

FRAUD POLICY REVIEW

1 INTRODUCTION

- 1.1 The purpose of this report is to present proposed updates to the Fraud related policies for review and approval. The fraud policies include:
- Anti-Fraud, Bribery and Corruption Policy
 - Anti- Money Laundering Policy
 - Whistleblowing Policy
 - Fraud Response Plan

2. POLICY AND PROCESS REVIEW

- 2.1 The existing fraud related policies have been reviewed to ensure they are still fit for purpose and comply with the latest legislation. The review was also extended to assess the implementation of previously identified improvements.
- 2.2 The 2012/13 review identified the following improvements, all of which were supported and approved by Audit Committee in March 2013;
- To develop a Fraud response plan.
 - To implement a new online training programme across the Council
 - To utilise the Councils Web pages to improve communication, such as an e-form
- 2.3 Progress made against these improvements is;
- The Fraud Response Plan was approved by Audit Committee in March 2013.
 - An online training package has been written and is with ICT to load as an e-learning tool. The tool will identify who has undertaken the training, the results of the tests and management information to identify if there are any general areas of weakness in knowledge. Direct, targeted training could then be developed if required. The training has unfortunately not yet been rolled out to staff to undertake, which was an aim of Internal Audit. It is hoped this will be achieved early in 2014.
 - A new e-form has been developed with the assistance of ICT, to enable Officers to report incidents to directly to Internal Audit. The form works, but there has not been any use of this communication tool to date. It is the intention of Internal Audit to promote this tool with the roll out of the e-learning package.

The Benefits Investigation team already has a reporting tool to enable the Public to report suspected benefit fraud cases. There is an opportunity to further develop this link to provide reporting tools for other suspected frauds such as;

- Someone not resident at their council house
 - Someone applying to go on the housing waiting list who has lied about their circumstances
 - Someone claiming a council tax discount or exemption fraudulently
 - Someone claiming Business Rate reliefs fraudulent
 - Someone misusing their resident's parking permit
 - Someone who has obtained fraudulent grants to improve their home
 - Dishonest behaviour by a member of staff or a council contractor
- 2.4 The fraud related policies and supporting guidance notes have been reviewed. There are no proposed changes to the Anti-Money Laundering Policy or Fraud Response Plan.
- 2.5 Minor amendments have been made to the Anti Fraud, Bribery and Corruption policy to reflect new links to updated Council policies such as the Contracts Procedure Rules, the guidance notes have

been updated to reflect reference to new legislation. These changes have been reviewed by EMT and approved by the Chief Executive under his delegated authority.

2.6 Appendix 1 contains a number of amendments to the Whistleblowing Policy, shown in red. The current policy complies with the Public Interest Disclosure Act 1998, however with effect from 25th June 2013 the Enterprise and Reform Act 2013 became enforceable.

2.7 There are key changes to the legislation, including:

- The qualifying disclosures will only be “valid” if the Whistle-blower believes it is in the Public’s Interest to make the disclosure. Effectively introducing a “Public Interest test”. There is no definition within the legislation however on what “public interest” is however to aid the Whistle-blower.
- There is a requirement to remove the “made in good faith” element of the protected disclosure.

2.8 The Whistle-blowing policy has been updated to reflect these legislative changes and improvements made to ensure the policy is clear to all users. The policy has been reviewed by EMT and the Head of Legal and Democratic Services and shared with Human Resources for comment.

2.9 The internal audit team continues to update the Fraud risk register, which informs the audit plan coverage. A copy of the register is attached as Appendix 2 for information. Further detail is provided to Members in Appendix 3, demonstrating some of the Counter Fraud work undertaken. A summary of frauds will be reported to Audit Committee in the Annual Auditor’s report in June 2014.

3. REVIEW CONCLUSION

3.1 To complete the roll out of the fraud e-learning tool

3.2 To develop the external reporting tools for other frauds, not just Benefit Fraud.

3.3 There is a requirement to update the Whistleblowing Policy, with the approval of Audit Committee. With the updated policy being added to the Council’s Constitution and communicated to Officers.

4 FINANCIAL IMPLICATIONS:

4.1 There are no direct financial consequences arising from this report, however poor controls may lead to financial losses.

5 EQUALITY & DIVERSITY AND ENVIRONMENTAL MATTERS:

5.1 There are no equality and diversity or environmental matters directly associated with this report.

6 CRIME & DISORDER IMPLICATIONS:

6.1 There are no direct crime and disorder implications arising from this report, however these documents do consider the risk of criminal activity.

7 RECOMMENDATIONS

7.1 It is recommended that:

1. the improvement work identified above is supported
2. the updated Whistleblowing Policy in Appendix 1 be approved and
3. Audit Committee note the contents of the fraud risk register the fraud prevention and detection work in appendices 2 and 3.

For further information

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Background Papers

Anti-Fraud Bribery and Corruption Policy

Whistleblowing Policy

Anti-Money Laundering Policy

WHISTLE BLOWING AT WORK POLICY

Whistle Blowing at Work Policy

1. POLICY

- 1.1 New Forest District Council is committed to the highest standards of corporate governance and to full accountability for all of its services. It is also committed to the prevention, deterrence, detection and investigation of all forms of fraud, corruption, malpractice and unethical conduct.
- 1.2 The Whistle Blowing policy is specifically intended to ensure that any employee who raises an issue or concern regarding suspected malpractice or serious wrongdoing in the workplace, will not be subject to any detriment, e.g. dismissed, denied promotion, ostracised or transferred to another department. The aim is to encourage employees to raise concerns about malpractice in the workplace, promoting honesty and openness.
- 1.3 The policy is intended to supplement, rather than replace, the existing complaints procedures whereby Council employees, Members and members of the public may already raise complaints or matters of genuine concern with the Council. Members of the public will always be referred in the first instance to the Council's Corporate Complaints Procedures.
- [forestnet2/media/adobe/p/0/Brief_guide_to_the_complaints_procedure.pdf](#)
- 1.4 The policy gives clear guidance to employees for bringing attention to any wrongdoing, which they feel is harmful to individuals or could affect the reputation of the Council.
- 1.5 If a Member is concerned about any aspect of an employee's conduct (including conduct which would be covered by this policy), they should follow the procedure set out in the Local Code for Member/Officer Relations i.e. the matter should be reported to the relevant Head of Service.
- 1.6 Alternatively, if an employee is concerned about the conduct of any Member, their Line Manager, their Head of Service, the Chief Executive or the Monitoring Officer should be informed. The matter will be taken seriously. Members are under an obligation to comply with a statutory Code of Conduct as well as the Council's own local codes.

2. Who is Protected/Covered by the Policy?

2.1 This Policy applies to:

- An employee
- An agency employee
- A trainee
- A worker who provides services on behalf of the Council
- Volunteers

2.2 The policy does **NOT** apply to raising grievances about an employee's personal situation and thus, does not replace existing procedures for personal differences or conflicts. If you have concerns in this area you should consult the Grievance Policy or your Manager, or a member of the Human Resources Team who can advise you about the Grievance and other more appropriate procedures. You cannot raise the same issue under both the Whistle-blowing Policy and another procedure.

3 DEFINITION AND DISCLOSURES

- 3.1 The term 'Whistle Blowing' is used to define the disclosure, by an employee, of information that relates to suspected malpractice, corruption, fraud and illegal or unethical conduct by employees and/or agents of the Council.
- 3.2 The Enterprise and Regulatory Reform Act 2013 specifies "Qualifying Disclosures" as:
- A criminal offence;
 - A breach of a legal obligation;
 - A miscarriage of justice;
 - Danger to the health and safety of any individual;
 - Damage to the environment or
 - Deliberate covering up of information tending to shown any of the above five matters.

4. AIMS AND SCOPE OF THE POLICY

- 4.1 The Council's employees are an important element in its stance against fraud, corruption or any form of malpractice and are positively encouraged to raise any concerns that they may have on these issues where they are associated with the Council's activity. They can do this in the knowledge that such concerns will be treated in confidence, properly investigated and dealt with fairly.
- 4.2 The policy is aimed at encouraging employees to feel confident in raising serious concerns, on an anonymous basis if necessary, and to have confidence that those concerns will be dealt with appropriately. It will also reassure them that they will be protected from possible reprisals or victimisation if they have reasonable grounds for the suspicion about the malpractice and in making the disclosure it is in the public's interest. The Whistle-blower should not be making the disclosure for personal gain.
- 4.3 This Policy also covers disclosures outside of the Council/regulators where one or more of the following conditions apply:
- You reasonably believe you would suffer detriment if you made the disclosure to the Council or to a 'regulator'; or
 - None of the regulators covers the matter and you reasonably believe the evidence is likely to be concealed or destroyed; or
 - You have already made the disclosure to the Council or to a regulator
- 4.4 Failure to comply with the expectations of paragraph 4.2 & 4.3, including, making a frivolous or malicious disclosures may result in disciplinary action being taken

5 How is the Whistle-blower Protected?

- 5.1 If you comply with the expectations of paragraph 4.2 & 4.3, you will be protected from discrimination as a result of making a disclosure. In particular, you will be protected from harassment or victimisation. (this does not mean that no action will be taken against you if you were involved in a fraudulent activity). This may include agreement to alternative working arrangements during any consequential investigation into the allegations.
- 5.2 Should it not be possible to resolve a concern without revealing your identity, we will discuss with you what steps we will take to protect you from unfair treatment or detriment. However, if you want your identity to remain confidential we will where appropriate, respect your decision and not reveal your identity without your consent unless this is unavoidable/deemed necessary. It should be recognised that if there are reasonable grounds for believing the allegations to be true the public interest will rarely be served by taking no action.
- 5.3 Anonymous disclosures will be considered to the extent that it is reasonable and practicable to do so. It is often difficult to attach equal weight to anonymous allegations due to the investigator's difficulty

in confirming or following up evidence. If you are unsure whether an incident should be reported under this policy you may wish to discuss the matter initially with your trade union representative, Manager, Human Resources Internal Audit, **or one of the Statutory Officers**

5. EMPLOYEE RESPONSIBILITIES

- 5.1 Employees are expected to maintain the highest levels of honesty and integrity as defined by the Council's Employee Code of Conduct as well as any code of conduct related to, or required by, their professional institute or association.

forestnet2/media/adobe/5/b/Section_2a-June11.pdf

6. HOW TO RAISE A CONCERN

- 6.1 Employees are urged to raise concerns, often before problems have a chance of becoming serious, with their line manager or Head of Service. Employees have the right to engage the services of their Trade Union if they so wish. They may in any circumstance raise it directly with any of the following officers:

- Chief Executive
- Executive Directors
- Head of Human Resources
- Internal Audit
- The Council's Monitoring Officer
- The Council's S151 Officer

NOTE: It is a specific requirement of the Council's Financial Regulations that all matters of fraud, misappropriation or other financial irregularity are referred immediately, by the employee raising a concern or the officer to whom they have initially reported, to the Council's Section 151 Officer (currently the Executive Director) and/or Internal Audit.

forestnet2/index.cfm?articleid=1166

- 6.2 Concerns can be raised verbally or in writing. If written, the concern should be addressed to one of the officers set out in paragraph 6.1 and sent in an envelope marked '*Personal, Private and Confidential*'. If the concern is of an extremely serious nature, the envelope should be hand delivered to the person to whom the matter is being reported. Concerns expressed anonymously are much less powerful and employees are encouraged to put their names to allegations. However, in order to ensure that maximum facilities are available to employees they are free to report anonymously on any areas of concern. Such anonymous allegations will be fully investigated.

When making the disclosure, give as much information as possible about;

- The nature of the problem
- The background (with dates if possible)
- Who is involved
- The reasons why you are concerned

NOTE: If anonymity is preferred, complainants may use the Council's secure (and untraceable) 24 hour Fraud Hotline. The number is 0800 085 1637. Concerns (of any nature) may be e-mailed using fraud@nfdc.gov.uk in total confidence

- 6.3 New Forest District Council is proud of its reputation as a Council with the highest standards of probity and will ensure that any complaints received are properly investigated. However any false or malicious allegations that are received will be viewed very seriously and the making of such allegations by an employee of the Council will be regarded as a disciplinary issue (refer to the Council's Disciplinary Procedures). False or malicious allegations by a Councillor may be dealt with as a potential breach of the Code of Conduct for Members.

6.4 If employees still have reason to feel unable to report their concern as outlined above, they may report their concern to a prescribed organisation such as: -

- Public Concern at Work: Tel: 020 7404 6609 pcaw.co.uk Tel:
- Hampshire Police: 0845 045 4545
- Audit Commission: Tel: 020 7828 1212
- Health & Safety Executive Tel: 0845 345 0055

7. INVESTIGATING A CONCERN

7.1 For all matters concerning allegations of fraud, corruption and financial malpractice on the part of an employee, the Council's Internal Audit services will conduct the investigation or refer the matter to the Police as appropriate. It is critical that complainants and/or line managers do not instigate their own investigation in these circumstances as this may frustrate the ability to proceed with criminal action.

7.2 In all other cases where there is prima facie no breach of regulation or legislation and/or abuse of persons which could give cause for legal action the line manager will fully investigate the matter, in consultation with appropriate service professionals. Although employees will be informed of progress, in some cases detailed feedback will not be possible. However the employee will receive information that will demonstrate that the Council has investigated the matter thoroughly, including any changes in working practices.

7.3 If the employee feels that the investigation has failed to resolve the matter, they should ask for a confidential meeting with their Head of Service or a Statutory Officer.-

7.4 Complaints against Members will be conducted in accordance with the procedures adopted by the Council.

8. LEGISLATION

8.1 **Enterprise and Regulatory Reform Act 2013: The Act details Qualifying disclosures that can be made. Those disclosures should be made where the Whistle-blower believes it is in the public interest to do so; and has reasonable grounds for suspicion about the malpractice. The Whistle-blower should not make the disclosure for personal gain**

8.2 Employment Rights Act 1996: This brings together many of the individual employment rights found amongst a number of different statutes. It repeals in their entirety the Employment Protection (Consolidation) Act 1978 and the Wages Act 1986. It requires employers to provide employees with information about their rights and entitlements and to treat them fairly.

8.3 Health and Safety at Work Etc. Act 1974: responsibilities of the employer to establish and maintain a safe and healthy workplace

8.4 Sex Discrimination (Gender Reassignment) Regulations 1999: Prohibits direct discrimination against employees on the grounds of gender reassignment.

8.5 Protection from Harassment Act 1997: Contains provisions designed specifically to deal with 'stalkers'.

8.6 The Employment Equality (Religion or Belief) Regulations 2003: Extends discrimination rights to cover belief systems.

9. OTHER SOURCES OF INFORMATION

See Intranet Links referred to in this report, and additionally:

Anti-Fraud Bribery and Corruption Policy (see Audit Services/Intranet)

Grievance & Disciplinary procedure (see Employee Handbook/Intranet)

Risk No	Gross Risk			Risk	Example Consequences	Desired Outcome	Control Processes/Mitigation	Residual Risk			Risk Owner
	Likelihood	Impact	Risk Score					Likelihood	Impact	Risk Score	
1(F)	4	3	12	<p>Unauthorised Disclosure of Data</p> <p>Risk that inadequate information management arrangements lead to unauthorised access or disclosure of sensitive information which is further used to gain an advantage i.e. identity theft</p>	<ul style="list-style-type: none"> • Increase in identify theft/fraud • Increase in corruption • Reputation declines • Financial losses • Negative impact on partners 	<p>Fraud and corruption prevented</p> <p>Information is appropriately protected and managed</p>	<ul style="list-style-type: none"> - Data Protection Officer - ICT Security Officer - ICT Security Policy - Whistle blowing Policy - Audit Trails - Training and communication 	2	3	6	LU
2(F)	3	3	9	<p>Economic Downturn</p> <p>Risk of an increase in dishonest behaviour by staff and the public due to personal financial difficulties</p> <p>Risk that fewer staff as a result of financial constraints leads to an increase in errors and/or a reduction in controls</p>	<ul style="list-style-type: none"> • Increase theft/fraud • Increase in corruption • Reputation declines • Financial losses • Negative impact service delivery • Negative impact on staff morale 	<p>Fraud and corruption prevented</p>	<ul style="list-style-type: none"> - Fraud & Corruption Policies inc. whistle blowing - Good Internal Audit function - Good Internal Control's in place - In-House Fraud Team - Monitoring arrangements - Fraud Training - Fraud publicised through press releases 	2	3	6	LU
3(F)	4	4	16	<p>Inadequate Internal Control Arrangements</p> <p>Risk that inadequate Internal Controls lead to an increase in theft,</p>	<ul style="list-style-type: none"> • Increase in theft/fraud • Increase in corruption • Undetected errors • VFM declines 	<p>Fraud and corruption prevented</p>	<ul style="list-style-type: none"> - Fraud & Corruption Policies inc. whistle blowing - Good Internal Audit function - Regular assessment of 	1	4	4	LU

				waste, mismanagement and errors go undetected	<ul style="list-style-type: none"> • Reputation declines • Financial losses • Negative impact on performance and service delivery 		<p>internal control adequacy (including external scrutiny)</p> <ul style="list-style-type: none"> - Skilled/Trained Audit staff - Audit Trails - Annual Audit of Main Financial systems - Audit Committee 				
4(F)	3	3	9	<p>Inadequate Resources (People and Financial)</p> <p>Risk that a lack of finances and/or appropriately skilled people leads to an inability to investigate or mitigate against Fraud and corruption</p>	<ul style="list-style-type: none"> • Increase in Benefit Fraud • Negative impact on benefit fraud detection • Negative impact on internal fraud detection • Breakdown in Internal Controls • Increase in theft/fraud • Increase in corruption • Reputation declines • Financial losses • Failure to meet Government Targets • Negative impact on staff morale 	Fraud and corruption prevented	<ul style="list-style-type: none"> - High performing Internal Audit & Fraud Teams - Good relationships with partners i.e. Police 	2	3	6	LU
5(F)	4	4	16	<p>Building Security</p> <p>Risk of unauthorised access to data systems and equipment through inadequate building security</p>	<ul style="list-style-type: none"> • Increase theft/fraud • Increase in corruption • Reputation declines • Financial losses • Negative impact service delivery • Increase in 	Fraud and corruption prevented	<ul style="list-style-type: none"> - Swipe access to buildings - Building access restricted to authorised personnel - System password controls - Site Officers - CCTV 	1	4	4	LU

					vandalism		<ul style="list-style-type: none"> - ICT Security Officer - Alarm Systems 				
6(F)	4	4	16	<p>Inadequate Contract Management, Procurement and Partnership Arrangements</p> <p>Risk that the arrangements for contract management and procurement are inadequate to prevent fraud and corruption occurring</p>	<ul style="list-style-type: none"> • Increase theft/fraud • Increase in corruption • Reputation declines • Financial losses • Negative impact on project delivery • Cutting corners leads to negative Health and Safety, Service and/or Environmental implications • VFM not achieved 	Fraud and corruption prevented	<ul style="list-style-type: none"> - Sound Internal Control arrangements - New Policy and Procedures on Standing Orders as to Contracts - Financial Regulations* - Contract monitoring arrangements, although the post is currently vacant. - Internal Audit (inc. Contract Audit) - Whistle blowing policy <p>*Subject to review and update</p>	3	4	12	LU
7(F)	2	3	6	<p>Recruitment</p> <p>Risk that inadequate recruitment controls allows dishonest staff to be employed</p>	<ul style="list-style-type: none"> • Increase theft/fraud • Increase in corruption • Reputation declines • Financial losses • Data Misuse/theft • Increased risk to vulnerable people i.e. tenants • Negative impact on service delivery • Negative impact on staff morale 	Fraud and corruption prevented	<ul style="list-style-type: none"> - Recruitment policy (inc. CRB checks) - References taken up - Personnel training sessions (Brief Bites) - Psychometric tests included in appointment of some posts 	1	3	3	LU

8(F)	2	3	3	<p>Staff Welfare</p> <p>Risk that staff are injured during work</p>	<ul style="list-style-type: none"> Staff injury or accident as a result of lone working, driving to VDU use 	Improved staff attendance and welfare	<ul style="list-style-type: none"> Lone working training Audit procedures in place for out of hours working Attendance and adherence with H&S policies and procedures 	1	3	3	
9(F)	3	3	9	<p>Tenancy Fraud</p> <p>Risk that authority housing is occupied by unauthorised tenants</p> <p>Risk that authority housing is unoccupied</p>	<ul style="list-style-type: none"> Increased homelessness Increased waiting list Housing entitlement incorrect 	Tenancy fraud prevented	<ul style="list-style-type: none"> Review housing where no access to the property has been gained to undertake gas inspection Set up Fraud Hotline to report tenancy fraud Undertake an advertising campaign alerting members of the public to tenancy fraud 	2	3	6	

PREVENTION AND DETECTION WORK

Carry out appropriate risk assessments	A Fraud Risk Register has been compiled and is regularly reviewed
Vet all potential employees prior to their employment with NFDC	A rigorous recruitment and selection process seeks to establish, as far as possible, the previous record of potential employees in terms of their propriety and integrity. Written references for potential employees are obtained before employment offers are made and CRB checks are carried out where appropriate.
Have a robust internal control framework, including clear and practical policies and procedures, which are effectively implemented, monitored and reviewed. Utilising tools to help detect fraud	Internal Audit evaluates risk management processes and reviews the adequacy and effectiveness of internal control throughout the authority. Governance is reviewed and reported annually through the Annual Governance Statement. Internet usage reports are available however due to resource implications these are only sent to Managers on a reactive basis.
Perform our business activities with due diligence in a transparent and ethical manner	Contract Project, Transparency Agenda Council's Code of Conduct for Members (as per Constitution) Employee Code of Conduct Code of Conduct for Councillors Gifts and Hospitality Protocols Register of Employee Interests Dealing with Planning Matters (all of which have recently been reviewed)
Encourage the reporting of suspected wrong doings	Whistleblowing policy A Fraud hotline has been set up enabling the public to notify the Council of any concerns regarding benefit and housing fraud in total confidence. Online reporting tools for benefit fraud on the Council's website and for Officers on Forestnet. New training package developed
Seek prosecutions and impose appropriate sanctions	The Council supports the Central Government anti-fraud policies regarding the Benefits Sector and has, in response, established a dedicated Investigation Team. The team is staffed with fully trained investigators. The Council fully supports the work of the team in the prevention, detection, deterrence and prosecution of fraud in the Benefits Sector.
Take appropriate action to recover any losses	POCA Trained investigation staff Effective Disciplinary Procedures
Keeping up to date with emerging fraud risks and working with third parties	Officers attend seminars and workshops Close working with Department Of Working Pensions Undertaking data matching service with Audit Commission and completion of the Protecting the Public Purse questionnaire.

	Attending Hampshire wide Audit Fraud Groups to share best practice and local issues
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