

Borough Council of  
**King's Lynn &  
West Norfolk**



# **RESOURCES AND PERFORMANCE – AUDIT AND RISK COMMITTEE**

**Tuesday 29 April 2014**

**5.30 pm**

Committee Suite  
King's Court  
Chapel Street  
King's Lynn  
Norfolk PE30 1EX



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Borough Council of  
**King's Lynn &  
West Norfolk**



King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX.  
Telephone: 01553 616200  
Fax: 01553 691663

17 April 2014

Dear Member

**Resources and Performance – Audit and Risk Committee**

You are invited to attend a meeting of the above-mentioned Committee which will be held on **Tuesday 29 April 2014**, at **5.30 pm** in the **Committee Suite, King's Court, Chapel Street, King's Lynn, Norfolk** to discuss the business shown below.

Yours sincerely

Chief Executive

**A G E N D A**

**1. Apologies for absence**

To receive any apologies for absence.

**2. Minutes**

To approve the minutes of the Resources and Performance – Audit and Risk Committee meeting held on 25 March 2014 (previously circulated).

**3. Declarations of Interest**

Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the Member should withdraw from the room whilst the matter is discussed.

These declarations apply to all Members present, whether the Member is part of the meeting, attending to speak as a local Member on an item or simply observing the meeting from the public seating area.

4. **Urgent Business Under Standing Order 7**

To consider any business which, by reason of special circumstances, the Chairman proposes to accept as urgent under Section 100(b)(4)(b) of the Local Government Act 1972.

5. **Members Present Pursuant to Standing Order 34**

Members wishing to speak pursuant to Standing Order 34 should inform the Chairman of their intention to do so and on what items they wish to be heard before the meeting commences. Any Member attending the meeting under Standing Order 34 will only be permitted to speak on those items which have been previously notified to the Chairman.

6. **Chairman's Correspondence** (if any)

7. **Matters referred to the Committee from other Council Bodies and responses made to previous Committee recommendations/requests**

To receive comments and recommendations from other Council bodies, and any responses subsequent to recommendations, which this Panel has previously made. (N.B. some of the relevant Council bodies may meet after dispatch of the agenda).

8. **Briefing on Fraud by the Audit Manager**

All Members are invited to attend for this item.

9. **Single Fraud Investigation Service Update** (pages 1 to 12)

The Committee is invited to agree in principle that the Council would need to retain an investigative resource post-SFIS and that the approach take is the most appropriate.

10. **Cabinet Report: Anti-Fraud and Anti-Corruption Strategy, Whistleblowing Policy and the Fraud Response Plan** (pages 13 to 58)

Members are invited to note the report.

11. **Audit and Risk Committee Work Programme** (pages 59 to 60)

Committee Members are invited to consider the attached Audit and Risk Committee's Work Programme.

12. **Date of Next Meeting**

To note that the next meeting of the Resources and Performance - Audit and Risk Committee will take place on **Tuesday 27 May 2014**.

**To: Panel Members** – Councillors P Beal (Chairman),  
C Manning (Vice-Chairman), D J Collis, J Collop, P Cousins,  
I Gourlay, M Hopkins, H Humphrey, M Langwade, A Morrison,  
D Tyler, G Wareham, T de Winton, A Wright and Mrs S Young

**Portfolio Holders:**

Item 8, 9 & 10 – Councillor Daubney – Leader of the Council and Portfolio Holder for Resources

**Appropriate Officer:** The following officer is invited to attend in respect of the Agenda items:

Item 8, 9 & 10 – Kate Littlewood, Audit Manager

**Chief Executive**

**Deputy Chief Executive and Executive Director, Finance and Resources**

**All other Executive Directors**

**Press**

**AUDIT AND RISK COMMITTEE REPORT**

<b>TYPE OF REPORT:</b> Audit	<b>Portfolio:</b>
<b>Author Name:</b> Kate Littlewood	<b>CONSULTATIONS:</b> Executive Director, Resources Management Team Revenues and Benefits Manager Personnel Services Manager Investigations Unit
<b>Tel.:</b> 01553 616252	
<b>Email:</b> kate.littlewood@west-norfolk.gov.uk	
<b>OPEN</b>	

**Committee:** Resources and Performance – Audit & Risk Committee  
**Date:** 29<sup>th</sup> April 2014  
**Subject:** Single Fraud Investigation Service update

<b>Summary</b>	<b>This report is to update Members on the latest position in respect of the introduction of the Single Fraud Investigation Service and its potential impact on Council employees.</b>
<b>Recommendation</b>	<b>To agree in principle that the Council will need to retain an investigative resource post-SFIS and that the approach taken is the most appropriate.</b>

**1.0 Introduction and Background**

1.1 The Single Fraud Investigation Service (SFIS) is a government project to transfer the investigation of Benefits fraud to a new service within the DWP. Currently this work is undertaken by the Investigations Unit within the Audit and Fraud Team at the Council.

1.2 Under the current arrangements, as well as Benefit fraud, the Investigations Unit also investigate frauds relating to Council Tax Support and Council Tax and Business Rates exemptions and discounts. This work will remain with the Council when SFIS is implemented and will directly affect the revenues collected.

**2.0 Current Position**

2.1 The latest project update we have received from DWP is attached as **Appendix A** and it explains in a little more detail what the processes to transfer the work will entail.

2.2 In summary, it is intended for the transfer to commence in summer 2014 with a small number of sample sites. After a review of the initial transfers, full national

implementation will commence in October 2014, to be completed by March 2016. At the moment we do not know when it will affect this Council.

2.3 TUPE will not apply, although the Cabinet Office Statement of Practice for Staff Transfers in the Public Sector (COSoP) states that under these circumstances the principles of TUPE should be applied. A list of activities which would qualify an employee for transfer, are included in the update document. On the basis of this list all the staff of the Investigations Unit will be eligible for transfer. This would leave the Council without any staff qualified to carry out the investigations and impose sanctions and penalties relating to Council Tax and Business Rates fraud.

2.4 Within the questions section of the update document (Annex 3) one question refers to objections to the transfer. The reply states that if an employee objects, they would not then be transferred, but would be dependent on the Council continuing their contract of employment. With this in mind we need to decide in principle at least how the Council is going to resource the investigation of Council Tax and Business Rates fraud in the future, and provide specialist support for any other corporate investigations that may arise.

2.5 It is still unclear how cases involving both Benefits fraud and Council Tax frauds will be co-ordinated between the SFIS and local authorities.

2.6 The Revenues and Benefits Manager and the Investigations Manager will be attending the Road Show in Norwich on 8<sup>th</sup> May 2014 and it is expected that we will know more on the timings following this event.

### **3.0 Proposed action**

3.1 The implications of the proposed transfer have been discussed with the Personnel Services Manager and a course of action agreed to prepare for the transfer whenever that may be.

3.2 Over the next couple of months the Audit Manager will assess the level of workload that will be left with the Council once SFIS has been implemented. This will determine what resources will need to be retained and enable more informed consultation with the relevant staff.

3.3 Affected staff have been given a copy of this letter and will be kept informed of any further information coming from the DWP.

3.4 The letter has been presented to Management Team who have agreed to the work being undertaken by the Audit Manager.

### **4.0 Outcomes**

4.1 The Council will be prepared to respond to the transfer of work and ensure the continuation of a fraud investigation capability within the Council for the future.



**Department  
for Work &  
Pensions**

**Adran Gwaith  
a Phensiynau**

Joanne Bradshaw  
Programme Director  
Fraud, Error & Debt Programme  
Caxton House  
Tothill Street  
London  
SW1H 9NA

3 March 2014

**Single Fraud Investigation Service (SFIS) Project Update**

Further to my letter of 9 December 2013, I am writing to you with an update on the progress of the Single Fraud Investigation Service (SFIS) project. This is a pivotal year for the project, with our national implementation expected to start with a small number of sites going live in the summer and national phased implementation commencing in October 2014 and running until March 2016.

The purpose of this letter is to provide updates on the following activities that are currently taking place within the SFIS Project to support implementation:

- **Regional Road shows**
- **Implementation planning**
- **Human Resources (HR) Transfer Approach**

**Regional Road shows**

The road shows will give your Local Authority (LA) the latest information about how the Department for Work and Pensions (DWP) Fraud and Error Service will deliver single fraud investigations covering all welfare benefits. They will outline the implementation approach and provide an opportunity to ask questions. Each LA has been allocated two places at their local road show.

- |               |               |              |               |
|---------------|---------------|--------------|---------------|
| • Bristol     | 24 March 2014 | • Salisbury  | 10 April 2014 |
| • Edinburgh   | 25 March 2014 | • Birmingham | 15 April 2014 |
| • Kennington  | 26 March 2014 | • Leeds      | 28 April 2014 |
| • Hammersmith | 31 March 2014 | • Newcastle  | 30 April 2014 |
| • Dundee      | 01 April 2014 | • Blackpool  | 07 May 2014   |
| • Cardiff     | 08 April 2014 | • Norwich    | 08 May 2014   |

The road shows will be attended by SFIS Project staff, DWP Fraud & Error Services, HM Revenue & Customs (HMRC) and DWP HR representatives and will take place from March 2014 to May 2014.

We are only able to offer two places per LA, so we recommend that your delegates cascade the details and outcomes from the event to their colleagues. You may wish to consider allocating one place to a Manager or Team Leader and one place to an investigator or operational level member of staff to ensure a cross section of views are represented.

Please send the names, external email addresses and phone numbers of your two representatives to the following email inbox by **10 March 2014**. We will issue invitations direct to the representatives detailing the date and location of their event.

Email inbox address – [SFIS.Roadshows@dwp.gsi.gov.uk](mailto:SFIS.Roadshows@dwp.gsi.gov.uk)

**Implementation Planning**

Since the Autumn Statement announcement of the delivery approach, we have been working closely with our partners and key stakeholders in Local Government, DWP and HMRC, developing plans to enable national implementation. The implementation timeline is as follows:

- **Phase 1 - Implementation to commence with a small number of sites in summer 2014**



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- **A break to evaluate and learn lessons from the transfer process prior to full national implementation.**
- **Phase 2 - Implementation to re-commence in October 2014 and run for a further 18 months to March 2016. Detailed conversations with these sites are due to commence in May 2014.**

To support the main phase of implementation from October 2014 to March 2016, each LA will be allocated to a month in the national implementation schedule. We will issue a copy of the schedule shortly. To support implementation, we need to collect the information detailed in **Annex 1**. This is to ensure we have considered any influencing factors. You will also be given the opportunity to liaise with the project should your allocated date be unsuitable.

A member of the project team will be appointed to work with your LA throughout the planning and implementation phases. We will draw up bespoke plans, supported by regular checkpoint meetings to ensure a smooth transition to the new ways of working. We will provide you with more details regarding this in the near future.

**Annex 1** is a list of questions about your LA. Your answers will provide the project with essential information to support implementation.

Can you please ensure that Annex 1 is completed in full by **14 March 2014** and returned to [SINGLEFRAUDINVESTIGATIONSERVICE-QUERIES@DWP.GSI.GOV.UK](mailto:SINGLEFRAUDINVESTIGATIONSERVICE-QUERIES@DWP.GSI.GOV.UK)

### Human Resources Transfer Approach

The Government's Autumn Statement confirmed the implementation of the SFIS project and stated that, in order to maintain an effective fraud investigation service, DWP was keen for employees assigned to this work to transfer with it. We said at the time that there was not enough information to say conclusively whether the Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) would or would not apply. We have further considered the TUPE position and how to accomplish the transfer of these employees.

The purpose of this section is to provide an update on these considerations and start the consultation and information process. If you have any comments on this approach please let me know by **14 April 2014**.

#### TUPE and Cabinet Office Statement of Practice (COSoP)

TUPE regulations state "...the transfer of administrative functions between public administrative authorities is not a relevant transfer" (for the purpose of TUPE). After careful consideration, DWP has concluded that benefit fraud investigations falls within this category, and as such, TUPE will not apply.

However, DWP is committed to taking employees currently assigned to welfare benefit fraud investigation work. The Cabinet Office Statement of Practice for Staff Transfers in the Public Sector says that in circumstances where TUPE does not apply in strict legal terms to a transfer between different parts of the public sector, the principles of TUPE should be followed so far as possible and in accordance with business need. In order to maintain an effective fraud investigation service DWP has decided to adopt this principle.

#### Transfer Scheme

In line with COSoP guidelines, the legal platform to enable the transfer is by way of a Legislative Transfer Scheme as provided for by Section 38 of the Employment Relations Act 1999.

Section 38 provides the Secretary of State (SoS) with legislative power (through regulations laid in Parliament) to transfer employees in scope via a Statutory Staff Transfer Scheme. The Regulations are made by way of Statutory Instrument (SI) which will be laid before Parliament under the negative procedure and will become effective before the anticipated transfer date.

The scheme will apply to employees working for LAs or employees working for contracted suppliers. Individuals working on a self-employed basis are not included.

Action will be taken locally to identify and formally notify individuals that they are to be included in the SI. Employees not formally notified as being included in the SI will not transfer.

#### Employees in Scope for Transfer

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LA investigation of Housing Benefit Fraud and residual council tax benefit fraud is the work which will transfer to DWP. Employees assigned solely or primarily to this activity should be identified for a potential transfer to DWP. Individuals assigned solely or primarily to activities which are not moving into SFIS should not be deemed in scope. Also excluded are those employees assigned to work within the LA which ceases and / or those individuals whose work will not be carried out by DWP.

Local authorities (or their contracted supplier with oversight by the local authority) will be responsible for identifying employees potentially in scope for the transfer to DWP. DWP will review propositions for transfer before reaching a final agreement with the local authority, or contracted supplier, on staff to transfer.

**Annex 2** contains a list of activities which are transferring from LA benefit fraud to SFIS and some examples of activities that are not transferring. .

#### Terms and conditions of Employment

The transfer of staff by way of a Section 38 legislative transfer scheme will be "TUPE-like" in that it will provide protection of existing terms and conditions of employment in line with the requirements of COSoP.

#### Impact on Pensions

Transferring staff will join the Principal Civil Service Pension Scheme (PCSPS) on their first day with DWP. They will be given the option of transferring their previous pension service into the PCSPS, or leaving it with their current scheme until they are entitled to receive pension payments.

#### HR Next Steps

A dedicated DWP HR Team is supporting the project in bringing the work and people into DWP. The HR Team will engage with LAs and external suppliers in Phase 1 locations to review and agree the proposition for staff transfers and to start the comparison of terms and conditions of employment.

There are 380 LAs for the HR Team to engage with. They will initially engage with those LAs moving into DWP first and will align transfer of employees according to the implementation schedule. All LAs and key groups will be kept updated with plans and activities regardless of their position on the implementation schedule.

To enable the HR Team to start engagement with each individual LA and/or outsourced supplier, we will need a named HR Single Point of Contact (SPOC) to work with throughout the transfer period. When we write out to you about the roll out schedule, we will ask you for the contact details of the SPOC.

DWP will work jointly with each SPOC to identify and execute all of the necessary actions to achieve a smooth transition for those employees who will be moving into DWP.

The transfer of benefit fraud investigation work into DWP Fraud and Error Service and the transfer of eligible staff will include outsourced fraud services. Consequently this will impact on commercial arrangements LAs have with their suppliers. LAs need to consider this impact as part of the planning process and ensure that any contracted suppliers are fully sighted on the contents of this letter.

You may also wish to engage with any Trade Unions that represent LA staff. Please ensure that they are informed of the content of this letter.

In addition a decision has been made that all prosecutions arising from SFIS investigations, including the prosecution of housing benefit and/or council tax benefit fraud, will be conducted solely by the Crown Prosecution Service (CPS) in England and Wales. The CPS will be leading separately on this matter whilst of course liaising with DWP.

#### HR Summary

The introduction of SFIS is a key part of the agenda for reducing loss through the benefits system and represents a significant change for our organisations and people.

DWP is developing the section 38 Legislative Transfer Scheme to facilitate the transfer of employees when the work moves to DWP.

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We will keep you updated with regular progress reports and communications. **Annex 3** contains a list of questions and answers which you may find useful in supporting your own internal communications with employees who may be impacted by this change.

This is a sensible and considered way of achieving the safe transfer of employees whilst protecting their terms and conditions of employment. If you have any comments on this approach, please send them to the email address at the bottom of this letter by **14 April 2014**.

### Next steps

Please ensure that the returns requested within this update are sent back to the following contacts no later than the dates stated below:

Update item	Action	Contact	By when
Regional Road shows	Forward full details of 2 nominated representatives	<a href="mailto:SFIS.Roadshows@dpw.gsi.gov.uk">SFIS.Roadshows@dpw.gsi.gov.uk</a>	10 March 2014
Implementation and Staff Transfer Questions	Complete Annex 1	<a href="mailto:SINGLEFRAUDINVESTIGATIONSERVICE-QUERIES@DWP.GSI.GOV.UK">SINGLEFRAUDINVESTIGATIONSERVICE-QUERIES@DWP.GSI.GOV.UK</a>	14 March 2014

I look forward to continuing working together and I am sure that our joint commitment will ensure that we implement an effective and improved fraud investigation service able to meet both present and future needs.

If you want to know more about The Single Fraud Investigations, you should request to join the SFIS Communications Hub on Knowledge Hub. To access the Knowledge Hub you will need to register at the following site: <https://knowledgehub.local.gov.uk/home> then search under "Groups" for SFIS Communications Hub and request to join. Regular updates will be posted on the Knowledge Hub.

If you have any further questions on the project please forward them to:

[SINGLEFRAUDINVESTIGATIONSERVICE-QUERIES@DWP.GSI.GOV.UK](mailto:SINGLEFRAUDINVESTIGATIONSERVICE-QUERIES@DWP.GSI.GOV.UK)

Yours sincerely

Joanne Bradshaw

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**APPENDIX A**  
**Annex 1**

### LOCAL AUTHORITY QUESTIONS

No.	Question	Yes/No where appropriate	Additional requested information - Response
1	Do you have a standalone Benefit Fraud team or is it combined with Corporate Fraud work?	N/A	Combined with Corporate Fraud work
2	How many Benefit Fraud Managers do you employ? Please provide your response as both a Full Time Equivalent (FTE) <b>and</b> number of people.	N/A	1 person 1 FTE
3	Do those Benefit Fraud Managers listed above also undertake other duties (eg Blue Badge, Tenancy etc)?	Yes	
4	How many of the Benefit Fraud Managers listed above are also Fraud Investigators? <b>(It is important that staff are only counted once)</b> .	N/A	1
5	How many Benefit Fraud Investigators do you employ? <b>(Do NOT include any Managers/Team Leaders counted above)</b> . Please provide your response as both a Full Time Equivalent (FTE) <b>and</b> number of people?	N/A	2 people 2 FTE
6	How many of those Benefit Fraud Investigators listed above also undertake other Fraud activity (eg Blue Badge, Tenancy etc.)	N/A	2
7	Do you have any staff who support Benefit Fraud Investigators in an Admin capacity, and if so, how many? Please provide your response as both a FTE <b>and</b> number of people.	N/A	1 person 0.6 FTE
8	Do any of your benefit fraud staff work from home and if yes, is this within the terms of their contract or an "unofficial arrangement"?	No	
9	What is your average HB/CTB fraud referral rate received per week? Where do referrals come from? (ie source)	N/A	14 HBMS, NFI, Anonymous letter, Anonymous telephone call, Benefits Section, Investigations Unit, Revenues Section, Customer information Centre, DWP, Hotline, Housing Associations, Other LA Section, Online fraud referral, Other

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			LA, Overpayments Section, Police, Press, Returned Mail and Visiting Officers
10	Approximately what percentage of cases are HB/CTB only and approximately what percentage also involve other (non HB) DWP benefits?	N/A	Not available. More clarification required.
11	On average, what percentage of HB/CTB fraud referrals are accepted for investigation?	N/A	55.7%
12	What is your current HB/CTB fraud file caseload? - ie Live cases being investigated	N/A	109
13	Have you contracted out/set up a shared service for your fraud services? With whom?	No	
14	Does your <b>contracted out/shared service</b> fraud service cover more than just HB/CTB Fraud activity? (eg Does the contract cover all HB admin activity including Fraud).		
15	Will this contract require re-negotiation following the introduction of SFIS and cases being passed to SFIS? Have you started to take steps towards doing this?		
16	Do you believe the introduction of SFIS will affect any contractual agreements? If so, with whom and to what extent. <b>(Please only include anything relating to HB fraud and not corporate fraud)</b> Examples - Credit Reference Agencies/Membership of Professional organisations/Mobile phone contracts/Vehicle costs/Typing transcription costs/Agency workers	No	
17	If yes to above, what steps are you taking to mitigate any impact?	N/A	
18	Which case management IT system/Fraud database do you use for fraud work? Is this supported by a contract?	Yes	Intec
19	Is your Case Management system or Fraud database used solely for HB fraud or will this continue to be used for other areas (eg HB admin or corporate fraud)	No	Continue to be used for Corporate Fraud
20	Do you have your own Financial Investigation Unit? If so how many staff does this involve and how much of their work is HB/CTB only?	No	
21	Do you use NAFN for HB/CTB fraud cases?	Yes	
22	Do you use NAFN for other services in the council (eg corporate fraud or trading standards)	Yes	

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<b>23</b>	Do you undertake your own Authorised Officer function within the fraud team? If not, who do you use?	Yes/No	Social Security Administration Act 1992 = LA Authorised Officer Social Security Fraud Act 2001 = NAFN used
<b>24</b>	Do you currently conduct joint investigations with DWP?	Yes	
<b>25</b>	Do you work with one or more DWP FIS teams and if so which one(s)	Yes	Kings Lynn, Norfolk & Wisbech, Cambs
<b>26</b>	Do you undertake any work for other LA sites. If so, to what extent and which ones?	No	
<b>27</b>	Does your LA run their own hotline or advertise a Fraud hotline number?	Yes	
<b>28</b>	How many Employee Pension schemes does your LA have?	N/A	1
<b>29</b>	Please provide any other information about your HB fraud service which you feel would be helpful	N/A	Council Tax Support and Council Tax alleged fraud is investigated. Business Rates fraud is planned to be investigated. The vast majority of claims are joint Housing Benefit and Council Tax Support.
<b>30</b>	Please provide Single Point of Contact details for future implementation engagement. (Name, address, tel number, e-mail address)	N/A	Becky Box – Personnel Services Manager Borough Council of Kings Lynn & West Norfolk, Kings Court, Chapel Street, Kings Lynn, Norfolk, PE30 1EX Tel: 01553 616502 Email: becky.box@west-norfolk.gcsx.gov.uk
<b>31</b>	Please provide name & contact details of the person completing this form	N/A	Kate Littlewood – Audit Manager Tel: 01553 616252 Email: <a href="mailto:kate.littlewood@west-norfolk.gcsx.gov.uk">kate.littlewood@west-norfolk.gcsx.gov.uk</a>  Sarah Munson – Fraud Investigations Manager Tel: 01553 616560 Email: sarah.munson@west-norfolk.gcsx.gov.uk

**Example Activities Transferring from LAs to DWP SFIS**

- Conducting Housing Benefit / residual Council Tax benefit fraud investigations in line with instructions in user manuals/guidance.
- Conducting Interviews under caution in accordance with The Police and Criminal Evidence Act 1984 (England and Wales) and Common Law (Scotland).
- Conducting interviews with Customers to offer Administrative Penalties, Formal Cautions (England & Wales) and Administrative Cautions (Scotland).
- In respect of welfare benefit fraud, recording the progress of a case on IT/ Case management systems, taking into account the potential for referring appropriate cases to, and liaising with, other teams such as Customer Compliance / visiting officers, DWP Fraud Investigations and Financial Investigation Unit (FIU).
- Maintaining relevant evidence files, annotating appropriate material as sensitive including maintaining an N1 notebook, in respect of fraud.
- Information / Intelligence gathering to ensure suitability of case for fraud investigation
- Information / Intelligence gathering to build case for investigation
- Developing cases into prosecution cases and attending Court as a witness.
- Liaising with other Departments/organisations on fraud matters.
- Making requests for surveillance to the TFI in line with the Regulation of Investigatory Powers Act (RIPA) and the accompanying code of practice.
- Conducting surveillance.
- Making requests to Authorised Officers in line with the Social Security Fraud Act (SSFA) and FPI for information from information providers.
- Requesting information such as employment details from an employer in line with current policy.
- Managing welfare benefit fraud business on behalf of the LA within a specific team.
- Recommending requests for surveillance to the appropriate LA Officer in line with the requirements of the Regulation of Investigatory Powers Act (RIPA) and the accompanying code of practice. This requires the authority of a Magistrate.
- Performing Financial Investigation Recovery activity on welfare benefit fraud cases on behalf of the LA, including conducting this work for other LAs.
- Carrying out instructions set out by the Assets Recovery Agency (ARA) and other user manuals.
- Requesting orders as prescribed within the Proceeds of Crime Act.
- Preparing all submissions relating to Proceeds of Crime action in Court and to attend Court where necessary.

**Work NOT Transferring from LAs to DWP SFIS**

- Hotlines/ LA call centres that take reports of fraud/suspected fraud
- LA compliance/ visiting staff
- HB/CTB decision makers, benefit processors, overpayment or debt staff
- Solicitors employed / contracted by LAs for the purpose of Fraud Prosecution work

**SFIS Project - Questions and Answers**

**Q: Why doesn't TUPE apply to the transfer of staff into DWP when single investigations are introduced?**

A: The transfer of staff in to DWP is considered to be an administrative transfer and is therefore not covered by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) (1). However, DWP is committed to taking those employees currently assigned to benefit fraud investigation work. In order to effect the transfer of contracts of employment of employees, and provide them with similar employment rights protection to that which they would have under TUPE, the Secretary of State proposes to use powers under the Employment Relations Act 1999 to create a statutory staff transfer scheme (STS) which will be "TUPE-like".

**Q: What protections are there for staff transferring to DWP under the Statutory Transfer Scheme?**

A: In order to ensure the fair and equitable treatment of employees we are seeking to ensure that the transfer scheme and consultation process mirrors TUPE, as far as practicable. This reflects the approach set out in the Cabinet Office Statement of Practice on Staff Transfers (COSOP).

**Q: Can DWP unilaterally change my terms and conditions of employment post transfer?**

A: Your terms and conditions of employment will transfer with you. There may be little difference between those on offer in DWP. They could also be more or less favourable. Terms and conditions can only be changed by negotiation and consent.

**Q: Will I become a Civil Servant on transfer to DWP?**

A: Yes, you will become a Civil Servant on transfer.

**Q: Can I object to the transfer?**

A: Yes you can. But if you object to transfer you would not transfer over to DWP and your contract of employment will come to an end unless your current employer agrees otherwise.

**Q: What happens to my salary?**

A: Your salary will be protected. If it is more than the DWP pay scale you will retain your current (higher) salary. If your salary is below the minimum of the DWP pay scales, your salary will be automatically uplifted.

**Q: What happens to my pension on transfer?**

A: Transferring staff will join the Principal Civil Service Pension Scheme (PCSPS) on their first day with DWP. They will be given the option of transferring their previous pension service into the PCSPS, or leaving it with their current scheme until they are entitled to receive pension payments.

**Q: Am I guaranteed a job in SFIS?**

A: We expect the vast majority of staff to be allocated to a role in SFIS. Where we are unable to do this, other options will be considered in consultation with those affected. This could include posting you into another DWP role.

**Q: How far am I expected to travel to my new location when I move to DWP?**

A: All fraud investigations will be delivered from sites where FES employees currently are located but we may also base people in other DWP sites. If this means



**APPENDIX A**

a longer commute to work, your daily commute will be in line with your employer's current mobility policy. This will be a matter for individual discussion where necessary. There may be isolated cases where individuals will have mobility restrictions which mean they are unable to travel to any DWP site. In these circumstances we will discuss this with your employer before the transfer to explore what options would be available based on individual circumstances.

**Q: When will I know which role I will be given and where I will be based?**

A: Prior to the transfer, we will look at the transfer propositions from each employer in the vicinity. We will then consider a number of factors which includes the total number of staff available, where they live, and then compare this against the delivery options in DW

REPORT TO CABINET

<b>Open/Exempt</b>		Would any decisions proposed :		
<b>Any especially affected Wards</b>	Operational	Be entirely within Cabinet's powers to decide	NO	
		Need to be recommendations to Council	YES	
		Is it a Key Decision	NO	
Lead Member: Cllr Nick Daubney E-mail: cllr.nick.daubney@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Kate Littlewood E-mail: kate.littlewood@west-norfolk.gov.uk Direct Dial:01553 616252		Other Officers consulted: Management Team, Personnel Services Manager, Legal Services Manager, Trade Union representatives.		
Financial Implications NO	Policy/Personnel Implications YES	Statutory Implications YES	Equal Impact Assessment NO	Risk Management Implications YES
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s)				

Date of meeting: 6<sup>th</sup> May 2014

**TITLE – ANTI-FRAUD AND ANTI-CORRUPTION STRATEGY, WHISTLEBLOWING POLICY AND FRAUD RESPONSE PLAN**

**Summary**

The Council has had a suite of anti-fraud documents in place for a number of years, with amendments being made to take account of new legislation, in particular the Bribery Act in 2010. A full review of the documents has now taken place to ensure they are consistent, up-to-date and fit for purpose. This is particularly relevant in the current climate of fighting fraud nationally.

**Recommendation**

**That Cabinet recommends that Council agree the proposed Anti-Fraud and Anti-Corruption Strategy, Fraud Response Plan and Whistleblowing Policy.**

**Reason for Decision**

To bring the anti-fraud documents up-to-date to reflect current good practice.

**1. Background**

1.1 The Council needs to remain vigilant in order to safeguard its resources and to protect its reputation. As a Council, we therefore need to raise awareness, deter and identify fraud. At the same time, it is essential to provide the means by which employees, Members and anyone representing the Council, can raise legitimate concerns when they feel something has been done that is either illegal or improper.

- 1.2 The Council has always endeavoured to promote a culture of honesty, integrity and openness. This is reflected in its policies and strategies to deter and prevent fraud and corruption. Whilst the current documents are effective, it has been some time since a comprehensive review has taken place. In that time, some legislation has changed and key roles within the Council have moved to different personnel.

## **2. Main Changes to the Documents**

### **2.1 Anti-Fraud and Anti-Corruption Strategy**

The Strategy has been completely re-written to improve the layout and flow of the document. Emphasis has been placed on the need for employees, Members and anyone acting on behalf of the Council, to act with integrity.

The definitions of fraud, corruption and theft have been extended to include the relevant legislation and the consequences of any such actions, so that no-one is left in any doubt.

The document then goes on to describe how the Council aims to deter and prevent fraud, and actions taken to detect and deal with any instances that do occur.

Appendix 1 outlines the Corporate Framework that defines the culture within the Council, which in turn is aimed at deterring fraud.

Appendix 2 covers the roles and responsibilities. At the top of this list are two general responsibilities for both Members and employees to '*Uphold the highest standards of conduct and conduct themselves in ways that are beyond reproach*'. This is an expectation that is echoed throughout all the documents. Below these first two entries are more specific responsibilities that come with certain roles.

### **2.2 Whistleblowing Policy and Fraud Response Plan**

Both these documents have been revised using tracked changes so Members can see where the changes have been made. There are some duplications between these two documents, but this is inevitable as they cover the same area but from different aspects.

- The Whistleblowing Policy is aimed at someone who suspects that something is not right and provides guidance on what to do and what not to do, who to report it to and what to expect to happen.
- The Fraud Response Plan is aimed at the person receiving the information from the Whistleblower. It provides guidance on what information to gather from the informant, how to proceed with any investigations, who else needs to be involved and so on.

Most of the changes made have been to clarify points and update job titles and contact details. The formatting of these documents will improve once the tracked changes have been accepted.

**3. Policy Implications**

The Council's anti-fraud documents will be up-to-date and fit for purpose for the future.

**4. Financial Implications**

There are no direct financial implications, but indirectly, if the anti-fraud documents are not effective, there could be repercussions as frauds are not prevented or detected.

**5. Personnel Implications**

The documents must be appropriately linked to the Council's Disciplinary Procedures, as any disciplinary hearing must be conducted in a manner that is consistent with these procedures. It is essential that any internal investigation is both consistently carried out and is fair to any employee being investigated.

**6. Statutory Considerations**

The Accounts and Audit Regulations 2011 require the Council to ensure '*that the financial management of the body is adequate and effective and that the body has a sound system of internal control*'. The anti-fraud documents help to fulfil this requirement.

The Bribery Act 2010 places a responsibility on an organisation to take all practicable measures to prevent bribery.

**7. Equality Impact Assessment (EIA)**

There are no Equality implications.

**8. Risk Management Implications**

Fraud and corruption can result in financial losses to the Council.

A failure to respond appropriately could lead to a claim against the Council in an Employment Tribunal for unfair dismissal. This could expose the Council to additional cost, as well as the risk that any fraudster could continue to be employed by the Council as a result of a flawed investigation. There is also a risk that such a failure would result in adverse publicity for the Council.

**9. Declarations of Interest / Dispensations Granted**

None

**10. Background Papers**

Anti-Fraud and Anti-Corruption Strategy January 2010 (revised 3<sup>rd</sup> March 2011)

Whistleblowing Policy January 2010

Fraud Response Plan June 2011

Borough Council of  
**King's Lynn &  
West Norfolk**



## **ANTI-FRAUD AND ANTI-CORRUPTION STRATEGY**

The Council places great emphasis on ensuring all our business is undertaken in a clear and transparent way, and will not tolerate any behaviour which undermines the good governance

The Council abides by the Seven Principles of Public Life as laid down by the Committee on Standards in Public Life, namely:

1. Selflessness
2. Integrity
3. Objectivity
4. Accountability
5. Openness
6. Honesty
7. Leadership

**Both Members and employees are expected to conduct themselves in ways which are beyond reproach, above suspicion and fully accountable.**

All allegations of fraud will be assessed and investigated as appropriate, and if proven, the strongest possible sanctions will be sought. This may include disciplinary action, prosecution, civil proceedings, or a combination of all.

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## 1. Introduction

This document sets out the Council's strategy in relation to fraud and corruption relating to the Council's business. It has the full support of the Council's Elected Members and the Corporate Management Team.

Fraud relating to Housing Benefit and Council Tax Support, and Council Tax and Business Rates exemptions and discounts are covered by 'Benefits and Revenues Fraud Policy'. Where such fraud is suspected, information should be passed to the Investigations Unit within the Audit and Fraud Team either by completing the Fraud Referral form on the website <http://www.west-norfolk.gov.uk/default.aspx?page=21676> or by using the fraud hotline 0800 281 879. All referrals received will be assessed and investigated as appropriate.

However the overall stance remains the same:

**The Council is committed to the elimination of fraud, corruption and theft, and to the promotion of high standards of conduct.**

To deliver the Council's Corporate Strategy we need to maximise the financial and other resources available to us. In order to do this we must reduce fraud and misappropriation to an absolute minimum. The Council recognises its responsibility to protect public funds and we will therefore endeavour to implement secure systems and high standards of conduct.

We will take the strongest possible action against those who seek to defraud the Council. This includes Members, Officers, contractors, partners and any other external bodies who work on behalf of the Council.

## 2. What is Fraud?

*'The intentional distortion of financial statements or other records by persons internal or external to the organisation, which is carried out to conceal the misappropriation of asset or otherwise for gain.'* (CIPFA)

The Fraud Act 2006 created a general offence of fraud and introduced three possible ways of committing it:

### 1. **Fraud by false representation.**

A person is in breach of this section if this is done dishonestly and there is intent, by making the representation, to make a gain for themselves or another, or to cause or expose the risk of loss to another. For example, claiming expenses that have not been incurred in accordance with the Council's policies.

### 2. **Failing to disclose information.**

A person is in breach of this section if they dishonestly fail to disclose information which they are under a duty to disclose and intends to make a gain personally or for someone else or to cause or expose the risk of loss to another. For example, failing to disclose a personal interest when awarding contracts.

### 3. **Abuse of position.**

A person is in breach of this section if they occupy a position in which they are expected to safeguard, or not act against, the financial interests of another person, dishonestly abuses that position with the intention of making a gain for themselves or another, or to cause or expose the risk of loss to another. For example, allowing family or friends to use Council assets free of charge.

In each case the deception does not have to be successful. It is sufficient that the person knowingly and dishonestly attempted the deception.

A person found guilty of fraud may be liable to imprisonment of up to 10 years or a fine up to £5,000, or both.

## 3. What is Corruption?

*'Corruption is the offering, giving, soliciting or acceptance of an inducement or reward that may influence the actions taken by the Council, its Members or employees.'* (CIPFA)

The Bribery Act 2010 introduced four offences:

### 1. **The offence of bribing another person.**

This can occur where a person offers, promises or gives a financial or other advantage to another individual to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity. It is not an issue whether the person given the bribe is the same person who will perform the function or activity concerned.



2. **The offence of being bribed.**

This is where a person receives or accepts a financial or other advantage to perform a function or activity improperly. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate benefit or not.

3. **Bribery of a foreign public official.**

This is where a person directly or through a third party offers, promises or gives any financial or other advantage to a foreign public official in an attempt to influence them as a public servant and to obtain or retain business, or any other related advantage in the conduct of business.

4. **A corporate offence of failure to prevent bribery.** A commercial organisation could be guilty of bribery where a person associated with the organisation, such as an employee, agent or even sub-contractor, bribes another person intending to obtain or retain business for the organisation or to obtain or retain an advantage in the conduct of business for the organisation.

A person found guilty under 1-3 may be liable to imprisonment of up to 10 years or unlimited fines, or both.

#### 4. What is Theft?

A person is guilty of theft under the Theft Act 1968 if:

1. They dishonestly appropriate property belonging to another with the intent of permanently depriving the other of it. This applies to theft of personal property on Council premises as well as theft of Council assets.  
or
2. They dishonestly retain a wrongful credit. For example they do not report and repay an overpayment of salary or expenses.

For the purpose of this document, the use of the word 'fraud' will be deemed to include 'corruption', 'bribery' and 'theft'.

## 5. The Council's Approach

The corporate framework (**Appendix 1**), which underpins the operation of the Council, has a number of facets that exist to protect the Council against fraud and corruption. The Anti-Fraud and Anti-Corruption Strategy underpins this framework.

This strategy defines the approach to managing the risk of fraud across the organisation and ensures best practice is embedded across all services, projects and partnerships. The Council will fulfil its responsibility to reduce fraud and protect its resources by focussing on the following areas:

1. Anti-fraud culture
2. Deterrence
3. Prevention
4. Detection
5. Investigation
6. Sanction
7. Redress

Each of these themes will be discussed below to demonstrate how they contribute to the strategy and how they work in practice.

### 6. Anti-fraud Culture

The Council must have a strong and recognised anti-fraud culture, where the leadership, both elected and employed, uphold the highest standards of conduct. Both Members and employees are expected to conduct themselves in ways which are beyond reproach, above suspicion and fully accountable. As such Members are bound by the Members' Code of Conduct and employees are directed by the 'Official Conduct' contained in the Employee Handbook. In addition to this there is a special onus upon the Corporate Management Team and Cabinet to lead by example. The induction procedures for both Members and employees include anti-fraud awareness training.

Roles and responsibilities in respect of fraud prevention and detection are shown in **Appendix 2**.

This Strategy will be available to all Members, employees, contractors and partners and will be supported by other relevant policies and guidance such as the Disciplinary Procedure and the Whistleblowing Policy.

### 7. Deterrence

The Council will seek the most appropriate sanction and redress against all those who commit fraud against the Council. Where appropriate we will publicise details of criminal convictions and provide statistical information in relation to disciplinary action to deter others who may consider committing such offences themselves.

All managers have a responsibility for ensuring that control measures are in place to minimise the risk of fraud and ensure all staff are aware of these procedures. Where effective controls are in place there is less opportunity to commit fraud, which in turn may act as a deterrent.

## **8. Prevention**

There are a number of key processes that can assist in the prevention of fraud, including:

1. Internal Control Systems
2. Employee recruitment and conduct
3. Joint working to prevent and combat fraud
4. The work of the Audit and Risk Committee

### **8.1 Internal Control Systems**

Internal controls are in place to prevent fraud. It is the responsibility of all managers to establish and maintain systems of internal control and to assure themselves that those controls are properly applied as intended. This includes responsibility for the prevention and detection of fraud.

The Council implements strong systems of verification of all claims for all types of financial assistance. All data available will be used to corroborate information given by applicants for the purpose of prevention and detection of fraud. Grants and assistance given to external organisations will be monitored to ensure applications are genuine.

The Council also expects partners and contractors to have adequate controls and Whistleblowing procedures in place to minimise fraud and this will be written in to all contract terms and agreements.

The Audit and Fraud Team will ensure that an adequate and effective internal audit is undertaken of the Council's systems and processes, and will investigate allegations of fraud and corruption. Any system weaknesses that are identified as part of these investigations will be reported to the relevant manager and action plan agreed to remedy the issue. The Audit and Risk Committee will receive regular reports from the Audit Manager on the results of internal audits and any investigations, including follow-up on the implementation of agreed actions.

### **8.2 Employment recruitment and conduct**

Recruitment procedures require that all applicants will provide evidence of any qualifications claimed and all references will be taken up. The right to work in this country will also need to be demonstrated where necessary.

All employees must abide by the Council's rules as contained in relevant policies and procedures. This expectation forms part of the employee's contract of employment. Employees are also expected to follow any additional Codes of Conduct of a professional body to which they are registered.

### 8.3 Joint working to prevent and detect fraud

The Council participates in data-matching exercise such as the National Fraud Initiative (NFI) and makes full use of its statutory powers to obtain information using bodies such as the National Anti-Fraud Network (NAFN) to identify possible instances of fraud.

### 8.4 Audit and Risk Committee

The Terms of Reference for the Audit and Risk Committee require it to '*consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements*'. As such the Committee receives regular reports from the Audit Manager and the Investigations Manager on work carried out, and considers the adequacy of the Council's policies relating to the prevention and detection and fraud and corruption.

## 9. Detection

Whilst it is possible to reduce the potential for fraud within the Council, it is important to acknowledge that it is not possible to eradicate it. Therefore it is essential the Members and employees are aware of what to do should they detect or genuinely suspect a fraud has or is taking place. **The Fraud Response Plan provides guidance on what to do and who to report the matter to.**

Alternatively the **Whistleblowing Policy** enables employees to report cases of fraud and receive protection afforded by the Public Interest Disclosure Act 1998.

## 10. Investigation

All allegations of fraud will be assessed by the Audit Manager and Investigations Manager together with the relevant Executive Director, Chief Financial Officer as s151 Officer and Executive Director, Central Services. The appropriate course of action will be agreed and if necessary an investigations team will be created depending on the circumstances in which the fraud has taken place. This may include staff from technical areas to provide specific insight into any relevant issues.

Allegations of fraud against Members which results in a complaint of misconduct under the Members' Code of Conduct will be dealt with in accordance with the Standards Committee's Local Assessment arrangements, established under the Standards Committee (England) Regulations 2008.

## 11. Sanction

The strongest available sanctions will be pursued against all who commit fraud against the Council. This may include disciplinary action, prosecution, civil proceedings or a combination

of all. The decision to recommend any or all of these sanctions will be made on a case by case basis, having regard to the nature and extent of the fraud and evidence available.

At the conclusion of the investigation a report will be written, concluding on whether there is a case to answer. The final decision on the course of action to be taken will be made by the Executive Director concerned. Any decision to refer the matter to the police will be taken jointly by the Chief Financial Officer as s151 Officer, Executive Director Central Services and the relevant Executive Director of the service affected.

## **12. Redress**

In cases of proven fraud, the Council will seek to recover any monies and will use all means available to recover these amounts. This can include freezing assets, Compensation Orders, Confiscation Orders, Civil Litigation and general debt recovery according to the circumstances of the fraud.

Where a criminal conviction has been secured, the Council will seek a Compensation Order through the Courts and also consider using the Proceeds of Crime Act 2002 to recover losses.

## **13. Strategy Review**

This strategy will be formally reviewed every 3 years to ensure it remains relevant and fit-for-purpose. However if there are any relevant changes in legislation or circumstances in between formal reviews, the strategy will be amended as necessary to reflect these. Where these changes are administrative in nature, and do not substantially change the nature of the strategy, the Chief Financial Officer as s151 Officer will approve them and inform the Audit and Risk Committee. Substantial changes which change the nature of the strategy will be reported to Cabinet.

Next formal review date – February 2017.

**APPENDIX 1 – THE CORPORATE FRAMEWORK**

- The Constitution (including Financial regulations, Contract Standing Orders and the Scheme of Delegation)
- An established Audit and Risk Committee
- An established Standards Committee and an adopted Code of Conduct for Members.
- Members formally signing a declaration accepting the terms of the Code of Conduct
- Employee rules of conduct contained within the relevant policies and procedures, including 'Official Conduct' in the Employee Handbook.
- Employees' Conditions of Service
- An Officer appointed under Section 151 of the Local Government Act 1972, with statutory responsibility for the oversight of all financial affairs
- An Officer, appointed as Monitoring Officer under Section 5 of the Local Government and Housing Act 1989, with statutory responsibility for monitoring the legality of the Council's affairs
- Register of Interests, and Gifts and Hospitality procedures for Members and employees
- Effective employee vetting procedures (recruitment and Disclosure and Barring Service (DBS) checks where appropriate)
- A Corporate Induction programme for all employees which includes expected standards of probity
- Effective disciplinary procedures
- An Internal Audit function with responsibility for assessing and testing the Council's control environment
- A Whistle-blowing policy
- An Anti-Fraud and Anti-Corruption Strategy
- A Fraud Response Plan
- A Complaints Procedure available to the public
- Public inspection of accounts and questions to the External Auditor
- An External Audit function
- A dedicated Investigations Service
- Participation in national anti-fraud initiatives
- The promotion of awareness of anti-fraud measures, reinforced by publicity
- Proactive ICT security measures.

APPENDIX 2 – ROLES AND RESPONSIBILITIES

The table below lists specific roles and responsibilities in respect of the prevention and detection of fraud.

**However it must be emphasised that all Members and employees have a role to play in preventing and detecting fraud.** The Fraud Response Plan provides guidance on what to do if evidence of a fraud is found or if a fraud is suspected.

Role	Responsibility
All Councillors	<ul style="list-style-type: none"> <li>• <b>Uphold the highest standards of conduct and conduct themselves in ways that are beyond reproach.</b></li> <li>• Demonstrate a commitment to this Strategy and ensure it has the appropriate profile within the Council.</li> <li>• Facilitate an Anti-Fraud and Anti-Corruption culture.</li> </ul>
All Employees	<ul style="list-style-type: none"> <li>• <b>Uphold the highest standards of conduct and conduct themselves in ways that are beyond reproach.</b></li> <li>• Understand and comply with the Council’s Anti-Fraud and Anti-Corruption Strategy.</li> <li>• Understand their responsibility to report suspected fraud or corruption and how to do it.</li> <li>• Understand the need to declare any interests that may conflict with their work for the Council.</li> </ul>
Cabinet	<ul style="list-style-type: none"> <li>• To approve the Anti-Fraud and Anti-Corruption Strategy</li> <li>• Ensure the Strategy is effectively implemented across the Council.</li> </ul>
Audit and Risk Committee	<ul style="list-style-type: none"> <li>• To monitor and review the effectiveness of the Council’s risk management arrangements, internal controls and related counter fraud arrangements.</li> </ul>
Chief Executive	<ul style="list-style-type: none"> <li>• Ensure that there is strong political and executive support for work to counter fraud and corruption.</li> <li>• Ensure consistency across Directorates in the implementation of this Strategy.</li> </ul>
Deputy Chief Executive	<ul style="list-style-type: none"> <li>• Executive Director with specific responsibility for the investigation and detection of fraud.</li> <li>• To ensure the Anti-Fraud and Anti-Corruption Strategy is reviewed and maintained at appropriate intervals.</li> </ul>
Monitoring Officer	<ul style="list-style-type: none"> <li>• To report on matters she believes are, or are likely to be, illegal or amount to maladministration.</li> <li>• To be responsible for matters relating to the conduct of Councillors and employees.</li> <li>• To be responsible for the operation of the Council’s Constitution.</li> </ul>
Section 151 Officer (currently the Chief Financial Officer)	<ul style="list-style-type: none"> <li>• Ensure that those working to counter fraud and corruption are undertaking the work in accordance with a clear ethical framework and standards of personal conduct.</li> <li>• Ensure that those working to counter fraud and corruption are professionally trained and accredited for their role and attend regular refresher courses to ensure they are up to date with new developments and legislation.</li> <li>• Ensure that there is a level of financial investment in counter fraud and corruption work that is proportionate to the risk identified.</li> <li>• Ensure that reports on investigations include a section on identified internal control weaknesses that enabled the fraud</li> </ul>

APPENDIX 2 – ROLES AND RESPONSIBILITIES

	<p>to take place and action to be taken to correct the weakness where appropriate.</p>
Executive Director, Central Services	<ul style="list-style-type: none"> <li>• Ensure there are effective recruitment procedures in place, implemented by appropriately trained officers.</li> <li>• Ensure employment policies support the Anti-Fraud and Anti-Corruption Strategy.</li> <li>• Ensure effective and appropriate sanctions are applied in all relevant cases.</li> </ul>
Executive Directors	<ul style="list-style-type: none"> <li>• Ensure the risks of fraud and corruption are identified and procedures implemented to reduce the risk to an acceptable level.</li> <li>• Ensure the Anti-Fraud and Anti-Corruption Strategy is implemented within their Directorate.</li> <li>• Ensure the risk of fraud and corruption is considered in all new process and appropriate procedures implemented.</li> <li>• Determine the appropriateness of gifts and hospitality offered to employees within their Directorate.</li> </ul>
Managers	<ul style="list-style-type: none"> <li>• Ensure all their employees are aware of their responsibilities under the Anti-Fraud and Anti-Corruption Strategy.</li> <li>• Ensure all their employees are aware of all relevant policies and procedures relating to official conduct of Council business.</li> <li>• Ensure all their employees are aware of, and understand, the Whistleblowing Policy and arrangements, and the process for reporting fraud.</li> <li>• Ensure accurate and timely reporting of gifts and hospitality.</li> </ul>
Audit and Fraud Team	<ul style="list-style-type: none"> <li>• Support Executive Directors and Managers in identifying and mitigating risks for fraud and corruption.</li> <li>• Undertake a planned programme of internal audits to examine the system of internal controls and agree actions to correct any identified weaknesses.</li> <li>• Undertake data matching exercises with national bodies and investigate results for potential frauds.</li> <li>• Provide specialist skills in investigating allegations of fraud, especially where it may result in a prosecution.</li> </ul>
Democratic Services Manager	<ul style="list-style-type: none"> <li>• Ensure Members are aware of their obligations in respect of the Anti-Fraud and Anti-Corruption Strategy.</li> <li>• Ensure members are aware of, and abide by, their obligations in relation to probity.</li> <li>• Maintain a Register of Interests and a Register of Gifts and Hospitality for Members and employees.</li> </ul>



Borough Council of  
**King's Lynn &  
West Norfolk**



# **WHISTLEBLOWING POLICY**

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**January 2010**

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Date of Adoption:  
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**1. Introduction**

1.1 Employees and Members are often the first to realise that there may be something seriously wrong within the Council. However, they may not express concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we encourage employees (including contractors), Members and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. This policy document also makes it clear that employees can do so without fear of reprisals.

1.3 This Whistleblowing Policy has been produced in accordance with the provisions of the Public Interest Disclosure Act 1998.

1.4 This policy supports the Council's Anti-Fraud and Anti-Corruption Strategy. It is intended to encourage and enable employees and Members to raise serious concerns within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally. Similarly, anyone else who has a genuine concern about the conduct of an employee is encouraged to report their concerns. It is recognised that certain cases will have to proceed on a confidential basis.

1.5 This policy does not replace the Corporate Complaints Procedure, the Harassment Policy or the Disciplinary Procedure, nor is it concerned with complaints about the conduct of Councillors ~~(Complaints about the conduct of Councillors will normally be dealt with using the Guidance "How to make a complaint about a Member of the Borough Council of King's Lynn & West Norfolk or members of Town and Parish Councils in the Borough" procedure as published on the Council's website. and available from either Democratic Services or Legal Services).~~

**2. Aims and Scope of this Policy**

2.1 There are existing procedures in place to enable employees to make complaints about service quality or lodge a grievance relating to their own employment. This Whistleblowing Policy is intended to cover concerns that fall outside the scope of those procedures, including concerns by Council Members and the public.

2.2 That concern may be about something that:

- Is unlawful;
- Is contrary to the Council's Standing Orders or policies;
- Falls below established standards or practice; or
- Amounts to improper conduct.

For example (this list is not exhaustive):

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- Malpractice or ill treatment of a client/customer;
- A criminal offence has been committed, is being committed or is likely to be committed;
- Suspected fraud;
- Disregard for legislation, particularly in relation to health and safety at work;
- Breach of Financial Regulations, Contract Standing Orders, ICT Security Policy;
- Showing undue favour over a contractual matter or to a job applicant;
- Falsification or manipulation of financial records;
- A breach of any code of conduct or protocol;
- Information on any of the above has been, is being, or is likely to be concealed.

2.3 The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

2.4 The earlier concerns are raised, the easier it is to take action. Anyone with a concern about an employee's conduct but is unsure whether a particular practice is unacceptable to the Council is encouraged to ask either the Chief Executive, the Deputy Chief Executive, the relevant Executive Director, the Chief Financial Officer, the Personnel Services Manager, the Legal Services Manager, Monitoring Officer, or the Audit Manager in case their concerns are unfounded or fall within another Council policy or strategy.

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### 3. **Safeguards**

#### ***Harassment or Victimisation***

3.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation (including informal pressures) and will take action to protect employees when they raise a concern in good faith. The Council will treat any claims of harassment or victimisation seriously and will investigate the complaint in accordance with the Council's Policy Statement on Harassment at Work, which could lead to disciplinary proceedings.

3.2 This does not mean that if, where an employee is already the subject of disciplinary or redundancy procedures, those procedures will be halted as a result of their whistle-blowing.

#### ***Confidentiality***

3.3 The Council will do its best to protect a whistle-blower's identity when they raise a concern and do not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by an employee may be required as part of the evidence.

#### ***Anonymous Allegations***

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- 3.4 This policy encourages whistle-blowers to put their name to their allegation whenever possible. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council.
- 3.5 In exercising the discretion, the factors to be taken into account would include the:
  - Seriousness of the issues raised;
  - Credibility of the concern; and
  - Likelihood of being able to independently confirm the allegation.

***Untrue Allegations***

- 3.6 If an employee or Member makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, an allegation is found to be malicious, frivolous or vexatious, or gives personal gain to the whistleblower as a result of the allegation, disciplinary action may be taken against them (if such an allegation is made by a Member, the Standards Committee may investigate the matter).

**4. How to raise a concern Reporting Suspicions**

- 4.1 Anyone wishing to raise a concern that falls within the scope of other Council procedures will not be dealt with in this procedure, but will be advised on the appropriate procedure to use. Employees will still receive protection as detailed in this policy.

- 4.2 If an employee/member has a concern they should not:

- Do nothing;
- Be afraid to raise the concerns – they will not suffer any recriminations from the Council as a result of raising a legitimate concern;
- ~~Raise vexatious concerns or concerns they know to be untrue – they could be disciplined if they do;~~
- Directly approach or accuse individuals they have concerns about;
- Try to investigate the matter themselves. There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by anyone not familiar with these rules could destroy the case;
- ~~Convey their concerns to anyone not in the list below (there is a duty to maintain the confidentiality of the matter under investigation). However an employee may invite a trade union representative or work colleague to raise the matter on their behalf. Members may wish to consult with their party Leader before raising the matter.~~
- ~~Raise vexatious concerns or concerns they know to be untrue – they could be disciplined if they do;~~

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- 4.3 If fraud or corruption is suspected, then the matter should be reported without delay. Employees should report to their Executive Director ~~at the outset and retain all evidence~~. If it is thought that the Executive Director may be involved, or that there may be a conflict of interest, the matter should be reported directly to ~~a more senior employee, or to the~~ one of the following:

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- Chief Executive;
- ~~Deputy Chief Executive~~ Chief Financial Officer;
- Executive Director, Central Services;
- Audit Manager or Investigations Manager in the Audit and Fraud Team;

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4.4 Any Councillors, contractors or other person should inform either the Chief Executive or the ~~Deputy Chief Executive~~ Chief Financial Officer, of their concerns.

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4.5 If possible, concerns should be raised in writing, to ensure those conducting investigations properly understand and investigate the allegations. Written allegations should include the background, history and nature of the concern (including names and relevant dates and locations, where applicable) and the reason why the author is particularly concerned about the situation.

4.6 If it is not possible to put a concern in writing, the concern can be raised either by telephone or by meeting the appropriate officer as set out in Section 4.3 above. The earlier a concern is raised, the easier it is to take action.

~~4.7 An employee may invite a trade union representative or work colleague to raise a matter on their behalf. Members may wish to discuss their concerns with their party Leader before raising the matter.~~

~~4.78~~ Although whistleblowers are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

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~~4.89~~ If in doubt, Public Concern at Work ([www.pcaw.co.uk](http://www.pcaw.co.uk)) will give confidential free and totally independent advice on how to proceed (contact [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk) [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk) or telephone 020 7404 6609).

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~~4.910~~ Concerns can also be raised anonymously (by letter or telephone), although these are normally given less weight than those concerns raised more formally.

~~4.101~~ Alternatively, whistleblowers can contact the Council's External Auditor (~~PricewaterhouseCoopers~~ Ernst & Young) on ~~01603 61524401223 394400~~ who is likely to liaise with any of the above.

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~~4.112~~ ~~Benefit (Council Tax or Housing Benefit) concerns should be raised with the Investigations Manager on 01553 616560 or by using the Fraud Hotline 0800 281879~~ Concerns should be raised in accordance with Section 3 of the Fraud Response Plan. Frauds relating to Housing Benefit and Council Tax Support, Council Tax and Business Rates exemptions and discounts should be referred to the Investigations Unit within the Audit and Fraud Team either by completing the Fraud Referral Form on the website <http://www.west-norfolk.gov.uk/default.aspx?page=21676> or by using the fraud hotline 0800 281 89.

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**5. How the Council will respond**

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5.1 The action taken by the Council will depend on the nature of the concern and may be:

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- Resolved by agreed action without the need for investigation;
- Investigated internally;
- Referred to the police or another investigating agency;
- Referred to the external auditor.

5.2 As soon as a fraud or act of corruption is reported, the ~~person receiving the concern (see 3.2 above) should~~ Executive Director receiving the concern will:

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- 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 nature of the suspicions (including relevant names, dates 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, if any;
  - A description of the systems, controls and procedures that should be operating within the area where the fraud is alleged to be taking place.
- ~~In cases involving employees or elected members, contact the relevant officers as outlined in section 4.3. In other cases contact the Audit 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~~ Seek guidance from the ~~Deputy Chief Executive/~~ Chief Financial Officer, Executive Director Central Services and the Internal Audit Manager as appropriate ~~(see above) before taking any action. This includes~~ interviewing, or observing suspects in connection with the suspected act(s). 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.

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5.3 The ~~Audit Manager will then discuss the case~~ case will be discussed by with the Deputy Chief Executive/Chief Financial Officer, and Executive Director, Central Services, ~~and Audit Manager,~~ plus either the Personnel Services Manager (regarding allegations concerning employees) or ~~the Legal Services Manager/Monitoring Officer,~~ (regarding allegations concerning Councillors) and the relevant Executive Director (i.e. the Executive Director responsible for the work area in which the suspect works) to decide what action needs to be taken to investigate the allegation. The discussion will need to consider whether there needs to be an initial covert investigation. In order to initiate disciplinary/criminal proceedings against suspected financial misconduct, it is essential that evidence is secured in a legally admissible form, without alerting suspects at the outset of the investigation.

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There are two main reasons for this:

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- Evidence may be hidden or removed;
- To avoid wrongly damaging the reputation of anyone suspected but subsequently found innocent of wrongful conduct.

5.4 Following this discussion and if it is decided that further information is required, the relevant Executive Director should appoint one or more Investigating Officers. The role of the Investigating Officer(s) is to:

- Identify the issues;
- Establish the facts (e.g. Who, Why, Where, What, When and How?);
- Decide whether there is a case to answer.

5.5 If an investigation is required, the relevant Executive Director will advise the Chief Executive. The Executive Director will also write to the whistleblower:

- Acknowledging that an investigation will be carried out, giving details as to who the investigating officer(s) will be;
- Give an estimate of how long it will take to provide a final response;
- Telling them whether any initial enquiries have been made;
- Advising them that the investigation will be carried out in the strictest confidence.

If there is to be no investigation, give the reasons as to why not.

**6. How the matter can be taken further**

6.1 This policy is intended to provide an avenue to raise concerns **within** the Council. The Council hopes that any whistle-blower will be satisfied. If they are not, and feel that it is right to take the matter outside the Council, the following are possible contact points:

- The Leader of the Borough Council or the whistle-blower’s Ward Councillor (if the whistle-blower lives in the Borough Council’s area);
- The External Auditor;
- Relevant professional bodies or regulatory organisations;
- A Solicitor;
- The police;
- Public Concern at Work.

If a Member or employee does take this matter outside the Council, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. The Member or employee should check with the contact point about that.

**7. The ~~Legal Services Manager~~Monitoring Officer,**

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7.1 The ~~Legal Services Manager~~Monitoring Officer, has overall responsibility for the maintenance and operation of this policy and will liaise as necessary with the Chief Executive; the Deputy Chief Executive; the Executive Director, Central Services; the Chief Financial Officer, the Personnel Services Manager or the Audit Manager, as necessary.

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8. **The Law**

8.1 This policy has been written to take account of the Public Interest Disclosure Act 1998, which protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions.

8.2 The Act is incorporated into the Employments Rights Act 1996, which already protects employees who take action over, or raise concerns about health and safety at work. Financial issues are covered by Section 151 Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, The Local Government and Housing Act 1989, and Accounts and Audit Regulations 2003 (as amended).

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Borough Council of  
**King's Lynn &  
West Norfolk**



# FRAUD RESPONSE PLAN

What to do if you know, or suspect, a fraud has taken place, or is taking place, and who to report it to.

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**1. Introduction**

- 1.1 The Council is committed to protecting the public funds it has been entrusted with. Minimising the losses to fraud and corruption is an essential part of ensuring that all of the Council's resources are used for the purpose for which they are intended, namely the provision of high quality services to the citizens of the Borough. The Council has a range of policies and procedures that facilitate this process and form equally important parts of the Council's overall strategy. These include the Anti-Fraud and [Anti-Corruption Strategy](#) and the Whistleblowing Policy.
- 1.2 This document is intended to provide a framework for the reporting of and response to suspected cases of theft, fraud and corruption.
- 1.3 Investigation of suspected fraud, theft or corruption will be conducted in accordance with the Police and Criminal Evidence Act (PACE) 1984, the Criminal Procedure and Investigations Act (CPIA) 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act (RIPA) 2000 and any other relevant legislation, including any Act or guidance which updates or supersedes any of these Acts.
- 1.4 Appendix A to this document provides an outline checklist that should be used to record significant events and information. As the case progresses, different officers will normally complete the document.

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**2. Scope of this Response Plan**

- 2.1 The scope of this response plan is not limited to fraud and corruption but is applicable to any suspected act of financial or other impropriety. This includes any act that puts the Council's resources at risk.
- 2.2 The exception to this is the arrangements concerning Housing [Benefit](#) and Council Tax [Benefit-Support](#) Fraud, which is dealt with in accordance with the Council's website guide for reporting Benefit fraud and in the Benefits [and Revenues](#) Fraud Policy. The Council's in-house [Benefit Enquiry/Investigations](#) Unit [within the Audit and Fraud Team](#) investigates these frauds.
- 2.3 Definitions of what types of action is covered by this Response Plan can be found in the Anti-Fraud and [Anti-Corruption Strategy](#) in Sections [2- 4 and 3.3.](#)
- 2.4 Anyone raising a concern (whether an employee, Councillor or member of the public) will be referred to as a whistleblower in this Response Plan.

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**3. Reporting Suspicions**

3.1 If you have concerns you should not:

- Do nothing;
- Be afraid to raise your concerns – you will not suffer any recriminations from the Council as a result of raising a legitimate concern;
- ~~Raise vexatious concerns or concerns you know to be untrue – you could be disciplined if you do;~~
- Directly approach or accuse individuals you have concerns about;
- Try to investigate the matter yourself. There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by anyone not familiar with these rules could destroy the case;
- ~~Convey your concerns to anyone not in the list in Section 3.2 below (you have a duty to maintain the confidentiality of the matter under investigation). However an employee may invite a trade union representative or work colleague to raise a matter on their behalf. Members may wish to consult with their party Leader before raising the matter.~~
- Raise vexatious concerns or concerns you know to be untrue – you could be disciplined if you do

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3.2 If fraud or corruption is suspected, then the matter should be reported without delay. Employees should report to their Executive Director at the outset and retain all evidence. If it is thought that the Executive Director may be involved, or that there may be a conflict of interest, the matter should be reported directly to a more senior employee, or to the one of the following:

- Chief Executive;
- ~~Deputy Chief Executive~~ Chief Financial Officer;
- Executive Director, Central Services;
- Audit Manager or Investigations Manager in the Audit and Fraud Team

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3.3 Any Councillors, contractors or other person should inform either the Chief Executive or the ~~Deputy Chief Executive~~ Chief Financial Officer of their concerns.

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3.4 If possible, concerns should be raised in writing, to ensure those conducting investigations properly understand and investigate the allegations. Written allegations should include the background, history and nature of the concern (including names and relevant dates and locations, where applicable) and the reason why the author is particularly concerned about the situation.

3.5 If it is not possible to put a concern in writing, the concern can be raised either by telephone or by meeting the appropriate officer as set out in Section 3.2 above. The earlier a concern is raised, the easier it is to take action.

~~3.6 An employee may invite a trade union representative or work colleague to raise a matter on their behalf. Members may wish to discuss their concerns with their party Leader before raising the matter.~~

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3.67 Although whistleblowers are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

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

3.89 Concerns can also be raised anonymously (by letter or telephone), although these are normally given less weight than those concerns raised more formally.

3.910 Alternatively, whistleblowers can contact the Council's External Auditor (~~PricewaterhouseCoopersErnst & Young~~) on ~~01603 61524401223 394400~~ who is likely to liaise with any of the above.

~~3.1011 Benefit (Council Tax or Housing Benefit) concerns should be raised with the Investigations Manager on 01553 616560 or by using the Fraud Hotline 0800 281879. Fraud relating to Housing Benefit and Council Tax Support, Council Tax and Business Rates exemptions and discounts should be referred to the Investigations Unit within the Audit and Fraud Team either by completing the Fraud Referral Form on the website: <http://www.west-norfolk.gov.uk/default.aspx?page=21676> or by using the fraud hotline 0800 281 879.~~

**4. The Initial Response**

4.1 The action taken by the Council will depend on the nature of the concern and may be:

- Resolved by agreed action without the need for investigation;
- Investigated internally;
- Referred to the police or another investigating agency;
- Referred to the external auditor.

4.2 As soon as a fraud or act of corruption is reported, the ~~person~~ Executive Director, receiving the concern ~~(see 3.2 above) should will:~~

- 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 nature of the suspicions (including relevant names, dates 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, if any;
  - A description of the systems, controls and procedures that should be operating within the area where the fraud is alleged to be taking place.
- ~~In cases involving employees or elected members, contact the relevant officers as outlined in section 4.3. In other cases contact the Audit~~

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~~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 Seek guidance from the Deputy Chief Executive/Chief Financial Officer, Executive Director Central Services and the Audit Manager, Internal Audit as appropriate (see above) before taking any action including. This includes interviewing, or observing suspects in connection with the suspected act(s). 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.~~

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4.3 ~~The Audit Manager will then discuss the case with the~~The case will be discussed by the ~~Deputy Chief Executive~~Chief Financial Officer, and Executive Director, Central Services ~~and the Audit Manager,~~ plus either the Personnel Services Manager (regarding allegations concerning employees) or the ~~Legal Services Manager~~Monitoring Officer, (regarding allegations concerning Councillors) and the relevant Executive Director (i.e. the Executive Director responsible for the work area in which the suspect works) to decide what action needs to be taken to investigate the allegation. The discussion will need to consider whether there needs to be an initial covert investigation. In order to initiate disciplinary/criminal proceedings against suspected financial misconduct, it is essential that evidence is secured in a legally admissible form, without alerting suspects at the outset of the investigation.

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There are two main reasons for this:

- Evidence may be hidden or removed;
- To avoid wrongly damaging the reputation of anyone suspected but subsequently found innocent of wrongful conduct.

4.4 Following this discussion and if it is decided that further information is required, the relevant Executive Director should appoint one or more Investigating Officers. The role of the Investigating Officer(s) is to:

- Identify the issues;
- Establish the facts (e.g. Who, Why, Where, What, When and How?);
- Decide whether there is a case to answer.

4.5 If an investigation is required, the relevant Executive Director will advise the Chief Executive. The Executive Director will also write to the whistleblower:

- Acknowledging that an investigation will be carried out, giving details as to who the investigating officer(s) will be;
- Give an estimate of how long it will take to provide a final response;
- Telling them whether any initial enquiries have been made;
- Advising them that the investigation will be carried out in the strictest confidence.

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If there is to be no investigation, give the reasons as to why not.

**5. The Investigating Officer’s Investigation**

5.1 The Investigating Officer’s investigation should be broadly structured as follows:

- Identify issues and appropriate interviewees;
- Invite the whistleblower to a formal interview (ensuring that this is done in writing and advising them that they have the right to be accompanied) (NB The Council requires that any employee invited to be interviewed by an Investigating Officer must attend – a failure to do so may be considered a disciplinary offence);
- Hold the interviews;
- Obtain witness statements;
- Validate/ analyse the evidence (either directly or indirectly);
- Review the evidence – has enough evidence been obtained to enable a recommendation as to whether there is a case to answer to be made?
  - is there a need to interview anyone else?
- Draft a report and recommend either that there ~~either~~ is or there is not sufficient evidence to support the allegation, but ~~not~~ recommend any particular course of action that should be taken by the relevant Executive Director ~~(e.g. not recommend that disciplinary action should or should not be taken)~~;
- Issue their report, together with the supporting evidence, to the commissioning Executive Director.

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5.2 The amount of contact between the Investigating Officers and the whistleblower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the whistleblower. If required, initial meetings can be arranged to be held in a “neutral” location, to help preserve the anonymity of the whistleblower.

5.3 Whenever a meeting is arranged with an employee, the employee has the right, if they so wish, to be accompanied by a colleague or trade union official. Alternatively, some other person of their choice may accompany the employee, provided the presence of this person will not prejudice any hearing. If the employee is under the age of 18 years, then a parent or guardian would be encouraged to attend.

5.4 The Council will take steps to minimise any difficulties that a whistleblower may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure.

5.5 Investigating Officers should ensure that any evidence collected is stored securely at all times and 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. If appropriate and practicable, any IT equipment that may hold evidence should be secured and the contents reviewed (including any networked data areas) by or with the assistance of the ICT Section.

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- 5.6 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 should it be necessary for the case to be subsequently referred to the courts.
- 5.7 Staff responsible for commissioning and carrying out surveillance of suspects must do so in accordance with the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Council's Procedures for Covert Surveillance (Employee Handbook Appendix R). Failure to comply with RIPA will make all surveillance evidence inadmissible in court and may leave the Council liable to court action for a breach of the Act. The Council's [Legal Services Manager/Monitoring Officer](#) can provide advice on the requirements of RIPA.

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**6. Decision as to any Further Action**

- 6.1 Upon receiving the Investigating Officer's report, the Executive Director must decide what action, if any, needs to be taken.
- 6.2 This will depend on whether there is, within the Investigating Officer's report, sufficient evidence to investigate the matter further and/ or whether the allegations can form the basis of a disciplinary hearing.
- 6.3 The Executive Director should:
  - Remind themselves of the issues raised;
  - Decide, issue by issue, whether there is a case to answer.
- 6.4 The decision should be based upon the balance of probabilities, rather than the requirement to be "beyond reasonable doubt". As this is the civil law test, not a criminal law test – there must be a reasonable belief that there is a case to answer and the decision must be based on a reasonable investigation. The Executive Director may obtain guidance from the [Legal Services Manager/Monitoring Officer](#), the Personnel Services Manager, the Investigating Officer(s) or any other officer they feel is appropriate to help them make their decision.
- 6.5 The decision could be that:
  - On the basis of the evidence, there is sufficient evidence to take disciplinary action;
  - There is sufficient information to demonstrate that the original concerns are supported by the evidence but that further investigation is required before a firm conclusion can be made or disciplinary action can be taken;
  - There is insufficient evidence to support the original concern and that no further action will be taken.
- 6.6 Any disciplinary action arising from a fraud investigation will be conducted in accordance with the Council's Disciplinary Procedure.

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**7. Prevention of Further Losses**

7.1 When a suspected fraud is reported, the Audit Manager will liaise with the relevant Executive Director or Service Manager and the Personnel Services Manager to determine the most appropriate course of action to prevent any further losses to the Council occurring.

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

- The allegations include grounds that could lead to dismissal (i.e. where gross misconduct is suspected);
- There are grounds for doubt as to the suitability of an employee to remain at work during the investigation;
- It is necessary to remove the employee from the premises where his/her presence may inhibit proper investigation;
- There are pending criminal investigations or proceedings.

7.3 All suspensions will be carried out in line with the Council's Disciplinary and Dismissal Procedure. Suspension does not constitute disciplinary action.

7.4 Any Identity Cards and keys to Council property should be obtained from the person being suspended, along with other Council owned items (such as laptops and mobile phones), and returned to the appropriate officer or kept securely pending investigation (at this stage it would be acceptable for the drivers of leased cars to keep these in their possession, although Council van drivers should be required to hand back the ignition keys, as these can be used by other employees).

7.5 ICT and the appropriate Systems Administrators should be contacted to disable access to all relevant IT systems to ensure that computer data cannot be altered.

**8. Recovery of Losses**

8.1 Managers should seek to recover any losses incurred through acts of financial impropriety from the offenders concerned. Management should consult the Legal Services Manager, the Personnel Services Manager and the ~~Deputy Chief Executive~~ Chief Financial Officer and Executive Director, Central Services to establish the options available to recover losses (e.g. either through the courts, deducted from any outstanding pay (but only with the employee's consent) or by means of insurance).

8.2 Where substantial potential losses have been identified at the outset of an investigation, management should seek legal advice immediately from the ~~Legal Services Manager~~ Monitoring Officer, regarding the possibility of freezing the suspect's assets through the courts, pending the conclusion of the investigation.

**9. Police or other Investigating Body Referral Procedures**

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- 9.1 If the allegation involves alleged financial irregularity, corruption or fraud, the Executive Director, Central Services and ~~Deputy Chief Executive/Section 151~~ Chief Financial Officer must be informed immediately by the relevant Executive Director. These three officers will then agree an appropriate course of action in accordance with these procedures.
- 9.2 Any decision to refer a matter to the Police or other investigating agency (e.g. Department of Work & Pensions Fraud unit, Trading Standards, Office of Fair Trading) will only be taken by the ~~Deputy Chief Executive~~ Chief Financial Officer, Executive Director, Central Services and relevant Executive Director.
- 9.3 In such cases the relevant Executive Director will make the necessary contact with the police and/or the Audit Manager will make the necessary contact with any other agreed Investigating Agency. Referral to the police/other agreed Investigating Agency will not preclude action under the Council's disciplinary procedures, nor will it preclude the possibility of a civil action in the courts. A range of sanctions is available to the Council. These include disciplinary action, civil proceedings, criminal proceedings, official cautions and administrative penalties (mostly as regards Benefit Fraud).
- 9.4 The Audit Manager will handle all agreed Investigating Agency requests for additional evidence, statements or any other form of assistance.
- 9.5 ~~We~~ The Council will consider using the services of an Investigating Agency in cases where their additional powers are required to secure evidence or recover funds or where the matter is too serious to be pursued in-house.
- 9.6 In considering a case for Investigating Agency referral or for when considering either a criminal or civil prosecution, two "tests" will be applied – the evidential test and the public interest test. Only when **both** of these tests are satisfied will a case normally be considered as suitable for prosecution by the Council (although this will not preclude the Investigating Agency from pursuing any action of its own).

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**Evidential Test**

Is there enough evidence to provide a realistic prospect of conviction, bearing in mind that a Court will require that the case can be proven "beyond all reasonable doubt"?

In order to ensure that a realistic prospect of conviction exists, Investigating Officers will at all times ~~ensure that~~ conduct their investigations ~~are conducted~~ in accordance with relevant legislation and in line with published codes of practice and guidance with respect to the gathering of evidence, interviewing and the rules of disclosure. This includes adherence to the requirements for the Regulation of Investigatory Powers Act 2000 (RIPA) and the Police and Criminal Evidence Act 1984 (PACE).

~~To ensure that, should a prosecution be a possibility, evidence will be gathered in an investigation in such a way that the prospect of a conviction or successful civil action is highly likely.~~

**Public Interest Test**

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The Council will consider whether it is in the public interest to prosecute, having considered the following factors:

- A conviction is likely to result in a sentence;
- The defendant was in a position of authority or trust;
- The evidence shows that the defendant was a ringleader or an organiser of the offence;
- There is evidence that the offence was premeditated;
- There is evidence that the offence was carried out by a group of individuals;
- The defendant's previous convictions or cautions are relevant to the present offence, if known;
- There are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct; or the offence, although not serious in itself, is widespread in the service where it was committed;
- Aggravating and mitigating factors will be taken into consideration when deciding on the appropriate sanction.

9.7 In all cases of fraud, financial misconduct, serious and intentional breach of Financial Regulations or Contract Standing orders or any other kind of corrupt act where there is an investigation by the police or other external agency, the ~~Deputy Chief Executive~~ Chief Financial Officer, Executive Director, Central Services and relevant Executive Director will agree an appropriate course of action in accordance with the Council's disciplinary procedures.

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## 10. Post Investigation

10.1 The relevant Executive Director, in consultation with the Executive Director, Central Services or Personnel Services Manager, should agree a method for communicating the outcome of an investigation, and potentially any disciplinary proceedings, to other members of a team involved in any investigation under this policy. Any such feedback will respect confidentiality and data protection issues and will be designed to ensure that other employees are aware of improvements to systems or procedures or are provided with update/refresher training as required to ensure that lessons learnt from the investigation are put into practice. Any public announcement needs to be made by the Communications team.

10.2 To prevent further losses and where it will not prejudice any subsequent investigation, management should liaise with Internal Audit to rectify any identified system or control weaknesses that have enabled the financial impropriety to be undertaken.

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10.3 The relevant Executive Director will report the outcome of any investigation to the Council's Leader and the relevant Portfolio Holder(s).

10.4 The Audit Manager will report the outcome of any investigation to the Audit and Risk Committee, which will monitor the implementation of any recommendations arising from the investigation

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**11. Publicity and Dealing with the Media in Connection with Suspected or Proven Fraud**

- 11.1 Any public statements regarding pending, current or completed investigations or allegations of financial impropriety should only be made through the Communications Manager, and will be authorised by the Deputy Chief Executive or Executive Director Central Services prior to release. Employees, Members and third parties of the Council should not make any public statement regarding suspected financial impropriety, in order to avoid making libellous statements, or statements that may prejudice ongoing investigations or any subsequent disciplinary/legal action. ~~All statements to the press (including any statements given after the investigation or disciplinary or legal action) must be co-ordinated by the Communications Manager.~~ Public or press requests for information should also be referred to the Communications Manager.
- 11.2 The Communications Manager should optimise the publicity opportunities available to make employees and the public aware of the Council's commitment to taking action on acts of financial impropriety. As such any action taken relating to acts of financial impropriety should, wherever possible, be reported in the press, as a deterrent to other potential offenders.
- 11.3 Following any investigation, the outcome will be reported back to the Whistleblower by the relevant Executive Director.

**12. Roles and Responsibilities (who does what)**

**In All Cases:**

~~Deputy Chief Executive~~**Chief Financial Officer:** has overall responsibility for the Council's response to fraud and, in conjunction with the Executive Director, Central Services, to oversee the action taken to investigate allegations.

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**Executive Directors:** have responsibility for:

- Establishing and maintaining adequate system controls within their directorates, including responsibility for the prevention and detection of fraud and ensuring staff awareness;
- Appointing Investigating Officers where appropriate;
- Informing any agreed external Investigating Agency (e.g. the Police), the Leader and the relevant Portfolio Holder(s).

**Managers and supervisors:** have responsibility for the prevention and detection of fraud and corruption within their work area and for swiftly reporting allegations brought to them.

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**Audit Manager:** has overall responsibility for fraud investigations and advising on action to be taken. Where appropriate, will inform the Audit & Risk Committee of any relevant matter.

~~Legal Services Manager~~**Monitoring Officer:** has responsibility for advising on any legal matter and, where appropriate, informing the Standards Committee of any relevant matter. Has overall responsibility for the Anti-Fraud and Corruption Strategy and associated policy etc.

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**Communications Manager:** *At the request of the Deputy Chief Executive/Executive Director Central Services,* responsible for all public statements or announcements regarding any investigation and dealing with any requests from outside the Council for information regarding any such investigations.

**Investigating Officers (often, but not necessarily, a member of the Internal Audit team, in conjunction with the service manager):** have responsibility for investigating matters of suspected fraud or corruption and reporting their findings to the Executive Director commissioning the investigation.

**Cases Involving Employees:**

**Employees:** are required to act in accordance with the [Employee Code of 'Official Conduct' contained in the Employee Handbook](#) ~~Conduct~~ to report all actual or suspected cases of financial impropriety, fraud or corruption.

**Personnel Services Manager:** has responsibility for the operation of the Council's Whistleblowing Policy as it affects employees. Will provide timely advice and guidance on relevant Council policies and procedures during the course of any investigation and any subsequent disciplinary action.

**Cases Involving Elected Members:**

**Council Members:** are required to act in accordance with the Members Code of Conduct and should report any suspected, or detected, acts of financial impropriety immediately to the Chief Executive or the Deputy Chief Executive.

**Democratic Services Manager:** has responsibility for the operation of the Council's Whistleblowing Policy as it affects Council Members.

**Cases Involving External Contractors/Third Parties**

***External Contractors/Third Parties:*** should report any suspected, or detected, acts of financial impropriety to the Chief Executive or the Deputy Chief Executive.

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**Appendix A**

**Whistleblowing Checklist**

NB This checklist is not definitive, as each case is different. However, it should be used as a guide and completed as fully as possible. If there is anything relevant identified or done, the “Additional information” section at the foot of the relevant page(s) should be completed. This checklist should be kept at the front of the primary file produced for the case and should be kept up to date. If anything requires clarification, you should consult the Audit Manager in the first instance. If additional information needs to be included, please attach to this checklist.

**Suspicion(s) Reported (See Section 3 above)**

Received by:

Date received:

Name of whistleblower (if provided):

Whistleblower is: Employee/ Councillor/ Contractor/ member of the public  
(Delete those not required)

Concern/ allegation raised by whistleblower or a representative (including names of anyone suspected, why the whistleblower is concerned, details of expected systems/ system checks (e.g. approval signatures) if known:

Nature of allegation:

Fraud/ theft/ corruption/ not clear

Means by which notification received:

Written/ Telephone/ Face to face/  
Other (give details):

Request to maintain the whistleblower’s name confidential?

Yes/ No

Details of any pre-reporting investigation (if any) to support the concerns:

Name(s) of employee(s) suspected:

Name of relevant Executive Director:

Name of relevant Service Manager:

Additional information:

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**Initial Response (See Section 4 above)**

Date of discussion with whistleblower and/ or representative:

Whistleblower accompanied? Yes/ No By:

Additional information obtained:

Audit Manager informed Date:

Meeting between Audit Manager, ~~Deputy Chief Executive~~ Chief Financial Officer and Personnel Services Manager: Date:

Covert investigation required? Yes/ No

Open investigation required? Yes/ No

There will/ will not be a full investigation Yes/ No

Likelihood that ICT equipment will need to be seized/ hard disk catalogued/ network area catalogued to provide evidence? Yes/ No

Likelihood that suspension may be required? (BUT consult with the Personnel Services Manager before making a decision)(NB See next page – this decision needs to be taken in accordance with the Council’s Dismissal and Disciplinary Procedure) Yes/ No

If significant losses have been identified as likely, is it appropriate to freeze the suspect’s assets through the courts, pending the outcome of the investigation (BUT consult with the ~~Legal Services Manager~~ Monitoring Officer before making a decision)? Yes/ No

Other Information:

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**Appointment of Investigating Officer(s) (See Section 4 above)**

Date decision to investigate taken (if different to date of the meeting between AM/ [DCExCFO](#)/ Exec Director):

Date on which the Terms of Reference of the investigation were produced:

Name(s) of Investigating Officer(s):

Outline Terms of Reference:

Initial letter to whistleblower (See Section 4.5 above): Date

Drafted by:

Suspect to be suspended on full pay (if not already suspended)? Yes/ No  
(NB Decision needs to be made in accordance with the Council's Disciplinary and Dismissal Procedures)

Estimated length of investigation as advised to whistleblower: days/  
weeks

If no investigation is to be undertaken, reasons for this as notified to the whistleblower:

Additional Information:

**The Investigating Officer’s Investigation (See Section 5 above)**

Date started

Details of initial interviewee(s) (including those with the whistleblower/ suspect):

Name of interviewee	Date/ time of interview	Location of interview
---------------------	-------------------------	-----------------------

Witness statement produced (NB each page must be signed by both the interviewee and the lead Investigating Officer)?

Yes/ No

ICT equipment seized?

Yes/ No

ICT Network area examined

Yes/ No

Desk/ filing cabinet/ other storage examined/ emptied?

Yes/ No

Other Council assets seized?

Yes/ No

Covert surveillance required?

Yes/ No

If yes, RIPA forms completed?

Yes/ No

RIPA forms authorised?

Yes/ No

NB If, during the course of the investigation, it appears that the police or another external investigatory body needs to be informed/ consulted, the Investigating Officer should refer to the section “Police or other Investigating Body Referral” above.

Report issued to relevant Executive Director:

Date

Recommendation: Evidence to support the allegation/ Insufficient evidence to support the allegation/ further investigation required

**Decision as to any further action being taken (See Section 6 above)**

NB Any decision should be based upon the 'balance of probabilities', not 'beyond reasonable doubt'.

Upon receiving the Investigating Officer's report, the Executive Director must decide what action, if any, needs to be taken.

On the basis of the report is there sufficient information to make a decision?  
Yes/ No

Does the report:

- Adequately cover the issues raised?
- Issue by issue, say whether there is a case to answer?

What information, if any, seems to be missing, such that, if known, a decision as to whether disciplinary action is appropriate can be made?

Guidance sought (e.g. from Deputy Chief Executive, Personnel Services Manager, [Legal Services Manager](#), [Monitoring Officer](#), etc.)?:

Yes/ No

If so, source of guidance:

Date guidance obtained?

Decision regarding future action regarding the accusations:

(NB The decision could be that:

- On the basis of the evidence, there is sufficient evidence to take disciplinary action;
- There is sufficient information to demonstrate that the original concerns are supported by the evidence but that further investigation is required before a firm conclusion can be made or disciplinary action can be taken;
- There is insufficient evidence to support the original concern and that no further action will be taken.)

Date Personnel Services Manager informed of the decision:

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Date Deputy Chief Executive/ Audit Manager informed of the decision:

Date suspect informed of the decision:

Suspect to be suspended on full pay (if not already suspended)? Yes/ No  
(NB Decision needs to be made in accordance with the Council's Disciplinary and Dismissal Procedures)

If further information is required either to make the decision or to provide additional information to support disciplinary action, give brief details below:

Date of disciplinary hearing:

Location of disciplinary hearing:

Outcome of disciplinary hearing: (e.g. Gross Misconduct, Misconduct etc.)

Additional Information:

**Recovery of Losses**

Is it considered possible that the losses can be recovered:

- Directly from the suspect? Yes/ No
- Through the Courts? Yes/ No
- From the Council's insurers? Yes/ No
- From some other source? (Give details below) Yes/ No

If so, how will the losses be recovered?

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**Police or other Investigating Body Referral**

NB Any decision to refer the matter to the police or other external investigating agency will be made jointly by Executive Director, Central Services, the Deputy Chief Executive and the appropriate Executive Director.

Referral agreed:	Yes/ No	Date
Agency	Date informed	Further action?
Police		
DWP		
Trading Standards		
Norfolk County Council		
Office of Fair Trading		
Other (give details):		

If appropriate, Police Crime Number: \_\_\_\_\_

Outcome of the external agency's investigation. (NB This could take some months, depending upon the agency and the nature of their investigation):

Other information:

**Post Investigation**

Informant advised of the outcome of the investigation Date:

Service area staff informed Date:

Leader informed Date:

Relevant Portfolio Holder informed Date:

Audit & Risk Committee informed Date:

System changes instituted to minimise the risk of reoccurrences:

Follow-up review required?

Publicity etc.: Any public notice of the fraud/ corruption, etc. Yes/ No  
(NB Any media dealings are to be dealt with by the Communications Section)

Publications notified: Lynn News Yes/ No  
Eastern Daily Press Yes/ No  
Other (if so, which?) Yes/ No

Other Information:

**AUDIT AND RISK COMMITTEE WORK PROGRAMME 2014/2015****29 April 2014**

- 5.30 pm: 1<sup>st</sup> Item - Fraud – (training/briefing session – all Members invited to attend):
- Single Fraud Investigation Service Update
- Cabinet Report: Anti-Fraud and Anti-Corruption Strategy, Whistleblowing Policy and Fraud Response Plan

**27 May 2014**

- Q4 Progress Report.
- Fraud report – BEU and NFI
- Corporate Risk Monitoring Report (October 2013 to March 2014)

**9 June 2014**

- Final Accounts and Statement of Accounts for year ended 31 March 2013: Revenue Outturn, Capital Programme and Resources, Annual Treasury Report

**22 July 2014**

- Q1 Progress Report
- Annual Report
- Effectiveness Reviews
- Business Continuity

**9 September 2014**

- Special Meeting – to consider the Statement of Accounts 2012/2013
- Annual Governance Statement



**25 November 2014**

- Q2 Progress Report
- Fraud Report – BEU and NFI
- External Annual Audit Letter – to be presented by the Council’s External Auditor
- Mid-Year Treasury Report

**24 February 2015**

- Q3 Progress Report
- Strategic Audit Plan

**24 March 2015**

**Forthcoming Items**

Business Continuity/Emergency Planning Training (45 mins) – 1<sup>st</sup> item – training session – open to all Members) – date to be determined.