

INTERNAL AUDIT SERVICE

'Striving for excellence in governance'

Fraud Response Plan

General

1. Introduction

This document provides guidance to all employees of the Council in the event of them becoming aware of

- a fraud being committed on the Council by a Council member or another Council employee;
- a fraud being committed on the Council by a member of the public;
- a Council Member carrying out a corrupt act.

It is in three sections:

- General: this explains the reasons for having the document and what the document should be used for.
- Employee responsibilities: this explains how employees should react if they suspect fraud or corruption.
- Management responsibilities: this explains what managers at all levels should do if they have an allegation of fraud reported to them. It also outlines the position of managers in the overall control framework of the council.

In addition, Appendix A relates specifically to housing and council tax benefit fraud. This explains how to refer fraud and what happens to the referral. It also explains some of the investigative process and what is in place to detect and deter fraud in this area.

All employees of the Council will be issued with a copy of the document and will be required to sign an acknowledgement to confirm that they have received and understood it. In future this document will be included with the contract of employment sent to all new employees.

Approval of this document is delegated to the Executive Director, Resources. It is referred annually to the Audit Board for comment.

2. Objectives

The objectives of a fraud response plan are to ensure that timely and effective action can be taken to:

- prevent losses of funds or other assets where fraud has occurred and to maximise recovery of losses
- minimise occurrence of fraud by taking rapid action at the first signs of a problem
- identify the fraudsters and maximise the success of any disciplinary /legal action taken
- minimise any adverse publicity for the Council, suffered as a result of fraud
- identify any lessons which can be acted upon in managing fraud in the future
- reduce adverse impacts on the business of the Council.

3. What is a fraud? and What is a corrupt act?

Fraud and Corruption are defined by the Audit Commission (1994) as follows:

Fraud is:

‘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.’

Corruption is:

'The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.'

In addition, the Fraud Act 2006 introduces the offence of fraud as follows:

- Fraud by false representation (s.2)
- Fraud by failing to disclose information (s.3)
- Fraud by abuse of position (s.4)

These offences sit alongside other existing legislation that can be used to prosecute 'fraud' offences.

4. Review

This plan will be reviewed at least annually and whenever experience dictates a need for a revision.

Employee Responsibilities

5. It is the responsibility of all staff and members of the council to report fraud whenever they come across it within their work or in connection with their duties. It is not acceptable to turn a blind eye. The council wants to make reporting fraud as easy as possible and to reassure staff that their identity will be protected as far as possible.

In addition to reporting fraud, staff have a duty to report instances where they believe that the Council's assets are at risk. For example this may be because there is a physical security risk and an asset could be stolen or it may be a breach in the IT system and it is information that is vulnerable. Access to most IT systems is via username and password. Staff must always report to their manager instances of breaches in IT security in particular when they think that their password or another password has been compromised. The IT security document, available on the Intranet sets out specific requirements about how staff should maintain a secure IT environment.

6. To whom should you report if you suspect a fraud?

The route you should take will depend on whether you are reporting fraud by a member of the public, by another Council employee or by an elected Member. Each of these is detailed below. You should remember, however, that when you suspect a fraud, you should not discuss it with any other work colleagues either before or after reporting it to the appropriate person.

Fraud by a member of the public.

If the fraud is being committed in your service area, then under normal circumstances you should report to your line manager. If it is not in your service area then you should report the fraud to the Chief Internal Auditor.

Fraud by another Council employee

If a work colleague is committing the fraud, then once again under normal circumstances you should report it to your line manager. You may not wish to report to your line manager particularly if you suspect your line manager of committing the fraud so you can report to any of the following people in the Council:

- Line manager's manager
- Heads of Service

- Executive Directors
- Chief Internal Auditor or Head of Legal Services
- Chief Executive

You can report fraud to the Chief Internal Auditor by completing one of the on line Fraud Referral Forms available on [www.newham.gov.uk/services/fraud investigation](http://www.newham.gov.uk/services/fraud%20investigation). Alternatively, you can e-mail your suspicions to fraud@newham.gov.uk, or telephone 0800 0522 420 or extension 40128 or send the referral to 455 Barking Road East Ham, London E6 2LN.

Fraud by an elected Member.

If you need to report fraud by an elected Member, this may be reported to any of the following officers in the Council:

- Head of Service
- Executive Director
- Chief Internal Auditor or Head of Legal Services
- Chief Executive

7 What happens when you report a fraud?

When a fraud is reported an appropriate officer in a service department in conjunction with the Chief Internal Auditor will assess the information and make preliminary enquiries. If it is decided that a full investigation is required, it will be referred to the appropriate person; this may be a law enforcement agency outside of the council if the nature of the allegation warrants this. If it is fraud by an elected Member, then this has to be investigated by the Chief Executive.

In the course of an investigation, your identity will remain confidential within the investigation team.

Investigations often have to be carried out without alerting the person being investigated. Depending on the type of allegation, the case may have to be investigated for disciplinary proceedings, civil court proceedings or criminal court proceedings. Strict rules apply to investigations carried out for any type of court/tribunal proceedings and compliance with these is essential. Sometimes the process can be slow.

8. Whistle-blowing policy

The Council has developed a Whistle-Blowing policy in accordance with the provisions of the Public Interest Disclosure Act 1998. All Council employees are given a copy of the policy and it is available on the Intranet. This policy enables you to raise concerns about any financial, or other, malpractice in the Council without fear of being subject to victimisation or discrimination. You may find it difficult to raise your concerns and would welcome the opportunity to discuss them with someone in confidence in the first instance. The Council has engaged an independent specialist charity, Public Concern at Work to provide this confidential and expert advice about how to raise a concern at work.

Subject to the constraints of the Council's duty of confidentiality to employees and elected Members, you will be given as much information as possible about the outcome of any investigation.

You must only report genuine concerns and must believe the concerns to be true. You must not receive any personal gain from making the disclosure. Disciplinary action may be taken against you if you have made a frivolous, false or malicious allegation against somebody.

In addition to being able to report a fraud to the officers referred to above or Public Concern at Work, employees have the option of reporting to the Audit Commission. The Audit Commission is a 'prescribed person' under the provisions of the Act and a referral to it will be dealt with in the same way as if it had been made to the other contact points.

Management Responsibilities

9. Defined by the Council's Financial Regulations.

Financial Regulation 3.35 states that Chief Officers are responsible for notifying :

"...Chief Internal Auditor immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration."

10. Evaluation and Investigation of complaints and allegations.

As soon as a complaint or an allegation is received, it is the responsibility of line management to undertake an initial enquiry to ascertain the facts. This enquiry should be carried out as quickly as possible with the objectives of either substantiating or repudiating the allegation that has been made. At this stage care needs to be taken to ensure that any activity is carried out in accordance with the Regulation of Investigatory Powers Act 2000 which is detailed later in this document. As a result of this preliminary enquiry, further more detailed investigation may be needed.

The initial enquiry should be carried out even if the complaint or allegation is received from an anonymous source.

If the allegation is substantiated, the Chief Internal Auditor should be apprised of the situation as soon as possible. At this stage managers should be aware that they have a prime role in securing evidence and minimising any further losses. The Chief Internal Auditor will offer advice on the most appropriate course of action. The further action may involve the commissioning of specialist services to assist with an investigation e.g. IT specialists to preserve and manipulate information held on computer systems, lawyers, surveyors to assess building works. In all cases the Chief Internal Auditor in liaison with the appropriate Chief Officer will do this.

In most instances the Chief Internal Auditor will carry out any further investigation in conjunction with the line manager or other appointed person. In every case, one person will be appointed as the controller of the case.

The Chief Internal Auditor has specific resources available to investigate fraud committed by employees and members of the public and all of these cases are evaluated. If the allegation concerns housing and or council tax benefits, the Chief Internal Auditor will prioritise the investigation based upon a number of factors including the amounts involved, the evidence available and the current caseload in this area.

When the allegation is not referred to the line manager but is referred to one of the other nominated officers or Public Concern at Work, it will then normally be passed on to the Chief Internal Auditor. The Chief

Internal Auditor will carry out the preliminary enquiry. If appropriate this will be in conjunction with the line manager

11. Regulation of Investigatory Powers Act 2000.

Following the introduction of the Human Rights Act in October 2000 additional legislation has been enacted to regulate investigations to ensure compliance with human rights legislation. Permission needs to be obtained from authorised officer for using intrusive investigative techniques. Within Newham a number of officers have been designated as authorised officers. The list of these officers is included in the detailed RIPA guidance (available on the intranet under Regulation of Investigatory Powers Act).

Intrusive investigation techniques covers the following:

Surveillance which is defined as – “monitoring, observing or listening to persons, their movements, their conversations or other activities or communications. Recording anything monitored, observed or listened to in the course of the surveillance. Surveillance by or with a surveillance device”

Surveillance can only be carried out if you are investigating or preventing a crime. If you are uncertain about whether any action you propose is likely to be covered by this legislation, you MUST seek the advice of the Head of Legal Services.

What do you have to do to get authority?

Forms are available for completion from the intranet, together with guidance on how they should be completed. The authorising officer will have to satisfy her/himself that the surveillance is justified.

The above broadly means that you cannot install covert cameras or listening devices, follow members of staff or carry out any other intrusive techniques without having sought prior approval and provided justification for the investigation technique to be used to validate an allegation. In most cases the use of intrusive techniques in relation to fraud will be restricted to the Internal Audit section.

12. Determining the type of Investigation.

Allegation against an employee.

If an allegation is substantiated after the preliminary enquiry and further investigation is needed, the investigation should have two objectives that will determine the type of investigation:

- The employee should be subject to the appropriate sanction available in the Council’s Conduct Procedure.
- If there is evidence that an employee has committed fraud against the Council or has committed a corrupt act, the employee should be the subject of a criminal investigation.

If the police are involved, and this decision must be taken in accordance with the Prosecution Policy, it will be the responsibility of the Chief Internal Auditor to provide the liaison and ensure that they are apprised of the investigation at the earliest opportunity so that the above objectives are not jeopardised.

Allegation against a member of the public

If an allegation is substantiated after the preliminary enquiry and further investigation is needed, the type of investigation will very much depend on the allegation. Generally, all investigations will follow a criminal route. This will be with a view to prosecuting an individual under the appropriate legislation.

The decision to prosecute will be taken jointly by the appropriate Chief Officer and the Chief Internal Auditor and will be subject to the provisions of the Council's Prosecution Policy and the Crown Prosecution Services' 'The Code for Crown Prosecutors'. In most cases the Council without reference to the police may bring the prosecution if the relevant legislation provides for this. A copy of the council's Prosecution Policy is available on the Intranet and Internet.

Allegation against an elected Member.

In these cases, the Chief Executive and the Head of Legal Services must be informed and the Chief Executive in accordance with the provisions of the Code of Conduct carries out any investigation.

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In addition to the criminal route, wherever applicable, investigations will also follow a civil route. This will be with a view to recovering and/or withdrawing any service and/or monies from the person who has committed the offence. It is the responsibility of the manager with the advice of the Chief Internal Auditor to ensure that this recovery takes place.

In some cases it may be necessary to immediately inform the Council's External Auditor of fraud and/or corruption. This will be the responsibility of the Chief Internal Auditor.

13 Preservation of Evidence

When the initial enquiry has revealed that further investigation needs to take place, it may be necessary to preserve the available evidence. Evidence may take various forms. The most common forms of evidence and a brief note of how they should be preserved are given below:

- Original documents. This is the best form of evidence and original documents should be obtained and retained if possible. The documents should be handled as little as possible and should be put in a protective folder. Under no circumstances should they be marked in any way. One person should be responsible for keeping these documents and should keep a record of how and where they were obtained.
- Computer held data. When evidence is held on a computer, the computer should be secured and the Chief Information Officer and the Chief Internal Auditor should be consulted about the most appropriate way of retrieving the data in accordance with the rules of Court evidence. Under no circumstances should the computer be switched on or files viewed by anyone.
- Cash. It may be necessary to count cash. If possible this should be counted by the person responsible for it in the presence of his/her manager. The person should then sign a statement confirming the amount of cash held and the manager should sign it as a correct record. If the person responsible for the cash is not available, two people should count the cash and sign a statement confirming the amount held.
- Stock or stores. As far as possible these should be recorded in the presence of the person

responsible for them who should sign a statement confirming the amount held. If the person responsible for assets is not available, two people should record the amount held and sign a statement confirming it. For large stock holdings, however, this will be impractical.

- Video evidence. There may be video evidence available which may indicate a problem for instance CCTV footage or static security cameras. If you suspect that a video may have information of value to you, secure the video tape(s) so that it can be treated in accordance with the rules of evidence. Under no circumstances should it be viewed by anyone. Advice can be sought from the Chief Internal Auditor about how to proceed.

Whenever a person is suspended from work they should be asked to remove all personal belongings from their desk/cupboard and be informed that the desk/cupboard may be examined. If a person has been suspended and has not been given this opportunity and the desk needs to be searched then authority from the Head of Human Resources should be obtained, using the form available in the RIPA guidance. When this has been approved, two people should empty the desk, the contents should be listed and the list should be signed by both of them as being a true record of what was found.

14. Management's welfare responsibility regarding an employee accused of fraud.

It may be necessary for such an employee to be suspended from duty whilst an investigation takes place. Managers should be mindful of the requirements of the Conduct Procedure. The council has also recognised that suspension can be an extremely stressful experience for some employees and their families and managers should remind employees of the option of approaching the Human Resources Section for advice or possible sources of support.

The Council has an Employee Assistance Programme which can be called at any time for legal advice and counselling. This service is currently provided by Right CoreCare and managers should remind staff of this service. Further details are available on the Intranet.

15. Management responsibility regarding the investigating officers

The need to investigate thoroughly and as quickly as possible may put undue stress on the investigating officer. Managers should be supportive throughout an investigation; make sure that the investigating officer is given the necessary co-operation and be aware of the investigating officer's workload, which should be reviewed and if necessary, redistributed

16. Press and Publicity

The Press Office will deal with the press and publicity in all matters regarding fraud and corruption. If any officer speaks to the press without the express authority of the Press Office, it will be regarded as a breach of the Employee Rules and Standards of Conduct. The council will actively encourage the publicising of all successful investigations and prosecutions so as to deter those considering committing an offence against the council. The Chief Internal Auditor will work with the Communications Section and, in accordance with the Publicity Policy, produce anti-fraud material using as many opportunities and resources as possible.

17. The Control Framework to Minimise and Prevent Fraud.

It is the responsibility of management at all levels to ensure that effective internal control systems are in place and operating to minimise the potential for fraud and corruption. The Council has approved Financial Regulations that set out the control framework that must exist to minimise and prevent fraud. These

regulations apply to all employees and must be complied with in relation to all financial transactions affecting the Council. In addition the Council has a Procurement Code of Practice that relates to the award of contracts. These must also be complied with in all respects.

When fraud has been identified, management in consultation with the Chief Internal Auditor should review the control procedures to ensure that the opportunity to repeat the fraud is minimised.

18. Asset recovery

Whenever fraud has been proved, the council will make every effort to recover the losses. The method used will vary depending on the type of loss and the regulations and powers available. All means of recovery including recovery under social security legislation, attachments to earnings, civil court proceedings and criminal court compensation will be used as appropriate to the offence.

19. Training

Managers should ensure that all staff receive training in 'Fraud awareness'. The level and extent of this will depend on the work that individual employees carry out. When employees are an integral part of the control framework, it will be necessary for them to be regularly reminded of fraud issues. In other cases it may be sufficient to include information in an induction pack. The Chief Internal Auditor should be consulted as necessary to provide advice on this.

The Council provides an on line training module in Fraud Awareness and specific fraud awareness training for staff involved in housing and council tax benefits.

Training of the council's fraud investigators is the responsibility of the Chief Internal Auditor. All investigating officers will be trained to a recognised professional standard.

APPENDIX A

Fraud Response Plan

Specific matters relating to Housing and Council tax benefits.

Staff roles and responsibilities.

Housing and council tax benefits is an area in local authorities where fraud is prevalent. This is especially the case for fraud committed by claimants. Any employee working in this area must therefore be particularly vigilant and be aware of when and how fraud may be committed and how to report concerns. In dealing with applications for housing benefits, staff must comply with all workplace instructions and guidance to minimise the risk of a fraudulent claim entering the system.

How to refer fraud.

The council employs fraud investigators who deal exclusively with housing and council tax benefit fraud. When a member of staff suspects fraud by a housing or council tax benefit claimant, the allegation can be reported direct to the team in Internal Audit that deals with these investigations. Whenever possible, the report should be made on the referral form which is available with guidance on its use, on the Intranet. Staff who are employed in the delivery of housing benefits have further guidance on making a referral in their manual.

What happens after the referral is sent?

The referral will be evaluated to determine whether or not an investigation will take place. A number of factors will be taken into consideration in this process, for example, value of fraud, the number of times it may have been committed and strength of evidence.

Staff who refer fraud suspicions will receive an acknowledgement of the referral and an indication of whether the case will be investigated. If it is not investigated they will be given reasons for this. At the end of the investigation they will be given a report on the outcome. The amount of detail included in the report will depend on the nature of the case, the member of staff's role within the council and any duties of confidentiality that have to be considered.

Preventative and deterrence measures in place to reduce the risk of fraud in housing and council tax benefits.

Fraud Awareness –The Council makes staff aware of fraud in a number of ways, including but not limited to:

- Specific training as and when required;
- On line training modules;
- Newsletters
- Articles in magazines etc
- Publicising successful prosecutions

Prosecution Policy – The Council has a policy on when and how it will impose sanctions against persons found guilty of fraud and corruption. The policy is publicised on the Council's website both internally and externally.

Hotline – The Council operates a 24 hour hotline on which members of the public can report any fraud relevant to the council. The council publishes the existence of the hotline in publicity material, in press releases and on housing benefit documentation. The hotline is staffed during working hours and operated by answerphone during the weekends and evenings.

Investigation Team – The council employs dedicated fraud investigators to investigate Housing and Council Tax Benefit fraud. The investigators are trained to a professional standard and most will have achieved or be undertaking their certificate of Professionalism in Security (PinS). The Fraud Team works to agreed written procedures. A number of the Fraud Investigators have been approved as ‘Authorised Officers’ to use the powers available in the Social Security Act to obtain information from employers and pension providers. The Fraud Manager is an approved officer to obtain information from financial institutions, utility companies and telecommunications companies although generally this will be obtained via NAFN (the National Anti Fraud Network).

Internal Audit – Each year Internal Audit allocates time to the audit of the housing benefit service. These audits generally concentrate on high risk areas and they identify where controls are not in place or where controls are in place but not working as intended.

Joint Working – The council encourages joint investigations with relevant organisations wherever a fraud crosses over two authorities’ areas of responsibility. In particular the council carries out joint investigations with the police, Department of Work and Pensions, and with other Local Authorities. This allows the court to be aware of the full extent of a perpetrator’s fraud and therefore to deliver an appropriate penalty. Whenever an allegation of Housing or Council Tax benefit fraud would also affect a DWP benefit, the DWP is invited to conduct a joint investigation and interview.

Housing Benefit Matching Service – The council participates in the pro-active matching of its Housing and Council Tax benefit data with data from other government agencies. All identified discrepancies which arise are investigated or where they are simple errors the claim is corrected.

National Fraud Initiative – The Council participates in this pro-active matching of Housing and Council Tax data with data from other organisations. Identified cases of discrepancies are investigated.

Service Level Agreements – The Council’s benefit service and fraud team have service level agreements with the DWP. The benefits service has an SLA with the Rent Officer service. The fraud team has agreements with Legal Services, Newham Homes and with the Benefits Service. These are monitored and minuted to ensure efficient working arrangements exist between the organisations/services.

Royal Mail do-not-redirect – All benefits correspondence is sent out using the ‘do-not-redirect’ envelopes. Where any mail is returned because of a redirection notice, it is reviewed by the benefits service and referred to the Internal Audit section for enquiries to be made where there is a suspicion of fraud.