



**Elmbridge**  
Borough Council  
*... bridging the communities ...*

Appendix B

# **Corporate Anti-Fraud & Corruption Policy**

**March 2018**

Next Review Date: March 2019

## 1. INTRODUCTION

- 1.1 Elmbridge Borough Council is committed to the highest possible standards of openness, probity and accountability in order to ensure the proper use of public funds. This Anti-Fraud and Corruption Policy establishes the Council's objectives in this respect and sets out a cohesive framework to effectively manage the risks associated with fraud and corruption involving staff, Members or third parties.
- 1.1a The Fraud Act 2006 provides a formal definition of fraud which, for the purposes of this policy, can be summarised as: obtaining money, property, or services dishonestly by making false representation, failing to disclose information or abusing a position of trust.
- 1.1b Corruption is the "offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of a person".
- 1.2 The Council is committed to an effective Anti-Fraud and Corruption Policy that:
- **Encourages prevention;**
  - **Promotes detection; and**
  - **Identifies a clear pathway for investigation.**
- 1.3 The Council's expectation as to propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. For example, the Council has approved an Officer Code of Conduct that it considers is consistent with good governance and corporate policy.
- 1.4 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers), with which it comes into contact, will act with integrity and without thought or actions involving fraud and corruption.
- 1.5 The Council's Anti-Fraud and Corruption Policy is based on a series of comprehensive and inter-related procedures designed to frustrate any attempted fraudulent or corrupt act. These cover:
- **Culture;**
  - **Prevention;**
  - **Deterrence;**
  - **Detection & Investigation; and**
  - **Training.**
- 1.6 The Council's Anti-Fraud and Corruption Policy incorporates reference to the Bribery Act 2010 at Section 7.
- 1.7 Set out at Appendix 1 is the Policy for prevention, detection and sanctioning of fraud in claims for Council Tax Support, Council Tax Discounts and Housing Assistance. This policy was updated in March 2017 to reflect the transfer of Housing Benefit investigation and prosecution powers to the DWP following the formation of the Single Fraud Investigation Service (SFIS) and it was further updated in March 2018.

1.8 The Council is also aware of the high degree of external scrutiny of its affairs by a variety of bodies and people including:

- **Local Government Ombudsman;**
- **External Auditors;**
  
- **Council Tax Payers - Annual Inspection of the Accounts;**
- **Service Users - through the Council's Complaints Procedures;**
- **HM Revenue & Customs;**
  
- **Department for Works & Pensions; and**
- **The Criminal Justice System.**

1.9 Also, as part of their statutory duties, External Audit is required to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud and corruption.

## **2. CULTURE**

2.1 Elmbridge Borough Council is committed to ensuring that a culture of honesty and integrity is encouraged.

2.2 There is an expectation and requirement that all individuals and organisations, associated in whatever way with the Council, will act with integrity and that Council Members and staff at all levels will lead by example in these matters.

2.3 The Council's staff is an important element in its stance on fraud and corruption; staff are positively encouraged and expected to raise any concerns that they may have on these issues. This can be done in the knowledge that such concerns will be treated in confidence and investigated properly and fairly.

2.4 Under normal circumstances staff should report any suspected irregularity to their Line Manager. However, staff also have the option to report directly to one of the Council's Senior Management Team:

- Chief Executive;
- Strategic Director & Deputy Chief Executive;
- Strategic Director;
- Head of Internal Audit;
- Head of Organisational Development;
- Head of Legal Services (Monitoring Officer); and
- Any Service Head.

Alternatively, staff may prefer to report anonymously through internal answer phone extension number **4107**. Details on confidential reporting can be found in the **Council's Confidential Reporting (Whistleblowing) Policy**.

2.5 Members of the public are also encouraged to report concerns through any of the above routes, or, if appropriate, through the Council's Complaints Procedures.

- 2.6 The Nolan Committee recommended that every local authority should institute a procedure for whistleblowing, which would enable concerns to be raised confidentially inside and, if necessary, outside the organisation. If staff still feel unable to raise their concerns through any of the above internal Council routes they may wish to raise them through **Public Concern at Work** (☎ 020 7404 6609; email [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk); web site [www.pcaw.co.uk](http://www.pcaw.co.uk)), a registered charity whose services are free and strictly confidential.
- 2.7 All Heads of Service, having consulted in the first instance with the Strategic Director and Deputy Chief Executive and Head of Internal Audit Partnership, are then responsible for following up any allegation of fraud or corruption received.
- 2.8 A Decision-Making Group will be formed at the outset of an investigation involving irregularities. This may include representatives from management, Legal, Personnel and Internal Audit. A formal record should be made of any decisions the group makes, a copy of which will be held by Internal Audit.

Every allegation will be investigated and dealt with promptly. In addition:

- All evidence will be recorded;
  - An evaluation will be made of whether the evidence is sound and adequately supported; and
  - The Council's disciplinary procedures will be invoked where appropriate.
- 2.9 Heads of Service are expected to deal swiftly and firmly with those who defraud the Council or who are corrupt. The Council, including Members, should be robust in dealing with financial malpractice.
- 2.10 Heads of Service will also wish to safeguard their staff against unfounded allegations. They will operate fair procedures and will take disciplinary action against any staff member who deliberately makes a false accusation.

### **3. PREVENTION**

#### **Staff**

- 3.1 The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage. The Council will establish, as far as possible, the previous record of prospective staff in terms of their propriety and integrity. In this respect, and as far as is practicable, temporary staff will be treated in the same manner as permanent employees.
- 3.2 Staff recruitment must therefore be in accordance with procedures set out in approved Personnel Policies. In particular, employment offers will only be made subject to written references being obtained for any permanent post. For temporary post holders written references will be obtained unless such employment is intended to be for a period of less than 4 weeks.
- 3.3 Council staff are expected to follow any Code of Conduct relevant to their profession and also abide by the Elmbridge Code of Conduct for Officers (which is made available to all members of staff and published in Part 6 of the Council's Constitution).
- 3.4 The Council has in place disciplinary procedures for all categories of staff.

- 3.5 Staff are reminded that they must operate within Section 117 of the Local Government Act 1972. This requires the disclosure of any pecuniary interest by staff in Council contracts and prohibits staff from accepting any fee or reward whatsoever other than their proper remuneration. Further information, together with a form for disclosing relevant interests), is available from the Head of Legal Services.

### **Members**

- 3.6 Members are required to operate within:

- The Local Government Act 2000;
- The Elmbridge Members' Code of Conduct;
- The Protocol on Member/ Officer Relations; and
- Council Procedure Rules.

- 3.7 These matters are brought to the attention of Members in the Council's Constitution and the Members' Handbook.

### **The Role of the Counter Fraud Team**

- 3.8 The Council is committed to the effective and accurate delivery of claims for Council Tax Support, Council Tax Discounts and to providing housing assistance. The Counter Fraud Team that previously dealt with Housing Benefit fraud now focusses upon a wider range of Housing, Council Tax and business rates frauds. To assist in achieving this the Council has a specific Policy for the prevention, detection and sanctioning of fraud in claims in these areas. This policy links directly into this over-arching Corporate Anti-Fraud and Corruption Policy.

### **Internal Control Systems**

- 3.9 The Council has Contract and Financial Procedure Rules in place that must be followed by all staff.
- 3.10 The Strategic Director and Deputy Chief Executive has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure that arrangements exist for the proper administration of the Council's financial affairs. Financial Codes of Practice have been developed to underpin the Financial Procedure Rules and outline the systems, procedures and responsibilities of staff in relation to the Council's financial activities.
- 3.11 The Council is committed to the implementation and operation of systems and procedures that incorporate efficient and effective internal controls. These include adequate separation of duties to ensure that error or impropriety is prevented.
- 3.12 In accordance with the Council's Financial Procedure Rules, Heads of Service, Strategic Directors and the Chief Executive must ensure that these controls are properly maintained and are effective. The Council's Internal Audit Service independently monitors the existence, appropriateness and effectiveness of these internal controls.

## **Conflict of Interest**

- 3.13 Both elected Members and employees must ensure that they avoid situations where there is potential for a conflict of interest. Such situations can arise in a wide variety of cases which include, but are not limited to, the procurement of new ways of delivering Council services, tendering for contracts, planning processes and issues arising in land management. Effective role separation will ensure that decisions are seen to be based upon impartial advice and free from undue or improper influence. This approach accords fully with the Codes, Policies and Protocols set out in the Council's Constitution. Where staff have concerns, with regard to any potential conflicts of interest, they should raise these with either their Service Head or Strategic Director.

## **4. DETERRENCE**

### **Prosecution**

- 4.1 The Council has adopted a Policy for prevention, detection and sanctioning of fraud in claims for Council Tax Support, Council Tax Discounts and Housing Assistance and any offences committed in respect of these claims will be subject to this policy. Other cases involving fraud or corruption committed by elected Members, employees or external parties will be considered on an individual basis, and it is highly likely that the Council will seek to prosecute offenders wherever appropriate. However, the Council also recognises that it may not always be in the public interest to refer cases for criminal proceedings. Decisions to prosecute will, in all cases, be determined in accordance with an overarching Prosecution Policy administered by the Legal Services team. The Prosecution Policy affirms the general principles applicable in every case and it particularises the evidential and public interest tests that must be considered before decisions to prosecute are made.

### **Disciplinary Action**

- 4.2 Theft, fraud and corruption are serious offences against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities. Disciplinary action may be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

Members may face appropriate action under the Members' Code of Conduct if they are suspected of being implicated in theft, fraud or corruption involving the Council and in their role as a Member. Action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner. The approved arrangements for dealing with Allegations of Misconduct by Members will govern the manner in which investigations are undertaken, and matters, if not referred to the police, will be referred to the Audit and Standards Committee as appropriate.

### **Publicity**

- 4.3 The Council will optimise the publicity opportunities associated with its anti-fraud and corruption activity. It will also try to ensure where appropriate that the results of any action taken, including prosecutions, are reported in the media. In appropriate cases, where financial loss to the Council has occurred, the Council will seek to recover the loss and advertise this fact.

All anti-fraud and corruption activities may be publicised in order to make the employees and the public aware of the Council's commitment to taking action on fraud and corruption when it occurs.

## **5. DETECTION & INVESTIGATION**

- 5.1 An array of preventative systems within the Council, particularly internal control systems, have been designed to detect any fraudulent activity.
- 5.2 It is the responsibility of Heads of Service, Strategic Directors and the Chief Executive to prevent and detect fraud and corruption. However, it is often the alertness of staff that enables detection to occur and for the appropriate action to take place when there is evidence that fraud or corruption may have been committed, or is in progress.
- 5.3 Despite the best efforts of managers and auditors, many frauds are discovered by chance or "tip-off", and the Council has in place arrangements to enable such information to be properly dealt with. These are set out within this policy in the section on "Culture" (section 2).
- 5.4 In the first instance, staff should report any suspected irregularity to their Line Manager, Head of Service, Strategic Director or to the Strategic Director & Deputy Chief Executive. Reporting is essential to the Anti-Fraud and Corruption Policy as it ensures:
  - Consistent treatment of information;
  - Where appropriate, proper investigation by an independent and experienced audit team;
  - The proper implementation of a fraud response plan; and
  - The optimum protection of the Council's interests.
- 5.5 Financial Procedure Rules require that all irregularities of a financial nature must be reported by the Strategic Director or the Chief Executive to the Strategic Director & Deputy Chief Executive, who will be responsible for investigation and report to the appropriate Council Committee.
- 5.6 Depending on the nature and the anticipated extent of the allegations, the Internal Audit Service will work closely with management to ensure that all allegations and evidence are properly investigated and reported upon and, where appropriate, maximum recoveries are made for the Council.
- 5.7 Where a member of staff is to be interviewed the investigating officer(s) will consult and take advice from the Personnel Manager, who will advise those involved in the investigation in matters of employment law and other procedural matters, such as disciplinary and complaints procedures, as requested.
- 5.8 The Council's disciplinary procedures will be used where the outcome of the investigation indicates improper behaviour.
- 5.9 Under no circumstances should a member of staff speak, use social media or write to representatives of the press, TV, radio or to another third party about a suspected fraud, without the express authority of the Chief Executive. Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel.

- 5.10 Where financial impropriety is discovered, the Council's presumption is that the Police will be called in. The Crown Prosecution Service determines whether a prosecution will be pursued. Referral to the Police is a matter for the Strategic Director and the Chief Executive in consultation with the Strategic Director & Deputy Chief Executive and Head of Internal Audit. Referral to the Police will not prohibit action under disciplinary procedures.
- 5.11 External Audit also has independent powers to investigate fraud and corruption and the Council may use their services for this purpose.
- 5.12 The Council will attempt to establish a liaison with the local Police force. Established lines of communication are seen as assisting future action where fraud is detected.

## **6. TRAINING**

- 6.1 The Council recognises that the continuing success of its Anti-Fraud and Corruption strategy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of staff throughout the organisation.
- 6.2 In order to facilitate this, the Council supports the concept of induction training for new staff and ongoing refresher courses, particularly for those staff involved in internal control systems.

## **7. BRIBERY ACT 2010**

- 7.1 The Bribery Act 2010 has reformed the criminal law to provide a new scheme of bribery offences and it provides a more effective legal framework to combat bribery.
- 7.2 The Act came into force on 1<sup>st</sup> July 2011.
- 7.3 The Act has created the following offences relevant to the Council:
- i) offences of bribing another person;
  - ii) offences relating to being bribed; and
  - iii) offences relating to the bribery of foreign public officials.
- 7.4 Furthermore, if the offence is proved to have been committed with the consent or connivance of a senior officer of the organisation, then the senior officer may be personally liable.

## **8. CONCLUSION**

- 8.1 The Council has in place a clear network of systems and procedures to assist in its fight against fraud and corruption. It is intended that these arrangements will keep pace with future developments in both preventative and detection techniques regarding fraudulent and corrupt activity.
- 8.2 Consequently, the Council maintains a continuous overview of these arrangements. Procedure rules, codes of conduct, financial practice and audit arrangements are subject to annual review by the Internal Audit service.



8.3 This Policy Statement will be subject to at least an annual review to ensure it is up to date.

Revised March 2018