

OADBY & WIGSTON BOROUGH COUNCIL

ANTI-FRAUD AND CORRUPTION POLICY



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1.0 Background

Oadby and Wigston Borough Council (“the Council”) has a zero-tolerance position concerning fraud, bribery, corruption or abuse of position for personal gain in the conduct of its activities. The residents of Oadby and Wigston have a right to expect that public funds are handled honestly, and that Council members and employees are honest and that their conduct is beyond reproach.

Members of the public and external organisations (contractors and suppliers) are expected to act with integrity and honesty and without intent to commit fraud, corruption or bribery in any dealings they may have with the Council.

Fraud, corruption and bribery undermine the standards of Council services and reduce the resources available for legitimate use. The Council is therefore committed to eliminating all forms of fraud, corruption and bribery, both from within the Council and from outside.

This Policy should be read in conjunction with the Council’s:

- Financial Regulations
- Contract Procedure Rules
- Confidential Reporting (“Whistleblowing”) Policy
- Codes of Conduct for Members and Officers
- Disciplinary Policy and Procedure
- Gifts Register
- Money Laundering Policy

2.0 Purpose

Through this Policy, the Council intends to:

- Demonstrate that it will not tolerate fraud, bribery and corruption;
- Reduce its losses through fraud;
- Have adequate bribery prevention measures in place;
- Minimise the risk to the Council’s good reputation;
- Promote the principles of good governance with Councillors, Council employees and all parties with whom the Council does business;
- Enhance its procedures aimed at preventing and discouraging fraud, corruption and bribery;
- Enable Councillors, Council employees and external parties to raise any concerns regarding Council activity and to ensure that these concerns are addressed;
- Enhance its procedures of investigating allegations of such conduct; and

- Raise awareness of the risks of fraud, corruption and bribery against the Council.

3.0 Scope

This Policy applies to elected members, co-opted members of committees and all officers (full time, part-time, temporary and casual) who work for the Council. The term “officer” includes all types of employees of the Council. This Policy also applies to service providers to the Council. The Nolan Committee Report “Standards of Conduct in Local Government, 1997” states:

“Where a citizen receives a service which is paid for wholly or in part by the taxpayer, then the government or local authority must retain appropriate responsibility for safeguarding the interests of both the user and taxpayers regardless of the status of the service provider.”

The Seven Principles of Public Life to which the Nolan Report refers are to be found in **Appendix 1**.

The Council expects that individuals and organisations (i.e. suppliers, contractors, service providers, partners and volunteers) will act with integrity and without intent to commit fraud against the Council in any dealings. Where relevant, the Council will include appropriate clauses in its contracts about the consequences of fraud, bribery and corruption. Should evidence of such acts emerge, it is likely to lead to a termination of the particular contract and may lead to prosecution.

It should be noted that the Council’s Corporate Enforcement policy applies to the prevention and detection of local council tax support fraud.

The Council outsources investigations to Leicestershire Revenues and Benefits Partnership who conduct their enquiries in line with legislation, internal policies and procedures.

Local Council Tax Support fraud is a criminal offence and the Council will not hesitate to prosecute offenders or administer appropriate sanctions.

4.0 Roles and Responsibilities

The Council recognises that the successful implementation of an anti-fraud and corruption culture is dependent on the commitment and involvement of members, management, employees and stakeholders in the wider community. Specific responsibilities are detailed below. Collectively these actions promote an anti-fraud culture and will minimise the Council’s exposure to the risk of fraud and corruption.

Role	Responsibilities
Chief Executive	Responsible for leading and promoting the Council's ethical agenda.
Monitoring Officer / Head of Law and Democracy	Ensures that all decisions that the Council makes are within the law. Has a key role in promoting and maintaining high standards of conduct amongst members through supporting members of the Council to help them to follow the Code of Conduct and the Council's other rules and procedures. Maintains a Corporate Register of fraud and corruption allegations. Prepares an Annual Report to the Policy, Finance and Development Committee on these allegations. Responsible for overseeing the Whistleblowing policy and procedure.
Policy, Finance and Development Committee	Promotes high standards of conduct amongst members and considers and takes action in relation to complaints received about members' conduct. Considers fraud and corruption allegations made by members. Receives reports assessing the Council's arrangements for preventing fraud from Internal Audit.
Line Managers, Supervisors, and Heads of Service	Responsible for ensuring that this policy and procedure is applied and complied with in a positive and supportive manner. Responsible for the successful implementation of controls designed to prevent and/or detect fraud within their service areas. Managers should ensure that employees are aware of and regularly reminded about the Council's policies on Anti-Fraud and Corruption and Whistleblowing. Managers should strive to create an environment in which the employees in their service area feel able to approach them with any concerns they may have about suspected irregularities.
Section 151 Officer	Responsible for the proper administration of the Council's financial affairs. Investigates allegations of fraud and corruption received by the Council. Has a duty to notify the Chief Executive if the Council, one of its committees or one of its officers has taken or is about to take, an unlawful action which has or would result in a loss to the Council. Will monitor the effectiveness of all aspects of the Council's anti-fraud, bribery and corruption procedures.
Head of Law and Democracy	Has delegated responsibility to make minor and insignificant changes to this policy and procedure, such as changes to grammar, spelling, paragraphing and font for example.

Role	Responsibilities
Members	<p>Members of the Council are required to operate within the limits set out in the procedures and rules set out in the Council's Constitution and the Members Code of Conduct. This includes a requirement to declare interests that may conflict with their duties and to not take part in decision making where their interest could influence their decision. Members have a duty to report and provide information to the Policy, Finance and Development Committee where they suspect fraud or corruption in accordance with the procedures set out in this policy. Required to declare the receipt of all gifts and hospitality in a Register maintained by the Monitoring Officer. Each member shows that they have accepted and understood the Code of Conduct for Members by signing a copy when they take office. Conduct and ethical matters are specifically raised during their induction, including the need to declare relevant interests.</p>
Employees	<p>Employees have a contractual responsibility to work to the required standard, achieving a level of performance which is set out by the Council. Each employee must comply with the Employee Code of Conduct and the Council's Constitution (including Financial Regulations and Contract Procedure Rules) as well as any other policies and procedures that relate to their role and responsibility. The Employee Code of Conduct sets out guidelines on employees declaring gifts and hospitality associated with professional and personal conduct and conflicts of interest. Employees are responsible for ensuring that they follow the instructions given to them by management, particularly in relation to the safekeeping of the assets of the Council. Employees are encouraged and expected to raise any concerns they may have as to fraud, bribery or corruption in Council activities: such concerns shall be investigated and fairly dealt with by the Council in accordance with the Council's Whistleblowing Policy.</p>

Role	Responsibilities
Internal Audit	Plays a vital and preventative role in trying to ensure that systems and procedures are in place to prevent and detect fraud, corruption and bribery. Where appropriate, it investigates allegations of such irregularities. Test the Council's systems and procedures to ensure they are adequate and makes recommendations to enhance these processes and procedures. Prepares an annual programme of internal audits, designed to assist the prevention of fraud by highlighting areas where controls are inadequate or are not operating. Prepares Annual Report for Finance, Planning and Development Committee.
External Audit	Assesses the Council's standards of financial conduct and its efforts to prevent and detect fraud, corruption and bribery. Liaises with Council officers in making its assessments.

Conflicts of Interest

Both elected members and employees must ensure that they avoid situations where there is any possibility of a conflict of interest. Such situations can arise with the externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

5.0 Definitions of Fraud, Corruption and Bribery

Fraud

The Chartered Institute of Public Finance and Accountancy ("CIPFA") defines fraud as the "intentional distortion of financial statements or other records by persons internal or external to the organisation, which is carried out to conceal the misappropriation of assets or otherwise for gain."

The Fraud Act 2006 created a general offence of fraud which can be committed in 3 ways:

- Fraud by false/dishonest representation to gain or cause loss or risk of loss;
- Fraud by failing to disclose information where there is a legal duty to do so; and
- Fraud by abuse of position

Other offences under the Fraud Act 2006 are:

- Obtaining services dishonestly;

- Possessing, making and supplying articles for use in frauds; and
- Fraudulent trading applicable to non-corporate traders (i.e. the Companies Acts apply to sole traders)

Corruption

The Audit Commission (now disbanded) defined corruption as “offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person.”

The Theft Act 1968 defines theft as the dishonest appropriation of property belonging to someone else with the intention of permanently depriving the owner of that property.

Bribery

The Bribery Act 2010 features 2 general offences of bribery:

- **Bribing another person:** there are 2 sets of circumstances in which liability for this offence arise:
 - offering, promising or giving a financial or other advantage to another person with the intention of inducing or rewarding the improper performance of a relevant function or activity or as a reward for such improper activity; or
 - offering, promising or giving a financial or other advantage to another person in the knowledge or belief that that person’s acceptance of the advantage would constitute improper performance of a relevant function or activity.
- **Receiving a bribe:** there are 4 sets of circumstances in which liability for this offence arise:
 - requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity should be performed improperly in consequence (whether by the person himself or someone else);
 - requesting, agreeing to receive or accepting a financial or other advantage, and that that itself constitutes the improper performance of a relevant function or activity;
 - requesting, agreeing to receive or accepting a financial or other advantage as a reward for the improper performance (whether by the person himself or another person) of a relevant function or activity;
 - in anticipation of or in consequence of requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly by the person himself, or someone else at the person’s request or with the person’s assent or acquiescence.

Relevant functions and activities for these 2 offences are those:

- of a public nature;
- connected with a business;
- performed in the course of a person's employment; or
- performed by or on behalf of a body or person (i.e., a business or an individual)

The person being bribed must be:

- expected to perform the function/activity in good faith;
- expected to perform the function/activity impartially; or
- in a position of trust by virtue of performing the function/activity.

6.0 Deterrence and Adequate Procedures to Combat Fraud and Corruption

Failure To Prevent Bribery

There is a third offence under the Bribery Act 2010 in which commercial organisations (the Council comes within the Act's definition of "commercial organisation") can be prosecuted if someone associated with that organisation bribes another person to:

- obtain or retain business for the organisation, or
- obtain or retain an advantage in the conduct of business for the organisation.

The maximum penalty for this offence would be an unlimited fine.

The Council would have a defence to such a charge if it could prove it had adequate procedures in place to prevent persons associated with it from undertaking such conduct. The Ministry of Justice has issued guidance on adequate procedures which features these principles:

- **Proportionality** – the actions taken by an organisation should be in proportion to the risk of bribery;
- **Top Level Commitment** – each organisation should make a clear statement that bribery will not be tolerated. This message should be communicated to all staff, suppliers, customers and partners;
- **Risk Assessment** – each organisation should ensure that it has an effective process in place to identify specific bribery risks;
- **Due Diligence** – each organisation should have processes in place to ensure they know who they are doing business with;
- **Communication (including training)** – each organisation should have procedures in place to ensure that its bribery prevention policies and procedures are embedded and

understood throughout the Council through internal and external communication, including training that is proportionate to the risks it faces;

- **Monitoring and review** – each organisation should monitor and review procedures designed to prevent bribery by persons associated with it and make improvements where necessary.

Deterrence and Prevention of Fraud

The Council shall be robust in response when fraud, corruption or bribery is suspected and proven: examples of deterrence would include:

- Having effective internal control systems, policies and procedures which allow for change and amendment but minimise the opportunity for fraud and corruption;
- Dismissal and/or prosecution of employees or contractors involved in corrupt activities;
- Publicising the Council's zero-tolerance stance towards fraud, corruption and bribery by referring to it at every opportunity, such as statements in its contracts, anti-bribery terms and conditions in its procurement arrangements with contractors, on the Council's website, its claim forms and publicity literature;
- Taking action to maximise recoveries for the Council – through agreement, court action, penalty clauses in contracts, insurance etc; or
- Using the Proceeds of Crime Act 2002 to maximise the sanction against the defendant.

Internal Controls Against Fraud

The Section 151 Officer is responsible for the administration of the Council's financial affairs. They are required to:

- Maintain an effective accounting system;
- Comply with statutory financial reporting deadlines; and
- Maintain an adequate and effective internal audit.

Under the Accounts and Audit Regulations 2011, the Council must ensure that it has adequate and effective financial management and a good system of internal control. Its system must be reviewed annually, and a statement must be published with the accounts (the Annual Governance Statement).

The Council's Financial Regulations also set out the requirement to maintain a system of internal control. Internal Audit reviews the systems and helps to detect and prevent fraud and errors as well as protecting the Council's assets. Internal and External Audit both review the adequacy of the Council's financial systems: the senior management team will be responsive to audit recommendations. The appropriate managers shall be informed of fraud warnings received from Internal and External Audits to ensure that safeguards are in place. The Local Council Tax Support Investigation team and Internal Audit shall assess the Council's

arrangements for preventing fraud and report its findings to the Policy, Finance and Development Committee.

Where appropriate, the Council shall liaise with other agencies and authorities, such as the Police, the Department for Work and Pensions, and other local authority groups. Exchanges of information will be considered with these organisations in accordance with data protection laws, along with working with the National Anti-Fraud Network.

Members' Measures Against Fraud

All members are required to comply with the Members' Code of Conduct. The Code requires members to notify the Monitoring Officer of:

- Any areas of conflict between their public duties and their private or professional lives; and
- Any offers of gifts and hospitality connected with their duties to the Council.

The Council has a Policy, Finance and Development Committee which helps members to follow the Code of Conduct while maintaining high standards of members' conduct.

Employee Measures Against Fraud

Employees' integrity and good conduct is necessary to ensure the success of Council measures to prevent fraud and corruption. In accordance with the Council's Recruitment and Selection Policy, staff recruitment procedures shall establish:

- The identity of employees in accordance with section 8 of the Immigration, Asylum and Nationality Act 2006;
- The integrity of potential employees: references from previous employers shall be requested, and the successful candidate shall undertake a Disclosure and Barring Service check if the position requires one;
- The employee's employment history and qualifications.

Employees shall be expected to follow and abide by the Employee Handbook. Employees in roles subject to professional regulation must also follow Codes of Conduct set by their regulatory authorities.

Council employees shall record all offers of gifts and hospitality connected with their employment in the Council's Gifts Register. Any relevant personal interests which may have a bearing on the employee's duties must be logged in the Register of Interests.

7.0 Raising Concerns of Fraud or Corruption with the

Council

The Council may be alerted to instances of fraud and corruption by employees, members and the public. Such warnings are useful in acting against fraud, and the Council shall:

- Treat such information fairly and consistently with other sources of information;
- Investigate the allegations;
- Install effective channels of communication to receive information through the Council's policies and procedures on Whistleblowing and Money Laundering. This will ensure that employees, elected members and the public are able to voice their concerns, while upholding the protection offered to informants under the Public Interest Disclosure Act 1998.

The Council encourages suspected instances of fraud to be reported in an open yet confidential manner. Employees and contractors are actively encouraged to report genuine suspicions and are required to co-operate with any Internal Audit activity. Where employees identify themselves on a confidential basis, as far as practical, their anonymity will be respected and they will not be discriminated against for making reports.

Employees should raise their concerns with their line manager, who will then report them to Senior Management. If inhibited, employees should contact the Section 151 Officer or the Monitoring Officer. Concerns about Senior Management should be referred to the Chief Executive; concerns about the Chief Executive should be referred to the Leader of the Council.

The Council's Whistleblowing Policy gives further guidance on how to raise concerns of fraud or corruption and it gives details about the support and safeguards available to those who raise such concerns.

8.0 The Council's Response to Fraud and Corruption

The Council shall treat fraud and corruption allegations in confidence. The allegations shall be investigated thoroughly in accordance with the Council's Disciplinary Policy and Procedure: the lead officer for investigating fraud and corruption allegations is the Section 151 Officer. Unless and until the investigation makes a finding to the contrary, the guilt of any individual or company shall not be assumed.

If the investigation finds that fraud or corruption has taken place, the Council shall, where appropriate:

- Prosecute the individual or refer the case to the Police;
- Take disciplinary action where an employee is involved, including dismissal;

- Refer the case to the Policy, Finance and Development Committee where a Councillor is involved;
- Pursue recovery for any financial loss;
- Report the results of any action taken to the media.

Malicious or vexatious allegations made by Council employees shall be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

The Corporate Register

The Monitoring Officer shall maintain a Corporate Register of fraud and corruption allegations: officers assigned to investigate these allegations must ensure that he is provided with sufficient details.

An annual report shall be produced to the Policy, Finance and Management Committee and the Senior Management Team by the Monitoring Officer. This report shall include:

- A summary of the allegations made;
- The department the allegations concerned;
- The post the allegations concerned (if not confidential - employee names shall not be included); and
- Any lessons learned.

The report will allow for the Council and its departments to learn from its mistakes and not repeat them, and that there is a consistent approach to similar incidents and allegations.

Once confidential details have been removed, the Corporate Register shall be available for inspection by Internal and External Audit.

9.0 Training and Publicity

The success of the Council's policy against fraud, corruption and bribery will be determined by effective training of staff and through publication.

Training

Council staff and members shall be provided with training regarding the Council's zero-tolerance position on fraud, corruption and bribery so that they are aware of their responsibilities and the correct procedures to follow.

Staff involved in fraud and corruption investigation work shall receive regular and appropriate training in all of its aspects.

Publicity

The Council's zero-tolerance position to fraud, corruption and bribery can be demonstrated through:

- Publication of this Policy, and the Whistleblowing Policy and Procedure, on the Council's website and intranet;
- Publicising details of its court cases in the local media, promoting fraud awareness in the local community, and maintaining public confidence that the Council is protecting public resources.

10.0 Review and Monitoring

This policy and procedure will be reviewed jointly by Trade Unions (on behalf of the employees) and the management team on a biennial basis.

The Head of Law and Democracy will have delegated responsibility to make minor and insignificant changes, such as changes to grammar, spelling, paragraphing and font for example.

Appendix 1: The Seven Principles of Public Life

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

INTEGRITY: 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.

OBJECTIVITY: 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.

ACCOUNTABILITY: 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.

OPENNESS: 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.

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

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