

# Report

Report to:	<b>Risk and Audit Scrutiny Committee</b>
Date of Meeting:	<b>23 May 2023</b>
Report by:	<b>Executive Director (Finance and Corporate Resources)</b>

Subject:	<b>Review of Counter Fraud, Bribery and Corruption Policy</b>
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## 1. Purpose of Report

1.1. The purpose of the report is to:-

- ♦ seek approval of the revised Counter Fraud, Bribery and Corruption Policy

## 2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the Counter Fraud, Bribery and Corruption Policy be approved;
- (2) that it be noted that the Policy and appendices be uploaded to the intranet and, that separately, the summary document (Appendix 1) 'Fraud Whistle Blowing for Third Parties', be uploaded to the Council's internet; and
- (3) that the refreshed training approach, as set out at section 5.3 of the report, be noted.

## 3. Background

3.1 The Council provides a wide range of services to individual South Lanarkshire residents and organisations. As with any large organisation, the size and nature of the Council means that there is always the risk of loss due to fraud and corruption, both internally and externally. This risk is significant as it can adversely affect the delivery of objectives and erode valuable resources. It is, therefore, important that the risk of fraud is soundly managed and mitigated by a number of controls, one of which is a counter-fraud policy.

3.2. South Lanarkshire Council's Counter-Fraud Policy has been in place for a significant period of time and has undergone a series of revisions. The requirement to amend this policy again to reflect further legislative changes has provided the opportunity to amalgamate various elements of the Council's Fraud Policy into a single document and to further refine the content.

## 4. Counter Fraud, Bribery and Corruption Policy

4.1. A copy of the revised Counter Fraud, Bribery and Corruption Policy is attached at Appendix 1. The content remains mainly unchanged other than to present as a single policy in a more concise format. The Policy sets out definitions of fraud and all aspects of fraud management including:-

- ♦ roles and responsibilities of employees and managers
- ♦ fraud detection, investigation and reporting
- ♦ recovery and sanctions

- 4.2. The over-arching message is one of a commitment to preventing fraud and corruption from occurring, in the first instance, through robust financial and operational controls, to guard against the threat of Serious and Organised Crime and to develop a counter-fraud culture. The risk of fraud is mitigated by a number of controls with a clear process in place to investigate any reported instances of suspected fraud.
- 4.3. The Council will take, where justified, appropriate disciplinary and legal action in all proven cases and further demonstrates good governance by reporting anti-fraud activity to the Risk and Audit Scrutiny Committee.
- 4.4. Attached, as Appendix 1 to the Policy, is 'Fraud Whistle Blowing for Third Parties'. This summary document reflects the main points of the Policy, sets out a process as to how members of the public can raise concerns and details how the Council will respond.
- 4.5. It is intended to upload the full policy to the Council's intranet and for the Appendix to this policy to be uploaded to the internet.
- 4.6. Separately appended to the policy is the proposed Council approach to Due Diligence checks and Anti-Tax Evasion detection. It is proposed that Internal Audit utilise some of the time allocated in the 2023/2024 Internal Audit Plan to anti-fraud checks to provide assurance to the Risk and Audit Scrutiny Committee that policies are being applied in a proportionate and consistent manner.
- 4.7. The Committee is asked to approve the Policy and note, if approved, the Policy and appendices will be uploaded to the intranet and that the summary document, 'Fraud Whistle Blowing for Third Parties', will be uploaded to the Council's internet.

## **5. Employee Implications**

- 5.1. Employee roles and responsibilities in the detection, reporting and investigation of fraud are set out in the Policy.
- 5.2. A Learn on Line fraud course has previously been available to employees. The content of the course was high level and generic to ensure applicable to all Council Services and there has been a reasonable level of completion across Resources.
- 5.3. The contents of such courses can quickly become outdated as the nature of fraud evolves. Time to regularly review and update these online courses is not considered best use of the resources available nor is this route sufficiently flexible to allow more topical issues to be covered. It is, therefore, proposed that fraud awareness is now raised through periodic bulletins, 'tool box talks' and Executive Director briefings.
- 5.4. The Committee are asked to note this revised approach.

## **6. Financial Implications**

- 6.1. There are no costs to implement this policy. The application of sound internal controls and anti-fraud checks seek to protect the Council from financial loss.

## **7. Climate Change, Sustainability and Environmental Implications**

- 7.1. There are no Climate Change, Sustainability and Environmental implications relating to this report.

## **8. Other Implications**

- 8.1. There are no other implications.

## **9. Equality Impact Assessment and Consultation Arrangements**

- 9.1. There is no requirement to conduct a further equality impact assessment on the revised policy.

**Paul Manning**

**Executive Director Finance and Corporate Resources**

5 May 2023

### **Link(s) to Council Values/Priorities/Outcomes**

- ◆ Accountable, effective, efficient and transparent

### **Previous References**

- ◆ None

### **List of Background Papers**

- ◆ None

### **Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

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## Counter Fraud, Bribery and Corruption Policy

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Appendix 1      Whistleblowing Policy for Third Parties

## 1. Introduction

- 1.1 The Council provides a wide range of services to individual South Lanarkshire residents and organisations. As with any large organisation, the size and nature of the Council means that there is always the risk of loss due to fraud and corruption, both internally and externally. This risk is significant as it can adversely affect the delivery of objectives and erode valuable resources. It is therefore important that the risk of fraud is soundly managed. Fraud, theft, organised crime and cyber crime, are recognised as among the top risks facing South Lanarkshire Council.
- 1.2 South Lanarkshire Council's Council Plan, Connect 2022-2027 sets out its vision, values and ambitions and what the Council hopes to achieve to improve outcomes for local people over the next five years.
- 1.3 A counter fraud and anti-corruption policy supports delivery of the Council's vision, values and ambitions and the required standards of public life.
- 1.4 The objective of this document is to set out a strategy for delivering counter fraud and corruption work within the Council; to recognise statutory obligations under the Bribery Act; to increase fraud awareness and to minimise the likelihood and extent of losses through fraud and corruption.
- 1.5 Achievement of this will be through the implementation and application of good practice guidance from relevant counter fraud experts.
- 1.6 South Lanarkshire Council is committed to preventing fraud and corruption from occurring, guarding against the threat of Serious Organised Crime and to developing a counter-fraud culture. To achieve this the Council will:
  - develop and maintain effective controls to prevent fraud
  - ensure that, if fraud occurs, a vigorous and prompt investigation takes place, in line with the Fraud Response Process within this policy
  - take appropriate disciplinary and legal action in all cases
  - review systems and procedures and identify improvements to prevent similar frauds
  - record and report all cases of fraud identified
  - participate in the National Fraud Initiative (NFI)
  - enter into information sharing protocols with external parties where appropriate
- 1.7 The success of this strategy will be measured and reported through six monthly fraud statistics reports to the Corporate Management Team and the Risk and Audit Scrutiny Committee.
- 1.8 Links to other policies, procedures and guidance are included throughout this document where appropriate.

## 2. Counter Fraud Policy Statement

- 2.1 South Lanarkshire Council is committed to preventing fraud and corruption from occurring, guarding against the threat of Serious Organised Crime<sup>1</sup> and developing a counter-fraud culture.

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<sup>1</sup> Serious Organised Crime is the term used to encompass crime which:

- Involves more than one person;
- Is organised (i.e. involves control, planning and use of specialist resources);
- Causes, or has the potential to cause significant harm; and
- Involves benefit to the individual concerned, particularly financial gain.

- 2.2 There is no one clear definition of fraud. The Serious Fraud Office states that “fraud is a type of criminal activity, defined as an abuse of position, false representation, or prejudicing someone’s rights for personal gain. Fraud is a type of deception intended for personal gain or to cause loss to another party”.
- 2.3 Within South Lanarkshire Council, fraud is categorised as external fraud or theft, internal fraud and theft, some misconduct issues, embezzlement, bribery, corruption and benefit fraud.
- 2.4 Corruption is defined as the offering, soliciting or accepting of any inducement or reward which could influence the actions taken by the body, its members or officers.
- 2.5 The Council adopts a zero-tolerance approach to fraud and corruption through requiring:
- No use of Council assets for any purpose other than the delivery of Council objectives and actions without the permission of a senior manager. The guidelines are clearly laid out in the Employee Code of Conduct and the Code of Governance.
  - All employees to declare any areas of perceived or actual conflict of interest. Where identified, a Declaration of Interest form should be completed.
  - Due diligence checks to be carried out prior to entering into any contractual arrangement with external suppliers or companies to ensure they are not involved in any illegal activity.
- 2.6 The Criminal Finances Act 2017 created two new corporate criminal offences in relation to the evasion of UK and of foreign tax which impacts on the Council’s obligations and considerations when carrying out council business.
- 2.7 The aim of the Council is to minimise losses through fraud and corruption and further embed the management of fraud risk within the culture of the organisation.
- 2.8 A counter-fraud culture is evidenced in South Lanarkshire Council by:
- Encouraging employees and Members to operate with selflessness, integrity, objectivity, accountability, openness, honesty and leadership as set out in The Seven Principles of Public Life.
  - Conducting Council business in an open and transparent manner and taking all appropriate steps to minimise the risk of bribery through adhering to best practice in bribery prevention.
  - Employees having, and being seen to have, the highest standards of honesty, propriety and integrity in the exercise of their duties.
  - Fraud, bribery, impropriety or dishonesty not being tolerated with all instances of suspected fraud, bribery, impropriety, or dishonest conduct by employees or external contractors or clients being investigated.
  - Employees being required to not defraud the Council, other employees, Council clients, partners or Council contractors, in any way.
  - Taking action against any employee defrauding (or attempting to defraud) the Council, other employees, Council clients, partners or contractors. This action may include dismissal and/or civil or criminal prosecution.
  - Taking action against any employee offering or accepting a bribe (or attempting to offer or accept a bribe) from other employees, Council clients, partners or contractors. This action may include dismissal and/or civil or criminal prosecution.
  - Taking action against external organisations defrauding (or attempting to defraud) the Council. This action may include cessation of contracts and/or criminal prosecution.

- Taking action against external organisations bribing (or attempting to bribe) the Council. This action may include cessation of contracts and/or criminal prosecution.
  - Co-operating fully with an external investigating body.
  - Seeking to recover funds lost through fraud.
- 2.9 All reported frauds will be investigated. The level of investigation will be determined by the financial and reputational risk to the Council. If required, additional controls may be implemented and/or disciplinary or prosecution processes invoked. All suspected fraud risks will be considered, after evaluation, for inclusion within Internal Audit work plans.

### **3. Manager and Employee Roles and Responsibilities**

- 3.1 The creation of a counter fraud culture underpins all work to guard against fraud. This Counter Fraud, Bribery and Corruption Policy is endorsed by the Chief Executive, Corporate Management Team and Council Members.
- 3.2 The Chief Executive has overall responsibility for the operations and activities of the Council and therefore has overall responsibility to ensure the management of fraud. The Chief Executive will lead investigations of all cases of suspected fraud or corruption that involve Elected Members.
- 3.3 The Executive Director of Finance and Corporate Resources has a statutory duty to ensure adequate financial controls and that these operate effectively throughout the Council. This requires the provision of resources for detection and prevention of fraud.
- 3.4 All managers are directly responsible for the prevention and detection of fraud within their own areas. They should ensure that there is an adequate and effective system of internal control within their Services and must act on any concerns in line with the Fraud Response Process.
- 3.5 Internal Audit forms part of the internal control system by providing advice and assistance on control issues, considering the potential for fraud during routine audit work and by reporting on risks to Service managers and the Council's external auditors. Internal Audit may also liaise with auditors in partner organisations and other local authorities to develop best practice in fraud prevention and detection.
- 3.6 The Audit and Compliance Manager is the nominated 'investigations manager' for the Council; and will determine when it is necessary and appropriate to use the provisions of the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) and the Regulation of Investigatory Powers Act (RIPA) for the purpose of fraud detection.
- 3.7 All employees should understand the risk of fraud, bribery and corruption faced by the Council, that these risks are serious and that they divert resources away from the Council's primary objectives.
- 3.8 Employees should also understand their responsibility in respect of the management of fraud, bribery and corruption. They must have, and be seen to have, the highest standards of honesty, propriety and integrity in the exercise of their duties. Employees are responsible for:
- Acting with propriety in the use of Council resources. This is a key requirement of the Council's Code of Governance.
  - Reporting details of any suspected fraud, impropriety or other dishonest activity immediately to their line manager.
  - Assisting in the investigation of any suspected fraud where necessary.



## 4. Fraud Awareness

- 4.1 Documents supporting this policy in relation to the Employee Code of Conduct are available on the intranet for all employees to access and read. Internal Audit will undertake exercises to raise fraud awareness amongst Council employees on a periodic basis.

## 5. Fraud Risk Management

- 5.1 The Council has a dedicated Risk Management Service which has the over-arching responsibility to advise on, and oversee risk for the whole organisation, including insurance claims. A Risk Management Strategy has been produced and is available to all employees on the Council's intranet site. Internal Audit has responsibility to oversee fraud risk management and provides advice and guidance in relation to mitigating risks. It is the responsibility of each Resource, Service and employee to ensure risks are recorded, controlled, mitigated and monitored.

### **Risk identification**

- 5.2 The key steps in the Council's Risk Management Strategy apply to the management of fraud as for any other risk namely, identify, assess, manage and monitor. Separate Fraud Risk Registers have been developed for all Resources. Fraud Risk Registers are updated on an annual basis in line with Risk Management procedures and will also be used to inform the annual Internal Audit Plan. Fraud Risk Registers should also be updated following any fraud or other significant incident.
- 5.3 National publications and guidance are also used to identify areas of emerging risk that may be relevant to South Lanarkshire Council. These risks are considered for inclusion within Fraud Risk Registers where relevant.

### **Risk Investment**

- 5.4 Managing the risk of fraud requires some investment but not necessarily significant financial expenditure. Sound management control, considered system and procedural design, encouragement of behaviours which reflect the Employee Code of Conduct, the Code of Governance and a heightened awareness of the risk contribute towards preventing fraud.
- 5.5 Resources are expected to invest directly in system controls through revenue and capital budgets and indirectly by maintaining fraud awareness amongst employees and management. Resources are also expected to provide deterrents to fraudulent activity through implementation of Disciplinary Procedures where appropriate.
- 5.6 The Council has provided for Fidelity Guarantees to allow fraud risk transfer to an insurance company. To access such recovery Resources must be able to prove that they had ensured reasonable and robust controls have been applied.
- 5.7 Incidents of fraud can often have a significant financial impact and it is often difficult to recover the loss. Most incidents are preventable and may fall outside the scope of insurance. If steps are and cannot be taken to recover the loss due to fraud these must then be financed from Service Revenue budgets normally dedicated to service delivery and improvement. It is thus essential that controls are put in place to prevent such loss.
- 5.8 In addition, the Council invests in an Internal Audit Section who delivers an annual Internal Audit Plan. The Audit Plan contains an allocation of time aimed at fraud detection and prevention. Internal Audit also monitors existing and expected controls to provide an improvement or assurance service to managers and has committed employee resources within the Plan to investigate suspected or actual occurrences of fraud.
- 5.9 The Internal Audit Plan is approved by the Corporate Management Team and the Risk and Audit Scrutiny Committee each year. Preparation of the plan complies with the Public Sector Internal Audit Standards (PSIAS) and completion of the programme of audit assignments supports the expression of an annual audit opinion.

- 5.10 In addition to specific time allocated in the Audit Plan to review and investigate fraud risks, all routine audit assignments detailed in the annual Internal Audit Plan include an element of fraud detection and/or prevention testing.
- 5.11 Methods used by Internal Audit to detect and prevent fraud include: data matching, Continuous Controls Monitoring (CCM), risk-based audits, provision of advice and guidance and training, dissemination of counter-fraud materials and participation in NFI.

## **6. Fraud Detection and Reporting Process**

- 6.1 There are various ways that fraud, bribery or corruption may be detected within the Council:
- Local management may detect a possible or actual fraud in the normal course of activity or through existing controls.
  - The Police may uncover a fraud which impacts upon South Lanarkshire Council. Officers at local and divisional level will lodge all intimations or requests for information through the Chief Executive.
  - Employees and Elected Members may witness an incident.
  - Through cross matching of data or specific counter-fraud initiatives including the NFI and representation on the Serious and Organised Crime Group (SOCG).
  - Fraudulent activity may also be intimated by members of the Public or other public bodies as having a potential impact on South Lanarkshire Council business.
- 6.2 Concerns which should be reported include:
- abuse of funds
  - misconduct
  - a criminal offence
  - a failure to comply with a legal obligation
  - bribery
  - the deliberate concealment of information tending to show that any of the matters above is being deliberately concealed
- 6.3 Examples of concerns which should be reported are, employees committing or attempting to commit:
- any dishonest or fraudulent act, including abuse of time
  - forgery or alteration of document or accounts, including false claims for payment
  - misappropriation of funds, supplies or other assets
  - impropriety in the handling or reporting of money or financial transactions
  - profiting from an official position
  - disclosure of official activities or information for advantage
  - accepting or seeking value from third parties by virtue of official position or duties
  - theft or misuse of Council property, facilities or services
- 6.4 External organisations actions which should be reported include:
- bribes or inducements offered by a supplier
  - fraudulent invoices
  - misuse of grant funding
  - suspicions of corruption or deception by a supplier

- suspicious e-mails or electronic documents received from a supplier
- suspicion of any phishing incidences from an external source

#### **Procedure to be followed if fraud is suspected**

- 6.5 An employee has the right to report a matter which she/he believes to be in the public interest, to have the report treated confidentially and without fear of prejudice or harassment. The Council accepts that for the reporting process to have credibility, employees must have confidence that any matter which they draw to its attention will be handled with discretion and tact. This applies to concerns relating to fraud and to any other concerns within the context of the Public Interest Disclosure Act 1998. The types of concerns covered under these procedures include fraud as defined above.
- 6.6 If an employee wishes to report a fraud, they should contact their line manager or Head of Service. If they do not feel this is appropriate, they may contact the Resource Executive Director, the Council's Monitoring Officer (the Head of Administration and Legal Services), the Audit and Compliance Manager, Personnel Services Fact Finding Team, Trade Union representatives or the Chief Executive.
- 6.7 Initial contact may be made in person, by telephone, email or in writing. Anonymous reports will be accepted and followed up by Internal Audit where possible, however, employees should avoid reporting suspected frauds anonymously if possible as this could hinder the investigation if further information is required.
- 6.8 Once an employee has made a report, he/she will be updated as soon as practicable on the Council's response.
- 6.9 All reports of suspected fraud against the Council will be treated seriously and will be reported to Internal Audit.
- 6.10 Fraud is a complex area; it is therefore important that the correct action is taken as failure to do so may compromise a later investigation and invalidate evidence. It is therefore important that employees:
- do not attempt to conduct an investigation into the suspected fraud
  - do not approach the person, people or organisation suspected of the fraud and instead report concerns as specified within these procedures
  - do not attempt to collect evidence or question anybody, but if documents etc. are held which are thought to be relevant, ensure they are secured safely
  - do not discuss the case with other colleagues
  - do not post any detail or comments on social media as this may hinder or invalidate the investigation and will result in disciplinary
  - **do** make a note of times, dates and details of anything thought to be relevant
- 6.11 If an employee is unsure about what has been seen or heard they should ask for advice from their line manager, Head of Service, Executive Director, the Council's Monitoring Officer, the Audit and Compliance Manager or their trade union representative.
- 6.12 Wherever possible, the Council will strive to ensure that all cases of suspected fraud reported are treated confidentially. However, in some cases, for example where the matter requires to be reported to the Police if it relates to criminal activity, it may not be possible to preserve anonymity.
- 6.13 The Public Interest Disclosure Act 1998 provides protection for workers who make certain disclosures of information about misadministration or malpractice in the public sector.
- 6.14 Regardless of the outcome of an investigation, employees making a confidential report will be protected by legislation against being subjected to any detriment such as dismissal,

harassment, victimisation, or any other form of punitive sanction provided the disclosure was made in good faith.

- 6.15 However, if an employee acts purely on some ulterior motive and it has been proven that they deliberately or maliciously made false accusations they may lose the protection of the Act and may be liable to action under the Council's disciplinary procedures.

**Procedure to be followed by managers when fraud is reported**

- 6.16 Heads of Service are responsible for putting procedures in place to ensure matters regarding fraud within their Service are reported to them.
- 6.17 The Head of Service or their nominee, should email details of the fraud to Internal Audit at [fraudenquiries@southlanarkshire.gov.uk](mailto:fraudenquiries@southlanarkshire.gov.uk) within 24 hours of them becoming aware of an incident occurring or being suspected.
- 6.18 On being informed by an employee of a fraud incident occurring or suspected it is important that the manager receiving the information deals with it appropriately. In particular, the manager should:
- deal with the employee giving the information in a way that shows that their concerns are being taken seriously
  - not belittle or dismiss the information as set out above
  - respect, as far as possible, the confidentiality of the employee
  - attempt to identify where any evidence may be but do not attempt to obtain it, or question anybody
  - follow the procedure for passing the information on, namely to the Head of Service, a designated senior manager or Internal Audit
- 6.19 If a manager identifies a fraud through another means, for example through routine management checks or from a third party, they should:
- follow the guidelines
  - attempt to identify where any evidence may be but do not attempt to obtain it, or question anybody
  - follow the procedure for passing the information on, namely to the Head of Service, a designated senior manager, the Fact Finding Team or Internal Audit
- 6.20 Line managers should not carry out their own investigations before informing Internal Audit, through their Head of Service or relevant other senior manager, as this may compromise a later investigation, invalidate evidence, and consequently allow a guilty person to get away with a possible crime.
- 6.21 Where it is suspected that a theft has occurred and it is believed that the stolen item may still be on the premises, it may be necessary to carry out searches. If searches are to be conducted in areas where employees may hold personal belongings, for example desk drawers or cabinets which are also used for business purposes, the employee must be advised that a search is about to be undertaken and asked to remove personal belongings prior to the search taking place. The employee may also be asked to show the contents of other personal belongings, for example a handbag or briefcase. Searches of this kind can only be undertaken with the full consent of the employee and should be avoided where possible. In addition, employees may be requested to remain in the office until searches have been carried out, however, you cannot detain an employee without their full and prior consent.
- 6.22 All searches should be sanctioned by the Head of Service and should be carried out jointly by Internal Audit and either the Head of Service or a relevant other Senior Manager provided this does not prejudice the investigation.

- 6.23 Immediate action, such as removal of a person from the workplace by the Head of Service or other senior manager, should only be taken where an employee or a third party is caught committing an offence, or there is a risk that evidence will be destroyed for example something illegal on a computer. Removal of an employee from the workplace should be carried out in consultation with Personnel Services.
- 6.24 Where an employee is suspected of committing fraud, the Head of Service may remove that person from the workplace or redeploy to alternative duties or location. This should only happen after due consideration of the guidance within the Disciplinary Procedures. However, Internal Audit and the Executive Director, Finance and Corporate Resources must be advised of the action taken. Internal Audit must be advised of any action taken by the Head of Service as soon as possible.

### **Third Party Whistleblowing procedure**

- 6.25 The Council is committed to dealing, on a confidential basis, with any allegation of material fraud or malpractice brought to its attention by any contractor, supplier, organisations, or by the public. Fraud Whistle Blowing for Third Parties procedures are in place that provide a means where such matters can be brought to the attention of the Council (Appendix 1). Third parties can also report concerns to the Council through the Customer Relationship Management system (CRM) on 0303 123 1015.
- 6.26 Information on reporting Benefit Fraud can be found [here](#).

### **Contacts:**

Audit and Compliance Manager  
Council Offices  
Beckford Street  
Hamilton  
Email: [fraudenquiries@southlanarkshire.gov.uk](mailto:fraudenquiries@southlanarkshire.gov.uk)

Council's Monitoring Officer  
Head of Administration and Legal Services  
Council Offices  
2<sup>nd</sup> Floor  
Almada Street  
Hamilton  
Telephone: 01698 454658

- 6.27 Internal Audit will assess all reported frauds as detailed in the approved Internal Audit Procedures. This assessment will determine the next course of action and is based on the circumstances of the incident, the risk associated with the incident, the information available and the resources available to investigate. It is therefore imperative that as much detail as possible is reported.
- 6.28 **Elected Members and members of the Public**  
Elected Members and members of the public can report any concerns in relation to fraud, bribery and corruption using the following email address  
[fraudenquiries@southlanarkshire.gov.uk](mailto:fraudenquiries@southlanarkshire.gov.uk).

## **7. Fraud Response Process**

- 7.1 All investigations will be completed in line with Internal Audit's terms of reference. Internal Audit may lead or pass to Services to investigate.
- 7.2 Joint investigations may also be carried out by Resources and Internal Audit depending on the nature of the fraud and the operational knowledge required.

- 7.3 The Fact Finding Team within Personnel Services will undertake all investigations relating to employee conduct. Internal Audit will maintain contact with the Fact Finding team to ensure that input into investigations is provided where required and may also take part in a Fact Finding interview.
- 7.4 Discipline and Grievance Procedures will be invoked in consultation with the Fact Finding Team where required.
- 7.5 In order to conduct the investigation effectively, Internal Audit is permitted:
- unrestricted access to employees, senior management, including the Chief Executive, Heads of Service and Elected Members
  - unrestricted access to all necessary Council records, IT systems, cash, stores and other assets
  - unrestricted access to Council property
  - access to other Council personnel in order to obtain necessary explanations
- 7.6 Investigative techniques such as data matching may be used in fraud investigations. In certain investigations covert surveillance may also be used to detect fraud but will be the last course of action to be considered and will be subject to the provisions of RIP(S)A and RIPA legislation.
- 7.7 Having been informed of a suspected or actual fraud, the Audit and Compliance Manager, after an appropriate level of consultation between the Audit Adviser, the nominated Resource contact and the Fact Finding Team (where appropriate), will decide on the scope of and the responsibility for any investigation.
- 7.8 The options will be; to take no action; to immediately inform the Police; to appoint an auditor to determine the facts of the allegation; to refer the matter to Resource management for further investigation or to refer the matter to the Fact Finding Team. Depending on circumstances, it may be necessary to undertake joint investigations with the Fact Finding Team and/or involve officers or external professionals with relevant technical expertise to assist. Skills needed to preserve evidence may sometimes be a specialism which only trained officers for example IT Professionals or the Police can provide.
- 7.9 Internal Audit will ensure that the Fact Finding Team is aware of all ongoing investigations, provided this does not prejudice the investigation. Separate arrangements are in place to ensure all relevant information on ongoing investigations is shared between Internal Audit and the Fact Finding Team.
- N.B. Internal Audit is entitled to access files and make enquiries of individuals to initially establish the facts of any incident. This entitlement is enshrined within the Internal Audit Charter and is not part of the disciplinary process. Individual's rights will, however, be respected.
- 7.10 The level of investigation will be proportionate to the perceived level of risk or concern. The objective, scope and expected outcomes will be laid out in an audit remit approved by the Audit and Compliance Manager, regardless of where the responsibility lies to investigate.
- 7.11 Updates for Resource investigations will be requested by Internal Audit on a regular basis up to the due date for completion as per the remit. This will be dependent on the time allocated to the investigation. A suitable timescale for updates will be agreed with the Resource for investigations expected to be completed in less than one month.
- 7.12 Resource updates can take the form of a briefing note prepared by the Resource contact or by a telephone call made to the Resource contact by the auditor responsible for the investigation.

- 7.13 The relevant Resource Manager will formally report to Internal Audit on the outcomes on completion of an assigned investigation. This may indicate that the Head of Service has decided to commence disciplinary procedures where employees are suspected of involvement in the fraud. In this case a further formal intimation to Internal Audit is required to notify the outcome of the disciplinary process when completed.
- 7.14 Where the investigating Resource is not instigating disciplinary procedures, Internal Audit reserves the right, on receipt of the Resource report, to undertake or request further work or to refer the matter to the Police at this stage. The investigation may be closed at this stage if the allegation is unsubstantiated, or evidence is weak. Executive Directors and Heads of Service may be consulted at this stage.
- 7.15 Internal Audit does not take decisions on disciplinary action and will refer to the Fact Finding team for consideration.
- 7.16 Where Internal Audit is investigating, auditors may conclude their work after only preliminary investigation. At this point a report, memo or letter outlining findings and providing an audit opinion will be supplied to the Resource Head of Service.
- 7.17 Where more in depth investigative work is undertaken by Internal Audit, a formal audit report will be produced for Resource Management outlining findings, providing an audit opinion and detailing recommendations where necessary.
- 7.18 For any investigation Internal Audit may also undertake procedural or analytical reviews or exploration of the circumstances that led to the fraud. This will be appropriate to the level of concern.
- 7.19 Investigation reports will be prepared by Internal Audit or by the appointed Resource investigating officer. The investigation report will present the facts obtained during the investigation. It is the responsibility of the Head of Service, or nominated officer, to assess the findings and decide whether it is necessary to start disciplinary proceedings.
- 7.20 Advising employee(s) on the outcome of investigations is the responsibility of the Head of Service or the nominated officer.
- 7.21 If disciplinary procedures are invoked, the Council's approved policy and procedures will be followed with the investigating officer presenting the case on behalf of management. The role of Internal Audit during disciplinary hearings is restricted to that of a witness, to discuss the audit findings contained within the report. Only where the complete investigation has fallen entirely within the remit of Internal Audit will the auditor assume the role of investigating officer.
- 7.22 Where a material crime has been committed or suspected, the Police will be contacted by the Audit and Compliance Manager after seeking approval from the Chief Executive. No approach will be made to the Police regarding suspicions of fraud, corruption or irregularity, except by the Chief Executive or other person acting on the Chief Executive's authority. The Audit and Compliance Manager will be informed where this authority is given. Full co-operation will be given to the Police while they conduct their enquiries.
- 7.23 Only where there has been a break-in and this may result in an insurance claim against the Council or where a crime has been committed against an individual for example personal injury should Resource employees call the Police directly.
- 7.24 The decision to refer the matter to the Police has no bearing on internal investigations, the decision reached by the Disciplining Officer, or the justification to be relied upon before an Appeals Panel. Internal investigations may proceed during Police enquiries unless the Police intimate otherwise.
- 7.25 Any disciplinary action, fraud or crime which has been identified must remain confidential. Where there is the possibility that information may be made public, no employee should

speak to press or upload information on any social media channels. All public information should only be provided by the Media team within Finance and Corporate Resources.

## **8. Investigative Reporting**

- 8.1 Investigative reports or Internal Audit Memos are prepared for each incidence which occurs. The reports or memos will be used to inform Service Managers and Heads of Service of expectations for improvements or to inform future detection and prevention work primarily within the annual Fraud Control Plan.
- 8.2 All risks, whether suspected or occurring will be recorded in the Resource Fraud Risk Registers within the Council's Risk Management system. This provides a key record of the identification of the risk of fraud and completes the risk management cycle. Fraud Risk Registers should be updated to reflect any fraud detected and to record additional or new controls required.
- 8.3 Internal Audit, on an annual basis, advises the Council's External Auditors of all frauds of £5,000 and above.
- 8.4 Fraud statistics reports are prepared by Internal Audit and presented to the Corporate Management Team (CMT) and the Risk and Audit Scrutiny Committee (RASC) on a six monthly basis. The reports detail the number and types of fraud investigated by the Council and a comparison with previous period.

## **9. Recovery and Sanctions**

- 9.1 The Council will take, where justified, appropriate disciplinary and legal action in all proven cases.
- 9.2 Every opportunity will be taken to recover any loss as a result of fraud. It may be possible to recover the loss directly from the employee, contractor or client who acknowledges his or her guilt. Arrangements made for recovery do not in any way lessen the crime. However, an attempt by the employee, contractor, or client to restore the loss may lead to a more favourable outcome should the case be taken to court.
- 9.3 The ultimate source of recovery may be through an insurance claim. Contact should always be made with the Council's Insurance Officer to ascertain whether a claim is relevant for any losses not recovered by other means.
- 9.4 Recovery, where possible, will be dealt with by the relevant Resource in consultation with Personnel Services, Legal Services and Internal Audit. The amount recovered may be split between the Resource and Internal Audit depending on the Internal Audit resources required for the investigation. This will be subject to agreement by the relevant Executive Directors.

## **10. Manage, Monitor and Review Risks**

- 10.1 Management of the risk of fraud, through internal and system control, is important. Internal Control is a management responsibility.
- 10.2 Controls depend on the nature and the evaluation of the risk but there are a number of well recognised internal controls that line managers are expected to implement to prevent or control the level of fraud within their Service. The most common are:
  - clear written rules and procedures which are regularly updated
  - monitoring and spot checks on procedures and systems
  - robust pre-employment checks, for example, qualifications and references



- avoiding accumulation of backlogs
  - designing safeguards against fraud within new systems/processes
  - a committed response to any allegation of fraud reported
  - reviewing and changing systems and procedures after any incident of fraud
- 10.3 The Internal Audit Plan provides an element of monitoring of the controls over fraud risks. Reports resulting from completion of the audit plan identify new risks or provide a level of assurance on how well controls are working. Improvements in controls may be required and audit recommendations will be routinely followed up to monitor the level of implementation.
- 10.4 This policy will be reviewed on an annual basis and updated where required.

For more information or if you want this information in a different format or language, please email Internal Audit at: [fraudenquiries@southlanarkshire.gov.uk](mailto:fraudenquiries@southlanarkshire.gov.uk).



**Finance and Corporate Resources**

## **Appendix 1**

### **Fraud Whistle Blowing for Third Parties**

**May 2023**

## **1 Introduction**

- 1.1 South Lanarkshire Council is committed to ensuring probity and accountability in all its activities. The Council has a Counter Fraud, Bribery and Corruption Policy that requires individuals and organisations with which the Council deals to behave towards the Council with integrity.
- 1.2 The Council is also committed to dealing, on a confidential basis, with any allegation of material fraud or malpractice brought to its attention by any contractor, supplier, organisation, or by the general public. Such allegations may concern the conduct of those acting in the name of the Council or contractors, suppliers, or members of the public, where they involve misuse of Council assets or budgets.
- 1.3 Examples of employee concerns which should be reported include but are not limited to:
  - profiting from an official position
  - disclosure of official activities or information for advantage
  - accepting or seeking value from third parties by virtue of official position or duties
  - theft or misuse of Council property, facilities or services
- 1.4 External organisations actions which should be reported include but are not limited to:
  - bribes or inducements offered by a supplier
  - misuse of grant funding
- 1.5 This Fraud Whistle Blowing Policy for Third Parties lays out the procedures whereby such matters can be brought to the attention of the Council.

## **2 Handling Reported Incidents**

- 2.1 South Lanarkshire Council will take seriously, all material matters raised in good faith by third parties.
- 2.2 Once a concern has been raised, the Council will assess the action that should be taken in line with our investigative protocols and procedures.
- 2.3 If the person raising the concern has provided contact details, they will be informed, within a reasonable period of time, as to how the matter is being handled and whether further assistance will be required from the whistle-blower.
- 2.4 It is not necessary for the person raising the concern to provide contact details as all concerns raised in good faith will be taken seriously. However, it may be helpful to the successful conclusion of the investigation if the person reporting a concern is able to provide further details if required. Their identity will not be revealed outside Internal Audit, who will investigate the concern in accordance with the Council's Fraud Response Process.
- 2.5 If the person raising the concern has any personal interest in the matter, they must tell the Council at the outset. If they do not, and the interest becomes apparent later, the failure to declare an interest may affect the Council's conclusion of the investigation.
- 2.6 Feedback will be provided to the person raising the concern where appropriate, provided their identity is known.
- 2.7 If requested, the Council will provide a written update on the progress of the investigation. Notification will be also given when the investigation has been completed.
- 2.8 Please be aware that the Council may not be able to divulge the precise action taken, or give detailed results of an investigation, where this might:
  - infringe a duty of confidence owed by the Council to another person or organisation
  - prejudice the investigation

- result in a breach of either the Human Rights Act or Data Protection legislation.

### **3 Raising a Concern**

3.1 Concerns should be raised, either:

- in writing, addressed to the Executive Director of Finance and Corporate Resources, for the attention of the Audit and Compliance Manager, Council Offices, 4<sup>th</sup> Floor, Almada Street, Hamilton, ML3 0AB; or
- by emailing the Council's Internal Audit Section: [fraudenquiries@southlanarkshire.gov.uk](mailto:fraudenquiries@southlanarkshire.gov.uk)
- by telephoning the councils whistleblowing line CRM 0303 123 1015
- benefit fraud can be reported to the DWP at [www.gov.uk/report-benefit-fraud](http://www.gov.uk/report-benefit-fraud).

3.2 If a correspondent wishes their concern to be treated in confidence, this should be intimated at the outset, so that the appropriate arrangements to protect anonymity can be put in place.

### **4 Further Action**

4.1 The policy aims to provide assurance to anyone who raises a concern, in good faith, that it will be fully and impartially investigated. While the Council cannot guarantee that it will respond to all matters in the way that the person raising it might wish, it will try to handle any concern expressed by a third party fairly and properly. However, should anyone be dissatisfied by the Council's response to their concerns they can share their concerns with:

Scottish Public Services Ombudsman  
Bridgeside House  
99 McDonald Road  
Edinburgh  
EH7 4NS

Audit Scotland  
4<sup>th</sup> Floor  
102 West Port  
Edinburgh  
EH3 9DN

For more information or if you want this information in a different format or language please email Internal Audit at [fraudenquiries@southlanarkshire.gov.uk](mailto:fraudenquiries@southlanarkshire.gov.uk)



**Finance and Corporate Resources**

## **Appendix 2**

### **Due Diligence Policy**

**May 2023**

## **Due Diligence Policy**

### **Background**

South Lanarkshire Council have developed a policy that reflects the principles of the Due Diligence guidance issued by HMRC.

HMRC's strategy recognises that organisations may have people working for them directly or indirectly via third parties (via contractors, sub-contractors, agencies, via intermediaries etc) and, as such, organisations should have arrangements in place to ensure that they are not entering into contracts; getting involved with criminals or high risk individuals; or using (albeit indirectly) illegal workers or workers that are being exploited.

South Lanarkshire Council could face reputational damage if they contract with organisations that are involved in exploitation or illegal, criminal or fraudulent activity. Operational delivery could be impacted if labour supply is interrupted and costs incurred (for fines and potential recovery of taxes not paid by others in the supply chain) should HMRC find non-compliance.

### **HMRC Guidance**

HMRC guidance sets out expectations that organisations carry out their own checks on the integrity of labour supply, and the third parties involved in the supply, and do not simply rely on assurances from organisations.

These checks are commonly known as 'due diligence' and provide assurance that organisations are legitimate (and not high risk), are treating/paying their employees correctly and are paying all taxes due.

### **Application of the guidance within South Lanarkshire Council**

Robust due diligence helps to mitigate the risks and satisfy legal requirements for checks on labour. South Lanarkshire Council have embedded proportionate checks within existing processes supported by (but not limited to):

- clauses within contracts to require compliance with legal obligations and HMRC requirements
- completion of Serious Organised Crime Agency checks ahead of contract award
- utilisation of the 'Single Procurement Document' to allow the Council to identify suitably qualified and experienced bidders with questions on both exclusion and selection criteria
- application of off-payroll working rules (known as IR35)
- application of standard procedures around the adoption of new suppliers and undertaking of certain transactions

South Lanarkshire Council will continue to develop and embed due diligence checks within processes in line with best practice.

Any queries or requests for assistance in relation to this policy should be forwarded to [fraudenquiries@southlanarkshire.gov.uk](mailto:fraudenquiries@southlanarkshire.gov.uk).



**Finance and Corporate Resources**

## **Appendix 3**

### **Anti-Tax Evasion Policy**

**May 2023**

## **Anti-Tax Evasion Policy**

### **Introduction**

The Criminal Finances Act 2017 created two new corporate criminal offences:

- the facilitation of UK tax evasion
- the facilitation of foreign tax evasion

Tax evasion is defined as the deliberate and dishonest evasion of tax or taking steps to enable another person to evade tax.

Tax is defined widely to cover all forms of UK taxation including corporate tax, income tax, VAT, stamp duty, NI contributions etc.

Evidence of tax evasion can take many forms but some scenarios which may suggest this are as follows:

- payment of a substantial sum in cash
- a refusal to provide requested information without good reason
- transactions within countries identified as not having robust anti-money laundering or counter-terrorism financing arrangements or those where there are sanctions or embargoes or similar measures imposed

### **Obligations of the Council**

This policy sets out the proportionate anti-tax evasion safeguards that South Lanarkshire Council has put in place.

#### Due Diligence Process

An appropriate due diligence process is in place and is followed when dealing with new suppliers or undertaking certain transactions.

#### Nominated Officers

A nominated officer has been appointed to which any suspicions of tax evasion can be reported. In South Lanarkshire Council this is the Audit and Compliance Manager who should be notified of any concerns around suspected tax evasion at [fraudenquiries@southlanarkshire.gov.uk](mailto:fraudenquiries@southlanarkshire.gov.uk).

#### Reporting Procedure

All known or suspected anti-tax evasion incidents relating to the Council should be reported to the nominated officer who will review the information and, where relevant, complete the Anti-Tax Evasion reporting form and send to HMRC. All documentary evidence collected by the nominated officer will be retained in line with the Council's retention policy.

#### Staff training

Staff training in this policy will be included within anti-fraud training. For any further queries or assistance, please contact the nominated officer at the email address above.