

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2013/14

COMMITTEE:

AUDIT COMMITTEE

15th October 2013

REPORT OF:-

GROUP DIRECTOR, CORPORATE SERVICES

Item No. 5
Anti Fraud, Bribery & Corruption Policy and Procedure

Author: Marc Crumbie (Operational Audit Manager)

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1. PURPOSE OF THE REPORT

This report provides Members with a copy of the Council's Anti Fraud, Bribery & Corruption Policy and Procedure.

2. RECOMMENDATIONS

It is recommended that Members:

- 2.1 Note the contents of the Anti Fraud, Bribery & Corruption Strategy.

3. BACKGROUND

- 3.1 Rhondda Cynon Taf County Borough Council is resolute in its determination to maintain its reputation as a Council that will not tolerate fraud, bribery, corruption or abuse of position for personal gain, wherever it may be found in any area of Council activity. In managing its responsibilities the Council is determined to protect itself against fraud and corruption both from within the Council and from outside.

- 3.2 The Policy sets the tone, culture and expectations of the Council.

- 3.3 The purpose of the Policy is to provide for Members, Officers, Partners, outside agencies and the general public the Council's main principles for countering fraud, bribery and corruption. It sets out the scope of this Policy, the Council's stance against fraud, bribery & corruption, the reporting avenues for suspected irregularities, the linkage to the Council's broader strategy for countering fraud, bribery & corruption and contact details for the officers responsible for delivering the Policy.

A copy of the Council's Anti Fraud, Bribery & Corruption Policy and Procedure is attached at Appendix 1 to this report.

4. SUMMARY

- 4.1 The Council expects that individuals and organisations (e.g. suppliers, contractors and service providers) that it deals with will act with integrity and without thought or actions involving fraud, bribery and corruption.
- 4.2 The Policy applies to elected Members, co-opted members of committees, and all officers (full time, part time, temporary and casual) who work for the Council. The term 'officer' includes all types of employees of the Council.
- 4.3 On occasions where allegations are received by the Council's Operational Audit Manager, they will be investigated promptly and thoroughly.

LOCAL GOVERNMENT ACT, 1972

as amended by

THE ACCESS TO INFORMATION ACT, 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LIST OF BACKGROUND PAPERS

AUDIT COMMITTEE

15th October 2013

Report of the Group Director, Corporate Services

Author: Marc Crumbie (Operational Audit Manager).

Item

File Ref:

5. Anti Fraud, Bribery & Corruption Policy and Procedure IA / MC

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APPENDIX 1 - Anti Fraud, Bribery & Corruption Policy and Procedure

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Rhondda Cynon Taf County Borough Council

Anti-Fraud, Bribery & Corruption Policy and Procedure

Revision Date: September 2013

Anti-Fraud, Bribery & Corruption Policy and Procedure

1. Introduction

- 1.a Rhondda Cynon Taf County Borough Council is resolute in its determination to maintain its reputation as a Council that will not tolerate fraud, bribery, corruption or abuse of position for personal gain, wherever it may be found in any area of Council activity. In managing its responsibilities the Council is determined to protect itself against fraud and corruption both from within the Council and from outside.
- 1.b The Council expects that Members and employees at all levels will lead by example in ensuring adherence to legal requirements, financial regulations, codes of conduct, procedures and practices. As part of this culture, the Council's strategy provides a clear route by which concerns can be raised by both Members and employees, and those outside who are providing, using or paying for public services.
- 1.c The Council's Anti-Fraud, Bribery & Corruption Policy and Procedure is based on a series of comprehensive and inter-related procedures designed to deter, frustrate, and take effective action against any attempted fraudulent or corrupt acts affecting the Council.
- 1.d Responsibility for promoting an anti-fraud/corruption culture is the joint duty of all those involved in giving political direction, determining policy and management.
- 1.e Senior Management is expected to deal swiftly and firmly with those who defraud the Council or who are corrupt. The Council, including Members, Senior Management and Governors, should be robust in dealing with financial malpractice.
- 1.f The Council also has in place two Committees whose monitoring roles are relevant - the Standards Committee, which sets and monitors standards of conduct, and includes independent members who are neither Councillors nor Officers and the Audit Committee, which scrutinises the work of the Internal Audit Service and receives regular reports from the Council's external auditor.

2. Purpose

- 2.a This Policy sets the tone, culture and expectations of the Council, as part of the corporate framework.
- 2.b The purpose of this Policy is to provide for Members, Officers, outside agencies and the general public the Council's main principles for countering fraud, bribery and corruption. It sets out the scope of this Policy, the Council's stance against fraud, bribery & corruption, the reporting avenues for suspected irregularities, the linkage to the Council's broader strategy for countering fraud, bribery & corruption and contact details for the officers responsible for delivering the Policy.
- 2.c The Council expects that individuals and organisations (e.g. suppliers, contractors and service providers) that it deals with will act with

Anti-Fraud, Bribery & Corruption Policy and Procedure

integrity and without thought or actions involving fraud, bribery and corruption.

3. Scope

- 3.a This Policy applies to elected Members, co-opted members of committees, and all officers (full time, part time, temporary and casual) who work for the Council. The term 'officer' includes all types of employees of the Council.
- 3.b Where relevant, the Council will include appropriate clauses in its contracts about the consequences of fraud, bribery and corruption; evidence of such acts is most likely to lead to a termination of that particular contract and may lead to prosecution.
- 3.c This Policy is also commended to the Council's school governing bodies, with the expectation that it will be adopted and apply to all governors.

4. The Bribery Act 2010

- 4.a The Bribery Act 2010 came into force on the 1st July 2011 and is designed to combat bribery and corruption. Under the 2010 Act it is an offence for an individual or organisation to offer, promise or give a bribe as well as to request, agree to receive or accept a bribe.
- 4.b Bribery is defined as the giving or taking of a reward in return for acting dishonestly and/or in breach of the law. There are four possible offences:
- Bribing another person - the offering, promising or giving financial reward to induce to perform a relevant function or activity improperly
 - Receiving a bribe - the accepting of, agreeing to accept or requesting of a reward in return for performing a relevant function or activity improperly
 - Bribing a foreign public official - to offer or give a financial advantage to a foreign public official with the intention of influencing the official or obtaining or retaining business, where the official is neither permitted nor required by written law
 - Corporate offence of failing to prevent bribery - if an organisation fails to stop people who are acting on its behalf from being involved in bribery.

5. The Responsible Officer

- 5.a Under Section 151 of the Local Government Act 1972 and Section 5 of The Accounts and Audit (Wales) Regulations 2005, the 'Responsible Officer' is responsible for ensuring that the Council has control systems and measures in place *'to enable the prevention and detection of inaccuracies and fraud, and the ability to reconstitute any lost records'*.
- 5.b In Rhondda Cynon Taf County Borough Council, the 'Responsible Officer' is the Group Director for Corporate Services and an Anti-

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Fraud, Bribery & Corruption Policy and Procedure helps towards discharging part of that responsibility.

- 5.c Also, under Section 6 of The Accounts and Audit (Wales) Regulations 2005, the Council has delegated to the Operational Audit Manager the responsibility for maintaining '*an adequate and effective system of internal audit of the Council's accounting records and its systems of internal control in accordance with proper internal audit practices*', together with the statutory right of access to documents, records, information and explanations considered necessary for that purpose.
- 5.d Accordingly, the Operational Audit Manager will:-
- take overall responsibility for the maintenance and operation of this Policy;
 - maintain records of financial malpractice, including concerns and allegations received; matters arising from audits; investigations and evidence; and the outcomes;
 - report as necessary.

Anti-Fraud, Bribery & Corruption Policy and Procedure

This Policy requires support across the Council and involves:

1. **A Corporate Framework;**
2. **Prevention (of error, irregularity, fraud, bribery and corruption);**
3. **Detection and Investigation;**
4. **Training;**
5. **Deterrence.**

1 Corporate Framework

1.1 The Corporate Framework requires a whole range of high-level component parts to contribute to the Council's counter-fraud arrangements. Key elements that must be in place are:-

- An Anti-Fraud, Bribery & Corruption Policy and Procedure that emphasises the importance of probity to all concerned;
- Member support;
- Codes of conduct for Members and Employees;
- Whistle blowing Policy, and Complaints Procedure or Corporate Feedback Scheme;
- Contracts Procedure Rules and Financial Procedure Rules;
- Sound internal control systems, procedures and reliable records;
- Clear disciplinary procedures;
- Effective Internal Audit and Audit Committee;
- A Specialist Benefit Counter Fraud investigation team;
- Effective recruitment procedures;
- Clear responsibilities, accountabilities and standards set out under the Scheme of Delegation;
- Induction and training;
- Information Management Policies and Procedures;
- A system of identification for potentially fraudulent liability claims against the Council;
- Sharing of information between Council departments to address fraud holistically.
- Gifts and hospitality

2 Prevention

2.1 Within the overall corporate framework there are a number of key people and measures that can help in the prevention of fraud, bribery and corruption. These include:

- Employees of the Council;
- Members;
- Internal Control Systems;
- Combining with Others to Prevent and Fight Fraud.

Anti-Fraud, Bribery & Corruption Policy and Procedure

Employees of the Council

- 2.2 A key preventative measure in the fight against fraud, bribery and corruption is to take effective steps at the recruitment stage. In this regard, temporary staff should be treated in the same manner as permanent employees. Employee recruitment should be in accordance with procedures laid down by the Director of Human Resources. Relevant pre-employment checks should be undertaken with specific assurances regarding the known honesty and integrity of potential employees before formal employment offers are made.
- 2.3 All employees must abide by the Council's Code of Conduct for Officers, which sets out the Council's requirement on personal conduct. This Code forms part of the Council's Constitution and can be found on the Council's intranet and internet sites. New recruits are also made aware of the Code during Corporate and Divisional induction processes. Employees of the Council are also expected to follow any code of conduct related to their personal Professional Institute.
- 2.4 The Council has in place disciplinary procedures. Any breach of conduct, including the non-declaration of potential conflicts of interest, will be dealt with under these procedures and may result in dismissal.
- 2.5 Employees are reminded under B.9 of the Council's Contract Procedure Rules that they must operate within the requirements of the Local Government Act 1972, regarding the disclosure of pecuniary interests in contracts relating to the Council, or the non-acceptance of any fees or rewards whatsoever other than their proper remuneration. These requirements are also set out in the Council's Code of Conduct for Officers.
- 2.6 The Director of Legal & Democratic Services is the appointed Monitoring Officer. As part of this role, he has overall responsibility for the maintenance and operation of the Codes of Conduct set out in the Constitution.

Members

- 2.7 Members are required to operate within the Members' Code of Conduct.
- 2.8 The Code and other guidance (including that produced by the Local Government Ombudsman For Wales), are specifically brought to the attention of new Members as part of the induction process and through regular refresher sessions. Included in the Code and guidance are the procedures for the declaration and registration of Members' interests. The Register of Members' Interests is published on the Council's website.
- 2.9 The Council has in place a Standards Committee, which promotes and maintains high standards of Member conduct and assists Members in observing the Code of Conduct.

Anti-Fraud, Bribery & Corruption Policy and Procedure

Internal Control Systems

- 2.10 The Council's Constitution includes the Contract Procedure Rules and Financial Procedure Rules (amongst others). The Council also has an employee code of conduct in place that provides a requirement on employees, when dealing with the Council's affairs, to do so with honesty and integrity.
- 2.11 The Group Director for Corporate Services has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure that proper arrangements are made for the Council's financial affairs. In addition, under the Accounts & Audit (Wales) Regulations 2005 the 'responsible financial officer' is required to provide assurance that there are effective accounting control systems in place. This latter requirement is a key control in the prevention of impropriety, as is the 'separation of duties', especially when involving significant transactions.
- 2.12 The Council's aim is to have sound financial systems and procedures that incorporate efficient and effective internal controls. Under the Council's Financial Procedure Rules, Directors / Chief Officers are responsible for ensuring that adequate controls are in place. The existence, appropriateness and effectiveness of these internal controls are independently monitored and reported upon by the Council's Internal Audit Service.

Combining with Others to Prevent and Fight Fraud

- 2.13 The Council is committed to exchanging information with other local and national agencies in order to identify and prevent fraud using data matching techniques. Such activity is carried out in full compliance with the Data Protection Act 1998, and in line with the Audit Commission's National Fraud Initiative.
- 2.14 Any employee found to be perpetrating fraud against another local or national agency is liable to face disciplinary action for gross misconduct, as this has implications for the Council's trust and confidence in the employee.
- 2.15 With the rapid increase in recent years of organised fraud perpetrated against public bodies, the necessity to liaise with other organisations has become paramount.

3. Detection & Investigation

- 3.1 It is the responsibility of all staff to prevent and detect fraud, bribery and corruption. In addition, Internal Audit and External Audit will liaise closely and implement a cyclical programme of audits, which will test for fraud, bribery and corruption.
- 3.2 However; despite the best efforts of Directors, Chief Officers and Heads of Service in embedding effective internal control frameworks, instances of fraud are often discovered by chance or 'tip-off'. It is often the alertness of employees and the public that enables detection to

Anti-Fraud, Bribery & Corruption Policy and Procedure

occur.

- 3.3 The Anti-Fraud, Bribery & Corruption Policy and Procedure provides a clear path for raising concerns and facilitating 'tip-offs', and the fraud response arrangements outlined enables such information or allegations to be properly dealt with.
- 3.4 The Council's Whistleblowing Policy also gives advice on how to raise a concern, as well as providing information on the safeguards and support that are available to those who raise concerns.

Raising Concerns

- 3.5 Members and employees are an important element in the Council's stance on fraud and corruption, and they are positively encouraged and expected to raise any concerns that they may have on these issues where they are associated with the Council's activities.
- 3.6 Employees should normally raise concerns through their immediate manager; however it is recognised that they may feel inhibited in certain circumstances. In this case, employees should contact the Chief Executive, the Group Director for Corporate Services, the Director of Legal & Democratic Services or the Operational Audit Manager.
- 3.7 The Council's Whistleblowing Policy gives further guidance on how to raise concerns and it gives details about the support and safeguards that are available to those that do raise concerns. Concerns will be treated in confidence, properly investigated and dealt with fairly.
- 3.10 There is, of course, a need to ensure that any investigation process is not misused, therefore, any internal abuse, such as raising malicious or vexatious allegations, may be dealt with as a disciplinary matter.
- 3.11 Senior Management is responsible for following up any allegation of fraud, bribery or corruption that is received, and is required to report all suspected irregularities to Internal Audit for investigation. This is essential to the Anti-Fraud, Bribery and Corruption Policy and Procedure and ensures:-
- consistent treatment of information regarding fraud and corruption;
 - proper investigation by an independent and experienced Internal Audit team;
 - the optimum protection of the Council's interests.
- 3.12 On receipt of a referral the investigating auditor will:
- deal promptly with the matter;
 - record all evidence that has been received;
 - ensure that evidence is sound and adequately supported;
 - make secure all of the evidence that has been collected;
 - where appropriate, contact other agencies;
 - where appropriate, arrange for the notification of the Council's

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insurers;

- report to senior management, and where appropriate, recommend that management take disciplinary action in accordance with the Council's Disciplinary Procedures.
- 3.13 Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with management, Human Resources, Legal Services and, in some instances other agencies such as the Police. This is to ensure that all allegations are properly investigated and reported upon, and where appropriate, maximum recoveries are made for the Council.
- 3.14 The Council's disciplinary procedures will be used where the outcome of an Internal Audit investigation indicates improper behaviour of an officer or Member. As part of the disciplinary procedures, 'reasonable belief' is a sufficient ground for dismissal, rather than absolute proof as in a court of law.
- 3.15 Where financial impropriety is discovered, the Council's presumption is that referral to the Police will be given due consideration, based on the facts of the individual case. The Crown Prosecution Service determines whether or not a prosecution will be pursued. Referral to the Police is a matter for the Operational Audit Manager and the Group Director for Corporate Services (as part of the Section 151 role). All referrals to the Police will be reported to the Chief Executive and the Group Director for Corporate Services. Potential criminal proceedings will not inhibit action under the disciplinary procedure.
- 3.16 The Council's External Auditor, the Wales Audit Office, also has powers to independently investigate fraud, bribery and corruption, and the Council can use these services for this purpose too.
- 3.17 Suspected fraudulent liability claims made against the Council are robustly investigated using appropriate resources available.

4. Training

- 4.1 The Council recognises that the continuing success of its Anti-Fraud, Bribery and Corruption Policy and Procedure and its general credibility will depend largely on the effectiveness of programmed training, communication and responsiveness of officers throughout the organisation.
- 4.2 To facilitate this, the Council supports the concept of full induction training and follow-up training; this applies particularly to officers involved in internal control systems and financial and finance-related systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. It also applies to casual, temporary and agency employees, who may not be aware of the high standards of probity that are required in the public sector.
- 4.3 The review of the Council's internal control systems and the investigation of fraud, bribery and corruption centres on Internal Audit. Exceptions are the investigation of fraudulent Benefit claims (the

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Council has a specialist Benefit Counter Fraud Investigation Team) and the investigation of potentially fraudulent liability claims whereby the Council uses both in house and external resources.

- 4.4 The officers involved in the review of internal control systems and investigative work should be properly and regularly trained; the training plans of Internal Audit and the Benefit Counter Fraud Investigation Team will reflect this requirement.

5 Deterrence

- 5.1 There are a number of ways to 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 the Council is firmly set against fraud, bribery and corruption and states this at every appropriate opportunity - e.g. policy statement on the Internet, clause in contracts, statements on benefits claim forms, publications etc.;
- Acting robustly and decisively when fraud, bribery and corruption are suspected and proven - e.g. the termination of contracts, dismissal, prosecution, defending potentially fraudulent claims etc.;
- Taking action to effect the maximum recoveries for the Council - e.g. through agreement, Court action, penalties, insurance etc.;
- Having sound internal control systems that, although still allowing for innovation, at the same time limits the opportunity for fraud, bribery and corruption;
- Publicising successful prosecutions.

6 Conclusion

- 6.1 The Council has in place a clear network of systems and procedures to assist it in the fight against fraud, bribery and corruption. It is determined that these arrangements will keep pace with any future developments, in both prevention and detection techniques, regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.

- 6.2 To this end, the Council maintains a continuous overview of such arrangements through the roles of the Monitoring Officer and Group Director for Corporate Services, the Financial and Contract Procedure Rules, and various codes of financial practice, accounting instructions and audit arrangements. This Policy will be subject to regular review to ensure it remains current.

- 6.3 Contact details are as follows:-

- Marc Crumbie, Operational Audit Manager – 01443 680779

Anti-Fraud, Bribery & Corruption Policy and Procedure

APPENDIX A - Key Definitions

- **Fraud** is the 'intentional distortion of financial statements or other records by persons internal or external to the organisation, which is carried out to conceal the misappropriation of assets or otherwise for gain'.
- **Corruption** is the 'offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person'.
- **Facilitation Payments** are a form of bribery made with the purpose of expediting or facilitating the performance by an overseas public official of a routine governmental action to obtain or retain business or any other undue advantage.
 - Facilitation payments differ from outright bribery and corruption. In some countries, it may be considered normal to provide small unofficial payments under certain circumstances, although this practice is illegal in most countries

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