

AUDIT COMMITTEE

19 February 2020

Counter Fraud Policies

Report of Corporate Fraud Manager

PURPOSE OF REPORT

Annual Review of the Council's Counter Fraud Policies

This report is public

RECOMMENDATIONS

- (1) That the Audit Committee approve the refreshed counter fraud policies, namely;
 - a. Anti-Fraud, Bribery and Corruption Policy; and
 - b. Raising Concerns Policy (formally Whistleblowing Policy)
- (2) The Audit Committee note the Sanctions Policy, previously approved by Cabinet.
- (3) The Audit Committee note the deletion of the Fraud Response Plan.

1.0 Background

- 1.1 The Audit Committee's Terms of Reference state they have a discharged responsibility to "monitor counter fraud, actions and resources and review the assessment of fraud risks and potential harm to the council from fraud and corruption". Given this responsibility, the Audit Committee's work programme includes an annual review of the council's counter fraud policies.
- 1.2 It was identified during the preparation of the 2018/19 Annual Governance Statement that all of the counter fraud polices were out of date and had not been reviewed for some time, namely;
 - Raising Concerns Policy;
 - Anti-Fraud, Bribery and Corruption Policy;
 - Fraud Response Plan; and
 - Sanction Policy.
- 1.3 It was also identified that the ownership and responsibility for these polices sat in a number of places, e.g. Human Resources, Audit and Assurance and the Corporate Fraud Team. To ensure these policies are independently and

consistently applied and reviewed and approved by the Audit Committee on a regular basis, a decision was made to move all the policies stated in paragraph 1.2 under the Corporate Fraud Team.

2.0 Report

2.1 The polices have all been reviewed and a number of changes have been made to each policy to ensure they comply with legislative changes and good practice guidance.

2.2 A review of the Anti-Fraud, Bribery and Corruption Policy identified that there was significant duplication with the Fraud Response Plan. Therefore, the two documents have now been merged. The Fraud Response Plan has now been deleted.

2.3 Members are asked to review and approve the refreshed Raising Concerns Policy and the Anti-Fraud, Bribery and Corruption Policy (Appendix 1 & 2) and note the Sanctions Policy (Appendix 3), previously approved by Cabinet.

3.0 Details of Consultation

3.1 Consultations have taken place with Legal Services and the Internal Audit and Assurance Manager when reviewing the counter fraud polices.

4.0 Options and Options Analysis (including risk assessment)

4.1 The options available are to either agree the changes made to the attached polices or recommend alternative wording if necessary.

5.0 Conclusion

5.1 It is timely and appropriate to refresh and bring together all the counter fraud polices which assists the council in demonstrating that arrangements are in place that are designed to promote and ensure probity and propriety in the conduct of its business.

CONCLUSION OF IMPACT ASSESSMENT
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(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Not applicable.

FINANCIAL IMPLICATIONS

None directly arising from this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

None directly arising from this report.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Annual Governance Statement 2018/19
Action Plan
Audit Committee Terms of Reference

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LANCASTER CITY COUNCIL

ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY

1.0 Definitions

1.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) defines **Fraud** as “*Any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss*”. In the UK, the term fraud is used to describe many acts such as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

The Fraud Act 2006 further defines fraud in three classes:

- False representation
- Failure to disclose information where there is a legal duty to do so
- Abuse of position

1.2 The Theft Act 1968 defines **Theft** as “*a person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it*”

1.3 CIPFA defines **Corruption** as the “*offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person*”. The United Nations’ defines it as an umbrella term for a number of delinquent behaviours, including: embezzlement; fraud; bribery; cronyism and nepotism; money laundering; extortion; abuse of position; and improper political funding.

1.4 CIPFA defines **Bribery** as “*an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.*”

1.5 This policy covers all the above and the Council acknowledges and will be vigilant to the fact that that, within these definitions, fraud, theft, bribery and corruption can take many diverse forms.

1.6 This policy is concerned with:

- Acts committed against the Council by individuals or organisations; and
- Acts committed by the Council’s employees, elected Members or contractors in the course of their duties (guidance on issues arising from the private and personal activities of employees which may impinge on the performance of their duties or risk bringing discredit to the Council is contained in the Employees code of conduct and the Members’ code of conduct).

2.0 Scope of the Policy

2.1 This Policy applies to all employees, contractors and elected Members of the Council and places expectations on the Council's partners and all individuals and organisations providing services for the Council.

2.2 This Policy sits alongside and is supported by the following Council documents:

- Raising Concerns Policy
- Anti-Money Laundering Policy
- Counter Fraud Sanction Policy
- Code of Corporate Governance
- Officers and Members Codes of Conduct.

3.0 Commitment and Strategy

3.1 Lancaster City Council is committed to delivering high quality, value for money services in a fair, open, honest and accountable manner. The Council is determined to protect itself and the public from all forms of fraud, theft, corruption and bribery, including any irregularity and the improper use or misappropriation of the Council's property or resources both from within and outside the Council.

3.2 In support of this commitment, the Council's strategy is to rigorously maintain and develop anti-fraud and corruption arrangements with the following objectives:

Objective	Key Characteristics
Developing a strong anti-fraud and corruption culture	<ul style="list-style-type: none">• A strong ethical framework – clear rules and procedures• Effective Leadership• Maintaining public confidence in the Council• A sound system of internal control
Deterring and Preventing Fraud and Corruption	<ul style="list-style-type: none">• Continuous improvement of arrangements to combat fraud and corruption• Monitoring of potential exposure to fraud and corruption and acting accordingly• Ensuring the integrity of staff appointed• Consultants, contractors and suppliers acting with integrity• Ensuring adequate anti-fraud and corruption arrangements within partnerships
Raising Awareness	<ul style="list-style-type: none">• Ensuring elected Members and officers understand the rules, regulations, policies, strategies and expectations placed upon them

	<ul style="list-style-type: none"> Elected Members and employees understand the risks and recognise their ability to protect the organisation against fraud and corruption
Maintaining effective reporting arrangements and preventing further loss	<ul style="list-style-type: none"> Ensuring that all genuine suspicions/concerns are raised Maintaining effective reporting arrangements Informing external parties where appropriate Minimising losses once a report has been received
Facilitating effective investigations and recovery and seeking suitable sanctions and redress	<ul style="list-style-type: none"> Carrying out timely, lawful and effective investigations and minimising impact Seeking appropriate sanctions and redress to deal robustly with the perpetrators of fraud and corruption Maximising the recovery of losses Learning from experience

3.3 Implementation of the strategy is promoted and supported by an annually updated Fraud Team Business Plan.

3.4 Development of this strategy will be proportional to the risks facing the Council and will be informed by an objective and regularly reviewed assessment of those risks as part of a corporate risk assessment programme.

4.0 Expectations, Responsibilities and Culture

4.1 The public is entitled to expect Local Government employees and Members to conduct themselves to the highest standards and with the utmost integrity. The Council is determined to adopt a culture and tone around the seven principles of public life: (a) selflessness; (b) integrity; (c) objectivity; (d) accountability; (e) openness; (f) honesty; and (g) leadership.

The Council will convey this commitment through its Code of Corporate Governance.

4.2 In relation to anti-fraud, bribery and corruption Lancaster City Council employees should have particular regard to the Council's Code of Conduct, which is contained within part 4 of the Lancaster City Council Constitution and can be located [here](#)

4.3 The way in which the Council is organised and has defined responsibilities in relation to this policy is set out in the following table:

Organisation and Responsibilities

Groups / Individuals	Key Roles and Responsibilities
Standards Committee	<ul style="list-style-type: none"> • Setting and monitoring the standards of conduct for elected Members
Audit Committee	<ul style="list-style-type: none"> • Approving the Anti-Fraud, Bribery and Corruption Policy • Monitoring the effectiveness of the Council's strategy and operational arrangements
Chief Executive	<ul style="list-style-type: none"> • Overall responsibility for the Council's operational procedures • Leading by example through sound ethical behaviour and the promotion of the Council's anti-fraud and corruption arrangements
Section 151 Officer (Head of Financial Services)	<ul style="list-style-type: none"> • Overall responsibility for the Anti-Fraud, Bribery and Corruption Policy and supporting procedures • Developing and maintaining policies to combat fraud, corruption and other forms of financial crime • Reviewing the Council's exposure to risk and • Ensuring that effective investigation procedures are in place
Monitoring Officer (Head of Legal Services)	<ul style="list-style-type: none"> • Ensuring that all the Authority's decisions are within the law and statutory codes of practice • Ensuring any actual or potential breaches or acts of maladministration are appropriately reported
Service Heads	<ul style="list-style-type: none"> • Reviewing their Service's exposure to risk and updating local action plans accordingly. • Leading by example in their service areas through sound ethical behaviour and by promoting the Council's anti-fraud and corruption arrangements
Internal Audit and Assurance Manager/Fraud Manager	<ul style="list-style-type: none"> • Reviewing the effectiveness of the Council's anti-fraud and corruption arrangements and reporting to the Section 151 Officer, Management Team and the Audit Committee

	<ul style="list-style-type: none"> • Maintaining a corporate overview of the Council's exposure to risk and advising management accordingly • Overseeing the operation of the Anti-Fraud, Bribery and Corruption Policy and related investigations • Reporting on any corrective measures required which have been identified through internal audit work and investigations • Undertaking investigations into suspected cases of fraud • Maintaining a record of investigations on the fraud case management system • Advising the Head of Human Resources of any investigations involving staff at an appropriate stage • Referring cases to the Police and other external agencies where necessary and appropriate
Managers	<ul style="list-style-type: none"> • Responding quickly and positively to concerns or allegations • Reporting to the Internal Audit and Assurance Manager immediately any suspected financial impropriety, including fraud or theft and taking all necessary steps to prevent further loss • Establishing and maintaining systems of internal control which effectively manage the risk of fraud or other malpractice • Responding positively to the results of any reviews of their internal control framework by incorporating changes to address any weaknesses found • Communicating to the Council's partners, contractors and suppliers the expectation that they will act with high standards of integrity and ethics
All employees and elected Members	<ul style="list-style-type: none"> • Managing the risk of fraud • Demonstrating a clear opposition to fraud and corruption through the adoption of procedures and practices which are beyond reproach and by reporting any suspicions • Adhering to legal requirements, the Council's codes, rules and regulations and relevant professional codes of conduct

Partners, Contractors and Suppliers	<ul style="list-style-type: none">• The Council expects its partners, contractors and suppliers to act with high standards of integrity and ethics
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5.0 Deterrence and Prevention

- 5.1 The Council is committed to continually improving its anti-fraud and corruption arrangements. It will work closely with the police and other external agencies to strengthen and continuously improve its arrangements to combat fraud and corruption and, subject to legal constraints, will share information to support any related national or local initiatives.
- 5.2 The Council will monitor its potential exposure to the risk of fraud and corruption and the adequacy of its policies, systems and procedures to mitigate them. It will ensure there are effective arrangements to identify new and emerging risks and update its policies, systems and procedures accordingly.
- 5.3 The Council is committed to maintaining a strong ethical framework through clear rules, procedures and policies and clear lines of accountability. It will seek to maintain a sound system of internal control which is reviewed regularly by Internal Audit and the Council's external auditors and through the production of an Annual Governance Statement in accordance with the Accounts and Audit (England) Regulations 2011.
- 5.4 The Council is committed to learning from self assessment and independent reviews and will respond positively to recommendations made, by updating its internal control framework.
- 5.5 The Council will take appropriate and proportional action against those engaging in fraudulent or corrupt practices and will consider referral to the Police where appropriate. Any internal action against employees will be in accordance with the Council's Disciplinary Policy and Procedures; Members may be reported to the Standards Committee in accordance with the Constitution; contracts with third parties may be revoked per the formal contract; and the Council may withdraw from partnering arrangements per the partnership agreement. Prosecutions and alternative sanctions will be considered in line with the Councils' Sanction Policy (in relation to counter fraud).
- 5.6 The Council recognises that training and guidance is vital in maintaining the effectiveness of its anti-fraud and corruption arrangements and is committed to ensuring that Members and employees receive guidance, training and support appropriate to their role and areas of responsibility so as to ensure that risks are effectively managed.
- 5.7 The Council is committed to ensuring the integrity of the people it employs through the maintenance of robust recruitment and selection procedures and pre-appointment screening.

- 5.8 The Council will conduct its procurement practices in a fair and transparent manner and will undertake due diligence in evaluating prospective contractors, and suppliers. Contracts will seek to ensure third parties act with integrity and will set out the sanctions, including the termination of any relationship, in the event of the contractor or supplier adopting practices which are inconsistent with this Policy or the Council's Code of Corporate Governance.
- 5.9 The Council is committed to effective partnerships which deliver shared objectives. It will ensure that prospective partnering arrangements are supported by sound business cases and robust risk assessments. Due diligence will be exercised in carrying out proper checks on potential partners and arrangements will be approved through robust decision-making processes. Partnering agreements will seek to ensure that partners act with integrity and in accordance with corporate ethical standards as set out in the Code of Corporate Governance. Through partnering agreements the Council will secure its right to monitor the performance of its partners and agreements will set out the sanctions, including the Council's right to withdraw from the partnership, in the event of deficiencies.
- 5.10 The Council will, where appropriate, publicise the outcome of investigations and any subsequent prosecutions to make people aware of the possible consequences of engaging in fraud or corrupt practices.

6.0 Raising Concerns

- 6.1 The Council's reporting arrangements seek to ensure that the interests of the public and the Council are protected against any form of malpractice that can reduce public confidence in the Council and its services, including acts committed outside of official duties but which may impact upon the Council's trust in the individual concerned.
- 6.2 Members and employees are expected to always be aware of, and vigilant to, the possibility of fraud, corruption, theft, and irregularity or the improper use or misappropriation of the Authority's property or resources. Members and employees are encouraged to report genuine concerns immediately.
- 6.3 The Council positively encourages external organisations and members of the public to raise any concerns they may have.
- 6.4 The Council is committed to taking seriously all concerns which are genuinely raised. It will, where appropriate, take action against those who raise unfounded malicious allegations. In the case of employees this may involve taking disciplinary action against the officer raising the concern.
- 6.5 The Council is committed to maintaining confidential reporting arrangements and anyone with genuine concerns should report them in accordance with guidance available through the following links:

7.0 Investigations

7.1 The Council is committed to carrying out proper, prompt and formal investigations into all reports of suspected fraud, corruption, theft, irregularity or the improper use or misappropriation of the Council's property or resources to minimise and prevent further losses.

7.2 Investigations will be carried out in accordance with relevant legislation, including:

- The Criminal Procedure and Investigations Act 1996
- The Police and Criminal Evidence Act 1984
- The Human Rights Act 1998
- The Regulation of Investigatory Powers Act 2000

7.3 Police Investigations

Where there is Police involvement, the following points should be borne in mind:

- The Police will normally remove original documentation. Copies should, therefore be taken of documents required for operational purposes, prior to them being handed over to the Police.
- All evidence related to the investigation should be stored securely, in such a way as to ensure confidentiality. Depending upon the nature of the irregularity, it may be appropriate to remove documents or software in a way that does not raise the suspicions of the person under investigation.
- It is important to collect as much documentary evidence as soon as possible since the onset of an investigation may trigger its destruction, if this has not happened already.

8.0 Sanctions, Redress and Recovery

8.1 The Council is committed to dealing robustly and appropriately with the perpetrators of fraud and corruption. This may include criminal and/or civil proceedings as well as taking action under the Council's Disciplinary Policy and Procedure, Sanction Policy (in relation to counter fraud) or through the Standards Committee.

8.2 The Council will work with other organisations as necessary to take all reasonable measures to recover any losses arising from fraudulent activity.

9.0 Alternative methods for taking a complaint forward

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

- **Your Local Councillor** - If you are unsure how to contact your Councillor please see: www.lancaster.gov.uk

- **The External Auditor** - Paul Hewitson (Director) – www.deloitte.co.uk Tel: 0191 202 5353
- **Your Trade Union**
- **The Police**
- **The Local Government and Social Care Ombudsman** - www.lgo.org.uk
- **Protect** - Protect is a registered charity that promotes accountability and good governance in organisations and responsibility amongst individuals. It can give you free, confidential advice at any stage about how to raise a concern about serious malpractice/wrongdoing at work. It may be contacted by telephone, 020 3117 2520, or by e mail, whistle@protect-advice.org.uk

Appendix A - Internal Investigations

Prior to the commencement of any investigation the nature of each matter must be determined on its merits, in order to decide upon the course of action to be followed:

- Where a criminal offence is suspected and the matter is potentially of a serious nature, an internal investigation may be undertaken whilst maintaining a close liaison with the Police, (In these cases , it may be appropriate to consider handing the case over to the Police, this may occur at any stage of the Council's own investigation).
- Where there are reasonable grounds to suspect an offence an interview under caution (IUC) must be considered. Any IUC's will comply with the Police and Criminal Evidence Act 1984 codes of conduct.
- Liaison with the Head of Human resources should be undertaken at all stages of the investigation process. This is particularly important where action is required at an early stage, including the possible suspension of the officer involved, in accordance with the Council's disciplinary procedure.
- Where a criminal offence is suspected but the matter is not considered material in terms of value or seriousness (for example petty theft), the matter may be dealt with under the Council's disciplinary procedure.
- Where the incident is not of a criminal nature, it should be dealt with under the Council's disciplinary procedure.
- Within the investigation process an interview may be held in order to gather information and ascertain facts, or more formally to examine and review information, verify and confirm facts, and if appropriate seek explanations for the interviewees conduct/actions
- All relevant facts pertinent to the investigation should be obtained prior to the interview.
- Representation should be offered to the interviewee, in terms of accompaniment by their Trade Union Official, a friend, or other such person. If the interviewee requests representation, the interview should only take place when this representation is adequately provided.
- A management representative should be present, who should have the power to suspend the employee if need be.
- An accurate record must be kept of the interview.
- Legal advice should be sought from the Head of Legal Services on the strength of the evidence obtained.
- Where a decision is made to interview an employee, the arrangements should be made as soon as possible.
- If, during the course of an interview which is not an interview under caution (IUC), it becomes clear that a criminal offence may have been committed, the interviewee must be cautioned before further questioning takes place, in order to comply with the Police and Criminal Evidence Act 1984. It is critical at this point that the suspect is informed that he/she may leave the interview at any time. If he or she does remain they must be informed that they may seek legal advice if they wish.

Officers undertaking investigations are however advised to terminate the interview immediately and inform the Police should reasonable grounds exist for suspecting that a serious offence may have been committed. Serious

offences include either way offences involving fraud or theft with a value of over £50,000, corruption, bribery and conspiracy. The Police will then make the decision as where or not to interview the suspect.

Interview Notes/Statements

When compiling interview notes or statements regard should be given to the following:

- When an interview with a witness or a suspect takes place, questions and answers must be recorded contemporaneously and the suspect/witness must sign the statement.
- If the suspect/witness refuses to sign the record, this fact must be noted and the interview note signed by the two interviewers. Any other notes from an interview, whether shorthand or longhand, must be kept. Any change in persons in the interview room should be recorded, including time of changes, and people entering and leaving.
- If a statement is obtained from a suspect/witness, it must be kept in the correct format. Specific stationary is available for such records. It must begin with the name and job title of the suspect/witness making the statement and must be dated and timed. The suspect may write the statement or it may be written for him/her. The person giving the statement must not be prompted and they must sign at the bottom of each page and initial every alteration. When the statement has been completed, the suspect/witness must sign after the final word. The interviewer should also witness the suspect's/witness' signature. Where representation has been taken up, the representative should also sign any written statements made by the interviewee.
- The suspect/witness must be allowed to re-read the statement before the final signing and must be allowed to alter anything written. The suspect/witness must initial all amendments.
- It is imperative that record keeping is comprehensive, legible and accurate. It should be noted that all documents, including working papers, might be required as evidence.

An employee must be given every opportunity to explain his/her conduct/actions, and no unfair pressure or method should be used to obtain information. Where applicable, the Police and Criminal Evidence Act 1984 (Code of Practice C) will be followed.

Finalising the Investigation

At the end of the investigation, the Investigating Officer should ensure that a report is produced which sets out all of the facts relating to the case. The subject of the investigation should be provided with a copy of the draft report at this stage, and given the opportunity to comment on, but not change the report. Following which, the final report including the conclusions drawn and recommendations made, should be produced and submitted to the Chief Executive and copied to the relevant Director and Service Head, if appropriate.

Where it is clear that no irregularity has occurred, the suspect must be told as soon as possible and this should be confirmed in writing. If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the person who made the allegation. **If, however, an allegation is suspected to have been**

made frivolously, maliciously, or for personal gain, disciplinary action may be taken against the accuser.

When the Service Head has received the advice and conclusions following from the investigation, and where appropriate has sought and received the advice from the Head of Legal Services and Monitoring Officer and the Head of Human Resources, He/she shall take appropriate action without delay.

If it is felt that there is a case to answer, the employee should be informed of the action that the Council proposes to take as soon as possible. If disciplinary action is to be considered, the Council's disciplinary policy must be carefully followed. If the Council is satisfied that an irregularity has occurred, and the Police are notified, the employee should not be suspended indefinitely solely because of subsequent Police investigations and/or court proceedings. Disciplinary proceedings should be completed as a matter of urgency.

Records should be kept at every stage of the inquiry. The employee should be personally informed of the final conclusions of the Council and a formal letter should subsequently confirm these.

Any systems weaknesses highlighted by the investigation should be included in the report and recommendations made as to how they can be overcome. Internal Audit will then obtain management responses to the recommendations made and ensure that a post audit review is carried out at a later date to assess progress in implementing the agreed recommendations. Details of the investigation, its findings and any recommendations will be reported to the Audit Committee as part of the internal Audit reporting procedures.

Raising Concerns (formerly “Whistleblowing”) Policy

RAISING CONCERNS POLICY

- 1. Introduction**
- 2. Aims and scope of this Policy**
- 3. Who is covered by this Policy**
- 4. Safeguards**
- 5. How to raise a concern**
- 6. How the Council, will respond**
- 7. How to take it further**
- 8. The Responsible Officer**

Appendix A – List of Designated Officers

Appendix B – List of Regulatory Bodies

IMPORTANT

This Policy affects you. Please read it carefully.

The law requires the Council to protect you should you raise a concern internally within the Council if you know or suspect that:

- **Possible corruption or malpractice is taking place**
- **The law or Council rules are being broken**
- **The health and safety of any person is being endangered**
- **Damage to the environment is taking place**

1.0 INTRODUCTION

- 1.1 All of us might at some time have concerns about what is happening at work. Employees, members, or contractors are often the first to realise that there may be something seriously wrong within the Council. Usually these concerns are easily resolved. However when they are major concerns about serious malpractice, unlawful conduct, financial irregularities or dangers to the public or the environment, it can be difficult to know what to do. You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You may also fear harassment or victimisation. In these circumstances, it may appear easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 Lancaster City Council is genuinely committed to providing an environment of openness and accountability where individuals feel that they are able to raise concerns regarding serious malpractice. We would encourage all employees, members, or contractors with serious concerns about any malpractice in the form of irregularity, wrongdoing or serious failures of standards of work, to come forward and voice those concerns. Therefore, the Council has introduced this policy and procedure to enable you to raise your concerns about such possible malpractice at an early stage and in the right way. If something is troubling you, which you think we should know about or look into, please use this procedure. If you follow its advice, the Council assures you that your concerns can be raised in confidence, as far as possible, and without any fear of reprisal. This policy is intended to encourage and enable employees, members, or contractors to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle outside.
- 1.3 Employees should note that the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 have amended the Employment Rights Act 1996. The legislation provides protection for workers who raise legitimate concerns in the public interest about malpractice/wrongdoing. This Raising Concerns Policy has been drawn up to enable you to raise concerns without fear of reprisal and to ensure that they are dealt with effectively by the Council. This policy supports the Council's Anti Fraud, Bribery and Corruption Policy. In some organisations a policy such as this is known as a "Whistleblowing Policy"

1.4 If in doubt – raise it.

2.0 AIMS AND SCOPE OF THIS POLICY

2.1 This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about misconduct or malpractice;
- Provide avenues for you to raise those concerns internally and receive feedback on any action taken, and to provide information about how, in exceptional circumstances, matters can be raised externally;
- Reassure you that genuine concerns will be taken seriously and in the interests of all concerned will be dealt with properly, quickly and discreetly;
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
- Reassure you that as much as possible will be done to protect confidentiality, and that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith;
- Reassure you that procedures for raising concerns can be independent from line management; and
- Advise and remind employees that the detrimental treatment of colleagues who raise concerns may be considered a disciplinary matter

2.2 There is a difference between a grievance and a “raising concerns” disclosure.

A grievance will concern an employee personally, i.e. the individual may have a complaint about their working conditions, their pay or working hours or the amount of work that they are expected to do. This is not a “raising concerns” matter and should not be reported as such.

A disclosure will be made in the public interest and will concern the conduct of another person or persons in the workplace, whether or not that conduct affects the complainant personally.

There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This policy is intended to cover major concerns that fall outside the scope of other procedures. These concerns may include:

- Conduct which is an offence or a breach of law;

- Disclosures related to miscarriages of justice;
- Health and safety risks, including risks to the public as well as other employees;
- Damage to the environment;
- The unauthorised use of public funds;
- Non-compliance with Council rules, policies and procedures;
- Unauthorised use or misuse of the Council's financial or other resources, including information;
- Possible fraud and corruption;
- Sexual or physical abuse of clients;
- Other inappropriate or unethical conduct, or
- The deliberate concealment of information about any of the above.

2.3 Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council, can be reported under the Raising Concerns Policy. This may be about something that:

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- Is against the law or against Council's Procedural Rules or Financial Regulations and
- Policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct.

The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

3.0 WHO IS COVERED BY THIS POLICY

3.1 This policy applies to all employees, elected Members and those contractually working for the Council on its premises, for example, volunteers, agency staff, builders and drivers. It also covers suppliers and those providing services under a partnership arrangement with the Council. Members of the public are also encouraged to report their concerns via this Policy.

4.0 SAFEGUARDS

Preventing Harassment or Victimisation

4.1 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 malpractice. If you raise a genuine concern under this policy, you will not be at risk of losing your job. Provided you are acting in good faith, it does not matter if you are mistaken; no action will be taken against you.

The Council has a “*Dignity at Work Policy*”. This policy makes it clear that the Council will not tolerate harassment or victimisation. The Council will take action to protect you when you raise a concern in good faith.

- 4.2 This does not mean if you are already the subject of any disciplinary or redundancy procedures, that those procedures will be halted as a result of the raising a concern. It should also be noted that these arrangements do not guarantee protection for any substantive misconduct which you may have been involved in.

Raising a Concern Openly

- 4.3 The best culture is where an employee who has a concern feels it is safe and acceptable to raise the concern openly (where those involved know what the issue is and who has raised it). This openness makes it easier for the Council to assess the issues, to work out how to investigate the matter, to get more information, to understand any hidden agendas, to avoid witch hunts and to minimize the risk of a sense of mistrust or paranoia developing.

Raising a concern confidentially

- 4.4 While openness is the ideal, the Council recognises that employees may nonetheless want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent unless required by law.

Anonymous Allegations

We hope you will feel able to put your name to your allegation as concerns expressed anonymously are much less powerful. However, they will be considered at the discretion of the Council.

- 4.5 In exercising the discretion, the following factors will be taken into account:-
- the seriousness of the issues raised;
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

Untrue Allegations

- 4.6 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

5.0 HOW TO RAISE A CONCERN

- 5.1 As a first step, we would hope that you feel able to raise concerns initially with:-

- your Supervisor;
- your Line Manager;
- your Chief Officer; or
- your trade union representative;

- 5.2 This may be done orally or in writing. At this stage you should indicate if you want to raise the matter in confidence so that appropriate arrangements can be made when taking a matter forward. If your concern is serious or you suspect that your immediate management are involved, then please raise it with one of the designated officers listed at Appendix A.
- 5.3 Alternatively, you may wish to raise your concern with your local Councillor, who can then advise you on taking the matter forward and with whom it is most appropriate to do so.
- 5.4 Protect is a registered charity that promotes accountability and good governance in organisations and responsibility amongst individuals. It can give you free, confidential advice at any stage about how to raise a concern about serious malpractice/wrongdoing at work. It may be contacted by telephone, 020 3117 2520, or by e mail, whistle@protect-advice.org.uk
- 5.5 Whilst it is not necessary to put concerns in writing, the Investigating Officer will need to keep details of the background and history of the concern. You will need to provide names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer. The earlier a concern is expressed, the easier it is to take action.
- 5.6 You are not expected to prove beyond doubt the truth of an allegation, but you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 5.7 YOU CAN OBTAIN HELP, ADVICE AND GUIDANCE ON RAISING CONCERNS FROM ANY OF THE OFFICERS LISTED IN PARAGRAPH 5.1, OR THE DESIGNATED OFFICERS (as Appendix A).
- 5.8 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns. However, you should be careful not to convey the concern to anyone other than someone who has a right to know or the proper authority to deal with the concern. If the concern relates to fraud, you need to be careful that the individual against whom the concern is raised is not accidentally “tipped off”, as incriminating evidence could be destroyed.
- 5.9 If you do not wish to raise the concern personally, you may invite your trade union, professional organisation or local Councillor to raise a matter on your behalf.
- 5.10 If you suspect malpractice of any kind you should not:

- Ignore the matter
- Approach or accuse individuals directly
- Try to investigate the matter yourself
- Convey your suspicions to anyone other than those with the proper authority to deal with the matter
- Be afraid of raising your concern, as this policy will afford you protection.

Raising a concern if you work for a Contracting Organisation or Agency or in a Shared Service

- 5.11 Contractor or Agency workers who become aware of possible malpractice within the Council should raise the problem in writing with the Procurement Manager, Head of Legal Services (Monitoring Officer), the Internal Audit and Assurance Manager or the Fraud Manager.
- 5.12 Employees of a contracting organisation who become aware of possible malpractice within their own organisation should use their own internal procedures for reporting the matter. However, if the issue is not resolved and is affecting the delivery of the Council's services, then the problem should be raised as above.
- 5.13 Likewise, employees who work in a shared service but are not employed by this Council should initially raise any concerns under the relevant policy of their employing Council. However, if they feel unable to do so, or the issues is not resolved, and it affects this Council, then they should raise the matter with any of the officers designated in Appendix A.

Procedure for Members

- 5.14 Elected Members who have a genuine concern about malpractice should raise the concern with the Monitoring Officer.

Members of the Public

- 5.15 The Council encourages those external to the Council who suspect fraud and/or corruption to contact the Internal Audit and Assurance Manager, Fraud Manager or Head of Legal Services (Monitoring Officer).

6.0 HOW THE COUNCIL WILL RESPOND

- 6.1 It is a manager's responsibility:

- to deal with any concerns that are raised with them in accordance with this policy,
- to notify the Monitoring Officer of any concerns that are brought to the manager's attention which cannot be immediately resolved by the manager themselves,

- to ensure that concerns are treated seriously and investigated as appropriate,
- to ensure that appropriate arrangements are made if the individual wishes to raise the matter in confidence, and
- to ensure that anyone raising a concern in accordance with the terms of the policy is protected from reprisal.

6.2 The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be resolved by agreed action without the need for investigation
- be investigated internally;
- be referred to the Police;
- be referred to the External Auditor; or
- form the subject of an independent inquiry

6.3 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns which fall within the scope of specific procedures (e.g. equality issues) will normally be referred for consideration under those procedures. During these initial inquiries, the officer concerned may seek advice from more senior officers, the Monitoring Officer and/or other relevant specialists or professionals within the Council as appropriate whilst protecting details relating to the concern (including your identity) as far as possible.

6.4 Within five working days of a concern being received, the Council will write to you:-

- acknowledging that the concern has been received;
- indicating how it proposes to deal with the matter, and who is dealing with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made; and
- telling you whether further investigations will take place, and if not, why not (e.g. there is no substantive case, or the matter can be resolved without investigation, or other formal channels should be used to raise the issue.)

6.5 The amount of contact between the officers considering the issues and you, will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

6.6 When any meeting is arranged, you have the right, if you so wish, to be accompanied by a Union or professional organisation representative or work colleague who is not involved in the area of work to which the concern relates.

6.7 Where an investigation is appropriate, the Monitoring Officer will appoint an appropriate Investigating Officer who will investigate the facts surrounding the initial concern and report his/her findings to the Monitoring Officer. In some circumstances the Investigating Officer may seek information from other officers of the Council or individuals outside the Council. Those asked to provide information will be informed:

- that the information is being requested in connection with an investigation in response to a “raising concerns” complaint;
- if the way in which the information they provide is likely to be used;
- that they have a right to a formal meeting and representation if they wish;
- of the need to maintain confidentiality.

6.8 The Monitoring Officer is responsible for deciding at which point the individual against whom the concern is raised is to be notified of the concern raised and the evidence supporting it. Where the individual has not been notified and the Investigating Officer feels that the investigation cannot progress without such notification, he/she will liaise with the Monitoring Officer.

6.9 If at any time in the course of the investigation there is evidence of criminal activity, the Investigating Officer will inform the Monitoring Officer and a decision will be made as to whether a referral should be made to the Police. If at any time there appears to be evidence of a disciplinary case to answer, the Monitoring Officer will refer the matter to the relevant manager to be dealt with in accordance with the Council’s Disciplinary Policy and Procedure.

6.10 On completion of the investigation, the Investigating Officer will report the facts and his/her conclusions to the Monitoring Officer, who will decide what further action, if any, is required.

6.11 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.

6.12 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations. Where working practices have been found to be at fault, you will be informed as to what action has been taken to correct them. However, it may not be possible to tell you the precise action being taken where this would infringe a duty of confidence owed by the Council to someone else.

7.0 HOW THE MATTER CAN BE TAKEN FURTHER

7.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:-

- The External Auditor (if you believe that there has been financial or procedural impropriety). Paul Hewitson (Director) – www.deloitte.co.uk Tel: 0191 202 5353.
- Lancashire Constabulary (if you believe that a criminal act has been committed). Tel 101
- Your Solicitor (if you believe that you have suffered loss as a result of what has happened and/or wish to receive further personal advice)
- A relevant professional or regulatory organisation (See Appendix B)

7.2 If you do take the matter outside the Council, you need to ensure that you do not disclose confidential information.

8.0 THE RESPONSIBLE OFFICER

8.1 The Head of Legal Services as Monitoring Officer has overall responsibility for the maintenance and operation of this policy, and will receive copies of all correspondence and documentation relating to any concern raised under the policy. A record of concerns raised and the outcomes will be maintained by him but in a form which does not endanger your confidentiality. He will report as necessary to the Council's Standards Committee, who's Terms of Reference include monitoring and reviewing as necessary the operation of the Council's Raising Concerns Policy.

Appendix A

LIST OF DESIGNATED OFFICERS

Name	Position	Contact
Luke Gorst	Acting Head of Legal Services and Monitoring Officer	582024 lgorst@lancaster.gov.uk
Jayne Cordley-Williams	Head of Human Resources	582179 jcwilliams@lancaster.gov.uk
Jo Billington	Internal Audit and Assurance Manager	582028 jbillington@lancaster.gov.uk
Paul Thompson	Head of Financial Services and S151 Officer	582603 pthompson@lancaster.gov.uk
Kieran Keane	Chief Executive	582066 kkeane@lancaster.gov.uk

Appendix B

LIST OF REGULATORY BODIES

Health and Safety Executive	www.hse.gov.uk tel: 0300 0031647 Redgrave Court Merton Rd Bootle Merseyside L20 LHS
The Environment Agency	enquiries@environment-agency.gov.uk tel: 03708 506506 National Customer Contact Centre PO Box 544 Rotherham S60 1BY
The Information Commissioner	https://ico.org.uk/ tel: 0303 123113 Wycliffe House Water Lane Wilmslow SK9 5AF
HM Revenues and Customs	www.gov.uk/government/organisations/hm-revenue-customs tel: 0800 788887
The Food Standards Agency	www.food.gov.uk helpline@food.gov.uk tel: 020 72768829 Floors 6 and 7, Clive House 70 Petty France London SW1H 9EX
Homes England	enquiries@homesengland.gov.uk tel: 0300 1234500 50 Victoria St Westminster London SW1H 0TL
Regulator of Social Housing	enquiries@rsh.gov.uk tel: 0300 1245225 Referrals and Regulatory Enquiries Team 1 st Floor – Lateral 8 City Walk Leeds LS11 9AT
Lancashire Supporting People	sp.team@lancashire.gov.uk tel: 01772 534266 The Supporting People Team Lancashire County Council Preston PR1 3EA

Counter Fraud

Lancaster City Council Sanction Policy

September 2019

Lancaster City Council is committed to protecting public funds through its investigations into cases of fraud. The Oxford English Dictionary defines fraud as “*Wrongful or criminal deception intended to result in financial or personal gain*”. Fraud may also occur by failure to disclose information where there is a legal duty to do so.

This policy is intended to cover any form of fraud that the Council may consider necessary to investigate. The Council will consider taking enforcement action against any individual or organisation which commits a criminal offence against the Council, (including criminal conduct related to the systems administered by the Authority or any of its partners) or the wider local community.

Areas in which the Council faces the risk of fraud include: (the list should not be considered exhaustive):

- Business Rates
- Council Tax
- Council Tax Reduction Scheme
- Employee Fraud
- Grants
- Insurance
- Mandate Fraud
- Procurement
- Social Housing Fraud

The Council may work with other organisations such as the Department for Work and Pensions, the Police, Home Office, HM Revenues and Customs and other local authorities in order to detect and deter fraud. The work may include joint investigations with them and, where appropriate, assist in any prosecution.

The Council recognises that the use of Simple Cautions, Penalties (as prescribed in the Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013 and the Social Security Administration Act 1992 (as amended) and prosecutions have a key role to play in deterring offenders.

In **all** cases where fraud is identified the Council will consider commencing legal processing to cover the debt from the fraudulent party

This document replaces the Lancaster City Council’s Sanction Policy for the Council Tax Reduction Scheme.

Course of Action

The initial decision on what appropriate action may be taken lies with (1) the Fraud Manager who will submit a report to (2) the Director of the service affected, making recommendations on the appropriate sanction. If approved, the report will be counter signed by the Director and the approved action will be followed. If it is not approved, a case conference will take place between the recommending officer and the Director to discuss what action, if any, is appropriate.

In the event of the case being submitted for prosecution, the report, together with the investigation evidence, will be submitted to the Council's Governance (Legal) Team who in turn will determine on the institution of legal proceedings.

Consideration will be given to the individual circumstances of each case in deciding the appropriate enforcement action from a range of sanctions.

A) Simple Caution

Where the evidential requirement for a prosecution is satisfied and the offender has admitted the offence, a caution is one of the enforcement actions available to the Council.

Whether an offer of a caution is suitable is an operational decision based on the specific circumstances of the individual case.

The Council may offer a Simple Caution if:

- The case involves low-level, mainly first-time, offending
- There is an absence of previous warnings, penalties, cautions or convictions
- A penalty is not appropriate
- The overall value of the fraud is below £5,000
- The person's subsequent attitude is one of penitence (eg. genuine expression of remorse for his actions and/or co-operation with the investigation)
- The person is elderly or suffering from either significant mental or physical ill health, but their fraudulent act is considered too serious to go unpunished
- There are no significant aggravating factors such as the person being in a position of trust, sophisticated nature of the offence or significant planning

If the person refuses the offer of a simple caution the case will usually be referred for prosecution.

B) Alternative Penalties

The Council may offer an alternative penalty where appropriate and where legislation allows the offer of a penalty. The Council will have particular regard to:

- Circumstances where the case does not involve factors that make prosecution the only realistic option (such as collusion, abuse of position, sophisticated nature or significant planning);

- The loss to public funds;
- Whether the person has no unspent previous convictions; and
- Whether the person has no cautions or alternative penalties within the last two years.

Council Tax Support Scheme

Regulation 11 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 allows the Council to offer a penalty of 50% of the amount of excess reduction/overpayment (rounded down to the nearest whole penny) subject to a minimum penalty of £100 and a maximum penalty of £1000 as an alternative to prosecution. The penalty is levied in addition to the amount of excess reduction/ overpayment. Upon accepting the penalty the person has 14 days in which to change their decision.

A penalty may be offered in cases of attempted fraud, as an alternative to prosecution, where an offence of Council Tax Support Scheme fraud has been committed but the fraud is discovered and stopped before any award of Council Tax Support is made. In these cases the amount of the penalty would be £100.

Housing Benefit, Council Tax and National Benefits

Powers to investigate and prosecute benefit fraud now lie with The Department for Work and Pensions. Where an overpayment of Housing Benefit, Council Tax Benefit or National Benefits is also being considered for the offer of a penalty these will be dealt with under the provisions contained in the Social Security Administration Act 1992 (as amended). These penalties will be administered by The Department for Work and Pensions.

If a penalty is not accepted, or it is withdrawn, the Council must consider whether to prosecute, therefore all cases must be up to prosecution standard.

The offer of a penalty should happen at a **special interview**. The person should be told at the interview that:

- It is not an interview under caution
- In light of the evidence available, it is believed there are grounds for instigating criminal proceedings for the alleged offence
- It has been decided to offer them the alternative of agreeing to pay a penalty instead of their case being referred for prosecution
- They will be expected to make a decision on whether to agree to pay a penalty, by the end of the interview
- Acceptance of the penalty is not an admission of guilt

- Recovery of the penalty will occur in the same way as recovery of the overpayment
- They have 14 days in which to change their mind should they accept the penalty

Failure to repay the penalty or default on instalments will result in the person facing civil proceedings for recovery.

The officer who conducted the interview under caution will not conduct the special interview.

The Council may consider issuing a penalty if:

- To the Council's knowledge the person has no previous unspent convictions
- The person has no cautions or alternative penalties within the last two years
- The person has not admitted the offence during an interview under caution
- The excess reduction/overpayment is under £5,000
- A Simple Caution is not appropriate
- The person is elderly or suffering from either significant mental or physical ill health, but their fraudulent act is considered too serious to go unpunished

If the person refuses the offer of a penalty, the case will usually be referred for prosecution.

C. Prosecution

The Decision to Prosecute – additional factors:

- The Council shall always consider the principles set out in the Code for Crown Prosecutors. Accordingly, a prosecution will only be started when the case has passed both stages of the Full Code Test: the evidential test; followed by the public interest test.
- Each case will be considered on its own merits to determine the most appropriate course of action.
- In all cases considered for sanction, it is essential that each case is subject to scrutiny on the basis of its own particular details. The circumstances of each individual case will ultimately determine the eventual outcome of this exercise

- It should be noted that it may be appropriate to prosecute or take other sanction action against a person who has attempted to commit a fraud.