



**Governance and Audit**

**Tuesday 12 March 2019**

**Prevention of Financial Crime Policy, Anti-Fraud and Corruption Policy and Anti-Bribery Policy 2019**

Report by:

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Purpose / Summary:

To consider and approve the policies relating to Financial Crime, Anti-Fraud and Corruption and Anti-Bribery.

**RECOMMENDATION(S):**

- 1. To approve the Prevention of Financial Crime Policy, the Anti-Fraud and Corruption Policy, and the Anti-Bribery Policy 2019.**

## IMPLICATIONS

### Legal:

These policies are in accordance with the Fraud Act 2006, the Bribery Act 2010 and the Proceeds of Crime Act 2002, (as amended by the Serious Crime Act 2015), the Terrorism Act 2002 and the Money Laundering, Terrorist Financing and Transfer of Funds (information on the payer) Regulations 2017.

### Financial : FIN/218/19/TJB

None from this report.

However there is a cost of fraud and these policies aim to mitigate the occurrence and impact of fraud.

**Staffing** : Mandatory training is undertaken by all staff

### Equality and Diversity including Human Rights :

None from this report

### Risk Assessment :

A Fraud risk register is maintained and reviewed regularly.

**Climate Related Risks and Opportunities** : None from this report

### Title and Location of any Background Papers used in the preparation of this report:

<https://www.west-lindsey.gov.uk/my-council/have-your-say/whistleblowing/>

### Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

n/a

### Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

x

## **Executive Summary**

1. The Anti-Fraud, Corruption and Bribery Policy has been revised and is part of a suite of Policies and procedures for the prevention of Financial Crime.

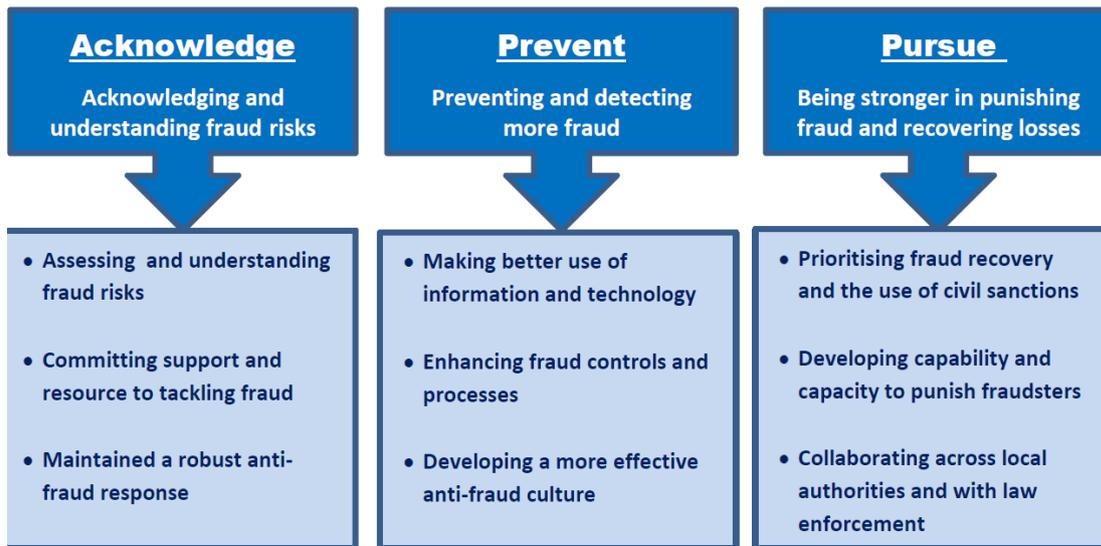
These policies provide measures to:

- Monitor, detect and prevent financial crime within the Council
  - Help put in place systems and controls which mitigate financial crime risk effectively
  - Enable the reporting of any suspicion of financial crime or related issues (using the Councils' Whistleblowing procedure or in accordance with the Anti-Money Laundering Policy).
  - Determines the actions to be taken when a fraud is identified
2. These Policies adhere to the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption 2014 (the Code). The Code requires leaders of public sector organisations to have a responsibility to embed effective standards for countering fraud and corruption in their organisations in order to support good governance and demonstrate effective financial stewardship and strong public financial management.

The 5 key elements of the CIPFA Code are to:

|  |                    |
|--|--------------------|
| Acknowledge the responsibility of the governing body – in the Council's case Elected Members and the Corporate Management Team – for countering fraud and corruption | <b>ACKNOWLEDGE</b> |
| Identify the fraud and corruption risks  |                    |
| Develop an appropriate anti-fraud and corruption strategy  | <b>PREVENT</b>     |
| Provide resources to implement the strategy  |                    |
| Take action in response to fraud and corruption  | <b>PURSUE</b>      |

The five elements link the key themes of Acknowledge, Prevent and Pursue, contained within the Local Government Fraud Strategy – Fighting Fraud Locally



### 3. Supporting documents

Due to the variety of activities that can take place under the heading of financial crime the Council have produced a number of policies in support of mitigating financial crime.

The Anti-Fraud and Corruption Policy and Anti-Bribery Policy are attached at Appendix A for approval.

Prevention of Financial Crime – roles and responsibilities (Appendix B)

Other previously approved and related Policies and procedures include

- Anti-Money Laundering Policy
- Whistleblowing Policy (reporting suspicions)
- Disciplinary Policy
- Covert Surveillance Policy
- Codes of Conduct for Members and Officers
- Risk Management Policy and Strategy
- Gifts and Hospitality
- Standing Orders
- Information Security Policy
- Housing Benefit/Council Tax Support Counter Fraud Policy

4. These policies take into account the following Seven Principles of Public Life as formulated by The Nolan Committee (The Committee on Standards in Public Life)

|              |  |
|--------------|--|
| Selflessness | Holders of public office should act solely in terms of public interest                   |
| Integrity    | Holders of public office must avoid placing themselves under any obligation to people or |

|                |  |
|----------------|--|
|                | organisations that might try inappropriately to influence them in their work   |
| Objectivity    | Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.   |
| Accountability | Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.  |
| Openness       | Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.         |
| Honesty        | Holders of public office should be truthful  |
| Leadership     | Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour where it occurs |

## Appendix A

# PREVENTION OF FINANCIAL CRIME POLICY ANTI-FRAUD AND CORRUPTION POLICY ANTI-BRIBERY POLICY 2019



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# 1. PREVENTION OF FINANCIAL CRIME POLICY

## 1. INTRODUCTION

Financial Crime, in the Proceeds of Crime Act 2002, (as amended by the Serious Crime Act 2015) covers any kind of criminal conduct relating to money or to financial services or markets, including any offence involving:

- (a) fraud or dishonesty; or
- (b) misconduct in, or misuse of information relating to, a financial market; or
- (c) handling the proceeds of crime; or
- (d) the financing of terrorism

This was originally aimed at professionals in the financial and investment sectors. However, it was subsequently recognised that those involved in criminal conduct were able to 'clean' the proceeds of crime through a wider range of business and professional activities – including council activities.

This policy provides measures to acknowledge, prevent and pursue financial crime within the Council and to help put in place systems and controls which mitigate financial crime risk effectively.

To report any suspicion you have of any financial crime or related issues you can follow the Councils' whistleblowing procedure.

## 2. AREAS OF FINANCIAL CRIME

The areas where we particularly look for risks of financial crime are in relation to fraud, corruption, theft, bribery, and money laundering which are defined below;

**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 (misuse) of assets or otherwise for gain'.

**Corruption** – 'the offering, giving, soliciting, or acceptance of an inducement or reward which may influence any person to act inappropriately'.

**Theft** – 'appropriating property belonging to another with the intention of permanently depriving the other of it'.

**Bribery** – 'is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage'.

**Money laundering** – 'an activity which falls within the Proceeds of Crime Act 2002, (as amended by the Serious Crime Act 2015) whereby criminally obtained money or other assets are exchanged for clean money or assets with no link to their origins'.

**Whistleblowing** – 'when a person reports suspected wrongdoing at work. Officially this is called 'making a disclosure in the public interest''

### 3. HOW WE AIM TO PREVENT FINANCIAL CRIME

#### 3.1 Culture

The Council firmly endorse a culture of integrity and honesty and take a robust approach to any signs of financial crime.

The Council's approach is to proactively and effectively manage the risk of financial crime and to minimise losses incurred by:

- Maintaining fully integrated **policies**;
- Promoting a **culture** of honesty and propriety;
- **Deterring** the risk of occurrence of financial crime ;
- **Preventing** risks that cannot be deterred;
- **Detecting** risks that cannot be prevented;
- Professionally **investigating** financial crime detected;
- Applying **sanctions** against people who commit financial crime;
- Seeking **redress** for assets defrauded;
- **Communicating** with members, contractors, the public and partners making them aware of the policies and how to raise concerns;
- Providing **training and guidance** to all employees and members.

Appropriate policies and procedures are maintained to ensure that internal controls are built into the Council's systems and processes to prevent or detect financial crime.

There is an expectation and requirement that all contractors, suppliers, individuals and organisations associated in whatever way with the Councils will act with integrity and that Council staff and Members will lead by example.

Members and officers should demonstrate the highest standards of openness, propriety and integrity and lead by example by adhering to legally sound and honest procedures and practices.

The prevention and detection of fraud or corruption, and the protection of the public purse, are everyone's responsibility, both internal and external to the organisation.

The Councils have established a Standards Sub-Committee (a sub-committee of the Governance and Audit Committee) which is responsible for promoting and maintaining high standards of conduct by Members and co-opted Members.

#### 3.2 Communication

The Council's Communications Team will optimise the publicity opportunities associated with financial crime activity within the Council and will try to ensure that the results of any action taken, including prosecutions, are reported in the press.

Where the Council has suffered a financial loss as a result of financial crime, in all cases the Council will seek to recover the loss and advertise this fact, whether involving an officer or a Member.

All financial crime activities, including this Policy, will be made publicly available to make all staff and the public aware of the Council's commitment to taking action against financial crime, should it occur.

### **3.3 Working with others**

The Council will continue to encourage the exchange of information with other organisations, in compliance with the *Data Protection Act 2018*, in respect of financial crime activities. These bodies can include:

- The Police;
- National Audit Office and National Fraud Initiative (NFI)
- External Auditors;
- Chartered Institute of Public Finance and Accountancy (CIPFA);
- Financial Conduct Authority (FCA);
- Department of Works and Pensions (DWP);
- National Anti-Fraud Network;
- Society of District Council Treasurers;
- Lincolnshire Finance Officers Group
- Lincolnshire Fraud Partnership
- Other Local Authorities.

This collaboration provides a base for combating potential criminal activity of a fraudulent nature against this and other public sector organisations.

With regard to the NFI exercise and data matching techniques generally, the Council has adopted the Audit Commission's Code of Data Matching Practice. All staff on the Council's payroll have been advised of data matching exercises and their rights under Data Protection legislation. In addition, data matching 'warnings' are included on such stationery as Benefit Claim forms, etc.

## 2. ANTI-FRAUD & CORRUPTION POLICY

### 1. INTRODUCTION

**This policy forms part of each Council's approach to the Prevention of Financial Crime and should be read in conjunction with the whole Policy and supporting material.**

This policy is designed to cover risks associated with fraud, theft and corruption.

### 2. WHAT IS CLASSED AS FRAUD

1.1 These terms are defined below:

**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 (misuse) of assets or otherwise for gain'.

**Theft** – 'appropriating property belonging to another with the intention of permanently depriving the other of it'.

**Corruption** – 'the offering, giving, soliciting, or acceptance of an inducement or reward which may influence any person to act inappropriately'.

**Bribery** – 'the offering of money or other incentives to persuade somebody to do something dishonest or illegal' is also Fraud but is covered in more detail in our **Anti-Bribery Policy**

### 3. CULTURE OF DETERRENCE AND PREVENTION

The Council recognises that the success of the Anti-Fraud and Corruption Policy and its general credibility will depend largely on the effectiveness of training and awareness, and the responsiveness of staff and Members.

#### 3.1 Deterrence

As stated above the best deterrent is a clear framework of procedures and responsibilities, which make fraud and corruption hard to perpetrate and will be likely to disclose fraud and corruption at the earliest opportunity.

All successful prosecutions of fraud and corruption will be publicised, which should give a strong warning to any person contemplating acting dishonestly against the best interests of the Council.

All anti-fraud and corruption activities, including this Policy, will be made publicly available to make staff, Members and the public aware of both Councils' commitment to taking action on fraud and corruption, should it occur

### **3.2 Prevention**

The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees in terms of their propriety and integrity. In this regard, temporary and contract staff should be treated in the same manner as permanent staff.

The recruitment of employees should be in accordance with the Council's procedures and in particular the requirement to obtain written references regarding, amongst other things, the known honesty and integrity of potential staff before employment offers are confirmed.

Staff are expected to abide by any Code of Conduct issued by their professional institute or organisation and also the Council's Code of Conduct.

The Council supports the provision of appropriate induction and refresher training for staff and Members and in particular, those involved in internal systems to ensure that their responsibilities and duties in the prevention, detection and investigation of fraud and corruption are regularly highlighted and reinforced.

Members are encouraged to attend training on issues arising from this policy as appropriate.

Ongoing support, advice and guidance, for example on best practice development in preventing fraud and corruption, is provided by the Lincolnshire Fraud Partnership.

The Council will undertake and support campaigns against fraud and corruption and issue appropriate publicity in this respect.

The Executive Director of Resources as the responsible finance officer has a statutory responsibility under Regulation 4 of the Accounts and Audit Regulations 2015 and Section 151 of the Local Government Act 1972 to ensure the proper arrangements of the Council's financial affairs. Procedure notes have been developed which outline the system, procedures and responsibilities of staff in relation to the Councils' financial activities. There is also a requirement to maintain an adequate and effective system of Internal Audit.

The Council has developed and will continue to operate and update systems and procedures, which incorporate efficient and effective internal controls. This includes adequate separation of duties to ensure that error or impropriety is prevented. Managers are required to ensure that such controls, including those relating to IT systems are properly maintained and documented. The existence and appropriateness of the internal controls is independently monitored by the Internal Audit Team and by External Audit.

Employees who fail to comply with this policy and or wilfully or negligently ignore such training and guidance will face disciplinary action.

## **4. DETECTION, REPORTING SUSPICION AND INVESTIGATION**

### **4.1 Detection**

It is the responsibility of the Senior Leadership Team (SLT) to promote the prevention and detection of fraud and corruption. However, it is often the alertness of other staff and the public that enables detection and appropriate action when there is evidence that fraud or corruption may have been committed, or is in progress.

The array of preventative systems, particularly internal control systems within the Council, has been designed to provide indicators of any fraudulent activity, although generally they should be sufficient in themselves to deter fraud.

Despite the best efforts of managers and auditors, some frauds are discovered by chance or 'tip off' and the Council has arrangements in place to enable such information to be dealt with properly.

### **4.2 Reporting suspicions**

Staff are required by the Council's Financial Regulations and this Policy to report all suspected irregularities through the channels referred to within the **Whistleblowing Policy**.

Members of the public are encouraged to report genuine concerns through the formal complaints procedures or they can go to the Local Government Ombudsman or the Standards Board for England.

Benefit fraud should be reported via the National Benefit Fraud Hotline  
Tel: 0800 854 440

### **4.3 Investigation**

Investigations will be undertaken in accordance with the **Financial Crime Response Plan** as detailed at part 4 below.

Depending on the nature and anticipated extent of the allegation, the Internal Audit Team will work closely with management and other agencies such as the Police to ensure that all allegations are properly investigated and reported upon.

The External Auditor also has powers to independently investigate fraud and corruption and the Council may use their services for this purpose.

## **5. ACTION TAKEN ON FRAUD**

### **5.1 Prosecution**

The Council will treat any malpractice very seriously and will deal swiftly and firmly with those who are involved in fraudulent or corrupt acts.

Where it is found that irregularity has occurred, or is occurring, the appropriate senior officer will decide on the course of action to be taken. The Council's presumption is that, in normal circumstances, the Police will be involved. The Crown Prosecution Service determines whether a prosecution will be pursued.

The Council has adopted the principle of considering prosecution in all appropriate circumstances and this encompasses the public, elected Members and staff. It is designed to clarify and ensure consistency in the Council's action in specific cases and to deter others from committing offences against the Council.

## **5.2 Disciplinary Action**

The disciplinary procedures clearly set out the action that will be taken against staff who are involved in fraud and/or corruption. These disciplinary procedures will be used where the outcome of any investigation indicates improper behaviour whether or not it has been referred to the Police.

Members will face appropriate action under this Policy if they are found to have been involved in theft, fraud or corruption against the Council. If the matter is a breach of the Members' Code of Conduct then it will also be referred to the National Standards Board. The relevant Group Leader will also be informed.

In all cases, disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case. Disciplinary action, whether involving a member of staff or a Member, will be conducted in line with the Council's disciplinary policy maintained by the Human Resources service.

## **5.3 Sanctions & Redress**

Wherever possible the following actions will be taken where investigation supports suspicions of fraudulent or corrupt activity:

- Appropriate disciplinary action will be taken in accordance with the Disciplinary Policy;
- Criminal proceedings will be brought if appropriate;
- Civil proceedings will be brought to recover lost assets whenever appropriate.

Other forms of redress to cover losses, such as making a claim against insurance cover, or preventing further fraudulent activity by the perpetrator, such as notifying their professional body, will also be used wherever appropriate.

Sanctions applied in relation to cases of Housing and Council Tax Benefit fraud will be applied in accordance with agreed procedures. Options include formal cautions, administrative penalties and prosecution.

Any systems failures found as a result of a fraud investigation will be reported to the appropriate manager and action agreed to prevent reoccurrence.

## **6. WORKING WITH OTHERS**

Arrangements are in place and continue to develop to encourage the exchange of information with other local authorities and agencies on national and local fraud and corruption activity. Those involved in such arrangements include:

- Police;
- Lincolnshire Fraud Partnership;
- National Audit Office (NFI exercise);
- Professional bodies – including the Chartered Institute of Public Finance & Accountancy (CIPFA) and the Institute of Revenues Rating & Valuation (IRRV);
- Central government including the Department of Work and Pensions and HM Revenues and Customs;
- Ombudsman Office;
- Home Office;
- National Anti-Fraud Network;
- National Fraud Authority;
- External Audit.

These arrangements provide a valuable means of combating potential fraud. On a national scale such collaboration has been successful in identifying and reducing the risk of external fraud, particularly in the area of Housing Benefits through computer data matching techniques.

## **2. ANTI-BRIBERY POLICY**

**This policy forms part of the Council's approach to the Prevention of Financial Crime and should be read in conjunction with the whole Policy and supporting material.**

### **1. INTRODUCTION**

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we, or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We aim to maintain anti-bribery compliance "business as usual", rather than as a one-off exercise.

### **2. PURPOSE**

The purpose of this policy is to ensure that all staff and Members are aware of:

- What bribery is;
- The legislative changes;
- Their responsibilities;
- The consequences of non-compliance with this policy.

### **3. WHAT IS CLASSED AS BRIBERY**

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

### **4. THE BRIBERY ACT 2010**

There are four key offences under the Act:

- Bribery of another person;
- Accepting a bribe;
- Bribing a foreign official;
- Failing to prevent bribery

The Bribery Act 2010 makes it an offence to offer, promise or give a bribe. It also makes it an offence to request, agree to receive, or accept a bribe. There is also a separate offence of bribing a foreign official with the intention of obtaining or retaining business or an advantage in the conduct of business.

The Act also states that it is a corporate offence to fail to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of

business. This is what is known as a 'strict liability' offence. This means that there is no need to prove negligence or management complicity. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

## **5. OUR RESPONSIBILITIES**

All staff, Members and associated persons must:

- ensure that they read, understand and comply with this policy;
- raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

### **5.1 Bribery is not tolerated**

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy;
- engage in activity in breach of this policy.

### **5.2 Facilitation payments**

Facilitation payments (minor amounts paid to public officials to expedite routine business activities) are not tolerated and are illegal.

### **5.3 Gifts and hospitality**

The Council's policy regarding the requirements for gifts and hospitality is set out within the Code of Conduct Policy for Members and Employees. Hospitality is not prohibited by the Act.

### **5.4 Public contracts and failure to prevent bribery**

Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. Local Authority have the discretion to exclude organisations convicted of this offence.

## **6. CONSEQUENCES OF NON-COMPLIANCE**

An individual guilty of a bribery offence may be liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5,000 or to both.
- On conviction in a crown court, to imprisonment for a maximum term of 10 years, or to an unlimited fine, or both.

The Council, if convicted, could be liable to the same level of fines and, if guilty, is liable to an unlimited fine.

## **7. REPORTING BRIBERY**

Please report any suspicions of bribery through the Council's **Whistleblowing Policy** see link below;

<https://www.west-lindsey.gov.uk/my-council/have-your-say/whistleblowing/>

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

If you have any questions about these procedures, please contact Tracey Bircumshaw (Strategic Finance and Business Support Manager, Email: [tracey.bircumshaw@west-lindsey.gov.uk](mailto:tracey.bircumshaw@west-lindsey.gov.uk) Tel: 01427 676560).

## **4. FINANCIAL CRIME RESPONSE PLAN (Investigating suspicions)**

**This plan forms part of the Council's approach to the Prevention of Financial Crime and should be read in conjunction with the whole Policy and supporting material.**

### **1. INTRODUCTION**

The Council is committed to protecting the public funds with which we have been entrusted. Minimising the losses to Financial Crime is an essential part of ensuring that all of the Councils' resources are used for the purpose for which they are intended, namely the provision of high quality services to the citizens of West Lindsey District Council.

This plan shows how the Councils will respond following the reporting of a suspected financial crime and follows on from the Whistleblowing Policy.

### **2. PURPOSE**

This response plan is applicable to any suspected act of financial impropriety. This includes any act that puts the Council's resources at risk.

The Financial Crime Response Plan aims to:

- Prevent losses of funds or other assets where Financial Crime has occurred and to maximise recovery of losses;
- Identify the perpetrator and maximise the success of any disciplinary or legal action taken;
- Reduce adverse impacts on the business of the Council;
- Minimise the occurrence of Financial Crime by taking prompt action at the first sign of a problem;
- Minimise any adverse publicity for the organisation suffered as a result of Financial Crime; and
- Identify any lessons which can be acted upon in managing Financial Crime in the future.

### **3. REPORTING SUSPICIONS (see the Whistleblowing Policy)**

Should Financial Crime be suspected then the matter should be reported without delay. The procedure outlined in the Whistleblowing Policy should be followed.

If in doubt, Public Concern At Work ([www.pcaw.co.uk](http://www.pcaw.co.uk)) will give free and independent advice on how to proceed. Contact [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk) or telephone 020 7404 6609.

If it is found that the allegation has been made frivolously, in bad faith, maliciously, or for personal gain, then disciplinary action may be taken against the person who made the allegation.

## **4. INVESTIGATION**

### **4.1 Managers & Supervisors:**

As soon as an officer reports fraud or corruption, the manager or supervisor should, in all instances, seek advice from The Strategic Finance and Business Support Manager.

The Manager should:

- Obtain a written record of the concerns from the person making the allegations, or in cases where they have discovered the potential fraud, prepare a written report themselves. This should include:
  - Background details and the nature of the suspicions (including relevant dates, names and locations).
  - Details of the job and areas of responsibility of the individuals implicated.
  - Why the person raising the matter is concerned.
  - Action taken to date.
  - A description of the systems, controls and procedures that should be operating within the area subject to abuse.
- Contact the Strategic Finance and Business Support Manager as soon as possible to discuss the seriousness and factual basis of the allegations and the next steps to be taken.
- Take care at this stage to ensure that the suspect/s are not alerted to the potential investigation and the confidentiality of informants is not compromised.
- Under no circumstances take any action to investigate the allegations themselves, or allow employees to do so, without sanction or guidance from Internal Audit. This includes interviewing, or observation, of suspects in connection with the suspected act. This is to ensure that evidence is collected in a way that complies with relevant legislation and does not compromise the investigation and / or subsequent disciplinary procedures / prosecutions.

### **4.2 Internal Audit:**

Once an allegation has been made and an investigation deemed necessary it is likely that Internal Audit will either conduct the investigation or be involved in some way.

Internal Audit will take appropriate advice from HR and, where relevant, the Police, during the course of the investigation.

The purpose of the audit investigation is to establish the facts in an equitable and objective manner. The process will involve the use of authority or delegated powers to:

- Screen allegations, or information, to gauge their credibility;
- Secure all evidence;
- Interview suspects;
- Take statements;
- Liaise with departments, or other agencies (including the Police).

Internal Audit will maintain detailed and accurate records of all investigative actions taken.

Where evidence of offences or irregularities is found, the Council will take suitable further action. The investigating officer will compile a report of their findings for submission to the department concerned detailing their recommendations regarding disciplinary action or referring to the Police.

Where an irregularity results in a loss exceeding £10,000 a declaration must be made to the External Auditor. This will be done by the Strategic Manager Finance and Business Support.

## **5. ESTABLISHING AND SECURING EVIDENCE**

In order to initiate disciplinary/criminal proceedings against a suspect of financial misconduct it is essential that evidence be secured in a legally admissible form, without alerting suspects at the outset of the investigation.

As such, managers and staff should not attempt to collect any form of evidence (e.g. records, statements or surveillance) without sanction from Internal Audit, who will be responsible for co-ordinating the collection of evidence as part of any internal investigations. Any IT equipment that may hold evidence should be secured without being accessed by anyone.

Staff collecting evidence (whether audit staff or otherwise) should ensure it is stored securely at all times and it is not tampered with, that no marks are made on original documents and a record is kept of anyone handling evidence. The Data Protection Act should be complied with at all times.

Staff responsible for interviewing suspect/s should be trained in the requirements of the Police and Criminal Evidence Act 1984. Failure to comply with PACE requirements in interviews will mean that nothing said by the suspect will be admissible in a court of law.

Staff responsible for commissioning and carrying out surveillance of suspects should do so in accordance with the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA). Failure to comply with RIPA will make all surveillance evidence inadmissible in court and may leave the Council liable to court action. The Councils' Monitoring Officer can provide advice on the requirements of RIPA.

## **6. POLICE REFERRAL PROCEDURE**

The decision to refer a matter to the Police will only be taken by the Strategic Finance and Business Support Manager following consultation with senior

management. In such cases the Strategic Finance and Business Support Manager will instigate contact with the Police.

The Strategic Finance and Business Support Manager will handle all requests from the Police for additional evidence, statements or any other form of assistance.

## **7. PREVENTION OF FURTHER LOSSES**

When suspected fraud is reported, the Strategic Finance and Business Support Manager will liaise with the Executive Directors and HR to determine the most appropriate course of action to prevent any further losses to the Authority being incurred.

This may require the suspension of the suspected individual/s concerned. The normal circumstances for suspension would be:

- If the continued employment of the individual/s could lead to further losses.
- If the continued employment of the individual/s could jeopardise the investigation (where individuals could remove or destroy evidence).
- If the Police have charged the officer with a criminal offence relating to the Council.

All suspensions will be carried out in line with the Standards of Conduct and Disciplinary Procedure. Suspension does not constitute disciplinary action. Any security passes and keys to Council property must be obtained from the suspect/s along with any other Council items such as laptops, and returned to the appropriate officer or kept securely pending investigation. The appropriate Systems Administrators should be contacted to disable access to all relevant IT systems.

To prevent further losses and where it will not prejudice any subsequent investigation, management should liaise with Internal Audit to remedy any identified control weaknesses that have permitted the act of financial impropriety to be undertaken.

## **8. RECOVERY OF LOSSES**

Managers should seek to recover any losses incurred through acts of financial impropriety from the offenders concerned. Management should consult the Legal Service to establish options available to recover losses.

Where substantial potential losses have been identified at the outset of an investigation, management should seek legal advice immediately regarding the need to freeze the suspect's assets through the Court, pending conclusion of the investigation.

The Council will also take civil action (as appropriate) to recover the loss.

Where an employee is a member of the Pension scheme and is convicted of fraud, the Council may be able to recover the loss from the capital value of the individual's accrued benefits in the scheme, which are then reduced as advised by the actuary.

### **9. PUBLICITY AND DEALING WITH THE MEDIA (in Connection with Suspected or Proven Fraud)**

Any public statements regarding pending, current or completed investigations or allegations of financial impropriety should only be made through the Communications Team.

Staff, Members and third parties of the Council must not make any public statement regarding suspected financial impropriety in order to avoid making libellous statements, or statements that may prejudice investigations, or any subsequent disciplinary/legal action. All such statements will be coordinated by the Communications Team. If contacted by the public or press, staff (including Members and third parties) should refer those making the enquiry to the Communications Team.

The Communications Team should optimise the publicity opportunities available to make the public aware of each Council's commitment to taking action on acts of financial impropriety. As such any action taken relating to acts of financial impropriety should be reported in the press, as a deterrent to other potential offenders.

## APPENDIX B

### PREVENTION OF FINANCIAL CRIME - ROLES & RESPONSIBILITIES

#### Specific Responsibilities to promote a Prevention of Financial Crime Culture

The Council recognises that a sound anti-financial crime culture is essential if a strong control framework is to be adhered to. A number of people and bodies play a part in developing an effective culture and these are listed here for clarification;

| Role / Body                             | Responsibility   |
|---|--|
| Council Members and Executive Directors | To support and promote an anti-fraud culture. Collectively the Council, with the Executive Directors, are ultimately accountable for the effectiveness of the Councils' arrangements for preventing, detecting and investigating fraud and corruption.   |
| Members                                 | <p>As elected representatives, all Members of the Council have a duty to protect public money from any acts of fraud or corruption.</p> <p>This is achieved through Members operating within:</p> <ul style="list-style-type: none"> <li>• The Council's Constitution;</li> <li>• the Council's Standing Orders;</li> <li>• The Code of Conduct for Members;</li> <li>• Local Authorities (Members Interests) Regulations 1992;</li> <li>• the National Code of Local Government Conduct and any future legislation or codes of conduct;</li> <li>• The requirement to complete an annual Declaration of Related Party Transactions.</li> <li>• the Prevention of Financial Crime Policy;</li> </ul> <p>The Constitution makes specific reference to some of these elements and also includes the declaration and registration of Members' interests in accordance with approved Council policy. Circumstances surrounding conflicts of interest, whether personal or financial, are also addressed.</p> |

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|                     | <p>Members are required to disclose to the Monitoring Officer details of any outside interests that they or their relatives have which may result in a conflict of interest and should remove themselves from involvement in matters in which they have a prejudicial interest (except to the extent that may be permitted by the Code of Conduct).</p> <p>Accounting Codes of Practice require Members and Senior Management to formally disclose payments from the Council(s) received by “related parties”. These declarations form part of the Statement of Accounts and are subject to external audit each year.</p> <p>Members must register the receipt of gifts and hospitality valued at £25 or more in the Register of Gifts and Hospitality.</p> <p>The Council’s Governance and Audit Committee is responsible for promoting and maintaining high standards of conduct by members and co-opted members.</p> |
| Executive Directors | <p>To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to one of the officers named in the Whistleblowing Policy.</p> <p>Responsible for the communication and implementation of this Policy within their service area. They are responsible for ensuring that their employees are aware of the Council’s Human Resources policies and procedures, the Council’s Financial Regulations and Codes of Conduct and that the requirements of each are being met in their everyday service activities. In addition, Management must make their staff aware of the requirements of the National Code of Conduct for Local Government Employees through the induction process.</p> <p>Managers are expected to create an environment in which staff feel able to approach them with any concerns they may have about suspected irregularities.</p>                    |

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|                     | <p>Where they are unsure of the procedures they should refer to the Council's documented Whistleblowing Policy.</p> <p>A key preventative measure in tackling fraud and corruption is for Management to take effective steps during recruitment to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff.</p> <p>The Councils' formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history, however it is also appropriate to request that a Disclosure and Barring Service (DBS) check is undertaken for all employees especially those working with, or who may have contact with, children or vulnerable adults, or financial systems.</p> <p>To ensure that there are mechanisms in place within their service areas to assess risk of fraud, corruption and theft and to reduce these risks by implementing strong internal controls.</p> |
| Section 151 Officer | <p>The Executive Director Resources is delegated as having the statutory responsibility under section 151 of the Local Government Act 1972 to "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility for the administration of those affairs". Proper administration is interpreted as encompassing all aspects of local authority financial management. Under these statutory responsibilities the Strategic Finance and Business Support Manager contributes to the anti-financial crime framework of the Council.</p>   |

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| Monitoring Officer                             | <p>To advise Members and Officers on ethical issues, probity and standards to ensure that the council operates within the law and statutory codes of conduct.</p> <p>Maintains the Register of Members' Interests and advises Members of new legislative or procedural requirements</p>   |
| Strategic Finance and Business Support Manager | <p>To advise on financial standards to be adopted by the Council. To ensure that financial systems incorporate strong measures to reduce the risk of fraud / identify possible irregularities.</p> <p>To be responsible for developing and implementing the Prevention of Financial Crime Policy and investigating any issues reported under this Policy.</p> <p>To ensure that all suspected or reported irregularities are dealt with professionally and that action is identified to improve controls and reduce the risk of reoccurrence.</p> <p>To provide assurance that financial crime risks are being managed and to provide advice on managing fraud risk and design of controls.</p>                 |
| All employees                                  | <p>At all times to comply with Council policies and procedures.</p> <p>To be aware of the possibility of all aspects of Financial Crime including fraud, corruption and theft, and to report any genuine concerns to management and Internal Audit. If for any reason, they feel unable to speak to their manager they must refer the matter to one of those named under the Whistleblowing section of this Policy.</p> <p>The Code of Conduct for Employees requires that officers are aware of their statutory requirements under section 117 of the <i>Local Government Act 1972</i> regarding declaration of pecuniary and non-pecuniary interests. Declarations can be made to the Monitoring Officer.</p> |

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|   | <p>Disclose to their line manager any outside interests they or their relatives have which may result as a conflict of interest in respect of transactions and dealings with the councils, and these will be recorded in the appropriate registers.</p> <p>Ensure that they avoid situations where there is a potential for a conflict of interest and they must ensure that there is an effective role separation for decisions made so that they are seen as being based upon impartial and objective advice.</p> <p>Gifts and hospitality should only be accepted in accordance with the Council's guidelines within the Code of Conduct for employees and Members.</p> <p>Be made aware of and be expected to adhere to any internal control system designed to prevent and detect fraud and corruption. All employees are required to bring any concerns they have on the adequacy of control measures to the attention of their line manager and the Corporate Manager for Internal Audit.</p> |
| <p>Money Laundering Reporting Officer<br/>(Executive Director of Resources)</p> | <p>To be responsible for anti-money laundering measures within the organisation, assessment of any suspected cases of money laundering, and if appropriate, reporting of such cases to the National Crime Agency (NCA).</p>  |
| <p>Internal Audit</p>   | <p>Plays a vital preventative role in working to ensure that adequate key controls are implemented to prevent and detect financial crime, fraud and corruption. The service recommends changes in key controls and procedures with the aim of reducing the risk of losses to the Councils, and works with management in ensuring that these are implemented. The service will investigate all cases of suspected financial irregularity, fraud or corruption, except benefit fraud investigations, which is dealt by the Single Fraud and Investigation Services (operated by the DWP).</p>  |

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|   | <p>Internal Audit staff have rights of access to all of the Council's records, information and assets which it considers necessary to fulfil its responsibilities.</p>  |
| <p>The public, partners, suppliers, contractors and consultants</p> | <p>This Policy, although primarily aimed at Members and staff of the Council, enables any genuine concerns / suspicions raised by any party of the possibility of fraud and corruption against the Council to be investigated, as appropriate, by the relevant parties in a proper manner.</p> <p>Contracts and Grant/Loan agreements contain relevant clauses to mitigate fraud, corruption, bribery and money laundering.</p>   |
| <p>Governance and Audit Committee</p>                               | <p>To monitor compliance with the Council's policies and consider the effectiveness of the Council's anti-fraud arrangements. Promoting and maintaining high standards of conduct by Members in accordance</p>  |
| <p>External Audit</p>   | <p>Independent external audit is an essential safeguard of the stewardship of public money, carried out by the external auditors through specific reviews designed to test (amongst other things) the adequacy of the Councils' financial systems and arrangements for preventing and detecting financial crime, fraud and corruption and designed to limit the opportunity for corrupt practices.</p> <p>It is not the External Auditors' role to prevent fraud and irregularities, but they will act without undue delay if grounds for suspicion of fraud and irregularity come to their notice.</p> <p>Investigations carried out by the External Auditors will be in accordance with their own established procedures.</p> |