

EAST RENFREWSHIRE COUNCIL

CABINET

19 February 2015

Report by Chief Executive

Revised Anti-Fraud and Bribery Strategy

PURPOSE OF REPORT

1. The purpose of this report is to advise of changes to the Anti-Fraud and Bribery Strategy.

RECOMMENDATIONS

2. It is recommended that the Cabinet consider and approve the revised Anti-Fraud and Bribery Strategy.

BACKGROUND

3. The Anti-Fraud and Bribery Strategy was last updated and approved by Cabinet on November 2012.

4. The Anti-Fraud and Bribery Strategy outlines the measures taken by the Council to protect itself against malpractice through either fraud or corrupt practice. The Council is committed to fighting fraud and corruption, whether attempted from inside or outside of the authority, in order to protect public funds. Suppliers, contractors, employees, members and service users are expected to act with integrity and without intention to commit fraud or corruption against the Council.

REPORT

5. The revised Anti-Fraud and Bribery Strategy is attached in Annex 1 and a summary of the main changes to the strategy are included below:

These include:-

- Updated contact details for Fraud Response Plan
- Revised Council's vision
- Removal of defalcation procedures
- Refreshed list of council policies.

6. During 2014, Internal Audit dealt with 5 reports of potential fraud or loss to the Council. The number has reduced from last year when there were 12 reported incidents.

7. With the previous revision of the strategy, [a gift, hospitality and individual sponsorship register \(also known as a probity register\)](#) was introduced at a departmental level. This register records all offers of and acceptance of gifts, hospitality or sponsorship in accordance with the guidance in the Employee Code of Conduct, whether accepted or declined. Compliance with this requirement was audited recently and each department had completed a register.

8. A register of interests is kept by the Deputy Chief Executive who is the Council's Monitoring Officer. Staff have been continually reminded of the importance of recording any possible conflicts on the register. There is a [frequently asked questions section](#) on the staff intranet which describes what might be described as a conflict of interest.

PROMOTION OF THE STRATEGY

9. The revised Anti-Fraud and Bribery Strategy will be promoted amongst staff, elected members, suppliers and residents as part of a co-ordinated communications approach. Therefore information on the revised strategy, including how to report any suspicions, will be included in the InsidER, internet, intranet and payslips. A small print run will be distributed to areas such as Thornliebank depot. Fraud cards will be circulated around staff and displayed in public areas.

CONSULTATION

10. Staff from Legal, Internal Audit, Accountancy, Revenues and Human Resources provided feedback on the revisions required for the Anti-Fraud and Bribery Strategy. The Audit and Scrutiny Committee considered the revised Anti-Fraud and Bribery Strategy on the 15 January 2015 and recommended to the Cabinet that the revised strategy be approved.

RECOMMENDATIONS

11. It is recommended that the Cabinet consider and approve the revised Anti-Fraud and Bribery Strategy.

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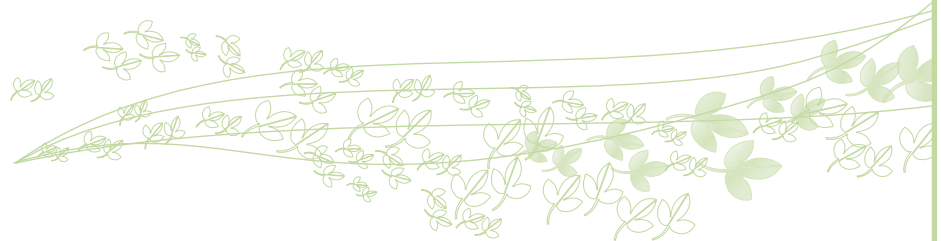
Report Date - 15 January 2015

BACKGROUND PAPERS

Appendix 1 Revised Anti-Fraud and Bribery Strategy

KEY WORDS

Revised Anti-Fraud and Bribery Strategy, corporate governance, fraud, bribery, theft, probity register.



Anti Fraud and Bribery Strategy



www.eastrenfrewshire.gov.uk/fraud

Revised December 2014

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Anti-Fraud and Bribery Strategy

I. INTRODUCTION

- 1.1 East Renfrewshire Council is committed to providing the highest quality of service to all its residents and customers. The Anti-Fraud and Bribery Strategy outlines the measures taken by the Council to protect itself against malpractice through either fraud or corrupt practice. The Council is committed to fighting fraud and bribery, whether attempted from inside or outside of the authority, in order to protect public funds. Suppliers, contractors, employees, members and service users are expected to act with integrity and without intention to commit fraud or bribery against the Council. Any investigative activity required will be conducted without regard to any person's relationship to this organisation, or to their position or length of service.

Council's Vision – Your Council striving to be the best we can be to deliver a better future for all

Our corporate statement sets out the key areas we are working towards over the next four years to deliver a better future and make positive changes for our residents. The changes start from early childhood through to older years and we explain how we aim to improve our services and the local area for all our communities.

- 1.2 The Council is committed to the elimination of fraud and bribery. Definitions by the Accounts Commission for Scotland are:

Fraud

Fraud is the use of deception with the intention of obtaining personal gain, avoiding an obligation or causing loss to another party. Fraud can be used to describe a wide variety of dishonest behaviour such as forgery, false representation and the concealment of material facts. The fraudulent use of IT resources is included in this definition, where its use is a material factor in carrying out a fraud.

Bribery

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

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

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.

In addition, this strategy covers "the failure to disclose an interest in order to gain financial or other pecuniary gain".

Further guidance on types of fraud is contained within the Fraud Response Plan.

- 1.3 The Council will actively support and foster relationships with the Police and other external agencies in order to combat fraud and bribery. Where the Council has suspicions that criminal activity may have occurred, it will consult with the Police.
- 1.4 The strategy set out in this document covers the following areas:
 - Culture
 - Prevention
 - Detecting and investigating fraud and bribery
 - Training
 - Fraud Response Plan

2. CULTURE

- 2.1 The Council expects Members and staff, suppliers and contractors to lead by example in opposing fraud and bribery. Anyone associated with the work of the Council must adhere to its rules and regulations. Members must adhere to the National Code of Conduct for Councillors. Staff must adhere to the approach outlined in the Council's Code of Conduct for Employees.
- 2.2 The Ethical Standards in Public Life etc. (Scotland) Act 2000 imposes on Councils and relevant public bodies a duty to help their members to comply with the relevant code; and establishes a Standards Commission for Scotland to oversee the new framework and deal with alleged breaches of the Code.
- 2.3 Managers are expected to strive to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. We will encourage both Members and employees to inform us if they suspect a case of fraud. A fraud response plan is set out at the end of this strategy and this explains how we deal with all information fairly and in a confidential manner to protect those who provided the information.
- 2.4 The Council has an equal opportunities policy which aims to ensure that no service user or employee receives less favourable treatment than any other on any grounds including: race, colour, religion, responsibility for dependants, nationality, ethnic or national origins, religion, age, sex, sexuality, marital status, employment status, political belief or disability or is disadvantaged by conditions or requirements which cannot be shown to be justifiable. The aims of this policy will be taken into account when applying the Anti-Fraud and Bribery Strategy.
- 2.5 We expect our Directors to deal firmly and quickly with anyone who is found to be involved in fraudulent or corrupt acts. The Chief Executive or Chief Auditor will refer matters to the Police as soon as they suspect any criminal activity has been carried out. The Council will continue to seek the advice of the Police in relation to the prevention and detection of fraud and bribery.
- 2.6 We encourage staff to raise any concerns. If employees make allegations in good faith but they are not confirmed by an investigation, no action, (disciplinary or otherwise), will be taken against the employee who raised the concern. However, we must ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations against a colleague, will be dealt with as a disciplinary matter.

- 2.7 This policy is intended to complement the provisions of the Public Interest Disclosure Act 1998 (PIDA). This act provides protection for workers who make certain disclosures of information in the public interest. This policy provides procedures to enable employees to raise matters of concern with the Council without fear of reprisal. A summary of the Public Interest Disclosure Act is detailed in Appendix 3 of this Strategy and in the Code of Conduct Appendix 5.

3. PREVENTION

- 3.1 The Council operates within a sound framework for dealing with its affairs. A full list of these rules and regulations is included in Appendix I. All Members and employees have a duty to be aware of and comply with their provisions. Managers must ensure that their staff have access to these documents. If anyone breaks these rules or regulations, the Council may take formal action against them. This may include a sanction up to including dismissal for employees or referring Members to the Standards Commission.
- 3.2 Members by law are required before accepting office to undertake to meet the requirements of the Councillors' Code of Conduct.
- 3.3 Employees must follow the Code of Conduct for Employees which is available on the Intranet and is issued to all new employees. A breach of the Code may result in disciplinary action.
- 3.4 Individual departments have also introduced their own measures which are designed to ensure efficient and effective internal controls, including the effective segregation of duties, and to deter fraudulent activity and detect error. Examples of these include accounting control procedures, procedural working manuals and operating procedures.
- 3.5 We are committed to working and co-operating with other organisations to prevent organised fraud and bribery. Wherever possible, subject to data protection rules, we will be prepared to help and exchange information with other Councils and public bodies to deal with fraud. The Council's Internal Audit Section plays an important role in the detection of fraud and bribery. The Accounts and Audit Regulations 1996 and 2009 require the Council to maintain an adequate and effective system of internal audit. The Council's Internal Audit Section independently reviews the adequacy, efficiency and effectiveness of internal controls within the Council by undertaking a comprehensive programme of work targeted at key risks. It is the responsibility of management to ensure that corrective action is taken.
- 3.6 The adequacy and appropriateness of the Council's financial systems is independently monitored and assessed by the Council's External Auditors, who are appointed by the Accounts Commission for Scotland. The financial and non-financial systems are also independently monitored by the Council's Internal Audit Section. Senior management shall be committed to continuously improving the systems both through their own self-assessments and by positive and prompt response to audit recommendations.
- 3.7 The key role of Members is to take an overview of the Anti-Fraud and Bribery Strategy and to ensure that the strategy is well publicised and its implementation monitored. Members are responsible for ensuring that the Council develops and maintains effective controls to prevent fraud and bribery.
- 3.8 The Audit and Scrutiny Committee performs a scrutiny role in relation to the application of this strategy. The Audit and Scrutiny Committee regularly monitors the performance of the Council's Internal Audit Section.

- 3.9 The Council has fostered good working relationships with the Trade Unions. The Council will continue to consult with the Trade Unions to ensure that appropriate control measures are in place to protect council employees from unfounded allegations of fraud or bribery. The Council will seek the co-operation of the Trade Unions in publicising the Anti-Fraud and Bribery Strategy to ensure that all staff are aware of how to report allegations of fraud or bribery.
- 3.10 Employees should treat any offer of a gift or hospitality if it is made to them personally with extreme caution. The overriding principle is that employees should not compromise their position as public service workers by accepting gifts or hospitality and allowing themselves to reach the position where they might be, or might be thought by others to have been, influenced in making an important decision as a consequence. A probity register is maintained at department level. You must record offers of gifts, hospitality or individual sponsorship which have an estimated value of over £25 or any offers of gifts, hospitality or individual sponsorship no matter what the value if they are received from persons or organisations with whom the Council does business. This applies to offers which are accepted or refused. Further guidance on gifts and hospitality is provided in the Employee Code of Conduct (Appendix 3).
- 3.11 Employees should not use any information obtained in the course of their employment for personal gain or benefit nor should they pass it on to others who might use it in such a way. The Council cannot disclose information about individuals unless the disclosure of the information is fair and lawful in terms of the Council's powers under the Data Protection Act 1998 and other relevant pieces of legislation.
- 3.12 The authority recognises that a key preventative measure in dealing with fraud and bribery is to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, both temporary and permanent. In particular, appropriate employment checks, including written references, will be obtained in respect of all successful applicants before a provisional offer of employment is confirmed.
- 3.13 Orders and contracts must be awarded in accordance with the Council's approved Contract Standing Orders and Financial Regulations. The Council has adopted the Ethical Code of the Chartered Institute of Purchasing and Supply. Employees who are involved in any form of tendering exercises must follow approved procedures and must clearly act in a fair and impartial manner when dealing with contractors, sub-contractors and suppliers. All known relationships of a business or private nature with external contractors or potential contractors should be made known to the appropriate line manager who will advise and enter the details into the Council's register of interest (see point 3.14 below).
- 3.14 Council employees and Members must declare any possible conflicts which they may have in contracts entered into by the Council (see Employee Code of Conduct and the Councillors' Code of Conduct). Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information. Where such conflicts do arise, these should be openly disclosed and recorded in the register of interests and the relevant Member / officer should not be involved in the decision-making process. A register of interests is kept by the Deputy Chief Executive who is the Council's Monitoring Officer. The Monitoring Officer has responsibility under Section 5 of the Local Government and Housing Act, 1989, to guard against, among other things, illegality, impropriety and maladministration in the Council's affairs. Additionally, Members / co-opted Members and employees have a duty to be open and honest about any incidents that they may have been involved in outside of their Council role, which could adversely impact on the Council's reputation or the ability to fulfil their Council role with impartiality.

Role of Partners, Contractors, Suppliers and other Organisations associated with the Council

3.15 All organisations associated with the Council are expected to take a proactive role in preventing the occurrence of fraud and bribery regarding any dealings with the Council, in line with the due diligence expectations portrayed by the Bribery Act 2010. The standards expected are often set out through legal agreements, which specify the requirements of the Council, when setting up partnerships and other contractual arrangements. However in the interests of good working relationships and continued dealings with the Council, all associated organisations have a general duty to be vigilant regarding the possibility of fraud and bribery, irrespective of any legal agreement, with a view to reporting any suspicions in accordance with the principles stemming from the Council's own policies, procedures and standards, which includes possible referral to the Police.

4. DETECTING AND INVESTIGATING FRAUD AND BRIBERY

This section should be read in conjunction with our Fraud Response Plan and our Benefit Fraud Prosecution Policy (Appendix 2).

4.1 Dishonesty harms the Council and the reputation of its employees and Members. All employees and Members have an important and valued role to play in preventing and tackling malpractice at work. Employees are responsible for ensuring that they follow the instructions given to them by management, particularly in relation to the safekeeping of the assets of the authority. Employees are expected always to be aware of the possibility that fraud, bribery or theft may exist in the workplace and be able to share their concerns with management. If for any reason, they feel unable to speak to their manager or departmental director they must refer the matter to either the Chief Auditor, Head of Accountancy Services (Chief Financial Officer) or the Deputy Chief Executive (Monitoring Officer). Reporting cases in this way is essential to the Anti-Fraud and Bribery Strategy. This ensures:

- that suspected cases of fraud and bribery are investigated properly by an experienced audit team.
- there is a standard process for dealing with and recording all suspected cases of fraud and bribery.
- the proper implementation of a structured response to any suspected act of fraud and/or bribery.

The above information is explained in more detail in the Confidential Reporting Policy which is contained within Appendix 2 of the Code of Conduct for employees. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998). The Council is committed to investigating concerns in confidence and taking firm management action where malpractice is established.

- 4.2 Directors and their managers have responsibility for preventing and detecting fraud and bribery, but it is often the alertness of members of the public, to the possibility of fraud and bribery, which aids detection. Allegations and complaints are key sources of detection regarding fraud and bribery and as such the Council treats this type of information seriously and in line with the Whistleblowing Code of Practice where applicable.
- 4.3 In cases relating to Housing Benefits and Council Tax Fraud, the action taken will follow the Council's Benefit Fraud Prosecution Policy outlined in Appendix 2.
- 4.4 The investigation of any other suspected fraud or bribery is normally carried out by the Council's Internal Audit Section. Upon completion of the investigation, an audit report is

issued to the Director and the Chief Executive who will determine what further action will be taken. A copy of the report will be provided to the Deputy Chief Executive (Monitoring Officer). The action taken will include referring cases to the Police where necessary. The Chief Executive and the Chief Auditor have the authority to report suspected criminal activity to the Police. The Council will prosecute offenders. Even if the outcome of the audit investigations indicates that there was no criminal intent, the Council will still instigate the Council's disciplinary procedures if an employee has failed to follow approved Council practices e.g. failure to conform with Contract Standing Orders.

- 4.5 The Accounts Commission has powers to request or carry out an investigation into fraud and bribery.
- 4.6 The Council is committed to investigating all apparent fraud matches produced from the bi-annual Audit Scotland National Fraud Initiative report. All cases of suspected fraud will be investigated in line with the policy and procedures stated above in 4.1, 4.2 and 4.3.

5.0 TRAINING

- 5.1 The Anti-Fraud and Bribery Strategy will be distributed to staff via the council intranet. Managers will also be encouraged to communicate the strategy to their staff. All new staff will have access to the fraud response plan during the corporate induction process.
- 5.2 The Council will continue to provide training, subject to availability, for our employees who are involved in, or managing, internal control systems, to make sure that their responsibilities and duties are regularly reviewed and reinforced.
- 5.3 We will provide suitable training and development, subject to availability, for our employees who are involved in investigating fraud and bribery.
- 5.4 Staff involved in investigating allegations of fraud and bribery will be provided with training and briefing sessions to equip them with the necessary skills. This training will include input from other related public bodies such as the Police.

6.0 FRAUD RESPONSE PLAN

- 6.1 The Council's Anti-Fraud and Bribery Strategy outlines the principles to preventing, reporting and investigating fraud and bribery. This Fraud Response Plan reinforces the Council's approach by detailing the ways which employees or members of the public can report their concerns about suspected fraud and bribery.
- 6.2 Employees and Members are expected to raise any concerns that they may have, without fear of recrimination. Such concerns will be treated in the strictest confidence and will be properly investigated. The Council has a Confidential Reporting Policy which is detailed in Appendix 2 of the Code of Conduct for Employees. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998). The Council will do its best to protect employees' identities if they raise concerns and do not wish their names to be disclosed. However, it must be appreciated that the investigation may have to reveal the source of information and a statement may be required as part of the evidence. This strategy 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.
- 6.3 **What do we want to know about?**

The Council is committed to the elimination of fraud and bribery.
Fraud definitions by the Accounts Commission for Scotland are:

Fraud

Fraud is the use of deception with the intention of obtaining personal gain, avoiding an obligation or causing loss to another party. Fraud can be used to describe a wide variety of dishonest behaviour such as forgery, false representation and the concealment of material facts. The fraudulent use of IT resources is included in this definition, where its use is a material factor in carrying out a fraud.

Bribery

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

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

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.

Fraudulent acts may include:

Financial Issues – e.g. where individuals or companies have fraudulently obtained money from the Council (invalid invoices, benefit fraud, inflated expense claims, theft)

Systems Issues – e.g. where a process/ system exists which is open to abuse by either employees or public (planning applications, tendering arrangements)

Equipment Issues – e.g. where Council equipment is misused for personal use (vehicles, phones, computers, machinery)

Asset Issues – e.g. where there is a misuse of resources (theft of materials or equipment)

Other issues – e.g. where officers or members break the law or financial procedure rules, receive improper hospitality or give confidential information to gain financially as a result of their office or official duties.

These activities could:

- be unlawful
- be against the Council's Standing Orders or policies (see list in Appendix I)
- fall below established standards or practices
- amount to improper conduct

Bribery includes improper relationships between the Council's employees and contractors. This may be through accepting hospitality or entering into agreements

with friends (more information included in the Employee Code of Conduct).

There are 4 offences under the Act:

- I. Making a bribe
- II. Accepting a bribe
- III. Bribing a foreign public official
- IV. Corporate offence of failing to prevent bribery

The maximum penalties listed in the Act are:

- I. Making a bribe – 10 years imprisonment and/or an unlimited fine
- II. Accepting a bribe – 10 years imprisonment and/or an unlimited fine
- III. Bribing a foreign public official – 10 years imprisonment and/or an unlimited fine
- IV. Corporate offence of failing to prevent bribery – unlimited fine

This is not an exhaustive list. If you are in any doubt of the seriousness of your concern, please contact the Chief Auditor, phone 0141 577 8670.

6.4 What should an employee do if they suspect fraud or bribery?

6.4.1 The Council has a Confidential Reporting Policy which is in Appendix 2 of the Code of Conduct for employees. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998). All employees have been given a copy of the Employee Code of Conduct but further copies can be obtained from the staff intranet or by emailing HR Direct at HRDirect@eastrenfrewshire.gov.uk.

6.4.2 Concerns should be raised with your immediate manager. If that is not appropriate or if your concerns are very serious, you should contact any of the following staff:

6.4.3 East Renfrewshire Council is fully committed to ensuring that Housing Benefit and/ or Council Tax Benefit is awarded only to those claimants who have an entitlement.

Chief Auditor	Phone confidential reporting line on 0141 577 8670 or e-mail internal.audit@eastrenfrewshire.gov.uk or complete an on-line reporting form at http://www.eastrenfrewshire.gov.uk/fraud or post to Freepost RLXL-ZGRE-ZGRU, Chief Auditors, Eastwood Park, Rouken Glen Road, Giffnock, Glasgow G46 6UG or
Head of Accountancy Services (Chief Financial Officer)	Phone 0141 577 3035 or write to Eastwood HQ, Rouken Glen Road, Giffnock, Glasgow, G46 6UG
Deputy Chief Executive (Monitoring Officer)	Phone 0141 577 3161 or write to Eastwood HQ, Rouken Glen Road, Giffnock, Glasgow, G46 6UG.

Benefit fraud is a criminal offence and anyone found guilty of committing this offence will be pursued according to the Council's Benefit Fraud Prosecution Policy (this is summarised in Appendix 2). The Council has a separate Counter Fraud Team for dealing with suspected Benefit Fraud. For instances involving benefit fraud, staff should either phone the confidential reporting hotline on 0800 0130729, use the on-line reporting form at <http://www.eastrenfrewshire.gov.uk/benefit-fraud> or e-mail benefits@eastrenfrewshire.gov.uk or alternatively send a note to the Counter Fraud Officer FREEPOST NAT20705, GLASGOW, G78 1BR.

6.4.4 The nature of the complaint will determine the Council's course of action.

6.5 What should a member of the public do if they suspect fraud or bribery in the Council?

6.5.1 The Council encourages members of the public who suspect fraud and bribery in the Council to contact the Chief Executive or the Council's Internal Audit Section in the first instance.

Chief Auditor	Phone confidential reporting line on 0141 577 8670 or e-mail internal.audit@eastrenfrewshire.gov.uk or complete an on-line reporting form at http://www.eastrenfrewshire.gov.uk/fraud or post to Freepost RLXL-ZGRE-ZGRU, Chief Auditors, Eastwood Park, Rouken Glen Road, Giffnock, Glasgow G46 6UG.
Deputy Chief Executive (Monitoring Officer)	Phone 0141 577 3161 or write to Eastwood HQ, Rouken Glen Road, Giffnock, Glasgow, G46 6UG.
Chief Executive	Phone 0141 577 3010 direct line or write to Eastwood HQ, Rouken Glen Road, Giffnock, Glasgow G46 6UG.

6.5.2 The Council's Internal Audit Section is a unit, which operates independently of all other Council services and whose work includes establishing procedures to deter, prevent, detect and investigate fraud and bribery.

6.6 How will the Council deal with allegations of fraud or bribery?

6.6.1 The action taken by the Council will depend on the nature of the concern. The matters raised may be:-

- investigated internally;
- referred to the Police;
- referred to the External Auditor;
- reported to the Standards Committee of the Council;
- the subject of an independent enquiry.

6.6.2 Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation.

6.6.3 Subject to the identity being provided, the Council will contact the complainant

acknowledging that their concern will be dealt with according to council regulations and in line with Council policy and procedures.

The Council will do its best to protect employees' identities when they raise concerns and do not wish their names to be disclosed. It must be appreciated, however, that the investigation process may have to reveal the source of information and a statement may be required as part of the evidence.

6.6.4 Concerns expressed anonymously 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 issues raised;
- the credibility of the concerns; and
- the likelihood of confirming the allegations from attributable sources.

6.6.5 If employees make allegations in good faith but they are not confirmed by an investigation, no action will be taken against the employees. It is stressed, however, that the Council will protect itself and its staff from false and malicious allegations by taking disciplinary action where appropriate. In addition, the Council will try to ensure that the negative impact of either a malicious or unfounded allegation is minimised. Although the Council recognises that it will not be possible to prevent all of the potential repercussions.

6.6.6 The Council accepts that those people who reported the alleged fraud or bribery need to be assured that the matter has been properly addressed and, subject to legal and legislative constraints, will endeavour to provide them with information about the outcomes of any investigation.

6.7 Alternative methods for taking a complaint forward

The Accounts Commission – is the organisation appointed to scrutinise the Council's finances and performance. By law, they must be completely independent from the Council.

Scottish Public Services Ombudsman – this is an independent body set up by the Government to deal with complaints against public bodies in Scotland.

Public Concern at Work – this is a charity which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They operate a confidential legal helpline on 0141 883 6761 or e-mail ht@pcaw.co.uk.

APPENDIX I

List of Council Policies and Procedures for the Prevention of Fraud and Bribery.

Document	Located
Statutes	
Contract Standing Orders	Internet / Intranet
Financial Regulations	Internet / Intranet
Scheme of Delegated Functions	Intranet
Code of Conduct for Employees	Intranet
Code of Corporate Governance	Internet / Intranet
Councillors' Code of Conduct	Internet
Employees' Conditions of Service	
Equal Opportunities in Service Delivery and Employment Policy	Intranet
Benefit Fraud Prosecution Policy	Internet
Public Interest Disclosure Act	Internet
IT Acceptable Use policy	Intranet
IT Security Policy	Intranet
Risk Management Strategy	Intranet/ Internet

APPENDIX 2

Benefit Fraud Prosecution Policy (Summary)

For a full copy of the benefit fraud prosecution policy
www.eastrenfrewshire.gov.uk/benefit or phone 0141 577 3199.

What is benefit fraud?

By using the word “fraud”, we mean someone who is knowingly claiming benefit to which they are not entitled. This can include the deliberate failure to notify changes of circumstances. In terms of what constitutes an offence, the relevant sections of the Social Security Administration Act (1992) state this as the following:

If a person knowingly-

- (a) makes false statement or representation;
- (b) produces or furnishes, or causes or allows to be produced or furnished, any document or information which is false in material particular;
- (c) fails to notify a change of circumstances which regulations under this Act require him to notify; or
- (d) causes or allows another person to fail to notify a change of circumstances which such regulations require the other person to notify;

- with a view to obtaining any benefit or other payment or advantage under the Social Security legislation (whether for himself/herself or for some other person), he/she shall be guilty of an offence.

This Policy covers fraud against the Council by external persons or organisations.

This will include, amongst others:

- Benefits claimants and landlords
- Council Tax exemptions & discount claimants
- Student Awards applicants.

This Policy sets out:

- the sanctions which are available
- the criteria for deciding which sanction to apply
- the responsibilities for deciding which sanction to apply
- the responsibilities in respect of each sanction
- the investigation of cases in relation to this Policy
- publicity and reporting
- the way in which it will be updated.

SANCTIONS AVAILABLE

There are four sanctions available:

Prosecution - Criminal proceedings may be brought against alleged offenders and the case heard in Court with a view to obtaining a criminal conviction and an appropriate sentence.

Formal Caution - An oral warning may be given in certain circumstances to a person who has committed an offence.

Administrative Penalties - In accordance with Social Security legislation, Administrative Penalties will be considered as an alternative to prosecution in Housing/Council Tax Benefit fraud cases. A financial penalty amounting to a statutorily determined percentage of the gross adjudicated overpayment can be offered to a person where there is enough evidence to prosecute.

Overpayment Recovery and Civil Court Action - A strict requirement to repay monies fraudulently obtained is in itself another major deterrent to fraud, and may be additional to any other sanctions that are applied. Recovery may also include Civil Court action.

CRITERIA FOR DECIDING WHICH SANCTION TO APPLY:

OVERALL

The sanction selected will take account of:

- the amount of the fraud
- its duration
- whether the offender has a history of fraud (if known)
- the offender's personal and social circumstances
- whether or not administrative procedures or delays contributed to the fraud
- the extent to which the fraud was deliberate
- the public interest
- the quality and suitability of evidence.

APPENDIX 3

Public Interest Disclosure Act 1998 OVERVIEW OF THE PROVISIONS

Malpractice

The Act applies to people at work raising genuine concerns about crimes, civil offences (including negligence, breach of contract, breach of administrative law), miscarriages of justice, dangers to health and safety or the environment and the cover up of any of these. It applies whether or not the information is confidential and whether the malpractice is occurring in the UK or overseas.

Individuals covered

In addition to employees, it covers workers, contractors, trainees, agency staff, homeworkers, and every professional in the NHS. The usual employment law restrictions on minimum qualifying period and age do not apply to this Act. It does not cover the genuinely self-employed (other than in the NHS), volunteers, the intelligence services or the army.

Internal disclosures

A disclosure made in good faith - essentially honestly - to the employer (be it a manager or director) will be protected if the whistleblower has a reasonable suspicion that the malpractice has occurred, is occurring or is likely to occur. Where a third party or person is responsible for the malpractice, this same test applies to disclosures made to him. The same test also applies where someone in a public body subject to ministerial appointment (e.g. the NHS and many 'quangos') blows the whistle direct to the sponsoring Department.

Regulatory disclosures

The Act makes special provision for disclosures to prescribed persons. These are regulators such as the Health and Safety Executive, the Inland Revenue and the Financial Services Authority. Such disclosures are protected where the whistleblower meets the tests for internal disclosures and, additionally, reasonably believes that the information and any allegation in it are substantially true.

Wider disclosures

Wider disclosures (e.g. to the police, the media, MPs, consumers and non-prescribed regulators) are protected if, in addition to the tests for regulatory disclosures, they are reasonable in all the circumstances and they are not made for personal gain.

A wider disclosure must, however, meet one of four preconditions to trigger protection. These are that either (a) the whistleblower reasonably believed he would be victimised if he had raised the matter internally or with a prescribed regulator; or (b) there was no prescribed regulator and he reasonably believed the evidence was likely to be concealed or destroyed; or (c) the concern had already been raised with the employer or a prescribed regulator; or (d) the concern was of an exceptionally serious nature.

If these provisions are met and the tribunal is satisfied that the disclosure was reasonable, the whistleblower will be protected. In deciding the reasonableness of the disclosure, the tribunal will consider all the circumstances, including the identity of the person to whom it was made, the seriousness of the concern, whether the risk or danger remains, and whether the disclosure breached a duty of confidence which the employer owed a third party. Where the concern had been raised with the employer or a prescribed regulator, the tribunal will also consider the reasonableness of their response. Finally, if the concern had been raised with the employer, the tribunal will consider whether any whistleblowing procedure in the organisation was or should have been used.

Full protection

Where a whistleblower is victimised or dismissed in breach of the Act he can bring a claim to an employment tribunal for compensation. Awards are uncapped and based on the losses suffered. An element of aggravated damages can also be awarded. Where the whistleblower is an employee and he is sacked, he may within seven days seek interim relief so that his employment continues or is deemed to continue until the full hearing.

Confidentiality clauses

Gagging clauses in employment contracts and severance agreements are void insofar as they conflict with the Act's protection.

Secrecy offences

Where the disclosure of the information is found to be in breach of the Official Secrets Act or another secrecy offence, the whistleblower will lose the protection of the Public Interest Disclosure Act if (a) he has been convicted of the offence or (b) an employment tribunal is satisfied, effectively beyond reasonable doubt, that he committed the offence.

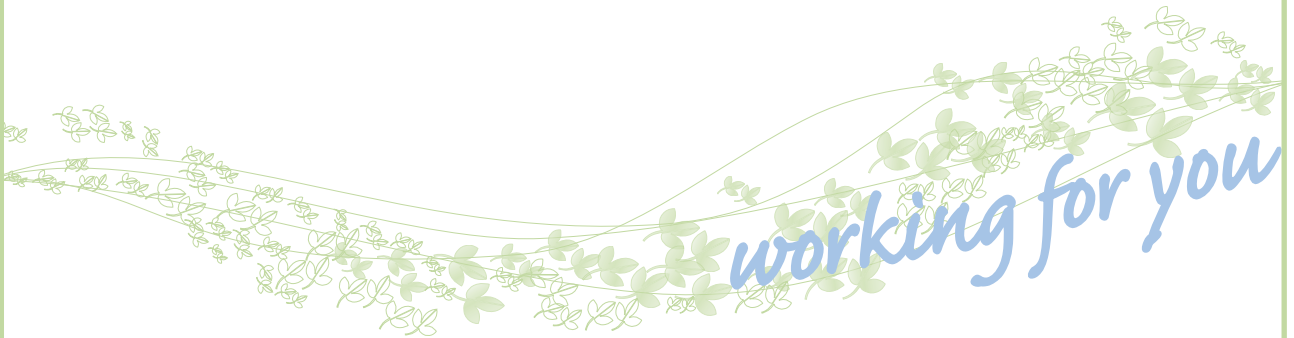
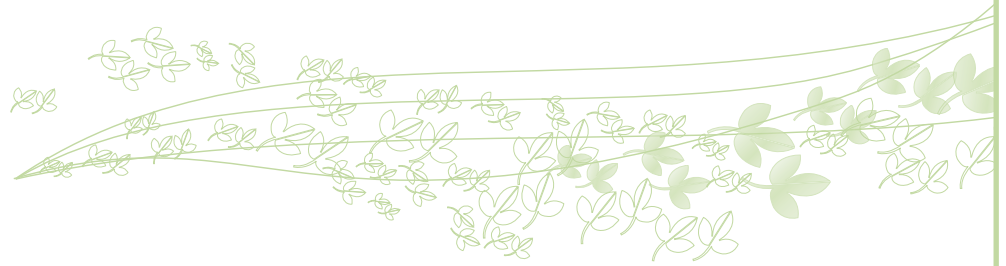
Whistleblowing policies

Though the Act does not require organisations to set up or promote any particular whistleblowing procedures, they are strongly recommended. The key elements of such procedures, as endorsed by the Committee on Standards in Public Life (supra), are

- a clear statement that malpractice is taken seriously in the organisation;
- an indication of the sorts of matters regarded as malpractice;
- respect for the confidentiality of staff raising concerns, if they wish it;
- the opportunity to raise concerns outside the line management structure;
- access to confidential advice from an independent charity;
- an indication of the proper way in which concerns may be raised outside the organisation if necessary;
- giving staff of contracting firms access to the organisation's whistleblowing policy;
- penalties for making false allegations maliciously; and
- effective promotion.

Commencement

The Act came into force on July 2 1999 in England, Wales and Scotland. Similar protection came into force on 31 October 1999 in Northern Ireland.



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