

ANTI-FRAUD
&
CORRUPTION POLICY

Managing the Risk of Fraud

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	Contents	Page
1.	<u>Foreword</u>	3
2.	<u>Introduction</u>	3
3.	<u>Corporate Framework and Culture</u>	4
4.	<u>Prevention</u>	5
	Employees of Birmingham City Council	5
	Council Members	6
	Internal Control Systems	7
	Working with others	7
5.	<u>Detection and Investigation</u>	8
6.	<u>Deterrence</u>	9
7.	<u>Raising Fraud Awareness</u>	10
8.	<u>Conclusions</u>	10

1. Foreword

- 1.1 The United Kingdom public sector maintains high standards of ethics and has a good reputation for protecting the public purse. Sound systems of public accountability are vital to effective management and in maintaining public confidence. Birmingham City Council shares these high standards and is committed to protecting the public funds entrusted to it. Although we have good policies and procedures they are sometimes ignored: much of our fraud happens when non compliance with procedures leads to simple checks being neglected. The minimisation of losses to fraud and corruption is essential to ensure that resources are used for their intended purpose to provide services to the citizens of Birmingham.
- 1.2 The public is entitled to expect any local authority to conduct its affairs with integrity, honesty and openness, and to demand the highest standards of conduct from those working for it. This Anti-Fraud and Corruption Policy forms part of the governance arrangements of Birmingham City Council. It outlines the City Council's commitment to creating an anti-fraud culture and maintaining high ethical standards in its administration of public funds.
- 1.3 The policy is based on a series of comprehensive and inter-related procedures, designed to prevent, detect and deter fraud and to take effective action against any attempted or actual fraudulent act affecting Birmingham City Council. The policy also satisfies the legislative requirements to have effective arrangements for tackling fraud, and conforms with professional guidance laid down in the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Internal Audit in Local Government.

2. Introduction

- 2.1 Birmingham Audit, in delivering the Internal Audit function to the City Council, has the key function of monitoring the effectiveness of internal controls in operation. This also includes carrying out investigations into suspected cases of fraud or corruption. Fraud and corruption can be reported in a number of different ways which are outlined in the Fraud and Corruption Response Plan.
- 2.2 The purpose of this Policy is to outline Birmingham City Council's approach, as well as defining roles and responsibilities, for dealing with the threat of fraud and corruption, both internally and externally. It applies to :
- councillors
 - employees
 - agency staff
 - contractors
 - consultants
 - suppliers
 - service users
 - employees and committee members of organisations funded by the City Council
 - employees and principals of partner organisations

In addition to the above, the City Council also expects the citizens of Birmingham to be honest in their dealings with the Council.

2.3 This policy sets out the City Council's commitment to tackling fraud and corruption. It also makes it clear to all concerned that appropriate and decisive action will be taken against those committing, or attempting to commit, fraudulent or corrupt acts against Birmingham City Council.

2.4 In order for Birmingham City Council to be effective in its approach to dealing with the problem of fraud and corruption it has set about ensuring that it creates a culture of 'zero tolerance' rather than indifference to such matters.

3. Corporate Framework and Culture

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

- Codes of Conduct for members and employees
- Standing Orders and Financial Regulations
- Accounting procedures and records
- Sound internal control systems, including specific service area requirements
- Effective internal audit, provided by Birmingham Audit
- Effective recruitment and selection procedures
- Disciplinary Procedure
- Fraud and Corruption Response Plan
- Benefit Counter Fraud Prosecution and Sanction Policy
- Confidential Reporting (Whistle Blowing) Code
- The Regulation of Investigatory Powers Act (RIPA) Procedure
- Data Matching Policy
- Training
- The Fraud Act 2006
- Anti Money Laundering Policy
- The Bribery Act 2010

3.2 The City Council believes that a culture of honesty and openness is a key element in tackling fraud. The codes of conduct for members and employees are based on 10 general principles which expand on the Nolan Principles of Standards in Public Life¹. Where members or employees fail to adhere to these codes appropriate action will be taken against them.

3.3 The Fraud Act of 2006 describes fraud as the intention to make gain or cause loss under 3 main headings; by false representation; failing to disclose information; or abuse of position. There are further subheadings of fraud described including; possession of articles for use in fraud; making or supplying articles for use in frauds; participating in fraudulent business; or obtaining services dishonestly.

¹ The 10 General Principles on which the codes of conduct are based are Selflessness, Honesty and Integrity, Objectivity, Accountability, Openness, Personal Judgement, Respect for Others, Duty to Uphold the Law, Stewardship, and Leadership. These General Principles can be found as an annex to the City Council Constitution Volume B, Part 3 (A&B) Members Code of Conduct.

4. Prevention

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

Employees of Birmingham City Council

- 4.2 Birmingham City Council recognises that employees are often the first line of defence in preventing fraud. A key preventative measure in that fight is the effective recruitment of employees.
- 4.3 Employee recruitment is undertaken in accordance with the City Council's policies for Recruitment and Selection. Written references should be obtained before formal employment offers are made, wherever possible regarding the known honesty and integrity of potential employees. In this regard temporary employees should be treated in the same manner as permanent employees.
- 4.4 For new employees working within certain areas of the council, such as the Benefits Service, checks should be undertaken to see whether the person(s) are or have been falsely claiming Housing and/or Council Tax Benefit.
- 4.5 There is a procedure in place to check the identity and right to work of all potential employees. Some posts, due to the nature of the work and potentially working with vulnerable people, also require a Criminal Records Bureau (CRB) check to confirm whether any potential employee has a criminal record and if this would conflict with the post applied for.
- 4.6 All management and employees must abide by the City Council's Employee Code of Conduct, which sets out requirements on personal conduct. The new Code of Conduct came into effect on 1st November 2011. Where applicable employees are also expected to follow the codes of conduct laid down by their respective professional institutes.
- 4.7 Financial Regulations place the responsibility for fraud prevention on all employees. Staff should therefore be alert and alerted to the possibility of fraud and to report any concerns. Birmingham City Council has a confidential reporting 'Whistle blowing' Code in place to assist employees in reporting concerns about fraud and other issues without fear of harassment or victimisation.
- 4.8 The City Council has in place disciplinary procedures for all employees. Those found to have breached the Code of Conduct will be dealt with in accordance with these procedures. Where criminal activity is suspected or found, the matter will be referred to the police for investigation and possible prosecution, in accordance with the Fraud and Corruption Response Plan. In addition, recompense will be sought from those who are found to have carried out fraudulent acts.
- 4.9 If an employee has been implicated in a criminal offence in their private life, for instance; benefit fraud or abuse of a disabled parking badge; the employee must notify the Council in writing immediately. If the employee is found to have breached the code of conduct, disciplinary action may be taken.

- 4.10 Under the City Council's Standing Orders, employees must operate within Section 117 of the Local Government Act 1972, regarding the disclosure of financial interests in contracts relating to the Council, or the non-acceptance of any fees, gifts, hospitality or any other rewards, other than their proper remuneration. The Bribery Act 2010 makes it an offence to request, agree to receive, or accept a bribe. It is also an offence to offer, promise or give a bribe.
- 4.11 Birmingham City Council policies and procedures support compliance with the Bribery Act. Codes of Conduct, the Gifts and Hospitality Policy and the Declaration of Interest Guidance all set out the acceptable conduct for both members and employees. Through the codes' strong ethical framework; along with transparency and scrutiny in decision making, clear procurement rules and standards committees, the City Council aims to ensure that employees and members comply with anti-bribery legislation. Non compliance by an employee or member may be perceived as bringing the Council into disrepute or using their office for personal gain. It may result in disciplinary action being taken.

Council Members

- 4.12 Members are required to operate within:
- Birmingham City Council Member Code of Conduct
 - The Local Authorities (Model Code of Conduct) Order 2007
 - Sections 94-96 of the Local Government Act 1972
 - Local Authorities (Members' Interest) Regulations 1992 (SI 618); and amendment SI 1996/1215 ²
 - City Council Standing Orders
- 4.13 The Member Code of Conduct (revised in May 2008) sets out what is required of Members when conducting, or giving the impression that they are conducting, the business of Birmingham City Council. Because of their potentially influential position Members should not use, or be perceived to use, their office for personal gain, and should ensure that their actions are not perceived to bring the City Council into disrepute.
- 4.14 These matters and other guidance are specifically brought to the attention of members at their induction and are in each member's handbook. They include rules on the declaration and registration with the Director of Legal and Democratic Services; of potential areas of conflict between members' council duties and responsibilities, and any other areas of their personal or professional lives.
- 4.15 Birmingham City Council has in place an Overview and Scrutiny Committee. Its responsibilities include the review of decisions and actions undertaken by the City Council. Any matter arising from this process, in which fraud is suspected, can be referred to Birmingham Audit for independent investigation.
- 4.16 The City Council has established a Standards Committee, which has independent representatives within its membership, to examine issues of misconduct by members.

² All Acts, Codes and Regulations are available at www.legislation.gov.uk

- 4.17 The City Council Audit Committee has included within its rules of governance a responsibility to review the effectiveness of internal audit including work in respect of fraud.
- 4.18 The Local Government Act 2000 requires all members to give a written undertaking to comply with the Code of Conduct, if they are to remain on the Council.

Internal Control Systems

- 4.19 The Council has Financial Regulations & Standing Orders, Accounting Procedures, and various rules and Codes of Conduct in place. Employees are obliged to comply with these requirements when dealing with City Council matters.
- 4.20 The Director of Finance has a statutory responsibility under Section 151 of the Local Government Act 1972, to ensure proper arrangements are made for the City Council's financial affairs. In addition, under the Accounts and Audit (England) Regulations 2011, the Council is required to maintain an adequate and effective internal audit of its financial records and systems of internal control.
- 4.21 The City Council has sound financial systems and procedures, which incorporate efficient and effective internal controls. For instance "separation of duties" is considered a fundamental control in such systems, especially when involving significant transactions. Strategic Directors are responsible for maintaining effective internal controls including the prevention and detection of fraud and other illegal acts. Birmingham Audit will monitor and report upon these controls.

Working with Others

- 4.22 There are a variety of arrangements in place, which assist and support the regular exchange of information between Birmingham City Council and other Local Authorities and Agencies, for the purpose of preventing and detecting fraud. These involve National, Regional and Local Networks of Investigators such as Internal Auditors, Trading Standards Officers, Housing Benefits Investigators, etc.
- 4.23 Birmingham City Council is a leading member of the National Anti-Fraud Network (NAFN). NAFN provides access to information relating to fraud within the public sector. Fraud intelligence is collated and circulated to NAFN members, and an information service is provided assist in the more effective investigation of fraud. Birmingham Audit make extensive use of these services.
- 4.24 As technologies develop, there is an ever increasing need to take advantage of the processing and analysis of data stored throughout Birmingham City Council and beyond. This enables information and intelligence to be generated, which is a recognised means of preventing fraud and corruption. Birmingham Audit has introduced a data warehouse facility which enables data matching, data mining and new and innovative ways of carrying out other audit functions to be developed. This is recognised as an important tool in the prevention and detection of fraud. All data matching is carried out within the requirements of legislation and the Information Commissioner.

4.25 Birmingham City Council has a Fraud Hotline (0121 303 9990) to allow members of the public to report individuals who are suspected of committing fraud. There are a number of ways in which Birmingham Audit can be contacted to report concerns of fraud and corruption, all of which are outlined in the Fraud and Corruption Response Plan.

5. Detection and Investigation

5.1 It is the responsibility of Directors, Strategic Directors and managers to maintain good control systems and procedures, and to ensure that all employees comply with the instructions contained therein.

5.2 Investigations are carried out in response to referrals of potential fraud. In addition proactive exercises target services areas identified as being at a high risk from fraud. Data from different sources available within the City Council is matched as an effective way to identify potential fraud and error. This is done in compliance with Birmingham City Council data Matching Policy.

5.3 In accordance with Financial Regulation 12 Directorates must report to Birmingham Audit all suspected irregularities which could be instances of fraud. This is essential to our approach to fraud and corruption and ensures:

- consistent treatment of information regarding fraud and corruption
- proper investigation by an independent and experienced audit team
- the optimum protection of Birmingham City Council's interests

Where appropriate service areas must:

- report allegations swiftly and follow the guidance provided
- where appropriate, contact other agencies, e.g. Police
- report to senior management, and where appropriate, support Birmingham City Council's disciplinary procedures

5.4 When information relating to potential fraud or corruption is obtained, it is reviewed and subject to a risk assessment. Some referrals do not warrant further investigation whilst others may be better dealt with as management issues; or a full investigation may be needed.

5.5 Depending on the nature and anticipated extent of the information obtained, Birmingham Audit will normally work closely with:

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

This is to ensure that all allegations and evidence supplied are properly investigated and reported upon, and that where possible, losses are recovered for the City Council. Where appropriate this will include the use of Proceeds of Crime legislation.

- 5.6 Birmingham City Council's Confidential Reporting (Whistleblowing) Code provides clear guidance for individuals to raise any concerns of malpractice within the City Council, without the fear of being penalised or victimised. Birmingham City Council will take appropriate action to protect any one who has raised a concern in 'good faith'. The Code deals with the reporting of fraud or alleged fraud through formal channels, whether this is through Directorate management, the Director of Legal Services, or Assistant Director of Audit and Risk Management. The Code also includes making disclosures to external bodies if there is an unsatisfactory outcome to a disclosure made internally. City Council schools are required to have their own Whistleblowing Policies.
- 5.7 Where it is found that a City Council employee has been involved in fraudulent activity they will be subject to Birmingham City Council's disciplinary procedures.
- 5.8 Where financial non-compliance and wrongdoing is discovered relating to employees, members, or grant aided external organisations, the matter may be referred to the police in accordance with the Fraud and Corruption Response Plan. Such decisions will be made by the Assistant Director Audit and Risk Management or his nominated deputy. Referral to the police will not necessarily prevent action under the disciplinary procedure.
- 5.9 The Council's External Auditor, currently the Audit Commission, also has powers to independently investigate fraud and corruption.

6. Deterrence

- 6.1 There are a number of ways in which we deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside or outside of the City Council. These include:
- Publicising the fact that Birmingham City Council will not tolerate fraud and corruption by promoting this at every appropriate opportunity, e.g. statements in contracts, on claim forms, and in publicity literature.
 - Acting quickly, efficiently, and decisively when fraud and corruption is suspected and proven, e.g. the termination of contracts, the dismissal and prosecution of offenders.
 - Taking action to recoup the maximum recoveries (including losses and costs) for Birmingham City Council, e.g. through agreement, court action, penalties, insurance, superannuation etc. Where appropriate the Proceeds of Crime Act will be used to maximise the penalty suffered by the fraudster, and the level of recovery by the Council.
 - Having sound internal control systems, that still allow for innovation and calculated risk, to create maximum opportunities for the City Council whilst minimising the potential for fraud and corruption.
- 6.2 It is the responsibility of the Strategic Directors to communicate the Anti-Fraud and Corruption Policy to management and employees and to promote a greater awareness of fraud within their Directorates.

7. Raising Fraud Awareness

- 7.1 Birmingham City Council recognises that the success and credibility of its Anti-Fraud and Corruption Policy will depend largely on how effectively it is communicated throughout the organisation and beyond. Every opportunity will be taken to bring it to the attention of employees, members and other stakeholders. The policy will also be shown on the City Council's web page and be available on the City Council Intranet.
- 7.2 Birmingham Audit has produced a Fraud Awareness Strategy which explains Birmingham City Council's actions to raise the levels of fraud awareness amongst employees, Members and stakeholders. This is provided through a combination of face to face fraud awareness sessions, publications about general and specific fraud issues and an increasing variety of electronic media.
- 7.3 Birmingham City Council encourages induction training, particularly for employees involved in internal control systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. Training makes it clear that there may a possibility of disciplinary action taken against employees who ignore such guidance.
- 7.4 The officers involved in the review of internal control systems and investigative work will be properly and regularly trained. The training plans of Birmingham Audit will reflect this requirement.
- 7.5 Birmingham Audit offers tailored sessions in Fraud Awareness, to promote the Anti-Fraud and Corruption Policy and to give guidance on fraud prevention and detection. In its regular newsletters, Fraud Spotlight and Fraud Flash, and other adhoc publications, Birmingham Audit publicise fraud related issues as well as giving details of the outcomes of some of its investigations. These newsletters are available on the Intranet.

8. Conclusions

- 8.1 Birmingham City Council has put into place a number of arrangements to protect itself from the risk of fraud. However in the current climate of change there are issues that will increase the risk of loss. Changes in structure, systems and the reduction of staff, as well as external pressures due to the economy, all contribute to our exposure to the risk of fraud. To mitigate against this risk the City Council will review arrangements regularly.
- 8.2 The Anti-Fraud and Corruption Policy provides a framework for preventing and tackling fraudulent and corrupt acts against Birmingham City Council. The approval of the Policy by the Audit Committee, on behalf of Birmingham City Council, demonstrates the City Council's commitment to protecting public funds and minimising losses to fraud and corruption. Having made this commitment, it is imperative that Strategic Directors put in place arrangements for circulating the policy and promoting fraud awareness, throughout their Directorates.