

Counter Fraud Response Plan

December 2023

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1- Introduction

- 1.1 This document is intended to set out the responsibilities of staff and the action that should be taken in relation to suspected instances of theft, fraud or corruption involving Council funds and assets and funds the Council administers on behalf of others or for which we are the accountable body.
- 1.2 It does not include theft that occurs as a result of a burglary or robbery. These should be reported immediately to the Police and the Insurance team operated at Cambridgeshire County Council on behalf of MKCC.
- 1.3 It is particularly important that managers familiarise themselves with this document and all other relevant policy documents, specifically the Disciplinary Procedure, so that they know what to do in the event of a suspected fraud. The response plan provides guidance to assist managers to ensure effective, timely and controlled action is taken.
- 1.4 This document is not intended to provide direction on fraud prevention, more information on which can be found in the Anti-Fraud & Corruption Policy.
- 1.5 This document should be read in conjunction with the following policies:
 - **Anti-Fraud & Corruption Policy** [[Intranet - Anti Fraud and Corruption Policy.pdf - All Documents \(sharepoint.com\)](#)]
 - **Whistleblowing Policy** [[Intranet - Whistleblowing Policy.pdf - All Documents \(sharepoint.com\)](#)]
 - **The Disciplinary Procedure** [Disciplinary Policy V5.0 June 2023.docx \(sharepoint.com\)](#)
 - **Code of Conduct for Elected Members** <https://milton-keynes.moderngov.co.uk/documents/s524/11.%20Code%20of%20Conduct%20for%20Council%20lors.pdf>
 - **Code of Conduct for Employees** [2022 11 24 Code of Conduct - FV2.0 - Nov 2022.docx \(sharepoint.com\)](#)
 - **Money Laundering Policy & Employee Guidance** [Intranet - Anti Money Laundering Policy.pdf - All Documents \(sharepoint.com\)](#)
 - **Adult Safeguarding guidance and procedures** [[MK Together Multiagency Safeguarding Adults and Risk Management Policy V2 June2023.pdf](#)]
 - **Bribery Act guidance** <http://www.legislation.gov.uk/ukpga/2010/23/contents>

2 Definition of Fraud

Definition of fraud per the Audit Commission:

“Any intentional false representation, including failure to declare information or abuse of position, which is carried out to make gain, cause loss or expose another to the risk of loss.”

2.1 Definition of fraud per the Fraud Act 2006:

2.1.1 Fraud by false representation

A person is in breach of this section if (s)he:

- (a) dishonestly makes a false representation, and
- (b) intends, by making the representation—
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

2.1.2 Fraud by failing to disclose information.

A person is in breach of this section if (s)he:

- (a) dishonestly fails to disclose to another person information which (s)he is under a legal duty to disclose, and
- (b) intends, by failing to disclose the information—
 - (i) to make a gain for him/herself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

2.1.3 Fraud by abuse of position.

A person is in breach of this section if (s)he:

- (a) occupies a position in which (s)/he is expected to safeguard, or not to act against, the financial interests of another person,
- (b) dishonestly abuses that position, and
- (c) intends, by means of the abuse of that position—
 - (i) to make a gain for him/herself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

For full definitions of Fraud please refer to:

http://www.opsi.gov.uk/acts/acts2006/pdf/ukpga_20060035_en.pdf

3 Objectives

- 3.1 This guidance is provided to ensure that timely and effective action can be taken to:
- 3.1.1 prevent ongoing losses of funds or other assets where fraud has occurred and to maximise the potential for recovery.
 - 3.1.2 minimise the occurrence of fraud by taking rapid action at the first signs of a problem.
 - minimise the chance of destruction of evidence.
 - maximise the chances of success in future sanction action, including criminal prosecution.
 - minimise adverse publicity.
 - reduce the impact on service delivery.
 - and to promote the Council's values.

4 First steps

- 4.1 If an employee discovers a suspected fraud, they must report this to their line manager without delay. Employees who feel unable to report to their line management should contact the Chief Internal Auditor directly. Should there be a preference to make an anonymous notification then the Whistleblowing Policy should be used.
- 4.2 If a member of staff raises concerns regarding suspected fraud the line manager must inform the Chief Internal Auditor immediately. Line managers should only undertake discreet preliminary enquiries which should be restricted to the basic facts required to determine whether there are any grounds to the allegation. The handling of evidence at the early stages of an investigation can be critical to the outcome of the investigation and advice must be sought from the Chief Internal Auditor to ensure evidence is safeguarded and not compromised. No action should be taken which may alert those suspected of involvement.
- 4.3 Reports to the Chief Internal Auditor can be made by telephone, although a meeting will usually be necessary before any further action is taken. The use of email for this purpose is discouraged as it is important to promptly respond to suspected fraud.
- 4.4 It is imperative that managers do not attempt to access the hard drives of personal computers without discussing this first with the Chief Internal Auditor. No requests should be made directly to the Chief Information Officer.
- 4.5 In order to comply with the Regulatory Investigatory Powers Act (RIPA) 2000, line managers must not undertake covert surveillance of employees.
- 4.6 If concerns relate to the financial abuse of vulnerable adults or young people by Council staff the Chief Internal Auditor will inform and engage with safeguarding leads.
- 4.7 If fraud concerns relate to an elected member the Chief Internal Auditor will inform the Council's Monitoring Officer and Chief Executive.

- 4.8 Any allegations of fraud committed by elected members should be referred to the Monitoring Officer in accordance with the Member's Code of Conduct. The Monitoring Officer will review all such complaints received by the authority and shall, in consultation with the Independent Person, decide whether it warrants investigation and, if so, appoint an investigating officer.
- 4.9 The Council has a significant number of volunteers supporting the delivery of services. Any suspicions of fraudulent behaviour perpetrated by a volunteer must be treated seriously and reported immediately to the Chief Internal Auditor.
- 4.10 The Council will not accept intentional misuse of the reporting and investigative process. It is the Council's policy to deal with any intentional abuse of the policy, such as raising malicious or unfounded allegations, as a disciplinary matter.

5 Initial action

- 5.1 All fraud allegations will be logged and vetted by the Chief Internal Auditor.
- 5.2 The Chief Internal Auditor will ensure that all evidence is secured immediately.
- 5.3 Once the potential extent of the allegation has been established the Chief Internal Auditor will meet with the relevant Director and HR Business Partner and agree the strategy and approach for conducting the audit investigation. In exceptional circumstances the Chief Internal Auditor may instigate aspects of the investigation if it is not practically possible to set up a case meeting, but in this case the relevant manager and HR will be advised.
- 5.4 A lead Investigating Officer will be selected by the Case Conference. The Investigating Officer must be suitably trained and experienced in undertaking fraud investigations, as their findings may need to be referred to the Police and the evidence needs to be collected to criminal evidence standard. As a result, allegations of financial impropriety will usually be investigated by a qualified member of the Internal Audit team.

6 Investigation of allegations

- 6.1 Internal Audit will secure any assets, documents, records and correspondence which may be relevant to the investigation. Physical evidence will be either secured on site or removed and retained by Internal Audit for examination. Where it is necessary to remove property for audit purposes, a Retention of Property form detailing all records taken away from the premises will be completed and a copy given to management.
- 6.2 If Internal Audit suspects that computers or storage media may contain information pertinent to the investigation these will be secured for analysis.
- 6.3 If the Investigating Officer suspects that employees' Council email accounts may contain information pertinent to the investigation then access to these will be obtained for analysis. Access to employee email accounts must be approved by the Chief Internal Auditor and the relevant Strategic HR Business Partner.

- 6.4 Internal Audit will conduct a prompt and thorough investigation in accordance with relevant statute and guidance. The Internal Audit team are qualified and experienced in conducting fraud investigations to criminal evidence standard.
- 6.5 The investigations will be undertaken with the aim of producing evidence that can be referred to the Police and can also be presented in any internal disciplinary hearing that may be result.
- 6.6 During an investigation staff must co-operate fully with Internal Audit, HR and the Police.
- 6.7 Internal Audit will provide the manager with regular updates on the investigation, as appropriate.
- 6.8 The manager should avoid any unofficial contact with any implicated employees. Any contact, including telephone calls, should be properly documented and meetings should be attended by a Human Resources adviser. Internal audit must be provided with copies of any correspondence between the Council and implicated employees.
- 6.9 If during the course of an investigation it transpires that any corrupt action has occurred the Chief Internal Auditor will notify the Monitoring Officer.

7 Suspension from duty

- 7.1 There may be a need to suspend a member of staff from duty if an investigation might be impeded by their presence at work or if the allegations are sufficiently serious to warrant potential dismissal if proven. Suspension in these circumstances is not a form of disciplinary action and does not indicate that the Council has pre-judged the case. Its purpose is to remove an individual from their workplace to allow a full and fair investigation of the circumstances to take place unhindered.
- 7.2 Any decision to suspend is taken by the employee's Manager advised by Chief Internal Auditor and the HR Business Partner.

8 Investigatory interviews

- 8.1 Fact finding interviews with members of staff within the service area may be necessary to clarify any areas of uncertainty and to provide additional background information. Fact finding investigation interviews are not disciplinary interviews and are intended to clarify details on procedures and responsibilities. Disciplinary procedures do not commence until the Audit investigation is concluded and findings are presented to management.
- 8.2 Internal Audit will usually consult management within the service to gain an understanding of internal controls and the service's policies and procedures.
- 8.3 A decision to interview the suspect(s) directly would be agreed with Senior Management and, if the case has been referred to the Police, Internal Audit will seek approval from the Police before speaking to the suspect(s) to avoid jeopardising any criminal investigation.

- 8.4 When formal interviews are arranged with the individual, he or she will have the right to be accompanied by a trade union or professional association representative or a work colleague who is not involved in the area under investigation.
- 8.5 Once the interview is over the interviewees will be given the opportunity to read the meeting notes and will be asked to sign a copy of the notes to acknowledge their accuracy.

9 Disciplinary procedures

- 9.1 Where an Internal Audit investigation concludes that there is evidence of fraud or impropriety perpetrated by a member of staff, a detailed report on the investigation and its findings will be presented to the relevant Head of Service.
- 9.2 Based upon the findings the Head of Service, with support from Human Resources, will decide whether disciplinary action is required and, if so, will ensure that the Council's Disciplinary procedures are followed.
- 9.3 The outcome may include a range of levels of warning or, where evidence of gross misconduct is found, dismissal of the individual concerned.
- 9.4 If an appeal is made through the Council's internal appeals procedure or a complaint made to an Employment Tribunal it is important to keep the Chief Internal Auditor advised of the nature of the appeal or complaint and any additional evidence produced or statements made by the appellant. Internal Audit may be able to refute or confirm any new evidence submitted by the appellant.

10 Police Referral

- 10.1 Any allegations of financial impropriety could result in allegations of fraud and corruption and, as such, may need to be referred to the Police.
- 10.2 The decision to refer a matter to the Police will be taken by the Chief Internal Auditor and the appropriate Director of the Council, in consultation with the Monitoring Officer and the Chief People Officer. This will follow agreed protocols for Police referral which have been established with the Police Authority. Findings from any fraud investigation undertaken by Internal Audit will be shared with the Police.
- 10.3 The Council will continue to pursue its own disciplinary process during a Police investigation. However, the Chief Internal Auditor will liaise closely with the Police to ensure that appropriate steps are taken to avoid jeopardising any criminal investigation.
- 10.4 The Audit team will await approval from the Police before interviewing the suspect(s) directly.

11 Post Investigation

- 11.1 As detailed above, at the conclusion of the Internal Audit investigation, a report of detailed findings will be presented to the Head of Service. This will explain the work undertaken and

the observations and findings. This is intended to inform any related disciplinary investigations.

- 11.2 In addition, an Internal Audit report will be submitted to the Director, following agreement, a final audit report will be issued. This will highlight weaknesses within the current system and recommend actions to be taken to prevent further fraud.
- 11.3 The Council recognises that individuals who report concerns via the Whistleblowing procedure need to be assured that the matter has been properly addressed. Thus, subject to legal or contractual constraints, and in accordance with the Whistleblowing policy, individuals will receive appropriate information about the outcomes of any investigations.
- 11.4 Managers and other staff may be asked to give evidence in civil or criminal hearings. This may occur many months after the initial investigation and there is a need to ensure that staff are fully prepared to present their evidence and for cross examination.
- 11.5 When fraud or impropriety has been perpetrated by organisations or individuals with whom the Council has a contractual relationship the Council will take robust action including, where appropriate, the termination of the contract and civil recovery proceedings.
- 11.6 Any employee who is approached by the press should advise that all media enquiries are handled through the Communications team. The employee should report any press interest to their manager.

12 Recovery of losses

- 12.1 The manager responsible for the service in which a loss has occurred as a result of fraud or other misconduct must ensure that all possible means to recover losses are pursued and that effective co-operation takes place between interested parties. Advice should be sought from Human Resources and Legal Services on how to achieve this.
- 12.2 When an employee offers to resign before a disciplinary hearing takes place the manager of the service concerned must consult the Chief Internal Auditor and Human Resources to decide the most appropriate action.
- 12.3 Before an employee's resignation is accepted advice must be sought from Human Resources and Legal Services about how to enforce the repayment of all losses incurred by the Council.
- 12.4 When a case has been referred to the Police and a criminal prosecution takes place the investigating police officer will be asked to submit a request that an order for compensation is made by the Court.
- 12.5 When neither a voluntary agreement nor a compensation order is made the manager will consult the Monitoring Officer about other legal action that can be taken to recover the Council's losses. This may include making application for recovery from an employee's pension fund.

12.6 When none of the above actions have been successful in recovering the Council's losses the manager will inform the chief Internal Auditor who will submit a claim to the Council's insurers under the Fidelity Guarantee Policy.

13 Review of controls

13.1 One of the main priorities after the discovery of a fraud is to repair the damage and prevent recurrence. This will entail analysing where the system of internal control has failed and allowed the fraud to occur. Internal Audit will issue a special review report highlighting any system failures and recommendations will be made for improvements. These recommendations will be included in an action plan that will be agreed with the relevant service area manager.

13.2 All accepted recommendations should be promptly implemented according to agreed timescales.

13.3 Councillors and Directors have a significant role to play in reviewing and monitoring the Council's Corporate Governance Arrangements. To facilitate this role, a summary of internal fraud cases will be provided to both the Corporate Leadership Team and the Audit Committee.

14 Contact details

For further advice on any fraud issues or to report a fraud, please contact one of the following:

Name	Contact Details
Jacinta Fru, Chief Internal Auditor	01908 252228 07747602788 jacinta.fru@milton-keynes.gov.uk
David Lamb, Audit and Risk Manager	01908 257966 07385469747 david.lamb@milton-keynes.gov.uk
Joanne McAuliffe Counter Fraud Officer	01908 253256 07385469750 joanne.mcauliffe@milton-keynes.gov.uk
Public Concern at Work: a registered charity whose services are free and confidential - www.pcaw.org.uk	020 7404 6609 whistle@pcaw.co.uk

Date to be reviewed: **July 2025**

Owner of Policy: **Chief Internal Auditor**