



# **FRAUD RESPONSE PLAN 2020**

## 1. Introduction

- 1.1. The Council's Anti-Fraud, Bribery and Corruption Policy and Strategy makes it clear that the Council is committed to adopting a zero-tolerance approach to fraud, bribery and corruption from both internal and external sources. Where fraud, bribery or corruption is suspected the Council will deal with the allegations seriously in accordance with Council procedures.
- 1.2 This Fraud Response Plan provides guidance to Councillors and staff on the procedures that should be followed where a fraud is suspected or discovered. It includes reporting requirements, responsibilities for actions and how allegations will be investigated. It should be read in conjunction with the Council's Anti -Fraud, Bribery and Corruption Policy and Strategy, the Anti Money Laundering Policy and the Whistleblowing Policy.
- 1.3 It is important to ensure that a structured and consistent approach is implemented by the Council for the investigation of any cases of fraud, bribery and corruption. This Fraud Response Plan sets out the Council's approach to ensure:
- Councillors and staff are aware of how to report any allegations of fraud, bribery or corruption;
  - there is a clear understanding of who will lead investigations and appropriate staff are informed and involved;
  - Information about the investigation is retained by officers involved in the case. in accordance with the Council's information management and retention policies;
  - further losses of funds or assets where fraud may have occurred are prevented and the recovery of losses is maximised;
  - evidence is gathered to support an allegation and inform further action;
  - evidence necessary for possible disciplinary and criminal action is established and secured;
  - any adverse effects or publicity on the business of the Council or any other partner organisations involved are minimised;
  - a review is undertaken of the reasons for the incident and action taken to improve control, strengthen procedures and prevent recurrence.
- 1.4 Under no circumstances should staff feel that they must tolerate the abuse of systems employed at the Council by other staff members or outside persons in ways that may be classed as potentially fraudulent behaviour. All staff should be assured that any information divulged in relation to such activity will remain strictly confidential, unless the Council is required, by law, to divulge it. However, all persons implicated by an allegation must be informed of the circumstances and relevant evidence and allowed to comment as part of the investigation.

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- 1.5 The Council seeks to establish a flexible Fraud Response Plan to enable the approach to be varied in individual cases. Generally, the approach taken shall depend on the perceived risk to the Council in a financial or reputational sense. This shall be judged individually for each case, based on the information available. The Financial Procedure Rules allocate responsibility for investigating allegations of fraud, bribery and corruption, to the Head of Internal Audit in conjunction with the Director of Resources. In practice investigations will usually be conducted in conjunction with the Human Resources and in more serious cases, they may agree the matter be referred directly to the Police.
- 1.6 A flowchart at Appendix A illustrates the fraud response process.

## 2. Reporting Suspicions

- 2.1 The procedures detailed below should be followed for all suspected cases of fraud, bribery and corruption involving Council staff, its partners and suppliers. You may also come across instances where third parties are attempting to defraud or scam the Council, for example submitting bogus invoices or changing bank details of suppliers. Any concerns such as these should be reported to the Head of Internal Auditor who will investigate further and arrange for alerts to be circulated to relevant areas of the Council.
- 2.2 Examples of fraud, bribery and corruption include, but are not limited to, theft, financial irregularities, and misuse of Council property, vehicles or equipment, misuse of Council systems, conflicts of interest and supplier kickbacks.

### Action by employees

- 2.3 You should raise your concerns or suspicions with your line manager in the first instance. If you feel unable to approach your line manager, you should report any concerns or suspicions of financial irregularity to the Head of Internal Audit in accordance with the Council's Financial Procedure Rules. Alternatively, you may choose to report your concerns or suspicions anonymously via the Council's whistleblowing reporting procedures outlined in the whistleblowing policy. Whilst total anonymity cannot be guaranteed, every effort will be made not to reveal your name. However, if criminal activity is found and the case is forwarded to the police, then your identity may be needed at a later date.
- 2.4 If you suspect a colleague is committing fraud, **under no circumstances** confront him or her with accusations of wrongdoing. This may allow the destruction of evidence and in extreme cases may expose you to physical danger. If your suspicions are mistaken, then workplace relationships may be poisoned irretrievably. The official investigators are best placed to interview suspects.
- 2.5 Once you have reported the incident, you may be contacted further by Internal Audit as part of the ongoing investigation. You should provide them with as much information as possible to enable the investigation to be effectively progressed.

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### Action by managers

- 2.6 If you have reason to suspect fraud, bribery or corruption in your work area, or a concern has been reported to you by a member of your staff, you should do the following:
- listen to the concerns of your staff and treat every report seriously and sensitively. Reassure staff that their concerns will be taken seriously and passed on to the appropriate officer;
  - obtain as much information as possible from the member of staff, including any notes or evidence to support the allegation. Do not interfere with this evidence and ensure it is kept securely;
  - do not attempt to investigate the matter yourself or attempt to obtain any further evidence as this may compromise any internal audit, disciplinary or police investigation;
  - report the matter immediately to the Head of Internal Audit.

### Action by Councillors

- 2.7 If a Councillor has suspicions about fraud, bribery or corruption whether it be a fellow elected Councillor, officers of the Council or partner organisations of the Council they should report this to the Chief Executive or the Monitoring Officer at the earliest opportunity.

### Action by the public

- 2.8 If a member of the public would like to raise a concern, they should follow the reporting procedure contained within the Whistleblowing Policy on the Council's website. Alternatively, fraud can also be reported using the link. <https://new.fylde.gov.uk/resident/fraud/>

## 3. Malicious allegations

- 3.1 All Councillors and staff should be aware that malicious or vexatious allegations will not be tolerated and may be dealt with as a disciplinary matter.

## 4. Investigating allegations of Fraud

### Investigations

- 4.1 In the event of any serious weakness, such as a significant and immediate threat to the Council's financial position, significant fraud, bribery or major accounting breakdown, the Head of Internal Audit must be immediately informed, who will then notify the Section 151 Officer. If it is considered there are *prima facie* grounds for the concern or complaint, the Head of Internal Audit will inform the Human Resources and a joint investigation will be undertaken. If the allegation involves a member, the Monitoring Officer will be informed. If preliminary investigation shows the allegations to be groundless, the matter may then be dismissed and referred to the Directorate to resolve.

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- 4.2 The Head of Internal Audit will initiate the investigation and may seek assistance of a HR Advisor or the Corporate Fraud team. Once the investigation has been completed a report will be prepared for the relevant Director as well as the Section 151 Officer. In more serious cases it may be necessary to prepare an interim report if immediate control measures are required.
- 4.3 The Section 151 Officer will usually keep the Chief Executive informed. If it appears that a criminal offence has occurred, the Head of Internal Audit and the Section 151 Officer, in conjunction with the Human Resources or the Monitoring Officer, shall consider whether the matter should be referred to the Police.
- 4.4 Depending on the seriousness of the offence, the Section 151 Officer may inform the Chair of Audit and Standards Committee.
- 4.5 Also note that under the General Data Protection Regulation in cases where the fraud has included a personal data breach, then the Council has a duty to report the incident to the Information Commissioners Office. This shall be carried out without undue delay and, where feasible, not later than 72 hours after having become aware of the personal data breach. The investigation team should be aware of the need to ensure that other statutory requirements are adhered to in the process of obtaining evidence, particularly the need to obtain in advance a RIPA (Regulation of Investigatory Powers Act) authorisation, should it be necessary to obtain evidence through the process of surveillance.
- 4.6 Staff should note that failure to cooperate fully with an investigation may itself constitute grounds for disciplinary action.
- 4.7 In some instances, the investigations may require technical expertise that the investigation team does not possess. In these circumstances, the Head of Internal Audit will discuss with the Section 151 Officer whether external specialists should be involved.

### Interviewing

- 4.8 During the course of the investigation, it may be necessary to interview employees. In these cases, the employee should be informed of the purpose of the meeting and he/she may not refuse the request to attend and answer questions without good reason. A refusal to answer questions about his /her actions as an employee will be considered gross misconduct.
- 4.9 All interviews of employees will be undertaken by two people from the investigation team. Normally, one person will ask the questions and the other will take contemporaneous notes. Once the notes have been typed up, a copy will be provided to the employee who will be invited to read them, make and initial any amendments and then sign the interview notes, accepting them as a correct record. It is good practice for the interviewer to counter-initial any amendments to confirm their acceptance. Should there be any disagreement, the interviewer will need to consider the materiality of the amendment and if significant, this should be brought out in the ensuing report,

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- 4.10 Where the purpose of the interview is merely to obtain information (fact-finding) and the employee is not the suspect in the offence, he /she is not entitled to be accompanied. However, should they wish to have someone present, this will be at the discretion of the Investigation Team.
- 4.11 Where the person being interviewed is suspected of the offence, it should be made clear at the outset that the meeting is not a disciplinary hearing. If it is agreed that the person may be accompanied at the meeting, the companion must be a work colleague or Trade Union representative. This person accompanying, however, must not be connected with the matter under investigation. In addition, it is not the practice of the authority to allow solicitors or other external legal representatives to be involved in internal disciplinary matters.
- 4.13 During the course of the interview, if the individual under suspicion admits to a criminal offence or the interviewer believes that an admission of a criminal offence is imminent, the recommended practice is that the interview be suspended and the matter referred directly to the Police.
- 4.14 Official guidance does permit the continuation of an interview following admission of a criminal offence but only after issuing a formal caution. Under PACE, the interviewee would be entitled to legal representation. In deciding whether to continue, the interviewer will need to consider the seriousness of the case and the likelihood of it being referred for prosecution, bearing in mind the requirements of the Council's Anti Fraud, Bribery and Corruption policy re prosecutions. If it is considered that seeking a prosecution would not be appropriate, the interview can continue without issuing a caution.

## 5 Disciplinary procedure

- 5.1 If following the investigation process there is evidence to indicate that fraud, bribery or corruption has been committed, the matter will be dealt with in accordance with the Council's disciplinary procedures. If the matter has been referred to the police and/ or Action Fraud the Head of Internal Audit / Corporate Fraud will consult with the police to determine whether the disciplinary process can proceed.

## 6 Reporting of the Investigation

- 6.1 Upon the completion of the investigation, a report will be produced and issued to the Section 151 Officer and the Director of the Service concerned.

- 6.2 The report shall contain:

- a description of the incident/issues alleged including an assessment of the value of any losses;
- the people involved and the means by which the fraud was allowed to occur (highlighting any control and/or operating weaknesses within the systems)
- all possible facts relating to the alleged fraud;

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- recommendations to improve/restore the controls and minimise the risk of a re-occurrence;
- a conclusion as to the way forward;
- any other relevant material.

6.3 A report on the fraud shall be presented to the Audit & Standards Committee, along with the findings of any investigations undertaken, at their next meeting following the completion of the investigation. An interim report may be presented if an Audit & Standards Committee meeting takes place during an ongoing investigation.

## 7. Recovery of Assets and / or Sanctions

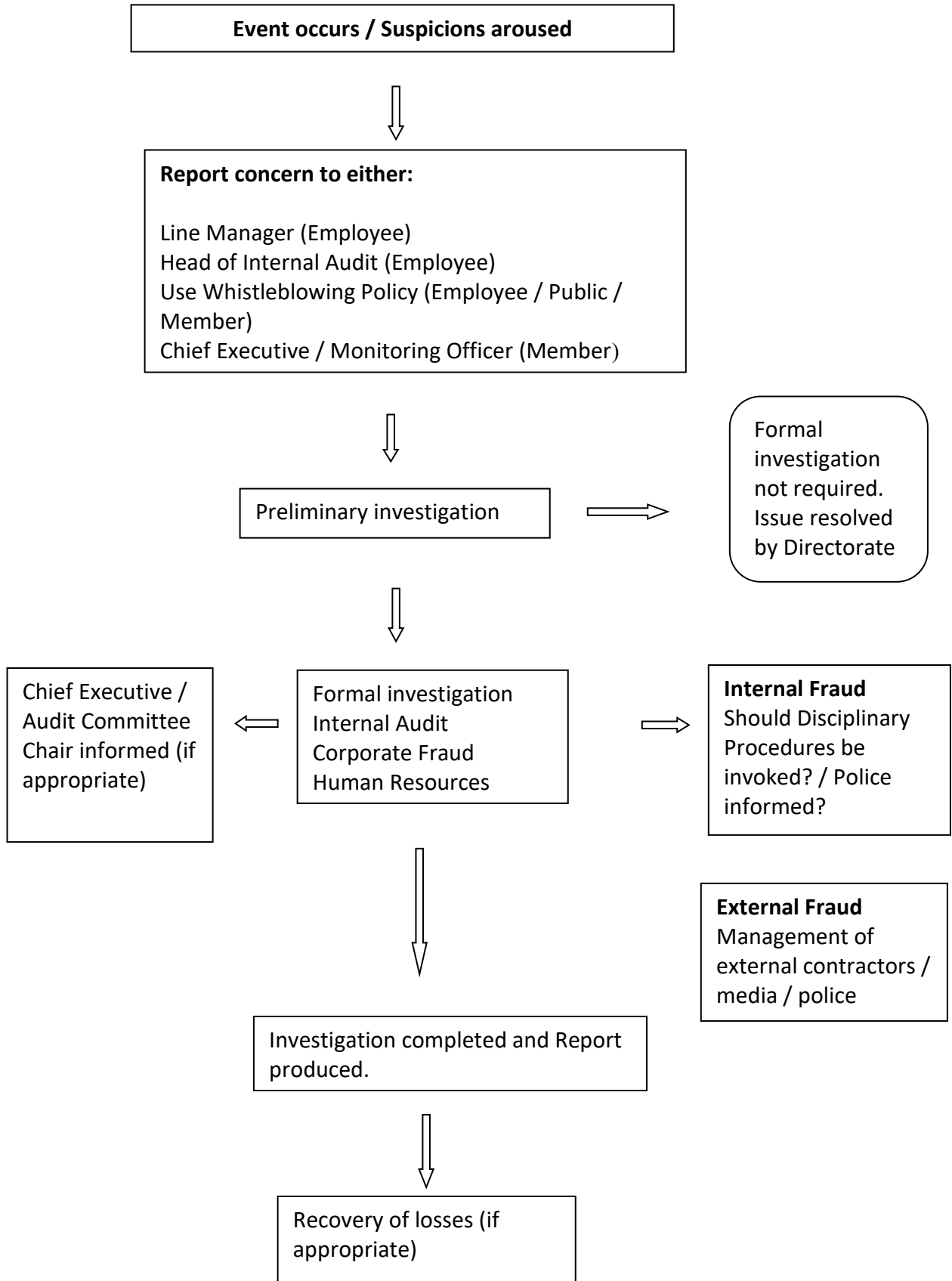
7.1 If it is determined on the basis of evidence that a fraud has taken place, unless a referral has been made earlier, the Head of Internal Audit will discuss the matter with the Section 151 Officer and a decision taken as to whether to refer the matter to the Police.

7.2 In accordance with the Anti Fraud, Bribery and Corruption Statement and Strategy if it is confirmed the Council has suffered financial loss, attempts will be made to recover such losses from the perpetrator.

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# Fraud Response Flow Chart

# Appendix A



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Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to [listening@fylde.gov.uk](mailto:listening@fylde.gov.uk).