the above policy was revised to include the Council Tax Reduction Scheme which was introduced to replace it.
- 1.3.2 Since that time there have been legislative changes to introduce new powers of investigation and penalties relating to the Council Tax Reduction Scheme. (CTRS). The Government message has been that CTRS is a discount and not a benefit which required separate legislation.
- 1.3.3 As part of this review it was determined that it was appropriate to treat the two schemes in separate policies and therefore Members are asked to consider separate policies.
- 1.3.4 The Housing and Council Tax Benefit Anti-Fraud Policy has no significant changes to the joint policy but does have changes to the prosecution policy. The decision whether an Administrative Penalty or Caution is appropriate will be determined by the Chief Internal Auditor with Prosecution cases being referred to Legal Services. This process is designed to minimise delays in determining outcomes.
- 1.3.5 The prosecution policy also includes reference to civil penalties which have been introduced and can be applied to cases where it is considered that a person has

been negligent in failing to give correct information and has not been charged with an offence or given a sanction.

1.3.6 Although Council Tax Benefit is no longer in payment there are still cases that are being investigated for payments prior to April 2013 and therefore there is a continued need for it to be included in the policy. A copy of the draft policy is attached. **[Annex 2]**

1.3.7 Members are asked to recommend that Council approve the policy via Cabinet.

1.4 Council Tax Reduction, Discount and Exemption Anti Fraud Policy

1.4.1 As stated previously in paragraph 1.3.2 there have been a number of legislative changes specific to the CTRS scheme introducing offences and investigation powers.

1.4.2 It was considered appropriate to introduce a separate policy relating to CTRS as there are similar sanctions that have been introduced to those of Benefit Fraud but these are at different rates to benefits.

1.4.3 Significantly, these changes only apply to CTRS and not other Council Tax discounts such as exemptions etc which are still offences under the Fraud Act.

1.4.4 Therefore this new policy has included discounts and exemptions within it to highlight these differences and to ensure that stakeholders are aware of their responsibilities in relation to claiming discounts and exemptions. A copy of the draft policy is attached. **[Annex 3]**

1.4.5 Members are asked to recommend that Council approve the policy via Cabinet.

1.5 Whistleblowing Charter (Confidential Reporting Policy)

1.5.1 This charter was last updated by General Purposes Committee in June 2013 and is subject to an annual review.

1.5.2 The latest version was a rewrite of the policy in line with best practice and it is considered that there are no significant amendments. However, paragraphs 5.2 and 5.4 have been amended to include the Audit Manager and Fraud Manager as points of contact. A copy of the draft policy is attached. **[Annex 4]**

1.5.3 Members are asked to recommend to General Purposes Committee that the Charter is approved following a review by Audit Committee.

1.6 Action following approval of policies

1.6.1 As each of these policies is approved they will be circulated to all staff with computer access using NETconsent and will be updated on the Council website.

1.7 Legal Implications

1.7.1 These policies are not mandatory but do comply with best practice and refer to the relevant legislation where appropriate.

1.8 Financial and Value for Money Considerations

1.8.1 Fraud prevention and detection is an area subject to central government focus with initiatives such as Protecting the Public Purse, National Fraud Initiative and Fighting Fraud Locally maintaining a high profile. The message coming from these initiatives is that effective fraud prevention and detection releases resources from fraud.

1.8.2 These policies comply with recognised best practice and reinforce the zero tolerance stance of the Council towards fraud. Effective fraud prevention minimises losses to the Council through fraud.

1.9 Risk Assessment

1.9.1 The policies reflect best practice and the culture of the Council is aimed at minimising the risk of fraud. The policies are supported by the internal control mechanisms in place and form part of the overall control environment of the Council.

1.10 Equality Impact Assessment

1.10.1 There are no negative impacts identified as a result of the policies but they do give a process of how fraud will be treated in accordance with the public interest test ensuring equitable treatment in an investigation.

1.11 Recommendations

1.11.1 Members are asked to **RECOMMEND** that:

- 1) Following consideration by Cabinet, Council approve the following draft policies:
 - Anti-Fraud and Corruption Policy (Annex 1)
 - Housing and Council Tax Benefit Anti-Fraud Policy (Annex 2);
 - Council Tax Reduction, Discount and Exemption Anti-Fraud Policy (Annex 3)
- 2) General Purposes Committee approve the Whistleblowing Charter (Confidential Reporting Policy) set out at Annex 4.

Background papers:

contact: David Buckley

Nil

Sharon Shelton
Director of Finance & Transformation

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	Policies are designed to be a statement of how the Council will treat fraud
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	Any investigations resulting from these policies will consider the public interest test and will take vulnerability into consideration.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.