

5.6 - Anti-Fraud, Bribery and Corruption Policy

1. Introduction

This policy aims to ensure that Hull and East Yorkshire Combined Authority (the Combined Authority) has an effective anti-fraud culture and an effective framework to manage the risk of fraud, bribery and corruption.

Fraud, bribery and corruption are serious criminal acts that can damage the finances of organisations and undermine confidence in public services. Such acts are the antithesis of the Combined Authority's values. Criminal penalties for breaching the law in this area can be severe and there are some specific points where the Combined Authority itself could potentially face prosecution if there is an insufficient framework in place. The policy is therefore important in protecting the organisation from financial and reputational harm, as well as providing greater clarity on the actions to take if Members, officers, customers, partners or other stakeholders suspect or believe that fraud, bribery or corruption are happening.

2. Definition and Scope

This policy applies to all Members (whether voting or non-voting, Associate Members, Non-Constituent Body Members, officers, contractors and agents of the Combined Authority, except where agents have their own policy and procedures in place that already provide at least an equivalent and sufficient framework.

This Policy and the associated procedures outline the Combined Authority's approach to countering fraud, bribery and corruption risks.

- Fraud is a term that describes acts or omissions that are undertaken dishonestly and with the intention of making a gain for the perpetrator or another person, and/or to cause loss for someone else.
- Bribery and corruption involve the offering or accepting of a reward (bribe) for someone to perform their duties improperly.

These terms are generally associated with financial and property matters, but they have wider application. For example, false statements on application forms for school places could constitute fraud, whilst corruption might include enabling a friend to jump the queue for a planning application, even if there was no monetary bribe and no attempt to skew the final decision.

The policy is also intended to cover other acts of a similar character to fraud, including, but not limited to, theft, abuse of disabled parking concessions, and tax evasion.

This policy should be read in conjunction with the following policies and associated guidelines:

- Code of Conduct for Officers
- Member Code of Conduct
- Confidential Reporting (Whistleblowing) Policy
- Human Resources policies, notably in relation to recruitment and selection, and the Disciplinary Policy

- Procurement Rules and Financial Procedures.
- Anti-Money Laundering Policy

3. Policy Statement

The Combined Authority will not tolerate, and is committed to combatting, fraud, bribery, corruption and other dishonest wrongdoing in all of its activities.

The Combined Authority expects its members and officers to follow their respective Codes of Conduct and demonstrate the Principles of Public Life, (in particular the highest standards of honesty and integrity), at all times. It also expects third parties, such as customers, suppliers and partner agencies to act with honesty and integrity in their dealings with the Combined Authority.

The Combined Authority is therefore determined to identify fraud, bribery and corruption by any party, including: officers who abuse their positions of trust; contractors who abuse their relationship with the organisation; or customers who attempt to obtain assets or services to which they are not entitled.

The Combined Authority will continuously review its systems and procedures, to ensure fraud risks are managed through robust and proportionate controls to prevent, deter and detect fraud, bribery and corruption.

The Combined Authority will encourage officers, councillors and other stakeholders to raise any concerns about fraud, bribery and corruption. For officers, this can usually be done via line managers, but if that is not appropriate due to sensitivity or closeness to the malpractice, there are other ways for officers to raise concerns including use of the Confidential Reporting policy.

Fraud, bribery and corruption are serious offences. The Combined Authority will:

- Investigate alleged instances, including referral to the police or other relevant authorities (such as the Department for Work and Pensions or Her Majesty's Revenue and Customs) where appropriate.
- Instigate disciplinary action where officers are involved.
- Seek prosecution where criminal offences can be proven.
- Seek reimbursement, compensation and costs as appropriate where public funds or assets have been defrauded or misappropriated.
- Review policies, systems and procedures where cases occur, with the aim of continuous improvement and preventing repetition.

The Combined Authority fully supports the work of the police and other agencies in the fight against fraud, bribery and corruption within the public sector and the wider economy.

The policy will be implemented through the strategy and procedures set out in this document.

4. Legal and Regulatory Framework

The principal legislation relating to fraud, bribery and corruption is:

- Fraud Act 2006
- Theft Act 1968
- UK Bribery Act 2010
- Specific legislation relating to particular activities, including:
 - The Procurement Act 2023 and subsequent amendments including Procurement Policy Notes
 - S117 Road Traffic Regulation Act 1984 (RTRA) (re abuse of disabled parking concessions)
- Proceeds of Crime Act (POCA) 2002
- Anti-Money Laundering and Terrorist Financing legislation comprising:
 - Terrorism Acts 2000 and 2006
 - Criminal Finances Act 2017
 - Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
 - Money Laundering and Terrorist Financing (Amendment) Regulations 2019 and 2022

Where the Combined Authority undertakes criminal investigations, these are undertaken within the parameters of legislation governing their conduct, including:

- Police and Criminal Evidence Act 1984 (PACE)
- Criminal Procedures Investigation Act 1996 (CPIA)
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Data Protection Act 2018

Copies of this legislation can be found at www.legislation.gov.uk and the main offences are summarised at Appendix A.

5. Managing the Risk of Fraud, Bribery and Corruption

The Combined Authority's approach is based on principles set out in CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption in Local Government:

- Acknowledging responsibility for countering fraud and corruption (see above);
- Identifying fraud and corruption risks;
- Developing an appropriate counter-fraud and corruption strategy;
- Providing resources to implement the strategy; and
- Taking action in response to fraud and corruption

6. Roles and Responsibilities

Members have a responsibility for setting the tone of the organisation, to be aware of the risks of fraud, bribery and corruption, and to act with honesty and integrity. They have a responsibility to report, via the Monitoring Officer, any concerns they may have.

The Chief Executive as Head of Paid Service is responsible for setting the internal tone of the organisation so that an anti-fraud culture is maintained. The Head of Paid Service is also ultimately responsible for the management of the organisation, including compliance with the financial control systems that are determined by the S73 Officer.

The S73 Chief Finance Officer is responsible for determining systems of financial control including those in relation to fraud, bribery and corruption.

Senior Managers have responsibility for maintaining an effective system of internal control so as to manage the risk of fraud, bribery and corruption in their service areas.

Managers have a key role in supporting their Senior Managers by maintaining controls in their areas of responsibility. They are also responsible for ensuring their staff understand their role in upholding Combined Authority values and the Principles of Public Life (which are set out in the Code of Conduct for Officers) - in particular their duty to behave with honesty and integrity. Managers need to be aware of the procedures to follow under this policy in the event that their staff or third parties report concerns about fraud, bribery or corruption.

All officers and agents of the Combined Authority have responsibility for being aware of the risks of fraud, bribery and corruption, and acting with honesty and integrity in their work. They also have a responsibility to report to management any concerns they may have.

The Audit and Governance Committee has responsibility for monitoring and reviewing the effectiveness of internal controls and governance arrangements, including the ongoing development of the arrangements set out in this document.

The Head of Internal Audit has responsibility to:

- Review the Combined Authority's arrangements for managing the risk of fraud, bribery and corruption, and evaluate their effectiveness in preventing and detecting such activity.
- Prepare and maintain this policy.
- Promote an anti-fraud culture by raising awareness of fraud issues and through the provision of training.
- Assist services with identifying fraud risks and appropriate mitigating actions.
- Undertake proactive audit work to review the arrangements in place in specific services.
- Support Directors with investigations into alleged frauds perpetrated against the Combined Authority.

The External Auditor has a responsibility to report on any concerns arising from his work to as regards the adequacy of the Combined Authority's arrangements in place for the prevention and detection of fraud, bribery and corruption.

7. Risk Identification

The Combined Authority identifies risks by reference to:

- National data, reports and surveys which flag emerging themes at similar organisations.
- Networking with other organisations in the sector and beyond, including other councils, Tenancy Fraud Forum, National Anti-Fraud Network (NAFN), Police and the Authority's bankers.
- Discussion between service areas and the Head of Internal Audit.
- Analysis, such as targeted audit work to evaluate risks in specific areas.

8. Anti-Fraud and Corruption Strategy

The Authority's Anti-Fraud and Corruption Strategy is based on a comprehensive series of inter-related procedures designed to deter, frustrate and prevent fraud and corruption from occurring; and where it does occur, to facilitate effective detection, investigation, action and follow up.

Corporate Framework

The corporate framework comprises:

- This policy and complementary policies as noted in Section 2.
- Full support from all members, the Chief Executive and Directors.
- The Combined Authority's Constitution and Codes of Conduct for Members and officers.
- A Confidential Reporting (Whistleblowing) Policy.
- A Corporate Feedback scheme to record and respond to complaints, comments, compliments and concerns.
- An effective risk management and internal control framework.
- Effective internal and external audit arrangements.
- An effective Head of Internal Fraud.
- Effective workforce strategies.
- A process for investigating complaints against Members.
- An effective scrutiny process.
- Clear rules on travel and expenses.
- Clear procurement rules.
- Guidance on gifts and hospitality and a process for recording them.

Prevention

Within the corporate framework there are a number of key processes that contribute to the prevention of fraud and corruption, that is to say they make the offences more difficult to undertake:

- Internal controls, especially the separation of duties and procedural checks in systems that are inherently susceptible to fraud.
- Controls over officer recruitment and conduct, in particular due diligence prior to confirming appointments, induction processes, and an established processes to disclose potential conflicts of interest.
- Code of Conduct and policies that communicate the Principles of Public Life and make it absolutely clear that fraud and bribery are not only criminal acts but also gross misconduct.
- Contracts Standing Orders and pre-contract due diligence of new suppliers.
- Robust controls over IT access and physical access controls to offices that contain sensitive records.
- Learning from others through networking and best practice.

Detection and Investigation

There are also a number of key processes that facilitate the ongoing monitoring of fraud risks, detection where frauds may occur and effective investigation where fraud or corruption is suspected:

- Budget monitoring and control.
- Management checks to verify that controls are functioning effectively.
- Internal audit assurance work to appraise that the overall system of internal controls for particular service areas and functions.
- Data matching checks, including internal and external data sets. This includes mandatory National Fraud Initiative (NFI) data matching exercises, which aim to identify anomalies that are indicative of fraud.
- Sharing of information, (with appropriate data protection protocols), to give early warning of new types of fraudulent activities so that appropriate detection methodologies can be put in place.
- Well established procedures to record and process reports of fraud in systems that are inherently at risk (such as CTRS)
- Procedures for officers and Members to report suspicious activity.
- Publicity, such as posters in public buildings which advise members of the public how to report suspicious activity.
- A Head of Internal Audit to:
 - Undertake compliance work that clears up low value irregularities in systems such as CTRS, thereby preventing these evolving into material frauds;

- Investigate frauds in relation to systems such as CTRS that are inherently at risk of fraud;
- Assist Heads of Service with investigations into internal frauds, which are usually undertaken under the auspices of the Authority's Disciplinary Policy;
- Provide advice to support the ongoing development of the framework.
- Appropriate referral to (and, where appropriate, joint investigations with) other agencies, such as the DWP, HMRC and Police.

Sanctions, Prosecution and Follow Up

Where investigations conclude that fraud has occurred, appropriate sanctions are imposed, including:

- Disciplinary hearings (usually leading to dismissal) if officers have committed fraud.
- Prosecution or alternative sanctions (such as Administrative Penalties) as set out in the relevant legislation for the type of fraud concerned. Decisions as to the appropriateness of sanctions are taken in consultation with Legal Services and with reference to the weight of evidence and Public Interest considerations.
- Legal recovery of losses where feasible.

If the investigation identifies control weaknesses, internal audit work is usually commissioned to appraise the extent of those weaknesses and assist management in addressing them.

Deterrence

Measures are in place to deter potential fraudsters from committing or attempting fraudulent or corrupt acts. These include:

- Acting robustly when fraud or corruption is suspected.
- Taking action to effect maximum financial recoveries for the Authority.
- Having an effective internal control framework.
- Publicising prosecutions and more generally that the Authority does not tolerate fraud or corruption and will seek to prosecute.

9. Training

The Head of Internal Audit will provide relevant training, including eLearning materials and tailored training for services that are considered at risk of exposure to fraud, bribery and corruption. This will be specified in consultation with Senior Officers and will include refresher training where required.

10. Review

This policy will be reviewed by the Audit & Fraud team in consultation with internal stakeholders at least once every two years, to keep pace with changes in legislation and practice.

11. Procedure/Fraud Response Plan

This procedure explains the actions to be taken where fraud, bribery or corruption is suspected.

Notification - Officers and Third Parties/Members of the Public

Officers should report any issue that suggests fraud, bribery, corruption, or other financial irregularity or impropriety. Reports should normally be submitted via your line manager, who should inform a senior manager, ie your Head of Service or Director.

The Combined Authority also encourages members of the public and contractors etc, who suspect fraud, theft or corruption to contact it. They will generally use publicised contact details that ensure the matter is reported to the Head of Internal Audit for further consideration.

Notification - Members

Members should refer any relevant issues to the Monitoring Officer in their absence, the Head of Internal Audit.

If Members become aware of conduct by another Member that conflicts with the Member Code of Conduct, they must consider whether to make a written report to that effect: this is done by addressing the complaint to the Monitoring Officer.

Alternative Notification Procedure (Whistleblowing)

If you feel it is not appropriate to inform your line manager, or to make the senior managers in your section aware of your concerns, you may instead file a report using the Confidential Reporting (Whistleblowing) Procedure. This is overseen by the Monitoring Officer, who will commission an appropriate investigation.

Response

Reports of 'routine' frauds will be assessed against criteria to determine how they should be taken forward. This may involve compliance work, a full investigation, or referral to another agency, (for example, CTRS frauds often involve welfare benefit claims as well and the legal powers to investigate benefit fraud now rest with the DWP). The Head of Internal Audit will make that assessment.

Reports through the Confidential Reporting Procedure will be dealt with in accordance with that procedure. Normally this will involve an investigation led by the Head of Internal Audit or Human Resources depending on the circumstances. The Monitoring Officer will determine the form of investigation in each case.

In all other cases, Directors have a duty to respond to any allegation of fraud or corruption by immediately informing the Head of Internal Audit to determine the next steps. Credible allegations will require investigation and the relevant Director will assign a senior manager to serve as Lead Investigation Officer. The Head of Internal Audit will support the investigation officer:

- Investigations into gross misconduct which involve alleged fraud, theft, bribery, corruption or other financial irregularities will normally be undertaken jointly by the designated service area manager, Human Resources and the Head of Internal Audit.
- Investigations into other (non-financial) gross misconduct will normally be undertaken by a service area manager and Human Resources.
- Investigations into other forms of misconduct will be dealt with by the service area concerned with appropriate involvement of the Human Resources team.

If, during the course of a 'non-financial' investigation, matters come to light in relation to financial control, risk management or governance, then the service area manager should immediately inform the Head of Internal Audit.

All investigations, regardless of the route, nature and type, will be conducted to standards that encompass:

- A professional and systematic approach
- Compliance with relevant policies, procedures and legislation (PACE, CPIA, RIPA and DPA)
- Maintaining the confidentiality of confidential or sensitive information that emerges during the investigation.

The Lead Investigation Officer will ensure that the following people are kept informed at appropriate stages as the investigation progresses:

- S73 Chief Finance Officer (or in their absence the Monitoring Officer)
- Relevant Director
- Head of Paid Service (if officer fraud or corruption is suspected).
- The Head of Internal Audit if weak financial controls or procedures have played a part in allowing the fraud or corruption to be committed.

Lead Investigation Officers will ensure that any actions determined by the S73 Chief finance Officer and/or the Monitoring Officer will be carried out, including possible referral to the police, regulatory bodies, the Authority's insurers or other agencies depending on the circumstances.

Referral to the police or other agency does not inhibit action under the disciplinary policy. However, any ongoing internal investigation will need to be co-ordinated with the relevant external agency to preserve the integrity of the external agency's investigation.

If an internal and/or criminal investigation concludes that fraud or other financial crime has occurred and led to financial losses, the Director will also consult the Monitoring Officer to determine appropriate action to seek recovery of those losses.

Guidance and Support

If you require further guidance with the interpretation of these procedures, please contact:

- Head of Internal Audit
- Monitoring Officer
- S73 Chief Finance Officer

Appendix A - Summary of Fraud and Similar Offences Set Out in UK Legislation

Fraud Act 2006

The Fraud Act defines a general offence of fraud and three ways it can be committed. In each case there must be: dishonesty; and an intent to make a gain or cause loss; and:

- Fraud by false representation - where someone makes a statement which they know to be untrue or misleading.
- Fraud by failing to disclose information - where someone fails to disclose information they are under a legal duty to disclose.
- Fraud by abuse of position - where someone is expected to safeguard the financial interests of another person and abuses that position.

The Fraud Act defines further offences of:

- Possession of articles for use in frauds – such as other people's credit card details or software for producing blank utility bills.
- Making or supplying of articles for use in frauds – such as supplying information or manufacturing devices to be used in frauds by other people.
- Fraudulent trading - such as inflating bills or charging for work not done.

Theft Act 1968

- Theft - eg of money or assets
- False accounting - falsification or concealment of financial records or use of such records for dishonest purposes.

Bribery Act 2010

- Offer or promise of a bribe
- Request or acceptance of a bribe
- Bribing a foreign public official to secure business or advantage in the conduct of business
- Failure by an organisation to prevent bribery committed on its behalf. It is hard to envisage circumstances where bribery would be committed on the Authority's behalf and the robust framework as described in this policy should provide a defence if this offence was ever alleged.
- Obstruction of authorised officers.

Prevention of Social Housing Fraud Act 2013

This defines specific offences in relation to the sub-letting of social housing stock. It also provides investigators with similar powers to those under the CTRS Regulations but in respect of investigations into tenancy fraud.

The Public Contracts Regulations 2015 and Related Matters

These set out parameters for the way in which public bodies should procure goods and services. A breach of the Regulations would not, in itself, be a criminal offence. However, potential contractors who are disadvantaged may seek remedies through the courts. This could have serious financial, operational and reputational consequences. Also, if a breach was intentional and/or dishonestly motivated, the circumstances could give rise to offences under other legislation, such as the Fraud Act or the Bribery Act. This is particularly the case regarding Regulation 24, which requires effective measures to prevent conflicts of interest distorting competition.

Road Traffic Regulation Act 1984

S117 of the Act defines offences concerning the wrongful use of disabled persons badges.

Criminal Finances Act 2017

This gives law enforcement agencies and partners further capabilities and powers to recover the proceeds of crime, tackle money laundering, tax evasion and corruption, and combat the financing of terrorism.

Part 3 of the Act defines corporate offences of failure to prevent the facilitation of tax evasion. Given the nature of the Authority's transactions, it is hard to envisage circumstances where the Authority or its agents would facilitate tax evasion and the robust framework as described in this policy should provide a defence if this offence was ever alleged.

Anti-Money Laundering Legislation

Various legislation that deals with offences in relation to money laundering and the financing of terrorism. Money laundering involves the processing, dealing with, concealing or converting the proceeds of crime or terrorism and/or funds to be used for terrorism. The impact of this legislation in the Authority's context is described in the Authority's Anti-Money Laundering Policy, together with guidance on the actions to take if officers become aware or suspicious that money laundering is taking place.