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ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY AND STRATEGY

APRIL 2020

ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY STATEMENT

- The Council will not tolerate any form of fraud, bribery or corruption from within the Council, from external organisations, or from individuals.
- The Council is committed to the prevention, deterrence, detection and investigation of all forms of Fraud, Bribery and Corruption, at all levels of its activity, and in the wider community.
- The Council will seek to prosecute or apply other appropriate sanctions to perpetrators of Fraud, Bribery and Corruption and to fully recover any losses.

Types of actions covered by this policy.

1 FRAUD

- 1.1 The Fraud Act 2006 defines three types of action which could each constitute fraud. The important point here is that it is the “intent” by a person to make a gain for themselves or another or cause another to make a loss or be exposed to the risk of a loss. Whether a person is successful or not in their outcome is not important, for an offence to have been committed.
- i. Fraud by false representation is committed when a person:
 - a) makes a false representation either expressly or implied dishonestly i.e. by lying;
 - b) knows that the representation is or might be untrue or misleading;
 - c) intends by that representation to make a gain for themselves or another or cause loss to another or expose another to a risk of loss.
 - ii. Fraud by failing to disclose information is committed when a person:
 - a) dishonestly fails to disclose information to another person which they are under a legal duty to disclose;
 - b) intends by that failure to make a gain for themselves or another or cause loss to another or expose another to a risk of loss.
 - iii. Fraud by abuse of position is committed when a person:
 - a) occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person;
 - b) dishonestly abuses that position;
 - c) intends by that abuse to make a gain for themselves or another or cause loss to another or expose another to a risk of loss.
- 1.2 A person may be regarded as having abused their position even though their conduct consisted of an omission rather than an act.

2 BRIBERY

- 2.1 Bribery is defined as “the offering, giving, receiving, or soliciting of any item of value to influence the actions of an official or other person in charge of a public or legal duty.”

3 CORRUPTION

- 3.1 Corruption arises when a person receives any benefit which influences them and causes them to act differently when conducting Council business.
- 3.2 As can be seen from the definitions above, an act or acts by an individual could comprise a combination of fraud, bribery and corruption.

4 ANTI-FRAUD, BRIBERY AND CORRUPTION STRATEGY – INTRODUCTION

4.1 The Council is committed to operating an effective Anti-Fraud, Bribery and Corruption Strategy designed to:

- prevent fraud, bribery and corruption;
- pro-actively detect fraud, bribery and corruption;
- undertake relevant investigations where appropriate;
- prosecute and recover any losses where appropriate.

4.2 The Council has high expectations of propriety and accountability from Members, employees, contractors and service users and in particular that they will all adhere to legal requirements, rules, procedures and practices.

4.3 The Council also expects that individuals and organisations (e.g. suppliers, contractors, and service providers) will always act with integrity towards the Council.

4.4 This strategy is based on a series of comprehensive interrelated procedures designed to prevent or detect attempted fraudulent or corrupt acts. These cover:-

- Culture
- Prevention
- Detection and Investigation
- Training.

4.5 The Council is aware of the need for accountability and good stewardship which are enshrined in statute and regulation. For example:

- There is an Audit Committee of elected Members which oversees corporate governance, risk management, *anti-fraud and corruption* and considers reports by Internal and External Audit;
- The Council must appoint a Section 151 Officer who has a personal responsibility for sound financial systems;
- The Council is required to ensure that an adequate and effective Internal Audit exists within the organisation;
- External Auditors scrutinise the Council's business and accounts;
- Procedures exist for the public to inspect the Council's accounts and to question the External Auditors;
- The Council is required to appoint a Monitoring Officer to monitor the lawfulness and fairness of decision-making;
- Decisions are made in public meetings, save for limited prescribed circumstances where the need for confidentiality is paramount;
- Members of the public can request the Local Government Ombudsman to investigate cases of alleged maladministration;

4.6 There is also a high degree of external scrutiny of its affairs by a variety of bodies including:-

- The External Auditor;
- The Public/Service Users (through the Council's Complaints Procedures and Freedom of Information requests);
- Central Government Departments;
- HM Revenue and Customs.

4.7 The Deputy Chief Executive (Finance and Legal) is the Section 151 officer for the Council as defined by the Local Government Act 1972. He has an overriding and statutory responsibility to ensure that there are adequate and effective financial procedures in place.

4.8 The External Auditor has a statutory duty to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud and corruption.

5 POLICY FRAMEWORK FOR PREVENTING FRAUD, BRIBERY AND CORRUPTION

5.1 The Audit Committee monitors the effectiveness of anti-fraud, bribery and corruption arrangements throughout the Council. This Committee will therefore consider, on an annual basis a report from the Internal Audit Manager about both the Policy Framework, the Plan for Anti-Fraud activity and level of fraud detected within the Council. This Committee will approve any changes to the Policy Framework.

5.2 The key policies comprising this Policy Framework are:-

(i) **Anti-Fraud, Bribery and Corruption Policy and Strategy**

This document sets out the Strategy of the Council to prevent loss due to fraud, bribery and corruption. It sets out the intention of the Council to be both pro-active in detecting suspected instances of fraud and then dealing with known instances of loss.

(ii) **Whistle blowing Policy**

Whistle blowing remains the most common way that fraud, bribery and corruption are detected in organisations such as the Council. Members, staff, the public and contractors (and their staff) are able to raise allegations in a confidential manner.

(iii) **Anti-Money Laundering Policy**

This Policy defines that the Internal Audit Manager is the Money Laundering Reporting Officer for the Council and explains how any allegations of such practice will be dealt with.

6 KEY OFFICERS AND CORPORATE GROUPS

6.1 There are a number of officers and Corporate Groups which have a key role in protecting the Council from fraud / loss. These include:

- the Chief Executive Board who are responsible for management of the risk of fraud, fraud prevention and detection;
- the Deputy Chief Executive (Finance and Legal), as the Section 151 officer, has a specific responsibility to ensure adequate and effective anti-fraud/loss arrangements are in place;
- the Internal Audit Manager chairs the Anti-Fraud Group (which will develop the Anti-fraud, Bribery and Corruption Policy and Strategy of the Council), and is the Money Laundering Reporting Officer as well as the investigating officer for any issues reported under the Whistle Blowing Policy;

7 CULTURE

7.1 The employees of the Council play a critical part in preventing fraud, bribery and corruption and they are positively encouraged to raise any concerns that they may have. Employees concerns will be treated in confidence, be properly investigated and dealt with fairly. The process for raising concerns is as per the Council's Whistle blowing Policy:

- With the line manager;
- The Chief Executive;
- The Deputy Chief Executive (Finance and Legal);
- The Monitoring Officer;
- The Internal Audit Manager either in person, on 01727 - 819332 or by e-mail at sally-anne.pearcey@stalbans.gov.uk.

7.2 The Council has a Whistle Blowing Policy in accordance with the Public Interest Disclosure Act. Copies of the Policy are available on request from the Internal Audit Manager or from the Council's website.

7.3 If someone becomes aware of an incidence of fraud or corruption they **should not**:

- Do nothing;
- Be afraid of raising concerns;
- Approach or accuse individuals directly;
- Try to investigate the matter;
- Raise suspicions to anyone other than those charged with the proper authority.

7.4 Where any officer becomes aware of an incidence of fraud or corruption they **should**

- Make an immediate note of the concerns;
- Promptly discuss suspicions with the Internal Audit Manager.

8 PREVENTION

- 8.1 The Council will deal robustly with malpractice involving public funds. The Council will deal swiftly and firmly with those who defraud it. In relation to complaints involving Members, the Internal Audit Manager will consult the Monitoring Officer on whether or not the complaint falls within the scope of the Members Code of Conduct and if so, what further steps (if any) should be taken.
- 8.2 Members are expected to observe the highest standards of conduct. In particular, Members are required to give a written undertaking to observe the Members Code of Conduct, to declare interests that might conflict with their role and are required to operate within:
- The Council's Local Code of Conduct;
 - The Council's Constitution;
 - Sections 29-34 of the Localism Act 2011;
 - Local Authorities Member's Interest Regulations 1992 (as amended by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012).
- 8.3 These matters and other guidance are specifically brought to the attention of Members.
- 8.4 From time to time, Members may be contacted by local people concerning suspicions of fraud, bribery and corruption relating to the Council's business. In such circumstances they should pass full details of the concern to the Internal Audit Manager, who will ensure that the matter is appropriately dealt with.
- 8.5 Employees - the Council recognises that a key preventative measure in the fight against fraud, bribery 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 employees should be treated in the same manner as permanent employees.
- 8.6 As part of the appraisal process, all Council employees are required to annually sign a declaration of interests form. Staff are required to bring to the attention of their manager any interest which may impinge on the impartiality of their work.
- 8.7 Employee recruitment is in accordance with the *Recruitment and Selection Policy and Procedure* ~~procedures laid down by the Head of Human Resources, Customer Services and IT.~~ In particular written references will be obtained regarding honesty and integrity of potential employees before employment offers are confirmed.
- 8.8 Independent confirmation of professional qualifications will be obtained before offers of employment are confirmed. When recruiting for posts which involve work with or unsupervised access to children or vulnerable adults the screening process must include assessment and checks by the Disclosure and Barring Service.
- 8.9 Employees are then expected to abide by the Code of Conduct which sets out the Council's requirement on personal conduct. Employees are also expected to follow any Code of Conduct related to their personal professional institute.

- 8.10 The role that employees are expected to undertake in the Council's framework of internal control will feature in the employee induction procedures.
- 8.11 The Council has in place a Constitution containing Financial, Contract and Property Procedure Rules that provide a framework of control. Employees must operate within these Rules.
- 8.12 The Council maintains a register of interests for all staff and Members and there is an expectation that all relevant interests will be declared.
- 8.13 Cases involving staff may lead to disciplinary action, and potentially result in dismissal and referral to the Police for further action where appropriate.
- 8.14 Contractors - the Council expects the highest standards of conduct from all its contractors and the staff they employ. The Whistle Blowing Policy includes all contractor's staff and present procedures are being reviewed with contractors for detecting fraud in the procurement process.
- 8.15 Cases involving suppliers, customers or partners will usually be referred to the Police or the organisation's external auditors.
- 8.16 Arrangements are in place, and continue to be developed, to encourage the exchange of information between the Council and other public agencies on national and local fraud, bribery and corruption activity. Exchange of information is in accordance with the General Data Protection Regulations 2018.
- 8.17 These public agencies include:-
- The Police;
 - The National Investigation Service
 - The External Auditor;
 - Local, Regional and National Auditor Networks;
 - The National Anti-Fraud Network;
 - The Department of Works and Pensions (DWP);
 - Local Borough / District Councils / The County Council

9 DETECTION AND INVESTIGATION

- 9.1 The array of preventative systems, particularly internal controls systems within the Council, has been designed to provide indicators of fraudulent activity although generally they should be sufficient in themselves to deter fraud.
- 9.2 It is the responsibility of all staff to prevent and detect fraud, bribery and corruption. It is often the alertness of employees and members of the public to such indicators that enables detection and the appropriate action to take place when there is evidence that fraud, bribery or corruption may be in progress.
- 9.3 Despite the best efforts of managers and auditors many frauds are discovered by chance or anonymous information and the Council has in place arrangements to enable such information to be properly dealt with.

- 9.4 It is a requirement of this Strategy that all suspected irregularities are reported to the Internal Audit Manager. Reporting is essential and:-
- ensures the consistent treatment of information regarding fraud and corruption;
 - facilitates proper investigation by an experienced Internal Audit department;
 - ensures the proper implementation of a fraud response investigation plan.
- 9.5 Depending on the nature and anticipated extent of the allegations, Internal Audit normally works closely with management and other agencies such as the Police to ensure that all allegations and evidence are properly investigated and reported upon.
- 9.6 The Council's Disciplinary Procedures will be used where the outcome of the investigation indicates improper behavior by a member of staff.
- 9.7 When there is evidence that a criminal offence may have occurred, the Council's policy is that the Police will be called. However this will not delay the matter being dealt with on an internal basis. Referral to the Police is a matter for the Internal Audit Manager following consultation with the Chief Executive.
- 9.8 The External Auditor also has powers to independently investigate fraud, bribery and corruption and the Council can use their services for this purpose, if considered appropriate.

10 TRAINING

- 10.1 The Council recognises that training is an effective method of preventing fraud and loss. Consequently training courses will be provided to key staff to highlight the risks in this area. There are plans in place to continue to provide these courses on a regular basis for staff and Members.

11 SUMMARY

- 11.1 The Council has in place a clearly defined network of systems and procedures to assist in combating fraud, bribery and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operational activities.
- 11.2 The Council maintains a continuous overview of such arrangements in particular, through the Anti-Fraud Group, the Financial Procedure Rules and Internal Audit.
- 11.3 This Strategy will be subject to review annually to ensure its currency.

Appendix A

Examples of Fraud Indicators

The following are examples of risk factors that may, either alone or together with other factors, suggest the possibility of fraud and may therefore warrant investigation.

- **Unusual employee behaviour** such as refusal to comply with normal rules and practices, failure to take leave, refusing promotion, managers by-passing subordinates, subordinates by-passing manager, living beyond means, job dissatisfaction / unhappy employee, secretiveness or undue defensiveness.
- **Financial irregularities** such as key documents missing (e.g. invoices, contracts,); absence of controls and audit trails; missing expenditure vouchers or other official records; bank and ledger reconciliations not maintained or cannot be balanced; excessive movements of cash or transactions between accounts; numerous adjustments or exceptions; constant overdue pay or expense advances; duplicate payments; large payments to individuals; excessive variations to budgets or contracts.
- **Bad procurement practice** too close a relationship with suppliers/contractors; suppliers/contractors who insist on dealing with only one particular member of staff; unjustified disqualification of any bidder; lowest tenders or quotes passed over with minimal explanation recorded; defining needs in ways that can be met only by specific contractors; single vendors; vague specifications; splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval.
- **Disorganisation** for example: chronic understaffing in key areas, consistent failures to correct major weaknesses in internal control, inadequate or no segregation of duties.
- **Inadequate supervision**, policies not being followed, lack of senior management oversight, inadequate monitoring to ensure that controls work as intended, low staff morale, weak or inconsistent management.
- **Lax corporate culture**, management frequently override internal control, climate of fear or a corporate culture, employees under stress without excessive workloads, new employees resigning quickly, crisis management coupled with a pressured business environment, high employee turnover rates in key controlling functions.
- **Poor work practices**, such as lack of common sense controls, work is left until the employee returns from leave, post office boxes as shipping addresses, documentation that is photocopied or lacking essential information, lack of rotation of duties, unauthorised changes to systems or work practices.

This is not an exhaustive list and all employees should be conscious of the risk of fraud, bribery and corruption in their day to day work.