



Strategy for the Prevention and Detection of Fraud, Bribery and Corruption

2016

CONTENTS

POLICY STATEMENT

- 1 This Policy is intended to cover fraud, theft, corruption and bribery.
- 2 The Council expects the highest standards of propriety and ethics in the delivery of its services and the management of its resources and assets.
- 3 The Council will carry out its business fairly, honestly and openly at all times.
- 4 The Council does not and will not tolerate any form of fraud, corruption or bribery when undertaking any of its responsibilities, including Housing / Council Tax Benefit fraud.
- 5 The Council will prevent fraud, corruption and bribery by designing and formulating proportionate policies and systems to minimise risk.
- 6 The Council will continue to promote the detection and investigation of fraud, corruption and bribery including the application of robust, effective sanctions and recovery procedures where it is identified.
- 7 The Council recognises that bribery is a criminal offence. The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor will it, accept bribes or improper inducements. To use a third party as a conduit to channel bribes to others is a criminal offence.
- 8 The Council does not, and will not, engage indirectly in or otherwise encourage bribery. The Council is committed to the prevention, deterrence and detection of bribery and adopts a position of zero tolerance towards bribery.

1. INTRODUCTION

- 1.1 Denbighshire County Council (the Council) employs around 4,500 staff and spends in excess of £300 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.
- 1.5 The Strategy has the full support of Members and the Council's Strategic Leadership Team.
- 1.6 The Council is also aware of the high degree of external scrutiny of its affairs by a variety of bodies who rightly expect that the Council will have an effective strategy for the prevention and detection of fraud. These bodies include:
 - The Public Services Ombudsman for Wales,
 - 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 agent as well as those that provide direct funding for the Council e.g. Welsh Government and European funding organisations.

2 SCOPE

- 2.1 This strategy covers all business, activities and transactions undertaken either by the Council or on its behalf. It applies to all Members and all those who work for or with the Council to include employees, agency staff, consultants, contractors, partners and volunteers.
- 2.2 The Strategy has regard to the provisions of the Fraud Act 2006, the Bribery Act 2010 and best practice such as CIPFA's "Managing the Risk of Fraud and Corruption".
- 2.3 The Strategy does not stand in isolation and is a key component of the Council's governance framework. As such it should be read in conjunction with other key documents such as:

The Code of Corporate Governance

The Code of Conduct for Elected Members

The Employees' Code of Conduct

Financial Regulations including Contract Procedure Rules

The Whistleblowing Policy

The Anti-Money Laundering Policy

- 2.4 There are many definitions of fraud, corruption and bribery. CIPFA's best practice document suggests that concise definitions are a good starting point for risk identification. With this in mind the following definitions are used to describe the activities which are within the scope of this strategy.

Fraud

An act of deception intended for personal gain or to cause a loss to another party.

Corruption

The abuse of public office for private gain.

Bribery

Giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.

Detailed legal definitions may be found in Appendix 2

For the purposes of clarity and brevity the term "Fraud" is used in this document to describe all of the above.

3 COUNTER FRAUD APPROACH

- 3.1 The Council's policy in respect of fraud is clearly set out at the beginning of this document.
- 3.2 The Council will, in accordance with this policy, and having regard to best practice, make the following actions the basis of its approach to counter fraud.
 - (a) The Council acknowledges its responsibility for countering fraud
 - (b) The Council will identify and manage the risks of fraud
 - (c) The Council will provide proportionate resources to implement the strategy
 - (d) The Council will take robust action in response to fraud
 - (e) The Council will monitor the effectiveness of this strategy
- 3.3 This Strategy has the full support of the Council's elected members and its senior management
- 3.4 Roles and responsibilities for identifying and mitigating the risk of fraud must be clearly understood and embraced effectively. These are shown in Appendix 4
- 3.5 In particular, Heads of Service must ensure that:
 - (a) service risk registers accurately reflect the risk of fraud, including emerging risks, e.g due to changes in technology or working practices
 - (b) control procedures are effective and are properly maintained and documented
 - (c) Financial Regulations including Contract Procedure Rules are complied with
 - (d) those engaged in counter fraud activity have the appropriate skills and knowledge and are given the appropriate authority and access to enable them to do this work effectively

4 CULTURE, STANDARDS AND ETHICS

- 4.1 The Council recognises that for fraud to be countered effectively there is a need for an effective counter fraud culture
- 4.2 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.
- 4.3 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
- 4.4 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
- 4.5 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
- 4.6 The Council's Constitution, Codes of Conduct for Employees and Members, Financial Regulations, Whistleblowing and Anti Money Laundering policies

underpin a strong commitment to an effective ethical framework that supports a preventative, anti-fraud culture.

- 4.7 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 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.
- 4.8 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 6 or by using the Council's customer service contacts which are available on the Council's website; www.denbighshire.gov.uk
- 4.9 The Council will ensure that any allegations received will be taken seriously, investigated in an appropriate manner, that the appropriate sanctions are imposed and recovery actions taken where fraud is found.

5. COUNTER FRAUD MEASURES

5.1 The Council's strategy for effective counter fraud activity requires measures that cover the following objectives:

Prevention

Deterrence

Detection and Investigation

Sanctions, Recovery and Redress

5.1.1 Prevention

Policies & Procedures

The Council is firmly of the belief that the best way to beat fraud 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 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. 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.

- 5.4.3 The Council will set up confidential facilities to enable information to be passed that may prevent fraud.
- 5.4.4 Such facilities will allow members of the public, as well as elected members and employees, to advise Internal Audit about specific instances of alleged fraud. 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. 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 vices 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 expected to abide by the Employee's Code of Conduct.
- 5.8.2 In addition, employees are responsible for ensuring that they abide by Financial Regulations and internal control procedures.
- 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.

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. 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 and bribery 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 if they are found to have been involved in theft, fraud and bribery 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.
- 6.1.3 Any allegation of fraud by persons external to the Council will be referred to the Police for investigation.

6.2 Publicity

- 6.2.1 The Council will optimise the publicity opportunities associated with anti-fraud activity within the Council to ensure that the results of any action taken, including prosecutions, are reported in the press.
- 6.2.2 In all cases where the Council has suffered a financial loss, the Council will seek to recover the loss and advertise this fact.

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 Fraud Response Plan (Appendix 2).
- 7.2 In line with the Council's 'Code of Conduct' for Employees and 'Financial Regulations' employees must report any suspected cases of fraud to the appropriate manager, and the Head of Internal Audit must be informed by either the employee or manager.
- 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.
- 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 as amended.
- 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. Included in its operational plans are reviews of system controls including financial controls and specific fraud tests, spot checks and unannounced visits. Procedures for the investigation of fraud are included in the Internal Audit Manual.

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 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 Internal Audit 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. IMPLEMENTATION

9.1 In order to assist the effective targeting of counter fraud measures and resources, an annual risk assessment will be made of the Council's susceptibility to fraud. This will use CIPFA's extant guidance and will

- i. identify any areas of vulnerability, the types of fraud in those areas and the amounts of potential loss;
- ii. take account of the impact of fraud on the Council's ability to meet its objectives and responsibilities;
- iii. inform the resources required to effectively counter fraud;
- iv. determine the approaches set out in future revisions to the Counter Fraud Strategy; and
- v. be included as part of the Council's risk management framework.

9.2 Internal Audit will undertake an annual assessment of the effectiveness of existing counter-fraud arrangements against:

- i. Any mitigation identified in the risk assessment outlined in 6.1;
- ii. The roles and responsibilities as set out In Appendix 4 of this Strategy;
- iii. The Council's framework of policies and procedures
- iv. Guidance provided by CIPFA, such as 'Managing the Risk of Fraud and Corruption' and other professional and regulatory guidance.

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 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 key sources of information from various national bodies, publications and frameworks:

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.
- 10.2. The Council has in place a network of systems and procedures to assist it in dealing with fraud 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

What Do We Want to Know About?

1. Fraudulent 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 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 on 01824 708093.
- 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?

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. The nature of the complaint will then determine the Council's course of action.

11 Internal Audit can be contacted on 01824 708093, by e-mail (ivan.butler@denbighshire.gov.uk), or by writing to the Head of Internal Audit at Business Improvement and Modernisation, 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.
- **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?

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

14 Internal Audit 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.
- To ensure that appropriate action is taken against those who commit, or seek to commit, some form of fraud.

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 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. 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 may be reported directly to the Police.
- **The Public Services Ombudsman for Wales** - 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

FRAUD RESPONSE PLAN

FRAUD RESPONSE PLAN

1 INTRODUCTION

- 1.1 The Council is committed to the prevention, deterrence, detection and investigation of all forms of fraud or corruption as set out in the Strategy for the Prevention and Detection of Fraud, Bribery and Corruption.
- 1.2 It shall be the duty of all employees and Members, in all aspects of their Council work, to lead by example in ensuring opposition to fraud and corruption, adhere to the Council's own rules and regulations and ensure that all procedures and practices are beyond reproach.
- 1.3 The Council requires all individuals and organisations with whom it deals in any capacity, to behave toward the Council with integrity and without intent or actions involving fraud or corruption.
- 1.4 Council employees, members of the public and outside bodies are important elements in the maintenance of standards and shall be positively encouraged to raise any concerns they may have on these issues which impact on Council activities, using the Council's Whistleblowing Policy or Complaints procedure.
- 1.5 The Council will be robust in dealing with any malpractice and will deal promptly and thoroughly with any person who defrauds or attempts to defraud the Council or who engages in corrupt practices.
- 1.6 This policy shall be read in conjunction with Council's Disciplinary Policy.

2 DEFINITIONS

- 2.1 For purposes of this policy, the definition of a dishonest act or fraudulent activity includes but is not limited to:

“A person shall be guilty of fraud if he

- 1) a) dishonestly makes a false representation, or
- b) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, or
- c) 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

and

- 2) intends to make a gain for himself or another or to cause loss to another or expose another to a risk of loss"
- 2.2 A dishonest act or fraudulent activity may be, but is not limited to, an act or activity that is unethical, improper, or illegal such as:
- (a) Theft of an asset including but not limited to money, tangible property, intellectual property etc;
 - (b) Misappropriation, misapplication, destruction, removal, or concealment of property;
 - (c) False claims and/or misrepresentation of facts;
 - (d) Alteration or falsification of paper or electronic documents, including the inappropriate destruction of paper or electronic documents;
 - (e) Inappropriate use of computer systems including hacking and software piracy;
 - (f) Embezzlement;
 - (g) Bribery, or corruption of any kind;
 - (h) Unlawful or undeclared conflict of interest;
 - (i) Unauthorised use or misuse of Council property, equipment, materials or records;
 - (j) Offences relating to misuse of the Council's computer systems.
- 2.3 Although a dishonest or fraudulent act may have criminal and/or civil law consequences, the Council is not required to use a determination by a criminal or civil body as the basis for determining whether an act is dishonest or fraudulent, nor must the act rise to the level of a crime or violation of civil law in order to constitute a violation of the Council's Disciplinary Policy.

Bribery

- 2.4 There are four key offences under the Bribery Act 2010:
- 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.

2.5 The offences carry criminal penalties for individuals and organisations. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed; for organisations, an unlimited fine can be imposed.

3 INVESTIGATING SUSPECTED DISHONEST ACTS OR FRAUDULENT ACTIVITY INCLUDING CORRUPTION OR BRIBERY

- 3.1 It is the Council's intent to fully investigate any suspected acts of fraud, misappropriation or other similar irregularity.
- 3.2 Anyone who knowingly makes false allegations will be subject to disciplinary action.
- 3.3 Persons reporting suspected dishonest or fraudulent acts should, wherever possible, refrain from confrontation with the suspect and should not discuss the matter with anyone other than their line manager or those conducting an investigation of the allegations.
- 3.4 Heads of Service are required by the Council’s Financial Regulations to report all suspected irregularities to the Head of Internal Audit. This requirement, however, does not preclude Heads of Service from taking suitable action immediately if necessary.

- 3.5 Any member of the investigation team or officers likely to deal with any decision on disciplinary action who are personally involved with the suspect(s) in any way must declare an interest and not take part in subsequent procedures.
- 3.6 All participants in the fraud investigation shall keep the details and results of the investigation confidential at all times.
- 3.7 All matters where a special investigation is considered necessary will be logged for management information and statistical purposes for reporting fraud and related matters to the Wales Audit Office.
- 3.8 Once a suspected fraud is reported, management and / or Internal Audit staff shall take immediate action to prevent the theft, alteration or destruction of relevant records including data held on computers etc. Such actions include but are not limited to, removing the records and placing them in a secure location, limiting access to the location where records are held and preventing the individual(s) suspected of committing the fraud from having access to records (including those which are electronic).
- 3.9 Those charged with the responsibility for investigating possible fraud cases, such as designated managers or Internal Audit, shall have access to all Council-owned property including computers, records, rooms and furniture.
- 3.10 Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with management and other agencies, such as the Police to ensure that all allegations and evidence are properly investigated and reported upon.
- 3.11 After an initial review and a determination that the suspected fraud warrants further investigation a plan of action will be devised and event log maintained of progress of the investigation.
- 3.12 Any requirement for surveillance will be subject to the Regulation of Investigatory Powers Act 2000.
- 3.13 The Council will continue to use data matching to identify fraud and will work closely with the Department of Work and Pensions and the Cabinet Office to improve the quality and breadth of matches in the National Fraud Initiative. Where investigations involve Council employees or Members priority must be given to ensuring cases are promptly and thoroughly investigated.
- 3.14 In any instances where the investigation indicates possible criminal activity, the investigation will be referred to the Head of Legal, HR and Democratic Services for an opinion on the evidence.
- 3.15 Where there are reasonable grounds for believing that a criminal offence has been committed the matter will be referred to the Police. The decision on referral to the Police will be taken by the Head of Legal, HR and Democratic Services.

- 3.16 Where investigations relate to computer based systems, including Internet / E-mail services which involve pornographic or other inappropriate material, reference must be made to the Council's guidelines on seizing and investigating computer evidence based on Police and government guidelines. This stipulates that a computer may only be examined by an expert in controlled environment. The equipment should be turned off at the power supply and access secured until it can be referred to the Police for investigation.
- 3.17 The results of investigations conducted by Internal Audit will be documented and will be communicated orally and / or in writing to the Councils' Head of Finance promptly on completion of investigations and in summary format to the Council's Corporate Governance Committee who will consider the effectiveness of anti-fraud risk management arrangements.
- 3.18 Upon completion of the investigation, including all legal and human resources related actions any records, documents and other evidence will be returned by Internal Audit to the appropriate department.

4 SANCTIONS

- 4.1 Employees found to have participated in dishonest acts or fraudulent activity in work time or their own time may be subject to disciplinary action and possible criminal prosecution or civil action. This includes employees or Members who have been subject to investigation and fraud identified following any data matching exercise. The relevant Head of Service will be informed of the offence and must take immediate action to implement disciplinary proceedings in liaison with the Head of Legal, HR and Democratic Services
- 4.2 Employees found to have knowledge of a dishonest act or fraudulent activity and who knowingly failed to report the activity will be subject to disciplinary action in accordance with the Council's Disciplinary Procedures.
- 4.3 In respect of person found to have committed benefit fraud, sanctions will be applied as set out in the Benefit Sanctions Policy (Appendix 3).
- 4.4 The Council seeks to raise awareness of this Strategy – of its purposes and contents - with all of its members and employees and all persons and bodies with whom it engages
- 4.5 The Council's Disciplinary Procedures will be used where the outcome of investigation indicates improper behaviour on the part of employees. Disciplinary proceedings are not subject to a criminal burden of proof, but a 'balance of probabilities'

5 GENERAL PROSECUTION POLICY

5.1 In all cases the following will be considered when deciding on whether or not to prosecute.

Issue	Points to consider
Quality of available evidence	Is there sufficient evidence to satisfy a court? Is all the evidence admissible? Has all the evidence been obtained appropriately? Could the Proceeds of Crime Act be used?
Degree of criminality	How was the fraud perpetrated? Was it opportunist? How much planning went into the fraud? How long did it continue?
Persistent offender	Have they previously committed fraud? Have they received a sanction previously?
Position of Trust	Is the perpetrator a council employee, representative or contractor? Are they a Member of the council?
Duration of the fraud	How long did the fraud continue?
Loss to Public Funds	It would be unlikely for a fraud with a value of less than £500 to be prosecuted but it should not be ruled out. All of the other issues in this list need to be considered as well.
Voluntary disclosure	Was the fraud admitted prior to investigation?
Widespread offence	Is the offence part of a local trend? The offence might not be particularly serious but may be particularly prevalent in a specific area.
Social/Medical factors	Are there any mitigating circumstances? Are there any mental or physical disabilities? Is the perpetrator fit to stand trial? Social/medical factors should not automatically preclude prosecution but they must be considered.
Public Interest	What gain is there for the Council and/or general public?

6. REDRESS AND RECOVERY

6.1 Redress can be defined as the recovery or attempted recovery of assets lost or defrauded. This would include any type of financial recompense for the fraud. Where loss has been suffered through fraudulent activity the Council will take all reasonable steps to effect recovery promptly.

- 6.2 Where possible, the Council would expect to follow cases through to this point. Whilst the Council aims to progress to sanctions, it must also attempt to recover any loss. The recovery process is not part of the remit of Internal Audit but instruction and guidance will be given where possible to facilitate recovery.

Examples of redress and recovery

Case Type	Method of Redress/Recovery
Housing	Instigating recovery of property Removal from Housing Register Cancellation of Temporary Accommodation Disallowed from Right to Buy (RTB) Sue for loss of rent or RTB/portable discount
Benefits	Tracing of address for recovery of overpayment from Landlord or Tenant
Asylum Seekers	Tracing of address for recovery of overpayment from Landlord or Tenant
Internal and General	Charges on property Third Party (Garnishee) Attachment of earnings Freezing Injunctions Insurance Claims (fidelity guarantee) Pursuing debts via legal proceedings Confiscation orders Compensation Restitution Orders Proceeds of Crime Act

7 CONFIDENTIALITY

- 7.1 Details of any investigation regarding employees or Members are strictly confidential and must therefore not be discussed or conveyed to anyone other than the relevant management representatives and the nominated investigating team.
- 7.2 If the media becomes aware of an audit or other management investigation and attempts to contact members of the investigating team or any other employees for that matter, they must not discuss details of the alleged fraud and investigation. All matters relating to statements to the media will be dealt with through the Council's Communications Office.

8 PUBLICITY

- 8.1 Publicity is an important tool in the prevention of fraud as it highlights the Council's Counter Fraud activities and can act as a deterrent.

8.2 Having consideration to the appropriate council policies regarding publicity the Council will seek to publicise each case successfully prosecuted.

9. COMPLIANCE

9.1 All Heads of Service will be responsible for ensuring compliance with this Policy within their Services.

APPENDIX 3

BENEFITS SANCTIONS POLICY

BENEFIT FRAUD SANCTIONS POLICY

1 PURPOSES AND OBJECTIVES

1.1 This document sets out the Council's policy for applying sanctions to persons and organisations external to the Council who commit benefit fraud against it.

1.2. It should be noted that the Council is no longer responsible for the Investigation of Benefit Fraud as this is undertaken by the Department of Work and Pensions (DWP). The Council refers potential cases for investigation along with providing evidence as required to enable investigations to proceed. In cases where sanctions are to be instigated against customers for overpaid Housing and Council Tax Benefit, this must be approved by the Council.

1.3 In recognition of the Council's strategic aims and its status as a responsible steward of public funds, and also in view of public concern at fraud, especially the national problem of benefit fraud, this Policy aims to enable fraud to be effectively countered and deterred. Its specific objectives are to:

- ensure that fraud is punished through effective sanctions,
- assist in the selection of the most appropriate sanction,

2 SCOPE AND DEFINITIONS

2.1 For the purposes of this Policy, fraud means: 'the intentional distortion of financial statements or records by any persons which is carried out to conceal assets or otherwise for gain'.

2.2 This meaning also includes making financial gain, or an attempt to make financial gain, by knowingly failing to advise of changes to information previously supplied.

2.3 This Policy covers only Housing and Council Tax Benefit fraud against the Council by external persons or organisations. This may include, amongst others:

- Benefits claimants
- Landlords
- Agents
- Partners of Claimants

2.4 This Policy sets out:

- the sanctions which are available,
- publicity and reporting,
- keeping the Policy timely and relevant.

3 SANCTIONS AVAILABLE

There are four sanctions available:

- 3.1 Prosecution:- Criminal proceedings may be brought against alleged offenders and the case heard in Court with a view to obtaining a criminal conviction and an appropriate sentence.
- 3.2 Formal Caution:- An oral warning may be given in certain circumstances to a person who has committed an offence.
- 3.3 Administrative Penalties:- In accordance with Social Security legislation, Administrative Penalties will be considered as an alternative to prosecution in Housing and Council Tax Benefit fraud cases. A financial penalty amounting to a statutorily determined percentage of the gross adjudicated overpayment can be offered to a person where there is enough evidence to prosecute.
- 3.4 Overpayment Recovery and Civil Court Action:- A strict requirement to repay monies fraudulently obtained is in itself another major deterrent to fraud, and may be additional to any other sanctions that are applied. Recovery may also include Civil Court action.

4 CRITERIA FOR DECIDING WHICH SANCTION TO APPLY:

- 4.1 The sanction selected will take account of:
 - the amount of the fraud,
 - its duration,
 - whether the offender has a history of fraud (if known),
 - the offender's personal and social circumstances,
 - the extent to which the fraud was deliberate,
 - the public interest,
 - the quality and suitability of evidence.
- 4.2 It must be understood that all frauds will be treated rigorously and prosecution will be regarded as the optimum sanction. The recommendation for the appropriate sanction would be made by DWP and it will be for the Council to decide whether it agrees with this or not for the Housing Benefit or Council Tax Benefit element.

Department for Work and Pensions: Guidance on sanctions

Value of Fraud (£)	Recommended Sanction
0 – 2,000	Formal Caution
0 – 2,000	Administrative Penalty
No specified amount, depending on the following:- 1. Refusal to accept Formal Caution/Administrative Penalty, and/or 2. 2. Previous similar offences have been committed, and/or 3. 3. An attempt to commit fraud where none of the other sanctions are appropriate	Prosecution

5 RESPONSIBILITY FOR DECIDING WHICH SANCTION TO APPLY

- 5.1 The DWP will recommend a particular sanction upon completion of an investigation, will satisfy themselves that the appropriate criteria has been met and will record their decision accordingly.
- 5.2 As fraud investigation cases are undertaken by the DWP, then the decision as to which sanction to apply on behalf of the Council is the responsibility of the Revenues Manager for Housing/Council Tax Benefit cases and will depend upon the policies and decision of the partner agency.
- 5.3 The responsibility for administering any Prosecutions or Administrative Penalties, which may be authorised by the Revenues Manager, are the DWP's. The Council will ensure however that these are delivered in accordance with the appropriate legislative guidelines.
- 5.4 In respect of overpayment recovery and civil court action
- 5.4.1 Recovery of fraudulently overpaid Housing / Council Tax Benefit may be made via the Debtors system or from ongoing entitlement, or by any system as approved by the Head of Finance in accordance with the Financial Regulations.
- 5.4.2 Any overpayments remaining unpaid after a predetermined period will be referred for Civil Court action as appropriate in accordance with the Council's Debtors procedures.

6 PUBLICITY AND REPORTING

- 6.1 Since a principal objective of this policy is to deter fraud, then any successful prosecutions or other sanctions should be suitably publicised where appropriate. The Council will work in conjunction with the DWP where it is deemed appropriate to publicise cases where a Housing Benefit overpayment has been taken to court.

7 KEEPING THE POLICY TIMELY AND RELEVANT

- 7.1 This policy is available to all elected members and Council employees via its inclusion on the Intranet.
- 7.2 Copies of the Policy are available for reference by staff involved in fraud prosecution, and the application of other sanctions, and reference to it is included in those employees' training plans.
- 7.3 Copies of the Policy will be given to any partner organisations involved in the combat of fraud, such as the Department for Work and Pensions and to any contractors or agents acting on the Council's behalf.

APPENDIX 4

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 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 (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 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 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	To monitor the Council's Whistleblowing policy and

Committee	consider the effectiveness of the arrangements for countering Fraud.
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 and theft.
Internal Audit	Responsible investigating any issues reported under this strategy. 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 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(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 5

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 6

HOW TO REPORT ANY SUSPECTED FRAUDS, OTHER IRREGULARITIES OR CONCERNS

To Contact Denbighshire Internal Audit Services

Contact: Ivan Butler

Tel – 01824 708093

Email – ivan.butler@denbighshire.gov.uk

Write to – Head of Internal Audit (Confidential)
Business Improvement and Modernisation,
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