

Fraud Response Plan

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Related Legislation/Applicable Section of Legislation	Public Interest Disclosure Order (Northern Ireland) Order 1998 Criminal Law Act (Northern Ireland) 1967 Fraud Act 2006 Data Protection Act 1998 Human Rights Act 1998 Police and Criminal Evidence (Northern Ireland) Order 1998 Regulation and Investigatory Powers Act 2000
Related Policies, Procedures, Guidelines, Standards, Frameworks	Fraud & Bribery Policy Raising Concerns Policy Code of Conduct for Employees
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Sponsor Directorate	Corporate Services
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1. Introduction

- 1.1 Mid and East Antrim Borough Council (hereafter referred to as 'The Council') has a zero tolerance approach to fraud, and is committed to developing and maintaining a culture where its staff have, and are seen to have, the highest standards of honesty, propriety and integrity in the exercise of their duties. Within the context of the Council's Fraud & Bribery Policy, in which fraud is defined, it is necessary to set out in greater detail the procedures to be followed in the event of suspicion of fraud. The Council has prepared this Fraud Response Plan as a procedural guide, which must be followed, whenever a suspected or attempted fraud arises. The plan sets out how Council staff and others are required to report suspicions of fraud and how the Council will respond and handle them.
- 1.2 Adherence to this plan will help ensure that timely and effective action is taken to prevent further losses, maximise recovery, reduce the risk of the fraud happening again, identify those responsible and maximise the probability of success if any disciplinary/legal action is taken.
- 1.3 Staff have a duty to come forward and give information where they honestly believe someone may have committed or be about to commit an act of fraud. This should be done without delay. The Public Interest Disclosure (NI) Order 1998 protects the rights of staff who report wrongdoing. Section 5 of the Criminal Law Act (NI) 1967 (Withholding Information) also places an onus on individuals to report / pass evidence to the police. A formal internal Raising Concerns Policy has been established to provide a framework for reporting concerns and to protect staff who supply information, provided it is shared in good faith and without malicious intent.
- 1.4 For a disclosure to be protected under the Public Interest Disclosure Act, staff must follow the procedures outlined in the legislation, make the disclosure in good faith and report the concern to the appropriate authority. For example, disclosures can be made to the contacts that are defined within Council's Fraud and Bribery Policy, Internal Audit, or External Audit, etc. Disclosures made to the media are unlikely to fall under the protection of the Public Interest Disclosure Act.
- 1.5 This document should be read in conjunction with the following Council documents:
 - Mid and East Antrim Borough Council Fraud and Bribery Policy;
 - Mid and East Antrim Borough Council Raising Concerns Policy; and
 - LGSC Code of Conduct for Local Government Employees.

2. What is required to be reported?

2.1 This Plan is intended to be implemented where attempted, suspected, or proven fraud has been identified. Concerns that are required to be reported include, but are not limited to, staff committing or attempting to commit:

- any dishonest or fraudulent act;
- forgery or alteration of document, information or accounts;
- manipulation or falsification of information or records (e.g. financial statements, planning applications etc);
- misappropriation of funds, supplies or other assets;
- false claims for salaries, wages or expenses;
- abuse of remote working arrangements or falsification of timekeeping;
- impropriety in the handling or reporting of money, financial transactions or assets;
- profiting from an official position or duties, including accepting or seeking value from third parties;
- disclosure of official activities or information for personal or third-party advantage;
- bribery or corruption including the giving or receiving bribes or kickbacks;
- undeclared or improperly managed conflicts of interest;
- manipulating data systems, unauthorised access to systems or phishing; and
- theft or misuse of property, facilities, or services.

2.2 External organisations' actions that are required to be reported include:

- being offered a bribe or inducement by a supplier or contractor;
- receiving fraudulent (rather than erroneous) invoices or documentation from a supplier;
- undisclosed conflicts of interest involving third parties and internal officers;
- use of forged or misleading credentials, references, or company information; and
- reported allegations of corruption, collusion or deception by a supplier or partner organisation.

2.3 This list is not exhaustive. If you are in any doubt about the seriousness of your concern, advice and guidance can be obtained from the *Director of Corporate Support Services*.

3. Safeguards

3.1 **Harassment or Victimisation.** - The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take appropriate action, where possible, to protect those who raise a concern

in good faith.

3.2 Confidentiality - The Council will do its utmost to protect an individual's identity when he/she raises a concern and does not want their name to be disclosed. It must be appreciated that the investigation process or a Court process may lead to disclosure of the individual's identity.

3.3 Anonymous allegations - This Plan encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issue raised;
- the credibility of the concern; and
- the likelihood of confirming the allegations from attributable sources.

3.4 Untrue allegations - if an allegation is made in good faith, but is not confirmed by the investigation, no disciplinary action will be taken against the individual who raised the allegation. However, if it is proven that individuals have made malicious or false allegations to cause trouble or harm, disciplinary action will be considered against the individual making the allegation.

4. What is an employee is required to do if he/she suspects fraud or corruption?

4.1 Line managers and staff should be aware that unusual events or transactions could be signs of fraud or attempted fraud and that fraud may involve collusion between staff and third parties. Fraud may also be detected through regular management checks or be brought to management's attention by a third party.

4.2 There will be consistent handling of all attempted, suspected, or proven fraud regardless of the position held or length of service of the individual(s) involved.

4.3 Staff who have concerns are required to report them as soon as possible to their immediate line manager.

4.4 If the member of staff feels unable to raise a particular concern with their line manager, for whatever reason, they are required to raise the concern with their director.

4.5 If these channels have been followed and the member of staff still has concerns, or the member of staff feels that the concern is so serious that they cannot discuss it with any of the above, they are required to discuss their concern directly with the Director of Corporate Support Services.

- 4.6 If staff feel that they cannot discuss their concerns with any officer in the Council they are required to refer the matter to the Chair of the Council's Audit Committee, whose details can be found on the Council's website. Alternatively, they can contact the Local Government Auditor within the Northern Ireland Audit Office or contact Council's Internal Auditors, Deloitte, at their Belfast Office.
- 4.7 An individual raising a concern must not discuss it with colleagues or friends or undertake investigative work themselves.
- 4.8 Failure of an employee to comply with the reporting requirements as outlined within the Fraud Response Plan may be considered a disciplinary matter and may be dealt with under Council's Disciplinary Procedure.

5. What Should a Member of the Public Do if They Suspect Fraud or Corruption?

- 5.1 A member of the public who suspects fraud involving Mid and East Antrim Borough Council, its staff or contractors is strongly encouraged to report their concerns by contacting the Chief Executive on 0300 1245000, or by writing to the Designated Lead Officer at:

Mid and East Antrim Borough Council
The Braid
1-29 Bridge Street
Ballymena
BT43 5EJ
Raising.Concerns@midandeastantrim.gov.uk

6. Action to be taken

- 6.1 On discovery of an attempted, suspected, or proven fraud or any kind of financial impropriety, the person who has received the report are required to immediately contact the Director of Corporate Support Services.
- 6.2 The Director of Corporate Support Services will immediately notify Internal Audit of the matter.
- 6.3 The Chief Executive will appoint a Fraud Investigation Officer to conduct an initial but urgent fact-finding exercise. This discreet preliminary enquiry will commence immediately and should be completed as soon as possible. The Fraud Investigation Officer will be trained in fraud investigation.
- 6.4 The Fraud Investigation Officer will conduct an initial discreet enquiry, without alerting the suspect, to ascertain the facts surrounding the suspicion or discovery of fraud. The main purpose of this enquiry is to confirm or disprove, as far as possible, the suspicions which have arisen and determine whether a detailed investigation is required. The preliminary enquiry should cover:

- The type of irregularity suspected and the circumstances that led to it e.g. failure to follow established working procedures, officers completing work that they are not authorised to do, etc;
- How the fraud was discovered;
- The period over which the fraud may have occurred, if known;
- The value and type of resource lost (actual or estimated);
- The date the fraud was discovered;
- The names of staff potentially involved with the fraud;
- Whether collusion with others is suspected e.g. other employees, persons contracted by the Council, persons who do not have any legitimate business interest with the Council;
- The potential impact on the Council e.g. operations, reputation, finances;
- Preventative measures that could have been taken to avoid the fraud;
- The names of all officers who have been involved in the investigation so far;
- Actions taken by individual managers and the individual who reported the suspicion e.g. discussions, explanations sought; and
- Any other information or observations that might be useful to the investigation.

6.5 The preliminary enquiry will be completed as soon as possible, with the outcome communicated in writing to the Chief Executive and Director of Corporate Support Services. All documentation relating to the enquiry will be securely held in a safe place. If as a result of the preliminary enquiry, it is clear that fraud has not taken place the case will be closed, recording the reasons for closure in writing.

6.6 If the preliminary enquiry confirms that a fraud has been attempted or perpetrated, the Fraud Investigation Officer will decide on the action to be taken, including the full formal investigation arrangements and the appointment of internal audit, if necessary.

6.7 Depending on the circumstances of the suspected fraud the Fraud Investigation Officer will take **immediate** steps to prevent any further frauds or losses occurring by changing / strengthening procedures or even suspending any payment processes, pending full investigation. Internal audit will be consulted for advice and assistance on matters relating to internal controls, where necessary.

7. Liaison with the Police Service of Northern Ireland

7.1 If it appears that a criminal offence may have been committed the matter will be reported to the Police Service of Northern Ireland (the Police) at once before any overt action is taken, otherwise suspects may be alerted and evidence removed or destroyed. Any decision about involving the Police will be made by the Chief Executive, on advice of the Fraud Investigation Officer. The Chief Executive may also seek advice from legal advisors.

- 7.2 If the case is not immediately accepted, or only partly accepted by the Police, the Chief Executive shall set up a team to conduct a full investigation in order to establish all of the facts. This team will be led by the Fraud Investigation Officer, who was appointed for the preliminary enquiry. Taking into account the nature and scale of the suspected fraud, additional technical expertise from internal audit may be acquired. The Fraud and Bribery policy provides further detail on case reporting.

8. Allegations reported directly to the Chair of the Audit & Scrutiny Committee

- 8.1 In the case of an allegation that has been reported directly by a Council employee or external source to the Chair of the Audit & Scrutiny Committee, where possible the Chair of the Audit & Scrutiny Committee shall arrange to meet with the person disclosing to discuss the concern. **The circumstances of the allegations will determine what action is to be taken.**
- 8.2 After initial consideration of the allegations and following any discussion with the person disclosing, the Chair of the Audit & Scrutiny Committee will, if appropriate, follow normal procedure and report the matter immediately to the Chief Executive, or in his/her absence to the Director of Corporate Support Services.
- 8.3 In circumstances where the allegation is serious and he/she considers it inappropriate to report the matter to anyone within the Council, the Chair of the Audit & Scrutiny Committee will seek advice from the Staff Commission for Northern Ireland and any other relevant persons with the necessary expertise and experience and report the matter to the Council's Internal Auditors and/or the Northern Ireland Audit Office.

9. The Investigation

- 9.1 A fraud investigation must be properly conducted, thorough and wide-ranging. The Fraud Investigation Officer will maintain a detailed record of the allegation including the investigation process and the conclusions, in a secure fraud folder.
- 9.2 The Fraud Investigation Officer will produce the Terms of Reference for the investigation and have unrestricted access to staff and records, manual or electronic.
- 9.3 The Fraud Investigation Officer will draw up an investigation action plan, setting out the objectives of the investigation, the resources and expertise required, the scope of the investigation and the timescale.
- 9.4 Members of the investigation team **will be independent** of the area under investigation and will have a clear understanding of reporting procedures and evidence handling and recording procedures.

- 9.5 For internal fraud, the plan will include investigation of the extent to which there has been supervisory negligence on the part of supervisors and managers. Human Resources will be consulted at an early stage to identify any personnel issues that need to be considered.
- 9.4 The action plan will delegate roles and responsibilities in accordance with the skills and experience of the experts involved. Access to information about the investigation will be restricted to those with a legitimate need to know. In conducting investigations, the Council will be mindful of relevant legislation, including but not limited to): the Data Protection Act 1998; the Fraud Act 2006; the Human Rights Act 1998; The Police and Criminal Evidence (NI) Order 1998 (PACE); the Public Interest Disclosure (Northern Ireland) Order 1998; the Regulation of Investigatory Powers Act 2000; and the Proceeds of Crime Act 2002 and money laundering regulations.

10. Preservation of evidence

- 10.1 A key consideration in any investigation must always be how to secure or preserve sufficient evidence to prove fraud.
- 10.2 For the purposes of criminal proceedings, the admissibility of evidence is governed by PACE. Although PACE does not apply in civil or disciplinary proceedings it should nevertheless be regarded as ‘best practice.’ If an individual does end up being charged with a criminal offence (and this may not have been planned at the outset of the investigation), all investigations and relevant evidence will be open to discovery by that individual’s defence. **It is therefore vital that detailed and accurate records are kept from the outset, including accurate notes of when, where and from whom the evidence was obtained and by whom.**

11. Physical evidence

- 11.1 It is vitally important to have arrangements in place for the safe and secure storage of evidence and other investigative material, which may provide essential support for subsequent disciplinary action or prosecution. Control should be taken of any physical evidence before the opportunity arises for it to be removed or destroyed by the suspect(s). Physical evidence may therefore have to be seized at an early stage of the investigation before any witness statements are collected or interviews conducted. Similarly, electronic evidence must be secured before it can be tampered with.
- 11.2 If an investigation of an internal fraud is being conducted the Council has a right to access its own records and may bring disciplinary action against any member of staff who tries to prevent this.
- 11.3 When taking control of physical evidence, original material is essential, photocopies are not acceptable. Records should be kept of the time that it was taken and the place that it was taken from. If evidence

consists of several items, for example many documents, each one should be tagged with a reference number, which corresponds with the written record. Taking photographs and/or video recordings of the scene may also prove helpful.

- 11.4 When conducting investigations, it is essential to be mindful of the provisions of the Human Rights Act, in particular the right to privacy and to a fair trial or hearing.

12. Interviews

- 12.1 Any decisions about interviewing suspects, including police involvement will be taken by the Fraud Investigation Officer.
- 12.2 All interviews will be properly conducted in controlled conditions and by trained personnel from the investigating team or the police.
- 12.3 Detailed notes should be kept of questions and answers, and interviews should be taped if possible.

13. Dealing with employees under suspicion

- 13.1 If a member of staff is suspected of involvement, the Chief Executive, in consultation with Fraud Investigation Officer, will consider the appropriate course of action. This may range from close monitoring/supervision to precautionary suspension; however, it should be noted that suspension does not in any way imply guilt.
- 13.2 If a decision to suspend is taken, the individual(s) will be escorted from the premises and will not be allowed access to office assets or records - manual or electronic.
- 13.3 Employees who are allowed to remain at work will be kept under constant surveillance. If necessary, an immediate search of the suspects work area and storage cabinets will be carried out.

14. Communication

- 14.1 The Fraud Investigation Officer will provide the Chief Executive with regular written briefings on the progress of the investigation and keep the Chief Executive informed of all key decisions / actions taken.
- 14.2 The Chief Executive or Director of Corporate Support Services will report the suspected, attempted, or actual fraud to the Local Government Auditor.
- 14.3 In the case of a suspected fraud which involves:
- Loss of significant money or assets; and/or
 - Potential reputational risk to the Council:

The Director of Corporate Support Services shall, unless they receive clear direction from the police that disclosure may compromise their investigations, inform the Chair of the Audit & Scrutiny Committee of the high-level details of the case.

- 14.4 On conclusion of the investigation, if fraud is proven, the Audit & Scrutiny Committee will be advised of the findings of the report and any subsequent changes to internal controls.

15. Action on conclusion of an investigation

- 15.1 On conclusion of any investigation, the Fraud Investigation Officer will prepare a written report for the Chief Executive's attention detailing the findings, conclusions, and the lessons to be drawn from the fraud.
- 15.2 The Chief Executive will determine whether any members of staff should be subject to disciplinary action as a result of the findings of the investigation and will initiate any such action as per the Council's disciplinary procedures.
- 15.3 Consideration will also be given to circulating the outcomes and lessons learned to all staff within the Council and to other public sector organisations.
- 15.4 The Council Fraud Response Plan will be reviewed to determine whether it needs to be updated in light of the findings from the investigation.
- 15.5 The Council will seek to recover funds and assets lost through fraud. In all fraud investigations the amount of any loss will be calculated. Where the loss is substantial, the Council will obtain legal advice. The Council would normally expect to recover costs in addition to losses.

16. Review

- 16.1 This plan will be reviewed annually by the Council or following an incident of fraud to ensure that it reflects changes which may be necessary to strengthen future responses to fraud. Any need for change will be reported to the Audit Committee and will be approved by Corporate Resources, Policy, and Governance Committee.
- 16.2 Staff wishing to receive clarification on this plan and/or suggest improvements should contact the Director of Corporate Support Services.