



Protocol for Dealing with Allegations of Fraud or Corruption

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1. Purpose of the Protocol

- 1.1. This protocol has been produced to ensure that allegations of fraud or corruption are dealt with in an appropriate, rigorous and consistent manner. It supports the Council's statutory responsibility to administer public funds properly and to maintain effective arrangements for the prevention, detection and investigation of fraud, corruption, bribery and other forms of financial misconduct. It should be read alongside the Council's Strategy for the Prevention of Fraud, Whistleblowing Policy, Financial Procedure Rules, Contract Standing Orders, Member's Code of Conduct and Employee Code of Conduct.
- 1.2. This protocol is a statement of the Council's usual approach to dealing with allegations of fraud, bribery, corruption and related financial misconduct. It is intended to provide guidance to employees, workers, Members, managers and investigating officers, and to support consistent, fair and lawful decision-making. It does not form part of any employee's contract of employment and does not create contractual rights or obligations. The Council may amend, replace, withdraw or depart from this protocol where it considers it appropriate to do so, provided that any action taken is lawful, reasonable, proportionate and consistent with applicable statutory duties, employment law obligations, the Council's disciplinary procedures and the principles of fairness.

2. Definitions and Examples

- 2.1 Fraud and corruption are covert activities undertaken by an individual or a group, to gain some form of benefit for the individual or the group. The activities are covert because they are widely considered to be unacceptable, they are in conflict with the council's rules, procedures or culture, or they are illegal.
- 2.2 For the purposes of this protocol, fraud means dishonest conduct intended to make a gain for the person committing the fraud or another person, or to cause loss, or expose another person to a risk of loss. Under the Fraud Act 2006, fraud may be committed by false representation, by failing to disclose information where there is a legal duty to do so, or by abuse of position.
- 2.3 Corruption is the abuse of entrusted power, position or influence for personal, private or organisational gain. It can include bribery, improper influence, conflicts of interest, collusion, failure to disclose relevant interests, or offering, giving, requesting or accepting an inducement or reward intended to improperly influence a person's actions. In a local Government context, corruption may include (but is not limited to) misuse of position in procurement activities, contract management, recruitment, planning decisions, licensing decisions, grant awards and housing allocations.
- 2.4 Bribery should be considered in line with the Bribery Act 2010. The Act includes offences relating to offering, promising or giving a bribe, requesting, agreeing to receive or accepting a bribe, bribery of a foreign public official, and failure by a relevant commercial organisation to prevent bribery by people associated with it. See also the Council's Anti-Bribery Policy.
- 2.5 In practical terms fraud / corruption is a deliberate act, relating to you or "related parties" that will include (but is not limited to):

- Theft and misuse of assets, including cash, purchasing cards, physical assets, intellectual assets and property including designs, brands, logos client lists and customer data, confidential information etc.
- Manipulation or misreporting of financial information
- Deception (e.g. misrepresentation of qualifications to obtain employment)
- Offering or accepting bribes or inducements from third parties and offering or giving them to third parties
- Conspiracy to breach laws or regulations
- Fraudulent completion of official documents (e.g. VAT receipts)
- Time recording fraud and annual leave over and above entitlement
- Amending personal data relating to yourself, family and friends in connection with Council Tax, Housing Benefit and sundry debts.
- Right to Buy Fraud

2.6 The Economic Crime and Corporate Transparency Act 2023 introduced a corporate offence of failure to prevent fraud for large organisations. While the statutory “failure to prevent fraud” offence principally applies to large organisations meeting specific criteria, the Council recognises the importance of implementing proportionate and effective fraud prevention arrangements consistent with the principles set out in the statutory guidance.

3. Objectives in Dealing with Allegations of Fraud & Corruption

3.1 The main objectives are to:

- Establish whether the allegations are substantiated. If they are, then:
- Stop the continuing losses or damage to the public purse and to the provision of services.
- Act to minimise the impacts on the Council, both financial and reputational.
- Recover lost assets.
- Identify those responsible and ensure that appropriate sanctions are applied.
- Establish what can be learnt from the investigation, and what steps should be taken to prevent a repeat of this, or similar losses.
- Provide appropriate feedback to those who made the allegations, subject to confidentiality, data protection, employment law and the need not to prejudice any ongoing investigation, disciplinary process or legal proceedings.

3.2 Where the allegations are not substantiated, then the objectives may include:

- Identifying what lessons can be learned as a result of the investigation.
- Demonstrating, where necessary, that a thorough and fair investigation has been undertaken.
- Provide appropriate feedback to those who made the allegations, subject to confidentiality, data protection, employment law and the need not to prejudice any ongoing investigation, disciplinary process or legal proceedings.
- Establishing what activities gave rise to the allegations, so that changes can be considered to avoid such impressions forming in the future.

4. Dealing with Allegations of Fraud and Corruption

- 4.1 When an allegation of fraud or corruption is received, it should be reported immediately to the Director of Corporate Resources (Deputy Chief Executive). If the allegation concerns the Director of Corporate Resources (Deputy Chief Executive), it should be reported to the Chief Executive, Monitoring Officer, Head of East Kent Audit Partnership, or Chair of the Governance Committee as appropriate.
- 4.2 Any allegation concerning an elected Member should be reported to the Monitoring Officer in accordance with the Member's Code of Conduct and complaints procedure.
- 4.3 In the case of allegations about employees, the Director of Corporate Resources (Deputy Chief Executive), or a senior officer appointed by the Director for this purpose, will, as a matter of urgency, undertake an initial review of the allegation to establish whether a detailed investigation is required.
- 4.4 If an investigation is considered necessary, the Director of Corporate Resources (Deputy Chief Executive), in consultation with the Chief Executive, Monitoring Officer or Head of People and Organisational Development, will determine the most suitable investigating officer or team to ensure independence and objectivity.
- 4.5 Individuals who raise concerns in accordance with the Council's Whistleblowing Policy¹ will be protected from retaliation, victimisation or other detriment where they reasonably believe that the information disclosed tends to show wrongdoing and that the disclosure is in the public interest. This protection applies regardless of whether the concern is ultimately substantiated. The protection does not extend to disclosures that are knowingly false, deliberately misleading or malicious, and such conduct may be addressed under the Council's disciplinary, contractual or other relevant procedures.

5. Conduct of the Investigation

- 5.1 Every investigation will be unique and will depend upon the specific details of the case. However, the following principles will be observed when undertaking an investigation.
- The investigation should be undertaken with appropriate urgency, while remaining thorough, fair, evidence-based and proportionate to the nature and seriousness of the allegation.
 - Immediate steps should be taken to protect and preserve all evidence. That may include:
 - Suspension of staff²
 - Securing computer records on systems, PCs, laptops, mobile phones and other mobile devices, telephone records, e-mail accounts, records of internet usage etc. and changing passwords where necessary³

¹ References to whistleblowing and protected disclosures within this policy shall be interpreted in accordance with the Council's Whistleblowing Policy and applicable whistleblowing legislation.

² Suspension of staff is a neutral act. It is undertaken to protect the Council, the investigation and the staff themselves. It is not a disciplinary sanction or an indication of guilt. It should only be undertaken after due regard to the Council's employment policies and in consultation with the Head of People & Organisational Development or his nominee.

³ Access to Council systems, records, communications and equipment shall only be undertaken in accordance with the Council's policies, employment contracts, information governance requirements and applicable legislation.

- Impounding of written records and physical assets. Original documents are always preferable to photocopies where possible
- The use of photographic records
- Keeping all records and assets in a secure, locked location, with controlled access. There must be no unauthorised access to, or viewing of, this material.
- Full records of the investigation should be maintained, including a clear audit trail and, where relevant, a record of the chain of custody for evidence
- Comprehensive notes should be made of all interviews, observations, monitoring / surveillance etc., and any interview under caution should only be undertaken where appropriate and in accordance with applicable legal requirements
- The investigation must be undertaken on a confidential basis and in accordance with applicable data protection requirements. Information must not be released to unauthorised persons, including the press, during the investigation, or at its conclusion, without the specific consent of the Director of Corporate Resources
- All steps should be lawful, necessary and proportionate, and should comply with all relevant legislation and the Council's own employment and disciplinary policies. Any directed surveillance or acquisition of communications data shall only be undertaken where lawfully authorised and in compliance with the Regulation of Investigatory Powers Act 2000 and associated legislation and codes of practice. Advice in relation to this should be sought from the Solicitor to the Council.
- The investigating officer must consider whether the investigation has identified matters which should be disclosed to other organisations, including the police, other local authorities, Social Services or other appropriate bodies, and should alert the Director of Corporate Resources (Deputy Chief Executive) to this fact as soon as possible

6. Decision Framework and Action

- 6.1 At the earliest practicable stage, the investigating officer should consider whether the facts suggest possible criminal conduct, gross misconduct, financial loss, breach of statutory or regulatory requirements, or a combination of these. The Director of Corporate Resources (Deputy Chief Executive), in consultation with the Monitoring Officer, Head of East Kent Audit Partnership, Head of People and Organisational Development and any relevant service lead, should determine the appropriate route or combination of routes.
- 6.2 Referral to the police should be considered where there is evidence or reasonable suspicion of criminal conduct, including theft, fraud, bribery, corruption, money laundering, falsification of records, serious abuse of position, organised criminality, or where the scale, complexity, public interest, vulnerability of victims or need for statutory police powers makes a criminal investigation appropriate.
- 6.3 Before any police referral is made, urgent steps should be taken to preserve evidence and maintain a clear audit trail. This may include securing original documents, electronic records, device access, email accounts, system logs, financial records, CCTV, physical assets and any other relevant material. Access should be restricted to those with a legitimate need, and any movement, copying, review or transfer of

evidence should be recorded so that continuity and chain of custody can be demonstrated if required.

- 6.4 Internal disciplinary proceedings may continue in parallel with a criminal investigation where it is lawful, fair and proportionate to do so. However, care must be taken not to prejudice any criminal investigation or prosecution. The Council should liaise with the police, where involved, before taking steps such as interviewing suspects, disclosing evidence, holding disciplinary hearings or taking action that could alert suspects, compromise witnesses or affect the integrity of evidence.
- 6.5 Recovery of losses should be considered in every substantiated case where the Council has suffered, or may suffer, financial loss. This should include consideration of civil recovery action, contractual remedies, compensation orders, salary deductions where lawful and authorised, recovery of assets, insurance claims and, where appropriate, liaison with the police or prosecuting authorities on confiscation or compensation under the Proceeds of Crime Act 2002. The decision should take account of proportionality, prospects of recovery, cost, evidential strength, reputational issues, legal advice, insurance notification requirements and the need to protect public funds.
- 6.6 The investigating officer should also consider whether any external reporting is required. This may include reporting to the police, external audit, insurers, grant-paying bodies, professional regulators, safeguarding partners, the Information Commissioner's Office, other local authorities, government departments or other agencies, depending on the nature of the allegation, legal requirements, contractual obligations and potential impact.
- 6.7 Decisions on referral, disciplinary action, civil recovery and external reporting should be documented, including the reasons for the decision, who was consulted, the evidence considered, any legal or HR advice obtained, and any conditions attached to the chosen course of action. Decisions should be kept under review as new evidence emerges.

7. Following the Completion of an Investigation

- 7.1 At the conclusion of an investigation, the investigating officer will produce a report detailing the findings and the conclusions. Where the allegations were substantiated in whole, or in part, the Director of Corporate Resources (Deputy Chief Executive), in consultation with others as the Director considers appropriate, will determine the actions to take. These actions may include:
- Recovery of assets or losses, including civil recovery, contractual remedies, insurance claims and, where appropriate, consideration of confiscation or compensation under the Proceeds of Crime Act 2002
 - Notification of other agencies, including the police
 - Internal disciplinary or other processes
 - Court action
 - Changes to systems or procedures to prevent a recurrence
 - Publicity / press release

- Feedback to the whistleblower, where appropriate, subject to confidentiality, data protection, employment law and the need not to prejudice any ongoing investigation, disciplinary process or legal proceedings
- Review of the investigation and any other lessons learned

7.2 Significant fraud investigations, outcomes, losses, recoveries and lessons learned should be reported to the Governance Committee, subject to legal, operational and confidentiality considerations. For the purposes of this protocol, significance should be assessed by reference to the following criteria:

- The actual or potential financial value of the loss, recovery, exposure or control weakness is material, either in absolute terms or in the context of the service affected.
- The allegation involves a senior officer, elected Member, contractor, partner organisation, supplier, grant recipient or other person in a position of trust.
- The matter is likely to attract public, media, audit, regulatory, stakeholder or partner interest.
- The case indicates a serious, repeated or systemic control failure, weakness in governance, or failure to comply with key policies, procedures or legal requirements.
- The matter may affect public confidence in the Council's stewardship of public funds or its governance arrangements.
- The investigation identifies lessons that should be shared corporately to prevent recurrence or strengthen controls.

7.3 A complete investigation record should be retained in accordance with the Council's document retention requirements. The record should include the allegation, initial assessment, evidence obtained, interviews or enquiries undertaken, decisions made, advice received, referrals or reports made, outcomes, recovery action and lessons learned.