

East Dunbartonshire Council

Corporate Fraud & Corruption Policy

February 2015

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1. Introduction

- 1.1. East Dunbartonshire Council is committed to safeguarding public funds and maintaining the highest standards of probity. In order to fulfil this commitment, the Council has a zero tolerance approach to fraud and corruption. There is no acceptable level of fraud and corruption.
- 1.2. The Corporate Fraud and Corruption Policy outlines the Council's strategy in relation to fraud and corruption and the Council's commitment to creating an anti-fraud service and culture and maintaining high ethical standards in its administration of public funds. The Council is committed to protecting public funds by securing our administration through robust working methods and procedures and by promoting an environment that actively encourages the highest principles of honesty and integrity
- 1.3. The Council recognises the threat to public funds and will adopt the National Fraud Authorities (NFA) 'Fighting Fraud locally Strategy' which addresses the need for greater prevention and smarter enforcement.

2. Fraud & Corruption Definition

2.1. Fraud

- 2.1.1. The term 'fraud' is commonly used to describe a wide variety of dishonest behaviour such as deception, forgery, false representation, theft, embezzlement, bribery and concealment of material facts. Fraud can be perpetrated by persons outside as well as inside an organisation and by collusion. The Council defines fraud as a dishonest action designed to facilitate gain (personally or for another) at the expense of the Council, the constituents or the wider community.

2.2. Corruption

- 2.2.1. The Council regards corruption as the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.
- 2.2.2. The Bribery Act 2010 introduced a number of offences relating to receiving bribes and being bribed. These offences relate to people carrying on functions of a public nature; or activities connected with a business; or activities being performed in a person's employment, or by or on behalf of a body of persons; and where that person was expected to perform the function or activity in good faith or impartially or is in a position of trust by virtue of performing it.
- 2.2.3. It is essential that all Council Elected Members and officers are, and are seen to be, above reproach in their actions. They must ensure that their personal judgement and integrity cannot reasonably be seen to be compromised by the acceptance of benefits of any kind from a third party.
- 2.2.4. If there is any conflict of interests the situation must be assessed to determine how it can be resolved. Usually, this involves removing any conflicted individual from the process so that they are not in a position to influence decisions made.

2.2.5. If an elected member or employee is uncertain whether or not they have a conflict of interest further advice must be obtained from the Council's Monitoring Officer.

3. Standards in Public Life

In all its dealings the Council will adhere to the seven principles of public life set out in the Nolan principles below –

3.1. Selflessness

3.1.1. Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

3.2. Integrity

3.2.1. Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

3.3. Objectivity

3.3.1. In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

3.4. Accountability

3.4.1. Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

3.5. Openness

3.5.1. Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

3.6. Honesty

3.6.1. Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

3.7. Leadership

3.7.1. Holders of public office should promote and support these principles by leadership and example.

4. Roles and Responsibilities

The roles and responsibilities of Councillors and Officers are clearly defined in the Standing Orders of the authority, the Scheme of Delegation of Powers to Officers of the Council, the Scheme of Tender Procedures and the Scheme of Financial Regulations.

This policy defines roles and responsibilities for dealing with the threat of fraud and corruption, both internally and externally. It applies to the following groups.

4.1. Audit & Risk Team

4.1.1. Internal Audit operates in accordance with the Public Sector Internal Audit Standards Internal Audit undertakes an annual programme of work, which is reported to the Audit Committee. The Audit & Risk Manager provides an independent opinion on the adequacy and effectiveness of the systems of internal control on the work undertaken during the year. Whilst it is not a primary function of Internal Audit to detect fraud, the internal audit activity must evaluate the potential for the occurrence of fraud and how the organisation manages fraud risk.

4.2. External Audit

4.2.1. The role of external audit is to form an objective view of the discharge by the audited body of its stewardship responsibilities. They carry out specific reviews to test the adequacy of the Council's financial systems. They also examine arrangements for preventing and detecting fraud, corruption and bribery.

4.3. Corporate Fraud Team

4.3.1. The team provide the Council's Counter-Fraud services. They utilise all legal methods to detect and investigate fraud and corruption. This includes use of data-matching and intelligence led investigations. The Corporate Fraud Team in conjunction with Internal Audit will be responsible for assessing the authority's counter-fraud arrangements and performance.

4.4. Elected Members and employees

4.4.1. Members are expected to lead by example at all times maintaining the highest standards of probity, honesty, integrity and accountability in their dealings. They shall act in a manner which sets an example to the community whom they represent and to the employees of the council who deliver services. Elected Members are responsible for ensuring that adequate management arrangements are in place; for developing and taking decisions on the use of the Council's physical, financial and human resources; to concern themselves with the strategy, performance, development, continuity and overall well-being of the organisation.

- 4.4.2. Council employees are the first line of defence against fraud and corruption. They are expected to conduct themselves in ways which are beyond reproach, above suspicion and fully accountable. It is the responsibility of Directors and Managers to be aware of the appropriate financial and other counter-fraud regulations and to be responsible for ensuring compliance to them by the staff for which they are responsible. If an employee suspects fraud to have occurred they must report this. Failure to do so may be considered a breach of trust or failure to comply with financial regulations which could lead to disciplinary action under the Discipline at Work Policy & Procedures.
- 4.4.3. Directors, Managers and Team Leaders must establish and maintain systems of internal control ensuring that the Council's resources are properly applied on the activities intended. This includes the responsibility for the prevention and detection of fraud, corruption and financial malpractice. Failure to do so may be considered a breach of trust or failure to comply with financial regulations which could lead to disciplinary action under the Discipline at Work Policy & Procedures. Advice may also be sought from Internal Audit and the Counter Fraud Team on potential control issues.
- 4.4.4. Those who commit, or attempt to, commit fraud against the Council, or other public body, will be subject to disciplinary action, civil action or criminal prosecution (or all of the aforementioned) where deemed appropriate. Elected members and employees are responsible for their own conduct and behaviour. If an elected member or employee is found to have committed or attempted to commit fraud or has knowledge of their partner or spouse committing or attempting to commit fraud, against the Council, or other public body he/she will be investigated in accordance with the Council's Discipline at Work Policy & Procedures. Appropriate action will be taken which may lead to dismissal.
- 4.4.5. All elected members and employees of the Council have a duty to assist with an investigation and to allow members of the Counter Fraud Team unhindered access to employees, information and other resources as required. Failure to do so may be considered a breach of trust or failure to comply with financial regulations which could lead to disciplinary action under the Discipline at Work Policy & Procedures. Appropriate action will be taken which may lead to dismissal and if appropriate consideration will also be made to criminal prosecution.
- 4.4.6. Advice and assistance will be provided by the Counter Fraud Team and Internal Audit to Management and Human Resources in respect of employee conduct in relation to fraud and corruption as and when appropriate to do so.

5. Anti-fraud and Corruption Framework

The Council bears ultimate responsibility for the protection of its finances and those that are administered on behalf of the Government. The Council recognises that fraud and corruption are costly in terms of reputational risk and financial loss. The Corporate Governance Framework underpins the Council's activities with a number of components to protect the Council against fraud and corruption. These are:-

5.1. Annual Governance Statement

5.1.1. The Council will adopt a local Code of Corporate Governance that is consistent with the principles of the Chartered Institute of Public Finance and Accountancy (CIPFA) and Society of Local Authority Chief Executives (SOLACE) framework Delivering Good Governance in Local Government. This statement explains how East Dunbartonshire Council delivers good governance and reviews the effectiveness of these arrangements. Within the overall control arrangements of this statement, the system of internal financial control is intended to ensure that assets are safeguarded, transactions are authorised and properly recorded, and material errors or irregularities are either prevented or would be detected within a timely period. It is based on a framework of regular management information, financial regulations, administrative procedures and management supervision.

5.2. Internal Audit

5.2.1. Under the Public Sector Internal Audit Standards' internal auditing is defined as an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. It is widely recognised that effective internal audit cover is regarded as a matter of good practice. In addition it supports the Council's Section 95 Officer discharge the responsibilities contained in the legislation.

5.2.2. As part of the assurance gathering process used to prepare the Council's Annual Governance Statement the Audit and Risk Manager provides an annual report providing an opinion on the adequacy and effectiveness of the Council's control environment.

5.3. External Audits

5.3.1. External Audit will carry out specific reviews to test the adequacy of the Council's financial systems. They also examine arrangements for preventing and detecting fraud and corruption.

5.4. Corporate Fraud Team

5.4.1. The Corporate Fraud Team protect the public purse through the facilitation of sound strategies, procedures and controls in the prevention, detection, investigation and deterrence of fraud, corruption and bribery.

5.4.2. Local Authorities are classed, by the Crown Office and Procurator Fiscal (COPFS) as a Specialist Reporting Agency. The Corporate Fraud Team will comply with all guidance issued by COPFS.

5.4.3. There are distinct roles within an investigation, each having unique functions and responsibilities associated, which will only be undertaken by suitably trained officers. Reasonable lines of enquiry, both inculpatory and exculpatory will be undertaken in all occasions and in accordance with all relevant legislation. Training will be provided to ensure continual compliance with all legislation, case law and guidance.

5.5. National Fraud Initiative (NFI)

- 5.5.1. The Audit Commission is an independent UK public body responsible for ensuring that public money is spent economically, efficiently and effectively, to achieve high quality local and national services for the public.
- 5.5.2. The **National Fraud Initiative (NFI)** is the Audit Commission's data matching exercise that tackles a broad range of fraud risks faced by the public sector. The NFI has been embedded in the statutory external audit process for audited and inspected bodies since 1998 and is currently run every two years.
- 5.5.3. From 2010 Audit Scotland has conducted data matching exercises under statutory powers added to the Public Finance and Accountability (Scotland) Act 2000 by Section 70 of the Criminal Justice and Licensing (Scotland) Act 2010.
- 5.5.4. Data matching by Audit Scotland is subject to a Code of Data Matching Practice which was issued on 12 November 2010 under 26F of the Public Finance and Accountability (Scotland) Act 2000 (as amended). This can be found at <http://www.audit-scotland.gov.uk/work/nfi.php>
- 5.5.5. The National Fraud Initiative compares different sets of data such as payroll or benefit records, against other records held by the same, or another organisation, bringing to light potentially fraudulent claims and payments. Where a match is found, this means there may be a discrepancy that needs investigation.
- 5.5.6. The use of data for NFI purposes continues to be controlled to ensure compliance with data protection and human rights legislation.

5.6. Contractors

- 5.6.1. The Council expects all contractors it has dealings with to act with complete honesty and integrity in all dealings with the Council, its service users and residents. The Council expects the employees of contractors to report any suspicions or knowledge they may have in relation to fraud and/or corruption against the Council. We will seek the strongest available sanctions against contractors that commit fraud against the Council or who commit fraud against public funds.

5.7. Whistleblowing

- 5.7.1. Whistle-blowers are protected by the Public Interest Disclosure Act 1998. All calls from employees are therefore treated confidentially. The Council has a helpline for employees to bring attention to anything happening in the workplace that might be illegal, improper or unethical. The Council encourages employees to use the helpline to disclose any concerns in order that they can be dealt with. All allegations will be fully investigated and, if substantiated, appropriate action will be taken in accordance with this policy.

5.8. The Regulation of Investigatory Powers (Scotland) Act 2000

5.8.1. The Council is empowered to undertake surveillance in order to gather intelligence in respect of any allegations of fraud and corruption. All surveillance operations will be undertaken legally and in accordance with the legislation and best practice, where it is proportionate and justified to do so.

5.9. Money Laundering

5.9.1. All employees of the Council have a duty to comply with all relevant legislation and guidance regarding Money Laundering. Failure to do so may be considered a breach of trust which could lead to disciplinary action under the Discipline at Work Policy & Procedures.

5.10. Service Level Agreements with stakeholders

5.10.1. The Council will liaise where appropriate with outside organisations to encourage closer working. However, this will be subject to there being appropriate legal gateways to sharing of information and resources.

5.11. Councillors Code of Conduct

5.11.1. The Ethical Standards in Public Life (Scotland) Act 2000 introduced an ethical framework for public life in Scotland. Scottish Ministers have issued Code of Conduct for Councillor's setting out principles and rules on the treatment of Councillor's interests. In addition the 2000 Act places a duty on Councils to promote the observance of high standards of conduct by their Councillor's and to assist them to observe the Code in accordance with Guidance issued by the Standards Commission for Scotland.

5.11.2. The 2000 Act also places a duty on Councils to maintain and allow the public access to a Register of their Councillor's interests in accordance with Regulations made by the Scottish Ministers and Guidance issued by the Standards Commission.

5.12. Code of Conduct for Council Employees

5.12.1. This National Code sets out the minimum standards of conduct that is expected of a Council employee. This covers general standards; financial and non-financial interests; relationships with colleagues, managers, councillors, contractors, media and the public; gifts and hospitality, appointments, political neutrality and political restrictions

5.13. Register of Interests, Gifts and Hospitality

5.13.1. This is covered in both of the above codes and illustrates clear advice when dealing with any situations concerning interests, gifts and hospitality.

5.14. Audit and Risk Sub-Committee

5.14.1. The remit of the Council's Audit and Risk Sub-Committee includes requirements to consider and monitor the strategy, plan and performance of the Council's risk management arrangements and seek assurances that action is being taken on risk related issues and consider and monitor the strategy, plan and performance of the Council's Internal Audit Service. In addition the Committee is required to consider the strategy and plans of the Council's External Auditor.

5.15. Risk Register

5.15.1. The Council has a Risk Register in order to identify, record, review and revise key business risks. All risks have been evaluated and prioritised. The main priorities within the Risk Management Strategy are the identification, evaluation and control of risks which threatens the Council's ability to deliver services to the public.

5.16. Recruitment and Selection Procedures

5.16.1. The Council's Recruitment and Selection Procedure ensures that employees are appointed on merit and includes controls to eliminate the appointment of unsuitable persons.

5.16.2. All applicants who accept the Council's offer of employment are consenting to the Council using the personal data which they have provided in connection with the application and which they may provide in the future, for fraud prevention purposes. This means that the Council can check and/or data match personal data held between Council Departments and other organisations as deemed necessary.

5.16.3. All job applicants are required to fully comply with the recruitment and selection process this includes providing correct and accurate information at all stages of the recruitment process. Prior to appointing the preferred candidate the recruiting manager is required to ensure that they are satisfied with all documentation submitted. Where managers have a concern on the accuracy or validity of the submitted documentation they should immediately contact both the Counter Fraud Team and Human Resources.

5.16.4. Employees established to have provided false or inaccurate information during the recruitment and selection process will be investigated in accordance with the Council's Discipline at Work Policy & Procedures. Appropriate action will be taken which may include dismissal and considerations will also be made with regards to the instigation of Criminal proceedings.

6. Corporate Fraud Risks

6.1. The Council can be exposed to fraud and corruption through a variety of internal and external sources. These include:

- Housing Benefit
- Council Tax Reduction Scheme including Discounts and Exemptions,
- Scottish Welfare Fund payments (Community Care Grants and Crisis Grants)
- Council tenancies, temporary accommodation, renovation and other housing related grants,
- Parking concessions (Blue Badges)
- Social Work Payments
- School Places
- Licences
- Grants
- Procurement
- Education Payments
- Employee fraud (For example; employees fraudulent claiming overtime and mileage expenses)

6.2. These areas can be regularly subject to attack by those intent on committing fraud which means that there is less money and resources available for those in genuine need.

6.3. The investigation of Housing Benefit and Council Tax Benefit became the responsibility of Single Fraud Investigation Service from 1 October 2014.

7. Fighting Fraud Locally Strategy

7.1. Acknowledge

7.1.1. The Council is self-regulating in respect of counter-fraud. It has undertaken a self-assessment of its Fraud controls and has identified and understands the major risks to its services.

7.1.2. The Council will commit support and resource to tackling fraud and maintain a robust anti-fraud response. A Corporate Fraud Action plan (appendix A) reflects that counter-fraud resources from within the Revenues Counter-fraud team will begin to undertake pro-active counter-fraud investigative activity in the high-risk pilot areas identified from the Council's self-assessment.

7.2. Prevent/Deter

7.2.1. The Council will strive to prevent and detect fraud in all identified areas of fraud risk. The Council will apply use of information and technology, enhance fraud controls and processes, and develop an effective anti-fraud culture.

7.2.2. Fraud trends will be analysed to identify high risk areas and this will be supported by pro-active fraud drives based upon that analysis.

7.2.3. Information exchange will be conducted where allegations are received within the framework of the Data Protection Act 1998 for the purposes of preventing and detecting crime or under statutory legislation where it exists.

7.2.4. The Council will apply appropriate sanctions in all cases where it is felt that fraud or an attempted fraud has been perpetrated against the authority.

7.2.5. A robust enforcement response will be applied to pursue fraudsters and deter others.

7.3. Pursue

7.3.1. The Council will be stringent in punishing fraud and will use all available measures at its disposal to recover losses.

7.3.2. Where an investigation has been conducted and a sufficiency of admissible evidence gathered to warrant the submission of a report to the Crown Office and Procurator Fiscal Service (COPFS), for consideration of criminal proceedings, the Council will adopt the following.

7.3.3. The Senior Investigating Officer or Reporting Officer will identify cases that are suitable for prosecution and seek authorisation for sanction action from the Revenues & Benefits Manager or their nominee. In deciding if a case is suitable for submission of a report to COPFS the following factors will be considered.

7.4. Evidential considerations:-

- Sufficiency of evidence
- Admissibility of evidence
- Reliability of evidence
- Credibility of evidence

7.5. **Public interest considerations:-**

- The nature and gravity of the offence
- The impact of the offence on the victim and other witnesses
- The age, background and personal circumstances of the accused
- The age and personal circumstances of witnesses
- The motive for the crime
- The age of the offence
- Mitigating circumstances
- The effect of prosecution on the accused
- The risk of further offending
- The availability of a more appropriate civil remedy
- Powers of the court
- Public concern

If a decision is made not to submit a report to the Procurator Fiscal the authority can offer the following as a form of disposal:-

7.5.1. Administrative Caution

- 7.5.1.1. An Administrative Caution is an official warning issued to a person who has admitted to defrauding the council. The caution is held on record, by the council for three years. In addition to an offence being admitted the accused must have genuine regret for their behaviour and in most circumstances no previous criminal record.
- 7.5.1.2. If the caution is accepted the authority will give an undertaking that the case will not be reported to the Procurator Fiscal.
- 7.5.1.3. Should the caution not be accepted further consideration will then be made whether a report should be submitted to the Procurator Fiscal.

7.5.2. Administrative Penalty

- 7.5.2.1. An Administrative Penalty, as detailed in Section 115A of the Social Security Administration Act 1992 as amended by Section 15 of the Social Security Administration (Fraud) Act 1997 and Section 114 of the Welfare Reform Act 2012 . An Administrative Penalty can only be offered in respect of Housing Benefit and Council Tax Benefit related offences.
- 7.5.2.2. The amount of the penalty is 30% of the amount of the overpayment of benefit, for offences committed prior to 8 May 2012. In respect of offences committed wholly after 8 May 2012 the minimum penalty will be £350 up to 50% of the overpayment not exceeding £2000.
- 7.5.2.3. A penalty can also be offered where an attempt to obtain benefit by fraudulent means has been made on or after 8 May 2012.
- 7.5.2.4. The Administrative Penalty can be offered without any admission being made by the accused

8. Joint Working

- 8.1. The Council strives to work together to develop partnership potential and promotes joint interdepartmental working and joint working with external organisations where that work will promote securing the gateway to fraud.

9. Police Scotland

- 9.1. Share intelligence with Police Scotland in accordance with the Information Sharing Protocol. Participate in any identified partnership working initiatives.
- 9.2. Undertake to disseminate all suspected criminality to Police Scotland.

10. Reporting and Publicity

10.1. Elected Members

10.1.1. The Director of Finance & Shared Services will provide quarterly Counter Fraud Performance Reports for the Elected Members

10.2. Audit Scotland

10.2.1. The Authority reports annually to Audit Scotland on identified cases of fraud and corruption and individually in cases as and when overpayments/losses are in, or could be in, excess of £5,000.

10.3. Local Media

10.3.1. In order to deter future fraudulent activity, where a case is referred to the Procurator Fiscal for criminal proceedings and is subsequently brought to court, the Council may publicise the details in the local press.

10.3.2. Publish general statistical information relating to the work of the Fraud Team, as and when required.

11. Reporting Fraud and Corruption

Fraud referrals can be referred to the Council by using:

- On-line referral form www.eastdunbarton.gov.uk/reportfraud
- By email to fraud@eastdunbarton.gov.uk
- By post to Fraud Team, William Patrick Library, 2-4 West High Street, Kirkintilloch
- Via whistleblowing line on 0300 123 4510
- Direct to the Fraud Team on 0141 578 8220

12. Review

12.1. This policy will be reviewed by the Revenues & Benefits Manager or designated officer on an annual basis to take account of any legislative changes and procedural improvements. Where there are material changes the amended policy will be referred to the Policy & Resources Committee

13. Equality Act 2010 – Equality Impact Assessment

13.1. This policy has been equality impact assessed and no concerns were raised.

