



NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

FRAUD RESPONSE PLAN

OCTOBER 2011

1. Introduction

- 1.1 The Fraud Response Plan defines the way that Newcastle Borough Council applies its various policies and procedures to suspected theft, fraud and corruption.
- 1.2 It fits in with various other documents, most notably the Policy and procedure on theft, fraud, corruption and bribery.
- 1.3 The procedures for dealing with suspected money laundering are different from other problems – see the Money Laundering policy and procedure for the necessary actions.
- 1.4 Different rules also apply to Benefits Fraud – see item 2.4 below.
- 1.5 The aim of this Plan is to provide a toolkit for dealing with problems, and rapid access to expert advice. This fraud response plan guides managers on how to react to suspicions of fraud, theft, corruption and bribery.
- 1.6 Additionally, it gives an outline of how investigations will be progressed, and managers' possible role in this. The latter part is intended to give a feel for how matters will progress to give confidence in the process. It is not a D-I-Y guide to fraud investigation!
- 1.7 Any suspected frauds at Newcastle Borough Council should be reported to the **Audit Manager** at the earliest opportunity.

2. Purpose of the Fraud Response Plan

- 2.1 The Fraud Response Plan is designed to ensure timely and effective action in the event of suspected fraud to:
 - minimise fraud by taking prompt action
 - prevent further losses where fraud has occurred
 - manage consequences for other staff, including sudden changes in workload, altered duties and adverse staff reactions to investigation work
 - maximise recovery of losses
 - identify the perpetrators and maximise the success of any disciplinary and legal action taken
 - ensure the accuracy and integrity of evidence for successful disciplinary and court action
 - manage any adverse publicity for the organisation
 - maximise positive publicity when frauds are discovered and dealt with effectively
 - identify lessons to be learned to improve fraud management
 - ensure a fair and consistent response to suspected frauds
 - deter others from fraud that they may be contemplating

The dealing with a suspected fraud

- 2.2 Senior managers have a primary responsibility for preventing, detecting and investigating.

- 2.3 However, it is always vital that evidence is preserved and suspicions are not aroused, and **the first action must always be to contact the Audit Manager (ext. 2122 or 01782 742122) for advice and support.**

This will allow the Audit Manager to:

- provide initial advice on investigation process and procedure;
 - collate the information with all other known issues, which may suggest specific approaches to investigation;
 - jointly with Human Resources, decide on actions needed in relation to any employee potentially involved (such as suspension to protect evidence), and agree these with the head of service;
 - log the event in the Council's Fraud Register
 - report appropriately to Chief Executive, Section 151 Officer, the Monitoring Officer and Executive Management Team.
- 2.4 The only exception to this is where the matter is clearly related to the benefits system. In such cases, refer the matter direct to the Benefits Fraud section, who will handle the whole case.
- 2.5 If the Audit Manager identifies that a suspicion raised under this procedure may relate to money laundering, the Audit Manager will take the necessary actions under the Anti-money laundering policy and procedure, and advise the manager accordingly.

Initial enquiries

- 2.6 Where it is appropriate to do so, the Audit Manager may advise the manager to make discreet initial enquiries promptly to determine if there actually does appear to be an irregularity, provided that;
- they can do so **without alerting the perpetrator** to the investigation; and
 - they have sufficient experience to do so.

During this initial enquiry the manager should:

- determine the factors that gave rise to the suspicion
 - examine the factors to determine whether a genuine mistake has been made or whether an irregularity has occurred
 - make a written record of the alleged irregularity (access to this document should be restricted e.g. not held in an 'open area' of the network)
 - secure any relevant documentation/records (if this can be done without alerting the perpetrator)
- 2.7 The manager **should not** interview staff at this stage.

Scope of the investigation

- 2.8 The manager, Human Resources and the Audit Manager will agree the way forward, in consultation with the Section 151 Officer, the Monitoring Officer and the head of service.

- 2.9 They will consider whether to involve other agencies at this point (e.g. Police, HM Revenue & Customs, Audit Commission, the Department for Work and Pensions, the National Anti-Fraud Network, the Serious and Organised Crime Agency, and other councils). Such contact will be through the Audit Manager, at least initially.
- 2.10 The Internal Audit Team will usually conduct all fraud investigations. However, where the Audit Manager is confident that an investigation can be undertaken by the service (i.e. staff have the experience and ability to complete the investigation successfully, and are clearly not involved in the irregularity) the Audit Manager will provide advice and guidance to the nominated Investigating Officer.
- 2.11 The Audit Manager will consult the relevant people to determine the next steps. The exact format is fluid – it is sometimes appropriate to convene a meeting, and on other occasions it will be sensible to hold a series of one-to-one meetings or 'phone calls.

As a minimum, consultations will involve:

- the manager
- the Section 151 Officer
- the Head of Human Resources
- the Head of Service

Additionally, they may consult:

- the police
- the Chief Executive
- the Head of Communications
- Her Majesty's Revenues and Customs
- The District Auditor
- any other relevant person or body

Often, the initial consultations will define the list of further consultees, and the list will remain fluid and subject to revision as the investigation develops.

The consultations will include specific consideration of whether it is necessary to suspend one or more employees to protect evidence, colleagues or assets.

Conducting the investigation

- 2.12 Whilst conducting the investigation, the Audit Manager will ensure:-
- The investigation is completed promptly.
 - compliance with legislation on interviewing (Police and Criminal Evidence Act, PACE) and surveillance (Regulation of Investigatory Powers Act, RIPA). However, it is not normally necessary, even when there may be a criminal offence, to conduct interviews under PACE rules. The police can re-interview witnesses and suspects later on in the process.
 - All evidence is recorded, ensuring that it is sound and adequately supported (see further guidance below).
 - written records of all fact-finding meetings are retained.
 - Any Email correspondence relating to the investigation is discreet and use an agreed 'case name' rather than real names or locations. All sensitive

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attachments should be password protected (or, preferably, not emailed). Emails will be protectively marked *Protect – Staff*

- All evidence is held and stored securely, with appropriate restriction to access (both manual and electronic documentation) (see further guidance below).
- confidentiality and discretion is maintained throughout, information will only be shared on a “need to know” basis. In particular, be mindful that senior officers may need to hear disciplinary cases, and therefore should not know details of cases.
- Where appropriate, contact other enforcement agencies e.g. Police, HM Revenue & Customs. This should be always enacted via Internal Audit as they have established lines of communication and referral protocols.
- Investigators must not accept any offer of repayment of money or resignation at any stage, as this could prejudice the investigation. Any such offers should, however, be recorded in interview notes, and passed on to the head of service for consideration (in conjunction with the HR Manager).

- 2.13 The Council has the right to suspend any employee involved pending the outcome of an investigation. Suspension does not imply guilt but suspension can prevent the removal or destruction of vital evidence. When suspects are not suspended, supervision will usually need to be increased. Advice will always be sought from Human Resources on suspensions and any subsequent disciplinary action.
- 2.14 The Internal Audit Manager will report losses to the Council’s Insurance Team at the earliest stage.
- 2.15 Some organisations always delay internal disciplinary procedures pending police action on criminal offences, and dismiss employees after a court case. Explicitly, Newcastle Borough Council will pursue disciplinary matters at once, in order to remove wrongdoers from the payroll as rapidly as is possible using proper process.
- 2.16 This is because we cannot afford to pay people to sit at home and be investigated over an extended period.
- 2.17 Additionally, the Council recognises that many theft, fraud, corruption and bribery matters will involve clear gross misconduct matters which will not constitute prosecutable crimes, because of the definition of crimes under relevant acts, and because of levels of evidence.

Key objectives at this stage;

- 2.18 Prevent further losses.
- 2.19 Secure evidence of the fraud to allow the Council to pursue successful disciplinary action and prosecution.
- 2.20 Assess the likely extent of losses.
- 2.21 Recover funds where possible.

Next steps

- 2.22 Report the results of the initial enquiry to Internal Audit. They may give further advice on more work needed, or other actions to be taken. As before, this may be in consultation with a variety of other employees and external agencies.
- 2.23 Give Internal Audit the evidence that you have collected and tell them what you have already done (e.g. suspended employees, changed procedures or impounded IT equipment).
- 2.24 Internal Audit or the police may carry out further investigations, if the case is more complex than it appeared at first.

3. Evidence

It is essential that evidence is preserved and retained securely, the following steps should be followed;

- Remove all relevant original documents and store them securely. Record the date of removal, any noteworthy circumstances, and where they are stored. Replace documents needed for everyday use (e.g. till rolls and receipt books) with new ones to prevent unnecessary disruption to services. **Original documents and certified copies** provide the best evidence
- For computer systems, consider access rights, and change or suspend access to preserve evidence. (See below for more on ICT evidence.)
- In all cases, take care not to compromise evidence by doing or allowing anything that may deface or alter the evidence, particularly in ways that may alter the evidential value (such as punching filing holes that chop out a date or signature).
- You must also take care that evidence is always secure, so that there is no opportunity for damage or changes. This is known as preserving the chain of evidence. If there is a break, such as leaving a document out on a desk unattended, it could compromise a prosecution.
- Where you have to use a copy, endorse it as a copy and, if possible, certify it (i.e. sign and date on the back) as a true copy of the original, preferably by the person who took the copy from the original source document. Use of copies is increasingly common with document management systems, where documents are scanned and then destroyed.
- Minimise handling of documents to protect forensic evidence, such as fingerprints. Put them in clear plastic wallets to protect them, and to avoid the need to punch filing holes in them. This avoids the possibility of damaging key pieces of evidence.
- **Information held on IT equipment** provides evidence of the records at a particular time and may demonstrate that a fraud has been committed. It is important that the IT equipment is secured as soon as possible. Please contact the **Audit Manager** for advice in relation to this. Any printouts of data and exception reports can be useful, so should be retained, these together with hard copies should be timed, dated and signed by the investigator.

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- Suspend suspects and prevent their access to Council buildings, remove their access rights to IT networks and systems and change all relevant passwords, PIN numbers etc.
- **Physical evidence** is necessary when the investigation arises from an apparent discrepancy in cash, stores or other assets. A physical count of the cash, stores or assets is necessary to record the actual value of the cash/stores present at a fixed point in time.
- All **cash** held by the person should be counted at the same time (to prevent the same cash being presented more than once to cover a shortage). The cash count should include a detailed analysis of cash by denomination and any cheques, receipts and IOUs. The count should be checked by two people and the results signed and dated by both.
- Ask the employee under investigation if there is any more cash (e.g. at their home) and check this immediately to prevent subsequent reinstatement.
- All **stocks and stores** need to be counted if there is a suspicion of theft of assets. A full stock check, including opening all boxes to ensure they contain the goods they are supposed to, should be undertaken. Stock totals should be signed and dated by two investigators. If there are similar stores in other locations controlled by the suspect, then these need to be checked simultaneously to avoid stocks being moved between different stores to hide discrepancies.
- **Observation and surveillance** can be used to identify exactly what is happening to physical assets (e.g. stores being loaded into private cars). **Seek guidance from Internal Audit before any surveillance**, who will also consult the Council's Legal service. Specific surveillance must be proportionate, and authorised under the Regulations of Investigatory Powers Act 2000 (RIPA).
- Relevant **CCTV footage** may be available. In addition, if any form of access system is in use, it may establish who was where and when.
- If videos are to be used in evidence they should have the date and time continuously displayed. For the same reasons as for IT equipment, preserve the original tape intact as evidence for possible use in court and disciplinary hearings. Make a copy of the video and only view the copy during the investigation.

4. Lack of evidence

- 4.1 The Council will not investigate allegations that are unsupported by evidence.
- 4.2 This is because pursuing vague, mischievous or malicious allegations of theft, fraud, corruption and bribery would waste time on unnecessary and unfocussed investigations, and could lead to suspension of innocent staff, undermining corporate culture and morale.

5. Review outcomes

- 5.1 The Audit Manager will meet regularly with managers to review progress and determine further actions needed. Consultation with other officers will be undertaken as and when this is necessary. They will report progress to all relevant officers.

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- 5.2 The Council's policy is to refer theft, fraud or corruption to the police for investigation and prosecution whenever possible. However, it's important to remember that the evidence for a successful prosecution must prove a case beyond all reasonable doubt, while disciplinary cases (including dismissal for gross misconduct) are decided on the balance of probabilities.
- 5.3 The Audit Manager will consult the Section 151 Officer, the Monitoring Officer, Head of Service, and the Human Resources Manager to determine whether any matter should be referred to the Police for criminal investigation.
- 5.4 The Head of Service must remedy control weaknesses identified during the course of an investigation. Internal Audit will provide advice and support on effective controls, and will ultimately include these in a report (though implementation should not be delayed until the report is issued!)
- 5.5 The Audit Manager will cascade general points, issues and advice wider across the Council.
- 5.6 Internal Audit will record all final outcomes on the theft, fraud, corruption and bribery register. This information informs future prevention strategies, and is used in reporting fraud and corruption at the Council.
- 5.7 In all cases the Council's insurers should be informed of actual losses as soon as these have been firmly established. It is sensible to keep External Audit informed. Media and Communications will be kept informed that publicity can be properly managed.

6. Recover losses

- 6.1 There are a variety of methods which can be used to recover losses. Methods used depend upon the extent of the losses, the seriousness of the fraud/corruption and whether the response is disciplinary action, legal action or both.
- 6.2 If the case is going to court, the Council can seek a compensation order.
- 6.3 Some cases will be covered by the Council's fidelity guarantee insurance.
- 6.4 The question should not be **whether** the Council can recover the loss, but **how** it will do so.

7. Contact numbers

Internal Audit – 01782 742122
Public Concern at Work – 0207 404 6609