

MIDDLESBROUGH COUNCIL



Report of: Corporate Director of Finance (S151 Officer) – Andrew Humble

Submitted to: Audit Committee

Date: 19 February 2026

Title: Failure to Prevent Fraud – New Legislation

Report for: Information

Status: Public

Council Plan priority: Delivering Best Value

Proposed decision(s)

That the Audit Committee:

- **NOTES** the contents of the briefing note from the Council's internal audit and counter fraud provider, Veritau, on the Failure to Prevent Fraud legislation.
- **NOTES** the arrangements in place to protect the organisation from this type of fraud and the ongoing actions that are being taken to minimise the risks involved.

Executive summary

This report informs Members of the new Failure to Prevent Fraud duty, the results of the initial self-assessment taken by officers on the current arrangements in place against Home Office guidance relating to the failure to prevent fraud offence, and the actions that have been proposed to provide the Council with assurance and to mitigate risk.

1. Purpose

1.1 For Members to be aware of the new statutory arrangements in place for Failure to Prevent Fraud legislation and how these impact on the local authority.

1.2 To consider the risks involved, the current processes in place, and what actions are being taken to minimise the risk of this type of fraud occurring in the future.

2. Recommendations

2.1 That the Audit Committee:

- **NOTES** the contents of the briefing note from the Council's internal audit and counter fraud provider, Veritau, on the Failure to Prevent Fraud legislation.
- **NOTES** the arrangements in place to protect the organisation from this type of fraud and the ongoing actions that are being taken to minimise the risks involved

3. Background and relevant information

3.1 Fraud is now the most common form of crime in the United Kingdom and has seen a surge in recent years. It costs the economy many billions of pounds annually and affects all areas of society. Central Government is determined to hold organisations to account where they do not take reasonable steps to prevent fraud.

3.2 The Economic Crime and Corporate Transparency Act (ECCT) 2023 introduced several measures to tackle economic crime and improve transparency. A key provision is the new corporate offence of 'Failure to Prevent Fraud', which applies to large organisations that profit, or attempt to profit, from fraudulent activity.

3.3 This offence is designed to promote an anti-fraud culture by encouraging organisations to implement reasonable prevention measures. It forms part of the Government's broader strategy to reduce fraud and protect victims.

3.4 The offence came into force on 1 September 2025 and applies to organisations that meet at least two of the following criteria:

- The organisation has 250 or more employees.
- Turnover exceeds £36m.
- Total assets exceed £18m

3.5 The Council meets all three of these criteria and is therefore in scope.

3.6 Organisations within scope must demonstrate that, at the time a fraud was committed, they had reasonable fraud prevention measures in place. While the test of reasonableness is subjective, the Home Office guidance outlines general principles for

developing and enhancing such procedures. Courts will consider adherence to these principles when assessing compliance.

3.7 **Appendix 1** is a briefing note to the Council from Veritau, the Council's counter fraud provider on the new legislation, what the key issues are, and what actions should be taken by the Council to minimise any risks from the failure to prevent fraud duty. This is based on the home office guidance.

3.8 The key parts of the briefing note for Members to be aware of are:

- Who counts as 'associated' to the organisation under the new legislation.
- What frauds are covered (Part 3).
- The defence and enforcement arrangements (Part 4)
- The Government's recommended approach (Part 5).

Key Points from the Home Office Guidance

3.9 Under the new offence, an organisation may be criminally liable if an employee, agent, subsidiary, or other "associated person" commits a fraud intending to benefit the organisation, and the organisation did not have reasonable prevention procedures in place.

3.10 In some cases, liability may also arise where the fraud was intended to benefit a client of the organisation. Importantly, it is not necessary to prove that directors or senior managers were aware of or involved in the fraud.

3.11 This offence complements existing legislation. For example, the individual who committed the fraud may be prosecuted separately, while the organisation may face charges for failing to prevent it.

3.12 The offence is intended to make it easier to hold organisations accountable for fraud committed by associated persons and to drive a cultural shift toward proactive fraud prevention. To be liable, there must be an intent to benefit the organisation or its client, although this need not be the sole or dominant motive. Organisations are not liable if they are the victim or intended victim of a fraud committed to benefit their clients

Implications for the Council

3.13 While the number of scenarios in which the Council could be held liable under the Failure to Prevent Fraud offence may be limited, the risk does exist. The likelihood of such an event occurring is considered low, particularly given the Council's existing controls and oversight mechanisms. However, the potential impact is high.

3.14 A successful prosecution under this offence could result in:

- Substantial financial penalties.
- Significant reputational damage.
- Increased scrutiny from regulators and the public

3.15 This reinforces the importance of ensuring that reasonable fraud prevention measures are not only in place but are regularly reviewed and tested for effectiveness. It also highlights the need for ongoing vigilance across all areas of the Council.

Review of the Fraud framework against Home Office guidance

3.16 The guidance outlines six principles behind 'reasonable measures' for fraud prevention. These are:

- Top Level Commitment
- Risk Assessment
- Proportionate Risk Based Prevention Procedures
- Due Diligence
- Communication (including training)
- Monitoring & Review

3.17 The new legislation has been added to the finance directorate risk register with the S151 Officer as the lead council officer in this area. The identification of this risk, under the Council's risk management procedures, necessitates a review of the current mitigations in place to deal with this and an action plan of future mitigations to demonstrate that the organisational procedures in place are enhanced to a point where they could be externally scrutinised as being 'fit for purpose'.

3.18 The initial risk assessment conducted has identified the following that currently protect the Council against fraudulent activity:

- Governance and oversight procedures are already in place.
- Regular fraud risk assessments are undertaken in directorates and identify high-risk areas.
- Policies are in place and are embedded on anti-fraud, the code of conduct, and whistleblowing within the local authority.
- Regular training and awareness on fraud related issues, such as mandatory e-learning for all staff, targeted high risk training, and regular refreshes on policy and legislation changes.
- Good quality financial controls are in place and regularly assessed by internal audit, i.e. segregation of duties, approval thresholds for payments and procurement, and effective reconciliation and audit processes.
- Monitoring and detection systems for the identification of frauds. Examples being the use of fraud detection software, an internal audit work programme with focus-based reviews, and an incident reporting system for suspected fraud.
- Management of third-party relationships via due diligence processes on suppliers, contractors and agents, contractual clauses focusing on anti-fraud measures, and on-going monitoring of both performance and behaviour.
- Investigation and response measures already in place. There is an existing fraud plan with clear policies, protocols and escalation measures. Internal investigations are undertaken, and lessons are learned when fraud occurs.

3.19 The areas that require attention have been identified as follows:

- A refreshed Counter Fraud and Corruption strategy should be disseminated to all staff, once it has been through the approval process, and be well publicised on the council website and intranet.
- More formal communications from senior leaders on the Council's commitment to reject fraud should be introduced.
- The Council should make fraud awareness training mandatory and invest in digital tools to ensure coverage across all employees and contractors and enable monitoring of completion.
- As part of the risk assessment process conducted by internal audit, services should be reminded of the fact that they are the risk owners and have responsibility for ensuring prevention controls are in place and always applied.
- The outcomes of fraud related investigations, including those involving members of staff, should be appropriately publicised both internally, including with associated parties, and externally.
- Internal Audit should consider specific control reviews in areas associated with potential risks around failure to prevent fraud.

3.20 A formal action plan on the above is being developed by the S151 Officer. Regular updates on this will be given to Members and senior officers. A specific internal audit project on the Council's arrangements to prevent fraud will also be discussed with Veritau as part of their future work programme.

4. Other potential alternative(s) and why these have not been recommended

4.1 The risk of an offence being committed under this legislation is real and the reputational damage that could be caused by being fined for not having robust procedures in place is significant. The Council needs to have an action plan in place that is continually monitored, and all relevant officers need to be aware of their responsibilities in this area. As such, there are no potential alternatives available apart from having a proactive plan in place and managing the risk diligently.

5. Impact(s) of the recommended decision(s)

Topic	Impact
Financial (including procurement and Social Value)	The overall impact of fraud on the Council can be very significant in financial terms, with lost monies impacting on service delivery. Most of the actions suggested in this report can be completed within existing resources. The impact of being found to not have reasonable fraud prevention measures in place when prosecuted is likely to result in the organisation facing a substantial fine as the penalties for the offence include an unlimited fine.
Legal	The Economic Crime and Corporate Transparency Act (ECCT) 2023 contains the failure to prevent fraud duty that came into force on 1 September 2025. The actions plan

	being put into place is intended to ensure that the council can demonstrate that it had reasonable measures in place if it had to defend itself against prosecution.
Risk	The likelihood of a fraud offence that could subsequently lead to the council being prosecuted for an offence of failing to prevent fraud is low, but the potential associated financial (unlimited fine) and reputational risks are significant.
Human Rights, Public Sector Equality Duty and Community Cohesion	There are no applicable issues to consider within this report.
Reducing poverty	There are no applicable issues to consider within this report.
Climate Change / Environmental	There are no applicable issues to consider within this report.
Children and Young People Cared for by the Authority and Care Leavers	There are no applicable issues to consider within this report.
Data Protection	There are no applicable issues to consider within this report.

Appendices

1	Appendix 1 – Briefing Note from Veritau
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