



COUNTER-FRAUD AND CORRUPTION POLICY AND STRATEGY

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COUNTER-FRAUD AND CORRUPTION POLICY AND STRATEGY

1. CORPORATE POLICY

- 1.1** The United Kingdom public sector maintains high standards of probity and has a good reputation for protecting public finances. Sound systems of public accountability are vital to effective management and in maintaining public confidence. Oldham Metropolitan Borough shares these high standards and is committed to protecting the public funds entrusted to it. The minimisation of losses to fraud and corruption is essential for ensuring that public resources are used for their intended purpose that of providing services to the citizens of Oldham.
- 1.2** The public are entitled to expect Oldham Metropolitan Borough Council to conduct its affairs with integrity, honesty and openness and demand the highest standards of conduct from those working for and with it.
- 1.3** In order to ensure a consistent approach to the protection of public funds, all suspected fraud will be referred to the Corporate Counter-fraud Team who will, as appropriate, instigate referrals to Legal Services, the Police and pursue prosecutions, recovery action, civil actions and other sanctions. They will liaise with HR and Management regarding staff disciplinary action and dismissals.
- 1.4** Wherever a reference is made in this document to an Authority policy, this should be read as including separate and distinct school policies where they apply, for example a reference to the Authority's disciplinary policy should be taken to be a reference to a school's disciplinary policy where this applies.
- 1.5** Some provisions of this policy may not apply to schools. This will depend on whether the school is:
- A community, foundation, voluntary controlled or voluntary aided
 - The services purchased by the school from the Authority.
- 1.6** All schools are recipients of public money. The Corporate Counter Fraud Team will use all available avenues to develop an anti-fraud culture in Oldham schools and as far as possible apply this policy to Oldham schools.
- 1.7** This Counter-fraud and Corruption Policy and Strategy outlines the Council's commitment to creating a Counter-fraud Service and anti-fraud culture and maintaining high ethical standards in its administration of public funds. It also outlines the mechanisms in place to prevent, detect and investigate fraudulent activity.
- 1.8** In order to maintain high ethical standards all staff should adhere to the **Seven Principles of Public Life** at all times as set out below:
- **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 families 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 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 they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands. Openness requires an inclusive approach. An outward focus and a commitment to partnership working.
- **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 example.

2. INTRODUCTION

2.1 Prior to 15 January 2007, no precise legal definition of fraud existed and there was no offence of “committing fraud”. The Theft Acts in England and Wales and Common Law in Scotland covered many of the offences referred to as fraud. The term is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. On 15 January 2007, the Fraud Act 2006 became law. This defines 3 basic ways in which a person can commit the act of fraud of which the maximum penalty is 10 years imprisonment:

- By false representation (s. 2 of the Act)
- By failing to disclose information (s. 3 of the Act)
- By abuse of position (s. 4 of the Act)

2.2 Other offences are created by more sector-specific laws such as those that prohibit corruption or create offences relating to companies or financial services.

2.3 **Fraud** may be defined as:

“The use of deception with the intention of obtaining an advantage, avoiding an obligation, or causing loss to another party.”

This most often occurs in the context of a relationship with a customer, client or colleague on an individual or organisational basis.

2.4 There are four basic ingredients necessary for a fraud to occur:

- People to carry out the fraud
- Assets to acquire
- Intent to commit the fraud
- Opportunity

2.5 For the purpose of this guide, fraud can be divided into three categories:

- **Internal** – perpetrated by individuals within the organisation and most often carried out by staff that have access to liquid or moveable assets such as cash or stocks.
- **External** – perpetrated by individuals outside the organisation and covers activities such as theft, deception and computer hacking. It is often committed as a result of inadequate controls or safeguards.
- **Collusion** – involves two or more parties, either both internal, or internal and external, working together. This type of fraud can be difficult to detect, as controls may at first appear to be working satisfactorily.

2.6 Corruption may be defined as:

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

2.7 Fraudulent or corrupt acts may include:

- **Financial issues** – i.e. where individuals or companies have fraudulently obtained money from the council (e.g. housing benefit fraud, fake invoices)
- **Asset issues** – i.e. where council assets are misappropriated or used for personal use (e.g. theft of council equipment or materials)
- **Accounting issues** – i.e. where employees falsify or alter accounting or other documents (e.g. unauthorised amendment of timesheets or expenses claims)
- **Other issues** – activities undertaken by employees or members or the public that may be unlawful; contravene Standing Orders or Corporate Policies; fall below established standards or practices or amount to improper conduct.

3. CORPORATE STRATEGY

The seven key objectives of the authority’s Counter-fraud Strategy are:

- i. **The creation of an Anti-fraud Culture** – both internally and amongst the general public so that tackling fraud becomes a joint responsibility.
- ii. **Maximising fraud Deterrence** - to ensure that counter-fraud measures represent the strongest deterrent possible to those perpetrating or considering perpetrating fraud.

- iii. **Successful Prevention of fraud that cannot be deterred** – to develop the most effective preventative measures so that if fraud is attempted, it will fail.
- iv. **Prompt Detection of fraud that cannot be prevented** – to establish the most effective processes to detect fraud.
- v. **Professional Investigation of detected fraud** – to professionally investigate any detected fraud objectively.
- vi. **Effective Sanctions** – to take appropriate legal and/or disciplinary action to administer effective sanctions against those committing fraud.
- vii. **Effective methods for seeking Redress in respect of money defrauded** – to seek to recover losses from fraud committed by using all possible means.

3.1 The Creation of an Anti-fraud Culture

We will:

- Publicise what is being done to combat fraud and corruption, ensuring that the message that fraud is a serious matter and takes resources away from important services is adequately relayed. This makes fraud against the authority socially unacceptable both internally and externally.
- Publicise our results by reporting to staff and the public, the outcomes of investigations into employees and members of the public who perpetrate fraud, corruption and theft. Sanctions, convictions and the amount of losses attributable to fraud reduced will be reported. This may include the number of fraud-related dismissals during a given period.
- Develop clear reporting lines both internally and externally by using a well-publicised fraud hotline, Fraud Response Plan and Whistleblowing Policy so that staff and the public are clear as to what action to take to report suspicions of fraud, corruption or theft and do not shy away or feel fearful of doing so.
- Ensure that reducing fraud and corruption to an absolute minimum is a key consideration in policy design.
- Conduct fraud-awareness training for all staff and partner agencies such as registered social landlords.
- Ensure that everyone is aware that they have a role to play in tackling fraud and corruption (public, staff, managers, policymakers).
- Ensure that staff and the public are aware of the full range of sanctions that may be applied if they commit fraud – **Please refer to the POLICY ON PROSECUTIONS, SANCTIONS AND REDRESS for further guidance.** Staff will also be reminded that the Code of Conduct is the Authority's main statement of standards of conduct required.
- Ensure that appropriate feedback (without breach of the Data Protection Act) is given to staff and the public who report fraud and corruption in order that they are aware that their information is valued.
- Make counter-fraud literature available on the intranet and through other avenues i.e. induction packs.
- Make managers aware that to ensure that an anti-fraud culture becomes embedded in the authority, that the objectives should be hierarchical, accepted and supported by senior management and fed downwards throughout all levels of the authority.

- Promote the duties of staff to adhere to the Counter-Fraud Policy and make staff aware that a breach of the policy could be treated as a disciplinary offence.

3.2 Deterrence

We will ensure that:

- Strong preventative systems are in place to make any potential fraudster feel that the attempt is not worthwhile.
- We put effective detection processes in place so that the potential fraudster feels that the risk of getting caught is too great.
- The presence of Investigators and professional investigation work will help to make the fraudster feel that evidence of fraud can always be uncovered.
- The use of effective legal action and sanctions and publicising results will help to make the fraudster feel that the penalties of being caught are too certain and too severe.
- By seeking the effective recovery of losses to fraud from the perpetrator ensures that the fraudster feels that they stand to gain nothing to gain from the fraud.
- The development of an anti-fraud culture both internally and externally will create positive attitudes towards the services provided and, at the same time, negative attitudes towards those who attempt to defraud resources from the authority. Thus peer group pressure deters fraud because fraud and those who seek to perpetrate fraud become socially unacceptable.
- There is a strong declaration of intent about what will happen to those who commit fraud should provide a deterrent effect.
- The effective use of publicity will put a strong message out that the council has a zero tolerance policy on fraud and potential fraudsters may be deterred from attempting to commit the fraud if they are aware that strong measures are in place to prevent and detect their attempts.

3.3 Prevention

- In preventing fraud from entering Oldham Council it is necessary to put strong preventative controls in place to try to stop this from happening. Good examples of prevention controls are: supervision and checking output; separation of duties to ensure that key functions and controls are not performed by the same member of staff; random spot checks; a complete and secure audit trail; monitoring management information and budgetary control.
- Line managers are responsible for maintaining systems of control that safeguard against fraud. If any case of fraud highlights a deficiency in control, particularly if in breach of published departmental procedures, then the manager overseeing that process may be held responsible.
- Internal Audit will produce a Statement on Internal Control (as required by the Accounts and Audit Regulations 2003) identifying the assurance over the Council's overall governance controls to cover all aspects of internal control and to provide assurance on the operation of those controls and their effectiveness in preventing fraud. The Statement of Internal Control is the responsibility of Senior Management.

- It is preferable to take a strategic approach in preventing fraud. This fits in with good corporate governance, a major element of which is a sound assessment of the organisation's business risks. Fraud risks should be managed in the same way as managing other business risks and should be approached systematically.
- Risk analysis needs to be carried out primarily to assess the council's overall vulnerability to fraud and then identifying the areas most vulnerable to the risk of fraud. Risks from fraud within these areas should be identified, assessed and evaluated so that they can be responded to.
- Risk management of identified risks will identify counter-fraud measures that can be introduced and a time-scale should be applied as well as ownership of the risk to specified personnel. High risks especially, should be monitored on a regular basis and the degree of risk re-evaluated to assess whether prevention measures are successful. Controls should be proportional to the risk whilst still enabling the council to deliver efficient services.
- New administrative or technical systems and processes need to be developed with fraud prevention controls in mind from the outset. New or renewed technical systems should be assessed for fraud risks as part of the initial specification and they should be fraud proofed as much as possible.
- Effective detection processes in place, which identify the numbers and types of fraud occurring, will assist in identifying where resources need to be focused in preventative techniques.
- Professional investigation work will identify weaknesses in existing systems which allow fraud to take place and which need to be removed.
- **The role of members** - As elected representatives, all members of the council have a duty to the citizens of Oldham, to protect the assets of the council from all forms of abuse. This is done through the adoption of the anti fraud and corruption policy statement and by compliance with the national code of conduct for members.

In addition, members have a duty to provide sufficient resources to allow it to fulfil its obligation under the Accounts and Audit Regulations 1996, to provide an adequate and effective internal audit of the accounting records and control systems.

- **The role of management** - The code of practice for audit which supports the authority's Financial Regulations states that:
"All Chief Officers shall maintain proper financial controls in respect of the areas of their responsibility and shall be responsible for the prevention, detection and resolution of fraud and irregularities."
 Chief Officers may delegate responsibility to managers.

Management at all levels are responsible for ensuring that their staff are aware of the authority's Financial Regulations and Standing Orders and that the requirements of each are being met. They are also responsible for ensuring that appropriate procedures are in place to safeguard the resources for which they are responsible.

Managers should also strive to create an environment in which their staffs feel able to approach them with any concerns they may have about suspect irregularities. If they are unsure of the appropriate action they should be aware of the role of the internal audit section and CCFT.

Special arrangements may apply where employees are responsible for cash handling or in charge of systems that generate payments, for example payroll or the HB computer system, Managers should ensure that adequate and appropriate training is provided for staff and that checks are carried out from time to time to ensure that proper procedures are being followed. Managers may also wish to consider whether pre employment checks should be undertaken for some posts.

The references and qualifications of all proposed new employees should be thoroughly checked prior to a position being offered.

- **Responsibilities of employees** - Employees are responsible for ensuring that they follow the instructions given to them by management particularly in relation to the safekeeping of the assets of the authority. They may be required to disclose information about their personal circumstances in accordance with the authority's Financial Regulations and Standing Orders.

Employees should always be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management. If, for any reason, they feel unable to speak to their manager they should be aware of the provisions for reporting suspicions of fraud under the Fraud Response Plan and other provisions for reporting under the Whistleblowing Policy and Code of Conduct. They should also be aware of the Corporate Counter-fraud Team number, **0161 770 4969** where their concerns can be dealt with confidentially and employees may give information anonymously if they wish. **Please refer to the FRAUD RESPONSE PLAN for further guidance.**

- **Official guidance** - In addition to Financial Regulations and Standing Orders departments will have their own procedures to prevent and deter fraud. There may also be audit reports, which recommend methods to minimise losses to the authority. Managers and staff should be aware of these and ensure that their working practices are in accordance with official guidelines.
- **The role of Internal Audit and the Corporate Counter-fraud Team** - Internal Audit play a preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud. The Corporate Counter-fraud Team investigates cases of suspected financial irregularity and carry out pro-active fraud exercises to establish whether irregularities have occurred. They will liaise with Internal Audit to recommend changes in procedures to prevent further losses to the authority. Both Internal Audit and The Corporate Counter-fraud Team provide advice and assistance to all departments.

- **The role of the Audit Commission** - Independent external audit, which is a key role for the Audit Commission, is an essential safeguard of the stewardship of public money. This role is delivered through carrying out of 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 corruption. It is not the external auditor's function to prevent fraud and irregularity, 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 and irregularity and will act without due delay if grounds for suspicion come to their notice. The external auditor has a responsibility to review the council's arrangements in respect to preventing and detecting fraud and irregularities, and arrangements designed to limit the opportunity for corrupt practices.

3.4 Detection

- Strong preventative controls in place will not only prevent fraud from entering systems will also assist in detecting where fraud is or has occurred. Examples of controls, which may detect where fraud is occurring, are: supervision and checking, random spot checks and monitoring management information.
- The existence of a strong anti-fraud culture internally and externally will ensure that staff and the public actively defend services, are more fraud-aware and detect fraud more easily.
- Professional investigation work may identify where fraud is likely to take place so detection work can be pro-active and focused.
- A range of techniques using computer software and technologies can be used to detect fraud. Included in this is data matching, the use of which has proven to be a vital tool in detecting fraud. Data matching involves the computerised scanning of data held in different data files either within the same or in different organisations and is now possible on a very large scale. The use of existing data matching exercises such as National Fraud Initiative and Housing Benefit Matching Service will continue and other internal systems will be matched periodically using existing techniques that have been developed by Internal Audit.
- **The role of management** - It is vital that management at all levels are alert to potential problems in their work area and that adequate and effective safeguards are in place to prevent financial irregularities. However, managers should also satisfy themselves that checks are in place at the appropriate levels, so that in the event of a breach, any irregularity would be picked up promptly, so minimising any loss to the authority. Internal audit can provide advice and assistance in this area.
- **The role of employees** - Employees play an important role in detecting theft, fraud and corruption. They may have suspicions about colleagues they work with or those in different sections whose work they deal with. All employees should be encouraged to discuss their concerns with line management or the investigations team if the suspect financial irregularities are occurring. The employee hotline on **0161 770 4969** was set up so that employees could report their concerns anonymously to someone outside of the immediate work area, or where they felt that their line management were not taking their concerns seriously. All calls are treated seriously.

- **The role of Internal Audit and the Corporate Counter-fraud Team** - The responsibility for the detection of financial irregularities rests with management. Internal Audit and the Corporate Counter-fraud Team will advise and assist management in fulfilling their responsibility for preventing irregularities and will investigate all cases where irregularities are thought to have taken place. There may be circumstances of course, where auditors and the Corporate Counter-fraud Team proactively detect fraud as a result of the work that they are undertaking or as a result of specific data-matching exercises, such as the National Fraud Initiative (NFI). The responsibility for the detection of housing benefit fraud also rests with this section.

3.5 Investigation

We will ensure:

- The existence of skilled Investigators in order to ensure that detected frauds are investigated to the highest possible standards and expeditiously and that good results are achieved.
- That the Investigators are, or become, professionally trained and accredited. This ensures that all suspected instances of fraud or corruption are investigated objectively and in the most professional and timely manner possible and that the laws surrounding investigation work are adhered to at all times.
- That cases accepted for investigation, are assigned following an intelligence-led and risk-based approach. This ensures that the right cases (with the highest chance of a successful outcome) are identified for investigation and that resources are being used efficiently.
- The procurement of an investigation case management system will ensure that cases are recorded on a system with a secure audit trail and are compliant with the Criminal Procedures and Investigations Act 1996.
- The use of a dedicated case management system will enable the tracking of the progress of fraud investigations; identify problem areas, such as where progress is slower than would be expected. A system will produce management performance indicators, such as, the number of investigations conducted, the value of fraud losses identified, the duration of individual investigations, the types of fraud identified and the outcome of investigations. It will also enable the understanding of the cost implications of investigations and the effects on planning future resource usage or the consequences of increasing or decreasing resource levels.
- **Involving employees** - During the course of an investigation it may be necessary for members of the Corporate Counter-fraud Team to speak to employees. They will be trying to ascertain what has happened and what procedures have been followed. They may also require access to documents, correspondence and data held on the authority's computers. There may be occasions when employees are suspected of financial irregularities or thefts and the way in which investigative interviews should be notified and conducted must be in compliance with the **Counter-fraud Staff Code of Conduct. Please see this document for further guidance.**
- Where fraud involves employees, we will work with OMBC Human Resources to ensure that the CCFT and the HR investigations can run in parallel. In some cases, notably those involving covert directed surveillance, this may not be possible. The CCFT and HR will develop a practical approach to managing the

complexity of combined criminal and disciplinary matters. Neither process should delay the other. CCFT investigations need not be completed before consideration of disciplinary matters and vice versa.

- **Involving the public** - It is often necessary to interview members of the public in connection with the suspected irregularities, for example, in relation to Housing Benefit fraud. The Social Security Fraud Act 1997 has allowed the authority to appoint inspectors with rights of access to business premises in order to investigate suspected Housing Benefit fraud.

3.6 Sanctions

- Where investigations find evidence of fraud, it is usually desirable to seek to impose some form of sanction.
- In every individual case, it is necessary to consider the full range of sanctions that are available at the earliest opportunity. All investigations are conducted in accordance with the Police and Criminal Evidence Act 1984 i.e. to a criminal standard and to ensure that the full range of sanctions remains available.
- At the conclusion of an investigation we are able to make a fully informed and proportionate judgment, based on all the evidence obtained, about a recommendation on action to penalise the individual concerned.
- **For employees** – The sanctions available are disciplinary warning or dismissal, prosecution (either taken by the Council’s Legal Services or by the Crown Prosecution Service where the Police have been involved in the investigation); Police Caution or by civil remedy (to recover money, interest and costs). Prosecution may result in imprisonment or suspended prison sentence, fine, confiscation or compensation orders or community punishment order. Any sentence will be determined by a Magistrates or Crown Court. Where a combination of sanctions is applied e.g. disciplinary action and prosecution, this is known as applying parallel sanctions.
- **For the public** – For non-Housing Benefit instances of fraud or theft committed by the public against the authority, cases will be investigated to a criminal standard where the option to prosecute the offender is always considered. Where prosecution is not seen to be in the public interest or the evidence is not considered robust enough to result in a successful prosecution, civil action will be considered in order to recover any losses to the authority. In cases of Housing Benefit fraud, the Social Security Act allows further sanctions (aside from prosecution or civil action) to be imposed. Formal Cautions allow for the perpetrator to admit the offence and their admission is held in a central national record so that any further instances of benefit fraud are likely to result in prosecution. The Caution may be taken into account in any subsequent sentencing by the courts. Administrative Penalties allow for the authority to effectively “fine” a perpetrator by making them repay an additional 30% of any overpayment of benefit. Should they refuse to accept a Caution or Administrative Penalty it is likely that prosecution will be the imposed sanction.
- We decide whether to prosecute an offender by applying the Evidential and Public Interest Tests to the case as defined by the **Code for Crown Prosecutors** i.e. we decide whether there is enough evidence to secure a successful prosecution and whether it is in the public interest to prosecute.
- **See the POLICY ON PROSECUTIONS, SANCTIONS AND REDRESS for further guidance on this.**

3.7 Redress

We will:

- Ensure that in any anti-fraud policy that the message is put across that all methods to recover losses to fraud will be sought in order to ensure that fraud does not pay.
- Ensure that systems are in place and staff are properly trained for the effective recovery of losses gained through fraud.
- Use all available methods to recover losses from fraud. Losses may be recovered through the criminal process with the use of restraint, confiscation, forfeiture and/or compensation orders. Alternatively, losses may be recovered through the civil courts where the court can make an order against the defendant requiring them to compensate the plaintiff if it is proven, on the balance of probabilities, that it has cause of action against the defendant and the amount taken.
- Where losses are deemed to be substantial we will use accredited Financial Investigators to conduct financial investigations with the view to asset confiscation using the Proceeds of Crime Act

LINKS TO RELEVANT POLICIES:

POLICY ON PROSECUTIONS, SANCTIONS AND REDRESS

FRAUD RESPONSE PLAN

COUNTER-FRAUD STAFF CODE OF CONDUCT

DISCIPLINARY CODE

WHISTLEBLOWING POLICY

OMBC STAFF CODES OF CONDUCT

FOR FURTHER ADVICE CONTACT:

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