

Thanet District Council

Anti-Fraud and Corruption Policy

September 2015

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ANTI-FRAUD AND CORRUPTION POLICY

Background

While delivering its key ambitions, Thanet District Council is committed to the eradication of fraud, corruption, theft and bribery and to the promotion of high standards of integrity. Thanet District Council takes its responsibilities for protecting public money very seriously. It recognises that the public has the right to expect that the Council's Members, Senior Management and employees shall:

- At all times fully comply with all the legislation to which they are subject;
- Conduct business in a totally honest and ethical manner;
- Maintain the Council's business free from the adverse effects of fraud and corruption;
- Positively encourage prevention;
- Devise cultures and procedures to enable detection;
- Vigorously investigate substantiated complaints;
- Conduct confidential and fair investigations;
- Take all appropriate actions where fraud and corruption is suspected.

This policy sets out the Council's approach to fraud and corruption and is designed to encourage prevention, assist detection and identify a defined route for investigation.

Introduction

The Council requires all staff, Members and contractors to act honestly at all times and protect the public resources they are responsible for. Fraud is an ever-present threat to these resources.

The Council is committed to ensuring that money paid out in Benefits goes to those entitled to receive it. The Council's policy statement on prosecuting those who commit benefit fraud is attached at Appendix 1 to this document.

The Council is fully committed to the provisions of the Public Interest Disclosure Act 1998 (known as the "Whistleblowing" Act) and its Members and Officers are positively encouraged to report any suspicions or concerns that they may have about such matters as:

- The committing of a criminal offence
- Non-compliance with a legal obligation
- The perpetration of a miscarriage of justice
- The endangering of health and safety
- The damaging of the environment
- The concealing of any information relating to any of the above matters.

The Council's Whistleblowing Policy is attached at Appendix 2 to this document.

Definitions

In law, a person is guilty of fraud if they are in breach of any of the following:

- False representation
- Failing to disclose information
- Abuse of position

Fraud occurs where a person unlawfully obtains money or other property belonging to another person or organisation by knowingly giving false information or omitting to declare information. It may include stealing, forgery and falsification of records.

Corruption involves the offering and acceptance of a reward for doing something or perhaps not doing something and would usually occur in connection with contracts.

Fraud and corruption in its many forms may mean that public money, which otherwise would be spent on important services for our community, is lost.

Whistleblowing in this policy refers to the disclosure, by staff, of malpractice, illegal acts or omissions at work.

Responsibilities

The Council's responsibilities

The Council will develop and maintain effective controls to prevent fraud and make sure that if it does occur, it will be detected quickly. If fraud is suspected, a prompt and vigorous investigation will be carried out. Appropriate legal and disciplinary action will be taken in all cases where justified and, if necessary, the police will be informed.

The Council has established systems for recording and subsequently monitoring all discovered cases of fraud. The investigation will always consider if there has been a failure of supervision and if so, disciplinary action will be taken. Changes to systems and procedures will also be made to ensure similar frauds do not happen again.

The Council has whistle blowing procedures in place as detailed at Appendix 2.

Members

Members of the Council are expected to fully understand and strictly comply with the requirements of all regulations and rules which have as their objective the prevention of fraud and corruption. Principal amongst these are:

- The Code of Conduct for elected and co-opted Members of Thanet District Council
- Sections 29 to 34 of the Localism Act 2011 (Disclosable Pecuniary Interests)
- The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Section 106 of the Local Government Finance Act 1992
- Declarations of Related Party Transactions in accordance with the Accounting Code of Practice for Local Authorities
- The Council's Contract Standing Orders and Financial Procedure Rules.

The Council will give due emphasis in the induction of new Members to the provisions of these measures and will maintain a Member Handbook in which the measures are clearly explained. The role of our Members with respect to Anti-Fraud and Corruption includes:

- act in a manner which sets an example to the community whom they represent and to the employees of the Council,
- to conduct themselves in ways which are beyond reproach, above suspicion and are fully open and accountable,
- champion and promote the Council's Strategy and the zero tolerance culture towards fraud, corruption, theft and bribery,

- raise matters of concern that may come to their attention during their work,
- encourage the public to report concerns or to pass on concerns raised to the appropriate officer,
- participate in any reviews, disciplinary meetings or appeals as required.

Unless an officer is also present, no Member will meet with a third party to discuss:

- the acquisition of goods and services by or on behalf of the Council including the terms on which such goods and services are to be acquired;
- the acquisition or disposal by the Council of land or an interest in land including the terms on which such land or interest in land is to be acquired or disposed of;
- the actual or proposed development or redevelopment of Council owned land including the terms on which such land may be developed or redeveloped;
- the securing of planning obligations or other community benefits arising out of or in connection with a planning application under consideration by the Council;
- the award by the Council of financial assistance of any kind whether by way of grant, pledge, indemnity or loan (whether secured or unsecured).

Management

The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff, in terms of their propriety and integrity. In this regard, temporary and contract staff should be treated in the same manner as permanent staff. The appropriate procedure, which will include obtaining written references, will be laid down by the East Kent HR Partnership.

Management must ensure that all their staff are fully conversant with the rules, regulations and procedures in place for the prevention of fraud and corruption.

Managers are responsible for making sure an adequate system of internal control exists within their areas of responsibility and that such controls operate effectively. There is a need for all managers to assess the types of risk involved in the operations for which they are responsible; to regularly review and test the control systems for which they are responsible; to ensure that controls are being complied with; and to satisfy themselves that their systems continue to operate effectively.

In terms of establishing and maintaining effective controls; wherever possible, managers should ensure that:

- There is a regular rotation of staff, particularly in key posts;
- There are separation of duties so that control of a key function is not vested in one individual;
- Backlogs are not allowed to accumulate;
- When designing any new system, consideration is given to building in safeguards against internal and external fraud.

It is accepted that a reduction in staff numbers may make the above impractical, but every effort should be made to ensure that internal controls remain adequate for the prevention and detection of fraud. The role of our Managers with respect to Anti-Fraud and Corruption includes:

- to conduct themselves in ways which are beyond reproach, above suspicion and are fully open and accountable,

- to set an example to their colleagues,
- to raise concerns in the knowledge that they will be treated in confidence and properly investigated. Normally concerns should be reported to their line manager however, this may not always be appropriate (please see below),
- for Chief Officers and Managers, to be aware of the Anti-Fraud and Corruption Strategy and its associated Policies and Guidance and other appropriate financial and procurement guidance relating to Anti-Fraud and Corruption and to be responsible for raising awareness of these strategies policies guidance and procedures and ensuring compliance with them, by the employees, suppliers, contractors etc. for whom they are responsible.

Employees

Our employees are an important element in our approach to minimising the risk of fraud, corruption, theft and bribery and they are positively encouraged to raise any concerns that they may have on these issues where they are associated with the Council's activities. Staff are required to comply strictly with all regulations, rules and instructions that are promulgated with the objective of preventing fraud and corruption. Principal amongst these are:

- The Employee's Code of Conduct and Gifts and Hospitality rules
- Contract Standing Orders and Financial Procedure Rules
- Section 117 of the Local Government Act 1972 (Disclosure of Interest in Contracts)
- Any Code of Conduct or Practice of a professional body of which the employee is a member.

As stewards of public funds, employees must have, and be seen to have, high standards of personal integrity. Staff should not accept gifts, hospitality or benefits of any kind from a third party that might be seen to compromise their integrity. The role of our employees with respect to Anti-Fraud and Corruption includes:

- to conduct themselves in ways which are beyond reproach, above suspicion and are fully open and accountable,
- to set an example to their colleagues,
- to raise concerns in the knowledge that they will be treated in confidence and properly investigated. Normally concerns should be reported to their line manager however, this may not always be appropriate (please see below),

Every employee has a duty to ensure public funds are safeguarded, whether they are involved with cash or payments systems, receipts, stocks or dealings with contractors or suppliers. Staff should alert their line manager where they believe the opportunity for fraud exists because of poor procedures or controls.

Where IT systems are being used, all parties are required to comply with the requirements of the Data Protection Act.

Staff are expected to raise concerns that they may have about the way the service is provided, or about possible impropriety or serious breach of procedures.

They can do this in the knowledge that such concerns will be treated in the utmost confidence and properly investigated. If necessary, a route other than a normal line manager may be used to raise concerns. Examples of such routes are:

- Internal Audit Service

- Chief Executive
- Director of Corporate Resources and S151 Officer
- Director of Community Services
- Director of Corporate Governance and Monitoring Officer
- Heads of Service
- External Agencies e.g. external auditor

The Council will consider disciplinary action against the employee raising the allegation in circumstances where:

- They are shown to have acted maliciously; or
- They are acting for personal gain.

Internal Control Systems

The Council has developed and is committed to systems and procedures which incorporate efficient and effective internal controls. These include adequate separation and rotation of duties to safeguard against error or impropriety. It is the responsibility of senior management to ensure that such controls, including those in a computerised environment, are properly maintained and documented. The S151 Officer shall regularly review the existence, appropriateness and effectiveness of these internal controls and attempt to identify those systems which are at greatest risk of fraudulent activity.

The Council has Contract Standing Orders and Financial Procedure Rules in place that require employees, when dealing with the Council's affairs, to act in accordance with best practice and adhere to the agreed internal control systems.

The Chief Finance Officer (Director of Corporate Resources) has a statutory responsibility under Section 151, Local Government Act 1972, for the proper administration of the Council's financial affairs. This responsibility is partly exercised through Internal Audit (provided by the East Kent Audit Partnership), which is in itself an important internal control system, providing assurance independently to the Council, management, external audit and the public.

The Council's Monitoring Officer (Director of Corporate Governance) has a duty to act if anything appears to them to be unlawful, in breach of a statutory code, or maladministration.

The East Kent (EK) Audit Partnership

To ensure that the systems in place in the Council are effective at preventing and highlighting attempted fraud, the EK Audit Partnership complete a plan of work, based on a strategic audit plan of three to five years, which aims to cover all risk areas. In addition, specific work-around areas which are key to the Council's operations, or which are vulnerable to attempted fraud, are audited each year.

The EK Audit Partnership are responsible for:

- Carrying out audit assignments using due professional care and in such a way as to be alert to the possibility of fraud and misconduct;
- Reviewing procedures to safeguard assets so as to ensure that cost-effective measures are in place to prevent, detect or deter fraud;
- Ensuring that the prevention, detection and deterrence of fraud are also taken

into account when new systems are designed or changes made to existing systems;

- Providing assistance where required by management, in the investigation of fraud.

Working with Others

An essential part of maintaining a positive approach to tackling fraud is to maintain good working relationships with other bodies administering public funds, or with investigation responsibilities. These include:

- Police;
- Auditor networks;
- Audit Commission;
- Department for Works and Pensions;
- Jobcentre Plus;
- Other local authorities.

The Council also participates in the National Fraud Initiative, which is a data matching exercise largely around housing benefit claimants, employees and suppliers, and which complies with data protection requirements.

Detection and Investigation

It is often the alertness of staff, Members and the public to indicators of fraud and corruption that enables detection to occur and the appropriate action to take place.

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

The Council expects:

- Any suspected incidence of fraud and corruption to be promptly and fully investigated;
- That, if fraud or corruption is found to have occurred, disciplinary action will be taken without delay;
- That the findings of an investigation will in most cases be submitted to the police for consideration for prosecution.

The Section 151 Officer or the Head of Financial Services should be immediately informed of any suspected fraud or corruption and this officer, together with the appropriate senior manager, will make arrangements for an investigation to take place. This will normally be undertaken by the EK Audit Partnership (in order to ensure independence and investigative consistency).

The Council expects the fullest co-operation from all Members and officers who are called upon to assist with an investigation into suspected fraud and corruption.

Training

The Council recognises that the continuing success of its Anti-Fraud and Corruption Policy and its general credibility will depend largely on the effectiveness of

programmed training and responsiveness of staff throughout the organisation. To facilitate this, Members and employees receive training on their responsibilities and duties in this respect as part of the induction process. This training is also reinforced regularly. Employees actively engaged in the prevention and detection of fraud are adequately trained in the special skills necessary to carry out these functions.

Conclusion

This policy statement outlines the emphasis and importance that the Council places on integrity, propriety and accountability in the conduct of its business. The Council has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation. The Council will therefore periodically review and update its arrangements for the detection and prevention of fraud and corruption.

BENEFITS PROSECUTION POLICY STATEMENT

Thanet District Council is committed to ensuring that money paid out in Benefits goes to those entitled to receive it. Persons who deliberately commit fraud as opposed to those who make an innocent mistake, may be prosecuted.

The right to prosecute is inherent in common law and this Council, therefore, has the right to prosecute. In addition, Section 222 of the Local Government Act 1972, gives authorities the right to prosecute or appear in any legal proceedings. Alternatively, the Crown Prosecution Service may take on the proceedings for criminal offences.

Detection and Investigation

Officers charged with the duty of investigating suspected fraud will:

- Establish the facts.
- Gather sufficient admissible evidence to support criminal proceedings.
- Investigate all cases in accordance with the investigation procedures laid down by the Council.

Prosecutions

Where an offence has been committed the Council will seriously consider prosecuting the offender. The more serious the offence, the more likely it is that a prosecution will be needed. The factors that apply will depend on the facts of each case.

Factors to be considered:

- The overpayment is substantial.
- The fraud has continued over a long period.
- The fraud was calculated and deliberate.
- Organised fraud is involved.
- The case involves collusive landlords, agents or employers.
- The suspect has previous convictions for related frauds.
- The suspect was in a position of trust.
- The suspect was a ring-leader.
- There are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct.
- The offence, although not serious in itself, is widespread in the area it was committed.

In order to prosecute there must be sufficient admissible evidence to provide a reasonable prospect of conviction. The prosecution must be in the public interest. It must be within the time limits, if applicable.

Other considerations

The Council will consider any mitigating circumstances, social factors, and the suspect's physical and mental condition.

Cases suitable for prosecution

Having applied the factors above, if a case is suitable for prosecution the case summary together with the evidence, will be submitted to the Senior Investigation Officer (East Kent Services), who will review the case and pass it with a recommendation to the Investigation/Control Manager (East Kent Services), who will decide the most appropriate course of action.

If the prosecution is agreed, proceedings will be initiated as soon as possible, as unreasonable delays may result in the case failing in court.

Cases not suitable for prosecution

Where an offence has been committed but the case is not suitable for prosecution, having considered the factors above, the case summary will be passed to the Senior Investigation Officer (East Kent Services) who will review the case. Where the case is deemed unsuitable for prosecution the Senior Investigation Officer (East Kent Services) will discuss the alternatives below with the Investigation/Control Manager (East Kent Services), who will authorise the decided action:

- Administrative penalties
- Formal Caution
- Close case, no further action

Publicity

Considerations will be given to publicising all successful prosecutions, as a deterrent. This will be decided by the Benefits Manager and the Press Officer.

WHISTLEBLOWING CODE

Introduction

Thanet District Council is committed to the highest possible standards of propriety and accountability in the conduct of its activities for the community. Employees are often the first to realise that something wrong may be happening within the Council. This Code is intended to help employees who have serious concerns over any potential wrong-doing within the Council involving matters such as where:

- a criminal offence (for example, fraud, corruption or theft) has been/is likely to be committed
- a miscarriage of justice has occurred or is likely to occur
- the health or safety of any individual has been/is likely to be endangered
- the environment has been/is likely to be damaged
- public funds are being used in an unauthorised manner
- the Council's Constitution has been or is being breached by Members and/or officers
- sexual, verbal or physical abuse or bullying of any member of staff or service recipient is taking place
- unlawful discrimination is occurring to any member of staff or service recipient on grounds of sex, race or disability
- information relating to any of the above is being deliberately concealed or attempts are being made to conceal the same.

The Council had adopted this Code so as to enable you to raise your concerns about such wrongdoing at an early stage and in the right way.

If something is seriously concerning you, which you think we should know about or look into, please use this Code. If, however, you are aggrieved about your personal position, please use the Grievance Procedure. This Whistleblowing Code is primarily for concerns where the interests of others or of the organisation itself are at risk.

Aims of the Whistleblowing Code

The Code aims to:

- encourage employees to feel confident in raising serious concerns
- provide ways for employees to raise those concerns and get feedback on any action taken as a result
- reassure employees that if they raise any concerns in good faith and reasonably believe them to be true, they will be protected from possible reprisals or victimisation.

Who is covered by the Code?

All employees of the Council may use this Code. This includes permanent and temporary staff. It also covers agency staff and staff seconded to a third party.

Contractors working for the Council may also use the provisions of this Code to make the Council aware of any concerns that the contractor's staff may have with regard to any contractual or other arrangement with the Council.

What assurance do you get?

If you raise a concern under this Code, you will not be at risk of losing your job or suffering any form of retribution as a result, provided that:

- the disclosure is made in good faith
- you reasonably believe that information, and any allegations contained in it, are substantially true; and
- you are not acting for personal gain.

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, we recognise that you may nonetheless want to raise a concern in confidence under this Code. If you ask us to protect your identity by keeping your confidence, we will not voluntarily disclose it without your consent. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance, because your evidence is needed in court), we will discuss with you whether and how we can proceed.

As concerns expressed anonymously are much less powerful, individuals are encouraged to put their names to all concerns raised. Matters raised anonymously may nevertheless be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of being able to confirm the allegations from other, attributable sources.

What is the legal background?

The Public Interest Disclosure Act 1998 (referred to as 'the Whistleblowers Act') protects employees against detrimental treatment or dismissal as a result of any disclosure of normally confidential information in the interests of the public. The Act only covers protected disclosures under six categories, namely: crime, illegality, miscarriage of justice, damage to health and safety, damage to the environment, and 'cover-ups' about these issues.

A disclosure to the employer will be protected if the whistleblower has an honest and reasonable suspicion that malpractice has occurred, is occurring or is likely to occur.

If as a result of a disclosure the Council dismisses or victimises the employee or fails to protect him/her from victimisation from colleagues, the Act provides that action can be taken against the Council.

How should an employee raise a concern?

As soon as you become reasonably concerned you should firstly raise the issue with your line manager (unless she/he is the potential transgressor, in which case it should be raised with your director or the Council's S151 Officer (Director of Corporate Resources) or Monitoring Officer (Director of Corporate Governance)).

Concerns may be raised verbally or preferably in writing. Employees who wish to raise a concern should explain as fully as possible:

- the background and history of the concern (giving relevant dates), and
- the reason why they are particularly concerned about the situation.

How will the Council respond?

If the concern is raised verbally, the person receiving the information should put it in writing as soon as practicable to ensure that it properly reflects the concerns that have been raised. The employee must also indicate if the concern is to be treated in confidence. The limit of that confidence will be checked out by the person receiving the information.

Once you have told us of your concern, we will look into it to assess initially what action should be taken. An acknowledgement should be sent to you within two working days. We will tell you who may be handling the matter, how you can contact him/her and whether your further assistance may be needed. If you request it, we will write to you summarising your concern(s) and setting out how we propose to handle it.

When you raise the concern you may be asked how you think the concern(s) might best be resolved. If you do have any personal interest in the matter, we do ask that you tell us at the outset. Should your concern fall within another policy or procedure of the Council (for example, the Grievance Procedure), we will tell you.

While the purpose of this Code is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else or where it may impede an investigation.

Concerns raised may:

- be investigated by management, internal audit, the S151 Officer or through the disciplinary process
- be referred to the Police
- be referred to the external auditor
- form the subject of an independent enquiry.

What safeguards are there for the employee?

- The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect those who raise a concern in good faith.
- Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures already taking place concerning the employee.
- No action will be taken against anyone who makes an allegation in good faith, reasonably believing it to be true, even if the allegation is not subsequently confirmed by the investigation. However, allegations made maliciously or which are deliberately false will be dealt with under the Council's Disciplinary Procedures.
- Every effort will be made to ensure confidentiality as far as this is reasonably practical.
- Help will be provided to you in order to minimise any difficulties which you may experience. This may include advice on giving evidence if needed. Meetings may, if necessary, be arranged off-site with you and with you being represented, if you so wish.

How can a concern be taken further?

If you are unsure whether to use this Code or you want independent advice at any stage, you may contact:

- if applicable, your relevant trade union lawyer;
- other bodies prescribed by the Secretary of State;
- the independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

An employee who is not satisfied with the action taken by the Council and feels it right to question the matter further, may consider the following possible contact points:

- the Council's S151 Officer
- the Council's Monitoring Officer
- Internal Audit and/or the External Auditor
- the employee's trade union
- the Citizens' Advice Bureau and/or law centre/firm
- a government department
- the Local Government Ombudsman
- the Information Commissioner

- the Health and Safety Executive
- the Data Protection Registrar

This Code is intended to provide an avenue within the Council to raise concerns. If an employee takes the matter outside the Council, he/she should ensure that no disclosure of confidential information takes place and should seek advice, as the Public Interest Disclosure Act does not provide blanket protection and could leave employees vulnerable to disciplinary or other action, if they disclose confidential information in circumstances not covered by the Act.

If you would like a copy of this document in a different format such as Braille, audio or large print, or in another language please call

01843 577165