



## **South Lakeland District Council**

### **Anti-bribery fraud and corruption policy**

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## Policy document

### 1 Introduction

1.1 Fraud is one of the fastest growing areas of crime in modern society and residents of South Lakeland are entitled to expect that their public funds are secure and handled honestly and conduct its affairs with integrity and honesty. South Lakeland District Council has a good record in preventing and identifying fraud but cannot afford to be complacent. Fraud diverts money away from front line public services and prevention and detection of fraud is the responsibility of all staff. South Lakeland District Council has a duty to ensure that it safeguards the public money that it is responsible for. In carrying out its functions and responsibilities, the Council wishes to promote a culture of openness and fairness and expects all those who work and with the Council to adopt the highest standards of propriety and accountability.

1.2 The Council is committed to eliminating all forms of bribery, fraud and corruption by having adequate prevention measures in place. All suspicions of bribery, fraud or corrupt practise will be investigated and there will be no distinction made in investigation and action between those that generate financial benefits and those that do not. Any investigation will not compromise the Council's commitment to Equal Opportunities or the requirements of the Human Rights Act. The Council advocates strict adherence to its anti-fraud framework. The Council will not tolerate bribery, fraud or corruption by its employees, councillors, suppliers, contractors or partners. This Policy is intended to provide a clear statement of intent and responsibilities for:

- a) Preventing bribery, fraud and corruption and
- b) The investigation, reporting and handling of alleged irregularities

This Policy outlines the Council's commitment to eliminating fraud and corruption, whilst creating an anti-fraud culture and maintaining high ethical standards so as to protect public money.

1.3 The Policy is based on a series of comprehensive and inter-related procedures, designed to prevent, detect and deter fraud and to take effective action against any attempted or actual fraudulent act affecting the Council. These procedures will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect the Council's operations. The Policy also satisfies the legislative requirements of having effective arrangements for tackling fraud and conforms to professional guidance laid down in the Public Sector Internal Audit Standards (PSIAS).



## 2 Overview

The Council is required to maintain an effective internal audit of its activities, with a key role to monitor the effectiveness of internal controls operating within the Council. The Internal Audit function is currently provided by TIAA Ltd.

For ease of understanding this policy is separated into four areas as below

- Corporate Framework and Culture
- Prevention and Responsibilities
- Reporting, Detection and Investigation
- Awareness and Deterrence

Fraud is defined in the Fraud Act 2006 as:

- “the intentional distortion of financial statements or other records by persons internal or external to the organisation which is carried out to mislead or misrepresent”

The Fraud Act also sets out a general offence of fraud as follows:

- “A dishonest act where a perpetrator intends to make a gain for themselves or cause loss to another”

The offence of fraud is defined in three classes.

- False representation
- Failing to disclose information
- Abuse of position

Corruption is described as “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.

Under the 2010 Bribery Act, a bribe is

- “An inducement or a reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage”

There are four criminal offences created by the Bribery Act 2010:

- Bribery of another person (section 1) to induce or reward them to perform a function improperly
- Requesting or accepting a bribe (section 2) as a reward for performing a function improperly
- Bribing a foreign official (section 6) to gain a business advantage
- Failing to prevent bribery (section 7)



Bribery may not always be monetary and may include gifts or hospitality. The last offence is a corporate offence which places responsibility on the Council to put in place adequate procedures to prevent bribery.

Anyone found guilty of an offence under sections 1, 2, or 6 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months or to a fine not exceeding £5000 or both
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations found guilty of an offence under section 7 are liable to an unlimited fine.

It is irrelevant whether the request is made directly or through a third party or whether the advantage is for the benefit of the person performing the function or for the benefit of another person. Employees should always be aware of the possibility they may be targeted for attempted bribery.

**NOTE: Throughout this policy the term “Fraud” is used generically and includes bribery and corruption and this policy covers all of the above.**

In addition to the above, the Council also expects the residents of South Lakeland to be honest in their dealings with the authority.

### **3 Corporate framework and culture**

3.1 The prevention and detection of fraud and the protection of public money are responsibilities of everyone, both internal and external to the organisation. The Council expects that Members and officers at all levels will lead by example in ensuring adherence to legal requirement, contracts procedure rules, financial procedure rules, codes of conduct and best practice. They are positively encouraged to raise any concerns regarding fraud, immaterial of seniority or status in the knowledge that any such concerns wherever possible, will be treated in confidence.

3.2 This policy should be read in conjunction with a range of interrelated policies which provide a corporate framework to counter fraudulent activity.

- Codes of Conduct for Members and officers [Part 5 of the Constitution of the Council]
- A Register of Interests
- Registers of Gifts and Hospitality
- Financial Procedure Rules and Contract Procedure Rules [Part 4 of the Constitution of the Council]
- Accounting procedures and records including general procedures for receiving income
- Sound internal control systems



- Effective internal audit, currently provided by TIAA Ltd
- Officer Employment Procedure Rules
- Disciplinary Procedure
- Criminal Acts Procedure
- Fraud Investigation Procedures and Guidelines
- Whistleblowing Policy
- The Regulation of Investigatory Powers Act (RIPA) Procedure
- Training

3.3 The Council believes that the maintenance of a culture of honesty and openness is a key element in tackling fraud. The Codes of Conduct for Members and Staff are based on the Nolan Principles of Standards in Public Life, these being

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The overall culture supports intolerance stance towards fraud, bribery and corruption. Failure to uphold these Codes will be considered as detrimental to the aims of the Council and will lead to the appropriate action being taken against those concerned.

## **4 Prevention and responsibilities**

The Council recognises that incidences of fraud and corruption are costly, both in terms of reputational risk and financial losses. The prevention of fraud is therefore a key objective of the authority and respective roles and responsibilities are outlined below.

### **4.1 Council employees**

- 4.1.1 A key preventative measure in dealing with fraud is to take effective steps at the recruitment stage. These will be to establish, as far as possible, the previous record of potential staff, in terms of their honesty and integrity. In this regard, temporary, casual and agency staff should be treated in the same manner as permanent officers.



- 4.1.2 Staff recruitment will be undertaken in accordance with the Council's policies for Recruitment and Selection. Whenever possible, written references should be obtained regarding the known honesty and integrity of potential members of staff, before formal employment offers are made.
- 4.1.3 For all appointments to posts where the employee will:
- have access to corporate computer systems or
  - be required to order goods or authorise invoices or
  - be required to handle cash or cheques or
  - negotiate contracts for the supply of goods or services
- or for any other post which the responsible Director considers appropriate, the Council will seek a declaration from applicants that they have not been involved in false claims for Housing Benefit and/or Council Tax Discounts. The declaration will be sought in respect of successful applications and with their agreement. This process will be made clear in recruitment packs. Disclosure and Barring Service (DBS) checks are undertaken for employees deemed to be working in appropriate roles.
- 4.1.4 All staff must abide by the Council's Code of Conduct for Officers, which sets out requirements on personal conduct. All professional staff are expected to follow the codes of conduct laid down by their respective professional institute or trades body.
- 4.1.5 The Council recognises that staff are often the first line of defence in preventing fraud. The Financial Procedure Rules place responsibility for fraud prevention on all employees and all employees of the Council have a duty to assist with an investigation. They are expected to conduct themselves in ways which are beyond reproach, above suspicion and fully accountable. Employees are expected to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with appropriate officers.
- 4.1.6 The Council has in place disciplinary procedures for all employees and these will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. Those found to have committed any acts of misconduct will face disciplinary action. Where criminal activity is suspected or found, the matter will be referred to the police for investigation and possible prosecution, in accordance with the Criminal Acts Procedure. In addition, the Council will pursue recovery for any financial loss.
- 4.1.7 Under the Council's Constitution, staff must be aware of the disclosure of financial interests in contracts relating to the Council, or the non-acceptance of any fees, gifts, hospitality or any other rewards, other than their proper remuneration. These requirements are set out in Part 5 of the Constitution of the Council.
- 4.1.8 The Council is required to comply with legislation relating to money laundering and there is a separate Anti-Money Laundering policy. There is a legal requirement for employees to report any financial transactions which could be indicative or criminal action to the Section 151 Officer, the Finance Lead Specialist.



## **4.2 Members**

- 4.2.1 As elected representatives, all Members of the Council have a duty to the residents of South Lakeland to protect the Council and public money from any acts of fraud. This is done through this policy and through the regulations below.
- 4.2.2 Members are required to operate within:
- Member Code of Conduct
  - Sections 94-96 of the Local Government Act 1972
  - Sections 27-34 of the Localism Act 2011
  - Part 5 of the Constitution of the Council
- 4.2.3 These matters and other guidance are specifically brought to the attention of new Members at induction courses. They include rules on the declaration of disclosable financial and other registerable interests.
- 4.2.4 Members will face appropriate action under this policy if they are found to have been involved in theft, fraud or corruption against the Authority. 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.
- 4.2.5 After approving an Anti-Fraud and Corruption Policy, Members will be expected to play an important role through leading by example and being seen to support it.
- 4.2.6 The Council has in place an Overview and Scrutiny process. Its remit includes the review of decisions and actions undertaken by the Council. Any matter arising from this process, in which fraud is suspected, can be referred to the Council's internal auditors for independent investigation.
- 4.2.7 The Council has a Standards Committee, which sets and monitors standards of conduct to and examines issues of potential misconduct by Members.

## **4.3 Internal Control Systems**

- 4.3.1 The Council has Financial and Contract Procedure Rules, Accounting Procedures and various rules and codes of conduct in place. Staff are required to comply with this best practice when dealing with the Council's affairs.
- 4.3.2 The Finance Lead Specialist has a statutory responsibility under Section 151 of the Local Government Act 1972, to ensure proper arrangements are made for the Council's financial affairs. "Proper administration" encompasses all aspects of local authority financial management.
- 4.3.3 In addition, under the Accounts and Audit Regulations 2015, the Council is required to maintain an adequate and effective internal audit of its financial records and systems of internal control.
- 4.3.4 The Council's aim is to have sound financial systems and procedures, which incorporate efficient and effective internal controls. Effective role separation will guarantee decisions made are seen to be based upon impartial advice and ensure



that no single individual has complete authority over one transaction. Directors and Operational Leads / Lead Specialists are responsible for maintaining effective internal controls including the prevention and detection of fraud and other illegal acts. The Council's internal auditors will monitor and report upon these controls.

#### **4.4 Combining with others to prevent and fight fraud**

- 4.4.1 The Council acknowledges that it cannot afford to work in isolation and must liaise with other organisations. There are a variety of arrangements in place and these will continue to be developed, which facilitate the regular exchange of information between the Council and other local authorities and agencies, for the purpose of preventing and detecting fraud. These involve national, regional and local networks of investigators such as internal auditors, fraud investigators etc. All liaisons are subject to observance of Data Protection legislation and due regard to the proper handling of confidential information.
- 4.4.2 The Council operates to the standards previously set out in the Verification Framework (VF) in line with central government initiatives to reduce fraud and error in Housing Benefits and Local Council Tax Reduction Scheme.
- 4.4.3 South Lakeland District Council is a member of the National Anti-Fraud Network (NAFN) which is a not-for-profit organisation which supports its members in protecting the public interest. Key benefits include the gathering of information in full compliance with the law from a wide range of information providers in response to allegations of fraud and on-going investigations and acting as a hub for the collection, collation and circulation of intelligence alerts.
- 4.4.4 The Council also undertakes specific initiatives to detect fraud. Examples include
- Data matching both internally and with the Cabinet Office. This is recognised as an important tool in the prevention and detection of fraud, and is used by all other local authorities. The Audit Commission drew up a Code of Data Matching Practice for its National Fraud Initiative (NFI), which is recognised by the Information Commissioner as complying with Data Protection legislation. The Council contributes to this bi-annual National Fraud Initiative led by the Cabinet Office and involves comparing computer records held by one body against other computer records held by the same or another body to see how far they match. This is usually personal information and computerised data matching allows potentially fraudulent claims and payments to be identified. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out.
  - Data matching via the Housing Benefit Matching Service (HBMS) which identifies irregularities in claims for Housing Benefit.
- 4.4.5 The Council has also introduced a Benefit Fraud Hotline, to allow members of the public to report individuals who are suspected of abusing the benefits system.





## 5 Reporting, detection and investigation

- 5.1 It is the responsibility of Directors and Operational Leads/Lead Specialist to maintain good control systems and ensure that all staff complies with these systems.
- 5.2 The Council's internal auditor, currently TIAA Ltd, has a planned programme to undertake a cyclical programme of audits to test for fraud and corruption, based on a risk assessment model. This includes liaison with external audit when considering the programme of audits.
- 5.3 Despite the best efforts of managers and auditors, many frauds are discovered by the vigilance of staff or a member of the public and there are procedures in place to enable such information to be properly dealt with. In addition, members of the public may wish to raise concerns relating to areas of local authority responsibility. In such cases there is a requirement within the Council's Financial Procedure Rules for staff to:
- Report actual or suspected instances of fraud to the Director concerned who shall immediately notify the Finance Lead Specialist who shall take such steps as he considers necessary by way of investigation
  - The Finance Lead Specialist will consult with the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) who will decide whether to involve the Police in matters of serious fraud and inform the Leader of the Council or appropriate Chairman accordingly.
- 5.4 There is a dedicated Verification team responsible for conducting evidence checks in line with Verification Framework procedures, the Housing Benefit (General) Regulations and the Council Tax Benefit (General) Regulations.

Evidence checks will include:

- Identity
- Residency and rent
- Household composition
- Earnings, employed and self- employed
- Benefits
- Income
- Capital

The Team will also report any allegations of fraud to the Corporate Anti-Fraud Officer who will carry out initial enquiries and assess the claim for suitability for referral to the Department for Works and Pensions investigations team. Risk assessment will be undertaken to direct cases to the resources deemed to be the highest risk in terms of loss to the public purse. Separate guidelines and Codes of Practice for the prosecution of offenders are in place, including a Code of Conduct for Fraud investigators and practices for the treatment and questioning of persons and tape recording of interviews.

- 5.5 Money laundering is the practice whereby criminals attempt to "clean" the proceeds of criminal activity by passing it through a legitimate institution. All staff who receive



cash as part of their duties will be vigilant for any unusual transactions that might indicate that an attempt is being made to launder money. As an additional safeguard receipt of notes, coins or travellers' cheques will not be accepted over £5,000 for any one transaction. Note: A separate Anti-Money Laundering policy refers.

5.6 Reporting suspected irregularities is essential to the Anti-Fraud and Corruption Policy and ensures:

- consistent treatment of information regarding fraud and corruption
- proper investigation by an experienced team
- the optimum protection of the Council's interests

Although this document specifically refers to bribery, fraud and corruption, it equally applies to any forms of malpractice that can reduce public confidence in the Council and its services and may also include acts committed outside of official duties but which impact upon the Council's trust in the individual concerned. As part of the culture, the Council will provide clear routes by which concerns can be raised by both Members and officers and those outside who are providing using or paying for public services. Staff will report any irregularities to the Operational Lead/Lead Specialist concerned who will refer all cases to the Head of Internal Audit and to his/her director. The Operational Lead/Lead Specialist and the Finance Lead Specialist will determine if an investigation is necessary. The Finance Lead Specialist will consult with the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) who will decide whether to involve the Police in cases where an offence is suspected and inform the Leader of the Council or the appropriate Chairman accordingly. Every concern raised will be centrally and formally recorded through the Head of Internal Audit. Details of all concerns will be periodically reported to the Audit Committee.

5.7 Depending on the nature and anticipated extent of the allegations, the Finance Lead Specialist may involve the Council's internal auditor who work closely with:

- Departmental Management
- Human Resources Group
- Legal Services
- Other agencies, such as the Police

This is to ensure that all allegations and evidence are properly investigated and reported upon, and that where appropriate, recoveries are made for the Council.

5.8 The Council's Whistleblowing Policy provides a clear path for individuals to raise concerns of malpractice in any aspect of the Council's work, without the fear of recrimination or victimisation. The Council will take appropriate action to protect any individual who has raised a concern in good faith. The Policy deals with the reporting of fraud or alleged fraud through formal channels. The Policy also covers making disclosures to external bodies if there is an unsatisfactory outcome to a disclosure made internally.

The Fraud Hotline phone facility (01539 793294) is available to staff, suppliers and members of the public for raising whistleblowing concerns. All calls will be specifically logged, treated confidentially and investigated through the most appropriate means.



- 5.9 For employees that are suspected of fraud a full investigation under the Council's Disciplinary Policy and Procedure will take place. If the individual is found guilty of any wrongdoing this could ultimately lead to action taking place including dismissal. It should be noted that an allegation does not mean that person or company is guilty of any wrong-doing and so they will not be treated as such until the case is proven.
- 5.10 Where financial misconduct is discovered relating to employees or Members, or grant aided voluntary organisations, the matter may be referred to the Police in accordance with the Criminal Acts Procedure. Such decisions are a matter for the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) in consultation with the Finance Lead Specialist and the Director concerned. Referral to the Police will not necessarily prohibit action under the disciplinary procedure.
- 5.11 The Council's External Auditor, Grant Thornton, also has powers to independently investigate bribery fraud and corruption.

## **6 Training and awareness**

- 6.1 The Council recognises that the success and credibility of this policy will depend largely on how effectively it is communicated throughout the organisation and beyond. To this end, appropriate action will be taken to raise awareness levels and details of the Policy will be provided to all Members and all staff and be included on induction programmes. The Policy will also be shown on the Council's website and be available on the Intranet.
- 6.2 The Council supports the concept of induction training, particularly for officers involved in internal control systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced.
- 6.3 The officers involved in the review of internal control systems and investigative work should be properly and regularly trained. Those involved with fraud investigation will be required to hold a relevant Counter Fraud qualification and during the course of the investigation, the following actions will be taken
- A fraud log will be maintained, detailing every action taken during the investigation, including dates and times that each action undertaken was carried out
  - As much documentary evidence as possible will be obtained before any interviews are conducted
  - All evidence will be obtained lawfully, properly recorded and retained securely in accordance with the Police and Criminal Evidence Act 1984 (PACE) and the Criminal Procedure and Investigations Act 1996
  - Fact finding interviews will be conducted during the course of the investigation. If at any time during these interviews it becomes clear that a criminal offence may have occurred, the fact finding interview will be ended and the interviewee will be formally cautioned. The interviewee will then be formally interviewed under caution in accordance with PACE.
- 6.4 It is the responsibility of Operational Leads/Lead Specialist to communicate the Anti-Fraud and Corruption Policy to their staff and to promote a greater awareness of fraud within their services.



## **7 Deterrence**

7.1 There are a number of ways in which we seek to deter a bribe or potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside or outside of the Council, and these include:

- publicising the fact the Council is firmly set against fraud and corruption and states this at every appropriate opportunity, e.g. statements in contracts, on claim forms, on the Council's website and in publicity literature both internal and external.
- acting robustly and decisively when fraud and corruption is suspected and proven, to deter others from committing offences against the Authority, e.g. the termination of contracts, the dismissal and/or prosecution of offenders
- taking action to effect the maximum recoveries for the Council, e.g. through agreement, court action, penalties, insurance, superannuation etc
- having sound internal control systems, that still allow for innovation and calculated risk, but at the same time minimising the opportunity for fraud and corruption.

## **8 Review**

8.1 This policy will be reviewed at appropriate times in response to procedural and legal changes.

## **9 Conclusions**

9.1 The Council has in place a robust network of systems and procedures to assist it in the fight against fraud and corruption and pledges to take all action necessary to identify such cases. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation or related responsibilities. To this end, the Council maintains a continuous overview of such arrangements.

9.2 The Anti-Bribery, Fraud and Corruption Policy provides a comprehensive framework for preventing and tackling fraudulent and corrupt acts against the authority. The approval of the Policy by the full Council demonstrates a commitment to protecting public funds and minimising losses to fraud and corruption. Having made this commitment, it is imperative that Directors and Assistant Directors put in place arrangements for disseminating the Policy and promoting fraud awareness, throughout their services.

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