Fraud Response Plan
2024-25

Contents

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 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. It gives an outline of how investigations will be progressed and the possible role of a manager in an investigation.

1.3 Any suspected frauds at Newcastle Borough Council should be reported to Staffordshire County Council's Internal Audit Service at : https://www.staffordshire.gov.uk/Contact/Report-a-concern/Fraud-bribery-and-theft.aspx or by email to: fraud@staffordshire.gov.uk or to the hotline on: 0800 7311890.

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.

3. Dealing with a suspected fraud

3.1 Senior managers have a primary responsibility for preventing, detecting and investigating. However, it is always vital that evidence is preserved and suspicions are not aroused, and the first action must always be to contact Staffordshire County Council Internal Audit Service's Counter Fraud Manager (referred to as the Counter Fraud Manager hereafter) for advice and support. This will allow the Counter Fraud 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 Service Director;
- log the event on the Audit Management System, Pentana

- report appropriately to Chief Executive, Section 151 Officer, the Monitoring Officer and Corporate Leadership Team.

3.2 The only exception to this is where the matter relates to Money Laundering as this should be dealt with in accordance with the Council's Anti-Money Laundering Policy and Staff Guidance. In addition, if the matter relates to benefits, these cases will be reported to the Department for Work and Pensions (DWP) who will investigate the matter under the Single Fraud Investigation Service (SFIS).

Initial Enquiries

3.3 Where it is appropriate to do so, the fraud team 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.

3.4 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).

The manager **should not** interview staff at this stage.

Scope of the Investigation

3.5 The Manager, Human Resources and the Counter Fraud Manager will agree the way forward, in consultation with the Section 151 Officer, the Monitoring Officer and the Service Director. They will consider whether to involve other agencies at this point (e.g. Police, HM Revenue & Customs, External Audit, the Department for Work and Pensions, the National Anti-Fraud Network, the National Crime Agency, and other councils) and initially contact will be through the Counter Fraud Manager.

3.6 The Counter Fraud Manager will usually conduct all fraud investigations. However, where there is confidence that an investigation can be undertaken by the service itself (i.e. staff have the experience and ability to complete the investigation successfully, and are clearly not involved in the irregularity) then the Counter Fraud Manager will provide advice and guidance to the nominated Investigating Officer.

3.7 The Counter Fraud 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 Service Director for Strategy, People and Performance;
- the Service Director

Additionally, they may consult:
- the police;
- the Chief Executive;
- the Service Director for Strategy, people and Performance in relation to Communications;
- External Audit;
- any other relevant person or body

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

3.8 Whilst conducting the investigation, the Counter Fraud 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);
- 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;
- email correspondence relating to the investigation is discreet and an agreed 'case name' will be used rather than real names or locations. All sensitive attachments should be password protected. Emails will be protectively marked *Protect – Personal*;
- 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;
- 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 are aware that they 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).

3.9 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.

3.10 The key objectives during an investigation are to:

- secure evidence of the fraud to allow the Council to pursue successful disciplinary action and prosecution;
- prevent further losses;

- assess the likely extent of losses and report these to the Council's Risk and Insurance Officer at the earliest opportunity;
- recover funds where possible.

3.11   Where managers are carrying out their own investigation they must report the results of their initial enquiries to the Counter Fraud Manager, who may carry out further investigations if the case is more complex than it first appeared.

4. Evidence

4.1 It is essential that evidence is preserved and retained securely and the following steps should be followed:

- remove all relevant original documents and store them securely. Record the date of removal 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 **Counter Fraud Manager** for advice in relation to this. Any printouts of data and exception reports can be useful, so should be retained and these together with hard copies should be timed, dated and signed by the investigator;
- Where you suspend suspects you must 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;
- **Observations** can be used to identify exactly what is happening to physical assets (e.g. stores being loaded into private cars);
- **Seek guidance from the Counter Fraud Manager before any surveillance**, who will also consult the Council's Legal service. Surveillance must be necessary and proportionate in accordance with the Regulations of Investigatory Powers Act 2000 (RIPA) for Local Authorities now to be able to undertake any surveillance authorisation must be sought from the Magistrates Court;
- 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.

5. Lack of Evidence

5.1 The Council will only investigate allegations which are deemed to be creditable following an initial review of information received and where evidence is available. 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.

6. Review Outcomes

6.1 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.

6.2 The Counter Fraud Manager will consult the Section 151 Officer, Service Director, and the Service Director for Strategy, People and Performance to determine whether any matter should be referred to the Police for criminal investigation.

6.3 The Service Director must remedy control weaknesses identified during the course of an investigation. The fraud team 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).

6.4 The Counter Fraud Manager will record all final outcomes on the Audit Management System, Pentana. This information informs future prevention strategies, and is used in reporting fraud and corruption at the Council.

6.5 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. The Communications team will be kept informed in order that publicity can be properly managed.

7. Recover Losses

7.1 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.

7.2 Some cases will be covered by the Council's Fidelity Guarantee insurance. If the case is going to court, the Council can seek a compensation order.

8.Partnership agreement for Counter Fraud Services

8.1 The Council has outsourced the Internal Audit and Fraud Service to Staffordshire County Council and will work in partnership with them in additional to remaining part of the Staffordshire Counter Fraud Hub. The service offers a full detection and investigation service as well as work to prevent fraud and share the learning coming out of its activities both within the partnership and more broadly.

9. Review and Development of this Plan

9.1 It is important to keep this Fraud Response Plan up-to-date with developments in the law and professional practice. This policy will be reviewed annually and reported to the Audit and Standards Committee (unless any urgent need arises that requires an update before then).