

## **HAMBLETON DISTRICT COUNCIL**

**Report To:** Audit, Governance and Standards Committee  
25 July 2017

**From:** Director of Finance (s151 officer)

**Subject:** **COUNTER FRAUD POLICY AND STRATEGY**

All Wards

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### **1.0 PURPOSE AND BACKGROUND:**

- 1.1 This report details the development of counter fraud arrangements within the Council. It seeks approval for a new counter fraud and corruption policy and associated prosecution policy as well as a revised counter fraud strategy.
- 1.2 In March 2015 the Council's responsibility for investigating housing benefit fraud ended. This work transferred to the Department for Work and Pensions (DWP) as part of their Single Fraud Investigation Service (SFIS) project. In August 2015 the Council engaged Veritau Ltd to investigate Council Tax Reduction fraud. Following a successful bid for government funding alongside regional partners the remit for investigation grew to cover Council Tax discount fraud. In April 2017 the council asked Veritau to expand their service further and provide a corporate fraud service covering the prevention and detection of all aspects of fraud that the council might encounter.

### **2.0 THE REPORT**

- 2.1 The current counter fraud policy, counter fraud prosecution policy and counter fraud strategy mainly focused on housing benefit and council tax reduction fraud related offences. The work undertaken by the Revenues and Benefits section during 2016/17 is detailed in Annex A.
- 2.2 The updated policy attached at Annex B reflects the move away from just the investigation of fraud in Revenues and Benefits section reviewing fraud across the Council in the new corporate fraud arrangements.
- 2.3 The new counter fraud strategy covering 2017-2019 is attached in Annex C. The strategy confirms the Council's commitment to tackling fraud and corruption and sets out actions to strengthen the council's arrangements, in line with recommended practice. The strategy reflects both CIPFA's Code of Practice on Managing the Risks of Fraud and Corruption and Fighting Fraud & Corruption Locally - The local government counter fraud and corruption strategy 2016-2019. The strategy is a working document and updates will be brought to the committee for review annually.

### **3.0 LINK TO COUNCIL PRIORITIES**

- 3.1 The work of the Veritau counter fraud team supports the council's overall aims and priorities by preventing, detecting and deterring fraud against the organisation. Counter fraud work helps to reduce losses to the council due to fraud and these savings can be used to fund council services and initiatives.

### **4.0 RISK ASSESSMENT**

- 4.1 There are no risks associated with this report.

## **5.0 FINANCIAL IMPLICATIONS:**

5.1 There are no direct financial implications due to the report; the cost of the service is included in the current revenue budget. In 2017/18, the counter fraud service to be delivered by Veritau will cost £22,000. Whilst the service is not intended to be self funding every effort will be made to maximise the levels of savings received by the council as a result of fraud work. It should be noted that savings of £22,000 were generated as a result of counter fraud work in 2016/17.

## **6.0 LEGAL IMPLICATIONS:**

6.1 There are no legal implications associated with the recommendations in the report.

## **7.0 EQUALITIES AND DIVERSITY ISSUES:**

7.1 There are no equalities or diversity issues associated with the report.

## **8.0 RECOMMENDATIONS:**

8.1 That Audit, Governance and Standards Committee approves and recommends to Council:

- (1) to note the Counter Fraud and Anti-Corruption work undertaken during 2016/17 by the Revenues and Benefits section attached at Annex A;
- (2) the counter fraud and corruption policy and associated prosecution policy at Annex B; and
- (3) the counter fraud strategy at Annex C.

LOUISE BRANFORD WHITE  
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**Background papers:** None

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**Annual Report on Counter Fraud and Anti-Corruption 2016/17**

**Measures to Investigate and Prevent Fraud in Revenues and Benefits**

**Investigating Fraud**

On 1 April 2015 responsibility for investigating fraud allegations for Housing Benefit transferred from Hambleton District Council (HDC) to the Department for Work and Pensions (DWP) under the Welfare Reform regulations. The four (3 Full Time Equivalent (FTE)) Fraud Investigation Officers chose to transfer to the DWP.

Work continued during 2016/2017 on the cases not transferred to the Department for Work and Pensions during the migration in April 2015. One caution and 2 administration penalties were administered and a further 3 cases were prepared and presented in court all of which were found guilty. One case received a 24 month suspended sentence, whilst the other two cases received lesser sentences - community service. All remaining cases have now reached closure.

There were no cases during 2016/17 that involved Trading Standards to recover overpayments under the Proceeds of Crime Act. However, from the two cases in 2014/15, case two resulted in the defendant being ordered to repay the Council a total overpayment for housing and council tax benefit of £4,802.35 within 12 months or face a custodial sentence. £1,280 has been received to date, with this Proceeds of Crime case returning to court with the judge agreeing that the defendant repay at £20 per week. Case one resulted in a total overpayment of Housing and Council Tax Benefit of £2,503.

In relation to overpayment of housing benefit and council tax benefit, the Council undertook investigations in 2014/15 where as the DWP now undertake investigations from 2015/16 and the recorded figures to compare fraud detected is detailed below:

In 2014/15 overpaid housing benefit was £191,330 and overpaid council tax benefit £40,152.

In 2015/16 overpaid housing benefit was £66,936 and overpaid council tax benefit £12,574

In 2016/17 overpaid housing benefit was £13,018.00 and council tax benefit is now zero due to this scheme being superseded by the Council Tax Reduction scheme.

Housing benefit overpayments are recovered from either ongoing benefit or direct from the customer via an arrangement. Reduction in council tax support is recovered via the council tax liability process through the demand notices. Should a customer default on any arrangement, further recovery action is taken, such as attachment to earnings or referral to enforcement agents.

**Exploring Error**

Work in relation to exploring errors within housing benefit claims and investigation into fraud and error in relation to council tax support, exemptions, discounts and avoidance of business rates etc. remains with HDC and Veritau Ltd has been appointed from September 2015 to conduct the investigations in relation to Council Tax and Business Rates.

In 2014/15 HDC Investigation Officers investigated 70 council tax reduction support cases, where 13 found fraud to be proven resulting in 13 sanctions being given.

In 2015/16 Veritau Ltd investigated 36 referrals, 22 related to council tax reduction cases and 14 to council tax exemptions or discounts. There were no prosecution or administration penalties.

In 2016/2017 Veritau Ltd investigated 14 referrals, 14 related to council tax reduction cases 14 and 4 to council tax exemptions or discounts. The Investigations found £4,469 of incorrect entitlement to Council Tax Reduction and £9,271 of incorrect entitlement to Council Tax exemption's (Single Person Discount and Student Exemptions) due to incorrect information provided by the customer. These amounts are added back onto the relevant liabilities for collection. 1 formal caution and 2 Administration Penalties were administered.

In addition, Veritau Ltd also commenced leading on an Information and Data Sharing project in 2015/16 which is an exercise into council tax fraud and error where data will be matched across the local authority and also cross boundary with neighbouring North Yorkshire Councils. This is looking at incorrect claims for discounts, exemptions and support with council tax as well as for small business rate relief for non domestic rates. This project is ongoing.

### **National Fraud Initiative (NFI)**

The NFI is conducted every two years and is a national data matching exercise by the Cabinet Office across the public sector which includes local authorities, police, fire, pension funds, NHS and student loans. The data from local authorities includes housing benefit claims, council tax reduction claims, market traders, creditors, licences and taxi licences, company's house.

The data collation exercise was sent to the NFI in October 2016 and all the data has now been matched and with the output being received from January 2017. Housing benefit and payroll matches are currently being processed at the Council and are on track for completion by end of November 2017, along with creditors information. NFI will then collate all the information from all sectors and report back on the level of fraud and error found in 2018.

The exercise that occurred in 2014 is now complete which identified 470 matches to be checked against our systems for fraud and error in the area of housing benefit. This resulted in Housing Benefit / Council Tax Reduction overpayments being identified from this exercise of £22,004.97.

### **Other Initiatives to Identify Fraud and Error:**

**Fraud & Error Reduction Incentive Scheme (FERIS)** – The DWP supports local authorities to tackle Fraud and Error in Housing Benefit. Error is monitored internally at the council by the Compliance Officer and the Housing Benefit Assessment Officers. The scheme launched in November 2014 and completed in March 2017 and aimed to encourage local authorities to find more changes of circumstances which reduce housing benefit entitlement. If the FERIS target set by DWP was met by the Council then this resulted in the DWP making the incentive payment.

The objectives of FERIS were to:

- find and correct an increased number of incorrect and fraudulent housing benefit claims
- get claimants to come forward with their changes in a timely manner
- reduce the Monetary Value of Fraud & Error in 2014/15 to 2016/17

The Council looked into methods and gave a strong message to customers on the importance of informing of changes in their circumstances on time and of providing correct information at point of claim or review in order to reduce error and overpayment. Increased information was provided on the website, ability to text customers was created and an app was developed to enable customers to more easily report changes in circumstances. Leaflets were designed to raise awareness and were sent out in benefit notifications.

Compliance also conducted targeted reviews into claims which have a higher risk of being incorrect and to identify error. Information continued to be received from Her Majesty's Revenues

and Customs (HMRC) via the Right Time Information process which provided the most recent pay for customers; this was checked against their claim and any corrections or investigations taken where necessary.

During 2016/2017 546 reviews were undertaken by the compliance officer which resulted in errors being determined and overpayments to housing benefit of £154,583 and council tax reduction of £76,958 being identified. This results in increased revenue being collected via council tax demand notices.

In addition to identifying the overpayment, this resulted in the incentive payments of £11,622 in 2016/17.

**Real Time Information (RTI)** – This process was introduced in October 2014 which involves files being transferred from HMRC. These files contain up to date information on claimant's wages which all require individual assessment by HDC Benefit Assessors. This process is to help cut down fraud and error and reduces overpayments as changes are made to claims earlier.

**Housing Benefit Matching Service** - The Council's data is matched on a monthly basis with data from the DWP and HMRC. This identifies claims where there are inconsistencies between the data. These matches are checked by the Council's Compliance Officer where either enquires are made to correct the data or it is *referred to the DWP or Veritau* for investigation.

In 2015/16 188 matches were received which has resulted in £72,296 in housing benefit overpayment, £5,166 in council tax benefit overpayments and £7,820 excess council tax reductions being identified.

In 2016/2017, 90 claims were identified for checking. 86 have been checked for inconsistency which has resulted in £11,459 in housing benefit overpayment and £2,182 in council tax reduction being identified. There was no council tax benefit overpayment identified as this scheme has been superseded by the council tax reduction scheme.

The statistics show that overpayments are lower in 2016/17 compared to 2015/16 potentially due to the proactive work carried out in the compliance team.

**Risk Based Verification** – This process was introduced in May 2014 which targets high risk claims where verification from claimants is requested from HDC Benefit Assessors to support the claim and identifies low risk claims so reduces requests for information. This has assisted in processing claims more efficiently and makes the process of assessing new claims quicker.

- April 2014 the number of days to process all new claims was 34.90
- April 2015 the number of days to process all new claims was 19.07
- April 2016 the number of days to process all new claims was 20.30



# **COUNTER FRAUD AND CORRUPTION POLICY**

## **1 Introduction**

- 1.1 All organisations are at increasing risk of fraud and corruption. Some commentators estimate that annual fraud losses to local government in the UK could be £7.3 billion. It is therefore a risk that the council cannot and should not ignore.
- 1.2 Any fraud committed against the council effectively constitutes a theft of taxpayer's money. It is unlawful and deprives the council of resources which should be available to provide services to the public. By putting in place effective measures to counter the risk of fraud and corruption the council can reduce losses which impact on service delivery as a contribution to the achievement of overall council priorities.
- 1.3 This document sets out the council's policy in relation to fraud and corruption perpetrated against it, and its overall arrangements for preventing and detecting fraud. It includes the fraud and corruption prosecution policy contained in Annex A. It forms part of the council's overall policy framework for combating fraud and corruption and should be read in conjunction with the counter fraud strategy, constitution, the financial regulations, contract procedure rules, the whistleblowing policy, anti-money laundering policy, codes of conduct, and disciplinary procedures.

## **2 Definitions and Scope**

- 2.1 For the purpose of this policy, the term fraud is used broadly to encompass:
- acts which would fall under the definition in the Fraud Act (2006)
  - anything which may be deemed fraudulent in accordance with the generally held view of fraud as causing loss or making a gain at the expense of someone by deception and dishonest means
  - any offences which fall under the Social Security Administration Act (1992), Council Tax Reduction Schemes Regulations (2013) and the Prevention of Social Housing Fraud Act (2013)
  - any act of bribery or corruption including specific offences covered by the Bribery Act (2010)
  - acts of theft
  - any other irregularity which is to the detriment of the council whether financially or otherwise, or by which someone gains benefit they are not entitled to.
- 2.2 This policy does not cover fraud or corruption against third parties, except where there may be an impact on the service provided by the council. In addition, it does not cover other acts – for example offences involving violence - which may affect the council, and which should in most cases be reported directly to the police.

### **3 Principles**

- 3.1 The council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by members, officers, customers of its services, third party organisations contracting with it to provide goods and/or services, or other agencies with which it has any business dealings. There is a basic expectation that members, employees, and contractors' staff will act with integrity and with due regard to matters of probity and propriety, the requirement to act lawfully and comply with all rules, procedures and practices set out in legislation, the constitution, the council's policy framework, and all relevant professional and other codes of practice.
- 3.2 The council will seek to assess its exposure to risks of fraud and corruption. It will prioritise resources available to prevent and deter fraud in order to minimise this risk.
- 3.3 The council will consider any allegation or suspicion of fraud seriously, from whatever source, and if appropriate will undertake an investigation to confirm whether fraud has occurred and determine the appropriate outcome. Any investigation will be proportionate. The council may refer any incident of suspected fraud to the police or other agencies for investigation, if appropriate.
- 3.4 To act as a deterrent, the council will take action in all cases where fraud (or an attempt to commit fraud) is proved, in proportion to the act committed. This may include prosecution, application of internal disciplinary procedures, or any other action deemed appropriate to the offence (for example referral to a professional body). Prosecution decisions will be made in accordance with the fraud and corruption prosecution policy (Appendix A).
- 3.5 As a further deterrent, and to minimise losses, the council will attempt to recover any losses incurred through civil or legal action. In addition, the council will seek to apply any appropriate fines or penalties, and recover any costs incurred in investigating and prosecuting cases.

### **4 Responsibilities**

- 4.1 Overall responsibility for counter fraud arrangements rests with the council's Chief Finance Officer (CFO), on behalf of the council. The CFO has a professional responsibility for ensuring the council has appropriate measures for the prevention and detection of fraud and corruption, which are reflected in legislation.

- 4.2 The Audit, Governance and Standards Committee has responsibility to consider the effectiveness of counter fraud and anti-corruption arrangements at the council. This includes monitoring of council policies on raising concerns at work and counter fraud and corruption.
- 4.3 The Senior Management Team are collectively responsible for ensuring that the council has effective counter fraud and corruption procedures embedded across the organisation that comply with best practice and good governance standards and requirements.
- 4.4 Veritau (who provide internal audit and counter fraud services to the council) is responsible for reviewing the council's counter fraud and corruption policies on a regular basis and recommending any required changes to those policies. In addition, Veritau leads on fraud prevention and detection issues for the council and is responsible for investigating suspected cases of fraud or corruption. The internal audit team carries out audit work to ensure that systems of control are operating effectively, which contributes to the reduction in opportunities for committing fraud. The Head of Internal Audit is required to report their professional opinion on the council's control environment to members of the Audit, Governance and Standards Committee on an annual basis in accordance with proper practice.
- 4.5 All senior managers have a responsibility for preventing and detecting fraud within their service areas. This includes maintenance of effective systems of internal control and ensuring that any weaknesses identified through the work of internal audit or by other means are addressed promptly.
- 4.6 The Director of Finance is the council's nominated officer for the purposes of the Money Laundering Regulations (2007), and is responsible for reporting any issues referred to them, in this capacity.
- 4.7 All staff have a general responsibility to be aware of the possibility of fraud and corruption, and to report any suspicions that they may have to Veritau. Where appropriate, staff may use the whistleblowing policy to raise concerns anonymously.
- 4.8 Officers within human resources have a responsibility to support service departments in undertaking any necessary pre-disciplinary investigation and disciplinary process.

## **5 Overall Counter Fraud Arrangements**

### **Introduction**

- 5.1 The purpose of this section is to set out the council's overall framework for countering the risk of fraud and corruption. While the council aims to follow best practice in relation to counter fraud activity<sup>1</sup>, it recognises that new and emerging fraud risks will require a dynamic approach to fraud prevention and detection.

### **Measurement**

- 5.2 The council will assess the potential risks and losses due to fraud and corruption, and will use these to prioritise counter fraud activity, and review the resources available to counter those risks. The review will include an assessment of actual levels of fraud<sup>2</sup> and the effectiveness of counter fraud activity in reducing losses. The outcome of this review will be reported to the Audit, Governance and Standards Committee on an annual basis as part of the audit and fraud planning cycle.

### **Culture**

- 5.3 The council will promote a culture whereby all staff, members, service users, and contractors are aware that fraud or corruption in any form is unacceptable. To do this, it will:
- ensure that there are clear arrangements in place for reporting suspicions about potential fraud or corruption, whether that be by staff, council members, partners, stakeholders, contractors or members of the public;
  - investigate reported suspicions and where evidence of fraud or corruption is found will prosecute where appropriate and take any other action necessary in accordance with the financial regulations, contract procedure rules, fraud and corruption prosecution policy, disciplinary procedures, members code of conduct, or any relevant legislation or guidance;
  - ensure that the consequences of committing fraud and/or partaking in corrupt practices are widely publicised.

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<sup>1</sup> For example the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption.

<sup>2</sup> All suspected fraud should be reported to Veritau. A record of all such information will be maintained on a confidential basis.

## **Prevention and Detection**

### Controls

- 5.4 As part of its ongoing operating procedures, the council seeks to ensure that proper systems of internal control are in place. This includes controls to directly prevent and detect fraud, such as separation of duties and management review, along with other procedures such as vetting as part of recruitment processes and systems for declaration of interests and gifts and hospitality. The effectiveness of systems of control are monitored and a formal report is made as part of the process for preparing the annual governance statement. The council maintains a system of internal audit to provide independent review of control systems on an ongoing basis, in accordance with a risk assessment.
- 5.5 Services will be encouraged to consider the risk of fraud as part of the council's risk management process. Any information on risks identified will be used to inform the annual review of counter fraud activity.

### Proactive Work

- 5.6 The council will carry out targeted project work (for example data matching exercises) to identify fraud and corruption in known high risk areas. This work will be carried out by Veritau as part of its annual workplan. Work will be prioritised based on a risk assessment as part of the annual review of counter fraud activity. Work may include joint exercises with other agencies, including other local councils.
- 5.7 The council will take part in projects led by other agencies such as the Cabinet Office and the DWP to identify potential fraud e.g. the National Fraud Initiative and HBMS Data Matching Service. Resources will be allocated to follow up all data matches, and will include support through the internal audit and counter fraud teams to review potential control issues and suspected fraud. Veritau will work with service departments to ensure that they are aware of the need to include notices to service users stating that any data held may be subject to use for data matching purposes.

### Relationships

- 5.8 The council has established relationships with a number of other agencies. It will continue to develop these relationships and develop new ones to further the prevention and detection of fraud. Organisations which the council will work with include:
- the police
  - the courts

- the Cabinet Office
- the Department for Communities and Local Government
- the Department for Works and Pensions
- other councils
- community groups

5.9 Veritau will work with council departments to ensure that systems for reporting and investigating suspected fraud and corruption are robust.

#### Fraud Awareness Training

5.10 As part of its annual workplan, Veritau will provide targeted fraud awareness training to specific groups of staff, based on its annual risk assessment.

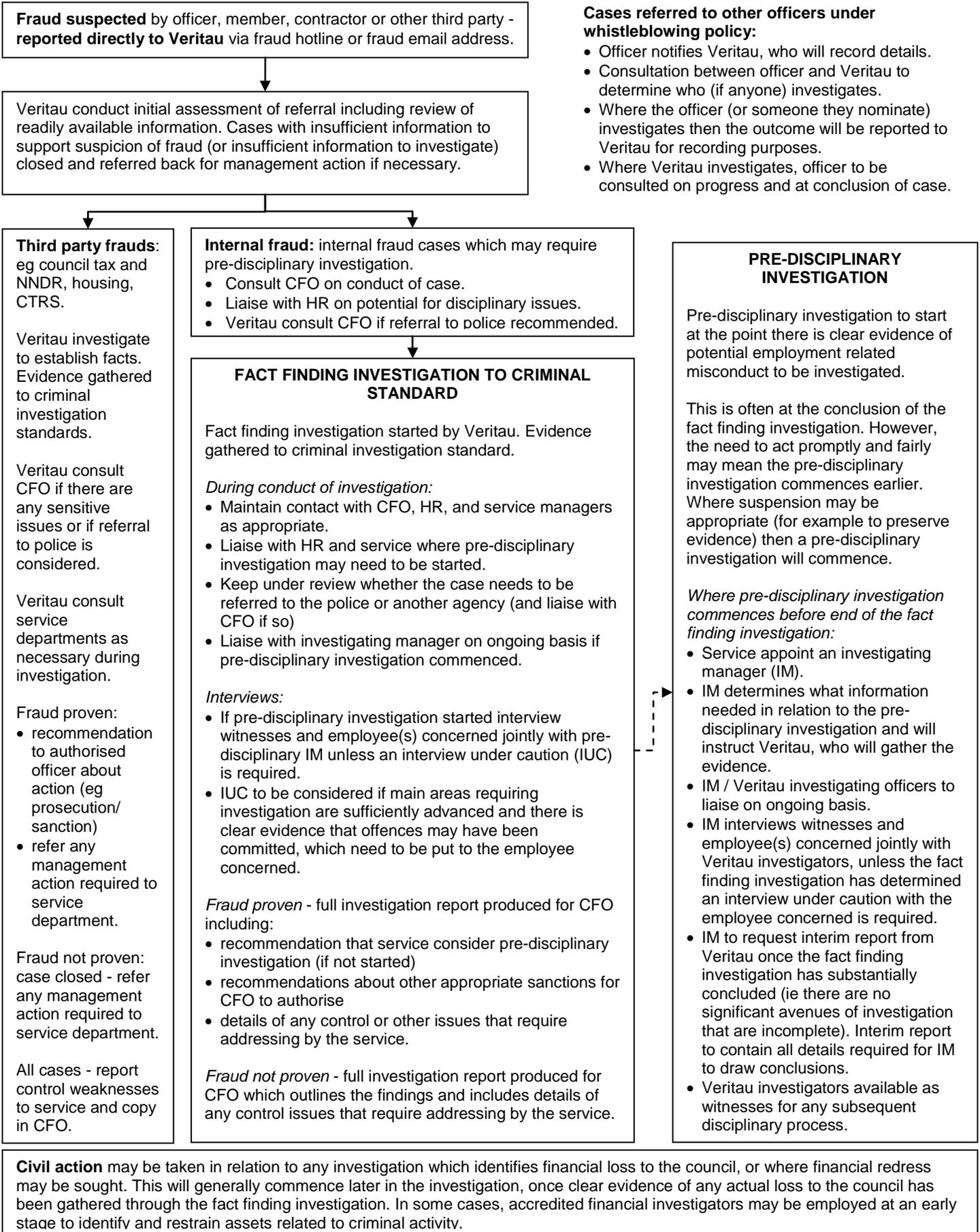
#### Investigation

5.11 All suspected cases of fraud, corruption, theft or other irregularity will be investigated. The nature of each investigation will depend on the circumstances of each case. Veritau will act as a first port of call for any suspected fraud and will provide advice on whether other agencies should be notified (eg the police). Veritau will determine the extent of the investigation to be carried out in consultation with the Chief Finance Officer (CFO), service departments and human resources. Where necessary, Veritau may refer cases to other agencies (for example the police) at the discretion of the Head of Internal Audit. Figure 1 overleaf outlines the fraud referral and investigation process.

5.12 All staff involved in the investigation of fraud will be appropriately trained. They will be required to comply with any relevant legislation and codes of practice. For example the Police and Criminal Evidence Act (PACE), Regulation of Investigatory Powers Act (RIPA), the Data Protection Act, and the Criminal Procedures Investigations Act (CPIA). Investigators will take into account the individual circumstances of anyone involved in an investigation and adjustments to procedure will be made where necessary to ensure that all parties are treated equitably (where it is appropriate and reasonable to do so).

5.13 As part of the outcome of every investigation, a review of any weaknesses in control will be made and if necessary recommendations will be made to address any issues identified. These will be set out in a formal report to the managers of the service concerned, and will be followed up to ensure the issues are addressed.

**Figure 1: Hambleton District Council Fraud Referral and Investigation Process**



- 5.14 The Head of Internal Audit will ensure that systems for investigating fraud are reviewed on an ongoing basis, to ensure that they remain up to date and comply with good practice.

#### Publicity

- 5.15 The council will publicise all successful prosecutions undertaken either by itself or by partner organisations, to act as a deterrent against future fraud.
- 5.16 In addition, where appropriate, targeted publicity will be used to raise the awareness of fraud to staff, members, the public, and other agencies. This will consist of both internal and external publicity and will aim to:
- raise awareness about potential fraud and ensure all stakeholders are alert to the possibilities of fraud;
  - inform all stakeholders of the procedures to be followed if they have suspicions of fraud;
  - ensure that all stakeholders are aware that the council will not tolerate fraud and the consequences of committing fraud against it.

#### Recovery of Monies

- 5.17 Where any loss has been incurred by the council or additional costs have been incurred as a result of fraud or corruption, the council will seek to recover these from the individual or organisation concerned. This will help to ensure that the financial impact of fraud on the council is minimised and act as a deterrent. As a further deterrent, the council will seek to levy any appropriate fines or penalties where it is possible and desirable to do so.
- 5.18 Methods of recovery may include (but are not limited to):
- recovery from assets held by the organisation or individual (using the Proceeds of Crime Act or any other relevant legislation);
  - bankruptcy where appropriate;
  - recovery from future salary payments if an individual remains an employee of the council;
  - recovery of pension contributions from employees or members who are members of the North Yorkshire Pension Fund.

## **6 Monitoring & Review Arrangements**

- 6.1 The arrangements set out in this policy document will be reviewed on an annual basis as part of the audit and fraud planning cycle and will include the fraud and corruption prosecution policy (Annex A) and other related guidance. Veritau will work with other departments to ensure that other related guidance and policy (such as the whistleblowing policy) are reviewed on a regular basis and any amendments or necessary changes are reported to members for approval.



# **FRAUD AND CORRUPTION PROSECUTION POLICY**

## **1 Scope and Purpose**

- 1.1 The fraud and corruption prosecution policy forms part of the council's overall counter fraud and corruption arrangements. The policy covers all acts, and/or attempted acts, of fraud or corruption committed by officers or members of the council, or committed by members of the public, or other organisations or their employees, against the council.
- 1.2 The policy sets out the circumstances in which the council will take legal action against the perpetrators of fraud or corruption. It also sets out the circumstances when it is appropriate to consider alternative courses of action such as offering a caution. The policy does not cover internal disciplinary procedures which are the subject of the council's separate disciplinary policy and procedures.
- 1.3 This policy should be read in conjunction with the council's constitution, financial regulations, contract procedure rules, the counter fraud and corruption policy and the strategy, the whistleblowing policy and the council's disciplinary policy and procedures.
- 1.4 The policy contains specific guidelines for determining the most appropriate course of action when fraud has been identified. Offences other than fraud and corruption (for example those relevant to the enforcement of regulations) are dealt with by the appropriate service departments under other policies and relying on specific legal powers.

## **2 Principles**

- 2.1 The council is committed to deterring fraud and corruption. As part of its overall strategy to do this the council will seek to take appropriate action against anyone proven to have attempted and/or committed a fraudulent or corrupt act against it. The council considers that those guilty of serious fraud or corruption must take responsibility for their actions before the courts.
- 2.2 The policy is designed to ensure that the council acts fairly and consistently when determining what action to take against the perpetrators of fraud or corruption.
- 2.3 Staff and members who are found to have committed fraud or corruption may be prosecuted in addition to such other action(s) that the council may decide to take, including disciplinary proceedings in the case of staff and referral to the relevant officer or body in the case of members. Any decision not to prosecute a member of staff for fraud and corruption does not preclude remedial action being taken by the relevant director(s) in accordance with the council's disciplinary procedures or other policies.
- 2.4 This Policy is also designed to be consistent with council policies on

equalities. The council will be sensitive to the circumstances of each case and the nature of the crime when considering whether to prosecute or not.

- 2.5 The consistent application of the policy will provide a means for ensuring that those who have perpetrated fraud and corruption are appropriately penalised. It will also act as a meaningful deterrent to those who are contemplating committing fraud or corruption. The council recognises the deterrent value of good publicity and therefore information regarding successful prosecutions and sanctions will be made public.
- 2.6 Any decision taken by an authorised officer to prosecute an individual or to offer a formal sanction will be recorded in writing. The reason for the decision being taken will also be recorded.
- 2.7 Irrespective of the action taken to prosecute the perpetrators of fraud and corruption, the council will take whatever steps necessary to recover any losses incurred, including taking action in the civil courts.

### **3 Prosecution**

- 3.1 The policy is intended to ensure the successful prosecution of offenders in court. However, not every contravention of the law should be considered for prosecution. The council will weigh the seriousness of the offence (taking into account the harm done or the potential for harm arising from the offence) with other relevant factors, including the financial circumstances of the defendant, mitigating circumstances and other public interest criteria. All cases will be looked at individually and be considered on their own merit.
- 3.2 To consider a case for prosecution the council must be satisfied that two tests have been passed. Firstly, there must be sufficient evidence of guilt to ensure conviction. This is called the **evidential test**. Secondly, it must be in the public interest to proceed – the **public interest test**.
- 3.3 To pass the evidential test, authorised officers must be satisfied that there is a realistic prospect of conviction based on the available evidence (that is, there must be sufficient admissible, substantial and reliable evidence to secure a conviction).
- 3.4 To pass the public interest test, the authorised officer will balance, carefully and fairly, the public interest criteria against the seriousness of the offence. The public interest criteria include;
- the likely sentence (if convicted);
  - any previous convictions and the conduct of the defendant;
  - whether there are grounds for believing the offence is likely to

be repeated;

- the prevalence of the offence in the area;
- whether the offence was committed as a result of a genuine mistake or misunderstanding;
- any undue delay between the offence taking place and/or being detected and the date of the trial;
- the likely effect that a prosecution will have on the defendant;
- whether the defendant has put right the loss or harm caused.

3.5 It will generally be in the public interest to prosecute if one or more of the following factors applies, subject to any mitigating circumstances;

- the actual or potential loss to the council was substantial;
- the fraud has continued over a long period of time;
- the fraud was calculated and deliberate;
- the person has previously committed fraud against the council (even if prosecution did not result) and/or there has been a history of fraudulent activity;
- the person was in a position of trust (for example, a member of staff);
- there has been an abuse of position or privilege;
- the person has declined the offer of a caution or financial penalty;
- the case has involved the use of false identities and/or false or forged documents;

## **4 Mitigating Factors**

4.1 The following mitigating factors will be taken into account when determining whether to prosecute;

### **Voluntary Disclosure**

4.2 A voluntary disclosure occurs when an offender voluntarily reveals fraud about which the council is otherwise unaware. If this happens, then the fraud will be investigated but the offender will not be prosecuted unless in exceptional circumstances. However, any person colluding in the crime will still be prosecuted. A disclosure is not voluntary if the:-

- admission is not a complete disclosure of the fraud;
- admission of the fraud is made only because discovery of the fraud is likely, (for example, the offender knows the council is

already undertaking an investigation in this area and/or other counter fraud activity);

- offender only admits the facts when challenged or questioned;
- offender supplies the correct facts when making a claim to Legal Aid.

### **Ill Health or Disability**

- 4.3 Where the perpetrator (and/or their partner) is suffering from prolonged ill health or has a serious disability or other incapacity then the offender will not normally be prosecuted. Evidence from a GP or other doctor will be requested if the condition is claimed to exist, unless it is obvious to the investigator. It is also necessary to prove that the person understood the rules governing the type of fraud committed and was aware that their action is wrong. This may not be possible where, for instance, the offender has serious learning difficulties. However, simple ignorance of the law will not prevent prosecution.

### **Social Factors**

- 4.4 A wide range of social factors may make a prosecution undesirable. The test is whether the court will consider the prosecution undesirable, and go on to reflect that in the sentence.

### **Exceptional Circumstances**

- 4.5 In certain exceptional circumstances the council may decide not to prosecute an offender. Such circumstances include;
- the inability to complete the investigation within a reasonable period of time;
  - the prosecution would not be in the interests of the council;
  - circumstances beyond the control of the council make a prosecution unattainable.

## **5 Alternatives to Prosecution**

- 5.1 If some cases are considered strong enough for prosecution but there are mitigating circumstances which cast a doubt as to whether a prosecution is appropriate then the council may consider the offer of a sanction instead. The two sanctions available are;
- a caution, or;
  - financial penalty.

## **Simple Cautions**

- 5.2 A simple caution is a warning given in certain circumstances as an alternative to prosecution, to a person who has committed an offence. All cautions are recorded internally and kept for a period of six years. Where a person offends again in the future then any previous cautions will influence the decision on whether to prosecute or not.
- 5.3 For less serious offences a simple caution will normally be considered where all of the following apply;
- there is sufficient evidence to justify instituting criminal proceedings;
  - the person has admitted the offence;
  - there is no significant public requirement to prosecute;
  - it was a first offence, and;
  - a financial penalty is not considered to be appropriate.

Only in very exceptional circumstances will a further caution be offered for a second or subsequent offence of the same nature.

- 5.4 Cautions will be administered by the Head of Internal Audit (or deputy), Counter Fraud Manager, or a senior fraud investigator, on behalf of the council. If a caution is offered but not accepted then the council will usually consider the case for prosecution. In such cases the court will be informed that the defendant was offered a penalty but declined to accept it.

## **Financial Penalties**

- 5.5 The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, permit a financial penalty to be offered to claimants as an alternative to prosecution. The penalty is set at 50% of the amount of the excess reduction, subject to a minimum of £100 and a maximum of £1000. Once a penalty is accepted, the claimant has 14 days to change their mind.
- 5.6 Subject to the criteria set out in the guidelines below, a financial penalty will normally be offered by the council in the following circumstances;
- the council believes that there is sufficient evidence to prosecute;
  - it was a first offence or a previous offence was dealt with by way of a caution, and;

- in the opinion of the council, the circumstances of the case mean it is not overwhelmingly suitable for prosecution, and;
- the claimant has the means to repay both the overpayment and the penalty, and;
- there is a strong likelihood that both the excess reduction and the penalty will be repaid.

5.7 It is important to note that the claimant does not need to have admitted the offence for a financial penalty to be offered. Financial penalties will be administered by the Head of Internal Audit (or deputy), Counter Fraud Manager or a senior investigation officer. If a financial penalty is not accepted or is withdrawn then the council will usually consider the case for prosecution. In such cases the court will be informed that the defendant was offered a penalty but declined to accept it.

## **6 Proceeds of Crime Act 2002 (POCA)**

6.1 In addition to the actions set out in this policy, the council reserves the right to refer all suitable cases for financial investigation with a view to applying to the courts for restraint and/or confiscation of identified assets. A restraint order will prevent a person from dealing with specific assets. A confiscation order enables the council to recover its losses from assets which are found to be the proceeds of crime.

## **7 Implementation Date**

7.1 This revised policy is effective from 25 July 2017 and covers all decisions relating to prosecutions and sanctions after this date.



# **COUNTER FRAUD & CORRUPTION STRATEGY**

**2017-19**

## **Forward by the Chief Executive**

The council is funded by public money, through council tax, business rates and other sources. Fraud against the council is essentially theft of this money and the council takes its role as a guardian of these public funds seriously.

We also provide essential services for customers. In the Council Plan 2015-2019 we set out the council's purpose which is to provide high quality, cost effective services which are valued by, and help the lives of, residents, communities, and businesses. Any fraud against the council takes money away from services and undermines our ability to meet these aims.

For these reasons, the council will not tolerate any fraud or corruption against it.

This strategy sets out the measures the council will take to develop its arrangements to tackle fraud and corruption. We will seek to identify areas where fraud may occur and limit opportunities for fraudsters to exploit the council. Where fraud is suspected we will investigate robustly, and where it is proved will utilise all measures available to us to deal with criminals and recover any losses.

Dr. Justin Ives  
Chief Executive

## Introduction

- 1 All organisations are at increasing risk of fraud and corruption. The illegal and hidden nature of fraud makes it hard to measure accurately. Some commentators suggest that annual fraud losses to local government in the UK could be £7.3 billion<sup>1</sup>. And the risks are growing as fraudsters become more aware of the possibilities for committing fraud against public sector bodies, new technology gives easy access to sophisticated fraud techniques, and council resources are stretched to maintain services with reduced levels of funding.
- 2 The council faces significant financial challenges in the next few years. It must make significant changes to the way it works to continue to provide effective services for its citizens and to achieve its overall aims. It is essential that the council minimises losses caused by fraud, to help it achieve those aims and to maximise the money it has available to provide services.
- 3 This strategy outlines how the council will assess the risks of fraud and corruption that it faces, strengthen its counter fraud arrangements, and tackle fraud where it occurs. It has been prepared to reflect the national collaborative counter fraud strategy for local government in the UK (Fighting Fraud & Corruption Locally - The local government counter fraud and corruption strategy 2016 - 2019). It also takes into account the principles set out in the Chartered Institute of Public Finance and Accountancy's (Cipfa's) Code of Practice on Managing the Risks of Fraud and Corruption (2014).
- 4 The strategy has been reviewed by the Audit, Governance and Standards Committee as part of its responsibility for considering the effectiveness of counter fraud and corruption at the council. The strategy will be reviewed annually.

## Our aim

- 5 Fighting Fraud & Corruption Locally recommends councils consider the effectiveness of their counter fraud framework by considering performance against the six key themes set out below. The council's aim is that by 2019 it will have adequate and effective arrangements in each of these areas.
  - **Culture**: – creating a culture in which beating fraud and corruption is part of daily business
  - **Capability** – ensuring that the range of counter fraud measures deployed is appropriate to the range of fraud risks
  - **Capacity** – deploying the right level of resources to deal with the level of fraud risk
  - **Competence** – having the right skills and standards

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<sup>1</sup> Annual Fraud Indicator 2016 - Experian/PKF Littlejohn/University of Portsmouth Centre for Counter Fraud Studies. The figure excludes benefit fraud.

- **Communication** – raising awareness, deterring fraudsters, sharing information, celebrating successes
- **Collaboration** – working together across internal and external boundaries: with colleagues, with other local authorities, and with other agencies; sharing resources, skills and learning, good practice and innovation, and information.

### **Current arrangements and action required**

- 6 The council already has many of the components for a strong counter fraud framework in place. For example:
- control arrangements for key financial systems are robust, being underpinned by statutory requirements, council financial regulations and scrutiny through internal and external audit
  - the policy framework incorporates many elements of counter fraud good practice (eg a counter fraud and corruption policy, codes of conduct and registers of interests) which have developed over the years in response to legislation and emerging issues
  - participation in collaborative counter fraud work with other agencies, through the National Fraud Initiative.
- 7 However, with a growing awareness of new fraud risks in recent years there is now a need to review overall arrangements, taking into account the latest guidance available to assess whether the overall counter fraud framework is robust. To support this review, the council has allocated some of the resource previously used for benefit fraud investigation<sup>2</sup>.
- 8 The themes listed in paragraph 5 are reflected by the good practice arrangements set out in Cipfa's Code of Practice on Managing the Risks of Fraud. A review of current arrangements against the code of practice has identified a number of areas for development, and these are included in the action plan at Appendix 1. The actions also address the recommendations directed at local authorities in the national Fighting Fraud Locally strategy.

### **The counter fraud policy framework**

- 9 This strategy is part of the council's overall framework for countering the risks of fraud and corruption. Further detailed information can be found in other detailed policies and procedures including:
- Counter Fraud and Corruption Policy - this sets out responsibilities for counter fraud and investigation work, the actions the council will take in response to fraud, and its policy on sanctions

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<sup>2</sup> In March 2015 the responsibility for benefit fraud investigation transferred from the council to the DWP.

- Counter Fraud Risk Assessment - a specific risk assessment undertaken to identify counter fraud risks and develop action to address those risks
- Anti Money Laundering Policy - defines council responsibilities in respect of the Proceeds of Crime Act 2002 and Money Laundering Regulations 2007
- Whistleblowing Policy - arrangements for council staff to raise concerns; confidentially if required.

10 The strategy also links to, and is supported by, wider council policy and procedures covering areas such as:

- governance
- employee disciplinary arrangements
- codes of conduct
- registers of interest
- financial regulations
- electronic communications
- information security
- cyber security

## Appendix 1: Counter Fraud and Corruption Strategy Action Plan

Ref	Action Required	Target Date	Responsibility	Notes / Further Action Required
1	Prepare a counter fraud strategy which acknowledges fraud risks facing the council and sets overall counter fraud aims. The strategy should link together existing counter fraud related policies and set out actions required for developing counter fraud arrangements.	July 2017	Chief Finance Officer / Veritau	<p>Progress against the strategy to be reviewed annually and reported to the Audit, Governance and Standards Committee</p> <p>For longer term to consider whether specific targets can be set under each of the FFL themes</p>
2	Prepare an updated counter fraud policy to take account of the latest national guidance, and reflecting changes to the councils counter fraud arrangements following the transfer of benefit fraud investigation to the DWP.	July 2017	Chief Finance Officer / Veritau	Review annually
3	<p>Review and update counter fraud risk assessment.</p> <p>(Note that separate actions are included within the risk assessment to address specific issues identified.)</p>	September 2017	Chief Finance Officer / Veritau	<p>To be reviewed at least annually.</p> <p>For the longer term:</p> <ul style="list-style-type: none"> <li>consider whether counter fraud risk assessment can be integrated into service risk management arrangements, supported by counter fraud expertise (eg through risk workshops)</li> <li>look to refine the risk assessment by developing techniques to evaluate potential fraud losses.</li> </ul>

<b>Ref</b>	<b>Action Required</b>	<b>Target Date</b>	<b>Responsibility</b>	<b>Notes / Further Action Required</b>
4	Participate in regional data matching and counter fraud exercises.	Ongoing	Veritau	Cross boundary data matching work on council tax and NNDR discounts and exemptions is in progress. Investigations are underway. Results will be reported through ongoing internal audit progress reports (see 7).
5	Regularly report to the Audit, Governance and Standards Committee on counter fraud activity.	January 2018	Veritau	To include an annual report timed to coincide with the Head of Internal Audit report (July 2018) and review of the counter fraud strategy. In year reporting to be included in internal audit progress reports.
6	Undertake specific fraud awareness training for priority service areas identified through the fraud risk assessment.	March 2018	Veritau	To be undertaken on a rolling basis.
7	Liaise with HR officers to incorporate general counter fraud awareness training into induction training for all new employees.	March 2018	Veritau / Head of HR	Veritau are developing an e-learning fraud awareness application which will be available from 2017/18.
8	Review wider governance and other policies (eg employee related policies, gifts, interests, financial regulations) to ensure they: <ul style="list-style-type: none"> <li>• cover all required areas</li> <li>• are consistent with the counter fraud strategy and policy.</li> </ul>	March 2018	Chief Finance Officer / Veritau	The review will identify timescales for updates to individual policies.