Derby City Council

Counter Fraud, Bribery and Corruption Policy and Framework

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Approved by and when	Due for approval by Audit & Governance Committee on 26th January 2022
Date of document	17 December 2021
Version	Version 8
Document classification	Internal
Document distribution	Internal
Document retention period	Until date of next review
Location	
Review date of document	January 2025

Derby City Council

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Date Issued	Version	Status	Reason for change
1996	1		Initial Policy document
1999	2		3 yearly review
November 2002	3		3 Yearly review
October 2006	4		Review of Policy Statement
December 2010	5		Review & Update
December 2013	6		Updated to reflect the new format for Council policies and to update role titles
November 2017	7		Review & Update
December 2021	8		Full revision

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Introduction

1. Derby City Council is one of the largest organisations in the County and in common with all public authorities the Council recognises the significant risk which fraud and corruption pose to the achievement of its aims and objectives, fraud and corruption is costly, both in terms of reputational risk and financial losses.

2. The nature of fraud threats is subject to change and during recent years those attempted by organised crime networks, through the use of the Internet, computer systems or relating to purchasing and procurement have increased. The Council takes its responsibilities to protect the public purse very seriously and is fully committed to the highest ethical standards to ensure the proper use and protection of public funds and assets. The Council has an ongoing commitment to continue to improve its resilience to the risk of fraud, corruption and other forms of financial irregularity or error.

Purpose of the policy and framework document

3. The main aim of this document is to set out the approach and priorities of the Council over the medium-term to continue to develop its resilience to fraud, corruption and error. It is important to equip the organisation effectively to manage fraud related risks by being clear about key roles, responsibilities and actions with regard to fraud prevention and associated initiatives; what to do when fraud is suspected and the activities that will be taken by management will ensure a strong counter-fraud, corruption and error culture continues to be maintained and developed.

4. More generally this framework sets out how the Council will move towards the achievement of the following counter fraud priorities:

   - Improving methods for assessing and understanding fraud risks
   - Maintaining support and resource to tackle fraud
   - Ensuring a robust counter-fraud response
   - Making better use of information and technology
   - Enhancing fraud controls and processes throughout the organisation where there is exposure to the risk of fraud
   - Developing a more effective counter-fraud culture
   - Prioritising fraud recovery and the use of civil sanctions
   - Developing capability and capacity to punish fraudsters

Policy Statement:

Derby City Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, members, contractors, volunteers and the public. It is committed to the elimination of fraud and corruption and will proactively seek to deter, prevent and detect any instances of fraud and corruption. It will be dealt with seriously, wherever it is found. The Council promotes a culture of honesty, openness and accountability and will take every action necessary to protect the public funds within its control from misappropriation.

All suspicions or concerns of fraudulent or corrupt practice will be investigated.

Definitions

Fraud – "the intentional distortion of financial statements or other records by persons internal or external to the Authority, which is carried out to conceal the misappropriation of assets or otherwise for gain".

The Fraud Act 2006 includes three main offences:

- 'False representation' to a person or device, for example, falsely claiming to hold a qualification to obtain a job or misuse of another person's debit card;
- 'Failing to disclose information' which you are under a legal duty to disclose, such as not declaring assets as part of a means tested application for services; and
- 'Abuse of position' whereby you act against or fail to safeguard any financial interests you are expected to protect, for example, financial abuse of individuals receiving social care.

Corruption – "the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person".

For the purpose of this document the term 'fraud and corruption' includes a range of dishonest acts such as those involving theft, misappropriation, bribery, money laundering, concealment of material facts, false representation and abuse of position. It also covers "the failure to disclose an interest in order to gain financial or other pecuniary benefit."

Bribery - is "a financial or other advantage that is offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of such as advantage would constitute the improper performance of such a function or activity."

The Council abides by the Bribery Act 2010 which covers, amongst other things, the offences of bribing another person, of allowing to be bribed and organisational responsibility. Such offences include:

- The offer, promise or giving of financial or other advantage to another person in return for the person improperly performing a relevant function or activity
- Requesting, agreeing to receive or accepting a financial or other advantage intending that, in consequence a relevant function or activity should be performed improperly.
- Commercial organisation responsibility for a person, associated with the organisation, bribing another person for the purpose of obtaining or retaining business for the organisation.

Money laundering - the process by which 'criminal property' (a person's benefit from criminal conduct) is given the appearance of having originated from a legitimate source.

The Money Laundering Regulations and related legislation have placed responsibilities on "regulated entities" and every person carrying out "relevant business" within the meaning of the Regulations to report where they know, or suspect, or have reasonable grounds to suspect, that money laundering may be taking place.

Derby City Council is not classified as a "relevant business" but it is good practice to assess the risks of potential exposure; and, where appropriate, we should regard ourselves as "relevant business" and act accordingly. Money laundering includes not only the direct proceeds of crime, but any dealings with criminal property. It includes possessing, or in any way dealing with, or concealing, the proceeds of any crime. Any failure to report suspicions of money launderings is a criminal offence.

All Councillors and Council workers have a clear obligation under this legislation and regulations to report suspicions of money laundering and there can be severe penalties for individuals who fail to act in accordance with the legislation

Framework for countering fraud, corruption and error

5. The Council has a wide range of interrelated policies, codes, rules and procedures and other guidance documents that provide a corporate framework to counter the possibility of fraudulent and / or corrupt activity. These have been developed taking account of appropriate legislative requirements and expected standards relating to public sector life. These documents include:

    - Codes of Conduct for members and officers
    - Financial Procedure Rules
    - Contract Procedure Rules
    - Disciplinary Procedures
    - Whistleblowing Policy
    - Complaints Procedures
    - Local Code of Corporate Governance
    - Gifts, Hospitality and Sponsorship Protocols
    - Register of Interests
    - Corporate prosecution policy
    - Corporate Fraud Prosecution Policy

Legislation, guidance and standards

Local Government Act 1972
Local Government and Housing Act 1989
Fraud Act 2006
CIPFA Code of Practice on Managing the Risk of Fraud and Corruption
Social Security Administration Act 1992
Prevention of Social Housing Fraud Act 2013

Counter Fraud Approach

<u>Acknowledging and understanding fraud risk</u>

6. The starting point of this document is to acknowledge the risk of fraud. The changing context in which local government services are delivered, the increasing risk of fraud by motivated offenders, the reduction in resources and the associated dilution of the existing control frameworks means that there is a pressing need for a new approach to tackling fraud against local government. Therefore, it is necessary to provide support and commit resource to tackling fraud in order to maintain a robust anti-fraud response.

7. As part of the Annual Internal Audit Plan process, the Head of Internal Audit undertakes a fraud, bribery and theft risk assessment to identify where the Council's most significant fraud risks lie. The fraud risk assessment is regularly updated to consider emerging risks identified by fraud investigations, intelligence identified internally and by external organisations, and changes to Council processes. The Risk Management Group receives regular updates from the Head of Internal Audit on fraud risk. Departmental and Directorate risk registers are required to identify any relevant fraud, bribery and theft risks.

<u>Fraud Prevention</u>

8. Preventing fraud is key to protecting the public purse from abuse by fraudsters. Making use of information and technology, enhancing fraud controls and processes and developing an effective counter fraud culture will assist in preventing fraud or detecting it more swiftly.

<u>Making Better Use of information technology</u>

9. Effective use of technology can and is used to detect existing fraud through exercises such as the National Fraud Initiative and internal data matching. However, better use of modern technologies can be made to help manage the risk of fraud from materialising in the first instance. The Council will re-visit the potential of electronic risk-based identity verification that can be harnessed to ensure a proportionate approach to ID verification resulting in a more efficient and robust vetting of individuals accessing council services. The Council will also seek to explore the benefits of using analytical testing to help detect fraud.

<u>Enhancing Fraud Controls and Process</u>

10. Wherever appropriate and cost effective, the Council will design and implement controls to prevent fraud and irregularity. Internal Audit will continue to work with managers and core services to ensure new and existing systems, procedures and policy initiatives consider fraud risks.

<u>Developing an Effective Counter Fraud Culture</u>

11. The Council believes that the maintenance of a culture of honesty and openness, based on values such as fairness, trust and integrity is a key element in tackling fraud and corruption. In this respect, each Councillor and member of staff is under a duty to report any reasonable suspicions and is encouraged to raise concerns about fraud and corruption, regardless of rank, seniority or status, in the knowledge that such concerns will be properly investigated. Appendix 1 outlines what to do if you suspect fraud or corruption and this is detailed more fully in the Council's Fraud Response Plan.

12. The Council will continue to prioritise the promotion of fraud awareness through councillor and staff training, as well as increasing awareness through other media.

13. In 1995, the Committee on Standards in Public Life published the 'seven principles of public life' (the Nolan Principles). These are recognised as the foundation of a strong counter fraud culture and it is expected that all councillors, officers and contractors follow these principles, as well as all legal rules, policies and procedures.

14. The seven principles of public life and a brief explanation are listed below.

    Selflessness …act solely in terms of the public interest and not for the purpose of gain for yourself, family or friends.

    Integrity …avoid placing yourself under any obligation to people or organisations that might seek to influence you in your work.

    Objectivity …act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

    Accountability …be accountable to the public for your decisions and actions and submit yourself to scrutiny as appropriate.

    Openness …act and take decisions in an open and transparent manner. Information should only be withheld from the public if there are clear and lawful reasons for doing so.

    Honesty …be truthful. This includes declaring any conflicts of interest and taking steps to resolve such conflicts.

    Leadership …actively promote and support these principles by applying them to your own behaviour and challenging poor behaviour.

15. In essence, the Council expects everyone carrying out council business to protect the public interest and also to challenge instances of dishonest behaviour. The promotion of a strong counter fraud culture is therefore vital, as not only will it deter potential fraudsters but it will also encourage a safe environment in which individuals can raise concerns.

16. The Council takes a zero-tolerance approach to all types of fraud, theft, bribery, money laundering and corruption. A zero-tolerance to fraud stance can be demonstrated by punishing fraudsters and recovering losses by prioritising the use of civil sanctions, developing investigative capability and capacity and developing a more collaborative and supportive law enforcement response.

17. Where fraud or corruption is discovered the full range of sanctions will be considered, including civil, disciplinary and criminal action. Every effort will be made to recover losses and where appropriate, confiscate assets gained as a result of criminal activity. Practical guidance about what to do when fraud is suspected or detected is outlined in Appendix 1 and full details, including the escalation process, are provided in the Council's Fraud Response Plan.

Collaborating with External Organisations

18. Organised fraud and corruption has no respect for boundaries and can cross a range of organisations and services. Effective cooperation and joint working between local authorities and with other agencies including the Police, the UK Border Agency and the Department for Work and Pensions is essential for maintaining an effective Counter Fraud response.

19. This framework recognises the value that working together across internal and external boundaries can bring by sharing resources, skills and learning, good practice and innovation, and by making better use of data, information and insight.

20. Further opportunities to pursue collaborative working will be identified. Initially focussed on internal relationships, we will continue to build capability and competence of counter fraud measures that are deployed. Through internal awareness raising activities the counter fraud culture of the council will continue to be developed to ensure that beating fraud and corruption is part of daily business.

Key Risk Sources

21. The key fraud risk sources are outlined below. This is a high-level list and will be used as a basis when developing and maintaining fraud risk assessments in line with the corporate management of risk.

- Social Housing fraud
- Council Tax fraud
- National non domestic rates avoidance
- Procurement fraud
- Internal Fraud
- Direct payments
- Identity assurance
- Right to Buy
- Money laundering
- Insurance fraud
- Disabled facility grants

- Commissioning of services
- Cyber dependent and e-enabled crime

Delivery Roles and Responsibilities

22. The key roles and responsibilities of officers and services responsible for the delivery of counter fraud arrangements are outlined in the paragraphs below.

23. Overall responsibility for the effective delivery of the Council's Counter Fraud and Corruption arrangements resides with the Strategic Director of Corporate Resources in their role as section 151 officer.

24. Audit and Governance Committee is responsible for reviewing and considering the effectiveness of the Council's risk management arrangements, the control environments and associated counter fraud arrangements and seeking assurance that action is being taken on issues identified.

25. All Councillors have specific responsibility for the active promotion of the Council's counter fraud culture and compliance with policies and procedures. Councillors have a responsibility to report any irregularity, or suspected irregularity to the section 151 officer or to Internal Audit.

26. Under Section 151 of the Local Government Act 1972 every local authority is required to make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs. The Strategic Director of Corporate Resources is responsible for delivering these duties, including taking reasonable steps for the prevention and detection of fraud and other irregularities.

27. Strategic and Service Directors must ensure that their staff comply with the Counter Fraud policies and procedures set out by the section 151 officer.

28. The Head of Internal Audit shall arrange to review, evaluate and report on the risks to the City Council's assets and interests that may arise from fraud and any other offences. The Council's Financial Procedure Rules set out the role and responsibilities of Internal Audit with regard to Counter Fraud.

29. The Corporate Fraud Team is focused on both preventative and detection techniques. The Team is responsible for:

- Investigation into allegations of fraud and/or theft committed against the authority
- Recommending cases for prosecution or sanction action under criminal and civil law
- Working with the Council's Financial Investigator on appropriate cases
- Participation in the National Fraud Initiative (NFI)
- Providing Fraud Awareness Training
- Referring any matters to & receiving information and intelligence from enforcement agencies
- Providing a Single Point of Contact (SPOC) service to the Department of Work and Pensions (DWP)

- Undertaking joint investigations with DWP and other law enforcement organisations as appropriate

30. Due to the continually changing fraud risk landscape and potentially pervasive nature of fraud, various service areas will also need to contribute towards the achievement of the Counter Fraud work. This includes but may not be limited to Revenues and Benefits, Housing, Schools, Trading Standards, Licensing functions, Grant administration functions.

31. All employees have the responsibility for complying with the policies and procedures set out by the section 151 officer. All employees should report any irregularity, or suspected irregularity to Senior Management and if this is not appropriate then to the section 151 officer or to Internal Audit and the Corporate Fraud Team.

32. External Audit has specific responsibilities for reviewing the stewardship of public money and considering whether the Council has adequate arrangements in place to prevent fraud and corruption.

33. Members of the Public are also encouraged to report any concerns to the section 151 Officer or to Internal Audit and the Corporate Fraud Team.

Fraud Awareness & Training

34. The key to the continuing success of our counter fraud culture depends upon programmed fraud awareness training for staff and those who work with the City Council. The aim is to provide training for all Councillors and Council staff, to ensure that their responsibilities and duties are regularly reviewed and reinforced.

35. The Council's stance on fraud and corruption needs to be widely publicised both internally and externally to the Council. All Councillors, staff and other associated bodies/persons with whom the Council conducts its business will be appropriately informed of the Council's policy on combatting fraud and corruption and the supporting framework as outlined in this document.

36. We remain committed to the continued training and developing our staff that are involved in investigating fraud, bribery, money laundering and corruption, and will ensure suitable training is provided.

Information Sharing

37. The UK General Data Protection Regulation (GDPR) does not prevent the sharing of personal data with law enforcement authorities (known under data protection law as "competent authorities") who are discharging their statutory law enforcement functions. The UK GDPR and the Data Protection Act (DPA) 2018 allow for this type of data sharing where it is necessary and proportionate.

38. The UK GDPR, together with the DPA 2018, provide a framework that allows the sharing of personal data with law enforcement authorities that need to process personal data for the law enforcement purposes, such as the prevention, investigation and detection of crime. There

are likely to be three circumstances when we may need to share personal data with a law enforcement authority to enable it to carry out its law enforcement functions:

- where we want to proactively share personal data; for example, we want to report a crime to the police and provide relevant personal data that we hold;
- where we receive a request from a law enforcement authority for personal data that we hold; for example, the police may request personal data from the Council to help them investigate a crime; or
- where a court order or other legal obligation compels the Council to share personal data with a law enforcement authority.

Appendix 1 - What to do if you suspect fraud or corruption

It is important that everyone who works at the Council does everything they can to prevent and detect all economic crime to ensure that we can continue to provide an excellent service to the residents of Derby City.

<u>What should I do if I think there's a fraud or financial irregularity?</u>

The Council has a code of conduct for all employees, which makes it clear that employees should report any impropriety or breach of procedure that they encounter in working for the Council.

Employees (including managers) wishing to raise concerns about fraud should first contact the Head of Internal Audit. Employees should also speak to their Line Manager, if possible, about their concerns. You can also use the Council's Whistleblowing policy to report a suspected fraud or financial irregularity.

Do not interfere with any of the potential evidence and make sure it is kept in a safe place.

Do not try to carry out an investigation yourself. This may damage any subsequent investigation and could harm potential evidence.

All suspicions of money laundering must be reported to the Council's Money Laundering Reporting Officer (MLRO) or the Deputy MLRO to ensure that:

- Alleged instances of money laundering are investigated properly.
- All alleged cases of money laundering are investigated consistently.
- The Council's interests are protected.

The Council's MLRO is the Strategic Director - Corporate Resources. The Deputy is the Head of Internal Audit.

However, you must not do anything that could result in the suspect being alerted (known as 'tipping off') to the fact there is a suspicion regarding their activity or that the matter has been reported.

The procedures for managing cases of suspected Fraud, Bribery, Corruption or Money Laundering are covered in a separate guidance document.