

CHESHIRE EAST COUNCIL ANTI-FRAUD AND CORRUPTION POLICY

1. FOREWARD

- 1.1 We believe that the overwhelming majority of the council's employees, councillors, customers, contractors and suppliers are honest and have no thought to defraud the council. However, we recognise that a small minority will attempt to do just that. Any money lost in this way is money that we cannot spend delivering the critical public services we provide to the citizens of Cheshire East. Fraudsters not only cheat local taxpayers, but they deprive local people of the services they depend upon.
- 1.2 This is why fraud in Cheshire East will not be tolerated. We are determined to keep up a strong guard against it through the approach set out in this document.
- 1.3 We all have a part to play in stamping out fraud. As we deliver our services, we must recognise the importance of the controls set out in this document to protect us from fraud. We must all remain vigilant and recognise the many forms that fraud and corruption may take. We must have the conviction to raise any concerns we come across. And we must have the resolve to investigate those concerns promptly and to take tough action against proven fraudsters.
- 1.4 This document sets out a comprehensive approach to ensuring that fraud is reduced to an absolute minimum. Its success will depend on our co-operation to send out the robust message to potential fraudsters that they will be rooted out and dealt with.

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Mike Suarez
Chief Executive

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Cllr. Rachel Bailey
Leader of the Council

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Cllr. Lesley Smetham
Chair of Audit & Governance
Committee

2. ANTI-FRAUD AND CORRUPTION POLICY STATEMENT

- 2.1 The United Kingdom public sector maintains high standards of ethics and has a good reputation for protecting the public purse. Sound systems of public accountability are vital to effective management and in maintaining public confidence. Cheshire East Council shares these high standards and is committed to protecting the public funds entrusted to it. Although we have good policies and procedures they are sometimes not applied effectively and much of the fraud committed against local authorities happens when non-compliance with procedures leads to simple checks being neglected. The minimisation of losses to fraud and corruption is essential to ensure that resources are used for their intended purpose to provide services to the public.
- 2.2 The public is entitled to expect any local authority to conduct its affairs with integrity, honesty and openness, and to demand the highest standards of conduct from those working for it. This Anti-Fraud and Corruption Policy forms a part of the governance arrangements of Cheshire East Council and outlines the Council's commitment to creating an anti-fraud culture and maintaining high ethical standards in its administration of public funds.
- 2.3 The policy is based on a series of comprehensive and inter-related procedures, designed to prevent, detect and deter fraud and to take effective action against any attempted or actual fraudulent act affecting Cheshire East Council. The policy also satisfies the legislative requirements to have effective arrangements for tackling fraud, and conforms to professional guidance laid down in the Public Sector Internal Audit Standards.

3. Introduction

- 3.1 The purpose of this Policy is to outline Cheshire East Council's approach, as well as defining roles and responsibilities, for dealing with the threat of fraud and corruption, both internally and externally. It applies to:
- councillors
 - employees
 - agency staff/contractors/consultants
 - suppliers
 - service users
 - employees and members of organisations funded by the Council including ASDV's and wholly owned companies of the Council
 - employees and principals of partner organisations

In addition to the above, the Council also expects the residents of Cheshire East to be honest in their dealings with the Council.

- 3.2 This policy sets out the Council's commitment to tackling fraud and corruption. It also makes it clear to all concerned that appropriate and decisive action will

be taken against those committing or attempting to commit, fraudulent or corrupt acts against Cheshire East Council.

3.3 In order for Cheshire East Council to be effective in its approach to dealing with the problem of fraud and corruption it is committed to ensuring that it creates a culture of 'zero tolerance' rather than indifference to such matters.

3.4 The following definitions are provided for the purposes of this policy and those who seek to commit fraudulent or corrupt acts will be dealt with in accordance with this Policy:

Fraud: is the intentional distortion of financial statements or other records by persons internal or external to the Council, which is carried out to obtain an advantage, avoid an obligation or cause loss to another party.

Fraud is therefore a deliberate, dishonest act by an individual or group of people, which can be committed, as per The Fraud Act 2006, by:

- False representation
- Failing to disclose information
- Abuse of position

Bribery: is offering, promising or giving someone a financial or other advantage to induce or reward that person to perform their functions or activities improperly as per The Bribery Act 2010, which came into force 1st July 2011. It is also an offence to request, receive or accept a bribe.

The Bribery Act 2010 also introduces a corporate offence of failing to prevent bribery, which requires adequate procedures to be in place and appropriately supported from the very top of the organisation.

Theft: is the dishonest appropriation of property belonging to another with the intention of permanently depriving the other of it.

3.5 The above definitions cover such acts as deception, forgery, extortion, blackmail, conspiracy, collusion, embezzlement, false accounting, false representation, concealment of material facts, the offering of a gift or reward to influence a person's actions and misappropriation.

3.6 Good Corporate Governance requires that the Council is firmly committed to dealing with fraud and corruption, including bribery, and will deal equally with perpetrators from inside and outside the Council. All cases will be viewed seriously and following investigation the action taken will be in line with the merits of each case and in accordance with other procedures and obligations applicable to Cheshire East Council.

4. Corporate Framework and Culture

4.1 Cheshire East Council has a range of interrelated policies and procedures that provide a corporate framework to counter fraudulent activity. These have been formulated in line with appropriate legislative requirements and professional best practice, and include:

- Codes of Conduct for members and employees
- Finance and Contract Procedure Rules
- Accounting procedures and records
- Sound systems of internal control
- Effective internal audit arrangements
- Effective recruitment and selection procedures
- Disciplinary Procedure
- Counter Fraud Strategy
- Whistleblowing Policy
- The Regulation of Investigatory Powers Act (RIPA) Procedure
- The Fraud Act 2006
- Anti Money Laundering Policy
- The Bribery Act 2010

4.2 Cheshire East Council believes that the maintenance of a culture of honesty and openness, based on values such as fairness, trust and integrity is a key element in tackling fraud. In this respect, each Member and officer of the Council is under a duty to report any reasonable suspicions and is encouraged to raise any concerns they may have in the knowledge that such concerns will be properly investigated. To this end, the Council has a Whistleblowing Policy to protect anyone who wishes to raise concerns about behaviour or practice.

5. Prevention

5.1 The Council recognises that fraud and corruption are costly, both in terms of reputational risk and financial losses. The prevention of fraud is therefore a key objective of the authority and fundamental roles and responsibilities are outlined below.

Employees of Cheshire East Council

5.2 Cheshire East Council recognises that employees are often the first line of defence in preventing fraud. A key preventative measure in that fight is the effective recruitment of employees.

5.3 Employee recruitment is undertaken in accordance with the Council's policies and procedures for recruitment and selection. These include pre employment checks that must be carried out prior to an offer of employment being made

which include; written references and checks to confirm the identity and right to work of all potential employees. Some posts, due to the nature of the work and potentially working with vulnerable people, also require a Disclosure and Barring Service (DBS) check to confirm whether any potential employee has a criminal record and if this would conflict with the post applied for.

- 5.4 All management and employees must abide by the Council's Code of Conduct for Employees, which sets out requirements on personal conduct and where applicable employees are also expected to follow the codes of conduct laid down by their respective professional institutes.
- 5.5 The responsibility for the prevention of fraud and corruption is placed on all employees and as such staff should be alert to the possibility of fraud and how to report any concerns that they may have. Cheshire East Council has a Whistleblowing Policy in place to assist employees in reporting concerns about fraud and corruption and other issues, including bribery, without fear of harassment, victimisation or any other detriment.
- 5.6 Cheshire East Council has in place disciplinary procedures for all employees and those found to have breached the Code of Conduct will be dealt with in accordance with these procedures. Where criminal activity is suspected or found, the matter will be referred to the police for investigation and possible prosecution. In addition, recompense will be sought from those who are found to have carried out fraudulent acts.
- 5.7 If an employee has been implicated in a criminal offence in their private life they must notify the Council in writing immediately. If the employee is found to have breached the code of conduct, disciplinary action may be taken.
- 5.8 Employees must operate within Section 117 of the Local Government Act 1972, regarding the disclosure of financial interests in contracts relating to the Council, or the non-acceptance of any fees, gifts, hospitality or any other rewards, other than their proper remuneration. The Bribery Act 2010 makes it an offence to request, agree to receive, or accept a bribe. It is also an offence to offer, promise or give a bribe.
- 5.9 Cheshire East Council policies and procedures support compliance with the Bribery Act 2010. The Codes of Conduct, which include Gifts and Hospitality and Declaration of Interest guidance, set out the acceptable conduct for both members and employees. Through the codes' strong ethical framework; along with transparency and scrutiny in decision making and clear procurement rules, the Council aims to ensure that employees and members comply with anti-bribery legislation. Non compliance by an employee or member may be perceived as bringing the Council into disrepute or using their office for personal gain which may result in disciplinary or criminal action being taken.

Council Members

- 5.10 Members are required to operate within:
 - Cheshire East Council Member Code of Conduct

- The Local Authorities (Model Code of Conduct) Order 2007
 - Sections 94-97 of the Local Government Act 1972
 - Section 81 of the Local Government Act 2000
 - Local Authorities (Members' Interest) Regulations 1992 (SI 618); and amendment SI 1996/1215 2
 - Cheshire East Council Finance and Contract Procedure Rules
- 5.11 The Member Code of Conduct sets out what is required of Members when conducting, or giving the impression that they are conducting, the business of Cheshire East Council. Because of their potentially influential position Members should not use, or be perceived to use, their office for personal gain, and should ensure that their actions are not perceived to bring the Council into disrepute.
- 5.12 To this end the Member Code of Conduct includes rules on the registration and declaration, with the Monitoring Officer, of pecuniary and non-pecuniary interests.
- 5.13 Section 52 of the Local Government Act 2000 requires all members to give a written undertaking to comply with the Code of Conduct, if they are to remain on the Council.
- 5.14 Cheshire East Council has in place various Scrutiny Committees with responsibilities including the review of decisions and actions undertaken by the Council. Any matter arising from this process, in which fraud is suspected, should be referred to Internal Audit for independent investigation.
- 5.15 The Audit and Governance Committee has included within its functions responsibility to:
- Review the assessment of fraud risks and potential harm to the Council from fraud and corruption
 - Monitor the counter fraud strategy, actions and resources
 - Approve and monitor Council policies relating to “whistleblowing” and anti-fraud and corruption

Internal Control Systems

- 5.16 The Council has Finance and Contract Procedure Rules, Accounting Procedures, and various rules and Codes of Conduct in place. Employees are obliged to comply with these requirements when dealing with Council matters.
- 5.17 The Chief Operating Officer has a statutory responsibility under Section 151 of the Local Government Act 1972, to ensure proper arrangements are made for the Council's financial affairs. In addition, under the Accounts and Audit Regulations 2015, the Council is required to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and

governance processes, taking into account public sector internal auditing standards or guidance.

- 5.18 The Council has sound financial systems and procedures, which incorporate efficient and effective internal controls. For instance “separation of duties” is considered a fundamental control in such systems, especially when involving significant transactions. Senior managers are responsible for maintaining effective internal controls including the prevention and detection of fraud and other illegal acts. Internal Audit will monitor and report upon these controls.

Working with Others

- 5.19 There are a variety of arrangements in place, which assist and support the regular exchange of information between Cheshire East Council and other Local Authorities and Agencies, for the purpose of preventing and detecting fraud. These involve national, regional and local networks of professionals such as Internal Auditors and Trading Standards Officers.
- 5.20 Cheshire East Council is a member of NAFN (formally known as the National Anti-Fraud Network) which provides access to information relating to fraud within the public sector. Fraud intelligence is collated and circulated to NAFN members, and an information service is provided to assist the more effective investigation of fraud.
- 5.21 As technologies develop, there is an ever increasing need to take advantage of the processing and analysis of data stored throughout Cheshire East Council and beyond. This enables information and intelligence to be generated, which is a recognised means of preventing fraud and corruption.

6. Detection and Investigation

- 6.1 Internal Audit are not responsible for preventing fraud, irregularities and errors, this is the responsibility of those charged with governance and managers. As such, Senior Management, Heads of Service and managers are required to maintain effective control systems and procedures, and to ensure that all employees comply with the instructions contained therein.
- 6.2 In accordance with Finance and Contract Procedure Rules, any matters which involve, or are thought to involve, any fraud or other significant irregularity involving Council assets or those of a third party fund, must be notified immediately to the Corporate Manager Governance and Audit. This is essential to our approach to fraud and corruption and ensures:
- consistent treatment of information regarding fraud and corruption
 - proper investigation by an independent and experienced audit team
 - the optimum protection of Cheshire East Council’s interests
- 6.3 When information relating to potential fraud or corruption is obtained, the concerns will be tested to identify the appropriate action to be taken. Some

referrals will not warrant further investigation whilst others may be better dealt with as management issues; or a full investigation may be needed.

6.4 Depending on the nature and extent of the information obtained, Internal Audit will normally work closely with:

- Senior Management
- Human Resources
- Legal Services
- Other agencies, such as the Police, the Department for Work and Pensions, and other local Authorities

This will enable the organisation to determine who is best placed to take the issues forward. It also ensures that all allegations and evidence supplied are properly investigated and reported upon, and that where possible, losses are recovered for the Council. Where appropriate this will include the use of Proceeds of Crime legislation.

6.5 Cheshire East Council's Whistleblowing Policy provides clear guidance for individuals to raise any concerns of malpractice within the Council, without the fear of suffering detriment. Cheshire East Council will take appropriate action to protect any one who has raised a concern that they believe to be true. The Policy deals with the reporting of suspected fraud and corruption including bribery through formal channels, whether this is through management, the Monitoring Officer, or Internal Audit. The Policy also includes making disclosures to external bodies if there is an unsatisfactory outcome to a disclosure made internally. Schools are required to have their own Whistleblowing Policy and a template has been developed to assist with this.

6.6 Where it is found that a Council employee has been involved in fraudulent activity they will be subject to Cheshire East Council's disciplinary procedures.

6.7 Where financial non-compliance and wrongdoing is discovered relating to employees, members, or funded organisations, the Monitoring Officer will, in consultation with the appropriate Chief Officer and Corporate Manager Governance and Audit, decide whether the matter should be referred to the Police or other appropriate enforcement agency. Referral to the police will not necessarily prevent action under the disciplinary procedure.

6.8 The Council's External Auditor, currently Grant Thornton, also has powers to independently investigate fraud and corruption.

7. **Deterrence**

7.1 There are a number of ways in which we deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside or outside of the Council. These include:

- Publicising the fact that Cheshire East Council will not tolerate fraud and corruption by promoting this at every appropriate opportunity, e.g. publicising successful prosecutions.
- Acting quickly, efficiently, and decisively when fraud and corruption is suspected and proven, e.g. the termination of contracts, the dismissal and prosecution of offenders.
- Taking action to recoup the maximum recoveries (including losses and costs) for Cheshire East Council, e.g. through agreement, court action, penalties, insurance, superannuation etc. Where appropriate the Proceeds of Crime Act will be used to maximise the penalty suffered by the fraudster, and the level of recovery by the Council.
- Having sound internal control systems, that still allow for innovation and calculated risk, to create maximum opportunities for the Council whilst minimising the potential for fraud and corruption.

7.2 It is the responsibility of Senior Management to communicate the Anti-Fraud and Corruption Policy to managers and employees and to promote a greater awareness of fraud within their Departments.

8. Raising Fraud Awareness

8.1 Cheshire East Council recognises that the success and credibility of its Anti-Fraud and Corruption Policy will depend largely on how effectively it is communicated throughout the organisation and beyond. Every opportunity will be taken to bring it to the attention of employees, members and other stakeholders. The policy will also be shown on the Council's website and be available on the Council Intranet.

8.2 To facilitate the raising of awareness of this Policy, the Council supports the concept of induction training for all Members and officers of the Council. Support is also given to any anti-fraud and corruption awareness training that is subsequently deemed to be required with a view to ensuring everyone is aware of their responsibilities and duties regarding fraud and corruption and that such responsibilities and duties are reinforced from time to time. To this end consideration will be given to the most effective ways of increasing Member and employee awareness of this policy and their associated responsibilities in complying with it, including any e-learning training and awareness packages that may be available to the Council.

9. Conclusions

9.1 Cheshire East Council has put into place a number of arrangements to protect itself from the risk of fraud. However in the current climate of change there are issues that will increase the risk of loss. Changes in structure, systems and the reduction of staff, as well as external pressures due to the economy, all contribute to our exposure to the risk of fraud. To mitigate against this risk the Council will carry out regular reviews of these arrangements.

9.2 The Anti-Fraud and Corruption Policy provides a framework for preventing and tackling fraudulent and corrupt acts against Cheshire East Council. The approval of the Policy by the Audit and Governance Committee, on behalf of Cheshire East Council, demonstrates the Council's commitment to protecting public funds and minimising losses to fraud and corruption. Having made this commitment, it is imperative that arrangements are put in place for circulating the policy and promoting fraud awareness, throughout the authority.

10. Equality

10.1 Cheshire East Council will ensure that, when implementing this policy, no employee will be disadvantaged on the basis of age, disability, gender reassignment, marital status or civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. This means that the policy may need to be adjusted to cater for the specific needs of an individual, including the provision of information in alternative formats where necessary.

11. Monitoring

11.1 Data relating to counter fraud and corruption will be collated and monitored regularly to ensure that the Policy is operating fairly, consistently and effectively. Issues that are identified from the data will be dealt with appropriately.

12. Review

12.1 The policy will be reviewed on an annual basis to take into account operating experience and/or changes in legislation and best practice.

12.2 The outcome of such reviews will be reported to Audit and Governance Committee.