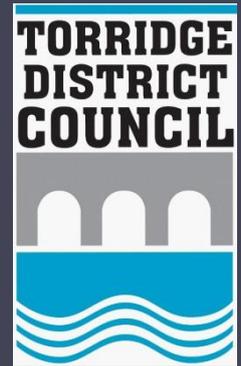


# Anti Fraud, Corruption and Bribery Policy and Strategy



Issue Number	7	Date	14 February 2017
Approved	Audit & Governance Committee	Next Review Date	February 2019 or as required

## 1.0 INTRODUCTION

- 1.1 This document sets out the zero tolerance position held by Torridge District Council on fraud, corruption and bribery.
- 1.2 The objectives of an Anti Fraud, Corruption and Bribery Policy and Strategy are to:
- ◆ Provide a clear statement of the Council's position on fraud, corruption and bribery;
  - ◆ Minimise the risk to the Council's good name and loss of its assets;
  - ◆ Promote a culture of integrity and accountability, two of the fundamental principles of good governance, in members, staff and all those the Council does business with;
  - ◆ Enhance existing procedures aimed at preventing, discouraging and detecting fraud, corruption and bribery; and
  - ◆ Raise awareness of the risk of fraud, corruption and bribery being perpetrated against the Council.
- 1.3 In managing its responsibilities the Council is determined to protect itself against fraud and corruption both from within the authority and from outside. The Council is committed to an effective Policy and Strategy which is designed to:
- ◆ Encourage prevention;
  - ◆ Promote detection; and
  - ◆ Identify a clear pathway for investigation.
- 1.4 To combat fraud, corruption and bribery the Council's Policy and Strategy is based on a series of comprehensive procedures. These cover:
- ◆ Risk Management (paragraph 3);
  - ◆ Policy Statements (paragraph 5);
  - ◆ Deterrence and Prevention (paragraph 6);
  - ◆ Detection, Investigation, Sanctions and Redress (paragraph 7); and
  - ◆ Publicity and Training (paragraph 8)
- 1.5 There is an inter-relationship between the Strategy and other existing Council policy documents. These include the Financial and Contract Procedure Rules, dealing with action to be taken when irregularities or suspected irregularities arise, the Whistle Blowing Policy, Gift and Hospitality Registers for Members and Officers, Codes of Conduct for Members and Staff and the Disciplinary Procedures.
- 1.6 All references to 'Members' within this document refer to both elected members and co-opted members who sit on various committees. Likewise references to 'staff' should be taken to include full and part-time staff and permanent, temporary and agency staff.

## Benefits Fraud

- 1.7 Housing Benefits investigation is via the Single Fraud Investigation Service (SFIS), operated by the Dept. of Work and Pensions (DWP) The SFIS will receive referrals from staff and the public and a whistleblowing telephone line and investigate these referrals.

## 2.0 DEFINITION OF FRAUD, CORRUPTION AND BRIBERY

### Fraud

- 2.1 Fraud has been defined as: *the intentional and dishonest distortion of financial statements and other records by persons internal or external to the Council which is carried out to conceal the misappropriation of assets or otherwise for gain.* (Source: CIPFA)

- 2.2 The Fraud Act 2006 came into effect on 15 January 2007. The Act created a new general offence of fraud with three ways of committing it:

- ◆ Fraud by false representation (dishonest representation) to gain or cause loss or risk of loss;
- ◆ Fraud by failing to disclose information (where there is a legal duty, e.g. under written or oral contracts);
- ◆ Fraud by abuse of position.

It also created new offences:

- ◆ Obtaining services dishonestly
- ◆ Possessing, making and supplying articles for use in frauds
- ◆ Fraudulent trading applicable to non-corporate traders. (extends Companies Acts to sole traders etc)

### Corruption

- 2.3 Corruption has been defined as: *the offering, giving, soliciting or acceptance of an inducement or reward, which may influence a person to act against the interests of the organisation.* (Source: Audit Commission)

### Bribery

- 2.4 Bribery is defined as: *The offering, giving or soliciting of an inducement or reward which may influence a person to perform a function or activity improperly.*
- 2.5 The 2012 Bribery Act says that a person is guilty of an offence if either of the following cases applies:

Person A **offers, promises or gives** a financial or other advantage to another person, and

- ♦ Intends the advantage to induce Person B to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity, or knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity

Person B is guilty of an offence if any of the following cases applies.

- ♦ Where Person B **requests, agrees to receive or accepts** a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by Person B or another person); or where the request, agreement or acceptance itself constitutes the improper performance by Person B of a relevant function or activity under the Bribery Act and organisation can be prosecuted if it has failed to prevent bribery.

2.6 Public sector organisations are explicitly covered by the offences in sections 1, 2 and 7 of the Act.

2.7 Members and staff must note that this Policy and Strategy reflects the Council's zero tolerance of both the offering and receipt of bribes.

### **3.0 RISK MANAGEMENT**

3.1 Areas most commonly at risk from fraud are both internal and external and include those involving the handling of any asset of an attractive and portable nature. Among typical high risk areas are cash, cheques, credit cards, contracts, income, payments, expense claims, housing benefits, loans, investments, payroll, grants and stores etc.

3.2 Areas where corrupt practices or bribery may be found may include, but are not limited to the award of permissions, planning consents and licences, canvassing for appointments, hospitality, interests of members and officers, secondary employment of staff which may influence their work for an authority, pressure selling, tendering and award of contracts, settlement of contractors' final accounts and claims and the disposal of assets.

3.3 The risk of fraud, corruption and bribery is reflected in the Council's Risk Register arrangements. The risk registers link to the Council's objectives and priorities, and the systems of internal control.

3.4 There is a specific risk register dealing with the risks and controls established for the prevention and detection of fraud, corruption and bribery. The risk management processes provide for ongoing monitoring that the controls are in place and effective as well as providing a further source of assurance for the annual audit opinion. The risk register gives consideration to 3.1 and 3.2 above.

### **4.0 EXTERNAL SCRUTINY**

4.1 The Council is aware of the high level of external scrutiny of its affairs by a variety of bodies and individuals including:

- Local tax payers and community groups
- Pressure groups
- Service users
- Local press
- The Council's external auditors
- Government Departments and Agencies
- HM Revenue and Customs

4.2 The adoption of a formal anti fraud, corruption and bribery strategy will provide a degree of assurance to those external bodies and individuals interested in the Council's activities.

## **5.0 POLICY STATEMENTS**

### **Culture**

- 5.1 The Council is determined that the culture and tone of the organisation will be, and is seen to be, one of openness, honesty and opposition to fraud, corruption or bribery.
- 5.2 The Council has a zero tolerance approach to fraud, corruption and bribery, and is committed to discouraging, preventing and detecting fraud, corruption and bribery where attempted on, or from within, the Council's organisation.
- 5.3 The Council expects members and staff at all levels to be aware of the standards of conduct expected of them and the procedures designed to reduce the risk of fraud, corruption and bribery occurring.
- 5.4 Members and staff are responsible for their own conduct and compliance with this strategy and are required to comply with their respective codes of conduct.
- 5.5 There is an expectation and requirement that individuals, suppliers and organisations associated in whatever way with the Council will act with integrity, and that members and Council staff will lead by example in these matters.

### **Members and Staff**

- 5.6 Members and staff are positively encouraged to raise any concerns on fraud, corruption and bribery matters normally, but not exclusively, through a Senior Manager or other line manager. This they can do in the knowledge that such concerns will be treated in confidence and properly investigated. If necessary a route other than through a line manager may be used to raise such concerns, e.g. Internal Audit, HR, Statutory Finance Officer, Monitoring Officer, Union Representative, an Elected Member, or the Council's External Auditor.
- 5.7 The Council has drawn up a separate policy and procedure to deal with any area of concern that an employee may wish to bring to the attention of the management; the 'Whistle Blowing Policy'.

- 5.8 The Council's Monitoring Officer needs to be informed of any actual or suspected breaches of the law or codes of practice. The Governance Manager needs to be informed of any financial or procedural irregularities. The Statutory Finance Officer, Monitoring Officer and Governance Team discuss issues when suspected breaches of the law or codes of practice are identified. (See section 7 of this document relating to investigation).
- 5.9 Any major instances of fraud will be reported to the next Audit and Governance Committee. If no meeting is scheduled then officers will involve the Chair in detailed discussions of the fraud and its implications for the Council and a special Audit and Governance Committee will be convened if considered necessary by the Chair.
- 5.10 The primary responsibility for maintaining sound arrangements to prevent and detect fraud, corruption and bribery rests with management. Any manager made aware of suspected fraud, corruption and bribery will adopt defined procedures by:
- ◆ Dealing promptly with the matter;
  - ◆ Recording all evidence received;
  - ◆ Ensuring that evidence is sound and adequately supported;
  - ◆ Ensuring security of evidence collected;
  - ◆ Notifying the Statutory Finance Officer, Governance Manager and the Council's Monitoring Officer; &
  - ◆ Implementing Council disciplinary procedures where appropriate.
- 5.11 Any abuse of this process by knowingly raising unfounded and/or malicious allegations may be dealt with as a disciplinary matter.
- 5.12 The Council can be expected to deal swiftly and thoroughly with any member or member of staff who defrauds or attempts to defraud the Council or who is corrupt. The Council will be robust in dealing with financial malpractice.

### **Partner Organisations and Members of the Public**

- 5.13 In addition, partner organisations or members of the public are also encouraged to report concerns through any of the above avenues. The principles and processes described in this Strategy and its Appendices, and the Council's Whistle Blowing Policy, will be applied to any concerns formally reported by partner organisations or members of the public.

### **Monitoring**

- 5.14 The Statutory Finance Officer will monitor the effectiveness of all aspects of the arrangements for the anti fraud, corruption and bribery culture including the approach to investigations, success of sanctions and processes for recovering loss. On a risk basis, the Statutory Finance Officer will make informed judgements about the levels of budgetary investment in work to counter fraud, corruption and bribery.
- 5.15 The Audit & Governance Committee's terms of reference require them to monitor Council policies on whistleblowing and anti fraud, anti corruption and anti bribery.

- 5.16 Lessons learnt from actions from suspected or proven fraud, corruption or bribery identified will be reported to the Audit and Governance Committee, and the system changes required to ensure that the circumstances are not repeated. For major fraud cases a detailed report will be presented to the Audit and Governance Committee explaining the circumstances which led to the fraud occurring, how it was uncovered, what actions had been taken, and assurances that the necessary controls were now in place to prevent the same or similar from happening again.

## **6.0 DETERRENCE AND PREVENTION**

- 6.1 The effectiveness of the Council's financial arrangements will have a major bearing on its ability to minimise fraud, corruption and bribery. To actively prevent fraud the Council must identify and remove the opportunity to commit crime from new policies and systems and to revise existing ones to remove apparent weaknesses.
- 6.2 The Council will endeavour to act robustly and decisively when fraud, bribery or corruption is suspected and proven. This will be demonstrated through disciplinary action or prosecution. The Council will take action to help ensure the maximum recoveries for the Council.

### **Prevention – Internal Controls**

- 6.3 As the appointed officer under 'Section 151' of the Local Government Act, 1972 and also in accordance with the Accounts and Audit Regulations 2015, the Strategic Manager (Resources) has responsibility for making arrangements for the proper administration of the Council's financial affairs, and is required to:
- ◆ Maintain an effective accounting system;
  - ◆ Comply with statutory financial reporting deadlines; and
  - ◆ Maintain an adequate and effective internal audit.

The Regulations require that a Deputy Statutory Finance Officer be formally nominated.

The Accounts and Audit Regulations 2015 require the Council to ensure that it has adequate and effective financial management and a sound system of internal control. It must review the system annually and publish a statement with the accounts (the Annual Governance Statement).

- 6.4 The Council's Financial Procedure Rules (part of the Constitution) also set out the requirement to maintain a system of internal control, and the role of Internal Audit in reviewing the systems and to assist in the protection of the Council's assets and the detection and prevention of fraud and error. In consultation with internal and external auditors, special attention within audit plans is paid to those activities particularly exposed to the risk of fraud, corruption and bribery (paragraph 3.0).
- 6.5 The adequacy and appropriateness of the Council's financial systems is independently reviewed by both internal and external audit. Senior management are required to be responsive to audit recommendations, and any issues raised.

- 6.6 The Council's arrangements for preventing fraud will be considered by the Audit & Governance Committee on a periodic basis. The arrangements may include Internal Audit carrying out pro-active and reactive work.
- 6.7 The Governance Team will take the appropriate steps to communicate to the appropriate managers, on a timely basis, the details of any fraud bulletins (warnings) received from the external auditor and any other source to ensure safeguards are in place.
- 6.8 The Council will liaise and co-operate with other interested agencies and authorities, including the National Fraud Authority, Department for Work and Pensions, Single Fraud Investigation Service (SFIS), the Police, professional bodies, and other local authority networks, by, for example, exchanging information on current trends and remedies and membership of the National Anti Fraud Network (NAFN) and CIPFA's TISonline forum.

### **Prevention – Staff**

- 6.9 The Council recognises that a key preventative measure in the fight against fraud, corruption and bribery is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff in terms of their propriety and integrity. Staff recruitment is therefore required to be in accordance with the Authority's Recruitment policy, and, to obtain a written reference regarding known honesty and integrity of potential staff before employment offers are made.
- 6.10 In the case of agency staff, references will have been taken by the agency to establish the honesty and integrity of the employee.
- 6.11 Council staff are expected to follow any Code of Conduct related to their employment or to their professional bodies or qualifications. This will be emphasised in staff induction procedures.
- 6.12 Employees who hold professional, trade or other appropriate qualifications are expected to comply with codes of conduct issued by the organisations of which they are members.
- 6.13 Council staff are required to record offers of gifts or hospitality in any way related to their employment on the corporate register.
- 6.14 Any relevant personal interests required to be declared in accordance with the employee Code of Conduct shall be notified to, and recorded by, the Monitoring Officer.

### **Prevention – Members**

- 6.15 The Council's Constitution contains a statement of the roles, functions, rights and duties of Members of the Council. All members are required to comply with the Constitution which includes a Code of Conduct.

6.16 All members of the Council are required under the Council's Code of Conduct to notify the Council's Monitoring Officer of:

- ◆ Any disclosable pecuniary interests
- ◆ Any registerable interests or
- ◆ Any prejudicial interests

although the Code does also allow Members to seek dispensation from complying with any of these.

In addition the Code requires Members to declare:

- ◆ Any offers of gifts or hospitality to a value exceeding £25, which are in any way related to the performance of their duties to the Council.

6.17 The Authority has in place a Standards Committee that promotes and maintains high standards of member conduct and assists members to observe the code of conduct.

## **7.0 DETECTION, INVESTIGATION, SANCTIONS AND REDRESS**

7.1 Prevention systems, particularly internal control systems, within the Council have been designed to provide indicators of any fraudulent activity.

7.2 It is often the alertness of staff and the public to such indicators that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may be in progress.

7.3 Despite the best efforts of financial managers and auditors, many frauds are discovered by chance or 'tip off', and the Council has in place arrangements to enable such information to be properly dealt with – the Whistleblowing Policy and the Anti Fraud, Corruption and Bribery Strategy are available on the Council's Intranet and website.

7.4 Other methods of detection will be employed, on a risk basis, by those officers of the Council charged to do so e.g. Internal Audit.

7.5 These will include analytical intelligence techniques and the sharing of information, within the data protection rules\*, with other agencies both locally and nationally. Examples of bodies involved in sharing such intelligence and data are the National Fraud Initiative (NFI), and the Benefit Agency (HBMS).

\* When an individual reports suspected instances of bribery, the organisation will process any personal data collected in accordance with its data protection policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the report of bribery.

## Investigation

- 7.6 An independent Investigating Officer will be appointed by the Head of Paid Service and/or Statutory Finance Officer, following liaison with the Monitoring Officer and Human Resources Manager, for fraud, corruption or bribery investigations.
- 7.7 Depending on the nature and anticipated extent of the allegations, the investigating officer will normally work closely with management and other agencies such as the Police to ensure that all allegations and evidence are properly investigated and reported upon.
- 7.8 Any control weaknesses identified by an investigation must be reported to the relevant manager to allow improvements to be made that will ensure that there is no opportunity for further fraud or corruption.

## Sanctions and Redress

- 7.9 The Council's Disciplinary Procedures will be used where the outcome of the Investigation indicates improper behaviour of staff.
- 7.10 The Standards Committee would consider breaches of the Members Code of Conduct.
- 7.11 For both staff and Members in cases where financial impropriety is discovered, the Council will normally wish the Police and Crown Prosecution Service to assess evidence and make the decision to prosecute or not.
- 7.12 The Council will always seek to recover any losses incurred as a result of fraud, corruption or bribery, wherever this is practical, including the use of the civil law if appropriate. Losses will be calculated using a professional statistical methodology for making accurate estimates, building in a proper level of independent valuation as required.

## Investigations Not Involving Fraud or Corruption

- 7.13 The investigation process related to the Council's Disciplinary Procedures will only be used for those enquiries where no fraud, corruption or bribery is suspected.
- 7.14 Should a disciplinary investigation subsequently be found to involve fraud, corruption or bribery the Human Resources Manager will suspend that investigation and ensure this Policy is followed.

## **8.0 TRAINING AND PUBLICITY**

- 8.1 The Council recognises that the continuing success of its Anti Fraud, Corruption and Bribery Policy and Strategy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of staff throughout the organisation through publication.

## Training

- 8.2 It is, therefore, apparent that all staff involved in fraud work should be properly and regularly trained in all aspects of it. The training plans of all relevant staff, produced annually as part of the Council's appraisal system, will reflect this requirement and include both internal and external training provision. Such training will be tailored to the needs of the individual staff member concerned, and is therefore dependent upon knowledge and experience.
- 8.3 The Council provides induction training for new employees which includes awareness of this and associated policies and the Council's zero tolerance approach. Staff involved in internal control systems will receive training to ensure that their responsibilities and duties are regularly highlighted and reinforced. This can be linked with training and awareness of other key documents such as the Whistle Blowing Policy and Anti-Money Laundering procedures.
- 8.4 The possibility of disciplinary action against staff that ignore such training and guidance is clear.

## Publicity

- 8.5 Methods of publication of this policy will be sought, with the clear goal of ensuring that all staff are aware of the zero tolerance culture and targeting those officers in areas of high risk of fraud loss.
- ◆ The Council's Website;
  - ◆ Externally through the Council's community publications;
  - ◆ The Council's Intranet;
  - ◆ Staff Newsletters;
  - ◆ Member's Bulletin or equivalent;
  - ◆ Promotional sessions at team meetings;
  - ◆ Flyer on Notice Boards or accompanying payslips; and
  - ◆ Occasional reminder e-mails to all staff and members.

## **9.0 POLICY REVIEW**

- 9.1 The Council has in place a clear network of systems and procedures to assist in the fight against fraud, corruption and bribery. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation.
- 9.2 To this end, the Council maintains a continuous overview of such arrangements through, in particular, its Statutory Finance Officer and its Internal and External Auditors.
- 9.3 This policy may be reviewed by the Statutory Finance Officer periodically or at the specific request of the Council's Monitoring Officer, and formally updated at least every 3 years.