

Anti-Fraud, Bribery and Corruption Policy

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1 Introduction

- 1.1 Cumberland Council's aim is to improve the health and wellbeing of our residents. Our services have a direct and indirect impact on our resident's health and wellbeing so we are committed to being a high performing council. We want our residents to benefit from excellent, efficient and enterprising public services.
- 1.2 To achieve this we must take a positive, risk aware approach to fraud, bribery and corruption in order to protect our resources and enable them to be focused on achievement of these strategic objectives.
- 1.3 The new Anti-Fraud, Bribery and Corruption Policy incorporates the Council's approach to the following:
 - Fraud
 - Bribery and corruption
 - Money laundering
 - Tax evasion

Cumberland Council takes its responsibility for safeguarding public monies seriously and has a zero-tolerance approach to fraud; bribery and corruption; money laundering; and tax evasion. Fraud and corruption reduce the resources available to deliver Council services to those people who depend on us. Failure to put in place effective measures to counteract financial irregularities may also damage the Council's reputation.

- 1.4 Robust arrangements are in place to deal with any financial irregularities committed against the Council including both disciplinary and criminal proceedings where appropriate. All allegations of fraud will be robustly investigated and the Council also has procedures in place to protect both individuals raising legitimate concerns, as well as protecting individuals from false/vexatious accusations.
- 1.5 The people of Cumberland are entitled to expect the Council to operate ethically with integrity, honesty and openness. They rightly expect the highest standards from all those connected with the Council in any official capacity. The Council is therefore committed to combating fraud and taking action against anyone who attempts to commit fraud against it.
- 1.6 The Council also has statutory obligations regarding these areas, for example, it may be held liable for an offence under the Bribery Act 2010 if it fails to prevent a person (who could be an officer, elected Member, or any contractor or sub-contractor who provides services on the Council's behalf) from committing bribery.
- 1.7 Having and adhering to adequate procedures to prevent bribery provides the Council with a defence against liability under the Bribery Act 2010.
- 1.8 The Council is also committed to ensuring we have effective arrangements to prevent, detect and report suspected money laundering activities in line with the Proceeds of Crime Act 2002 and the Money Laundering, Terrorist Financing and

Transfer of Funds (Information on the Payer) Regulations 2017. The Council's policy is to ensure that all appropriate action is taken to prevent the Council and its staff being exposed to money laundering, and that actual or suspected incidences of money laundering are reported in line with the requirements of the Money Laundering regulations.

- 1.9 Finally as an employer, if we fail to prevent our employees, workers, agents or service providers facilitating tax evasion, we can face criminal sanctions including an unlimited fine, as well as damage to our reputation. We therefore take our legal responsibilities seriously and will uphold all laws relevant to countering tax evasion, including the Criminal Finances Act 2017.

2 Scope

- 2.1 The policy applies to all elected Members and officers of the Council. The term 'officers' includes all staff working for the Council whether full-time or part-time, paid or voluntary, temporary or casual and staff employed through an agency.
- 2.2 Where Council services are delivered by other organisations, the Council remains responsible for safeguarding the interests of service users and taxpayers and therefore expects the same high standards of conduct and behaviour from all individuals working with and on behalf of the Council.
- 2.3 We commend this policy to our partner organisations and Cumberland Council schools with the expectation that it is either adopted in full or used as a basis for their local arrangements.
- 2.4 Where it is suspected that fraud has been committed against the Council by staff from 3rd party organisations, we will, where appropriate, report the matter to the employing organisation and will support them fully in dealing with the issues under their respective organisational policies and procedures.
- 2.5 The Council will adhere to provisions in procurement law requiring the exclusion of contractors convicted of active corruption.
- 2.6 The Council will also include clauses in tender documents and contracts which permit exclusion of contractors, termination of contracts and recovery of losses by the Council in the event of an act of corruption by a tenderer or contractor (including sub-contractors).

3 Definitions

- 3.1 For the purposes of this policy, financial irregularity means fraud, bribery, corruption, money laundering, tax evasion or facilitating tax evasion.

Fraud

- 3.2 Fraud is defined within the 2006 Fraud Act which sets out three categories of fraud:

- a. False representation - where a person makes a false representation in order to cause a gain for themselves or a loss to another person
 - b. Failure to disclose information - where there is a legal duty to do so
 - c. Abuse of position - where a person abuses the position they hold to cause a gain to themselves or a loss to another person.
- 3.3 Crucially, under the Fraud Act, the gain or loss does not have to have materialised for fraud to have been committed; it is the action and intent that creates the offence of a fraud.
- 3.4 Examples of fraud include (but are not limited to) submission of fictitious or inflated invoices, expense claims or timesheets, use of Council information or assets for personal gain, failure to declare relevant information and manipulation of quotes and tender submissions.

Bribery

- 3.5 Bribery means offering or giving someone a financial or other advantage to encourage them to perform their functions or activities improperly or rewarding someone for having already done so. This includes:
- a. Offering or giving a bribe to another person;
 - b. Receiving or agreeing to receive a bribe from another person;
 - c. Facilitation payments (unlawful payments demanded by officials to perform or expedite the performance of their normal duties).
- 3.6 The Council commits an offence if a person associated with it bribes another person for the Council's benefit. An "associated person" includes officers, elected Members, service providers and other partners.
- 3.7 Officers and elected Members involved in planning and procurement should be especially aware of the possibility that they may be targeted for attempted bribery.

Corruption

- 3.8 Corruption is the deliberate misuse of your position for direct or indirect personal gain. Corruption includes offering, giving, soliciting or acceptance of an inducement or reward which may influence any person to act inappropriately.

Money laundering

- 3.9 Money laundering is the process by which criminally obtained money or other criminal property are exchanged for "clean" money or other assets with no obvious link to their criminal origins.
- 3.10 The formal definition of money laundering is set out in the Proceeds of Crime Act 2002 as:

- a. The process by which the proceeds of crime are; concealed, disguised, converted, transferred or removed from England, Wales, Scotland or Northern Ireland.
 - b. Being involved in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property.
 - c. Acquiring, using or possessing criminal property.
- 3.11 There are also secondary offences of:
- a. Failure to disclose money laundering offences.
 - b. Tipping off a suspect, either directly or indirectly.
 - c. Prejudicing an investigation.

Tax evasion

- 3.12 Tax evasion means the offence of cheating the public revenue or fraudulently evading UK tax and is a criminal offence. The offence requires deliberate action, or omission with dishonest intent. For the purposes of this policy tax evasion includes foreign tax evasion.
- 3.13 Tax evasion facilitation means being knowingly concerned in, or taking steps with a view to, the fraudulent evasion of tax (whether UK tax or tax in a foreign country) by another person, or aiding, abetting, counselling or procuring the commission of that offence. Tax evasion facilitation is a criminal offence, where it is done deliberately and dishonestly.

4 Corporate culture and frameworks

- 4.1 The Council is committed to creating an environment where the risk of financial irregularities is minimised. Responsibility for an anti-fraud culture is the joint duty of all those involved in giving political direction, determining policy and management. Elected Members and senior management are committed to creating a culture that is resilient to the threats of financial irregularities and which aligns to the standards of good governance.
- 4.2 Managers at all levels are required to acknowledge and identify the risks of financial irregularities occurring within their service areas and implement controls to mitigate these risks.
- 4.3 Senior management is expected to act promptly and decisively in relation to those involved in financial irregularities.
- 4.4 The Council expects that elected Members and officers will lead by example in ensuring adherence to all legal requirements, contract and financial procedure rules, codes of conduct and best practice. There are a range of interrelated policies and procedures that provide a corporate framework to counter fraudulent activity.

These have been formulated with regard to the relevant legislative requirements and include:

- Constitution
- Codes of conduct for officers and members
- Code of Good Practice for Members involved in the Planning Process
- Appointment of statutory officers
- Finance Procedure Rules
- Contract Procedure Rules
- Recruitment and Selection Policy
- Discipline Procedure
- Confidential Reporting Policy
- Data Protection Policy
- Data Breach Policy, Procedure and Frequently Asked Questions Policy
- Managing Your Records Guidance
- Information Security Policy
- Information Security Payment Card Data Policy
- Acceptable Use Policy

4.5 Line managers are responsible for ensuring that all their staff are aware of and understand their responsibilities within this policy and for periodically reminding staff of these.

5 Responsibilities in relation to financial irregularities

5.1 The Chief Executive, Senior Leadership Team and Assistant Directors are responsible for:

- communicating the Anti-Fraud, Bribery and Corruption Policy to elected Members and employees;
- promoting awareness of the commitment to eliminating all forms of corruption;
- Ensuring that any risk of financial irregularities is identified, documented and managed at the appropriate level in the Council

5.2 The Monitoring Officer (Chief Legal Officer) is responsible for:

- ensuring that everything the Council does is fair and lawful and for promoting, maintaining and monitoring high standards of conduct throughout the Council, including ensuring that the Constitution is followed.

5.3 The Section 151 Officer (Chief Finance Officer) is responsible for:

- the proper administration of the Council's financial affairs and is the
- the responsible Senior Leader for maintaining this policy and overseeing the Council's approach to fraud through regular liaison with Internal Audit.

5.4 Members, as elected representatives have a duty to:

- protect the Council, and public money, from all forms of abuse;
- operate within the Code of Conduct which they agree to comply with following their election
- declare any conflicts of interests.
- perform their function with honesty and integrity, in the public interest
- vigilant to the possibility that financial irregularities may occur and have a responsibility to report any suspicions through the arrangements described within this policy

5.5 Managers are responsible for:

- ensuring there are appropriate controls within their systems to prevent fraud
- Ensuring staff receive fraud awareness training
- ensuring that if they receive an allegation under this policy, they:
 - a. Deal with the matter promptly in line with this policy;
 - b. Record, preserve and secure all evidence received;
 - c. Implement the Council's disciplinary procedures where appropriate

5.6 In addition, all Officers are responsible for:

- individual conduct in line with the Council's Constitution
- Declaring conflicts of interest in line with the Council's Constitution
- performing their functions with honesty and integrity, in the public interest.
- being vigilant to the possibility that financial irregularities may occur and have a responsibility to report any suspicions through the arrangements described within this policy and detailed in section 9 below.
- being responsible for compliance with the Council's financial regulations and also ensuring they do not:
 - a. engage in any form of financial irregularities;
 - b. aid, abet, counsel, procure or commission any other person to engage in any financial irregularities;
 - c. Become engaged in activities with clear conflict of interests (for example providing services for close friends and family;
 - d. engage in any other activity that may lead to a breach of this policy; or
 - e. Threaten or retaliate against any person who raises concerns under this policy.

5.7 If employees or members believe they are a victim of fraud or have witnessed fraudulent activities, it is crucial to report the incident as soon as possible to their line manager / Monitoring Officer. The Council is committed to providing you with the necessary support, including confidential reporting channels and access to counselling where required. All reports will be handled with the utmost confidentiality and sensitivity, and you will be protected against any form of retaliation. A thorough investigation will be conducted and keep you informed throughout the process. The Council will also help you navigate this situation and take all necessary steps to resolve the issue and prevent future occurrences.

- 5.8 Where an employee or elected Member fails to report suspicions, they themselves may become implicated in the wrongdoing and the Council will treat failure to report concerns as a serious matter which may in the case of a person employed by the Council, amount to a disciplinary matter and in the case of elected Members, to a breach of the Code of Conduct.
- 5.9 Internal Audit and Risk Management, as part of their planned audit assignments, help to ensure that management have put systems and processes in place to prevent and detect fraud and corruption. They also investigate cases of alleged or suspected fraud or irregularity as required, with the exception of Revenues and Benefits Fraud (see below).
- 5.10 External Audit delivers specific reviews that are designed to test, amongst other things, the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and corruption. Whilst it is not the external auditor's function to prevent and detect fraud they are always alert to the possibility of fraud and irregularity and will act promptly if grounds for suspicion come to their notice.
- 5.11 Revenues and Benefits fraud investigations relating to housing benefit are the responsibility of the Single Fraud Investigation Service at the Department for Work and Pensions (DWP). Fraud related to Local Council Tax Support is the responsibility of the Revenues and Benefits Team.
- 5.12 The Council will seek to ensure that companies of which it is a member/shareholder and major partnerships in which it participates or for which it is accountable body have in place arrangements to prevent financial irregularities in respect of their activities
- 5.13 The Council has established an Audit Committee. Its terms of reference are set out within the Constitution and include oversight of the Council's risk management activities and monitoring the Council's anti-fraud, bribery and corruption arrangements. The Audit Committee receive regular updates on counter-fraud activity.

6 Prevention

- 6.1 The Council's main aim is to prevent financial irregularities from occurring. This is done through a combination of an effective ethical culture and behaviours whereby wrongdoing is seen as unacceptable by everyone and maintaining well-controlled systems that do not allow wrongdoing to succeed.
- 6.2 A key element in financial irregularity prevention is the regular checks undertaken by managers to confirm that their financial irregularity controls continue to work effectively. Internal Audit and Risk Management can advise on appropriate controls to mitigate risk but it is managers' responsibility to ensure controls are implemented and continue to work effectively.
- 6.3 A key stage in upholding the Council's ethical culture is through recruitment of appropriate staff. Managers are responsible for ensuring that all appropriate checks

are undertaken to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts, or agency staff. All recruitment must therefore be conducted in accordance with the Council's Recruitment and Selection policy and associated procedures. For example, staff who will access DWP information are Baseline Personnel Security Standard checked, including a basic disclosure and barring service (DBS) check, at recruitment.

- 6.4 Training events and communication of relevant information will be conducted by the Council to ensure relevant officers have a complete and up to date knowledge of fraud risks.

7 Gifts, Hospitality and Donations

- 7.1 Under the Bribery Act 2010, the provision of genuine hospitality is not an offence, so businesses are, for example, able to offer appropriate gifts to clients, take clients to dinner, and offer other hospitality if that is reasonable and proportionate expenditure for their business.
- 7.2 Council officers and members may only receive gifts and hospitality in accordance with the Council's Constitution, Member Code of Conduct and Officer Code of Conduct.

8 Data Matching for the Purpose of Fraud Prevention

- 8.1 The Council participates fully in the mandatory biennial National Fraud Initiative (NFI) which is co-ordinated by the Cabinet Office. The National Fraud Initiative matches electronic data within and between public and private sector bodies to prevent and detect fraud. These bodies include police authorities, local probation boards, fire and rescue authorities as well as local councils and a number of private sector bodies. The Council is required to review and investigate any potential fraud or irregularities identified by the NFI.
- 8.2 The Council may also use further internal and external data matching exercises between its own systems for the purposes of preventing and detecting fraud. Any such arrangements will be in full compliance with relevant legislation covering information governance.
- 8.3 The Revenues and Benefits and Licensing teams are also members of the National Anti-fraud Network.

9 Reporting concerns

- 9.1 Any person who suspects that corruption financial irregularity may be taking place must report their suspicions.

- 9.2 Officers should report concerns to their line manager in the first instance, unless there are reasons why you are unable to report to their line manager. In this case, the report should be made to the Assistant Director, Corporate Director or directly to either Internal Audit, the S151 Officer (Chief Finance Officer) or Monitoring Officer.
- 9.3 Members should report concerns directly to the Monitoring Officer or the Head of Internal Audit.
- 9.4 Managers receiving credible reports of suspected financial irregularities, and officers who are unable to discuss their concerns with management within their Directorate must contact Internal Audit, by emailing the Financial Irregularities Reporting Form at Appendix 1 to Fraudreport.Mailbox@cumberland.gov.uk, who will then liaise with the Chief Finance Officer, the Monitoring Officer and/or the Assistant Director of Human Resources and Organisational Development, as appropriate, to discuss the best course of action. This may involve a referral to Cumbria Police.
- 9.5 If you suspect that a financial irregularity has taken / is taking place you must not attempt to investigate the matter yourself nor confront any person suspected of being involved. You should note as much detail as possible to allow the matter to be investigated, but you must not go looking for evidence or take any action that may alert the individual(s) to your suspicions. You must not attempt to find information by switching on the person's computer as this can seriously prejudice further investigation.
- 9.6 The Council has a Confidential Reporting Policy which enables individuals to make disclosures in the public interest where they feel unable to report under other policies.

10 Investigation, sanctions and recovery of losses

- 10.1 Managers receiving referrals of suspected financial irregularity must report their concerns in accordance with paragraph 9.4 above. Once reported, Internal Audit will contact the manager to discuss the most appropriate investigation arrangements. Any decision on how best to investigate will be made by the Head of Internal Audit after consultation with the relevant service manager, S151 Officer and HR and/or Monitoring Officer, as appropriate to the individual case. Internal Audit will conduct an investigation of the fraud, in line with relevant policies and provide advice and support to management on the suspected fraud and advise on strengthening controls following any incidents.
- 10.2 It is the Council's policy that all suspected irregularities will be investigated and where fraud, bribery, corruption, money laundering or tax evasion is found to have been committed, action will be taken. Consideration will be given in all cases to referral to the police where criminal activity is suspected. Where allegations of financial irregularity have been made against a member of Council staff/elected Member, the disciplinary procedures/equivalent Member processes will be invoked together with a referral to the police as appropriate.

- 10.3 The Council will pursue recovery action to recover misappropriated assets. This may involve using the proceeds of crime act (POCA), as well as civil sanctions.
- 10.4 Subject to compliance with data protection legislation and where appropriate we will publicise actions taken against anyone found to have committed a financial irregularity against the Council as part of our strategy to reduce fraud risk.

11 Review of this Policy

- 11.1 This Policy will be subject to annual review.

12 Contacts

Head of Internal Audit	Michael Roper Telephone: 07518 294374 Email: michael.roper@cumberland.gov.uk
Monitoring Officer	Clare Liddle, Chief Legal Officer Telephone: 01228 470241 Email: clare.liddle@cumberland.gov.uk
Section 151 (Chief Finance) Officer	Catherine Bell, Chief Finance Officer Telephone: 07711 634180 Email: catherine.bell@cumberland.gov.uk

Appendix 1: COUNTER FRAUD – REFERRAL FORM

RESTRICTED INFORMATION

This form should be used to report suspected fraud, bribery, corruption, money laundering or tax evasion.

Name	
Email address	
Phone number	
Is the activity: <ul style="list-style-type: none">• About to happen• Happening• Already happened	
Date	

Use the space below to describe your concerns in as much detail as possible. Please ensure you cover **who** you suspect is involved, **what** you believe to be happening, **when** and **where** it happened and, if known, **how** the activity is being undertaken.

Please remember that you must not undertake independent investigations of suspected financial irregularities.

Please email this form, and any additional evidence, to Fraudreport.Mailbox@cumberland.gov.uk once completed.