

Counter-fraud, bribery and corruption policy



Version control sheet

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1. Introduction

- 1.1 As a local authority Castle Point Council is responsible for delivering key frontline services such as maintaining our parks and open spaces, keeping our borough clean and green, collecting our refuse as providing social housing to those in need.
- 1.2 We deliver these services every year with the £50m of public money we have in our budget. Criminals do and will continue to seek to take that money from the council. Criminals come in all forms from services users, to suppliers and in rare cases colleagues sitting next to us.
- 1.3 The way to beat those who seek to take the public's money is to make sure our systems and controls in place are strong and we follow them. This means all of the procedures we have as a team are robust and auditable so we can prevent fraud and identify possible concerns.
- 1.4 This policy sets out what fraud, bribery and corruption is, how to spot it and what to do if you do suspect it.
- 1.5 Every council worker is responsible for following this policy and reporting their suspicions to our Counter Fraud and Investigation team.

2. What is fraud?

- 2.1 In this policy 'fraud' is used as shorthand to any criminal offence where money or other assets belonging to the council can be lost. It includes Theft, Fraud, Burglary and other deception offences such as corrupt practices by workers or suppliers.
- 2.2 Fraud is where a person is dishonest in their actions in order to cause a loss to the council or expose the council to a potential loss. It also includes where a person causes a chain of events by doing **OR** not doing something that causes **or** exposes the council to a loss.
- 2.3 Any of the actions described above are criminal offences and can result in imprisonment.

3. How is fraud committed against the council?

Applying for services / making a declaration

- 3.1 The council provides hundreds of different services to the public we serve. Unfortunately there is a small minority of those who seek to take advantage of those services. This could be by someone embellishing their circumstances, making something up completely or purposefully not declaring something.
- 3.2 In the council's welfare support services such as Housing and Housing Benefit this could be a person not being honest about their needs, what their financial status is or what they will be using the council services for. It may be a person acting on the service user's behalf that is being dishonest in order to benefit them.

- 3.3 In each of these examples the frauds are denying the legitimate use of council funds by those who are in need.

Suppliers / providers

- 3.4 The highest risk of fraud to the public sector is from its supply chain. A council is a business making regular and sometimes large financial transactions with our suppliers and providers in order to deliver our services.

Did you know?

Supplier fraud costs local government £4.4bn every year in the UK.

- 3.5 Some unscrupulous suppliers, or staff working in supplier companies, may seek to take advantage of our payment systems and processes.
- 3.6 Fraud in this area can be committed where suppliers submit false or 'erroneous' invoices or other requests for payment. Suppliers may also be dishonest in how they are delivering the services or goods we have asked them for. They may be poor quality or not supplied at all.
- 3.7 Staff that deal with our suppliers and providers must ensure that the council is getting what it has paid for. The council's Procurement Team and Internal Audit Service are experienced in contract management and applying the right controls when sourcing goods, works and services.

Council worker fraud

- 3.8 Castle Point Council, like any large employer employing hundreds of people, will always have a very small minority of people who seek to commit fraud or allow fraud to take place.
- 3.9 Fraud in this area can be staff who take unauthorised absences, such as claim 'flexi time' when they haven't accrued any, claim to be working from home when they are not or even claim to be working in the field but going home early/start their duties later.
- 3.10 Payroll or expenses fraud can also be committed by council workers such as staff and agency workers who falsely claim overtime, allowances, mileage or expenses that they aren't entitled to.
- 3.11 It is important for all staff to follow the council's procedures particularly those in management positions as well as colleagues whose duties are to notice irregularities.

Did you know?

The impact of staff falsely working half an hour less per week would cost the council £60k every year.

4. What is bribery and corruption?

- 4.1 As public servants all workers in the council are in a privileged position to serve the people of Castle Point. That responsibility comes with a significant amount of trust in how we conduct ourselves.
- 4.2 It has always been a criminal offence for any council worker to receive gifts or hospitality where the person giving the gift or hospitality is seeking to induce, or reward us to do something for their, or somebody else's benefit. The most common situation here is where a supplier provides hospitality to a council worker so contracts are let to them instead of another.
- 4.3 This type of corruption has been depicted in many different films and fictional stories, where for example, criminals seek to build a house that would be normally rejected by planners, or the criminal who wants the council to 'look the other way' for parking fines or other enforcement action.
- 4.4 All of this conduct is a criminal offence, punishable by imprisonment. It is the most serious type of dishonesty, which brings the council and colleagues in to disrepute.

5. What do I do if I suspect fraud, bribery or corruption?

- 5.1 The Counter Fraud and Investigation Directorate (CFID) are responsible for dealing with any cases of suspected criminality described in this policy, not the police.
- 5.2 It is the responsibility of every council worker to look for and report any possible fraud taking place. You **do not** have to speak to a manager before reporting your suspicions.
- 5.3 If you see any of the suspicious activity linked to fraud, against the council, **OR** in any council building you should:

-  not tell the person that you have any suspicions about them
-  take copies of any records that could help to a secure location
-  telephone a member of the CFID team right away on **03000 999 111** (24/7)
-  follow the instructions given by the CFID team

6. What does the council do with cases of suspected fraud?

- 6.1 The council has a dedicated team of professionally trained and accredited investigation officers who fully investigate instances of suspected fraud. The CFID team work around the clock, anywhere in the UK with powers to arrest persons, search premises and seize assets to take back what the council has lost.
- 6.2 In cases where there may be a proven case of fraud the council's Legal Services or the Crown Prosecution Service has dedicated criminal lawyers who apply the Code for Crown Prosecutors. This code is applied independently by a lawyer to decide whether there is sufficient evidence of a crime and whether it is in the public interest to prosecute those suspected.

Did you know?

Last year, local government detected 78,000 cases of fraud.

- 6.3 CFID has a Criminal Finances Unit that is accredited by the National Crime Agency to restrain and seize a person's assets, investigate their lifestyle and present cases to a Judge to confiscate any criminal proceeds.
- 6.4 The council will always publicise cases of proven fraud in the media to act as a deterrent and encourage people to come forward to report fraud.

7. Whistleblowing

- 7.1 The Council is committed to providing the highest quality service to our residents, businesses and visitors to Castle Point. Maintaining the full trust and confidence in the way the council manages our services and resources and making sure that all those who are vulnerable such as children, the elderly and people with learning disabilities are provided for safely, effectively and in accordance with best practice
- 7.2 The council's Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns. Council workers reporting concerns this way are afforded certain rights and protection through legislation enacted under the Public Interest Disclosure Act 1998.

- 7.3 Workers who report concerns will be supported and protected from reprisals. Everything possible will be done to protect their confidentiality. They will be advised of the action that has been taken by the person to whom they reported their concerns.
- 7.4 Management are responsible for reporting all allegations received from whistleblowing under the confidential reporting code to the Monitoring Officer. The Monitoring Officer will refer the allegations relating to suspected fraud, money laundering, bribery and corruption to the CFID team for investigation. All such cases are recorded in a register maintained by the Monitoring Officer.
- 7.5 CFID will deal with the matter promptly, efficiently and in accordance with the law, involving such outside agencies as appropriate (including the police). Where a supplier or other partner employee is involved, their leadership team will be informed where appropriate in liaison with the Chief Finance Officer and CFID.

8. Information Sharing

- 8.1 As a responsible data controller the council always ensures that personal data we hold is safeguarded and used properly with the Data Protection Act 2018.
- 8.2 The council will use data we hold to prevent and detect criminality and identify those responsible.
- 8.3 Any staff contacted by the Counter Fraud and Investigation, Internal Audit or Legal Services teams as part of a criminal investigation must provide any council data held in any form (paper or electronically). Council workers must not tell anyone that they have been asked for any material for an investigation, unless permitted to by the CFID, Internal Audit or Legal Services officer asking for the material.
- 8.4 Any concerns workers may have about releasing information should be directed to the Assistant Director for Fraud & Investigation, Head of Internal Audit, s151 Officer or Monitoring Officer.

9. Monitoring Delivery

- 9.1 The Counter Fraud and Investigation Directorate lead the council's fight against fraud and economic crime, including bribery and corruption. The team reports quarterly to the council's Audit Committee on its work.
- 9.2 The service also reports regularly on its performance to the council's Executive Management Team.

Appendix A – Roles and responsibilities

Expected behaviour

The Council requires all workers and elected Members to act honestly and with integrity at all times and to safeguard the resources for which they are responsible. Fraud is an ever-present threat to these resources and hence must be a concern to all workers and elected Members. The purpose of this statement is to set out specific responsibilities with regard to the prevention of fraud.

Section 151 Officer (Chief Finance Officer) is responsible for:

- Proper administration of the authority's financial affairs
- Reporting to Members and External Audit if the Council, or one of its representatives makes, or is about to make a decision which is unlawful, or involves illegal expenditure or potential financial loss (Local Government Finance Act 1988 s.114)

Monitoring Officer is responsible for:

- Reporting on contraventions or likely contraventions of any enactment or rule of law
- Report on any maladministration or injustice where the Ombudsman has carried out an investigation
- Receiving copies of whistleblowing allegations of misconduct
- Promoting and maintaining high standards of conduct through and with the support of the Standards Committee
- Advice on vires (legality) issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members

Managers are responsible for:

- Maintaining internal control systems and ensuring that the authority's resources and activities are properly applied in the manner intended
- Identifying the risks to which systems and procedures are exposed
- Developing and maintaining effective controls to prevent and detect fraud
- Ensuring that controls are being complied with, including making sure their staff are performing well and meeting council policies and procedures.

Council workers are responsible for:

- Their own conduct and for contributing towards the safeguarding of corporate standards (including declarations of interest, gifts and hospitality, private working, whistleblowing etc.)
- Acting with propriety in the use of official resources and in the handling and use of corporate funds, such as when dealing with contractors and suppliers
- Reporting details immediately to the Counter Fraud and Investigation Department if they suspect that fraud, theft, bribery, corruption and money laundering has been committed or see any suspicious acts or events

Internal Audit is responsible for:

- The independent appraisal of control systems
- Reporting to the Directors Board and the Audit Committee on the council's governance framework
- The implementation of an annual audit plan to include identification of fraud risks to the Counter Fraud and Investigation Department

Counter Fraud and Investigation Directorate is responsible for:

- The investigation into allegations of any fraud, bribery, theft, corruption and money laundering committed against the authority
- Prosecution (or the application of an alternative sanction) of offenders
- All action under the Proceeds of Crime Act 2002 and Criminal Justice Act 1988 in respect of financial investigation, restraint, detention, forfeiture and confiscation
- The co-ordination of participation in the National Fraud Initiative (NFI)
- Providing Counter-Fraud, Money Laundering, Theft, Bribery and Corruption Awareness Training
- Taking redress from offenders under criminal and civil law
- Referring any matters to and receiving information and intelligence from all law enforcement agencies (Police, HMRC, Home Office etc) where appropriate.

External Audit has specific responsibilities for:

- Reviewing the stewardship of public money
- Considering whether the Council has adequate arrangements in place to prevent fraud and corruption
- Signing off the annual accounts of the authority
- Elected Members are each responsible for:
 - Their own conduct
- Contributing towards the safeguarding of corporate standards, as detailed in the Members' Code of Conduct

Appendix B – Key contacts

Contact	Details
Counter Fraud and Investigation Directorate	1 st Floor, Civic Offices, Kiln Road, Benfleet, SS7 1TF Tel: 03000 999 111 Email: reportfraud@castlepoint.gov.uk Web: castlepoint.gov.uk/fraud
Chris Mills Strategic Director for Resources (s.151 Chief Finance Officer)	1 st Floor, Civic Offices, Kiln Road, Benfleet, SS7 1TF Tel: 01268 882215 Email: cmills@castlepoint.gov.uk
Andrew Smith Strategic Director for Corporate Services (Monitoring Officer)	1 st Floor, Civic Offices, Kiln Road, Benfleet, SS7 1TF Tel: 01268 882402 Email: asmith@castlepoint.gov.uk
David Kleinberg Assistant Director for Fraud & Investigations	1 st Floor, Civic Offices, Kiln Road, Benfleet, SS7 1TF Tel: 01375 652157 Email: dkleinberg@thurrock.gov.uk
Andrew Barnes Head of Internal Audit	1 st Floor, Civic Offices, Kiln Road, Benfleet, SS7 1TF Tel: 01268 882482 Email: abarnes@castlepoint.gov.uk
Public Concern at Work (independent charity for whistleblowing)  THE WHISTLEBLOWING CHARITY	CAN Mezzanine, 7-14 Great Dover Street, London, SE1 4YR Tel: 020 7404 6609 Email: helpline@pcaw.co.uk (helpline) Email: whistle@pcaw.co.uk (enquiries) Web: pcaw.org.uk

Appendix C – Fraud legislation

1 Fraud

1.1 The Fraud Act 2006 introduced the first statutory definition of fraud whereby:

"A person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence).

Fraud can be committed by:

- (a) section 2 (Fraud by False Representation),
- (b) section 3 (Fraud by Failing to Disclose Information), and
- (c) section 4 (Fraud by Abuse of Position). "

Fraud by false representation

A fraud will be committed if a person dishonestly makes a false representation and when doing so intends to make a gain or cause loss (or a risk of loss) to another.

Fraud by failing to disclose information

A fraud will be committed if a person dishonestly fails to disclose information where there is a legal obligation to do so and when doing so intends to make a gain or cause loss (or a risk of loss) to another.

Fraud by abuse of position

A person will commit fraud if he occupies a position in which he is expected to safeguard, or not act against, the financial interests of another person and he dishonestly abuses that position; and in doing so intends to make a gain or cause loss (or a risk of loss) to another.

2 Theft, burglary and robbery

- 2.1 A person is guilty of **theft** if they dishonestly appropriate property, belonging to another, with the intention of permanently depriving the other of it.
- 2.2 Theft includes where someone takes something "and uses it as their own".
- 2.3 A person is guilty of **robbery** if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.
- 2.4 A person is guilty of **burglary** if he enters any building or part of a building as a trespasser and with intent to steal anything in the building or that part of it or inflicts or attempts to inflict on any person any grievous bodily harm or; doing unlawful damage to the building or anything therein.

Appendix D – Bribery and corruption legislation

1 Bribery

- 1.1 A bribe is "a financial or other advantage that is offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of such an advantage would constitute the improper performance of such a function or activity."
- 1.2 The types of offending relating to Bribery are:
 - 1.2.1 **Bribery** – giving or receiving something of value to influence a transaction dishonestly makes a false representation
 - 1.2.2 **Illegal gratuity** – giving or receiving something of value after a transaction is completed, in acknowledgment of some influence over the transaction
 - 1.2.3 **Extortion** – demanding a sum of money (or goods) with a threat of harm (physical or business) if demands are not met
 - 1.2.4 **Conflict of interest** – where a worker has an economic or personal interest in a transaction
 - 1.2.5 **Kickback** – a portion of the value of the contract demanded/ provided as a bribe by an official for securing the contract.
- 1.3 The Bribery Act 2010, which came into force on 1st July 2011, introduced four primary offences in a single piece of legislation with all previous statutes being repealed.
 - 1.3.1 Section 1 – Offences of bribing another person, where:
 - (a) a person offers, promises or gives a financial or other advantage to another person, and
 - (b) intends the advantage –
 - (i) to induce a person to perform improperly a relevant function or activity, or
 - (ii) to reward a person for the improper performance of such a function or activity.
 - 1.3.2 Section 2 – Offence relating to being bribed
 - 1.3.3 Section 6 – Bribery of foreign public officials
 - 1.3.4 Section 7 – Failure by a commercial organisation to prevent bribery
- 1.4 Under the Bribery Act, an organisation has a defence if it can show that it has adequate bribery prevention procedures in place. The Ministry of Justice guidance¹ on the Bribery Act 2010, explains what needs to be in place to rely on this defence:

¹ <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-quick-start-guide.pdf>

- 1.4.1 *Proportionality: The action we take should be proportionate to the risks we face and to the size of our organisation.*
- 1.4.2 *Top Level Commitment: Those at the top of an organisation are in the best position to ensure their organisation conducts business without bribery. We want to show that we have been active in making sure that our staff (including any middle management) and the key people who do business with us and for us understand that we do not tolerate bribery.*
- 1.4.3 *Risk Assessment: Think about the bribery risks we might face.*
- 1.4.4 *Due Diligence: Knowing exactly who we are dealing with can help to protect our organisation from taking on people who might be less than trustworthy.*
- 1.4.5 *Communication: Communicating our policies and procedures to staff and to others who will perform services for us enhances awareness and helps to deter bribery by making clear the basis on which our organisation does business.*
- 1.4.6 *Monitoring and Review: The risks we face and the effectiveness of our procedures may change over time.*
- 1.5 Prior to 2011, under Common Law, a person commits an offence where a person "Offering, giving or receiving, any undue reward, by or to any person whatsoever in a public office, in order to influence his behaviour in office and incline him to act contrary to the known rules of honesty and integrity."

Corruption

- 1.6 Corruption can be committed in many ways but normally involves "two or more people entering into a secret agreement."
- 1.7 Indicators showing this type of offending can include the following:
 - 1.7.1 Abnormal cash payments
 - 1.7.2 Pressure exerted for payments to be made urgently or ahead of schedule
 - 1.7.3 Private meetings with public contractors or companies hoping to tender for contracts
 - 1.7.4 Lavish gifts being offered or received
 - 1.7.5 An individual who never takes time off even if ill, or holidays, or insists on dealing with specific contractors himself or herself
 - 1.7.6 Making unexpected or illogical decisions accepting projects or contracts
 - 1.7.7 Abuse of the decision process or delegated powers in specific cases
 - 1.7.8 Agreeing contracts not favourable to the organisation either because of the terms or the time period
 - 1.7.9 Unexplained preference for certain contractors during tendering period
 - 1.7.10 Avoidance of independent checks on the tendering or contracting processes

1.7.11 The Council's or its suppliers/partner's procedures or guidelines not being followed

1.8 The Local Government Act 1972 requires under section 117(2) that employees must disclose any personal interest in contracts that have been, or are proposed to be, entered into by the Council. Failure to do so is a criminal offence.



FRAUD AFFECTS COUNCILS TOO

Have you seen anything suspicious?

- Unusual applications for council services
- Suspicious identity documents or transactions
- Suppliers not delivering what we pay for

If you suspect it, report it.

Call in confidence on **03000 999 111** or
visit **castlepoint.gov.uk/fraud**

