



APPENDIX 2

ANTI FRAUD, BRIBERY AND CORRUPTION RESPONSE PLAN

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Anti Fraud, Bribery and Corruption Response Plan

Introduction

- 1.1 This Fraud and Corruption Response Plan forms part of the Council's Anti-Fraud, Bribery and Corruption Policy and details how suspected instances of fraud, bribery and corruption can be reported, and how investigations into suspicions will be conducted and concluded.
- 1.2 Where fraud, bribery or corruption does occur, it is the Council's objective to ensure that it is detected promptly and investigated properly. The purpose of this plan is to help ensure that effective and consistent action is taken in the event of suspected irregularities and defines responsibilities for action and reporting lines.
- 1.3 It is vital that all members of staff and line managers are aware of procedures to be followed in the event of suspected irregularities. Swift and consistent action must be taken and the Council can become aware of potential fraud and corruption in a variety of ways, including:
- management procedures and arrangements.
 - systems of internal control.
 - internal review arrangements, such as Internal Audit.
 - reports by employees.
 - reports by members of the public or other third parties.
- 1.4 The Fraud and Corruption Response Plan is one of a series of policies and procedures which the Council has introduced to prevent, deter and detect fraudulent or corrupt acts, and reinforce a culture of integrity and accountability. Other documents that should be referred to in conjunction with the Plan include:
- Whistleblowing Policy
 - Financial Regulations
 - Members' Code of Conduct
 - Officers' Code of Conduct
 - Disciplinary Policy and Procedure
 - Gifts and Hospitality Policy
 - Recruitment and Selection Policy
 - Anti-Money Laundering Policy
- 1.5 Please refer to **Appendix A** for details of individual responsibilities and **Appendix B** for the investigation process flowchart.

Definition of Fraud, Bribery and Corruption

- 2.1 Fraud is defined by the Chartered Institute of Public Finance and Accountancy (CIPFA) as:
"the intentional distortion of financial statements or other records by persons internal or external to the authority, which is carried out to conceal the misappropriation of assets or otherwise for gain, or to mislead or misrepresent".
- 2.2 Corruption is defined by CIPFA as:
"the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person; or the failure to disclose an interest in order to enjoy financial or other pecuniary gain".

- 2.3 Bribery is “the receiving or offering of undue reward to persons in order to influence their behaviour contrary to ordinary standards of integrity and honesty.”
- 2.4 **The Fraud Act 2006** created a general criminal offence of fraud and identified three main ways it can be committed:
- Fraud by false or misleading representation.
 - Fraud by failing to disclose to another person information which he is under a legal duty to disclose.
 - Fraud by abuse of a position of trust.

The Act also created four related criminal offences of:

- Possession of articles for use in frauds.
- Making or supplying articles for use in frauds.
- Participating in fraudulent business.
- Obtaining services dishonestly.

- 2.5 **The Theft Act 1968 and the Forgery and Counterfeiting Act 1981** define offences of:

- Theft
- False Accounting
- Forgery

- 2.6**The Bribery Act 2010** contains two general offences:

- Section 1 - the offering, promising or giving of a bribe (active bribery);
- Section 2 - and the requesting, agreeing to receive or accepting of a bribe (passive bribery)

It also sets out two further offences which specifically address commercial bribery:

- Section 6 - creates an offence relating to bribery of a foreign public official in order to obtain or retain business or an advantage in the conduct of business;
- Section 7 - creates a new form of corporate liability for failing to prevent bribery on behalf of a commercial organisation.

Reporting Suspected Incidents

- 3.1 If fraud, bribery or corruption is suspected, it should be reported without delay to a line manager or other senior officer, or to the Section 151 Officer or to Internal Audit.
- 3.2 Suspected benefit fraud should be referred to the Department of Work and Pensions Fraud and Compliance Team.
- 3.3 If concerns relate to elected members, the Council’s Monitoring Officer should be informed.
- 3.4 Allegations regarding schools should be reported initially to the Chair of Governors of the school or, if this is not appropriate, the Assistant Director, Learning and Skills.
- 3.5 Managers must ensure that any reports to them of suspected irregularity are recorded and investigated and must notify the Assistant Director Finance and Investment (S151) and the Audit and Assurance Manager as soon as possible, where any irregularity is suspected. The Assistant Director Finance and Investments is then responsible for investigating suspected financial irregularities, with this function normally undertaken by Internal Audit.
- 3.6 The link to the Council’s Anti-Money Laundering Policy and Procedure should be noted, in that many forms of fraud may well also constitute offences under the Proceeds of Crime Act 2002 and associated Money Laundering Regulations.

3.7 It is imperative that confidentiality is maintained at all times and where potential fraud, bribery or corruption is discovered, no action should be taken which may alert persons suspected of irregularity or which discloses, without their consent, the identity of the person raising the concern.

3.8 In addition to the procedures above, the Council's Whistleblowing Policy and Procedures provides guidance on how suspected incidents of fraud or corruption should be reported and how alleged irregularities will be investigated and responded to. Any suspected irregularities may be reported in the following ways:

To your line manager

Whistleblowing hotline – 01642 444333

Whistleblowing email – whistleblowing@middlesbrough.gov.uk

The Audit and Assurance Manager on 01642 729822 or 01642 771165 or by writing to Tees Valley Audit and Assurance Services, Middlesbrough Council, Town Hall, Middlesbrough TS1 9FX.

Benefit fraud – call Department for Work and Pensions (DWP) National Benefit Fraud Hotline by calling 0800 854 440.

Investigating Allegations of Irregularities

4.1 Managers must ensure that reports of suspected irregularity are recorded and investigated, in accordance with the Whistleblowing Policy. Where it appears that fraud or financial impropriety has occurred, the manager must notify the Section 151 Officer or Audit and Assurance Manager. If bribery or corruption is suggested, the manager must in addition notify the Monitoring Officer.

4.2 All other internal investigations are normally undertaken by TVAAS, the Council's Audit and Assurance Service, in conjunction with Human Resources Services where applicable, with the objective of establishing the facts in an objective and equitable manner.

4.3 Where investigations are undertaken by Internal Audit, TVAAS will ensure that:

- potential fraud and irregularity is responded to quickly and discreetly
- all evidence is recorded.
- evidence collated is sound and adequately reported.
- all evidence is held securely.
- findings are reported promptly to management with remedial action identified where applicable.

4.4 The confidential nature of fraud investigations mean that there will be restrictions on what information can be provided to those who have reported allegations. All allegations will be taken seriously and where there is evidence to support an allegation, will be fully investigated. Police will be involved where appropriate. Updates on progress will be provided to managers where investigations have been commissioned internally. Updates cannot be provided to the public for reasons of confidentiality.

4.5 The investigation of fraud, bribery and corruption is a sensitive area and will usually be undertaken by staff in Internal Audit or, depending on the nature of the allegation, managers

in conjunction with Internal Audit. The Monitoring Officer will be involved with any investigations involving elected Members.

- 4.6 To facilitate audit work and investigations, Internal Audit staff are accorded rights, by the Accounts and Audit Regulations (England) 2015, to access all necessary documents, records, information and explanations from any member of staff.
- 4.7 The investigation process by Internal Audit is set out in their Audit Manual.
- 4.8 Investigations must comply with the requirements of the Human Rights Act 1998 and the Regulation of Investigatory Powers Act 2000 (RIPA). Any investigation into actions which constitute a criminal offence must also be undertaken in accordance with the Police and Criminal Evidence Act 1984 (PACE).
- 4.9 In the case of fraud or financial irregularity, where sufficient evidence exists to suggest that a criminal offence may have been committed, the Audit and Assurance Manager will refer this to the Police. The Police, in consultation with the Crown Prosecution Service, will determine whether any prosecution takes place.
- 4.10 The Assistant Director Finance and Investments, Monitoring Officer and Audit and Assurance Manager will ensure that fraud or financial irregularity necessitating police involvement is reported to the relevant Director / Assistant Director, Chief Executive and Mayor.
- 4.11 If during the course of an investigation there is evidence that corrupt action has occurred, the Audit and Assurance Manager will notify the Monitoring Officer.
- 4.12 At the conclusion of an investigation, TVAAS will provide a report for the director and the head of the service area(s) concerned, as soon as is possible, in order that a decision may be made as to the action to be taken.

Further Action

- 5.1 Where the outcome of an audit investigation indicates improper behaviour by an employee then the Council's disciplinary processes will be instigated. Corrective and disciplinary action may be taken in addition to, or instead of, criminal proceedings, subject to the advice of Human Resources Service.
- 5.2 Following all investigations into suspected irregularities, work will be undertaken with the relevant service area(s) in order to address any weaknesses in procedures identified during the investigation.
- 5.3 Where appropriate, the Council will liaise with the police if sufficient evidence exists for prosecution. This approach may be adopted in conjunction with the Council's own disciplinary procedures.
- 5.4 Wherever an investigation indicates that fraud or corruption has occurred, all avenues for recovering losses will be considered, including confiscation under the proceeds of crime act, civil claims, recovery from accrued pensions and appropriate insurance claims.
- 5.5 The Council's Senior Press Officer will liaise with the press to publicise any anti fraud and corruption initiatives undertaken by the Council. Any cases of identified fraud or corruption will also be publicised where appropriate. Publicity will be used as a deterrent and wider circulation of investigative reports and lessons learned will be an ongoing consideration.

Public statements and press releases must be made through the Council's Marketing and Communications Team.

- 5.6 Any employee who is approached by the press should advise them that all media enquiries are handled through the Senior Press Officer. The employee should immediately report the press interest to their head of service or their nominated representative.

CONTACTS/MORE INFORMATION

Assistant Director Finance and Investments 01642 729032
Audit and Assurance Manager 01642 729822 or 01642 771165
Monitoring Officer 01642 729738
Whistleblowing hotline 01642 444333
Whistleblowing email – whistleblowing@middlesbrough.gov.uk

Benefit Fraud

If you have any information or concerns that you feel should be reported, please telephone the Department for Work and Pensions (DWP) National Benefit Fraud Hotline by calling 0800 854 440. You can also report any suspected benefit fraud on line at www.gov.uk/report-benefit-fraud or by writing to them at the following address:

NBFH
PO Box 224
Preston
PR1 1GP

Copies of key documents such as the Council's Whistleblowing Policy, Employees' Code of Conduct and Financial Regulations can be found on the Council's website: <http://www.middlesbrough.gov.uk>

APPENDIX A – Detailed Responsibilities – Anti Fraud, Bribery and Corruption

Person/Group	Responsibilities
Mayor and Councillors	<ul style="list-style-type: none"> •A duty to Middlesbrough residents to protect the Council and public money from any acts of fraud, bribery and corruption. •Compliance with the Code of Conduct for Members, the Council’s Constitution, including Financial Regulations and Procurement Regulations. •Compliance with requirements regarding declaration of interests, gifts, and hospitality. •Avoid situations where there is a potential for an actual or perceived conflict of interest. •Report fraud, bribery or corruption where it is reasonably suspected.
Corporate Affairs and Audit Committee	<ul style="list-style-type: none"> •Receive assurance on the anti-fraud arrangements to Council and sign off the Annual Governance Statement regarding fraud issues specifically. •Approval of the Anti-Fraud, Bribery and Corruption Policy. •Monitor internal audit and external audit findings and concerns.
Executive Directors	<ul style="list-style-type: none"> •Support the maintenance of a strong culture where fraud, bribery and corruption are unacceptable. •Notify the Section 151 Officer/Audit and Assurance Manager of any suspected irregularity.
Section 151 Officer	<ul style="list-style-type: none"> •Ensure that effective procedures are in place for the prompt investigation of irregularity. •Ensure awareness of fraud risks is maintained through training, publicity, fraud risk registers and fraud prevention work. •Ensure that arrangements are in place to actively pursue fraud.
Service managers/head teachers/school governors	<ul style="list-style-type: none"> •Ensure that they, and their staff, understand the fraud risks faced in delivering services. •Implement and maintain an effective control environment to prevent fraud, commensurate with the level of risk identified. •Communicate the requirements of this and related policies in their work area. •Create an environment in which staff feel able to report concerns of suspected fraud. •Comply with Middlesbrough Manager framework. •Advise Internal Audit of any suspected cases of fraud and carry out or assist in the investigation of it as required. Advise Internal Audit of the outcome of any cases investigated.
All employees irrespective of status	<ul style="list-style-type: none"> •Be aware of the possibility that fraud, bribery, corruption and theft may exist in the workplace and report it where they reasonably suspect the Council is being targeted. •Avoid situations where there is an actual or perceived potential for a conflict of interest. •Comply with the Council's policies and codes.
Internal Audit	<ul style="list-style-type: none"> •Maintain an overall fraud risk assessment on behalf of the Council and review the effectiveness of the Council's response to the risks faced. •Deliver an opinion to the Section 151 Officer and the Corporate Affairs and Audit Committee on the Council’s control and governance arrangements. •Undertake an annual programme of pro-active fraud work designed to prevent and detect fraud (subject to resources and agreement of the annual internal audit plan). •Ensure cases of suspected irregularity, fraud or corruption are investigated and refer, where appropriate, to the Police, Legal Services and HR. (Exception: benefit fraud). •Advise management on procedural improvements required to prevent occurrence or recurrence of fraud. •Develop and encourage the exchange of information and alerts on national and local fraud and corruption risks.
Human Resources	<ul style="list-style-type: none"> •Provide timely advice and guidance on Council Policies and procedures during investigations and any disciplinary action •Ensure recruitment procedures to be applied by Managers are effective in the verification and validation of information submitted by applicants prior to appointment e.g. eligibility to work, verification of qualifications and employment history, security checks where appropriate.
Monitoring Officer	<ul style="list-style-type: none"> •Advise Councillors of new legislative or procedural requirements regarding conduct and ethical matters. •Maintain a register of Members interests, gifts and hospitality declared. •Take criminal and civil actions to ensure appropriate sanctions are applied. •Provide advice on potential criminal cases.

APPENDIX B – Investigation Flowchart

