



Oldham
Council

Report to Audit Committee

Counter Fraud and Corruption Policies and Procedures

Portfolio Holder: Councillor Abdul Jabbar MBE, Deputy Leader and Cabinet Member Finance and Low Carbon

Officer Contact: Anne Ryans - Director of Finance

Report Author: John Miller – Head of Internal Audit and Counter Fraud

29 November 2022

Reason for Decision

This report sets out the updated Counter Fraud and Corruption Policies and associated planning documents. These documents support the provision of an appropriate Counter Fraud service to minimise fraud risks and to investigate potential fraud and corruption.

Executive Summary

The Accounts and Audit Regulations 2015 state that the Council must have measures in place “to enable the prevention and detection of inaccuracies and fraud.” In this context, fraud also refers to cases of bribery and corruption.

The Head of Audit and Counter Fraud is responsible for the provision of an appropriate Counter Fraud service to minimise fraud risks and to investigate potential fraud and corruption. The Counter Fraud service at Oldham Council operates as recommended by the Chartered Institute of Public Finance and Accountancy (CIPFA). The Cabinet Office also provides guidance on professional Counter Fraud standards across the public sector, and such guidance is followed in Counter Fraud activities undertaken by Oldham Council.

The Director of Finance is responsible for the development and maintenance of the Counter Fraud suite of strategies and for directing the Council's efforts in fraud investigation. The Audit and Counter Fraud Team is responsible for investigating potential fraud, for identifying potential fraud risks, conducting proactive fraud reviews, and for delivering training and awareness to colleagues. In addition, the team maintains the relevant policies and procedures, which are reviewed and updated routinely.

Recommendations

Members note the contents of this report and approve the updated Policies and Planning documents.

Counter Fraud and Corruption Policies and Procedures

1. Background

- 1.1 The Accounts and Audit Regulations 2015 state that the Council must have measures in place “to enable the prevention and detection of inaccuracies and fraud.” In this context, fraud also refers to cases of bribery and corruption.
- 1.2 The Council’s Financial Procedure Rules Section 6.8: Investigations and Suspected Fraud or Corruption, require the Chief Internal Auditor (Head of Audit and Counter Fraud) to be responsible for the provision of an appropriate Counter Fraud service to minimise fraud risks and to investigate potential fraud and corruption. The Counter Fraud Team at Oldham Council operates in accordance with practices recommended by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the team also adheres to guidance issued by the Cabinet Office relating to professional Counter Fraud standards across the public sector.
- 1.3 The Audit and Counter Fraud Team is responsible for investigating potential fraud, for identifying potential fraud risks and conducting proactive fraud reviews, and for delivering training and awareness to colleagues. In addition, the team maintains the relevant policies and procedures, which are reviewed and updated routinely. This report sets out the proposed revised policies and planning documentation.

2. Current Position: Policies and Procedures

- 2.1 Effective policies and procedures are essential to ensure that all officers and Members are aware of their roles and responsibilities in identifying and managing the risk of fraud. The Audit and Counter Fraud Team will continue to review and update these policies and procedures on an ongoing basis.
- 2.2 During 2022, the following policy and planning documents were reviewed. These are attached to this report as the following Appendices:
 - Appendix 1: Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan
 - Appendix 2: Council Tax and Council Tax Reduction Scheme Sanction Policy
 - Appendix 3: Covid Business Grants Prosecution Policy
 - Appendix 4: Anti-Money Laundering Policy
 - Appendix 5: CIPFA Fighting Fraud and Corruption Locally Checklist
 - Appendix 6: Fraud and Loss Risk Assessment

3 Options/Alternatives

- 3.1 The Audit Committee may approve or not approve the attached policies and planning documentation.

4 Preferred Option

- 4.1 The Audit Committee approves the attached policies and planning documentation.

5 Consultation

- 5.1 N/A.
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6 **Financial Implications**

6.1 N/A.

7 **Legal Services Comments**

7.1 N/A.

8 **Co-operative Agenda**

8.1 N/A.

9 **Human Resources Comments**

9.1 N/A.

10 **Risk Assessments**

10.1 Risk assessments are considered as part of the Annual Audit and Counter Fraud Planning process and in advance of, and during, proactive reviews and investigations. (Andrew Bloor)

11 **IT Implications**

11.1 N/A.

12 **Property Implications**

12.1 N/A.

13 **Procurement Implications**

13.1 N/A.

14 **Environmental and Health & Safety Implications**

14.1 N/A.

15 **Equity, Community Cohesion and Crime Implication**

15.1 N/A.

16 **Equality Impact Assessment Completed**

16.1 N/A.

17 **Forward Plan Reference**

17.1 N/A.

18 **Key Decision**

18.1 N/A.

19 **Background Papers**

- 19.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

File Ref: Background papers are included as Appendices

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20 **Appendices**

- 20.1 Appendix 1: Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan
Appendix 2: Council Tax and Council Tax Reduction Scheme Sanction Policy
Appendix 3: Covid Business Grants Prosecution Policy
Appendix 4: Anti-Money Laundering Policy
Appendix 5: CIPFA Fighting Fraud and Corruption Locally Checklist
Appendix 6: Fraud and Loss Risk Assessment
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Oldham Council Audit and Counter Fraud

Counter Fraud, Anti-Bribery Strategy and
Counter Fraud Response Plan

29 November 2022



Version Control

Version	Version Date	Revised by	Description
1	July 2006	Janette Parkin	New Policy
2	July 2012	Andrew Bloor	Revised – Bribery Act 2010
3	July 2015	Andrew Bloor	Revised – Sanctions Policy and Counter Fraud Response Plan
4	August 2019	Andrew Bloor	Revised – Suitability of Offenders for Prosecution
5	November 2022	John Miller	Revised – Fighting Fraud and Corruption Locally.

Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan

1. Introduction

- 1.1 Oldham Council recognises that it has a responsibility to protect the public purse. In order to meet these responsibilities, the Council has an effective Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan and has set out to ensure that it creates a zero-tolerance culture.

2. Fraud and Theft

- 2.1 Fraud can be broadly described as acting dishonestly with the intention of making a gain for oneself or another, or inflicting a loss (or a risk of loss) on another; including:
- Dishonestly making a false representation
 - Dishonestly failing to disclose to another person, information which you are under a legal duty to disclose
 - Committing fraud by abuse of position, including any offence as defined in the Fraud Act 2006 (see Annex A).
- 2.2 Theft is defined in the 1968 Theft Act. It is the dishonest taking of property belonging to another person with the intention of permanently depriving the owner of its possession. The maximum sentence is 7 years imprisonment.

3. Bribery

- 3.1 The Bribery Act 2010 defines bribery as “the inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages whether monetary or otherwise”.
- 3.2 Corruption is the abuse of entrusted power for private gain. It affects everyone who depends on the integrity of people in a position of authority. The Bribery Act 2010 repealed all Corruption Acts in whole and therefore there is now no offence of corruption. Therefore, whilst corruption exists as a term, it no longer exists as an offence.
- 3.3 Section 7 of the Act creates a new offence of failure by an organisation to prevent a bribe being paid for or on its behalf. It is possible to provide a defence by implementing adequate procedures to prevent bribery occurring within the organisation. If these cannot be demonstrated and an offence of bribery is committed within the organisation, senior officers of the Council can be held accountable. An extract of the Bribery Act is shown at Annex B.

4 Aims

- 4.1 The Council has a duty to reduce fraud and bribery to an absolute minimum in order to **protect** its customers and itself. This Strategy sets out the Council’s commitment to preventing, detecting and deterring fraud, corruption, bribery or other irregularity.
- 4.2 By adopting the Strategy, the Council has **acknowledged** the fraud risk. The Strategy aims to improve the integration of fraud awareness, **prevention** and detection into the culture and working practices of the Council, its partnerships and contracts.

4.3 The Strategy requires that adequate and effective **governance** measures are in place, with all perpetrators being **pursued** in order to effect **redress**, recover losses and, where appropriate, **prosecute**.

4.4 The Strategy outlines the Council's stance in implementing a zero-tolerance approach towards fraud and irregularity and actions to **deter** it.

5. Approach

5.1 The Council takes the threat of fraud, corruption, financial loss and bribery seriously, in that it has the necessary dedicated and specialist resource, comprising of the Internal Audit and Counter Fraud Team. The team is focussed on co-ordinating the approach that Oldham Council takes in protecting its assets and finances from fraud, financial loss, corruption and bribery.

5.2 Fraud, by its very nature, is hidden, and conducted in such a manner that fraudulent actions are actively concealed. It is therefore vital to provide a strong anti-fraud culture and advocate a zero-tolerance approach. If done effectively this will not only provide a deterrence effect to potential fraudsters, but also encourage an environment where individuals feel comfortable coming forward to raise concerns.

5.3 In compiling the strategy, we have considered the Council's objectives and have also incorporated guidance and best practice of combatting fraud and loss within Local Government from a number of different sources, including:

a) CIPFA Code of Practice on Managing the Risk of Fraud and Corruption

5.4 The CIPFA Code of Practice on Managing the Risk of Fraud and Corruption identifies five key principles to be adopted in the fight against fraud, these are:

- acknowledge the responsibility of the governing body for countering fraud and corruption
- identify the fraud and corruption risks
- develop an appropriate counter fraud and corruption strategy
- provide resources to implement the strategy
- take action in response to fraud and corruption.

b) Fighting Fraud and Corruption Locally (FFCL) 2020 – 2025 Strategy

5.5 The Fighting Fraud and Corruption Locally 2020 – 2025 Strategy has been developed by Local Government in collaboration with anti-fraud and corruption professionals. There are five key elements of the strategy:

- **Govern:** Having robust arrangements and executive support to ensure anti-fraud, bribery and corruption measures are embedded throughout the organisation. Having a holistic approach to tackling fraud is part of good governance.
- **Acknowledge:** Acknowledging and understanding fraud risks and committing support and resource to tackling fraud in order to maintain a robust anti-fraud response.
- **Prevent:** Preventing and detecting more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture.
- **Pursue:** Punishing fraudsters and recovering losses by prioritising the use of civil sanctions, developing capability and capacity to investigate fraudsters

and developing a more collaborative and supportive local enforcement response.

- **Protect:** Protecting against serious and organised crime, protecting individuals from becoming victims of crime and protecting against the harm that fraud can do to the community. For a Local Authority this will also cover protecting public funds, protecting its organisation from fraud and cybercrime and also protecting itself from future frauds.

5.6 The Fighting Fraud and Corruption Locally (FFCL) 2020 – 2025 Strategy also identifies “six Cs” as central to an effective counter fraud approach:

- **Culture** – creating a culture where fraud and corruption are unacceptable and that is measurable.
- **Capability** – assessing the full range of fraud risks and ensuring that the range of counter fraud measures deployed is appropriate.
- **Capacity** – deploying the right level of resources to deal with the level of fraud risk that is monitored by those charged with governance.
- **Competence** – having the right skills and standards commensurate with the full range of counter fraud and corruption activity.
- **Communication** – raising awareness internally and externally, deterring fraudsters, sharing information, celebrating successes.
- **Collaboration** – working together across internal and external boundaries: with colleagues, with other Local Authorities, and with other agencies; sharing resources, skills and learning, good practice and innovation, and information.

5.7 In addition to compiling this strategy in line with these principles, the Council also assesses its compliance with them against the self-assessment checklist for Local Authorities contained in FFCL 2020 – 2025.

6. Policy Statement

6.1 The Council expects all elected Members, employees, consultants, contractors, service users and any other external and partner organisations to uphold the highest standards of honesty and integrity.

6.2 Elected Members and staff at all levels should be aware of their respective roles in preventing and detecting fraud and lead by example in ensuring adherence to rules, procedures, Codes of Conduct and recommended practices.

6.3 The Council supports and promotes zero tolerance to any form of theft, fraud, bribery or corruption and will pursue perpetrators to the full extent of the law.

6.4 Our strategy to reduce fraud is based on prevention, deterrence, detection, investigation, sanctions and redress within an over-riding anti-fraud culture. We will promote this culture across all our service areas and within the community as a whole.

7. Fraud Prevention - the Corporate Framework and Responsibilities

7.1 The corporate framework which underpins this strategy includes the following:

- The relevant Codes of Conduct for elected Members and employees
- The Council’s Constitution including the Finance Procedure Rules, Contract Procedure Rules and the Scheme of Delegation
- The Whistleblowing Policy
- The Anti- Money Laundering Policy

- Sanctions/Prosecutions Policies
- The work by the Audit and Counter Fraud Service in National Anti-Fraud Initiatives (NFI) and the National Anti-Fraud Network (NAFN)
- The ICT Acceptable Use Policy
- Recruitment procedures
- Staff disciplinary procedures
- The Annual Governance Statement to support the production of the Statement of Final Accounts.

7.2 The responsibilities of various parties in relation to managing the risk of fraud and corruption are detailed below.

7.3 Responsibilities of Elected Members

7.3.1 Elected members have a responsibility for approving major policies on the use of the Council's physical, financial and human resources and participating in the governance and management of the Council. All elected Members should be familiar with the Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan and support its application in all activities, in order to help maintain a culture which will not tolerate fraud or corruption. At all times, elected Members must maintain the highest standards of conduct and ethics as the public would expect of their elected representatives and observe the Members' Code of Conduct.

7.4 Responsibilities of the Audit Committee

7.4.1 The role of the Council's Audit Committee in relation to fraud and corruption includes:

- Reviewing and ensuring the adequacy of the Council's Counter Fraud, Anti-Bribery and Counter Fraud Strategy and related documents, and to consider the effectiveness of the arrangements for counter fraud;
- Reviewing and ensuring that adequate arrangements are established and operating to deal with situations of suspected or actual fraud, financial loss and corruption;
- Reviewing the annual Internal Audit work programme to consider the proposed and actual Internal Audit coverage and whether this provides adequate assurance on the main business risks;
- Receiving and considering the Council's Annual Governance Statement.

7.5 Responsibilities of Management

7.5.1 It is acknowledged that fraud may be committed from within the organisation. The responsibility for managing the risk of fraud and corruption lies with management. Management includes all of the Council's Directors, Heads of Service, managers, line managers and supervisors. These are all responsible for establishing and maintaining sound systems of internal control in all of their service's operations to prevent and detect fraud, bribery, corruption and theft.

7.5.2 Management must promote staff awareness of the risk of fraud and corruption and ensure that all suspected or reported irregularities are immediately referred in accordance with the Fraud Response Plan.

7.5.3 Where fraud or corruption has occurred because of a breakdown in the systems or procedures in place, management must ensure that appropriate improvements in systems of control are implemented to prevent a reoccurrence.

7.5.4 Managers must ensure that awareness is raised about the need to register interests and to include in the Register of Gifts and Hospitality any gifts or hospitality. They should also ensure that compliance with procedures is maintained in accordance with the Code of Conduct for Employees.

7.6 Responsibilities of All Employees

7.6.1 The Council expects all elected Members and employees, to act with integrity, and to carry out their duties in accordance with appropriate legal requirements, internal codes, rules and procedures and to act at all times with honesty and probity in the discharge of their functions in line with the Principles of Public Life (The Nolan Principles) shown at Annex C. All employees are expected to give the highest possible standard of service and to act with propriety in the use of public funds. Employees are required to avoid activity that breaches this policy and must:

- Ensure that they read and comply with this policy.
- Report suspicions of theft, fraud, serious and intentional breaches of financial regulations, bribery or corruption.
- Comply with the Council's 'Code of Conduct for Employees'.
- Declare all offers of gifts, hospitality, and potential conflicts of interest.

7.7 Responsibilities of Suppliers, Contractors, Consultants, Agency workers, Public and Partner Organisations

7.7.1 All outside individuals, including suppliers, contractors, consultants, agency workers, public and partner organisations are expected to conduct themselves towards the Council with honesty and integrity, and not do anything that involves fraud or corruption. All those working on behalf of the Council should be aware of procedures to be followed if they suspect that fraudulent or corrupt acts have been committed and must report their concerns.

7.8 Role of Internal Audit

7.8.1 Internal audit provides an independent and objective opinion to the organisation on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control. Internal audit work, undertaken by the Audit and Counter Fraud Service, in reviewing the standard of internal control, assists management to fulfil their responsibilities in preventing incidents of fraud and corruption. The Audit and Counter Fraud Service develops and reviews the Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan and, where appropriate, investigates issues reported under the Fraud Response Plan or the Whistleblowing Policy where fraud is suspected.

7.9 Role of Counter Fraud Team

7.9.1 The Counter Fraud Team is a dedicated resource which has been established to investigate potential irregularities in relation to a number of different areas administered by the authority. This includes categories such as Council Tax Discounts, Council Tax Support, Non-Domestic Rates (Business Rates) & Direct Payments. The consideration of sanctions or prosecution of offenders is governed by the Council's Sanctions and Suitability of Offenders for Prosecution Policies. The team forms part of the Audit and Counter Fraud Service and develops and reviews the Council's Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan.

7.10 Role of External Audit

7.10.1 As part of their work plan, the Council's External Auditors are required to identify any risk of material misstatement (whether due to fraud or error) and to reach a conclusion on the Authority's arrangements to secure value for money.

8. Deterrence

8.1 The Council is committed to maintaining a culture which will not tolerate theft, fraud, bribery or corruption and will deal swiftly and firmly with any persons who defraud or attempt to defraud the Council, or who are corrupt. Such action may include:

- Disciplinary action;
- Prosecution;
- Recovery of financial loss;
- Publicising successful prosecutions.

8.2 Disciplinary Action

8.2.1 All cases of fraud, bribery corruption or theft, will be referred for disciplinary investigation and will be treated as gross misconduct. If any allegations are made maliciously or for personal gain, disciplinary action may be taken against the person making the malicious allegation. Any elected Member found to have acted fraudulently or corruptly will also face action. Where appropriate, the Council's Monitoring Officer will be consulted about the action to be taken.

8.3 Prosecution

8.3.1 Where sufficient evidence exists to suggest that a criminal offence may have been committed, it is the policy of the Council to refer the matter for prosecution in line with the Council's Sanctions and Suitability of Offenders for Prosecution policies and seek to recover losses incurred.

8.4 Recovery of financial loss

8.4.1 The Council will seek to recover any financial loss incurred as a result of fraudulent activity. The Council is committed to taking further appropriate action against fraudulent claims submitted for financial assistance in relation to any service which the Council delivers such as Council Tax, Non Domestic Rates (Business Rates) and Social Care. Consideration will be given to either prosecuting or applying alternative sanctions where it is considered appropriate to do so, in accordance with the Council's Sanctions and Suitability of Offenders for Prosecution policies. Disciplinary action will be taken in all cases where employees are found to have either made or participated in the making of fraudulent applications to this or any other public body.

8.5 Publicising Successful Prosecutions

8.5.1 Press releases will be issued in suitable cases to seek to maximise the deterrent effect and raise the level of public fraud awareness. Consideration will be given to the amounts involved, the nature of the offence, public interest and the deterrent value of publicising a particular case.

9. Detection

9.1 The Role of Management

9.1.1 Management must ensure that an effective system of internal control is in place. Controls in place should be adequately documented and implemented. It is the responsibility of management to ensure that appropriate controls are established, and that the operation of all controls is kept under review.

9.2 Reporting Suspected Incidents of Fraud or Corruption

9.2.1 All elected Members and employees have a vital role in the detection of fraud and corruption and must be vigilant against the possibility of fraudulent and corrupt activity. All suspicions of illegality, financial impropriety or breach of procedure should be reported in accordance with the requirements of the Fraud Response Plan.

9.2.2 The Council has a Whistleblowing Policy to give confidence to employees who wish to raise concerns in a confidential manner. The policy provides a framework for reporting, investigating and following up such concerns in accordance with the Public Interest Disclosure Act 1998 (PIDA).

9.2.3 Where any person indicates that they wish to raise a concern in relation to suspected fraud, they should be referred to the contact details shown in the Fraud Response Plan for guidance on how to report their concerns in confidence. Contact details and guidance for reporting fraud are included on the Council website and reflected in the Fraud Response Plan. Any referrals received via these contact details will be allocated accordingly depending on the nature of the allegation received.

9.2.4 A list of common fraud indicators is shown at Annex D.

9.3 The Investigation of Incidents of Fraud or Corruption

9.3.1 The Council's Audit and Counter Fraud Service is responsible for receiving all referrals of suspected theft, fraud and corruption. Responsibility for conducting the investigation will depend on the nature of the alleged offence(s).

9.3.2 The relevant investigating team will liaise with other relevant services, to agree an appropriate approach to ensure that action is taken to research allegations of suspected fraud in accordance with this policy. Account will be taken of the particular circumstances of each case to ensure appropriate services are involved in the process. There will be liaison with the Human Resources team and other functions / individuals as necessary such as Legal Services, relevant service managers and other internal and/or external services.

9.3.3 Where theft, fraud or corruption has occurred, management will be advised about any recommended improvements to systems and procedures as appropriate. The Council's Director of Finance (as the Section 151 Officer) will be informed of all incidents of fraud where it is alleged that the incident involves a member of staff, partner, contractor or councillor. Action for undertaking an investigation will be agreed in liaison with Human Resources in accordance with investigation processes set out as part of the Council's Disciplinary Procedure.

9.4 Data Matching

- 9.4.1 Data Matching Arrangements are in place, and will continue to be developed, which encourage the exchange of information between the Council and other agencies on national and local fraud and corruption activity. This includes participation in the National Fraud Initiative (NFI). All such arrangements will adhere to data protection legislation.

10. Sanctions and Redress

- 10.1 In all cases of theft, fraud, financial misconduct, serious and intentional breach of Financial Procedure Rules or Contract Procedure Rules, bribery or corruption committed by employees the Council will seek disciplinary action for gross misconduct. This includes fraud related to employment with the Council as well as other forms of engagement e.g., through applications for financial assistance made to the Council by employees or members.
- 10.2 Where evidence of fraud exists this will be reported to the Police or the Council's Legal Services where appropriate and considered for criminal prosecution, in line with the Sanctions and Suitability of Offenders for Prosecution Policies. Where a financial loss has been identified, the Council will seek to recover this loss either through civil or criminal processes.
- 10.3 The Council will seek prosecution in all cases involving theft from vulnerable clients or where there is evidence of bribery or corruption of public officials.
- 10.4 The Council's Sanctions Policy (Fraud and Bribery) is shown at Annex E, and the Policy on the Suitability of Offenders for Prosecution (Prosecution Policy) is shown at Annex F

11. Fraud Response Plan

- 11.1 Our staff are our first line of defence against most acts, or attempts, of fraud, corruption, financial loss or bribery. We expect and encourage them to be alert to the possibility of acts of fraud, corruption, potential financial loss or bribery and to raise any such concerns at the earliest opportunity.
- 11.2 Staff have a duty to protect the assets of the Council, including information, as well as property. When an employee suspects that there has been fraud or corruption, they have a duty to report the matter to the Internal Audit and Counter Fraud Team.

12. Reporting Lines - Reporting a Fraud

- 12.1 Suspicions of fraud will be treated seriously and will be reviewed and investigated in accordance with the Public Interest Disclosure Act, the Human Rights Act and the Council's fraud investigation procedures
- 12.2 There are a number of ways that individuals may raise a concern or report suspected fraud or bribery.
- The Council has a dedicated confidential fraud hotline (0161 770 4969) which is monitored by key personnel within the Internal Audit and Counter Fraud Service.

- Concerns may also be raised by writing direct to the Counter Fraud Team, Level 3, Civic Centre, Oldham, OL1 1UT, and by email at investigations@oldham.gov.uk

12.3 This Fraud Response Plan is intended to provide employees with an avenue within the Council to raise concerns. If it is felt that the Council has not acted appropriately, the matter may be reported to one of the following:

- The Council's External Auditor.
- One of the Council's recognised Trade Unions, i.e. UNISON or GMB.
- Public Concern at Work (see paragraph 13.3 below).
- Citizens' Advice Bureau.
- Relevant professional bodies or regulatory organisations such as the Health and Safety Executive and utility regulators.
- The police.

If the matter is reported to a person or body outside of the Council, care should be taken not to disclose confidential information.

13. Whistleblowing

13.1 The Council's Whistleblowing Policy encourages employees (and those of contractor and partner organisations) to report concerns that are in the public interest. The Policy outlines the process for raising concerns and the types of conduct that should be reported. For example:

- Criminal offences.
- Failure to comply with legal obligations.
- Actions which endanger the health or safety of any individual.
- Actions which cause damage to the environment.
- Actions which are intended to conceal any of the above.

All referrals are treated in the strictest confidence and callers who wish to may remain anonymous.

13.2 The Council will not tolerate any harassment or victimisation of anyone raising a genuine concern. All such acts of harassment or victimisation will be referred for disciplinary investigation.

13.3 Employees unsure of whether or how to raise a concern or for those who may want confidential advice are advised to contact the independent charity, Public Concern at Work. Public Concern at Work provides free confidential advice on how to raise a concern about serious malpractice at work. Their contact details are:

- Telephone: 020 7404 6609
- Web-site: www.pcaw.co.uk
- E-mail: helpline@pcaw.co.uk

13.4 Where allegations are found to be malicious, they will also be considered for further investigation and subject to appropriate disciplinary action.

14. Action by Managers/Heads of Service

14.1 Managers must take action to deal with suspicions of theft, fraud or corruption. Managers should:

- Listen to the concerns raised by staff and treat every report received seriously and sensitively.
- Make sure that all concerns are given a fair hearing.
- Reassure staff that they will not suffer because they have raised suspicions. The Council will not tolerate any harassment or victimisation (including informal pressures) of anyone raising a genuine concern.
- Get as much information as possible, including any notes and any evidence that may support the allegation.
- Report the matter as outlined in this document.
- NOT interfere with any evidence and make sure it is kept in a safe place.
- NOT try to carry out an investigation. This may hinder any subsequent investigation action that may be taken.

15. Fraud Investigation

- 15.1 The Council's Audit and Counter Fraud Service is responsible for receiving all referrals of suspected theft, fraud and corruption. Responsibility for conducting the investigation will depend on the nature of the alleged offence(s).
- 15.2 The relevant investigating team will liaise with other relevant services, to agree an appropriate approach to ensure that action is taken to research allegations of suspected fraud in accordance with this policy. Account will be taken of the particular circumstances of each case to ensure appropriate services are involved in the process. Liaison will take place with Human Resources and other functions / individuals as necessary such as Legal Services, relevant service managers and other internal and/or external services.
- 15.3 Where theft, fraud or corruption has occurred, management will be advised about any recommended improvements to systems and procedures as appropriate.

16. Disciplinary procedure

- 16.1 Cases of theft, fraud, bribery or corruption by employees will be referred for disciplinary investigation in accordance with the procedures set out in the Council's Disciplinary Policy and will be treated as gross misconduct.
- 16.2 Where sufficient evidence exists, this will be reported to the police in accordance with the Sanctions and Suitability of Offenders for Prosecution Policy.
- 16.3 Where there is evidence that an allegation of misconduct was made maliciously or for personal gain, disciplinary action will be taken against the person making the malicious allegation.

List of Annexes

Annex A - Summary of the Fraud Act 2006

Annex B - Extract from the Bribery Act 2010

Annex C - The Principles of Public Life (The Nolan Principles)

Annex D - Fraud Indicators

Annex E - Sanctions Policy (Fraud & Bribery)

Annex F – Suitability of Offenders for Prosecution.

Summary of the Fraud Act 2006

Key areas of the Fraud Act 2006

There are a number of other areas that are not included within this summary. This summary focuses on those issues that are more likely to affect counter fraud investigations in the public sector.

Section 1 - Fraud

A person is guilty of fraud if he/she is in breach of any of the Sections listed in subsection (2) (which provide for different ways of committing the offence).

The Sections are:

- Section 2 - Fraud by false representation
- Section 3 - Fraud by failing to disclose information
- Section 4 - Fraud by abuse of position
- Section 7 – Making or supplying articles for use in fraud.

Maximum penalty is imprisonment for a term up to 10 years (note: this was previously 7 years).

Section 2 - Fraud by false representation

A person is in breach of this Section if he/she:

- Dishonestly makes a false representation; and
- Intends, by making the representation to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.

Explanatory notes

- Note a gain need not have taken place, intent suffices
- 'Gain' includes keeping what one has, as well as a gain by getting what one does not have
- 'Loss' means not getting what one might get, as well as losing something that one has
- Importantly the loss can be permanent or temporary (previously the onus was on intention to permanently deprive)
- 'Dishonest' is defined in case law (R v Gosh 1982) and is based upon the two-tier test of whether his behaviour was regarded as being dishonest by the ordinary standards of reasonable and honest people (Clapham Omnibus) and whether the defendant was aware that his conduct was dishonest.

A representation is false if:

- It is untrue or misleading; and
- The person making it knows that it is, or might be, untrue or misleading

- The term 'representation' is defined under s.2 (3) of the Act as
- Any representation as to fact or law, including a representation as to the state of mind of the person making it, or any other person.

Subsection (4) states the representation may be expressed or implied.

Section 3 - Fraud by failing to disclose information

A person is in breach of this Section if he/she:

- Dishonestly fails to disclose to another person information which he is under a legal duty to disclose; and
- Intends, by failing to disclose the information, to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.

Explanatory notes

This section applies to all parties where a person is under a duty to disclose something and by not doing so could create some gain (e.g. not disclosing an illness for medical insurance) or where the failure to disclose causes a loss or puts another at a risk of a loss.

This may include verbal or written contracts. The Law Commission's Report of Fraud on the concept of 'legal duty' is as follows:

Section 4 - Fraud by abuse of position

A person is in breach of this Section if he/she:

- Occupies a position, in which he is expected to safeguard, or not act against, the financial interests of another person
- Dishonestly abuses that position; and
- Intends, by means of the abuse of that position to make a gain for himself or another, or to cause loss to another or expose another to a risk of loss.

Explanatory notes

S.4 (2) A person may be regarded having abused his position even though his conduct consisted of an omission rather than an act.

This offence focuses on those persons who are in positions of financial trust and have insight and possibly control of another's financial situation. There will be some form of relationship or agreement between both parties for the offence to operate: the relationship can be one of client, employee, family, trustee and beneficiary or simple trust. Although the offence focuses on the area of finance of the victim, it appears by the wording of the section that the actual gain to the offender may not be monetary, although it invariably will be.

The following examples are given:

- Where an employee fails to take up a contract to allow a rival company to obtain the contract at the expense of the employee's company
- Where someone is looking after elderly or vulnerable persons and has access to their bank account and abuses their position by removing money from the account.

Section 7 – Making or supplying articles* for use in frauds

Under section (1) a person is guilty of an offence if he makes, adapts, supplies or offers to supply any article:

- Knowing that it is designed or adapted for use in the course of or in connection with fraud: or
- Intending it to be used to commit, assist in the commission of, fraud.

An article includes any program or data held in electronic form and can also include anything that can be used to make, alter, remove, supply or store something by electronic means in connection with fraud.

Fraud under this section may be manipulating or amending the date on a Blue Badge or photocopying a badge and supplying to another.

Annex B**Extract from the Bribery Act 2010****1 Offences of bribing another person**

- (1) A person (“P”) is guilty of an offence if either of the following cases applies.
- (2) Case 1 is where—
 - (a) P offers, promises or gives a financial or other advantage to another person, and
 - (b) P intends the advantage—
 - (i) to induce a person to perform improperly a relevant function or activity, or
 - (ii) to reward a person for the improper performance of such a function or activity.
- (3) Case 2 is where—
 - (a) P offers, promises or gives a financial or other advantage to another person, and
 - (b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.
- (4) In case 1 it does not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned.
- (5) In cases 1 and 2 it does not matter whether the advantage is offered, promised or given by P directly or through a third party.

2 Offences relating to being bribed

- (1) A person (“R”) is guilty of an offence if any of the following cases applies.
- (2) Case 3 is where R requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by R or another person).
- (3) Case 4 is where—
 - (a) R requests, agrees to receive or accepts a financial or other advantage, and
 - (b) the request, agreement or acceptance itself constitutes the improper performance by R of a relevant function or activity.
- (4) Case 5 is where R requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by R or another person) of a relevant function or activity.
- (5) Case 6 is where, in anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly—

- (a) by R, or
 - (b) by another person at R's request or with R's assent or acquiescence.
- (6) In cases 3 to 6 it does not matter—
- (a) whether R requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party,
 - (b) whether the advantage is (or is to be) for the benefit of R or another person.
- (7) In cases 4 to 6 it does not matter whether R knows or believes that the performance of the function or activity is improper.
- (8) In case 6, where a person other than R is performing the function or activity, it also does not matter whether that person knows or believes that the performance of the function or activity is improper.

3 Function or activity to which bribe relates

- (1) For the purposes of this Act a function or activity is a relevant function or activity if—
- (a) it falls within subsection (2), and
 - (b) meets one or more of conditions A to C.
- (2) The following functions and activities fall within this subsection—
- (a) any function of a public nature,
 - (b) any activity connected with a business,
 - (c) any activity performed in the course of a person's employment,
 - (d) any activity performed by or on behalf of a body of persons (whether corporate or unincorporate).
- (3) Condition A is that a person performing the function or activity is expected to perform it in good faith.
- (4) Condition B is that a person performing the function or activity is expected to perform it impartially.
- (5) Condition C is that a person performing the function or activity is in a position of trust by virtue of performing it.
- (6) A function or activity is a relevant function or activity even if it—
- (a) has no connection with the United Kingdom, and
 - (b) is performed in a country or territory outside the United Kingdom.
- (7) In this section “business” includes trade or profession.

4 Improper performance to which bribe relates

- (1) For the purposes of this Act a relevant function or activity—
- (a) is performed improperly if it is performed in breach of a relevant expectation, and

- (b) is to be treated as being performed improperly if there is a failure to perform the function or activity and that failure is itself a breach of a relevant expectation.
- (2) In subsection (1) “relevant expectation”—
 - (a) in relation to a function or activity which meets condition A or B, means the expectation mentioned in the condition concerned, and
 - (b) in relation to a function or activity which meets condition C, means any expectation as to the manner in which, or the reasons for which, the function or activity will be performed that arises from the position of trust mentioned in that condition.
 - (3) Anything that a person does (or omits to do) arising from or in connection with that person's past performance of a relevant function or activity is to be treated for the purposes of this Act as being done (or omitted) by that person in the performance of that function or activity.

5 Expectation test

- (1) For the purposes of sections 3 and 4, the test of what is expected is a test of what a reasonable person in the United Kingdom would expect in relation to the performance of the type of function or activity concerned.
- (2) In deciding what such a person would expect in relation to the performance of a function or activity where the performance is not subject to the law of any part of the United Kingdom, any local custom or practice is to be disregarded unless it is permitted or required by the written law applicable to the country or territory concerned.
- (3) In subsection (2) “written law” means law contained in—
 - (a) any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or
 - (b) any judicial decision which is so applicable and is evidenced in published written sources.

6 Bribery of foreign public officials

- (1) A person (“P”) who bribes a foreign public official (“F”) is guilty of an offence if P's intention is to influence F in F's capacity as a foreign public official.
- (2) P must also intend to obtain or retain—
 - (a) business, or
 - (b) an advantage in the conduct of business.
- (3) P bribes F if, and only if—
 - (a) directly or through a third party, P offers, promises or gives any financial or other advantage—
 - (i) to F, or
 - (ii) to another person at F's request or with F's assent or acquiescence,
 - and

- (b) F is neither permitted nor required by the written law applicable to F to be influenced in F's capacity as a foreign public official by the offer, promise or gift.
- (4) References in this section to influencing F in F's capacity as a foreign public official mean influencing F in the performance of F's functions as such an official, which includes—
- (a) any omission to exercise those functions, and
 - (b) any use of F's position as such an official, even if not within F's authority.
- (5) "Foreign public official" means an individual who—
- (a) holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such a country or territory),
 - (b) exercises a public function—
 - (i) for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such a country or territory), or
 - (ii) for any public agency or public enterprise of that country or territory (or subdivision), or
 - (c) is an official or agent of a public international organisation.
- (6) "Public international organisation" means an organisation whose members are any of the following—
- (a) countries or territories,
 - (b) governments of countries or territories,
 - (c) other public international organisations,
 - (d) a mixture of any of the above.
- (7) For the purposes of subsection (3)(b), the written law applicable to F is—
- (a) where the performance of the functions of F which P intends to influence would be subject to the law of any part of the United Kingdom, the law of that part of the United Kingdom,
 - (b) where paragraph (a) does not apply and F is an official or agent of a public international organisation, the applicable written rules of that organisation,
 - (c) where paragraphs (a) and (b) do not apply, the law of the country or territory in relation to which F is a foreign public official so far as that law is contained in—
 - (i) any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or
 - (ii) any judicial decision which is so applicable and is evidenced in published written sources.
- (8) For the purposes of this section, a trade or profession is a business.

7 Failure of commercial organisations to prevent bribery

- (1) A relevant commercial organisation (“C”) is guilty of an offence under this section if a person (“A”) associated with C bribes another person intending—
 - (a) to obtain or retain business for C, or
 - (b) to obtain or retain an advantage in the conduct of business for C.
- (2) But it is a defence for C to prove that C had in place adequate procedures designed to prevent persons associated with C from undertaking such conduct.
- (3) For the purposes of this section, A bribes another person if, and only if, A—
 - (a) is, or would be, guilty of an offence under section 1 or 6 (whether or not A has been prosecuted for such an offence), or
 - (b) would be guilty of such an offence if section 12(2)(c) and (4) were omitted.
- (4) See section 8 for the meaning of a person associated with C and see section 9 for a duty on the Secretary of State to publish guidance.
- (5) In this section—
 - “partnership” means—
 - (a) a partnership within the Partnership Act 1890, or
 - (b) a limited partnership registered under the Limited Partnerships Act 1907,
 or a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom,
 - “relevant commercial organisation” means—
 - (a) a body which is incorporated under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere),
 - (b) any other body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom,
 - (c) a partnership which is formed under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere), or
 - (d) any other partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom,
 and, for the purposes of this section, a trade or profession is a business.

8 Meaning of associated person

- (1) For the purposes of section 7, a person (“A”) is associated with C if (disregarding any bribe under consideration) A is a person who performs services for or on behalf of C.
- (2) The capacity in which A performs services for or on behalf of C does not matter.
- (3) Accordingly A may (for example) be C's employee, agent or subsidiary.
- (4) Whether or not A is a person who performs services for or on behalf of C is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between A and C.

- (5) But if A is an employee of C, it is to be presumed unless the contrary is shown that A is a person who performs services for or on behalf of C.

9 Guidance about commercial organisations preventing bribery

- (1) The Secretary of State must publish guidance about procedures that relevant commercial organisations can put in place to prevent persons associated with them from bribing as mentioned in section 7(1).
- (2) The Secretary of State may, from time to time, publish revisions to guidance under this section or revised guidance.
- (3) The Secretary of State must consult the Scottish Ministers [and the Department of Justice in Northern Ireland] before publishing anything under this section.
- (4) Publication under this section is to be in such manner as the Secretary of State considers appropriate.
- (5) Expressions used in this section have the same meaning as in section 7.

Annex C**The Principles of Public Life (The Nolan Principles)**

The Council expects all elected Members and employees, to act with integrity, and to carry out their duties in accordance with appropriate legal requirements, internal codes, rules and procedures and to act at all times with honesty and probity in the discharge of their functions. All elected Members and employees of Oldham Council are expected to comply with their relevant Code of Conduct. Underpinning the Codes of Conduct are the seven Principles of Public Life:

1. **Selflessness** — Holders of public office should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. **Integrity** — Holders of public office should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
3. **Objectivity** — Holders of public office should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. **Accountability** — Holders of public office should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
5. **Openness** — Holders of public office should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
6. **Honesty** - Holders of public office should be truthful.
7. **Leadership** — Holders of public office should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Annex D

Fraud Indicators

A number of frauds can come to light because of suspicions aroused by, for instance, the behaviour of certain individuals. It is impossible to give a definitive list of fraud indicators or warning signs. The following are types of risk factors that may, either alone or cumulatively with other factors, suggest the possibility of fraud and may therefore warrant further investigation or enquiry.

- **Unusual employee behaviour:** Refusal to comply with normal rules and practices, fails to take leave, refusing promotion, managers by-passing subordinates, subordinates by-passing managers, living beyond means, regularly working long-hours, job dissatisfaction/unhappy employee, secretiveness or undue defensiveness.
- **Financial irregularities:** Key documents missing (e.g. invoices, contracts); absence of controls and audit trails; missing expenditure vouchers and official records; general ledger out of balance; bank and ledger reconciliations are not maintained or cannot be balanced; excessive movements of cash or transactions between accounts; numerous adjustments or exceptions; constant overdue pay or expense advances; duplicate payments; ghost employees on the payroll; large payments to individuals; excessive variations to budgets or contracts.
- **Bad procurement practice:** Too close a relationship with suppliers/contractors; suppliers/contractors who insist on dealing with only one particular member of staff; unjustified disqualification of any bidder; lowest tenders or quotes passed over with minimal explanation recorded; defining needs in ways that can be met only by specific contractors; single vendors; vague specifications; splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval.
- **Disorganisation:** Understaffing in key control areas; consistent failures to correct major weaknesses in internal control; inadequate or no segregation of duties.
- **Inadequate supervision:** Policies not being followed; lack of senior management oversight; inadequate monitoring to ensure that controls work as intended (periodic testing and evaluation); low staff morale, weak or inconsistent management.
- **Lax corporate culture:** Management frequently override internal control; climate of fear or a corporate culture; employees under stress without excessive workloads; new employees resigning quickly; crisis management coupled with a pressured business environment; high employee turnover rates in key controlling functions.
- **Poor work practices:** Lack of common-sense controls; work is left until the employee returns from leave; post office boxes as shipping addresses; documentation that is photocopies or lacking essential information; lack of rotation of duties; unauthorised changes to systems or work practices.

Sanctions Policy (Fraud & Bribery)

Introduction:

Oldham Council (Oldham) is committed to delivering public services in an efficient and effective way and takes its responsibility for protecting public funds seriously. Oldham has a duty to reduce fraud and bribery to a minimum, the strategy for doing so is detailed within the Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan.

The use of sanctions is governed by this policy and principles.

Objectives:

The objectives of Oldham are to ensure that:

- Sanctions are applied fairly and consistently
- Sanctions are applied in an effective and cost-effective way
- The sanction decision making process is robust, transparent and fair.

The sanction decision will have regard to Oldham's Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan and the overall impact of any decision on the individual and the wider community.

Oldham has a range of sanctions that will be considered:

- No further action
- Disciplinary action and/or referral to professional bodies
- Civil proceedings
- Criminal proceedings
- Parallel sanctions (i.e. combination of the above options 2- 4).

No further action

Oldham may consider closing a case without taking any further action. This may be due to the following factors:

- Evidence is not robust or reliable
- The offence is minor
- The cost to pursue the case is not proportionate to the offence committed.

Disciplinary action

In the event that an allegation is made against an Oldham employee, the Internal Audit and Counter Fraud Team will consult with Human Resources, in accordance with the HR Disciplinary Policy and the relevant Head of Service. Any disciplinary action will be taken in conjunction with Human Resources, and the decision as to whether to refer the issue to any other enforcement agencies, for example, Police, HM Revenue & Customs will be a joint decision between the Director of Finance, the relevant Head of Service and Human Resources.

Sanctions may include warnings or dismissal.

Civil Proceedings

Where it is considered that a criminal prosecution will not be pursued, as evidence is not sufficient to prove a case beyond reasonable doubt, Oldham may consider civil proceedings.

For civil proceedings the standard of proof is on the balance of probabilities.

Where it is evident that Oldham has been defrauded by one of its employees (or service users/customers) – the proceeds of fraud may be preserved through civil proceedings without notice to the subject, by the following measures:

- Freezing/tracing injunctions – an interim measure which restrains a person from removing or dealing with assets located within the jurisdiction
- Search order – an interim order for the preservation of evidence
- Recovery of money.

Regardless of whether or not any sanction action is taken, Oldham Council, will always seek to recover any overpayments or misused monies.

The Accounts Receivable Team will be consulted, and their usual procedures applied, including civil action when necessary.

Criminal proceedings

Where Oldham considers that there is sufficient evidence to indicate that a criminal act has taken place, the Internal Audit and Counter Fraud Team, under the direction of the Assistant Director of Corporate Governance and Strategic Financial Management, would refer the matter in the first instance to either the local Police or via the Action Fraud helpline.

The decision taken by the Police or Crown Prosecution Service will be the final decision as to whether or not to pursue the case. Before a decision is taken whether or not to prosecute, the following factors will be considered:

Evidential criteria – the evidence must be:

- Clear, reliable and admissible in court
- Strong enough for a realistic chance of prosecution, i.e. to prove a case ‘beyond reasonable doubt.’

The Public Interest Test will also need to be considered, i.e. the prosecutor will decide whether there are public interest factors tending against prosecution. In making this decision, the following factors will be considered:

- Seriousness &/or monetary value of the offence
- Cost and proportionality of the prosecution
- Age & medical conditions
- Other social factors
- Vulnerability of subject.

However, Oldham is also empowered, under Section 222 of the Local Government Act, where they consider it ‘expedient for the promotion or protection of the inhabitants of their area’ to:

- Prosecute or defend or appear in legal proceedings and, in the case of civil proceedings, institute them in their own name, and;
- In their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of and Minister or public body under any enactment.'

Oldham will consider undertaking prosecution through this route if appropriate, usually in exceptional circumstances, as referral to the Police/Action Fraud is the preferred route.

Parallel Sanctions

As a matter of principle, it would be wrong to assume that any sanction(s) should be held in abeyance to wait for another to proceed to conclusion. The option of pursuing parallel sanctions may be considered.

It is preferable for the appropriate sanctions to proceed simultaneously, but it is not necessary for anyone to await the result of another before concluding. However due consideration must be given to all proceedings to ensure that one does not impact improperly upon another.

In such instances Oldham will carry out an investigation with a view to pursuing criminal prosecution whilst, simultaneously, Human Resources will coordinate an internal disciplinary investigation. The advantage of this approach is that all appropriate action is taken by Oldham at the earliest opportunity to avoid any additional costs that may be incurred e.g. continuing salary whilst subject is on suspension and/or cost of employing replacement staff in the interim.

The decision to run parallel sanctions will be determined on a case by case basis with emphasis, for the majority of cases, on a successful criminal sanction being of the highest priority. In any event advice should always be sought from the Internal Audit and Counter Fraud Team and Human Resources before progressing any course of action.

Suitability of Offenders for Prosecution

When considering whether it is appropriate to instigate proceedings, consideration will be given as to whether there is sufficient admissible evidence to justify bringing a prosecution and if the prosecution is in the public interest.

The following paragraphs outline factors that will be considered, to ensure consistent and equitable treatment of those accused of fraud.

Evidential Test

In making a decision to prosecute, the Local Authority must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction'. A realistic prospect of conviction is an objective test meaning that a jury, Magistrate or Judge hearing a case which, is properly directed in accordance with the law, is more likely than not to convict the defendant of the alleged offence. Evidence must be able to be used in a court of law. It must have been gathered appropriately, in accordance with the law and be from a reliable source.

If a case does not pass the 'evidential test' it must not go ahead no matter how important or serious the offence seems. If the case does pass the evidential stage, then it should move on to the second stage to decide if a prosecution is appropriate in the public interest.

Public Interest Test

Oldham Council will always consider public interest judiciously and will balance the factors for and against prosecution objectively. In making the decision whether it is in the public interest to prosecute, the following factors will be considered.

Financial Limits

Careful consideration will be given to commencing a prosecution where the fraudulent activity has not resulted in 'significant financial gain' to the offender, for example the amount of the reduction or discounts overpayment is less than the cost of proceedings.

Where there is no significant financial gain a prosecution could still be considered if it is felt that the fraud was a deliberate attempt to gain (if, for example, the fraud has been discovered after a relatively short space of time and a significant financial gain has not yet occurred), or in the case of a persistent offender or any other case where prosecution would be warranted.

Physical / Mental Factors

Consideration will be given to the defendant's mental and physical condition (including age) when deciding whether to prosecute. The Counter Fraud Officer will consider whether there are significant personal or mental problems that may have contributed to the reasons for committing the offence. In addition, due consideration will be given where there is any evidence to suggest that the claimant or partner or a third party (for example a child) would be severely affected by the action.

Voluntary Disclosure

It may not be appropriate to prosecute those, whose disclosure of their own free will, has led to the identification of a fraud of which the Council was unaware. Admissions made after enquiries or an investigation had commenced do not constitute voluntary disclosure.

Previous Incidence of Fraud

Any evidence of previous benefits-related fraudulent activity would form part of the overall "prosecution assessment", regardless of whether any previous offences resulted in prosecution.

Social Factors

If it is considered that the defendant's failure to declare the correct circumstances has been caused by significant extenuating social or financial factors these would be fully evaluated. (The fact that an individual was in debt or has limited assets would not in itself meet this requirement.)

Adequacy of Evidence

Substantive evidence is essential to secure any conviction. Proceedings would not be sought if there is any doubt that the required evidence is not available. It must be clear that the fraudulent act was actually committed, that it was committed in the full knowledge of benefit regulations and that it was committed with the clear and deliberate intention to obtain property by deception. Satisfying the requirements of the Code for Crown Prosecutors Evidential Test will ensure that evidence is of the standard required by the courts.

Failure in Investigation

It should be evident on the case file that all appropriate procedures have been adhered to with regard to satisfying the requirements of the Police and Criminal Evidence Act 1984, Criminal Procedures and Investigations Act 1996 and other relevant legislation. Particular consideration would also be given to any delay in the course of enquiries, which may be considered as unacceptable by the court.

Failure in Administration

Full account will be taken of poor administration or fault on the part of the Authority that has contributed to the processing of the fraudulent claim and subsequent award of discount or reduction in liability.

Authorisation of Prosecution

Cases being referred for prosecution will be authorised by the Audit and Counter Fraud Manager or the Assistant Director of Corporate Governance and Strategic Financial Management. Cases involving Council Members or employees will also be referred to the Group Solicitor or appropriate Head of Service so that any standards issues can be addressed.

Cases may also be referred to the police where it is considered that the nature of the offence, or the procurement of evidence require them to undertake or assist in the investigation.

Oldham Council Audit and Counter Fraud Service

**Council Tax and Council Tax Reduction Scheme
Sanction Policy**

29 November 2022

Version Control

<i>Version</i>	<i>Version Date</i>	<i>Revised by</i>	<i>Description</i>
1	April 2013	Andrew Bloor	New Policy
2	July 2015	Andrew Bloor	Revised Policy
3	June 2019	Andrew Bloor	Revised Policy
4	November 2022	Andrew Bloor	Revised Policy

Council Tax and Council Tax Reduction Scheme Sanction Policy

1. Introduction

1.1 This policy statement provides the agreed framework for Council officers working on the investigation, sanction and prosecution of cases involving suspected fraud in connection with:

- Reducing the liability for paying Council Tax by inappropriately claiming discounts.
- Inappropriate claims on the Council Tax Reduction Scheme.

The Council is committed to protecting the public funds it administers:

- By making it clear that residents have a responsibility to provide accurate and timely information about claims for reductions, discounts and /or exemptions,
- Through the investigation of suspected fraudulent claims, and
- Through the appropriate sanctioning and prosecution of offenders.

The sanction policy for other areas of fraud can be found in the Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan.

2. Post-Investigation Considerations

2.1 Following the receipt of an allegation, or other indicator of fraud, the Audit and Counter Fraud Team will undertake an investigation in liaison with other relevant investigating Authorities as appropriate. Once the Counter Fraud Officer has completed an investigation, it will be passed to the Assistant Manager – Counter Fraud within the Internal Audit and Counter Fraud Team, who will consider each case on its merits applying the criteria in this policy and in the Code for Crown Prosecutors and any other circumstances relevant to the case.

2.2 The Assistant Manager - Counter Fraud will decide whether there is sufficient evidence to provide a realistic prospect of securing a conviction and if so, whether it is in the public interest to recommend prosecution or an alternate sanction.

2.3 To ensure a consistent and equitable application of sanctions and prosecutions the following guidelines, as set out in the paragraphs below, will normally apply.

3. Cautions

3.1 A Caution is a warning (of which a written record is made), given in certain circumstances to a person who has committed an offence.

3.2 A Caution can only be considered when:

- there is sufficient evidence to justify instituting criminal proceedings;
- the person has admitted the offence during an interview under Caution and agrees to the Caution;

- there are no previous convictions or Cautions for Council Tax Reduction or national benefit fraud, and;
 - there was no other person involved in the fraud.
- 3.3 A Caution can be offered when there is no loss to public funds following the presentation of a false document. For example: a false statement on an initial claim form that was identified prior to payment being made. Although there is no loss of funds, there may be an offence of making a false statement to obtain a reduction in Council Tax liability.
- 3.4 However, a Caution cannot be offered in cases where there is no loss to public funds following a customer's failure to declare a change of circumstances.
- 3.5 If someone refuses a Caution, the Council's policy is to commence criminal proceedings. The court will be informed that proceedings have been brought because the person refused the offer of a Caution.
- 3.6 If the person is subsequently prosecuted for reducing the liability for Council Tax by inappropriately claiming discounts or another Council Tax Reduction Scheme offence, the Caution may be cited in court.

4. Financial Penalties

- 4.1 Regulation 11 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, allows Oldham Council to offer a person the opportunity to pay a Financial Penalty as an alternative to prosecution where certain conditions are satisfied. The Financial Penalty is laid down in the legislation and is 50% of the excess reduction subject to a:
- minimum of £100; and
 - maximum of £1,000.
- 4.2 In cases where an offence has been committed, but the fraud was discovered before any Council Tax liability is reduced, the Financial Penalty as laid down in the legislation is £100.
- 4.3 The offer of a Financial Penalty may be made where there is sufficient evidence to justify the prosecution of an offence, where the offence is not so serious and where the overpayment is low enough that it would not be in the public interest to prosecute.
- 4.4 A Financial Penalty will only be considered when:
- there is sufficient evidence to justify instituting criminal proceedings,
 - the person has admitted the offence during an interview under caution and agrees to the Caution,
 - there are no previous convictions or Cautions for Council Tax fraud,
 - there was no other person involved in the fraud, and
 - it is clear that the offender can afford to pay a Financial Penalty.

5. Civil Penalties – Incorrect Statements

- 5.1 Regulation 12 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) 2013 allows Oldham Council to impose a penalty of £70 where an incorrect statement or representation has been made.

5.2 The £70 penalty can only be imposed where a person has not been charged with a Council Tax Reduction Scheme offence or been offered a Caution or Financial Penalty under regulation 11 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

6. Civil Penalties – Failure to notify change of circumstances

6.1 Regulation 13 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) 2013 allows Oldham Council to impose a penalty of £70 where without reasonable excuse; there is a failure to report a relevant change of circumstances promptly.

6.2 The £70 penalty can only be imposed where a person has not been charged with a Council Tax Reduction Scheme offence or been offered a Caution or Financial Penalty under regulation 11 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

7. Civil Penalties – Council Tax

7.1 Schedule 3 of the Local Government Finance Act 1992 allows Oldham Council to impose a penalty of £70 where a person fails to comply with certain requirements as to the supply of information.

7.2 A penalty can be imposed on any person who:

- has been requested by the Council to supply information to identify the liable person for Council Tax and has failed to supply this information; or
- has knowingly supplied information, with regard to identifying the liable person, which is inaccurate in a material particular; or
- has failed, without reasonable excuse, to notify the Council that the dwelling will not be, or was no longer an exempt dwelling; or
- has failed, without reasonable excuse, to notify the Council that the chargeable amount is not subject to a discount or is subject to a discount of a lesser amount.

8. Prosecution

8.1 Prosecutions relating to this policy are pursued by the Director of Legal Services and involve cases where an individual has committed an offence either to receive Council Tax Reduction inappropriately or reducing the liability for Council Tax by inappropriately claiming a discount.

8.2 The Council is likely to prosecute a Council Tax Reduction scheme offence in the following circumstances where:

- the alleged offence involves a flagrant breach of the law;
- the excess Council Tax Reduction exceeds £2,000;
- there is a history of similar offences.
- the offender refuses to accept a Council Tax Reduction scheme penalty or Caution.

A Council Tax Reduction scheme offence means:

- making a false statement to obtain a Council Tax Reduction, or:
- knowingly failing to give a prompt notification of a change in circumstances affecting Council Tax Reduction.

8.3 Prosecution of an offender will take place in a Magistrates or Crown Court.

9. Suitability of Offenders for Prosecution

9.1 When considering whether it is appropriate to instigate proceedings, consideration will be given as to whether there is sufficient admissible evidence to justify bringing a prosecution and if the prosecution is in the public interest.

9.2 The following paragraphs outline factors that will be considered, to ensure consistent and equitable treatment of those accused of fraud.

Evidential Test

9.3 In making a decision to prosecute, the Local Authority must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction'. A realistic prospect of conviction is an objective test meaning that a jury, Magistrate or Judge hearing a case which, is properly directed in accordance with the law, is more likely than not to convict the defendant of the alleged offence. Evidence must be able to be used in a court of law. It must have been gathered appropriately, in accordance with the law and be from a reliable source.

9.4 If a case does not pass the 'evidential test' it must not go ahead no matter how important or serious the offence seems. If the case does pass the evidential stage, then it should move on to the second stage to decide if a prosecution is appropriate in the public interest.

Public Interest Test

9.5 Oldham Council will always consider the public interest judiciously and will balance the factors for and against prosecution objectively. In making the decision whether it is in the public interest to prosecute, the following factors will be considered.

(a) Financial Limits

Careful consideration will be given to commencing a prosecution where the fraudulent activity has not resulted in 'significant financial gain' to the offender, for example the amount of the reduction or discounts overpayment is less than the cost of proceedings.

Where there is no significant financial gain, a prosecution could still be considered if it is considered that the fraud was a deliberate attempt to gain (if, for example, the fraud has been discovered after a relatively short space of time and a significant financial gain has not yet occurred), or in the case of a persistent offender or any other case where prosecution would be warranted.

(b) Physical / Mental Health Factors

Consideration will be given to the defendant's mental and physical condition (including age) when deciding whether to prosecute. The Counter Fraud Officer will consider whether there are significant personal or mental health

concerns that may have contributed to the reasons for committing the offence. In addition, due consideration will be given where there is any evidence to suggest that the claimant or partner or a third party (for example a child) would be severely affected by the action.

(c) Voluntary Disclosure

It may not be appropriate to prosecute those, whose disclosure of their own free will, has led to the identification of a fraud of which the Council was unaware. Admissions made after enquiries, or an investigation had commenced do not constitute voluntary disclosure.

(d) Previous Incidence of Fraud

Any evidence of previous benefits-related fraudulent activity would form part of the overall "prosecution assessment", regardless of whether any previous offences resulted in prosecution.

(e) Social Factors

If it is considered that the defendant's failure to declare the correct circumstances has been caused by significant extenuating social or financial factors these would be fully evaluated (the fact that an individual was in debt or has limited assets would not in itself meet this requirement).

Adequacy of Evidence

- 9.6 Substantive evidence is essential to secure any conviction. Proceedings would not be pursued if there is any doubt that the required evidence is not available. It must be clear that the fraudulent act was actually committed, that it was committed in the full knowledge of Council Tax Reduction regulations and that it was committed with the clear and deliberate intention to obtain Council Tax Reduction by deception. Satisfying the requirements of the Code for Crown Prosecutors Evidential Test will ensure that evidence is of the standard required by the courts.

Failure in Investigation

- 9.7 It should be evident on the case file that all appropriate procedures have been adhered to with regard to satisfying the requirements of the Police and Criminal Evidence Act 1984, Criminal Procedures and Investigations Act 1996 and other relevant legislation. Particular consideration would also be given to any delay in the course of enquiries, which may be considered as unacceptable by the court.

Failure in Administration

- 9.8 Full account will be taken of poor administration or fault on the part of Authority that has contributed to the processing of the fraudulent claim and subsequent award of discount or reduction in liability.

10. Authorisation of Prosecution

- 10.1 Cases being referred for prosecution will be authorised by the Head of Audit and Counter Fraud or the Assistant Director of Corporate Governance and Strategic Financial Management. Cases involving Council Members or employees will also be

referred to the Group Solicitor or appropriate Head of Service so that any standards issues can be addressed.

- 10.2 Cases may also be referred to the Police where it is considered that the nature of the offence, or the procurement of evidence, require them to undertake or assist in the investigation.

11. Proceeds of Crime Act 2003

- 11.1 The Council will refer all suitable cases for financial investigation with a view to applying to the courts for restraint and/or confiscation of identified assets. A restraint order prevents a person from dealing with specified assets. A confiscation order enables the Council's agents to seek to recover its losses from assets found to be the proceeds of crime.

12. Recovery of Debt

- 12.1 In addition to any criminal proceedings or sanction it may impose in respect of offences committed, the Council will use all methods available to vigorously recover any overpayment arising from fraud, including taking action in the civil courts if necessary.

13. Publicity

- 13.1 Press releases will be issued in suitable cases to seek to maximise the deterrent effect and raise the level of public fraud awareness. Consideration will be given to the amounts involved, the nature of the offence, public interest and the deterrent value of publicising a particular case.

14. Review of Policy

- 14.1 The policy will be reviewed in the light of any legislative changes; trends or other factors that impact on the effectiveness of the policy.

Oldham Council Audit and Counter Fraud Service

Covid Business Grants Prosecution Policy

29 November 2022

Version Control

<i>Version</i>	<i>Version Date</i>	<i>Revised by</i>	<i>Description</i>
1	April 2020	Andrew Bloor	New Policy
1	May 2020	Anne Ryans	Reviewed Policy
2	November 2022	Andrew Bloor	Reviewed and updated

Covid Business Grants Prosecution Policy

1. Introduction

- 1.1 In response to the COVID-19 pandemic the Government placed a requirement on the Council to administer the grant schemes it introduced to assist small businesses and retail, leisure and hospitality businesses with cash flow during the pandemic. The Council was expected to follow the guidance produced by Central Government to aid relevant Authorities in administering the grants.
- 1.2 Initially the Department for Business, Energy and Industrial Strategy (BEIS) directed Local Authorities to prioritise the speed of the grant payments, subject to minimal pre-payment checks.
- 1.3 In order to assist in undertaking pre-payment checks, the Cabinet Office made available to the Council its Spotlight Tool. This was utilised by Oldham Council for undertaking pre-payment checks on all applications for business grants.
- 1.4 This policy statement provides the agreed framework for Council officers involved in investigation, sanction and prosecution following appropriate pre and post payment checks of the:
 - Small Business Grant Fund
 - Retail, Hospitality and Leisure Grant Fund
 - Local Authority Discretionary Grant Fund
 - Restart Scheme
 - Local Restrictions Support Grant
 - Additional Restrictions Grant Fund
 - Omicron Hospitality and Leisure Grant scheme

The range of Business Grants regimes ran from March 2020, with the last payments made in March 2022.

- 1.5 The Council is committed under its wider fiduciary duty to protect the public funds it administers. As such the Council has agreed this policy which supports the Council's approach of zero tolerance to all fraud and loss.
- 1.6 Central Government indicated in the "frequently asked questions" section of the available guidance (number 63) that it "will not accept deliberate manipulation and fraud – and any business caught falsifying their records to gain additional grant money will face prosecution and any funding issued will be subject to claw back, as may any grants paid in error."

2. Risk Assessment of Loss due to Fraud on Grant Payments

- 2.1 The Council, in developing its agreed procedures to administer these grants, has followed the direction of the Department of Business, Energy and Industrial Strategy (BEIS). There were several categories of organisation/individual entitled to these payments including:
 - Limited Companies.
 - Sole Traders who were also the Property Owners.
 - Sole Traders who were leasing the property from a third party.

- Sports and Athletic Clubs.

- 2.2 One challenge to the Council in administering these payments was the initial data quality on its Academy System used to administer Business Rates linked into Small Rates Business Relief. These businesses had not been required to pay business rates since 2017 and as such any contact to amend the records held by the Council on its systems only occurred when instigated by the business. An added benefit from the payment of these grants is that it has improved the quality of data held to support the administration of Small Business Rate Relief.
- 2.3 The system therefore adopted by the Council to mitigate this risk of the initial poor data quality required applicants to complete an on-line form and make an appropriate declaration that they were entitled to receive the grant and provide evidence of a current bank account (preferably in the name of the business) to demonstrate they were currently operating. This was required as a pre-payment check to demonstrate the business was still operating before payment and businesses would only be paid on the production of such information. A further requirement (where applicable) was to include a VAT number, although the provision of such information was not mandatory.
- 2.4 Prior to payment, the Council, in undertaking pre-payment checks, utilised the Spotlight System provided by the Cabinet Office. This tool enabled a decision to be made on the status of a limited company, and whether it was in operation during the relevant period. As such the pre-payment checks for this type of payee gave reasonable assurance that it was a reasonable risk to pay the grant. For other organisations, such as Sole Traders, Spotlight did not enable such a decision to be made so the specific pre-payment check relied upon by the Council was the submission of bank account details to demonstrate the business was currently operating. In following the Government advice to prioritise speed of payment over further checks, a policy decision was taken not to continue to undertake further checks, such as searching social media, to demonstrate businesses such as Sole Traders were still operational before the grant payment was made. In doing so the Council has followed the Government advice which stated “Provided they are an eligible ratepayer with an eligible rating assessment then they will qualify.”.
- 2.5 In order to process the payments, the Council took the decision not to wait until the provider of the Academy system developed an automated payment facility. This enabled the Council to act in line with Government policy to speed up the payment process. It did however present extra risks to the Council which needed to be managed, such as potential duplicate payments for multiple grant applications relating to a single property. It also added to the Council’s routine administration as the payments made needed to be reconciled to both its Academy system and Financial Ledger.
- 2.6 Under the Transparency Agenda the Council published grant payments in excess of £500. This allowed further fraud scrutiny by members of the public.
- 2.7 The Authority made an assessment of the risk of fraud based upon the agreed level of pre-payment checks undertaken and the need to utilise its Agresso system to make the grant payments. This Risk Assessment was maintained by the Counter Fraud Manager and was used to determine the post payment checks of the grant payments undertaken by the Internal Audit and Counter Fraud team.
- 2.8 It is anticipated that any inappropriate payments, including those assessed as fraudulent, which cannot be recovered will be borne by Central Government.

3. Investigation of Suspected Inappropriate Grant Payments

- 3.1 All allegations of suspected inappropriate grant payments will be investigated by the Audit and Counter Fraud Function. Following investigation, a report is produced with a recommendation of whether to prosecute or not in relation to fraud. The standard of the investigation enables a criminal prosecution to be undertaken if appropriate. This will be reviewed by the Head of Audit and Counter Fraud who will agree the decision on whether to prosecute or not.

4. Prosecution

- 4.1 Prosecutions relating to this policy following the review of the investigation are to be pursued by Oldham Council's Director of Legal Services and involve cases where someone who has committed an offence in order to receive one or more of the Covid Business Rates Grants. The presumption of the Council, given the value of the grant payments, is to prosecute in all cases.
- 4.2 Prosecution of an inappropriate grant claimant will take place in a Magistrates or Crown Court.

5. Suitability of Offenders for Prosecution

- 5.1 When considering whether it is appropriate to instigate proceedings, consideration will be given as to whether there is sufficient admissible evidence to justify bringing a prosecution and if the prosecution is in the public interest.
- 5.2 The following paragraphs in Section 5 outline factors that will be considered, to ensure consistent and equitable treatment of those accused of fraud.

Evidential Test

- 5.3 In making a decision to prosecute, the Local Authority must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction'. A realistic prospect of conviction is an objective test meaning that a jury, magistrate or judge hearing a case which, if properly directed in accordance with the law, is more likely than not to convict the defendant of the alleged offence. Evidence must be able to be used in a court of law. It must have been gathered appropriately, in accordance with the law and be from a reliable source.
- 5.4 If a case does not pass the 'evidential test' it must not go ahead no matter how important or serious the offence seems. If the case does pass the evidential stage, then it should move on to the second stage to decide if a prosecution is appropriate in the public interest.

Public Interest Test

- 5.5 Oldham Council will always consider public interest judiciously and will balance the factors for and against prosecution objectively. In making the decision whether it is in the public interest to prosecute, the following factors will be considered.

Financial Limits

- 5.6 Careful consideration will be given to commencing a prosecution where the fraudulent activity has not resulted in 'significant financial gain' to the offender.

Physical / Mental Health Factors

- 5.7 Consideration will be given to varying factors when deciding whether to prosecute. Officers will consider whether there are significant personal or mental health issues that may have contributed to the reasons for committing the offence. In addition, due consideration will be given where there is any evidence to suggest that the claimant or partner or a third party (for example a child) would be severely affected by the action. Other remedies are available to the Council where prosecution is deemed unsuitable.

Voluntary Disclosure

- 5.8 It may not be appropriate to prosecute those, whose disclosure of their own free will, has led to the identification of a fraud of which the Council was unaware. Admissions made after enquiries, or an investigation had commenced do not constitute voluntary disclosure.

Previous Incidence of Fraud

- 5.9 Any evidence of previous fraudulent activity would form part of the overall "prosecution assessment", regardless of whether any previous offences resulted in prosecution.

Social Factors

- 5.10 If it is considered that the failure to declare the correct circumstances has been caused by significant extenuating social or financial factors these would be fully evaluated. (The fact that an individual was in debt or has limited assets would not in itself meet this requirement.)

Failure in Investigation

- 5.11 It should be evident on the case file that all appropriate procedures have been adhered to with regard to satisfying the requirements of the Police and Criminal Evidence Act 1984, Criminal Procedures and Investigations Act 1996 and other relevant legislation. Particular consideration would also be given to any delay in the course of enquiries, which may be considered as unacceptable by the court.

Failure in Administration

- 5.12 Full account will be taken of poor administration or fault on the part of the Authority that has contributed to the processing of the fraudulent claim and subsequent award of the grant.

6. Authorisation of Prosecution

- 6.1 Cases being referred for prosecution will be authorised by the Head of Audit and Counter fraud. Cases involving Council Members or employees will also be referred to the Director of Legal Services or appropriate Head of Service so that any standards issues can be addressed.
- 6.2 Cases may also be referred to the police where it is considered that the nature of the offence, or the procurement of evidence, require them to undertake or assist in the investigation.

7. Proceeds of Crime Act 2003

- 7.1 The Council will refer all suitable cases for financial investigation with a view to applying to the courts for restraint and/or confiscation of identified assets. A restraint order prevents a person from dealing with specified assets. A confiscation order enables the Council's agents to seek to recover its losses from assets found to be the proceeds of crime.

8. Recovery of Debt

- 8.1 In addition to any criminal proceedings or sanction it may impose in respect of offences committed, the Council will use all methods available to vigorously recover any overpayment arising from fraud, including taking action in the civil courts if necessary.

9. Publicity

- 9.1 Press releases will be issued in suitable cases to seek to maximise the deterrent effect and raise the level of public fraud awareness. Consideration will be given to the amounts involved, the nature of the offence, public interest and the deterrent value of publicising a particular case.

10. Review of Policy

- 10.1 The policy will be reviewed in the light of any legislative changes; trends or other factors that impact on the effectiveness of the policy.

Oldham Council Audit and Counter Fraud Service

Anti-Money Laundering Policy

A guide to the Council's anti-money laundering safeguards and reporting arrangements.

29 November 2022



Version Control

<i>Version</i>	<i>Version Date</i>	<i>Revised by</i>	<i>Description</i>
1	September 2008	Mark Stenson	New Policy
2	August 2019	Andrew Bloor	Revised – Money Laundering Guidance 2017
3	November 2022	Andrew Bloor	Revised – Money Laundering Guidance 2020

Anti-Money Laundering Policy

1. Introduction

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 came into force on 10 January 2020. The 2019 Regulations introduced changes to the Government's 2017 Money Laundering Regulations (MLRs). The changes update the UK's Anti Money Laundering regime to incorporate international standards set by the Financial Action Task Force (FATF). The 2019 Regulations can be found here:

- [The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2019 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

As an overview, the changes incorporate requirements to:

- keep an up-to-date list of exact functions that qualify as prominent public functions
- the requirement for enhanced due diligence when working with high-risk countries
- the requirement to maintain registers of beneficial owners
- introduce a reduced limit of pre-paid cards and electronic money
- apply enhanced due diligence on virtual currencies, crypto currencies, digital tokens
- bring letting agency activities within the scope of Anti Money Laundering Regulations

Although Anti Money Laundering legislation does not specifically cover Local Authorities, it is implied best practice that we assess the risk and put sufficient controls in place to prevent the Council from being used for money laundering purposes.

We are required to:

- assess the risk of Oldham Council being used by criminals to launder money
- check the identity of our customers
- check the identity of 'beneficial owners' of corporate bodies and partnerships
- monitor our customers' business activities and report anything suspicious to the [National Crime Agency](https://www.nca.gov.uk) (NCA)
- make sure we have the necessary management control systems in place; keep all documents that relate to financial transactions, the identity of our customers, risk assessment and management procedures and processes for a period of 5 years
- make sure our employees are aware of the regulations and have had the necessary training
- have policies to undertake risk assessments prior to the launch or use of new products or business practices, as well as new technologies

2. Scope of the Policy

This Policy applies to all employees whether permanent or temporary and Members of the Council. Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council. Individuals who have a concern relating to a matter outside of work should contact the Police.

Not all of the Council's business is "relevant" for the purposes of the legislation. However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the Council; therefore, all staff are required to comply with the reporting procedure.

Failure by a member of staff to comply with the procedures set out in the Policy should be escalated for appropriate action to be taken.

3. What is Money Laundering?

Money laundering is a general term for any method of disguising the origin of "dirty" or criminal money. This money may be the proceeds of any criminal activity including terrorism, drugs trafficking, corruption, tax evasion and theft. The purpose of money laundering is to hide the origin of the dirty money so that it appears to have come from a legitimate source. Unfortunately, no organisation is safe from the threat of money laundering, particularly when it is receiving funds from sources where the identity of the payer is unknown. It is, therefore, possible that Oldham Council will be targeted by criminals wishing to launder the proceeds of crime.

In addition, it is possible that the proceeds of crime may be received from individuals or organisations that do not realise that they are committing an offence. It is no defence for the payer or the recipient to claim that they did not know that they were committing an offence if they should have been aware of the origin of the funds.

There are two main types of offences which may be committed:

- Money laundering offences.
- Failure to report money laundering offences.

The main types of money laundering offences are:

- Acquiring, using or possessing criminal property.
- Handling the proceeds of crimes such as theft, fraud and tax evasion.
- Being knowingly involved in any way with criminal or terrorist property.
- Entering into arrangements to facilitate laundering criminal or terrorist property.
- Investing the proceeds of crime in other financial products.
- Investing the proceeds of crimes through the acquisition of property/assets.
- Transferring criminal property.

Under the legislation if staff assist an individual to launder funds from a criminal source, they may be guilty of an offence and, if found guilty, could be subject to a fine or a prison sentence up to 14 years. It is important therefore that staff are aware of the rules and procedures that the Council has in place to ensure that they comply with the relevant legislation and approach taken by the Council as set out in this policy.

4. What are the Obligations on the Council?

Organisations conducting “relevant business” must appoint a Money Laundering Reporting Officer (“MLRO”) to:

- receive disclosures from employees of money laundering activity (their own or anyone else’s);
- implement a procedure to enable the reporting of suspicions of money laundering;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures.

5. The Money Laundering Reporting Officer

The Officer nominated to receive disclosures about money laundering activity within the Council is:

Assistant Director of Corporate Governance and Strategic Financial Management
Oldham Council
Level 3
Civic Centre
Oldham
OL1 1UH

6. Identification of potential money laundering situations

Criminals have various ways of concealing, moving and legitimising the proceeds of crime. It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:

- Use of cash where other means of payment are normal.
- Unusual transactions or ways of conducting business.
- Use of shell companies.
- Payment of deposits which are subsequently requested back.
- Lack of ‘traceability’ of persons involved.
- Individuals and companies that are insolvent yet have funds.
- Payment of a substantial sum in cash over £10,000, or lower amount where any member of staff has reasonable grounds to believe that money laundering is taking place or is being attempted.
- A new customer.

- A secretive customer, e.g. refuses to provide requested information without a reasonable explanation.
- Concerns about the honesty, integrity, identity or location of a customer.
- Illogical third-party transaction such as unnecessary routing or receipt of funds from third parties or through third party accounts.
- Involvement of an unconnected third party without logical reason or explanation.
- Overpayments by a customer.
- Absence of an obvious legitimate source of funds.
- Movement of funds overseas, particularly to a higher risk country or tax haven.
- Transactions which are out of the line of normal expectations, without reasonable explanation.
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational.
- The cancellation or reversal of an earlier transaction.
- Requests for release of customer account details other than in the normal course of business.
- Transactions at substantially above or below fair market values.
- Poor business records or internal accounting controls.
- A previous transaction for the same customer which has been, or should have been, reported to the MLRO.

In addition to the money laundering offences, the legislation sets out further offences of failure to report suspicions of money laundering activities. Such offences are committed where, in the course of conducting relevant business in the regulated sector, you know or suspect, or have reasonable grounds to do so (even if you did not know or suspect), that another person is engaged in money laundering and you do not disclose this as soon as is practicable to the MLRO.

7. Reporting Procedure

If you know or suspect that money laundering activity is taking place, has taken place, or that your involvement in a matter may amount to a prohibited act under the legislation, this must be disclosed immediately to the MLRO. This disclosure should be within hours of the information coming to your attention, not weeks or months later. If you do not disclose information immediately, then you may be liable to criminal prosecution.

Your disclosure should be made using the form MLRO1, Money Laundering Suspicion Report Form, which is attached at Annex A. The disclosure report must contain as much detail as possible, for example:

- Where known, full details of the people involved (including yourself if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc.
- Full details of the nature of your and their involvement.

- The types of money laundering activity suspected.
- The dates of such activities, including whether the transactions have happened, are ongoing or are imminent.
- Where they took place.
- How they were undertaken.
- The (likely) amount of money/assets involved.
- Why, exactly, you are suspicious?

You should also supply any other available information to enable the MLRO to make a sound judgement as to the next steps to be taken and you should enclose copies of any relevant supporting documentation.

If you are a legal adviser and consider that legal professional privilege may apply to the information, you should explain fully in the MLRO1 form the reasons why you contend the information is privileged. The MLRO, in consultation with the Director of Legal Services, will then decide whether the information is exempt from the requirement to report suspected money laundering to the National Crime Agency (NCA).

Once you have reported the matter to the MLRO you must follow any directions they may give you. You must NOT make any further enquiries into the matter yourself. Any necessary investigation will be undertaken by the NCA. All employees will be required to co-operate with the MLRO and the investigating authorities during any subsequent money laundering investigation.

At no time, and under no circumstances, should you voice any suspicions to the person(s) whom you suspect of money laundering or to any other individual without the specific consent of the MLRO. If you do so you may commit the offence of 'tipping off'.

Do not make any reference on records held to the fact that you have made a report to the MLRO. If a customer exercises their right to see their record, any such note would obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

In all cases no further action must be taken in relation to the transaction(s) in question until either the MLRO or NCA (if applicable) has specifically given their written consent to proceed.

8. Record Keeping

The MLRO will retain all disclosure reports referred to them and reports made by them to the National Crime Agency (NCA) for a minimum of five years.

9. Conclusion

The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This document has been written to enable the Council to meet the legal requirements in a way that is proportionate to the risk to the Council of contravening the legislation. Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO. This policy will be reviewed and updated/amended when new legislation/guidance is issued.



Oldham
Council

Oldham Council Audit and Counter Fraud Service

**CIPFA Fighting Fraud and Corruption Locally (FFCL) 2020 – 2025
checklist and action plan**

29 November 2022

1 Background

- 1.1 In developing the Council's Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, the Council incorporated guidance and best practice of combatting fraud within Local Government from the Fighting Fraud and Corruption Locally (FFCL) 2020 – 2025 Strategy.
- 1.2 The Fighting Fraud and Corruption Locally (FFCL) 2020 – 2025 Strategy has been developed by Local Government in collaboration with anti-fraud and corruption professionals as part of a Joint Taskforce. The Joint Fraud Taskforce is a partnership between banks, law enforcement agencies and Government to deal with economic crime. FFCL 2020-2025 contains a checklist against which Local Authorities can measure their compliance with the strategy. Local Authorities are required to assess their performance against this checklist annually
- 1.3 The completed checklist on the pages which follow meets this requirement by identifying both the Council's current assessment of its performance against the FFCL checklist and, where areas for improvement have been identified, an Action Plan to address these areas.
- 1.4 The Audit and Counter Fraud Service will lead on the improvements identified in the Action Plan. Progress against these actions will be reviewed within 12 months.

Ref	Statement	Response	Conclusion	Action Plan
1	The local authority has made a proper assessment of its fraud and corruption risks, has an action plan to deal with them and regularly reports to its Senior board and its members.	The Council undertakes an annual Fraud and Loss Risk Assessment including mitigating actions to address the risks identified. This information feeds into the annual Internal Audit and Counter Fraud Plan which is approved by the Audit Committee each year. The Head of Audit & Counter Fraud reports regularly to the Audit Committee on counter fraud progress. Internal Audit and Counter Fraud regularly test the operation of internal controls in key areas.	Satisfied	
2	The local authority has undertaken a fraud risk assessment against the risks and has also undertaken horizon scanning of future potential fraud and corruption risks. The assessment includes the understanding of the harm that fraud may do in the community.	The Council undertakes an annual Fraud and Loss Risk Assessment including mitigating actions to address the risks identified. This information feeds into the annual Internal Audit and Counter Fraud Plan which is approved by the Audit Committee each year. The Head of Audit & Counter Fraud reports regularly to the Audit Committee on counter fraud progress. Internal Audit and Counter Fraud regularly test the operation of internal controls in key areas. The Council also produces an annual Anti-Fraud and Corruption Strategy which acknowledges, in line with FFCL 2020, the harm that fraud may do in the community.	Satisfied	
3	There is an annual report to the Audit Committee, or equivalent detailed assessment, to compare against FFCL 2020 and its checklist.	Assessment against FFCL 2020 – 2025 (this checklist) reported to the Audit Committee in November 2022.	Satisfied	

4	The relevant portfolio holder has been briefed on fraud risks and mitigation.	The Deputy Leader/Cabinet Member for Finance and Low Carbon (Portfolio Holder) is briefed on the Internal Audit and Counter Fraud Plan, including any emerging fraud risks.	Satisfied	
5	The Audit Committee supports Counter Fraud work and challenges the level of activity to ensure it is appropriate in terms of fraud risk and resources.	The Audit Committee considers Counter Fraud activity on a regular basis and has the opportunity to challenge and discuss counter fraud activity via the Audit and Counter Fraud Progress Reports to Audit Committee. Fraud and Direct Payment audit figures are the subject of regular questions by Members when reported via the Audit and Counter Fraud updates to Audit Committee.	Satisfied	
6	There is a counter fraud and corruption strategy applying to all aspects of the local authority business which has been communicated throughout the local authority and acknowledged by those charged with governance.	The Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan is updated annually and presented to the Audit Committee. It is, however, not specifically communicated to all staff and key partners.	Review /Action Required	Explore opportunities to publicise the Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan more widely across the Authority.

7	The local authority has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business.	The Council has, and adheres to, a number of governance policies and codes including The Council Constitution, Local Code of Corporate Governance, Employee and Member Codes of Conduct, Contract Procedure Rules, Financial Procedure Rules which help to ensure that the Council conducts its business in a transparent and ethical manner.	Satisfied	
8	The risks of fraud and corruption are specially considered in the local authority overall risk management process.	The Council undertakes an annual Fraud and Loss Risk Assessment including mitigating actions to address the risks identified. This information feeds into the annual Internal Audit and Counter Fraud Plan which is approved by the Audit Committee each year. The Head of Audit & Counter Fraud reports regularly to the Audit Committee on counter fraud progress. Internal Audit and Counter Fraud regularly test the operation of internal controls in key areas. The Council also produces an annual Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan. Any areas identified as high risk to the Council are detailed in the Annual Governance Statement. There is no specific fraud and corruption risk register within the present Risk Registers recorded on the Corporate Performance System.	Review /Action Required	Explore options for inclusion of a separate fraud and corruption risk register in the Council's Corporate risk management framework.
9	Counter Fraud Staff are consulted to fraud-proof new policies, strategies and initiatives across departments, and this is reported upon to committee.	The Assistant Director of Corporate Governance and Strategic Financial Management is required to provide risk management comments on new policies and strategies prior to formal approval by the Council. The Internal Audit and Counter Fraud Team undertake fraud proofing on policies/documents where applicable or when consulted upon directly.	Review /Action Required	Explore options for reporting on this type of consultative activity as part of periodic Audit Progress reports to Audit Committee.

10	Successful cases of proven fraud/corruption are routinely publicised to raise awareness.	Appropriate cases have been reported with appropriate sensitivity via the Audit Committee. The Internal Audit and Counter Fraud Team will continue to work with the Communications Teams where appropriate to highlight publicly the outcome on successful investigations.	Review /Action Required	Examine current communications policy in this area.
11	The local authority has put in place arrangements to prevent and detect fraud and corruption and a mechanism for ensuring that this is effective and is reported to committee.	The Council has adopted the Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, Anti-Money Laundering Policy, all of which are approved by the Audit Committee, and the Whistleblowing Policy, approved by full Council. Fraud figures are regularly reported to the Audit Committee.	Satisfied	
12	<p>The local authority has put in place arrangements for monitoring compliance with standards of conduct across the local authority covering:</p> <ul style="list-style-type: none"> • Codes of conduct including behaviour for counter fraud, anti-bribery and corruption, • register of interests, • register of gifts and hospitality. 	Officers Code of Conduct includes section on the Principals of Public Life (The Nolan Principles), Whistleblowing, Hospitality and Gifts, Access to information and IT, Financial and Non-Financial interests and Criteria for Politically Restricted Posts. Members also have their own Code of Conduct.	Review /Action Required	<p>Explore options for collecting data and reporting on:</p> <ul style="list-style-type: none"> • Standards of Conduct / Breaches. • Uptake of Anti-Fraud training and awareness raising events. • Register of Interests. • Register of Gifts and Hospitality.

13	The local authority undertakes recruitment vetting of staff prior to employment by risk assessing posts and undertaking the checks recommended in FFCL 2020 to prevent potentially dishonest employees from being appointed.	Standard recruitment procedures are in place to vet staff prior to them being employed by the authority. These include taking up 2 references, DBS checks where appropriate, verification of qualifications, declaration of interests and right to work checks. An HR Officer can be requested to sit in on the interview panel if required.	Review / Action required	Consider Internal Audit Review of Recruitment Processes.
14	Members of staff are aware of the need to make appropriate disclosures of gifts, hospitality and business. This is checked by auditors and reported to Audit Committee.	This is covered by the closedown exercise under final accounts as part of the year end process for elected Members. Expanding this exercise to encompass Officer declarations as part of an annual audit is to be explored.	Review /Action Required	Explore options for collecting data and reporting on: <ul style="list-style-type: none"> • Standards of Conduct / Breaches. • Uptake of Anti-Fraud training and awareness raising events. • Register of Interests. • Register of Gifts and Hospitality.

15	There is a programme of work to ensure a strong counter fraud culture across all departments and delivery agents led by Counter Fraud experts.	The Internal Audit and Counter Fraud Team have a planned programme of work throughout the Directorates, including co-ordinating the Council's work in connection with the National Fraud Initiative and investigation of returned data matches. These areas of risk are covered in the Fraud and Loss Risk Assessment and Internal Audit and Counter Fraud Plan.	Satisfied	
16	There is an independent and up to date whistleblowing policy which is monitored for take-up and can show that suspicions have been acted upon without internal pressures.	There is a Whistleblowing Policy in place, last reviewed May 2020, the policy is available on the intranet and internet. All whistleblowing cases are treated seriously and investigated in line with the policy. The Monitoring Officer has overall responsibility for ensuring that this takes place. Internal Audit and Counter Fraud undertake a Public Interest Disclosure Act (PIDA) assessment, record receipt of Whistleblowing cases and monitor progress.	Satisfied	
17	Contractors and third parties sign up to the whistleblowing policy and there is evidence of this. There should be no discrimination against whistleblowers.	The policy applies to all employees of Oldham Council and Agency Workers. The Council's Standard Terms cover areas such as corruption but do not make it a contractual obligation for the supplier to sign up to the principles of whistleblowing.	Review /Action Required	Examine whether the Council's Standard Contract Terms can be amended to allow suppliers to voluntarily "sign up" to the Council's whistleblowing policy.
18	Fraud resources are accessed proportionality to the risk the local authority faces and are adequately resourced.	The Internal Audit and Counter Fraud Team was structured based on current and emerging fraud risks. Resources appear adequate at the present time but will be reviewed on an ongoing basis.	Satisfied	

19	There is an annual fraud plan which is agreed by committee and reflects resources mapped to risks and arrangements for reporting outcomes. This plan covers all areas of local authority's business and includes activities undertaken by contractors and third parties or voluntary sector activities.	The annual Audit and Counter Fraud Plan is in place and approved by the Audit Committee. The plan is based on the Audit Needs Assessment and emerging fraud risks.	Satisfied	
20	Statistics are kept and reported by the fraud team which covers all areas of activity and outcomes.	The Internal Audit and Counter Fraud Team report performance on a regular basis to the Audit Committee on a range of key deliverables, including fraud.	Satisfied	
21	Counter Fraud Officers have unfettered access to premises and documents for the purposes of counter fraud investigations.	Counter Fraud Officers have access to premises and documentation for the purposes of counter fraud investigations through their links with Internal Audit. The Counter Fraud Team has access to external information through the National Anti-Fraud Network (NAFN) and powers such as the Local Government Finance Act 1992.	Satisfied	
22	There is a programme to publicise fraud and corruption cases internally and externally which is positive and endorsed by the Councils communication team.	Results of counter fraud activity are published regularly to members via the Audit Committee where it is appropriate to do so.	Review /Action Required	Examine current communications policy in this area.

23	All allegations of fraud and corruption are risk assessed.	A Counter Fraud Risk Assessment is in place and is adopted for all allegations received. A Public Interest Disclosure Act 1998 assessment is undertaken on all Whistleblowing cases.	Satisfied	
24	The fraud and corruption response plan covers all areas of counter fraud work namely prevention, detection, investigation, sanctions and redress	The Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan covers all areas of counter fraud work.	Satisfied	
25	The fraud response plan is linked to the audit plan and is communicated to senior managers and members.	Collaboration between the Internal Audit and Counter Fraud Team and the Departmental Management Teams ensures appropriate risks are captured in the Fraud and Loss Risk Assessment, Internal Audit and Counter Fraud Plan and the Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan. This information feeds into the Annual Audit and Counter Fraud Plan.	Satisfied	
26	Asset recovery and civil recovery is considered in all cases.	Yes. The Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan notes that prioritising fraud recovery is key. The use of civil penalties, civil proceedings, criminal proceedings are all reasonable measures to recover any losses from fraudulent activity.	Satisfied	

27	There is a zero-tolerance approach to fraud and corruption which is always reported to committee.	A zero-tolerance approach is specified in the Counter Fraud, Ant-Bribery and Counter Fraud Response Plan. Any identified incidences are reported to the Director of Finance (Section 151 Officer), The Head of Internal Audit and Counter Fraud and Audit Committee.	Satisfied	
28	There is a programme of proactive counter fraud work which covers risks identified in assessment.	There is a proactive programme of counter fraud work which is included in planned activity in the Internal Audit and Counter Fraud Plan, e.g. National Fraud Initiative (NFI).	Satisfied	
29	The Counter Fraud Team works jointly with other enforcement agencies and encourages a corporate approach and co-location of enforcement activities.	The Counter Fraud Team uses a multi-agency approach when undertaking investigations, including DWP. The Counter Fraud Team work closely with Greater Manchester Police and have contacts within Greater Manchester councils to seek advice and intelligence as appropriate.	Satisfied	
30	The local authority shares data across its own departments and between other enforcement agencies.	The Internal Audit and Counter Fraud team have a working relationship with Greater Manchester Police and acts as the Single Point of Contact (SPOC) for Police Data Protection Requests. Service Level Agreements are in place for such sharing of data. The Council shares data and co-ordinates actions internally across Departments to respond to and address fraud risks on an individual basis, and also as an organisation as a whole in the prevention and detection of fraud by taking part in the annual NFI exercises.	Satisfied	

31	Prevention measures and projects are undertaken using data analytics where possible.	Data analytic techniques are used where applicable. The Council partakes in the National Fraud Initiative which shares data across other organisations for the purpose of detecting fraud and error.	Satisfied	
32	The counter fraud team has registered with the knowledge hub so it has access to directories and other tools.	The Counter Fraud Team have access to resources from their professional bodies and local/national networks, including the Knowledge Hub.	Satisfied	
33	The counter fraud team has access to the FFCL regional network	The Counter Fraud Team have access to resources from their professional bodies and local/national networks, and attend training/conferences.	Review /Action Required	Explore membership of FFCL regional network.
34	There are professionally trained and accredited staff for counter fraud work. If auditors undertake counter fraud work they must be trained in this area	The Counter Fraud Officers hold the Accredited Counter Fraud Specialist qualification (Professionalism in Security). The qualification is accredited by the University of Portsmouth. The team regularly undertake CPD training to keep abreast of new ways of working and emerging fraud risks. The Head of Internal Audit and Counter Fraud also holds a certified Counter Fraud Technician qualification.	Satisfied	
35	The counter fraud team has adequate knowledge in all areas of the local authority or is trained in these areas	The Counter Fraud Team have adequate knowledge in all areas of the local authority. The team work side by side with Internal Audit who are able to provide advice and guidance when required.	Satisfied	

36	The counter fraud team has access (through partnership/other local authorities/or funds to buy in) to specialist staff for surveillance, computer forensics, asset recover and financial investigations.	Any need for specialist resources would be considered on a case by case basis. Requests in this area are rare but may be required from time to time.	Satisfied	
37	Weaknesses revealed by instances of proven fraud and corruption are scrutinised carefully and fed back to departments to fraud proof systems.	Fraud and Corruption weaknesses are identified as part of the Internal Audit process. Outcomes of Counter Fraud work are reported to the Head of Internal Audit and Counter Fraud, the service area in question (to effect improvements), and consideration is given to undertaking a review of the affected area.	Satisfied	



Oldham
Council

Oldham Council Audit and Counter Fraud Service

Fraud and Loss Risk Assessment

29 November 2022

1 Background

- 1.1 In developing the Council's Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, the Council incorporated guidance and best practice of combatting fraud within Local Government from a number of different sources, as follows:
- **Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Managing the Risk of Fraud and Corruption**
 - **Fighting Fraud and Corruption Locally (FFCL) 2020 – 2025 Strategy**
- 1.2 The CIPFA Code of Practice on Managing the Risk of Fraud and Corruption requires that, in Local Authorities fraud risks are routinely considered as part of the organisation's risk management arrangements.
- 1.3 The Fighting Fraud and Corruption Locally (FFCL) 2020 – 2025 Strategy has been developed by Local Government in collaboration with anti-fraud and corruption professionals as part of a Joint Taskforce. The Joint Fraud Taskforce is a partnership between banks, law enforcement agencies and Government to deal with economic crime. FFCL 2020-2025 contains a checklist against which Local Authorities can measure their compliance with the strategy.
- 1.4 This fraud and loss risk assessment meets these requirements by identifying both the risks of fraud and loss to the Authority, and the actions (risk mitigation) the Council has in place to address these risks. This risk assessment informs the work of the Audit and Counter Fraud Service.

**Fraud and Loss Risk Assessment
2022/2023**

Risk Area	Risk Description	Risk Mitigation
<p>Grant Fraud/Misuse</p>	<p>False information provided to secure grant funding – External parties provide false or inaccurate information in order to qualify for grants/loans for which they are not entitled to or will use for other purposes.</p> <p>Grant Collusion – An applicant colludes with a member of staff in order to obtain a grant for personal use to which they are not entitled.</p> <p>Failure to use Grant for intended purpose – Applicant deliberately uses the grant provided for purposes other than that for which it was intended.</p> <p>Council misuse of ring-fenced grants – Ring-fenced grants not used for the purpose for which they were intended.</p>	<p>Pre-payment checks undertaken prior to grant payment.</p> <p>Grant assurance reviews and Chief Internal Auditor sign off where appropriate.</p> <p>Undertake investigations/reviews into referrals received from Whistleblowers / the Council's Senior Management Team.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>
<p>Bribery</p>	<p>Corporate Bribery – The Council fails to take appropriate steps to prevent bribery and is held accountable by law which can be punishable by a prison sentence.</p> <p>Bribery – Officers/Members accepting bribes to act improperly in order to influence Council policy, procurements, processes or procedures for the benefit of themselves or another.</p>	<p>Pre-employment checks, including take up of references.</p> <p>Employee Code of Conduct.</p> <p>Members Code of Conduct.</p> <p>Register of gifts and hospitality (Officers and Members).</p> <p>Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, and Sanctions Policies.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p> <p>Register of Interests (Officers and Members).</p>

**Fraud and Loss Risk Assessment
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Risk Area	Risk Description	Risk Mitigation
Blue Badge Fraud	<p>Application – False or exaggerated information submitted in order to secure a blue badge parking permit.</p> <p>Inappropriate Usage – The use of a blue badge by those not entitled to use them and without the company of the badge holder.</p> <p>Deceased Usage – Blue badges are used or sold on after the badge holder has deceased.</p> <p>Fake or Amended – Blue badges in use are fake or have been amended (i.e. dates) in order to abuse the system.</p>	<p>Cabinet Office (National Fraud Initiative) data match against the DWP Mortality Register.</p> <p>Reacting to referrals from Whistleblowers, Council Officials and Parking Services.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>
Money Laundering	<p>Money Laundering – The Council and its cash handling arrangements are abused by a third party wishing to launder money. This can include the payment of accounts in cash and then requesting an electronic repayment because accounts have been overpaid.</p>	<p>Review of the Money Laundering Policy.</p> <p>Undertake investigations as directed by the Money Laundering Officer.</p> <p>Pre-employment checks, including take up of references.</p> <p>Employee Code of Conduct.</p> <p>Members Code of Conduct.</p> <p>Register of gifts and hospitality (Officers and Members).</p> <p>Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, and Sanctions Policies.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p> <p>Register of Interests (Officers and Members).</p>

**Fraud and Loss Risk Assessment
2022/2023**

Risk Area	Risk Description	Risk Mitigation
<p>Council Tax Reduction/Council Tax/Discounts Fraud/Misuse</p>	<p>Failure to report a change in circumstances – Failure to report a change in circumstance that could result in increased/continued discounts to individuals.</p> <p>Fail to register for Council Tax – Failure to register a property that should be subject to Council Tax.</p> <p>Exemptions/Discounts – Fraudulently providing incorrect information in order to gain a reduction in Council Tax (e.g. Single Person Discount).</p> <p>No Recourse to Public Funds – Customers using false documentation to obtain benefits and discounts.</p>	<p>Cabinet Office (National Fraud Initiative), Real Time Information and Housing Benefit Matching Series – data matching exercises against numerous data sets.</p> <p>Fundamental Financial Systems Audit by Internal Audit.</p> <p>Counter Fraud Team to undertake investigations on a risk-based approach.</p> <p>Assist colleagues in the fraud proofing of Council Tax documentation issued by the Council.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>
<p>Housing Benefit Fraud</p>	<p>Failure to report a change in circumstances – Failure to report a change in circumstance that could result in increased/continued discounts to individuals.</p> <p>False Representation – Providing incorrect information in order to claim benefits.</p> <p>No Recourse to Public Funds – Customers using false documentation to obtain benefits and discounts.</p>	<p>Cabinet Office (National Fraud Initiative), Real Time Indicators and Housing Benefit Matching Service – Series of data matching exercises against numerous data sets. Counter Fraud Team to undertake investigations on a risk-based approach, with referral back to DWP as appropriate.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>

**Fraud and Loss Risk Assessment
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Risk Area	Risk Description	Risk Mitigation
<p>NDR Fraud</p>	<p>Failure to report a change in circumstances – Failure to report a change in circumstance that could result in increased/continued discounts to individuals.</p> <p>Failure to Register for Business Rates – Failing to register a property for business rates payments.</p> <p>False or inaccurate claims for discounts or exemption – providing false or inaccurate information to qualify for reductions to which they are not entitled.</p> <p>Insolvency – Businesses going to into liquidation only to set up again under a different name in order to avoid NDR liability.</p> <p>Avoidance – Avoidance of empty NDR through periods of artificial/contrived occupation (including charities).</p>	<p>Fundamental Financial Systems Audit by Internal Audit.</p> <p>Counter Fraud Team to undertake investigations on a risk-based approach.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>

**Fraud and Loss Risk Assessment
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Risk Area	Risk Description	Risk Mitigation
<p>Bank Mandate</p>	<p>Mandate Fraud – External parties target the Council by pretending to be from a legitimate supplier and attempt to change bank account details in order to remove funds to their own bank account.</p>	<p>Fundamental Financial Systems Audit by Internal Audit.</p> <p>Bank Mandate Fraud alerts received from the National Anti-Fraud Network and the Barclays Bank Security Team will be forwarded to key stakeholders within the Council.</p> <p>Independent verification of mandate change requests.</p> <p>Pre-employment checks, including take up of references.</p> <p>Employee Code of Conduct.</p> <p>Members Code of Conduct.</p> <p>Register of gifts and hospitality (Officers and Members).</p> <p>Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, and Sanctions Policies.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p> <p>Register of Interests (Officers and Members).</p> <p>Identified as a Risk in the Annual Governance Statement.</p>

**Fraud and Loss Risk Assessment
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Risk Area	Risk Description	Risk Mitigation
<p>Procurement Fraud</p>	<p>Inflated Invoices – External parties inflate invoices in order to receive additional funds or charge VAT for services when they are not VAT registered.</p> <p>Duplicate Invoices – External parties submit multiple invoices for payment.</p> <p>Payment to fictitious suppliers – Staff request set up of a fictitious supplier in order to obtain funds.</p> <p>Conflict of interest – Employees fail to declare conflicts of interest or gifts to award contracts to related companies for their own benefit.</p> <p>Contract splitting to avoid tender threshold – Split of contracts into smaller amounts to avoid thresholds.</p>	<p>Contract Procedure Rules.</p> <p>Undertake as much procurement activity as possible through “The Chest” procurement system to prevent abuse of the procurement cycle.</p> <p>Cabinet Office (National Fraud Initiative) data match reviewing Duplicate Payments, Duplicate Suppliers and Incorrect VAT payments.</p> <p>Fundamental Financial Systems Audit by Internal Audit.</p> <p>Pre-employment checks, including take up of references.</p> <p>Employee Code of Conduct.</p> <p>Members Code of Conduct</p> <p>Register of gifts and hospitality (Officers and Members).</p> <p>Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, and Sanctions Policies.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p> <p>Register of Interests (Officers and Members).</p> <p>Duplicate payments review exercise (Meridian)</p>

**Fraud and Loss Risk Assessment
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Risk Area	Risk Description	Risk Mitigation
<p>Social Care Fraud</p>	<p>Inaccurate or Incomplete financial information and hidden assets - false or inaccurate information in order to qualify for support towards care costs and residential / homecare.</p> <p>Direct Payment Misuse – payments are misused by social care clients or those responsible for their finances.</p> <p>Financial Misuse – Personal Assistants and/or Family Members claiming money for time they had not worked or were spending the allocated budget inappropriately.</p>	<p>Direct Payment Audit Function to review 100% of Adult and Children’s Direct Payments on an annual basis.</p> <p>Implementation of the Adult Social Care and Counter Fraud Protocol.</p> <p>Counter Fraud Team to undertake investigations on a risk-based approach.</p> <p>Fraud/Finance skills training for Social Care Staff.</p> <p>Assist colleagues in the fraud proofing of Social Care documentation issued by the Council.</p> <p>Fundamental Financial Systems Audit by Internal Audit.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>

**Fraud and Loss Risk Assessment
2022/2023**

Risk Area	Risk Description	Risk Mitigation
Insurance Fraud	<p>False claim for slips and trips – Individuals or groups submit claims for compensation relating to incidents that did not occur or are exaggerated.</p> <p>Collusion with Accident Management Companies – Employees collude with management companies to exploit known weaknesses on roads.</p>	<p>Dedicated Risk and Insurance function.</p> <p>Pre-employment checks, including take up of references.</p> <p>Employee Code of Conduct.</p> <p>Members Code of Conduct.</p> <p>Register of gifts and hospitality (Officers and Members).</p> <p>Counter Fraud Anti-Bribery Strategy and Counter Fraud Response Plan, and Sanctions Policies.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p> <p>Register of Interests (Officers and Members).</p>
Educational Fraud	<p>Placement Fraud – Families provide false information about their families and residency information in order to ensure that they get their child into the chosen school.</p> <p>Ghost Students/Nursery Placing – Schools and Nurseries submit inflated pupil numbers in order to artificially increase budgets.</p> <p>Schools – Lack of regular scrutiny by Senior Management and Governors.</p>	<p>Schools Audit reviews by Internal Audit.</p> <p>Counter Fraud Team to undertake investigations on a risk-based approach.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>

**Fraud and Loss Risk Assessment
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Risk Area	Risk Description	Risk Mitigation
Housing Fraud	<p>Subletting – Properties are illegally sublet by tenants for personal gain.</p> <p>False Succession – Succession of tenancies by persons not entitled to the property.</p> <p>False Information – Information provided by applicants when applying for social housing in order to qualify for housing to which they may not be entitled.</p> <p>Right to Buy – Individuals submit false information in order to purchase a council property or receive a right to buy discount to which they are not entitled.</p>	<p>Inclusion of “Right to Buy” data in National Fraud Initiative data matching exercise and undertake investigations where applicable.</p> <p>National Fraud Initiative – Housing tenant details matched to identify potential duplicate tenants between and with the Local Authority.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>
Car Parking Fraud	<p>Concessionary Parking Permits – The abuse of residential parking permits for personal gain.</p> <p>Pop Up Car Park – emerging fraud risk of unauthorised use of Council land to charge car parking and illegal clamping fees.</p>	<p>Undertake investigations into any reported abuse of Blue Badge or residential parking permits.</p> <p>National Fraud Initiative – Blue badge and Residential Parking permits data matched to identify potential duplicate/fraudulent permits between and within the local authority.</p> <p>Internal Audit review of the Council’s Estates function including issues around encroachment.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>

**Fraud and Loss Risk Assessment
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Risk Area	Risk Description	Risk Mitigation
Right to Work	Right to Work – False identity/right to work documentation in order to gain Council employment.	<p>Cabinet Office (National Fraud Initiative) data match reviewing immigration data against payroll data.</p> <p>Pre-employment checks, including take up of references.</p> <p>Employee Code of Conduct.</p> <p>Members Code of Conduct.</p> <p>Register of gifts and hospitality (Officers and Members).</p> <p>Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, and Sanctions Policies.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p> <p>Register of Interests (Officers and Members).</p>

**Fraud and Loss Risk Assessment
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Risk Area	Risk Description	Risk Mitigation
Cash Handling	Theft of Cash – Employees/Third parties dishonestly take monies with the intent to deprive the Council.	<p>Rolling programme of Fundamental Financial Systems Audits by Internal Audit.</p> <p>Investigate referrals received by the Counter Fraud and Human Resources Teams, including the use of CCTV where appropriate.</p> <p>Financial Procedures Rules.</p> <p>Pre-employment checks, including take up of references.</p> <p>Employee Code of Conduct.</p> <p>Members Code of Conduct.</p> <p>Register of gifts and hospitality (Officers and Members).</p> <p>Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, and Sanctions Policies.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p> <p>Register of Interests (Officers and Members).</p>

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Risk Area	Risk Description	Risk Mitigation
<p>Cyber Fraud</p>	<p>External hosted systems – unauthorised access to Council systems in order to obtain personal data, or commercially sensitive data.</p> <p>Vishing – the use of telephone systems by external parties to obtain personal or sensitive information that can be used for identity theft.</p> <p>Phishing – personal information by a cyber-attack for personal gain.</p> <p>Smishing – the use of SMS by external parties to obtain personal or sensitive information that can be used for identity theft.</p> <p>Malware – the introduction of malicious software via spam emails and pop up websites.</p> <p>Electronic Data theft – theft of electronic data by electronic means (i.e. key loggers).</p>	<p>Specialist Computer audit reviews by Salford Computer Audit Service.</p> <p>Cyber and information security training.</p> <p>Fraud awareness training</p> <p>PSN certification.</p>

**Fraud and Loss Risk Assessment
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Risk Area	Risk Description	Risk Mitigation
<p>HR/Payroll Fraud</p>	<p>Falsification – Falsification of expenses, overtime, additional hours, flexitime etc.</p> <p>False sickness absences – working whilst on sick leave.</p> <p>Ghost Employees – the creation of false employees in an attempt to exploit monies from the Council</p> <p>False documentations – False identity documents, references, qualifications, right to work etc. in order to obtain employment.</p> <p>Agency/Contractor – False or exaggerated payments for agency workers by the individual or by collusion with their line manager.</p> <p>Failure to declare something of relevance – i.e. conflict of interest, criminal convictions etc.</p>	<p>Cabinet Officer (National Fraud Initiative) data match reviewing immigration data against payroll data.</p> <p>Fundamental Financial Systems Audit by Internal Audit.</p> <p>Counter Fraud Team to undertake investigations on a risk-based approach.</p> <p>Pre-employment checks, including take up of references.</p> <p>Employee Code of Conduct.</p> <p>Members Code of Conduct.</p> <p>Register of gifts and hospitality (Officers and Members).</p> <p>Counter Fraud, Anti-Bribery Strategy and Counter Fraud Response Plan, and Sanctions Policies.</p> <p>Whistleblowing Policy.</p> <p>Fraud awareness training.</p>