

# ANTI-FRAUD, BRIBERY & CORRUPTION POLICY

Document Owner:	Sharon Shelton Director of Finance and Transformation
Version:	Version 10

## Document Review History

Version	Reviewed	Reviewer	Approver	Date Approved
Original	N/A	Head of Internal Audit	Audit Committee	24 January 2011
9	December 2019	Audit and Assurance Manager	Audit Committee	20 January 2020
10	December 2020	Audit and Assurance Manager	Audit Committee	18 January 2021



January 2021

## Contents

<b>Section</b>		<b>Page</b>
<b>1</b>	Introduction	<b>3</b>
<b>2</b>	Definitions of Fraud	<b>3</b>
<b>3</b>	Definition of Bribery and Corruption	<b>4</b>
<b>4</b>	Current Threats and their Impact	<b>5</b>
<b>5</b>	Setting the Culture - Standards	<b>5</b>
<b>6</b>	Roles and Responsibilities	<b>6</b>
<b>7</b>	Prevention – Capability, Competence and Capacity	<b>9</b>
<b>8</b>	Detection and Investigation	<b>12</b>
<b>9</b>	Responses to Reported Concerns and Suspicions	<b>13</b>
<b>10</b>	Action to deter Fraud, Bribery and Corruption	<b>13</b>
<b>11</b>	Review and Approval of this Policy	<b>14</b>
<b>12</b>	Associated Council Policies	<b>14</b>

# Anti-Fraud, Bribery & Corruption Policy

## 1 INTRODUCTION

1.1. Fraud against Local Government is estimated to cost £7.8<sup>1</sup> billion per year. The Government's Economic Crime Plan states the numbers of fraud offences rose by 12% during 2018 to 3.6m constituting a third of all crimes in UK. This is a significant loss and threat to the public purse.

1.2. Tonbridge & Malling Borough Council is opposed to all forms of fraud and corruption, including bribery, and is determined to protect itself from such actions whether attempted from within the Council or by an outside individual, group or organisation.

1.3. The Council recognises that fraud, bribery and corruption undermine the standards of public service, which it promotes, and reduces the resources available for the good of the whole community. Such activity may therefore impact on the ability of the Council to achieve its corporate objectives, as set out in its Corporate Strategy. In response to this, the Anti-Fraud, Bribery & Corruption Policy is designed to align with The Local Government Fraud Strategy: Fighting Fraud Locally which means the council will:

- **Govern** the anti-fraud, bribery and corruption measures to ensure they are robust and holistic;
- **Acknowledge** the threat of fraud and the opportunities for savings that exist;
- **Prevent** and detect all forms of fraud;
- **Pursue** appropriate sanctions and recover any losses;
- **Protect** itself and the community against serious and organized crime, protecting the organisation from becoming a victim of fraud.

## 2 DEFINITION OF FRAUD

2.1. The Council defines fraud as 'any activity where deception is used for personal gain or to cause loss to another.' Fraud can be committed in one of three ways:

- **Fraud by false representation** – Examples include providing false information on a grant or when applying for a Single Person Discount,

---

<sup>1</sup> CIPFA Fraud and Corruption Tracker Summary Report 2019

staff claiming to be sick when they are in fact fit and well, or submitting time sheets or expenses with exaggerated or entirely false hours and/or expenses;

- **Fraud by failing to disclose information** – Examples include failing to disclose a financial interest in a company the Council is trading with, or failing to disclose a personal relationship with someone who is applying for a job at the council;
- **Fraud by abuse of position** – Examples include staff who order goods and services through the Council's accounts for their own use.

2.2. While fraud is often seen as a complex financial crime, in its simplest form, fraud is lying. Someone will lie, or withhold information, or generally abuse their position to try to trick someone else into believing something that is not true. Acts such as misappropriation or petty theft will therefore also be considered by the Council as fraud and treated under the arrangements within this Policy.

### **3. DEFINITION OF BRIBERY AND CORRUPTION**

3.1. The Council defines corruption as the abuse of entrusted power for private gain; involving the offering, giving or soliciting of an inducement or reward which may influence a person to perform a function or activity improperly. This may involve:

- The offence of bribing another person;
- The offence of being bribed;
- Bribery of a foreign public official;
- A corporate offence of failure to prevent bribery.

3.2. Other forms of corruption include:

- Cronyism or nepotism, where someone in public office exploits their authority to provide a job or favor to a friend, associate or family member;
- Collusion, where a secret agreement between parties, in the public and/ or private sector conspire to commit actions aimed to deceive or commit fraud;
- Conflict of interests, where someone in a public office faces a conflict between the duties and demands of one or more positions that they hold and their private lives;
- Gifts and Hospitality, the provisions of gifts, entertainment or other hospitality that could affect or perceived to affect the outcome of business transactions and are not reasonable and bona fide;

- Lobbying, any activity carried out by companies, associations, organisations and individuals to influence a government or institution's policies and decisions in favour, cause or outcome

#### 4. CURRENT THREATS AND THEIR IMPACT

4.1. The Council faces a range of fraud and corruption threats and the impact can be significant causing financial loss, reputational damage and harm to service users and the residents of Tonbridge and Malling. In the last 12 months the most frequent types of fraud and similar crimes that have impacted the council are as follows:

- **Council Tax Discount / Exemption Fraud.** This type of fraud causes a financial loss to the council and the local economy, as well as undermines the public's confidence in the service that is provided. Council Tax fraud is committed where a customer provides false information or fails to declare a change in circumstances in order to receive a discount/exemption on their council tax.
- **Social Housing Fraud.** Social Housing is a valuable asset to the public and often a lifeline to the people it's meant for, given the desperate shortage of affordable homes. Social Housing Fraud is estimated to cost the tax payer £2bn a year. Fraud can be committed in several ways; some of the most common types of fraud include illegal subletting, non-occupancy, or submission of false information.
- **Parking Permit Fraud.** This type of fraud causes financial loss to the council and undermines the public's confidence in the Residential Parking Permit scheme and prevents genuine Residential Parking Permit users accessing safe and convenient parking.
- **Business Rates / Exemption Fraud.** Small Business Rate Relief (SBRR) is provided to a number of businesses across England on the basis that they either only use one property or have a ratable value of less than £15,000. Fraud can occur when a business owner does not declare that they have a property elsewhere where their ratable value (RV) is considered over the threshold amount. SBRR Fraud is estimated to cost over £25 million in England alone.
- **Housing Benefit and Council Tax Reduction Fraud.** This type of fraud causes a financial loss to the council and the local economy, as well as undermines the public's confidence in the service provided. Fraud is committed either by supplying false information on an application form or by failing to declare a change of circumstances that would affect benefit entitlement. It is estimated that 2.2% of total benefit expenditure was overpaid due to fraud and error.

#### 5. SETTING THE CULTURE – STANDARDS

5.1. Tonbridge and Malling Borough Council wishes to promote a culture of honesty and opposition to fraud and corruption based on the seven

principles of public life. The Council will ensure probity in local administration and governance and expects the following from all employees, agency workers, volunteers, suppliers and those providing services under a contract with TMBC.

- **Selflessness** - Act solely in terms of the public interest.
- **Integrity** - Avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity** - Act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability** - Be accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness** - Act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty** - Be truthful.
- **Leadership** - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## 6. ROLES AND RESPONSIBILITIES

### The Role of Elected Members

6.1. As elected representatives, all Members of Tonbridge and Malling Borough Council have a duty to act in the public interest and to do whatever they can to ensure that the Council uses its resources in accordance with statute.

6.2. This is achieved through Members operating within the Constitution which includes the Code of Member Conduct, Financial Regulations and Spending the Council's Money.

## **The Role of Employees**

6.3. Tonbridge and Malling Borough Council expects its employees to be alert to the possibility of fraud, bribery and corruption and to report any suspected fraud or other irregularities to the Head of Internal Audit.

6.4. Employees are expected to comply with appropriate Code of Conduct and the Council's policies and procedures.

6.5. Employees are responsible for complying with Tonbridge and Malling Borough Council's policies and procedures and it is their responsibility to ensure that they are aware of them. Where employees are also members of professional bodies they should also follow the standards of conduct laid down by them.

6.6. Employees are under a duty to properly account for and safeguard the money and assets under their control/charge.

6.7. Employees are required to provide a written declaration of any financial and nonfinancial interests or commitments, which may conflict with TMBC's interests. Employees who have a direct or indirect financial interest in a contract shall not be supplied with, or given access to any tender documents, contracts or other information relating to them, without the authority of the senior manager.

6.8. Failure to disclose an interest or the acceptance, or offering of an inappropriate reward may result in disciplinary action or criminal liability. Staff must also ensure that they make appropriate disclosures of gifts and hospitality – both offered and accepted.

6.9. Managers at all levels are responsible for familiarizing themselves with the types of fraud that might occur with their directorates and the communication and implementation of this strategy.

6.10. Managers are expected to create an environment in which their staff feel able to approach them with any concerns that they may have about suspected fraud or any other financial irregularities.

6.11. Managers should recognise that training is a vital tool in ensuring that both officers and Members clearly understand their roles and responsibilities within the organisation and carry out these within the Council's framework of policies and procedures in order to minimise fraud.

### **The role of Chief Executive Officer**

6.12. Ensuring that the authority is measuring itself against the checklist for Fighting Fraud and Corruption Locally and there are sufficient resources to manage the risk of fraud.

6.13. Ensure the Audit Committee receives regular reports on the work of those leading on fraud and the external auditor is aware of the reporting.

### **The role of the Director of Finance and Transformation**

6.14. The Director of Finance and Transformation is responsible for developing, reviewing and maintaining an Anti-Fraud, Bribery and Corruption Strategy and for advising on effective systems of internal control to prevent, detect and pursue fraud and corruption; advising anti-fraud and anti-corruption strategies and measures; and, ensuring that effective procedures are in place to investigate any fraud and irregularity in a timely manner.

6.15. Ensuring the Head of Internal Audit is assessing its resources and capability at least annually against the current fraud risks and Counter Fraud staff have unfettered access to people and records to prevent and detect fraud.

### **The Role of the Monitoring Officer**

6.16. Ensuring that Members, Governance & Audit Committee and Portfolio leads are aware of Counter Fraud Activity and provide training on Counter Fraud risks and approaches.

6.17. The Counter Fraud Team are independent of processes and reports to Governance & Audit Committee to ensure there is a Member scrutiny.

### **The Role of Personnel Services**

6.18. Ensuring that effective steps are taken at the recruitment stage to verify the propriety and integrity of the previous records of potential employees, representatives of the local community and newly-elected Members of the organisation. Adhering to the guidance set out in the Recruitment and Selection Policy, Procedure and Guidance which requires a number of checks at recruitment stage, including the take up of written references and Disclosure and Barring Service checks for certain identified posts.

### **The role of the Audit Committee**

6.19. The Audit Committee is responsible for ensuring that the Council has a

robust counter-fraud culture backed by well designed and implemented controls and procedures which define the roles of management and Internal Audit; and, that the Council monitors the implementation of the Anti-Fraud Bribery and Corruption policy to ensure that it is followed at all times.

6.20. Ensuring that the Portfolio lead is up to date and understands the activity being undertaken by Counter Fraud.

6.21. Provide challenge and support to the Counter Fraud Activity being undertaken across the council.

### **Tonbridge and Malling Borough Council's Commitment**

6.22. Fraud, bribery and corruption are serious offences and employees and Members may face disciplinary action if there is evidence that they have been involved in these activities. Where criminal offences are suspected consideration will be given to pursuing criminal sanctions, which may involve referring the matter to the police.

6.23. In all cases where the Council has suffered a financial loss, appropriate action will be taken to recover the loss including the cost of the investigation whenever appropriate. Civil penalties will also be applied also whenever deemed appropriate in accordance to policy.

6.24. In order to make Members, employees, the general public and other organisations aware of the Council's continued commitment for taking action against fraud, bribery and corruption, details of completed investigations, including sanctions applied will be publicised where it is deemed appropriate and in the public interest. This will involve releasing press statements immediately after criminal convictions are secured. In addition, the council will promote an anti-fraud culture through fraud awareness campaigns, presentations, training and e-learning.

## **7. PREVENTION – CAPABILITY, COMPETENCE & CAPACITY**

### **Responsibilities of Management**

7.1 The primary responsibility for the prevention and detection of fraud is with management. Management must ensure that they promote an anti-fraud culture and assess the risk of fraud, bribery and corruption. They must ensure appropriate controls are in place to minimise the risk of fraud, for example, this could include establishing procedures, approving transactions or certain activities and segregating duties. Management must ensure the controls are operating as expected and are being complied with. They must ensure that adequate levels of checks are included in working practices,

particularly financial to reduce fraud and error occurring. It is important that duties are organised in such a way that no one person can carry out a complete transaction without some form of checking or intervention process being built into the system.

7.2. Management must ensure that the development of new policies, strategies and initiatives are fraud-proofed by engaging with the Counter Fraud Team to support the assessment of the fraud risks.

### **Internal Audit and Counter Fraud**

7.3. The Head of Internal Audit and Counter Fraud is responsible for the independent review of controls within the council and assisting managers in the investigation of Fraud and Corruption.

7.4. The Internal Audit Function has a responsibility to objectively examine, evaluate and report on the adequacy of the control environment by evaluating its effectiveness in achieving the organisations objectives. The work of Internal Audit will include a review of the adequacy and effectiveness of the Council's internal control arrangements which gives due consideration to the risk of fraud, bribery and corruption in each audit that is conducted.

7.5. The Head of Internal Audit will establish performance measurements for counter fraud activity and will report progress against the performance measurements proactive counter fraud activity and on a quarterly basis to Audit Committee.

7.6. Internal Audit and the Counter Fraud Team provide advice and guidance on controls when implementing a new or significant change in process by providing a view of the current fraud risks and conducting proactive audit work to provide assurance on the control framework in place. The Counter Fraud Team will also provide management with specialist support to assess the risk of fraud, bribery and corruption that it faces through the completion of risk assessments.

7.7. Through the completion of proactive and reactive work; recommendations will be made to management on how to strengthen the counter fraud culture and control framework to help prevent and detect fraud.

### **Working with others and sharing information - Collaboration**

7.8. The Council is committed to working and co-operating with other organisations to prevent and detect fraud, bribery 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. This will include:

- Coordinating our activity with the other teams across the Council, such as Revenues & Benefits, Housing and Parking to maximise our impact.
- Working closely with other neighboring council's to encourage the exchange of information between the council and other agencies through the Kent and Medway Information sharing agreement.
- Working with and supporting the Police and other enforcement agencies.
- Working with the Cabinet Office in the development and introduction of the Government Counter Fraud Profession.
- Jointly working with the Department and Working Pensions to investigate potential fraudulent Housing Benefit claims.

7.9. The Council may use personal information and data-matching techniques to detect and prevent fraud, and ensure public money is targeted and spent in the most appropriate and cost-effective way. In order to achieve this, information may be shared with other bodies responsible for auditing or administering public funds including, but not limited to, the Cabinet Office, National Fraud Initiative, the Department of Work and Pensions, other local authorities, HM Revenue and Customs, and the Police.

### **National Fraud Initiative**

7.10. Tonbridge and Malling Borough Council participates in the National Fraud Initiative (NFI). This requires public bodies to submit a number of data sets to the Cabinet Office, for example electoral roll, council tax, pension, and accounts payable (but not limited to these) which is then matched to data held between public and private sector bodies to prevent and detect fraud. Further enquiries are made into any positive matches (e.g. an individual on the electoral roll that has not been declared at the address when the account holder is in receipt of Single Person Discount).

### **Training and Awareness – Communication.**

7.11. The prevention and detection of fraud is dependent on risk awareness, the effectiveness of training and the responsiveness of staff throughout the council.

7.12. Management will provide a thorough induction and ongoing training to staff, particularly those involved in financial processes and systems to

ensure that their duties and responsibilities are regularly highlighted and reinforced.

7.13. The Counter Fraud Team will provide fraud awareness training to risk areas and on request to highlight potential fraud that can occur in a specific service.

## **8. DETECTION AND INVESTIGATION**

8.1. Tonbridge and Malling Borough Council have adopted a risk based approach to investigating all instances of actual, attempted and suspected fraud committed against the Council and the recovery of funds and assets lost through fraud.

8.2. Any Manager or officer with information about suspected fraud, bribery or corruption activity must report this immediately to the Internal Audit and Counter Fraud Team. Corporate Fraud will create an Intelligence Report which will be raised to the Corporate Fraud Manager who will decide on the appropriate course of action to ensure that any investigation is carried out in accordance with Council policy and procedures, key investigation legislation and best practice. This will ensure that investigations do not jeopardise any potential criminal or sanction action.

8.3. 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, bribery and corruption activity reported, investigatory work will also look to identify any improvements in internal control, training needs or other suitable solutions to prevent and deter the reported activity from occurring.

8.4. The Council's disciplinary procedures will be used where the outcome of an investigation indicates improper behavior by a Council employee.

8.5. Where financial impropriety is discovered or it appears that a criminal offence may have been committed, the Council's presumption is that the issue will be pursued. The matter may be referred to the Police or progressed by TMBC under its own powers within the Local Government Act. Any such decision will not be seen to prohibit and should not unnecessarily delay action under the disciplinary procedure.

8.6. When making decisions about sanctions, the Council will have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions. It will also take into account the aggravating and mitigating factors of the case as detailed in the sentencing guidelines for the relevant offence issued by the Sentencing Council.

8.7. The Council will seek, where appropriate, to maximise the recovery of any loss to the Council, including any costs associated to the investigation and prosecution of an offence.

8.8. 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.

8.9. Members and employees will be given advice and support, where considered necessary, if they are the subject of any unfounded malicious allegation.

8.10. The responsibility for investigating potential fraud, corruption or other financial regularities within the Council lies mainly (although not exclusively) with Internal Audit and Counter Fraud. Officers involved in this work will therefore be appropriately trained, and this will be reflecting within training plans.

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

9.1. Any person or organisation reporting concerns or suspicions of fraud, bribery or corruption activity may request to be kept informed of the progress of any investigation or its outcome. The Council reserves the right to not fulfil this request where doing so may be to the detriment of the effectiveness and confidentiality of the investigation process.

9.2. Where people or organisations have raised a concern or suspicion about fraud, bribery 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
- A Member
- The External Auditor Grant Thornton LLP
- Public Concern at Work
- A relevant professional or regulatory body
- A solicitor or the Police

## **10. ACTION TO DETER FRAUD, BRIBERY & CORRUPTION**

10.1. All anti-fraud, bribery 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 such activity, when it occurs.

10.2. The Council will endeavour to act robustly and decisively when fraud, bribery or corruption is suspected and proven. This will be demonstrated through disciplinary action, prosecution, simple caution or civil penalties (where applicable).

10.3. The Council's Media & Communications Team is responsible for optimising the opportunities available to publicise to the public any anti-fraud, bribery and corruption activity being undertaken within the Council. Once notified of such cases, the Media & Communications Team is also responsible for endeavouring to ensure that the results of any investigations undertaken, including prosecutions, are reported in the local press.

## **11. REVIEW AND APPROVAL OF THIS POLICY**

11.1. This Policy is owned by the Director of Finance and Transformation and reviewed by the Audit and Assurance Manager on her behalf.

11.2. The Anti-Fraud, Bribery & Corruption Policy will be reviewed and endorsed at least annually by the Audit Committee at their January meeting. The most recent review was undertaken in January 2021 with the next review due January 2022.

## **12. ASSOCIATED COUNCIL POLICIES**

12.1. The following associated policies are also key to managing risks in relation to Fraud, Bribery & Corruption. This list should not be considered exhaustive.

- The Council's Constitution including Financial Procedure Rules
- The Code of Conduct for Staff and Members
- The Whistleblowing Policy
- The Anti-Money Laundering Policy
- Policies and procedures in relation to recruitment, personnel and finance processes.
- Data Protection Policy