



Guidance on the Prevention and Detection of Fraud, Bribery and Corruption

2014

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1. INTRODUCTION

- 1.1 Denbighshire County Council (the Council) employs around 4,500 staff and spends around £250 million per year. It commissions and provides a wide range of services to individuals and households and works with a wide range of private, public and voluntary sector organisations.
- 1.2 As with any other large organisation, the size and nature of the Council's services mean that there is an ongoing risk of loss due to fraud and corruption from both internal and external sources. There is also an ongoing risk of bribery as the Council provides and procures goods, works and services. The Council has therefore put in place proportionate systems to minimise this risk and these are kept under constant review.
- 1.3 The Council recognises that as well as causing financial loss, fraud is also detrimental to the provision of services, and damaging to the reputation of, and confidence in, the Council and public bodies in general.
- 1.4 In its policies and procedures the Council gives out the clear message that it will not tolerate any impropriety by employees, elected Members or third party organisations. These are all signs of a robust framework in place to mitigate the risk of fraud, corruption or bribery.
- 1.6 The Strategy has the full support of Members and the Council's Strategic Leadership Team.
- 1.7 The Council is also aware of the high degree of external scrutiny of its affairs by a variety of bodies including:
 - The Local Government Ombudsman,
 - The Wales Audit Office,
 - Statutory Inspectorates such as ESTYN and the Care and Social Services Inspectorate Wales (CSSIW),
 - Her Majesty's Revenue and Customs,
 - Auditors of organisations for whom the Council acts as agents as well as those that provide direct funding for the Council e.g. European funding organisations.

2. ANTI FRAUD AND CORRUPTION STRATEGY

- 2.1 The previous Anti Fraud and Corruption Strategy was approved in 2006. This revised Strategy takes account of changes in legislation e.g. the Bribery Act 2010 and also best practice e.g. CIPFA's "Red Book 2 – Managing the Risk of Fraud".
- 2.2 The Strategy is based on the following principles of best practice:
- | | |
|------------------|---------------|
| a) culture | b) deterrence |
| c) prevention | d) detection |
| e) investigation | f) sanctions |
| g) redress | h) training |
- 2.3 The Council also has arrangements in place to prevent and detect Housing / Council Tax Benefit fraud which are attached as Appendix 2.

3. SCOPE

3.1 Fraud and corruption may take a number of forms. The relevant definitions are as follows:

Fraud

The Fraud Act 2006 provides definitions of the criminal offence of fraud and identifies three key offences:

- Fraud by false representation - an offence is committed if a person dishonestly makes a false representation with the intent of making a gain for himself or another; or to cause or expose the risk of loss to another.
- Fraud by failing to disclose information - an offence is committed if a person dishonestly fails to disclose to another person information which he is under a legal duty to disclose; and intends by failing to do so, to make a gain for himself or another; or to cause or expose the risk of loss to another.
- Fraud by abuse of position - an offence is committed if a person occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person; and dishonestly abuses that position with the intention to make a gain for himself or another; or to cause or expose the risk of loss to another

Theft

The Theft Act 1968 provides that an offence of theft is committed where a person dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

Corruption

The Oxford English Dictionary defines corruption as dishonest or fraudulent conduct by those in power, typically involving bribery.

Bribery

The Bribery Act 2010 provides definitions of the criminal offence of bribery and identifies four key offences:

- Bribing another person - A person commits an offence by offering, promising or giving a financial or other advantage to another person, directly or through an intermediary either:
 - a) intending that advantage to induce a person to perform improperly a Function or to reward a person for so doing (whether or not it is the same person to whom the advantage is offered) or

- b) knowing or believing that accepting the advantage would itself be improper performance of a Function.
- Being bribed - A person commits this offence by requesting, agreeing to receive or accepting a financial or other advantage, directly or through a third party, for his or her own or someone else's benefit and,
 - a) that person intends that, as a consequence, there is improper performance of a Function or
 - b) there is improper performance of a Function (whether as a reward, in anticipation of or as a consequence of the request, agreement or acceptance).

The request, agreement or acceptance itself may be the improper performance of a Function.

- Bribery of a Foreign Public Figure – This offence will be committed if a person offers or gives a financial or other advantage to a foreign public official with the intention of influencing the foreign public official and obtaining or retaining business, where the foreign public official was neither permitted nor required by written law to be so influenced.
- Failing to prevent Bribery - A company is “strictly liable” for any bribe paid by a person performing services on its behalf, unless the organisation proves that adequate anti-bribery procedures were in place.

4. CULTURE

- 4.1 The Council's Code of Corporate Governance sets out its commitment to the highest ethical and moral standards and also to a culture of honesty, openness and accountability.
- 4.2 The Council has agreed a set of core values that guide its work and shape the way that it goes about achieving its vision, aims and objectives. These are:
- Unity
 - Pride
 - Respect
 - Integrity
- 4.3 All employees, partner organisations as well as organisations working on the Council's behalf, are expected to share in this commitment and to lead by example in ensuring adherence to all Council regulations, procedures, practices and codes of conduct in accordance with the Nolan Committee's "Seven Principles of Public Life" which are:
- Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- 4.4 In addition, all elected Members and co-opted members will be expected to adhere to the "The Conduct of Members (Principles) (Wales) Order 2001". This Order adds to the seven Nolan principles set out above by including requirements in relation to Stewardship, Duty to Uphold the Law, and Equality and Respect
- 4.5 This ethical framework supports a preventative, anti fraud and corruption culture which is supported by ongoing work to detect / investigate fraud and to apply sanctions and recover losses where it is found.
- 4.6 The Council's elected members and employees play an important role in creating and maintaining this culture. The Council positively encourages

those working for or with the Council to raise concerns regarding fraud and corruption immaterial of seniority or status in the knowledge that such concerns will, wherever possible, be treated in confidence without fear of reprisals or victimisation so that they can be investigated properly and fairly. Guidelines on how to make such reports are contained in Appendix 1.

- 4.7 Members of the public are encouraged to report any concerns which they may have. This may be direct using the contact details shown in Appendix 5 or by using the Council's customer service contacts which are available on the Council's website; www.denbighshire.gov.uk
- 4.8 The Council will ensure that any allegations received will be taken seriously and investigated in an appropriate manner.

5. PREVENTION

5.1 Policies & Procedures

5.1.1 The Council is firmly of the belief that the best way to beat fraud and corruption is to prevent it from happening in the first instance. To achieve such an objective it is essential that the Council has in place a clear set of policies and procedures which set out the rules within which elected members, employees, consultants and contractors can work effectively. These are integral elements of the corporate internal control environment, and it is important that all members and employees are aware of their existence and at least their general content.

5.1.2 The most critical of such policy and procedural documents are as follows:-

- The Constitution, containing particularly:-
 - ✚ the Financial Regulations which include Contract Procedure Rules
 - ✚ the Code of Conduct for Members
 - ✚ the Code of Conduct for Employees
 - ✚ Schemes of Delegation
- The Code of Corporate Governance.
- Employees' Conditions of Service.

5.1.3 In addition to the above, some Departments have introduced their own measures designed to control their particular activities, for example procedure manuals.

5.1.4 It is the responsibility of Corporate Directors and Heads of Service to ensure that all employees have ready access to all of the Council's agreed policies and procedures, and, where appropriate, they receive suitable training in their operation.

5.1.5 Elected members and employees have a specific responsibility to read and understand the policies and procedures that apply to them, and subsequently act in accordance with the terms and conditions therein. The Council may take formal action against anyone who fails in their duty to comply with the agreed policies and procedures.

5.1.6 In the case of an elected member, such an occurrence could precipitate a referral to the Standards Committee by the Ombudsman. In the case of an employee, the Council may take action under its Disciplinary Policy & Procedure.

5.2 Internal Control

- 5.2.1 Corporate Directors and Heads of Service are fully responsible for ensuring that all operational systems, particularly financial procedures, incorporate an appropriate level of internal control mechanisms. It is also essential that, where possible and practicable, a clear division of duties exists in the operation of a particular system, and that no individual is in a position whereby he or she can carry out a complete transaction without some form of check being built in to the process.
- 5.2.2 Heads of Service must ensure that their Risk Register accurately reflects the risk of fraud including any emerging risks.

5.3 Recruitment

- 5.3.1 The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. As in other public bodies Disclosure and Barring Service (DBS) checks are undertaken for employees working with, or who may have contact with, children or vulnerable adults.

5.4 Joint-Working

- 5.4.1 The Council is committed to working and co-operating with other organisations to help prevent organised fraud and corruption. As a consequence, whenever possible, the Council will be prepared to help and exchange information with other Councils and organisations to deal with fraud.
- 5.4.2 Information exchange needs to be tightly controlled, particularly in relation to data protection and human rights issues. As a consequence, the Internal Audit Department controls all such help and exchange information in consultation with, and the ultimate approval of, the Monitoring Officer.
- 5.4.3 The Council will set up confidential facilities to enable information to be passed that may prevent fraud and corruption. These may well include a dedicated telephone line and an Internet reporting facility via the Council's official web site.
- 5.4.4 Such facilities will allow members of the public, as well as elected members and employees, to advise the Internal Audit Department about specific instances of alleged fraud and corruption. The Council will, therefore, ensure that full details of the reporting facilities are widely

publicised to all potential users, and that all information received will be thoroughly investigated and subsequently dealt with, as required.

5.5 The Role of Elected Members

5.5.1 As elected representatives, all elected members have a duty to the citizens and customers of the Council to protect the Council and public money from any acts of fraud and corruption. This is done through this Policy, compliance with the Members' Code of Conduct, the Council's Constitution, Financial Regulations, and relevant legislation.

5.5.2 Elected members sign an undertaking that they have read, understood and will abide by the Code of Conduct for Members when they take office. Conduct and ethical matters are specifically brought to the attention of elected members during induction and include the declaration and registration of interests. The Council's Monitoring Officer, advises elected members of new legislative or procedural requirements.

5.6 The Head of Paid Service, Monitoring Officer and Section 151 Officer

5.6.1 The Head of Paid Service, Monitoring Officer and Section 151 Officer have key roles in providing advice to all elected members and staff about vires issues, maladministration, financial impropriety, probity and policy framework and budget issues.

5.6.2 The Head of Paid Service is responsible for espousing and upholding high standards of conduct by officers, ensuring oversight of compliance with the member-officer protocol and with other policies adopted by the Council.

5.6.3 The Monitoring Officer encourages the promotion and maintenance of high standards of conduct within the Council, particularly through provision of support to the Standards Committee.

5.6.4 The Section 151 Officer undertakes the statutory responsibility under the Local Government Act 1972 to ensure the proper arrangements for the administration of the Council's financial affairs. This role is supported by the work undertaken by Internal Audit.

5.7 The Role of Managers

5.7.1 Managers at all levels are responsible for the communication and implementation of this Policy in their work area. They are also responsible for ensuring that their employees are aware of the Council's personnel policies and procedures and Financial Regulations and that the requirements of each are being met in their everyday business activities. In addition, managers must make their employees aware of the requirements of the Code of Conduct for Local Government Employees through the induction process.

5.7.2 Managers are expected to create an environment in which their employees feel able to approach them with any concerns they may have about suspected irregularities.

5.8 Responsibilities of Employees

5.8.1 Each employee is governed in their work by the Council's Financial Regulations and other policies on conduct, for example, health and safety, e-mail and internet usage, and IT security. Included in the Council's policies are guidelines on gifts and hospitality, and codes of conduct associated with professional and personal conduct and conflict of interest. These are issued to all employees when they join the Council, or are available to all on the Intranet.

5.8.2 In addition, employees are responsible for ensuring that they follow the instructions given to them by management, particularly in relation to the safekeeping of the Council's assets. These will be included in induction training and procedure manuals.

5.8.3 Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management. If for any reason, they feel unable to speak to their manager they must refer the matter to one of those named below:

- Heads of Service, Corporate Directors, the Chief Executive or the Council's Monitoring Officer, who will report such concerns to the Head of Internal Audit.
- Directly to the Head of Internal Audit.
- The Council's external auditor, who, depending upon the nature of the concern, will liaise with the Head of Internal Audit.
- Trade Union representatives, who will report such concerns to the Head of Internal Audit.

5.9 Conflicts of Interest

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

510 Role of Internal Audit

- 5.10.1 Denbighshire Internal Audit Services independently reviews the adequacy, efficiency and effectiveness of the internal controls within the Council's systems by undertaking a comprehensive programme of work targeted at key risk areas.
- 5.10.2 Any weaknesses in internal control are reported to management with proposed recommendations to address the issues raised. It is the responsibility of management to ensure that corrective action is taken.
- 5.10.3 The independent review of the systems and the implementation of agreed recommendations contribute to the prevention and detection of fraud and corruption.

5.11 The Role of the External Auditor

- 5.11.1 Independent external audit is an essential safeguard of the stewardship of public money. This is carried out through 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. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern.

6. DETERRENCE

6.1. Disciplinary Action

- 6.1.1 Theft, fraud, bribery 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 will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case, but in a consistent manner.
- 6.1.2 Members will face appropriate action under this Policy if they are found to have been involved in theft, fraud, bribery and corruption against the Council. 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. If the matter is a breach of the Members' Code of Conduct it will also be referred to the Ombudsman.

6.2 Publicity

- 6.2.1 The Council's Public Relations unit (PR) will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. PR will also try to ensure that the results of any action taken, including prosecutions, are also reported in the press.
- 6.2.2 In all cases (both elected member and officer) where the Council has suffered a financial loss, the Council will seek to recover the loss and advertise this fact.
- 6.2.3 All anti-fraud and corruption activities, including the update of this policy, will be publicised in order to make employees and the public aware of the Council's commitment to taking action on fraud and corruption, when it occurs

7. DETECTION & INVESTIGATION

- 7.1 This section should be read in conjunction with the Guidelines for Reporting Suspicions of Fraud & Corruption (Appendix 1) and the Prosecution Policy (Appendix 4).
- 7.2 In line with the Council's 'Code of Conduct' for Employees and 'Financial Regulations' employees must report any suspected cases of fraud and corruption to the appropriate manager, and the Head of Internal Audit must be informed by either the employee or manager. This is absolutely essential to the success of this Policy, and ensures that:
- Suspected cases of fraud and corruption are investigated correctly.
 - The Guidelines for Reporting Suspicions of Fraud & Corruption are properly implemented.
 - There is a standard approach for dealing with all suspected cases.
 - People, and the interests of the Council, are properly protected.
- 7.3 This process will apply to all the following areas:
- Fraud or corruption by elected members.
 - Internal fraud or corruption.
 - Other fraud or corruption by Council employees.
 - Fraud by contractors' employees.
 - External fraud (the public).
- 7.4 The Council's 'Whistleblowing Policy' is intended to encourage and enable staff to raise serious concerns. Employees reporting concerns in this manner are afforded certain rights under the Public Interest Disclosure Act, 1998.
- 7.5 The Head of Internal Audit will work with the Chief Executive, Corporate Directors and Heads of Service to decide on the type and course of the investigation, which will include referrals to the Police where necessary. The Council will seek prosecution of offenders and will carry out internal disciplinary procedures where appropriate. In so doing, every effort will be made to ensure that any internal proceedings do not jeopardise or prejudice the criminal case.

- 7.6 Internal Audit plays an important role in the detection of fraud and corruption. Included in its operational plans are reviews of system controls including financial controls and specific fraud and corruption tests, spot checks and unannounced visits. Procedures for the investigation of fraud and corruption are included in the Internal Audit Manual.
- 7.7 In addition to Internal Audit, there are numerous systems and management controls in place to deter fraud and corruption, but it is often the vigilance of employees and members of the public that aids detection.
- 7.8 In some cases frauds are discovered by chance or “tip-off” and arrangements are in place to enable such information to be properly dealt with.

8. RECOVERY AND SANCTIONS

- 8.1 Where the Council identifies fraud then it will:
- Recover wherever appropriate **and**
 - Prosecute or apply other sanctions to perpetrators.
- 8.2 Sanctions are actions taken against individuals or organisations to reduce the risk of fraud, corruption or bribery from occurring. These will be applied in accordance with the Council's Prosecution Policy, and will be done in a comprehensive, consistent and proportionate manner with all possible sanctions – disciplinary, civil and criminal – considered.
- 8.3 Where fraud by employees is indicated, then action will be taken in accordance with the Council's disciplinary procedures. This may be in addition to any civil recovery action or criminal sanctions.
- 8.4 The Council aims to be effective in recovering any losses incurred to fraud using, as appropriate, criminal and/or civil law.

Training

- 8.5 The continuing success of the Strategy requires all staff to be aware of fraud issues including corruption and bribery. The Council's induction process will reinforce this together with ongoing training identified through the Performance Appraisal process.
- 8.6 Staff involved in the setting up of or monitoring of internal control systems, e.g. Financial Regulations will receive specific training to ensure that their responsibilities and duties are regularly highlighted and reinforced.
- 8.7 Staff in the Internal Audit and Benefit Fraud teams will receive training in order to comply with their professional standards. This will maximise the Council's ability to prevent, detect and investigate fraud, corruption and bribery.
- 8.8 Disciplinary action will be considered against any employee who deliberately ignores such training regardless of whether it results in an actual fraud.

9. IMPLEMENTATION OF THE STRATEGY

- 9.1 Internal Audit will undertake an annual assessment of the effectiveness of existing counter-fraud arrangements against:
- a) CIPFA's "Red Book 2" Fraud standards.
 - b) The Audit Commission's "Managing the Risk of Fraud" assessment tool.
 - c) Guidance as to the implementation of the Bribery Act 2010 as provided by the Ministry of Justice
 - d) Other best practice / statutory guidance as required
 - e) The roles and responsibilities as set out In Appendix 1 of this Strategy.
- 9.2 CIPFA's Fraud Standards state that the foundations of an effective counter-fraud framework comprise the following five key elements:
- a) ADOPTING THE RIGHT STRATEGY
 - b) ACCURATELY IDENTIFYING RISKS
 - c) CREATING AND MAINTAINING A STRONG STRUCTURE
 - d) TAKING ACTION TO TACKLE THE PROBLEM
 - e) DEFINING SUCCESS
- 9.3 Internal Audit will report its findings to the Corporate Governance Committee and the Corporate Executive Team. The Corporate Governance Committee will also consider the effectiveness of anti fraud and corruption risk management arrangements.

Awareness

- 9.4 The Council will maintain an up to date awareness of the types of fraud that it may be exposed to especially given the ongoing financial situation and the resourcefulness of potential fraudsters. It will review national developments and strengthen systems and procedures accordingly using the following key sources of information:
- a) Audit Commission Publications – in particular, National Fraud Initiative Newsletters, Audit Commission Fraud Reports, "Protecting the Public Purse", ICT Fraud and Abuse etc.
 - b) HM Treasury Publications – in particular; Annual Fraud Reports,
 - c) CIPFA Better Governance Forum (IPF) - Monthly 'Risk News' Newsletters etc,
 - d) National Anti-Fraud Network - Strategic Risk Assessment – Local Authority Fraud; Ongoing Alerts on website etc.

10. CONCLUSION

- 10.1. The Council has always prided itself on setting and maintaining high standards and a culture of openness, with core principles of unity, pride, respect and integrity. This strategy fully supports the Council's desire to maintain an honest organisation, free from fraud and corruption.
- 10.2. The Council has in place a network of systems and procedures to assist it in dealing with fraud and corruption when it occurs. It is determined that these arrangements will keep pace with any future developments in both preventative and detective techniques regarding fraudulent or corrupt activity that may affect its operation.
- 10.3. The Council will maintain a continuous review of all these systems and procedures through its Internal Audit service.
- 10.4. This policy statement will be reviewed on a regular basis, with a maximum of three years between each review to take into account new legislative, professional and technological developments.

APPENDIX 1

GUIDELINES ON REPORTING SUSPICIONS OF FRAUD & CORRUPTION

What Do We Want to Know About?

1. Fraudulent or corrupt acts may include:-
 - **Systems Issues** - where a process/system exists which is prone to abuse by either employees or members of the public.
 - **Financial Issues** - where individuals or companies have fraudulently obtained money from the Council.
 - **Equipment Issues** - where the Council's equipment is used inappropriately for personal reasons.
 - **Resource Issues** - where there is a misuse of resources.
 - **Other Issues** - activities undertaken by officers of the Council which may be unlawful, breach the Council's Financial Regulations or policies, fall below established standards or practices, or amount to improper conduct.
- 2 This is clearly not an exhaustive list, but is merely indicative of the types of fraud and corruption that may well be encountered. If there is any doubt about the seriousness of a concern, an employee or member of the public can obtain advice and guidance from the Head of Internal Audit Services on 01824 706809.
- 3 Concerns or allegations which fall within the scope of other existing policies or procedures (e.g. child protection or discrimination issues) will normally be referred for consideration under those procedures.

Safeguards

- 4 **Harassment or Victimisation** - The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice. The Council will not tolerate harassment or victimisation and will take appropriate action to protect those who raise a concern in good faith.
- 5 **Confidentiality** - The Council will do its best to protect an individual's identity when he or she raises a concern and wishes to retain their anonymity. It must be appreciated, however, that the investigation process may reveal the source of the information, and a statement by the individual may be required as part of the evidence.

6 Anonymous Allegations - This Policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:-

- The seriousness of the issue raised.
- The credibility of the concern.
- The likelihood of confirming the allegation from attributable sources.

7 Untrue Allegations - If an allegation is made in good faith, but is not confirmed by the investigation, no action will be taken against the originator. If, however, an individual makes malicious or vexatious allegations, action may be considered against the individual making that allegation.

What Should Employees Do if They Suspect Fraud or Corruption?

8 Employees are often the first to realise that there could be something seriously wrong within an organisation; however, they may not wish to express their concerns because they may feel that by speaking out, they would be showing a degree of disloyalty to their colleagues or even to the Council itself. They may even fear harassment or victimisation. In such circumstances, it might appear easier just to ignore the concern rather than raise an issue which may just be a suspicion of malpractice.

9 The Council's 'Whistleblowing Policy' is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' to the media or other external bodies. A full copy of the 'Whistleblowing Policy' is available on the Council's intranet.

10 In essence, employees should approach the relevant Corporate Director or Head of Service, who, if they find the claim to be substantiated, will inform the Head of Internal Audit Services. The nature of the complaint will then determine the Council's course of action.

11 The Internal Audit Department can be contacted on 01824 706809, by e-mail (ivan.butler@denbighshire.gov.uk), or by writing to the Head of Internal Audit Services at Finance and Assets, Caledfryn, Council Office, Smithfield Road, Denbigh LL16 3RJ.

12 In summary, if you become aware of a problem:

- **DO** – make an immediate note of your concerns, the details of any conversations you have heard, or documents you have seen, and note the date, time, and names of people involved.
- **DO** – pass any documents that come into your possession immediately to Internal Audit Services.

- **DO** – act promptly, as delays may result in further financial loss or the loss of evidence.
- **DON'T** – ignore the concerns, or be afraid of raising them. You will not suffer recrimination from your employer as a result of voicing a reasonably held suspicion.
- **DON'T** – approach individuals yourself or convey your suspicions to other staff, except those authorised to deal with the matter.
- **DON'T** – try to investigate the matter yourself.

What Should Members of the Public Do if They Suspect Fraud or Corruption?

13 The Council actively encourages members of the public who suspect fraud and corruption to contact the Internal Audit Department in the first instance.

14 The Internal Audit Department operates independently of all other Council services, and its work includes establishing procedures with the following aims:-

- To develop an anti-fraud culture.
- To deter, prevent, detect and investigate fraud and corruption.
- To ensure that appropriate action is taken against those who commit, or seek to commit, some form of fraud or corruption.

15 The possible courses of action which could be taken by the Council are as outlined in the following Section.

How Will Allegations of Fraud and Corruption be dealt with by the Council?

16 For issues raised by employees or members of the public, the action taken within the Council will depend on the nature of the concern. The matters raised may be:

- Investigated internally.
- Referred to the Police.

17 Within ten working days of a concern being reported, the complainant will be written to:

- Acknowledging that notification of the concern has been received.

- Indicating how the Council proposes to deal with the matter, subject to limitations under Data Protection and Freedom of Information legislation.
- Giving an estimate of how long the Council will take to provide a final response.

18 The Council is also committed to training and developing all employees who are, or may be, involved in investigations of alleged or actual cases of fraud and corruption. The Council will, therefore, identify and arrange to provide appropriate training as considered necessary.

Alternative Methods for Taking a Complaint Forward

19 If either a member of the public or an employee feels it is right to take the matter outside these processes, the following are possible ways forward:-

- **The Local Councillor** - contact details are available from the Council's web-site or offices.
- **The Council's external auditor** - This is the organisation appointed to scrutinise the Council's finances and overall performance. By law, they must be completely independent of the Council.
- **A Trade Union** - Employees may invite their Trade Union to raise an issue on their behalf.
- **The Police** - Suspicions of fraud and corruption may be reported directly to the Police.
- **The Local Government Ombudsman** - The Ombudsman is an independent person, appointed by the government, to investigate and deal with complaints against local authorities.
- **Public Concern at Work** - This is a charitable organisation which provides free and strictly confidential legal help to any person with concerns about an alleged malpractice which they perceive as a threat to the public interest. The national website is at <http://www.pcaw.co.uk>. It can also be contacted on its dedicated national helpline on 020-7404-6609, or at helpline@pcaw.co.uk
- **The Wales Audit Office (WAO)** – The WAO can be contacted by writing to the PIDA **Officer**, The Auditor General for Wales, 24 Cathedral Road, Cardiff CF11 9LJ. E-mail whistleblowing@wao.gov.uk. Phone 01244 525980

APPENDIX 2

HOUSING & COUNCIL TAX BENEFITS ANTI-FRAUD STRATEGY & PROSECUTION POLICY

BENEFITS ANTI-FRAUD STRATEGY

1. Denbighshire County Council is responsible for paying over £18m in Housing Benefit and Council Tax Benefit every year. The National Audit office estimates that 7% of housing benefit is fraudulent, which means that the risk to the Council is over £1,260,000 per year.
2. Housing and Council Tax Benefit is a public fund which assists some of the most vulnerable members of society to meet their housing costs. The Council is committed to protecting public funds and maximising awards to those who are entitled to receive them whilst ensuring that payments do not go to those who are not entitled to them.
3. The Council is therefore committed to preventing, deterring and investigating instances of benefit fraud and to taking appropriate action in cases where fraud is identified. As a part of this commitment it will work to ensure that fraud in the benefit system is minimised by:
 - **Getting it right** - benefit payments should be correct from the start.
 - **Keeping it right** - ensuring that payments are adjusted as circumstances change.
 - **Putting it right** - detecting when payments go wrong and taking prompt action to correct them, with appropriate sanctions to prevent a recurrence.
 - **Making sure the strategy works** - by monitoring progress, evaluating the strength of defences and adjusting them in the light of experience.
4. Successfully countering benefit fraud is not just the responsibility of the Benefits Section and Fraud Investigators, but involves all elected members and employees, together with assistance from the public.
5. This strategy will be supported by more detailed policies and action plans which will be updated periodically.

Role of Members and Employees

6. Elected representatives have a duty to protect public funds from all forms of fraud or abuse. Elected members should report all information regarding

allegations of benefit fraud to the Principal Benefits Manager or Compliance Manager.

- 7 All managers should ensure that employees receive appropriate fraud awareness training, and that there are mechanisms in place for staff to report cases of suspected fraud in confidence. Employees should report suspicions of fraud to the Compliance Section.
- 8 Benefits Section employees should report any suspicions which might arise during the course of their work using the established fraud referral procedures. Compliance Team employees are responsible for the professional investigation of all suspected frauds referred to them, and for taking appropriate action against anyone who they believe has committed fraud, once they have obtained suitable evidence.

Prevention and Deterrence

- 9 The Council aims to ensure that claims are correct from the start, and are kept correct, by implementing measures and processes to prevent fraud entering the system, and deterring claimants or staff from committing fraud. These include:
 - Implementing the Verification Framework.
 - Ensuring that Benefits Section employees are suitably trained in fraud awareness.
 - Encouraging staff to refer suspicions to the Compliance Team for further investigation.
 - Publicising cases where the Council has successfully prosecuted benefit fraudsters.
 - Publicising information and statistics regarding other sanctions applied by the Council.
 - Raising the awareness of claimants and the general public in the seriousness of benefit fraud, and the Council's role in minimising it.
 - Ensuring that recoverable overpayments are recovered.

Fraud Detection

- 10 The Council employs a dedicated, trained, Compliance Team responsible for the detection and investigation of benefits fraud. This team liaises and works together with other Departments within the Council, other local authorities and government agencies, where appropriate, if legal gateways allow, in the detection and investigation of fraud and in applying appropriate sanctions.

11 In addition, the Council will have systems and procedures in place and use all appropriate means to assist in the detection of fraud. This includes:

- Using the Royal Mail “Do Not Redirect” scheme.
- Using the Housing Benefit Matching Service.
- Using internal and external data matching.
- Having suitable systems in place for suspicions to be reported by staff and public, including by “Hotline” and e-mail.
- Proactive visiting of claimants to verify claims.

Fraud Investigation

12 The Compliance Team is responsible for investigating cases of suspected fraud which are referred to it, or which it identifies in any proactive exercise, provided that there is sufficient information to justify opening an investigations file.

13 The Compliance staff will undertake all investigations in a professional manner, ensuring that all enquiries and action undertaken complies with current legislation. This includes:

- Theft 1968
- Theft 1978
- Criminal Justice Act 1991
- Social Security Administration Act 1992
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Social Security Administration (Fraud) Act 1997
- Data Protection Act 1998
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- Social Security Fraud Act 2001

14 The Compliance staff will be encouraged to undertake PINS (Professionalism in Security) or equivalent training, and to undertake regular internal and

external training as appropriate. The need for training is identified at regular staff development reviews and is incorporated in the Benefits Section training plan.

15 Any person subject to enquiries will, at all times, be treated with respect and in accordance with human rights, and other appropriate legislation, including equal opportunities and race relations legislation.

16 All cases will be recorded on the Council's case management system. All actions carried out and evidence collected will be recorded and retained in accordance with legislation. Management information and statistics will be held on the case management system and reports supplied to management or Members as required.

Sanctions

17 A range of sanctions exist where the Council has sufficient evidence that a benefit fraud has been committed. These include:

- Prosecution
- Administrative Penalties
- Formal Cautions

18 Sanctions will be applied in accordance with the Council's Housing & Council Tax Benefits prosecution policy. Where appropriate sanctions will be applied jointly with other agencies.

Training and Feedback

19 The Compliance Team will provide regular fraud awareness training for Benefits staff, and to other staff as required. Where possible, results of investigations will be provided to staff in order to help develop fraud awareness and heighten staff motivation.

BENEFITS PROSECUTION POLICY

Fraud in the Benefits System

20 Denbighshire County Council is committed to protecting the Public Purse through its action on fraud and abuse. The Council is aware of the high risk within the benefit system for fraud and abuse and will take positive action to prevent, detect and deter it.

21 Criminal investigations are undertaken by Denbighshire County Council's Compliance Team in accordance with all relevant current legislation and any other relevant legislative and common-law rules and with advice from the

Council's Legal Section, the Department of Works and Pensions Solicitors Branch, or their agents.

22 The Council believes that imposing appropriate sanctions and recovering any overpayments is an important part of counter fraud activity and can have a significant deterrent effect. To this end the Council will, where appropriate, consider the imposition of one of the following sanctions on perpetrators of benefit fraud:-

- Prosecution
- Administrative Penalty
- Formal Caution
- Other penalties as prescribed by regulations

23 A decision on whether to impose sanctions, and the type of sanction to be imposed, will depend upon a number of factors. All relevant factors must be considered before any decision is made.

Guidelines for Prosecution

24 In accordance with the Crown Prosecution Service's "Code for Crown Prosecutors", two tests must be applied to determine whether a prosecution is appropriate:

- The "Evidential Test"
- The "Test of Public Interest"

25 If the case does not pass the Evidential Test it must not go ahead, no matter how important or serious it may be. If the case passes the Evidential Test then it must be decided whether a prosecution is in the public interest. Both of these tests must be satisfied before any prosecution action can commence.

The Evidential Test

- Is there enough evidence to provide a "realistic prospect of a conviction"?
- Can the evidence be used?
- Is it likely that any evidence will be excluded?
- Is the evidence reliable?
- Are witnesses likely to weaken the prosecution case?

The Test of Public Interest

26 Public interest factors may increase the need to prosecute, may suggest that another course of action would be better, or that disposal of the case may be best served by an alternative sanction. They will include consideration of the following factors:-

In favour of prosecution:

- Is a conviction likely to result in a significant sentence?
- Was the defendant in a position of authority or trust?
- Does the evidence show that the defendant was a ringleader or organiser of the offence?
- Is there evidence that the offence was premeditated?
- Is there evidence that the offence was carried out by a group?
- Does the defendant have previous convictions or cautions relevant to the offence?
- Are there grounds for believing that the offence is likely to be continued or repeated?
- Is the offence widespread in the area?

Against prosecution:

- Is the penalty likely to be small or nominal?
- Was the offence committed as a result of a genuine mistake or misunderstanding?
- Can the loss be described as minor and the result of a single incident?
- Has there been a long delay between the offence and the date of trial, unless:
 - the offence is serious
 - the delay has been caused in part by the defendant
 - the offence has only recently come to light
 - the complexity of the offence has meant there has been a long investigation

- Unless the offence was serious or there is a real possibility that it may be repeated:
 - is the defendant elderly?
 - is the defendant a young person?
 - is, or was, the defendant at the time of the offence, or currently suffering from significant mental or physical ill health?
- Has the defendant made voluntary disclosure?
- Has the defendant put right the loss that was caused? (but defendants must not avoid prosecution simply because they can pay compensation)
- Details may be made public that could harm sources of information.
- Has there been a failure in the investigation?
- Has there been a failure in the benefit administration?

27 This list is not exhaustive and other factors may need to be considered. The decision must be made not simply on the number of factors on each side, but must include the importance of each factor in the circumstances. Having considered these factors it may be decided that a prosecution should not proceed.

28 Although there may be factors against prosecution, it may still be decided to proceed in the public interest.

Administrative Penalties

29 The Council will offer Administrative Penalties as an alternative to prosecution, in accordance with Section 115A of the Social Security Administration Act 1992 inserted by the Social Security Administration (Fraud) Act 1997. Penalties can only be used where a recoverable overpayment has occurred which is attributable to an act or omission on the part of a person and grounds exist for instituting criminal proceedings.

30 An Administrative Penalty will be offered where the case is deemed to be not so serious as to warrant a prosecution. An Administrative Penalty is a meaningful deterrent for those persons at the lower end of benefit fraud or where criminal proceedings are not a first option and a Caution is not appropriate.

31 Before proceeding with offering an Administrative Penalty, the Evidential Test must be applied and there must be sufficient evidence to provide a “realistic

prospect of a conviction”; however, it is not necessary for the person to admit the offence before an Administrative Penalty is offered

32 The amount of the Penalty will be 30% of the total recoverable overpayment. This amount is prescribed in legislation and cannot be varied.

33 Where a person declines or fails to agree to pay a Penalty, withdraws their agreement to pay a Penalty, or fails to keep an appointment to discuss an offer of a Penalty, the case must be considered for referral for legal proceedings unless exceptional circumstances apply. In addition, before proceeding with a prosecution, the Test of Public Interest must be applied.

Formal Cautions

34 A Formal Caution is an oral warning given in certain circumstances to a person who has committed an offence. Formal Cautions are more appropriate for the less serious by the following methods (which must be PACE compliant):

- A tape recorded interview.
- A record of the admission in the officer’s notebook, signed by the suspect as an accurate record.
- A statement made by the suspect (after being reminded that they are under caution) and signed by the suspect as an accurate record.
- A contemporaneous interview under caution could be conducted in the absence of the suspect making a voluntary statement of admission, or for clarification where the statement does not meet the required evidential standard.

37 The person must sign a document to show that they admit the offence, agree to the Caution and that they have received one.

38 Consideration can be given to the use of a Formal Caution where:-

- The offence is minor, the amount of the overpayment is small and the Court is likely to award a minimal sentence.
- The person has not offended before.
- The person has been prosecuted or cautioned before for a similar offence within the past 5 years but the offence was minor and the current offence is also minor.
- The person’s attitude towards their offence indicates that a caution would be an appropriate punishment. Consider -
 - the wilfulness with which the person committed the offence;
 - and

- their subsequent attitude - e.g. whether they express genuine regret for what they have done.

39 This list is not exhaustive or exclusive and the categories must always be considered in the light of the circumstances of each individual case.

Options

40 Where the overpayment is below £2,000 an Administrative Penalty will be considered as the first option. This figure is to be used as a guide and will not be rigidly applied but will always have regard to the Test of Public Interest and an individual's circumstances.

Referral to the Fraud Investigations Service

41 The Council works closely with the Department of Works and Pensions operating under similar prosecutions practices and has a Partnership Agreement with them to support joint working activity such as joint Interviews Under Caution and joint investigations.

42 The Council will consult with the Department of Work and Pensions' Fraud Investigations Service on any case where Income Support/Job Seekers Allowance or other Department of Work and Pensions benefit is in payment and where the application of one of the above sanctions is considered appropriate.

43 The Council will co-operate with any prosecution, where appropriate, undertaken by the Department of Work and Pensions. Where such a prosecution also involves an overpayment of Housing/Council Tax Benefit, the Council will consider including any offences against the Council in any prosecution undertaken by the Department of Work and Pensions.

44 Where the Department of Work and Pensions intends to offer a Caution or Administrative Penalty to a person to whom it has overpaid benefit, and that person has also been overpaid Housing/Council Tax Benefit for the same act or omission, an officer of the Council will attend and offer a Caution or Administrative Penalty for any Housing or Council Tax Benefit overpaid, provided it is considered appropriate in line with this policy.

Choice of Sanctions

45 Any decision to apply a Caution or an Administrative Penalty will be made by the Compliance Manager, or, in his absence, by the Principal Compliance Officer and recorded in the investigation file. Whenever a case is considered suitable for prosecution it will be referred to the Council's legal representative.

46 Where it is brought to the attention of the investigator that any sanction chosen could adversely affect a person's mental or physical health, this should be justified on medical grounds. In such cases it will normally be required that

written confirmation is provided by a medical practitioner stating that any action taken would –

- Have a severe impact on ongoing medical issues, and/or
- Make any condition worse.

47 In such cases a lesser sanction may be offered, or a decision may be made not to proceed with any sanction or prosecution.

Recovery of Debt

48 In addition to any sanction undertaken, the Council will take all available steps to recover any overpayment or penalty arising from the fraud, including taking action in the civil courts if necessary.

Publicity

49 The Council believes that information concerning successful investigations should be publicised in order to act as a deterrent to future offenders. Whenever possible, and appropriate, the outcome of any successful prosecution undertaken will be publicised in the local media, or in the Council's publications and website.

50 Non-personal information about successful cautions and sanctions will also be publicised periodically.

51 This prosecution policy is not a definitive document, and any prosecutions or other sanctions will always have regard to an individual's circumstances and legal advice provided to the Compliance Manager.

APPENDIX 3

STATEMENT OF EXPECTED RESPONSIBILITIES

Stakeholder	Expected Responsibilities
Chief Executive	Ultimately accountable as Head of Paid Service for the effectiveness of the Council's arrangements for countering fraud and corruption as well as corporate governance.
Head of Legal, HR and Democratic Services (Monitoring Officer)	<p>To advise Councillors and officers on ethical issues, standards and powers to ensure that the Council operates within the Law and statutory Codes of Practice. The operation of the Council's Whistleblowing Policy.</p> <p>To put in place a corporate safe recruitment policy and monitor compliance against it.</p>
Head of Finance and Assets (Section 151 Officer)	The Head of Finance has a statutory duty, under Section 151 of the Local Government Act 1972, Sections 114 and 116 of the Local Government Finance Act 1988 and Accounts and Audit Regulations 1995 to ensure the proper administration of the Council's financial affairs. This includes Internal Audit and benefit fraud.
Heads of Service	To ensure that fraud and corruption risks are considered as part of the Council's corporate risk management arrangements. To ensure that actions to mitigate risks in this area are effective. To notify the Internal Audit Manager of any fraud arising in a timely manner.
Corporate Executive Team (CET)	<p>Challenge new policies and strategies to ensure that fraud and corruption risks have been taken into account.</p> <p>Review the corporate framework designed to promote an over-riding counter-fraud culture on a regular basis. This will include monitoring and evaluating arrangements to ensure effectiveness and compliance with best practice.</p>
Corporate Governance Committee	To monitor the Council's Whistleblowing policy and consider the effectiveness of the arrangements for

	countering Fraud and Corruption.
Standards Committee	The Committee monitors and advises upon the content and requirement of Codes, Protocols and other procedures relating to standards of conduct throughout the Council.
Elected Members	To support and promote the development of a strong counter fraud culture.
External Audit / Wales Audit Office / Other Inspectorates	Statutory duty to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud, corruption and theft.
Internal Audit	Responsible for developing and implementing the Anti Fraud and Corruption Policy and Strategy and investigating any issues reported under this policy. Reporting on the effectiveness of controls to the Corporate Governance Committee. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this Strategy and that action is identified to improve controls and reduce the risk of recurrence.
Senior Managers	To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption and theft and to reduce these risks by implementing robust internal controls.
Staff	To comply with Council policies and procedures, to be aware of the possibility of fraud, and to report any genuine concerns to the appropriate management, the Chief Executive, the Head of Finance and Assets(s151Officer), the Head of Legal, HR and Democratic Services (Monitoring Officer), or Internal Audit.
Public, Partners, Suppliers, Contractors and Consultants	To be aware of the possibility of fraud against the Council and report any genuine concerns or suspicions. To ensure that effective controls are in place to mitigate risks to the Council.

APPENDIX 3

THE 7 GUIDING PRINCIPLES ON PUBLIC LIFE

Denbighshire County Council is committed to sound corporate governance and supports the Nolan Committee's **Seven Principles of Public Life** for the conduct of Council Members and employees, namely:

- **Selflessness** – Holders of public office should take decisions solely in terms of the 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 or 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 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 interests 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.

APPENDIX 4

PROSECUTION POLICY

Prosecution Statement

- 1 Denbighshire County Council is committed to protecting the public funds that it administers. The Council may use information received for the purposes of the prevention and detection of fraud. It may also share this information with other bodies administering public funds solely for these purposes.
- 2 As a general rule, the Council seeks full redress through legal processes available to counter any internal or external fraudulent activity perpetrated against it. This redress will be actioned through either the criminal and/or civil courts as is deemed appropriate. The Council will also consider alternative actions to prosecutions where it believes it would be in the best interests of the Council to do so.

Decision to Seek Prosecution

- 3 The Council recognises that the decision to seek prosecution will be a serious step to take. A decision to seek prosecution, which will be taken by the Head of Finance and Assets and the Monitoring Officer under delegated authority, must not be taken without consultation with relevant agencies as appropriate.
- 4 The Council also reserves its right to pursue civil recovery action in addition to any criminal prosecution that may be undertaken.
- 5 Before any such decision is taken, the Head of Finance and Assets and the Monitoring Officer will consider the evidence available against possible defendants. They must seek to be fair, independent and objective in assessing whether a prosecution should be brought. Each case will be unique and has to be considered in its own circumstances with due regard to the Council's Equal Opportunities and other relevant policies.
- 6 Two tests in particular must be applied when deciding whether to seek prosecution:
 - **The “Evidential” Test** – There must be enough evidence to provide a “realistic” prospect of conviction. This means that a jury or Bench of Magistrates properly directed in accordance with the law is more likely than not to convict the defendant of the alleged charge. The

case will need to be proved “beyond reasonable doubt” rather than on the “balance of probabilities” as with civil cases.

- **The “Public Interest” Test** – This will depend on the seriousness of the offence and/or circumstances of the offender. Some factors may increase the need to prosecute, but others may suggest that another course of action would be better.

Actions Other Than Prosecution

- 7 Where there is sufficient evidence to seek prosecution but the public interest does not require prosecution, an alternative could be to request the Police to consider using their powers to give the offender an “Official Caution”. This option is only available if there is an admission of guilt by the offender and he/she agrees to be cautioned.
- 8 The Council may consider issuing a letter to the alleged offender. This letter will state that the Council considers the matter to be very serious and by way of caution, if a similar incident occurs again, the Council will immediately seek to prosecute the offender. This option will only be used if a prosecution is not being brought or an Official Police Caution has not been administered. In the case of Council employees, this option will be considered after any possible disciplinary action has been taken and may be included as part of any written warning given.

Compliance with Legal Requirements

- 9 Upon implementation of this Prosecution Policy, the Head of Finance and Assets and the Monitoring Officer will, throughout the investigative process, ensure that there is compliance with the relevant requirements of:
 - The Police and Criminal Evidence Act 1984 (PACE)
 - The Data Protection Act 1998
 - The Human Rights Act 1998
 - The Regulation of Investigatory Powers Act 2000
 - All other relevant legislation and codes of practice.

APPENDIX 5

HOW TO REPORT ANY SUSPECTED FRAUDS, CORRUPTION, OTHER IRREGULARITIES OR CONCERNS

To Contact Denbighshire Internal Audit Services

Contact: Ivan Butler

Tel – 01824 706809

Email – ivan.butler@denbighshire.gov.uk

Write to – Head of Internal Audit (Confidential)

Finance and Assets

Caledfryn, Council Office, Smithfield Road, Denbigh LL16 3RJ

To contact the Council's Monitoring Officer

Contact: Gary Williams – Head of Legal, HR and Democratic Services

Tel – 01824 712562

Email – gary.williams@denbighshire.gov.uk

Write to – The Monitoring Officer, (**Confidential**)

(Head of Legal, HR and Democratic Services)

County Hall, Wynnstay Road, Ruthin LL15 1YN

To Contact the Council's External Auditor

Tel – 01244 525970 or

Write to – Wales Audit Office,

Unit 4, Evolution, Lakeside Business Village

St David's Park, Ewloe, CH5 3XP