



**UTTLESFORD DISTRICT COUNCIL**

**COUNTER FRAUD and  
CORRUPTION  
STRATEGY & POLICIES**

**APRIL 2019**

# **Counter Fraud and Corruption Strategy**

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## **1 INTRODUCTION**

- 1.1 Uttlesford District Council (UDC) believes that all its employees have a responsibility to be alert to the possibility of fraudulent or corrupt practices, bribery or theft. Effective policies on fraud, corruption, bribery or theft provide a means by which proper supervision and public accountability may be maintained.
- 1.2 In meeting the Council's responsibilities relating to fraud and corruption, whether attempted internally or externally, the Council is committed to an effective counter fraud and corruption strategy designed to:
- encourage prevention;
  - promote detection;
  - ensure effective investigation where suspected fraud or corruption has occurred;
  - prosecute offenders where appropriate.
- 1.3 There is an expectation and requirement that all members, employees, consultants, contractors, and service users be fair and honest, and if able to do so, provide help, information and support to assist the investigation of fraud and corruption. In addition advice on how members of the public may raise suspicions about fraud and corruption is contained in the Fraud Response Plan (Appendix 1) to this Strategy.
- 1.4 The purpose of the Council's Counter Fraud and Corruption Strategy & Policies are to outline the Council's approach for dealing with threat of fraud, corruption and bribery, both internally and externally and therefore they apply equally to:
- Councillors and co-opted members
  - Employees
  - Contractors
  - Partner organisations and their employees
  - Suppliers
  - Consultants
  - Service users
  - Employees and committee members of organisations funded to any extent by the Council

## **2 DEFINITIONS**

- 2.1 The Fraud Act 2006 is legislation that has been introduced in order to provide for absolute clarity on the subject of fraud. It replaces certain parts of other legislation (e.g. parts of the Theft Act 1968 and 1978) which were generally untidy, had become difficult to operate and were open to arguments on technicalities.
- 2.2 Section 1 of the Fraud Act 2006 introduces a new general offence of fraud and three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and
- Fraud by abuse of position.

### Corruption

- 2.3 Corruption is defined as ‘the offering, giving, soliciting, or acceptance of an inducement or reward, or showing any favour or disfavour which may influence any person to act improperly.’

### Bribery

- 2.4 Bribery can be described as giving someone a financial inducement or other form of advantage to encourage that person to perform their functions or activities improperly, or to reward that person for having already done so.

The Bribery Act 2010 came into force on 1 July 2011. The Council has an approved Bribery Act Policy in place (Appendix 2).

### Theft

- 2.5 Theft is defined in the Theft Act 1968 as the dishonest appropriation of property belonging to another with the intention of permanently depriving the other of it.

Council property includes plant and equipment, furniture, depot and office supplies, including: stationery, photocopying paper, envelopes, computer software and hardware.

### Money Laundering

- 2.6 Money laundering is a term applied to any method used to convert or exchange money or assets obtained from criminal activity into money or assets that are “clean”, in such a way that the “clean” money can no longer be linked back to the criminal activity. The Ministry of Justice has stated that local government is a prime target for the cleansing of dirty money. UDC takes the view that it is within the regulated sector under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, our policies have assumed that the provisions that relate to the regulated sector apply and has therefore adopted Prevention of Money Laundering Procedures (Appendix 3) as a statutory requirement of the regulations. These Procedures support all staff in complying with the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017.

### **3 RULES AND PROCEDURES**

- 3.1 The Council has various rules and procedures to ensure that the day to day operations and activities are properly controlled and are an important part of the internal control framework.
- 3.2 These have been formulated in accordance with appropriate legislation and include:
- General principles of conduct in local government
  - Code of Corporate governance
  - Members Code of Conduct
  - Financial Regulations
  - Contract Procedure Rules
  - Code of good practice - probity in planning
  - Code of good practice - probity in licensing
  - Counter Fraud Policy Statement and Guidance notes
  - Sound systems of internal control
  - Effective internal arrangements
  - Disciplinary Policy (HRP 1)
  - Whistleblowing Policy (HRP 61)
  - Gifts and Hospitality Guidance (HRP 62)
  - Counter Fraud and Corruption Strategy
  - Fraud Response Plan
  - Bribery Act Policy
  - Prevention of Money Laundering Procedures
  - Council Tax, Business Rates & Local Council Tax Support Counter Fraud Policy
  - Tenancy Fraud Policy
  - IT Security Policy
- 3.3 Individual Services will have also introduced their own measures designed to control their activities e.g. schemes of delegation, working procedures etc.
- 3.4 All Corporate and Service Managers need to ensure that staff have access to these rules and regulations and that staff receive appropriate training.
- 3.5 Failure to comply with the rules and regulations may result in formal action being taken. In the case of employees this would be through the Council's disciplinary process and for members would involve the Standards Committee. Where an offence is suspected the police will be involved. Staff may be suspended for the duration of a police investigation or, if the circumstances justify it, may be dismissed even before trial.

### **4 BEHAVIOUR OF MEMBERS AND EMPLOYEES**

- 4.1 The Council is resolute that the culture and tone of the Authority is one of honesty and opposition to fraud and corruption.

- 4.2 There is an expectation and requirement that all individuals, businesses and organisations dealing in any way with the Council will act with high standards of probity, openness and integrity and that Council employees or its agent(s) at all levels will lead by example in these matters.
- 4.3 In line with the requirements of the Localism Act 2011, from 1 July 2012 Uttlesford District Council adopted a new Code of Conduct for Members. <https://www.uttlesford.gov.uk/article/5032/Councillor-Code-of-Conduct-and-Register-of-Interests>
- 4.4 The Council's Code of Conduct for Members and its Human Resources Policies (HRP) for staff set out an approach to work that is honest, fair, accountable and, as far as possible, transparent. Members and employees must act in line with the code and HRPs at all times.
- 4.5 The Council's officers are a vital element in its stance against fraud and corruption and they are positively encouraged to raise any concerns that they may have.
- 4.6 All information supplied will be dealt with fairly and objectively. Confidentiality will be maintained where possible. The Fraud Response Plan (Appendix 1) and Whistleblowing Policy - HRP61 (Appendix 4) provide further information on this.
- 4.7 Corporate and Service Managers are expected to deal firmly and quickly with those who are corrupt, who seek to corrupt, who defraud, or who seek to defraud the Council. Cases involving staff will lead to disciplinary action, which may result in dismissal. Where there is prima facie evidence that a criminal offence has been committed it is the policy of the Council to refer the case to the Police for investigation.
- 4.8 There is a need to ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations, may be dealt with as a disciplinary matter.

## **5 PREVENTION OF FRAUD AND CORRUPTION**

- 5.1 A key preventative measure against fraud and corruption is an adequate internal control framework covering all the Council's systems both financial and non-financial which support the delivery of services. The corporate rules and procedures referred to at paragraph 3.2 form part of this framework. The operation and adequacy of the internal controls in individual systems is the responsibility of Corporate and Service Managers and is subject to regular review by both Internal and External Audit.
- 5.2 The Council's Gifts and Hospitality Guidance - HRP62 (Appendix 5) sets out the guidance on dealing with offers of cash, gifts and hospitality from customers, contractors and those the council regulates.
- 5.4 Members are required to declare their disclosable pecuniary interests, other pecuniary interests and non-pecuniary interests in accordance with the Localism Act 2011 and the Councillors' Code of Conduct and to act in accordance with the code.

5.5 The Council is committed to working and co-operating with other organisations to prevent organised fraud and corruption. This will involve the exchange of information with other organisations and data matching in accordance with the GDPR and Data Protection Act 2018).

5.6 The Council uses all available sources of intelligence in its investigations of fraud. This includes the use of social media

## **6 DETECTION AND INVESTIGATION OF FRAUD AND CORRUPTION**

6.1 The preventative measures described in the previous section significantly reduce the risk of fraud and corruption but cannot eliminate it entirely. The operation of the internal controls in a system may alert employees to potential fraud. However, many frauds are discovered by chance or 'tip off'.

6.2 Corporate and Service Managers should notify Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Reporting cases in this way is essential to the Counter Fraud and Corruption Strategy and to ensure that:

- all suspected cases of fraud and corruption are recorded and investigated properly;
- the Fraud Response Plan (Appendix 1) is carried out properly;
- there is a standard process for dealing with all suspected cases of fraud and corruption; and
- people and the Council's interests are protected.

6.3 The Council's Whistleblowing Policy - HRP61 (Appendix 4) is intended to encourage and enable employees, contractors, members and the general public to raise any serious concerns about financial or other malpractice in the council. This provides for confidential reporting of concerns by employees by which they are afforded certain rights under the Public Interest Disclosure Act 1998.

6.4 Internal Audit will consult with the Section 151 Officer and/or the Monitoring Officer and the relevant Corporate or Senior Managers to decide on the type and course of investigations. Human Resources staff will also be consulted and involved where appropriate in investigations, particularly where they may lead to disciplinary action. This will include referring cases to the Police where necessary. Internal Audit may also seek informal advice from the Police in the early stages of an investigation. Care will be taken to ensure that internal disciplinary procedures are followed but do not prejudice any criminal investigation.

6.5 For Council Tax, Local Council Tax Support and Business Rates fraud and Housing Tenancy fraud the action taken will follow the prosecution policy outlined in the Council Tax, Local Council Tax Support and Business Rates Fraud Policy (Appendix 6) and the Housing Tenancy Fraud Policy (Appendix 7) respectively and in the Prosecution Policy (Appendix 8). External Audit may also request or carry out an investigation into fraud and corruption.

## **7 TRAINING AND AWARENESS**

7.1 The Council recognises that an important aspect of its Counter Fraud and Corruption Strategy is dependent upon its effective communication, both within the organisation and to its external stakeholders. To this end the Counter Fraud and Corruption Strategy, together with other associated policy documents are published on the Council's web-site and its intranet site.

7.2 Training and E-learning is provided for all Members and Employees in:

- Fraud Awareness;
- Whistleblowing and
- Money Laundering

7.2 In addition the Council will seek via appropriate publicity to increase and maintain the general public awareness of the facilities available to report concerns about fraud and corruption.

## **8 REVIEW OF THE STRATEGY AND ITS EFFECTIVENESS**

8.1 The Council has an array of measures and procedures to assist in combating fraud and corruption. It is determined to keep pace with any future developments in preventative and detection techniques and to be able to respond to any future government and CIPFA Counter Fraud Centre incentives for the detection of fraud.

8.2 The Counter Fraud and Corruption Strategy and its effectiveness will be the subject of regular review; it will be reviewed when necessary but at no more than three year intervals.

## **9 WHO TO CONTACT**

9.1 Advice and guidance on how to pursue matters of concern may be obtained from:

The Internal Audit Manager, on 01799 510610  
sbronson@uttlesford.gov.uk

The Monitoring Officer (Assistant Director Governance & Legal) on 01799 510416  
spugh@uttlesford.gov.uk

The Section 151 Officer (Director of Corporate Services), on 01799 510421  
aweabb@uttlesford.gov.uk

The Chief Executive, on 01799 510400  
dfrench@uttlesford.gov.uk

## **FRAUD RESPONSE PLAN**

### **1 INTRODUCTION**

- 1.1 This Fraud Response Plan forms part of the Council's overall Strategy against Fraud and Corruption and covers the Council's response to suspected or apparent irregularities affecting resources belonging to or administered by the Council, or fraud perpetrated by contractors and suppliers against the Council.
- 1.2 It is important that Managers know what to do in the event of fraud, so that they can act without delay. The Fraud Response Plan provides such guidance to ensure effective and timely action is taken; other documents that should be referred to when reading the Plan include:
- Counter Fraud and Corruption Strategy
  - Whistleblowing Policy (HRP61)
  - Disciplinary Policy (HRP1)
  - Financial Regulations

### **2 OBJECTIVE of the FRAUD RESPONSE PLAN**

- 2.1 To ensure that prompt and effective action can be taken to:
- Prevent losses of funds or other assets where fraud has occurred and to maximise recovery of losses;
  - Identify the perpetrator and maximise the success of any disciplinary or legal action taken;
  - Reduce adverse impacts on the business of the Council;
  - Minimise the occurrence of fraud by taking prompt action at the first sign of a problem;
  - Minimise any adverse publicity for the organisation suffered as a result of fraud; and
  - Identify any lessons which can be acted upon in managing fraud in the future.
- 2.2 It is the responsibility of all staff and members of the Council to report fraud whenever they come across it within their work or in connection with their duties, ignoring such acts is not acceptable. In addition to reporting fraud, staff have a duty to report instances where they believe that the Council's assets are at risk.

### **3 WHISTLEBLOWING POLICY (HRP61)**

- 3.1 The Council has developed a Whistleblowing Policy in accordance with the provisions of the Public Interest Disclosure Act 1998. This policy enables the raising of serious concerns about any financial or other malpractice in the council by employees, contractors, members and the general public without fear of recrimination.
- 3.2 All concerns will be treated in confidence and every effort will be made not to reveal the identity of employees if they so wish. At the appropriate time, however, employees may need to come forward as witnesses.

- 3.3 This policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much more difficult to act upon, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:
- The seriousness of the issues raised;
  - The credibility of the concern; and
  - The likelihood of confirming the allegation from attributable sources.

3.4 If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered against the individual making the allegation.

#### **4 WHAT SHOULD AN EMPLOYEE DO IF THEY SUSPECT FRAUD OR CORRUPTION?**

4.1 Employees are often the first to realise that there is something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

4.2 The Council's confidential Whistleblowing Policy (HRP61) is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or passing details to the media or other external bodies. This policy has been discussed with the relevant Trade Unions and has received their approval. Employees reporting concerns in this way are afforded certain rights under the Public Interest Disclosure Act 1998.

4.3 A full copy of the Whistleblowing Policy (HRP61) is Appendix 4 of the Counter Fraud and Corruption Strategy and is also available on the Council's intranet and website.

4.4 Where appropriate, employees should normally raise concerns with their immediate manager or their supervisor who, if the claim can be substantiated, will inform the Internal Audit Manager. The nature of the complaint will determine the Council's course of action. For further advice on how to raise concerns is contained in the Whistleblowing Policy (HRP61)

4.5 The Internal Audit Manager can be contacted by phone on 01799 510610, by email at [sbronson@uttlesford.gov.uk](mailto:sbronson@uttlesford.gov.uk) or by writing to the Internal Audit Manager, Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex, CB11 4ER.

## **5      WHAT SHOULD A MEMBER OF THE PUBLIC DO IF THEY SUSPECT FRAUD OR CORRUPTION?**

- 5.1      The Council encourages members of the public who suspect fraud and corruption to contact the Chief Executive, the Section 151 Officer, the Monitoring Officer or the Internal Audit Section in the first instance.
- 5.2      The Internal Audit Section is a unit which operates independently of all other Council Services and has the following objectives in relation to fraud and corruption to:
- promote a Counter Fraud culture.
  - deter, prevent, detect and investigate fraud and corruption.
  - see appropriate action is taken against those who commit fraud or corruption.
- 5.3      Internal Audit can be contacted:
- by phone on 01799 510610, 510306 or 510423,
  - by email at [internalaudit@uttlesford.gov.uk](mailto:internalaudit@uttlesford.gov.uk) or [sbronson@uttlesford.gov.uk](mailto:sbronson@uttlesford.gov.uk) or
  - by writing to the Internal Audit Manager, Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex, CB11 4ER.
- 5.4      Council Tax, Business Rates & Local Council Tax Support Fraud – contact the Revenues Compliance Team on 01799 510366

5.5      Housing Tenancy Fraud – contact the Housing Officers on 01799 510510

## **6      HOW TO RESPOND TO AN ALLEGATION OF THEFT, FRAUD OR CORRUPTION**

- 6.1      For issues raised by employees or members of the public, the action taken by the Council will depend on the nature of the concern.
- 6.2      The Section 151 Officer, the Monitoring Officer and the Internal Audit Manager must be informed of all concerns reported under the Whistleblowing Policy (HRP61) unless the concern relates to them. The action taken by the Council will depend on the nature of the concerns.

### **Initial Response**

- 6.3      Managers must listen to the concerns of staff and treat every report seriously and sensitively.
- 6.4      Managers must obtain as much information as possible from the member of staff, including any notes or evidence to support the allegation. It is important not to interfere with this evidence and ensure it is kept secure.
- 6.5      Managers must contact the Internal Audit Manager to discuss the allegation and agree any proposed action. An evaluation of the case should include the following details:

- Outline of allegations;
  - Officers involved, including job role and line manager;
  - Amount involved / materiality / impact;
  - Involvement of any other parties;
  - Timescales – one off or ongoing; and
  - Evidence – where held and access.
- 6.6 In accordance with the Counter Fraud & Corruption Strategy, the Internal Audit Manager will consult with the Section 151 Officer and/or the Monitoring Officer and the relevant Corporate or Senior Managers to decide on the type and course of investigations.
- 6.7 Where it is appropriate to do so initial enquiries may be made by the manager or the Internal Audit Section, as agreed with the Internal Audit Manager, to determine if there actually does appear to be an issue of fraud or other irregularity.
- 6.8 During the initial enquiries, managers should:
- Determine the factors that gave rise to the suspicion;
  - Examine the factors to determine whether a genuine mistake had been made or whether a fraud or irregularity has occurred;
  - Where necessary, carry out discreet enquiries with staff and / or review documents.
- 6.9 The Internal Audit Manager should be informed of the results of the initial enquiry so that the case can be closed or a more detailed investigation organised.
- 6.10 Where the initial enquiry appears to indicate misconduct by a council employee the Internal Audit Manager will consult with the Section 151 Officer and/or the Monitoring Officer and the relevant Corporate or Service Managers to decide on the type and course of investigations.
- 6.11 This will include referring cases to the Police where necessary. Internal Audit may also seek informal advice from the Police in the early stages of an investigation. Care will be taken to ensure that internal disciplinary procedures are followed but do not prejudice any criminal investigation.
- 6.12 Human Resources staff will also be consulted and involved where appropriate in investigations, particularly where they may lead to disciplinary action.

### **Internal Investigation**

- 6.13 The Investigating Officer will:
- Deal promptly with the matter;
  - Record all evidence that has been received;
  - Ensure that evidence is sound and adequately supported;

- Secure all of the evidence that has been collected;
- If criminal acts are being investigated, then take advice on the interview of potential suspects so that the guidelines of the Police and Criminal Evidence Act 1984 (PACE) are followed;
- Where appropriate, contact other agencies;
- When appropriate, arrange for the notification of the Council's insurers;
- Report to senior management, and where appropriate, recommend the action to be taken by management in accordance with the Counter Fraud and Corruption Strategy and the Council's Disciplinary Procedures.

### **Sanctions**

- 6.14 The manager is responsible for taking the appropriate disciplinary action as set out in the Council's Disciplinary policy (HRP1).
- 6.15 If a criminal offence is discovered, it may be appropriate to pursue a criminal prosecution. If the Internal Audit Manager determines that the Police need to be involved, either from the start or at a later stage in the investigation, the Internal Audit Service will support the police investigation as necessary.

### **Recovery of Losses**

- 6.16 Whenever fraud has been proved, the Council will make every effort to recover the losses. The method used will vary depending on the type of loss and the regulations and powers available. All means of recovery will be used as appropriate to the offence.

## **7 ALTERNATIVE METHODS FOR TAKING A COMPLAINT FORWARD**

- 7.1 If either a member of the public or an employee feels it is right to take the matter outside these processes, the following are possible ways forward:
- **Local Councillors** – details of how to contact and surgery hours are on the Council's web site [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk).
  - **External Auditors** – the Council's external auditors are completely independent from the Council.
  - **Trade Unions** – employees may invite their Trade Union to raise a matter on their behalf.
  - **Relevant professional bodies.**
  - **Police** – suspicions of fraud or corruption may be reported directly to the Police through Action Fraud the UK's national fraud and cyber crime reporting centre on 0300 123 2040. <https://www.actionfraud.police.uk/reporting-fraud-and-cyber-crime>

- **The Local Government Ombudsman** – this is an independent body set up by the Government to deal with complaints against Councils in the United Kingdom. Advice and can be contacted on 0300 061 0614. <https://www.lgo.org.uk/>
- **Protect** – this is a charity (formally Public Concern at Work), which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They operate a helpline on 020 3117 2520 or can be e-mailed at [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk). More information is on their website at [www.pcaw.org.uk](http://www.pcaw.org.uk)

7.2 If employees take matters outside the Authority, it will be necessary to ensure that they do not disclose confidential or legally privileged information. As such, it is advisable that employees take appropriate advice before proceeding.

## 8 REPORTING, RECORDING and PUBLICITY

8.1 The Council accepts that people who reported the alleged fraud or corruption need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will receive information about the outcome of any investigation and whether any changes/improvements are to be made to systems and procedures as a consequence.

8.2 A central record of all reported allegations of fraud or corruption will be maintained.

8.3 The Assistant Director of Central Services and the Communications Officer will deal with the press and publicity in all matters regarding fraud and corruption. Where appropriate the details of all successful prosecutions for fraud may be released to the media through the Communications Officer. Staff and Managers must not directly disclose to the press the details of any cases suspected or under investigation. Disclosure of details to the media without express authority would be regarded as a disciplinary matter. The aim is to publicise the Council's intolerance of fraud or corruption both within the Council and by users of its services, it also serves to publicise our successes against those who would perpetrate such fraud or corruption against the Council.

8.4 Following this Fraud Response Plan in conjunction with the Counter Fraud and Corruption Strategy and the Whistleblowing Policy will ensure that the Council's objectives in countering and investigating corporate fraud and corruption are achieved. However, no guidance such as this can expect to cover all eventualities and therefore if you have any issues or are unsure of the action to take in a given situation you should immediately contact the Internal Audit Manager, Section 151 Officer or the Monitoring Officer.

## **BRIBERY ACT POLICY**

### **1 INTRODUCTION**

- 1.1 This policy is intended to ensure compliance with the Bribery Act 2010. It explains the process through which the Council intends to maintain high standards and to protect the organisation, employees, Members and business partners against allegations of bribery and corruption.
- 1.2 The Council is committed to the highest possible standards of openness probity and accountability and to conduct its business in an honest and open way, and without the use of corrupt practices or acts of bribery to obtain an unfair advantage. The Council attaches the utmost importance to this policy and will apply a “zero tolerance” approach to acts of bribery and corruption by any of its Members, employees, or persons and partners acting on our behalf. Any breach of this policy will be regarded as a serious matter and is likely to result in disciplinary action and possibly criminal prosecution.

### **2 POLICY STATEMENT**

- 2.1 Bribery is a criminal offence. The Council will not pay bribes, or offer improper inducements to anyone for any purpose, nor will the Council accept bribes or improper inducements. The use of a third party to channel bribes is also a criminal offence. The Council will not engage indirectly in or otherwise encourage bribery.
- 2.2. The Council is committed to ensuring compliance with the highest legal and ethical standards. The Council will commit to policies and procedures to prevent, deter, and detect acts of bribery. The Council will ensure that anti-bribery compliance is an essential aspect of its governance process and at the core of its business principles. It is an on-going process and not a one-off exercise.

### **3 OBJECTIVE**

- 3.1 This policy presents a clear and precise framework to understand and implement the arrangements required to comply with the Bribery Act 2010. It provides the context for the detailed rules, procedures and controls in place. It should provide no room for misinterpretation and will ensure that Members, employees, volunteers and business partners know what is expected of them in preventing bribery.
- 3.2. This policy should be read in conjunction with, and reinforce, other related policies and documents (see paragraph 13). The provisions in these policies and documents should be reflected in every aspect of the way the Council operates. The requirement to act honestly and with integrity at all times is made clear and is fundamental and non-negotiable.
- 3.3. This policy explains the procedures established to prevent acts of bribery and allow any breach to be identified and reported.

## **4 SCOPE**

- 4.1 This policy applies to all of the Council's activities.
- 4.2 This policy covers all staff, including all levels and grades, those permanently employed, temporary agency staff, contractors, agents, Members (including co-opted members), volunteers and consultants.
- 4.3 The responsibility to mitigate the risk of bribery resides at all levels of the Council and includes all directorates. It does not rely solely on the Council's assurance functions.
- 4.4 For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

## **5 POLICY COMMITMENT**

### 5.1. The Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date;
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times;
- Training all employees so that they can recognise and avoid the use of bribery by themselves and others;
- Encouraging Members, employees and partners to be vigilant and to report any suspicions of bribery;
- Providing suitable channels of communication (e.g. Whistleblowing Procedure) to ensure that sensitive information is handled appropriately;
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution;
- Taking firm and vigorous action against any individual(s) involved in bribery;
- Reporting breaches and suspected breaches of this policy to Members, employees and partners in an open and transparent way; and
- Including appropriate clauses in contracts with suppliers to support the Council's approach to the provisions of the Bribery Act 2010.

## **6 The BRIBERY ACT 2010**

- 6.1. The Bribery Act 2010 was introduced to update and enhance English law on bribery. It creates a strict liability corporate criminal offence of failing to prevent bribery. The only defence against this corporate offence is for organisations to have adequate procedures in place to prevent bribery.
- 6.2. The Act includes four offences:
- Bribing a person to induce or reward them to perform a relevant function improperly;
  - Requesting, accepting or receiving a bribe as a reward for performing a relevant

function improperly;

- Using a bribe to influence a foreign official to gain a business advantage and
- In relation to a commercial organisation committing bribery to gain or retain a business advantage, there being no adequate procedures in place to prevent such actions

- 6.3. Acts of bribery are intended to influence an individual or organisation in the performance of their duty and for them to act illegally.
- 6.4. The penalties under the Bribery Act have been raised significantly and are severe. The new corporate offence is punishable with an unlimited fine. An individual guilty of an offence may be liable to imprisonment for up to 10 years or to a fine, or to both.
- 6.5. The Council accepts that public bodies may be classed as a “commercial organisation” in relation to the corporate offence of failing to prevent bribery. In any event, it represents good governance and practice to have adequate procedures in place to protect the Council, Members, employees and partners from reputational and legal damage. It is in the interests of everybody connected to the Council to act with propriety at all times.

## 7 COUNCIL PROCEDURES on the BRIBERY ACT

7.1. The Council will follow the guidance issued by the Ministry of Justice on compliance with the Bribery Act. In particular, it will take account of the six principles set out in the guidance as part of ensuring a robust and effective anti-bribery approach.

7.2 The six principles are:

**Proportionate Procedures** - The procedures to prevent bribery by persons should be proportionate to the bribery risks faced and to the nature, scale and complexity of the Council’s activities. They should also be clear, practical, accessible, effectively implemented and enforced.

**Top Level Commitment** - The Corporate Management Team is committed to preventing bribery by persons associated with the Council and to fostering a culture in which bribery is never acceptable. A report on the Bribery Act 2010 and the introduction of this policy has been approved by the Governance, Audit and Performance Committee;

**Risk Assessment** - The nature and extent of the Council’s exposure to external and internal risks of bribery will be assessed as part of the Council’s risk management process. Any risk assessment is intended to be an on-going process based on regular communication and review;

**Due Diligence** – A proportionate and risk based approach will be taken in respect of persons and other organisations that perform services for or on behalf of the Council. Due diligence will include an evaluation of the background, experience and reputation of business partners. The transactions will be properly monitored and written

agreements and contracts will provide references to the Bribery Act 2010 and this policy. Reciprocal arrangements may be required for business partners to have their own policies in place. They will be advised of the Council's policy and be expected to operate at all times in accordance with such policy;

**Communication (including training)** - The Council will ensure that this policy and other related policies and procedures are embedded in the Council's working arrangements through appropriate communication, including training, which is proportionate to the risks the Council faces. The Council's induction programme will include reference to the Bribery Act 2010 and this policy; and

**Monitoring and Review** - This policy, control arrangements, risk management processes and other related policies and procedures designed to prevent bribery and corruption will be monitored, reviewed and improved where necessary on a regular basis. All incidents of bribery or suspected bribery will be reported to the Governance Committee.

7.3 In the context of this policy it is unacceptable for persons acting for or on behalf of the Council to:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- Give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to facilitate or expedite a routine procedure;
- Accept payment from a third party that is known to be, or suspected to have been, offered with the expectation that it will obtain a business advantage for them;
- Accept a gift or hospitality from a third party if it is known to be, or suspected to have been, offered with an expectation that a business advantage will be provided by the Council in return;
- Retaliate against or threaten a person who has refused to commit an act of bribery or who has raised concerns under this policy; and
- Engage in any activity in breach of this policy.

## 8 GIFTS and HOSPITALITY

8.1. This policy is not intended to change the requirements of the Council's Gifts and Hospitality Guidance (HRP62) (Appendix 5 of the Counter Fraud and Corruption Strategy) which clearly set out the restrictions on accepting gifts and hospitality, the need to inform the manager and the need to register any approved gifts that are retained.

8.2 As a general principle gifts should not be accepted. All offers of cash (including offers of payments or services to third parties or to charity) and the offer or receipt of any gift or hospitality should be recorded in the Gifts Register. Any gifts for which there was felt to be an obligation to accept should be forwarded to the Executive Support Team. These gifts will be raffled and the money donated to charity.

8.3 There are exceptions which apply to:

- Modest gifts, e.g. calendars, pens, articles for use in the office or
- Gifts which are intended for the Council as a corporate body or for a particular service area but not for personal use. Such gifts must be recorded in the Register and forwarded to the Executive Support Team. .

8.4 As a general principle hospitality should not be accepted. Some examples where it may be appropriate to accept hospitality are:

- Working lunches/dinner when working on projects or on community issues etc.
- Customary lunches/dinners at conferences or seminars where there are a number of guests;
- Civic or ceremonial occasions when representing the Council or accompanying the Chairman or the Council's representative.

8.5 If you have any questions on any part of this guidance ask your Line manager, Assistant Director, Director or the Monitoring Officer

8.6. The procedures for acceptance and registration of hospitality are set out in the Members' Code of Conduct.

## **9 PUBLIC CONTRACTS**

9.1. Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is automatically debarred from competing for public contracts when it has been convicted of a corruption offence including bribery, subject to the "self-cleaning" process described in the Regulations. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council has the discretion to exclude organisations convicted of this offence.

## **10 STAFF RESPONSIBILITIES**

10.1 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid activity that breaches this policy.

10.2. All staff must:

- Ensure that they have read, understood and comply with the Bribery Act Policy; and
- Raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

10.3 In addition to the possibility of criminal prosecution, members of staff who breach the policy will face disciplinary action, which could result in dismissal for gross misconduct.

**11 RAISING a CONCERN**

- 11.1 The Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity.
- 11.2 The Council's Whistleblowing Policy - HRP61 (Appendix 4 of the Counter Fraud and Corruption Strategy) is intended to encourage and enable employees, contractors, members and the general public to raise any serious concerns about financial or other malpractice in the council. This provides for confidential reporting of concerns by employees by which they are afforded certain rights under the Public Interest Disclosure Act 1998.
- 11.3 The Council's Fraud Response Plan (Appendix1 of the Counter Fraud and Corruption Strategy) covers the Council's response to suspected or apparent irregularities affecting resources belonging to or administered by the Council, or fraud perpetrated by contractors and suppliers against the Council.

**12 REVIEW of the BRIBERY ACT POLICY**

- 12.1 It is the responsibility of the Monitoring Officer to routinely refresh, review and reinforce this policy and its underlying principles and guidelines. All members of staff are responsible for reading and understanding this policy which will also form part of the induction programme.
- 12.2 If you have any questions about these procedures, please contact:

The Internal Audit Manager,  
01799 510610 [sbronson@uttlesford.gov.uk](mailto:sbronson@uttlesford.gov.uk)

The Monitoring Officer (Assistant Director Governance & Legal),  
01799 510416 [spugh@uttlesford.gov.uk](mailto:spugh@uttlesford.gov.uk)

**13 OTHER RELEVANT POLICIES**

Counter Fraud and Corruption Strategy  
Fraud Response Plan  
Code of Conduct for Members  
Whistleblowing Policy (HRP61)  
Gifts and Hospitality Guidance (HRP62)  
Financial Regulations  
Contract Procedure Rules  
Code of Corporate Governance  
Officer / Member Protocol

## **PREVENTION of MONEY LAUNDERING PROCEDURES**

### **1     INTRODUCTION**

- 1.1    Uttlesford District Council is committed to the prevention of money laundering and to working with the appropriate authorities to apprehend those who commit offences under the anti-money laundering regulations. These procedures are to be followed to ensure compliance with the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007. Council employees who fail to follow these procedures could themselves be in breach of the legislation and liable to prosecution for a range of offences which carry potential custodial sentences.

### **2     TRAINING**

- 2.1    The Council will train all current employees who may come into contact with persons engaged in money laundering so that they are aware of the provisions of sections 18 and 21A Terrorism Act 2000, Part 7 Proceeds of Crime Act 2002 and the provisions of the Money Laundering Regulations 2007.
- 2.2    The Council will also give such employees training in how to recognise and deal with transactions which may be related to money laundering
- 2.3    New employees who may come into contact with persons engaged in money laundering will receive training as specified in 2.1 and 2.2 above as part of their induction process.

### **3     IDENTIFICATION PROCEDURES**

- 3.1    In the following circumstances the Council **MUST** take appropriate steps to verify the identity of a person who is (or who is applying to) do business with the Council:
- 3.1.1    where an officer involved in the transaction knows or suspects that the transaction involves money laundering or
- 3.1.2    where a one off transaction involves the payment to or by the other party of 15,000 euro or more or
- 3.1.3    in respect of two or more one off transactions with the same party which appear to the officer to be linked (whether at the outset or later) the total payment to or by the other party will be 15,000 euro or more
- 3.1.4    at the rate of exchange prevailing at the date of writing these procedures 15,000 euro was just over £11,700. Officers should check the exchange rate if they believe the 15,000 euro limit may be reached.

3.2 Where under paragraph 3.1 above the Council has a duty to verify identity, as soon as possible after the first contact between the other party (if an individual) and the Council has been made the officer dealing with the transaction will:

3.2.1 require the other party to produce satisfactory evidence of identity in the form of:

- a passport or
- a photo driving licence

if either of these are not available, then 2 of the following will be required to be produced as satisfactory evidence of identity:

- a driving licence
- a birth certificate
- a marriage certificate
- national insurance number
- identity card
- credit card

3.2.2 require the other party to produce evidence of current address in the form of:

- a bank statement
- a credit card statement
- mortgage or insurance details
- a utility bill

3.2.3 if for any reason it is not practicable for the other party to be physically present when identified consideration must be given to the greater potential for money laundering. In such cases the other party should be required to provide copy documents certified as true copies of the originals by a practicing solicitor. The officer should check with the Law Society to ensure that the solicitor is known to them and then obtain confirmation from the solicitor that he or she signed the copies.

3.3 Where under paragraph 3.1. above the Council has a duty to verify identity, as soon as possible after the first contact between the other party (if a company) and the Council has been made the officer dealing with the transaction will:

3.3.1 require the individual representing the company to provide the company's full name and company registration number, details of the registered office address and any separate trading address relevant to the contract concerned. The officer will then carry out a company search to verify details given and will check the location of any relevant trading address;

3.3.2 in the event that the company is effectively owned or controlled by one or only a few individuals the officer should verify the identity of that or those individuals in accordance with 3.2. above.

3.4 Where the other party is acting or appears to act for another person that person's identity should be verified as in 3.2. or 3.3. above.

**3.5 WHERE SATISFACTORY EVIDENCE OF IDENTITY IS NOT AVAILABLE THE BUSINESS ARRANGEMENT OR ONE OFF TRANSACTION SHOULD NOT PROCEED FURTHER**

**4      RECORD KEEPING**

4.1      Where evidence of identification is obtained pursuant to paragraph 3 above the Council is required to keep records of that evidence.

4.2      The records required to be kept are:

4.2.1 a copy of that evidence;

4.2.2 information as to where a copy of that evidence may be obtained;

4.2.3 where it is not reasonably practicable to comply with 4.2.1 or 4.2.2 above information as to where the evidence of identity may be re-obtained.

4.3      In all cases the Council must also keep a record containing details relating to all transactions carried out by the Council in the course of relevant business

4.4      Records must be maintained:

4.4.1 in respect of the information referred to in paragraph 4.2. above for a period of 5 years commencing from the date the business relationship ends or (in the case of a one off transaction or transactions) 5 years from the conclusion of all activities arising in the course of that transaction or (if a series of transactions) the last of them to end;

4.4.2 in respect of the records mentioned in paragraph 4.3. above the period is at least 6 years commencing with the date on which all activities taking place in the course of the transaction in question were completed;

4.4.3 copies of identification documents and the records required to be kept by this paragraph shall be kept on the relevant transaction file or files.

**5      INTERNAL REPORTING PROCEDURES**

5.1      The Council is required to nominate one of its officers for the purpose of receiving reports under the legislation. The Council's nominated officer for this purpose (the Money Laundering Reporting Officer - MLRO) is the Assistant Director Governance & Legal, Simon Pugh.

5.2      Officers are required to make a disclosure to the MLRO of any information which comes into their possession in the course of their employment as a result of which he

or she knows or suspects or has reasonable grounds for knowing or suspecting that a person is engaged in money laundering.

- 5.3 The time for making the disclosure is as soon as reasonably practicable after the information comes into the officer's possession or the officer suspects money laundering activities. In the absence of the MLRO then the officer with such information or suspicion should disclose the information to the Internal Audit Manager. In the absence of both the MLRO and the Internal Audit Manager, the officer concerned should contact the National Crime Agency (NCA). Details of the information to be disclosed are set out at paragraph 5.7 below. Further guidance as to the information required can be obtained from the NCA website <http://www.nationalcrimeagency.gov.uk/crime-threats/money-laundering>. Disclosure should be made through the Suspicious Activity Reports (SARs) Regime.
- 5.4 Where a disclosure is made to the MLRO he or she must consider it in the light of any relevant information which is available to the Council and determine whether it gives rise to such knowledge or suspicion or such reasonable grounds for knowledge or suspicion that a person is engaged in money laundering.
- 5.5 Where the MLRO does so determine he or she shall disclose the information to the NCA as soon as is reasonably practicable through the Suspicious Activity Reports (SARs) Regime <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/ukfiu/the-sars-regime>
- 5.6 If the MLRO determines that it is not necessary to disclose information to NCA he or she will record all information known to the Council at that time and the reasons why he or she has decided that such information does not give rise to knowledge or suspicion or reasonable grounds for knowledge or suspicion that a person is engaged in money laundering
- 5.7 When disclosure is made to NCA such disclosure should include the following details where known:
- 5.7.1 name of persons, firms or companies involved;
  - 5.7.2 date of birth;
  - 5.7.3 all known addresses including previous addresses, post codes and any separate trading addresses;
  - 5.7.4 trade names
  - 5.7.5 company names;
  - 5.7.6 directorships;
  - 5.7.7 passport details;

5.7.8 phone numbers;

5.7.9 any other relevant data;

5.7.10 full details of the reasons for suspicion including copies of any relevant documentation;

5.7.11 if a decision is required urgently to enable a transaction to proceed a clear statement as to when a decision is required by and the reason for the request.

## **6 RESTRICTIONS on TRANSACTIONS**

6.1 Where the MLRO has made or is contemplating making a disclosure to NCIS pursuant to paragraph 5.6. above or a disclosure to NCA has been made or is contemplated by another officer in the absence of the MLRO the MLRO or other officer as the case may be shall notify all officers involved in any transactions which are the subject of such disclosure or contemplated disclosure that no further steps are to be taken with regard to any transactions involving the same party for a period of seven (7) days unless within that period NCA have indicated that it consents to the transaction proceeding.

6.2 In the event that NCA refuses consent to the transaction or transactions proceeding within seven (7) days the MLRO or other officer who made the disclosure shall forthwith notify all officers involved in any such transactions that no further steps are to be taken with regard to any transactions involving the same party for a period of thirty one (31) days unless within that period NCA have indicated that it consents to the transaction proceeding.

## **7 TIPPING OFF**

### **7.1 OFFICERS ARE REMINDED THAT TIPPING OFF IS A SERIOUS OFFENCE**

7.2 An officer who knows or suspects that a disclosure to NCA has been made or may be made under paragraph 6 above must not disclose to any other person anything which may prejudice the investigation.

7.3 For the purposes of paragraph 7.2. above where an officer knows or suspects that a disclosure has or will be made by another officer to the MLRO he or she is likely to have grounds to suspect that a disclosure has or will be made by the MLRO to NCA unless the MLRO has confirmed that he is not making such a disclosure.

7.4 Where as a result of a disclosure being made a transaction is unable to proceed as set out in paragraph 6 above it follows that officers are prevented from disclosing the reason for delay.

## **WHISTLEBLOWING POLICY (HRP61)**

### **1 INTRODUCTION**

- 1.1 Uttlesford District Council seeks to ensure that all of its activities are conducted to a high standard and with integrity. In the event that employees or members of the public become aware of activities that give cause for concern, the following Whistleblowing Policy, or code of practice, will be followed. This policy acts as a framework to allow concerns to be raised confidentially and provides for a thorough and appropriate investigation of the matter to bring it to a satisfactory conclusion.
- 1.2 Throughout this policy the term Whistleblower denotes the person raising the concern or making the complaint.
- 1.3 The Council is committed to tackling fraud and other forms of malpractice and treats these issues seriously.
- 1.4 The Council recognises that some concerns may be extremely sensitive. It has therefore, developed a system that allows for the confidential raising of concerns within the Council environment but also has recourse to an external party outside the management structure of the Council.
- 1.5 The Council is committed to creating a climate of trust and openness. A person who has a genuine concern or suspicion can raise the matter with full confidence that it will be appropriately considered.

### **2 POLICY STATEMENT**

- 2.1 Uttlesford District Council is committed to achieving the highest possible standards of service, including honesty, openness and accountability, and recognises that employees have an important role to play in achieving this goal.
- 2.2 All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, when you are troubled about something that involves a danger to the public or colleagues, misconduct or financial malpractice, it can be difficult to know what to do.
- 2.3 You may be worried about raising such an issue, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, to managers or to the Council. You may have said something but found that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what, if anything, to do next.
- 2.4 The Council has introduced this policy to enable everyone to blow the whistle safely so that such issues are raised at an early stage and in the right way. We know from experience that to be successful we must all try to deal with issues on their merits. The Council welcomes your genuine concerns and is committed to dealing

responsibly, openly and professionally with them. Without your help, we cannot deliver a safe service and protect the interests of the public, staff and the Council. If you are worried, we would rather you raised it when it is just a concern than to wait for proof.

- 2.5 If something is troubling you, which you think we should know about or look into, please use this procedure. If, however, you are aggrieved about your personal position, there are existing procedures in place to enable you to lodge a grievance relating to your own employment (Grievance Policy HRP3). This Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures.
- 2.6 The Council has a Counter Fraud & Corruption Strategy, Money Laundering Procedures and a Bribery Act Policy which are available on the Council's website.
- 2.7 The Counter Fraud & Corruption Strategy sets out the ways in which the Council prevents, detects and investigates fraud and corruption and a concern about fraud and corruption or where a concern relates to an employee or Member of the Council failing to comply with the Money Laundering Procedures or the Bribery Act Policy these can be raised in accordance with this Whistleblowing Policy.

### **3 OBJECTIVE**

3.1 The objective of this Whistleblowing Policy is to:

- encourage you to feel confident in raising concerns;
- provide avenues for you to raise those concerns and receive feedback on any action taken;
- enable people to confidentially raise concerns within the Council environment;
- ensure you receive a response to your concerns and that you can pursue them if you are not satisfied with the Council's response;
- reassure you that you will be protected from reprisals or victimisation for reporting in good faith.

### **4 SCOPE**

- 4.1 Members of the public, Members, Council employees including contractors and partners are covered by this Whistleblowing Policy.
- 4.2 This policy applies to contractors working for the Council on Council premises, for services under a contract or in partnership with the Council in their own premises.
- 4.3 This policy is in addition to the Council's grievance procedures and other statutory reporting procedures that may apply to some sections.
- 4.4 This Policy is not part of the disciplinary procedures, although disciplinary action may result from the use of this policy.

## **5 WHAT TYPES of ACTIVITY WOULD WHISTLEBLOWING APPLY TO?**

5.1 This Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures. The types of activity or behaviour that the Council considers should be dealt with under this policy include:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriages of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- the unauthorised use of public funds;
- possible fraud and corruption;
- sexual or physical abuse of clients or other members of staff;
- bullying; harassment or intimidation
- any form of discrimination;
- other unethical conduct;
- that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

5.2 Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under this Whistleblowing Policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards to which you believe the Council subscribes; or
- is against the Council's procedures and policies or falls below established standards of practice; or
- amounts to improper conduct; or
- may constitute a criminal offence.

## **6 RAISING UNFOUNDED MALICIOUS CONCERNS**

6.1 Individuals are encouraged to come forward in good faith with genuine concerns with the knowledge they will be taken seriously. If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you.

6.2 If, however, you make an allegation that is malicious or frivolous or for personal gain, disciplinary action may be taken against you (Disciplinary Policy HRP1).

## **7 HARASSMENT or VICTIMISATION**

7.1 The Council is committed to good practice and high standards and wants to be supportive of employees.

7.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you provide a service.

7.3 The Council will not tolerate any harassment or victimisation (including informal pressure) and will take appropriate action to protect you when you raise a concern in good faith.

## **8 MAIN PRINCIPLES**

8.1 The following important principles are contained within this Policy:

- a) This policy is complementary to the Council's Code of Conduct for Members and Procedures relating to Member complaints;
- b) The Chief Executive has overall responsibility for the maintenance and operation of this policy;
- c) It contains the provisions that are required from the Public Interest Disclosure Act 1998, and requirements under the common law "duty of care", for example
  - To draw attention to any matter considered damaging to the interest of service users, carers or colleagues;
  - To put forward suggestions which may improve quality of service;
  - To correct any statutory omission;
  - To prevent malpractice;
  - That the Council is committed to tackling malpractice and that employees know that any matter regarding malpractice and other illegal acts will be dealt with seriously;
  - If a matter raised results in any disciplinary action, the Council's disciplinary procedure will apply.

## **9 WHAT PROTECTION does the WHISTLEBLOWER HAVE?**

9.1 The Public Interest Disclosure Act 1998 has given protection to Whistleblowers from victimisation and dismissal. This Act has support of both the employers' organisations and Trade Unions.

9.2 The Council will not tolerate any harassment or victimisation (including informal pressures).

9.3 Under the Act, the Whistleblower will be required to resolve their concerns directly with the Council. Employees will be protected from victimisation if in the last resort they have to take their concerns to an outside body.

9.4 A disclosure will be protected if the Whistleblower has an honest and reasonable suspicion that the malpractice has occurred, is occurring or is likely to occur. The Whistleblower will also be protected if they make their disclosures to an external body

as long as they honestly and reasonably believe that the allegations are substantially true.

- 9.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary, grievance, capability or redundancy procedures.

## **10 SUPPORT for EMPLOYEES**

- 10.1 It is recognised that raising concerns can be difficult and stressful. Advice and Support is available via an employee's line manager, Human Resources or Trade Union representative. It must be recognised that employees who are subject to investigation following concerns being raised will also be entitled to support from the same sources, although not from the same individuals.

- 10.2 As an employee you can also discuss your concerns with Protect (formally Public Concern at Work), which is a charity that provides free and strictly confidential legal help. They operate a helpline on 020 3117 2520 or can be e-mailed at [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk). More information is on their website at [www.pcaw.org.uk](http://www.pcaw.org.uk)

- 10.3 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.

- 10.4 Help will be provided to you in order to minimise any difficulties which you may experience. This may include advice on giving evidence if needed. Meetings may, if necessary be arranged off-site with you and with you being represented, if you so wish.

- 10.5 An employee who is not satisfied with the action taken by the Council and feels it right to question the matter further may consider the following possible contact points:

- the Council's External Auditor
- the employee's Trade Union
- the Citizens Advice Bureau and / or law centre firm
- relevant professional bodies or regulatory organisations
- the Local Government Ombudsman
- the Information Commissioner
- the Police and/ or Health and Safety Executive

## **11 CONFIDENTIALITY**

- 11.1 Wherever possible the Council seeks to respect the confidentiality and anonymity of the Whistleblower and will as far as possible protect you from reprisals. The Council will do its best to protect your identity if you raise a concern and do not want your name disclosed. However, it must be appreciated that the investigation process may

reveal the source of the information and a statement by the Whistleblower may be required as part of the evidence in criminal proceedings or Employment Tribunals.

- 11.2 The Council will endeavour to ensure your identity will not be disclosed to third parties without a court order.
- 11.3 The Council will not tolerate any attempt to victimise you or attempts to prevent concerns being raised and will consider any necessary disciplinary or corrective action appropriate to the circumstances.
- 11.4 The confidentiality of service users will not be compromised as employees have a duty in law and within their professional codes of conduct to maintain this.
- 11.5 Where the procedure allows a matter to be taken outside the Council, you should not disclose confidential information unless the information relates to the matter under investigation and until the internal procedures have been exhausted. No confidential information shall be disclosed externally in a frivolous or vexatious manner.

## **12 ANONYMOUS ALLEGATIONS**

- 12.1 This policy encourages you to give your name when making an allegation. Concerns expressed anonymously are usually much less powerful, but they will be considered at the discretion of the Council.
- 12.2 In exercising the discretion, the factors to be taken into account would include:
- the seriousness of the issues raised;
  - the credibility of the concern;
  - the likelihood of confirming the allegation from attributable sources and
  - the evidence base.

## **13 WHAT ACTION SHOULD the WHISTLEBLOWER TAKE?**

- 13.1 The Council encourages you to raise the matter internally in the first instance. This allows staff and those in positions of responsibility and authority the opportunity to right the wrong and give an explanation for the behaviour or activity.
- 13.2 As a first step you should normally raise concerns with your immediate supervisor, your service manager, Assistant Director or Director. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach:
- the Internal Audit Manager, on 01799 510610 [sbronson@uttlesford.gov.uk](mailto:sbronson@uttlesford.gov.uk) or
  - the Monitoring Officer, on 01799 510416 [spugh@uttlesford.gov.uk](mailto:spugh@uttlesford.gov.uk) or
  - The Section 151 Officer, on 01799 510421 [awebb@uttlesford.gov.uk](mailto:awebb@uttlesford.gov.uk) or
  - the Chief Executive, 01799 510400 [dfrench@uttlesford.gov.uk](mailto:dfrench@uttlesford.gov.uk)

- 13.3 You may prefer to raise the matter in person, by telephone or in written form either by e-mail or by letter. You can send a letter directly to the officers referred to above at

Uttlesford District Council  
Council Offices  
London Road  
Saffron Walden  
Essex  
CB11 4ER

Any letter should be marked "Personal, Private and Confidential". If you do not feel able to put forward your concern in writing, you can telephone or meet the appropriate officer, at the offices or elsewhere, if appropriate.

- 13.4 All matters will be treated in strict confidence and anonymity will be respected wherever possible.
- 13.5 Concerns are better raised in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation and advising when and where you can be contacted. The earlier the concern is expressed, the easier it is for someone to take action.
- 13.6 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.
- 13.7 If you need advice and guidance on how matters of concern may be pursued, this can be obtained from Internal Audit, the Section 151 Officer or the Monitoring Officer.
- 13.8 You may wish to consider discussing your concerns with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 13.9 You may invite your trade union or professional association to raise a matter on your behalf. You may also invite your trade union, professional association representative or a friend to be present during any meeting or interviews in connection with the concerns you have raised.
- 13.10 Employees who are not in a formal line management relationship because of their employment relationship, for example agency staff or contractors, should first discuss their concerns with a relevant colleague or manager within the service.

#### **14 HOW WILL the COUNCIL RESPOND?**

- 14.1 The individual who receives the information or allegation will assemble the information made available to them.

- 14.2 The Internal Audit Manager, the Section 151 Officer and the Monitoring Officer, must be informed of all concerns reported under this Whistleblowing Policy unless the concern relates to them. The action taken by the Council will then depend on the nature of the concerns. Some concerns may be resolved by agreed action without the need for investigation.
- 14.3 Where appropriate, the matters raised may:
- be investigated internally;
  - be referred to the Police;
  - be referred to the External Auditor;
  - form the subject of an independent inquiry.
- 14.4 If urgent action is required this will be taken before any investigation is conducted. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle the Council has in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, discrimination issues) will normally be referred for consideration under those procedures.
- 14.5 Within three working days of a concern being received, the person to whom you have expressed your concerns will write to you at your preferred address acknowledging that the concern has been received.
- 14.6 You will be advised whether an investigation takes place or not and asked whether you would like to be provided with feedback. However, depending upon the nature of the matter raised, we may not be able to provide you with details of the action taken. If that happens, please be assured that this does not mean that the matter is not being taken seriously.
- 14.7 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.
- 14.8 When any meeting is arranged you may, if you so wish, be accompanied by a Trade Union or professional association representative or a friend. Also, a meeting can be arranged off-site.
- 14.9 The Council will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise on the procedure.
- 14.10 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

14.11 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. A central record of all Whistleblowing concerns raised and the outcomes (but in a form which does not endanger your confidentiality) is held by the Internal Audit Manager and will be reported as necessary to the Council.

14.12 If you are dissatisfied with the conduct of the investigation or outcome of the matter or have genuine concerns that the matter has not been handled appropriately, the concerns should be raised with the Monitoring Officer, the Section 151 Officer or the Internal Audit Manager and/or directed to the Chief Executive or appropriate nominated officer.

## 15 HOW the MATTER can be TAKEN FURTHER

15.1 This policy is intended to provide the Whistleblower with a way in which concerns can be raised and resolved within the Council.

15.2 In exceptional circumstances you may consider the matter too serious or sensitive to raise within the internal environment of the Council. In this instance depending on the nature of the concern, the matter could be directed to:

- **Local Councillors** – details of how to contact and surgery hours are on the Council's web site [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk).
- **External Auditors** – the Council's external auditors BDO and are completely independent from the Council. The BDO named contact for Whistleblowing concerns relating to this Council is:

David Eagles  
Partner, Public Sector Assurance  
BDO LLP  
16 The Havens  
Ransomes Europark  
Ipswich  
Suffolk, IP3 9SL

Tel: 01473 320728 email: [David.Eagles@bdo.co.uk](mailto:David.Eagles@bdo.co.uk)

- **Trade Unions** – employees may invite their Trade Union to raise a matter on their behalf.
- **Relevant professional bodies.**
- **Police** – suspicions of fraud or corruption may be reported directly to the Police through Action Fraud the UK's national fraud and cyber crime reporting centre on 0300 123 2040. <https://www.actionfraud.police.uk/reporting-fraud-and-cyber-crime>

- **The Local Government Ombudsman** – this is an independent body set up by the Government to deal with complaints against Councils in the United Kingdom. Advice and can be contacted on 0300 061 0614. <https://www.lgo.org.uk/>
- **Protect** – this is a charity (formally Public Concern at Work), which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They operate a helpline on 020 3117 2520 or can be e-mailed at [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk). More information is on their website at [www.pcaaw.org.uk](http://www.pcaaw.org.uk)

## 16 RELATIONSHIP with OTHER EMPLOYEE PROCEDURES

- 16.1 This Whistleblowing Policy is not designed to replace the Grievance Policy (HRP3) because it exists for clearly defined reasons.
- 16.2 An issue considered under this Whistleblowing Policy may lead to action under the Council's Disciplinary Procedure (HRP1) and/or action by the Council's Internal Audit and the police.
- 16.3 It is particularly important that disclosures are not made directly to the media but are initially directed through the Whistleblowing Policy if appropriate. Failure to do this may expose vulnerable clients to public view and may expose the employee to disciplinary action.

## 17 CONCLUSION

- 17.1 Existing good practice within the Council in terms of its systems of internal control both financial and non-financial and the external regulatory environment in which the Council operates ensures that cases of suspected fraud or impropriety rarely occur. This Whistleblowing policy is provided as a reference document to establish a framework within which issues can be raised confidentially internally and if necessary outside the management structure of the Council. This document is a public commitment that concerns are taken seriously and will be actioned.

**18 IN SUMMARY**

| DOs  | DON'Ts  |
|--|---|
| <p>Make an immediate note of your concerns –</p> <ul style="list-style-type: none"> <li>• Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of parties involved;</li> <li>• Note any documentary evidence that may exist to support your claim but do not interfere with this evidence</li> </ul> | Do nothing and let it go unreported;  |
|  | Be afraid of raising concerns;  |
| Report your concerns to your line manager or to those officers listed above in 13.2  | Approach and accuse individuals directly;   |
| Deal with the matter quickly. Any delay could allow the problem to continue and escalate and evidence to disappear;  | Try and investigate the matter yourself;  |
| Think about risks and outcomes before you act;   | Don't convey your suspicions to anyone except those of the proper authority as set out in our policy; |
| Follow the guidance provided and contact the appropriate officer.  | Use the whistleblowing procedure to pursue a personal grievance                                       |

## **GIFTS and HOSPITALITY GUIDANCE (HRP 62)**

### **1 INTRODUCTION**

1.1 This note sets out the Council's guidance on dealing with offers of cash, gifts and hospitality from customers, contractors and those the Council regulates.

### **2 WHY DOES the COUNCIL NEED GUIDANCE on GIFTS and HOSPITALITY?**

2.1 The purpose of this guidance is to protect officers and the Council as a whole. In local government we need to be very careful to maintain public confidence in our own and the Council's actions. We are subject to public scrutiny and perception.

2.2 If you have any doubts about an offer of any gift or hospitality seek the advice of your Head of Service or Director. You should always record the offer of cash, gifts or hospitality in the Register in the Legal Section.

### **3 WHAT IF I AM OFFERED a FEE or REWARD?**

3.1 It is a criminal offence for any local government officer to accept any fee or reward other than his proper remuneration. Any "fee or reward" can include money, gifts, presents, bribes or vouchers.

3.2 Therefore, never accept cash or vouchers. Even if you have declined the offer always record in the Gifts Register the fact that it has been offered.

### **4 CAN I ACCEPT GIFTS?**

4.1 As a general principle, you should not accept gifts. You should politely and tactfully refuse offers of gifts or return them to the giver as soon as possible. If the refusal or return of a gift would cause offence then details of the gift should be recorded in the Gifts Register and the gifts forwarded to the Executive Support Team. The gifts will be raffled and the money donated to charity.

4.2 As a general rule, you should not accept gifts from:

- contractors or potential contractors i.e. persons or businesses who supply or want to supply goods or services to the Council;
- those the Council regulates i.e. persons or businesses which it licenses or gives permissions or consents.

4.3 Gifts of the following type may be accepted:

- modest gifts of a promotional nature, e.g. calendars, pens, articles for use in the office;
- a modest gift on the conclusion of a courtesy visit to a business or which are presented at civic or ceremonial occasions;

- a modest gift presented to everyone at a conference or seminar.

These exceptions apply only to modest gifts. Expensive gifts should not be accepted.

Gifts which are intended for the Council as a corporate body or for a particular service area may be accepted, but not for personal use. Such gifts must be recorded in the Register and forwarded to the Executive Support Team.

## **5 CAN I ACCEPT HOSPITALITY?**

5.1 As a general principle hospitality should not be accepted. Hospitality is more likely to be acceptable when it is offered to a group rather than to just one individual. In any case, you should consider:

- the person, business or organisation offering the hospitality;
- the scale and nature of the hospitality;
- the timing of the hospitality in relation to decisions to be made by the Council.

5.2 Some examples where it may be appropriate to accept hospitality are:

- Working lunches/dinner if :
  - you and others are working on a project together;
  - you and others are partners in community issues e.g. Health Authority, Police etc.;
  - it is necessary for you to be able to carry out your job effectively.
- Customary lunches/dinners at conferences or seminars where there are numerous guests;
- Civic or ceremonial occasions when representing the Council or accompanying the Chairman or the Council's representative.

5.2 Some examples where it will not be appropriate to accept hospitality are:

- Expensive meals, dances, other entertainments, especially where these events have nothing to do with your job;
- Paid or concessionary holidays, travel or accommodation;
- Other concessionary rates which are not openly and as a matter of practice available equally to other organisations;
- Frequent hospitality from one source.

## **6 HOW DO I RECORD OFFERS of CASH, GIFTS and HOSPITALITY?**

6.1 Always record the offer of cash and the offer or receipt of any gift or hospitality in the Gifts Register. Forward any gifts which you felt obliged to accept to the Executive Support Team. These gifts will be raffled and the money donated to charity.

6.2 If you have any questions on any part of this guidance do ask your Line Manager, Assistant Director, Director or the Monitoring Officer.

## **COUNCIL TAX, BUSINESS RATES AND LOCAL COUNCIL TAX SUPPORT COUNTER FRAUD POLICY**

### **1 INTRODUCTION**

- 1.1 Uttlesford District Council is committed to protecting the public funds through its action against Local Taxation fraud. This document sets out the Council's policy towards prosecution and other sanctions available for Council Tax, Local Council Tax Support and Business Rates fraud offences. The policy forms an integral part of the Council's overall strategy to prevent, detect and deter fraud promoting high standards of governance and accountability.
- 1.2 The decision to prosecute is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. This document serves as a policy statement for Members of the Council, and as an operational guide for those involved in the decision making process.

### **2 POLICY STATEMENT**

- 2.1 The Council will not tolerate abuse of the Council Tax/Business Rates & Local Council Tax Support discounts, exemptions or reliefs schemes by council tax payers, business rate payers or internally by staff. The Council will take an active stance against those that abuse the Local Taxation system as this abuse directly increases local taxation for people in the fraudsters own communities and neighbourhoods any reasonable allegations of fraud will be vigorously investigated.
- 2.2 The Council will seek full redress through the law of any internal or external fraudulent activity perpetrated against it. This redress may be actioned through either the Criminal and/or Civil Courts as deemed appropriate.
- 2.3 Where suspected cases of fraud have been investigated, and sufficient evidence has been obtained to sustain a prosecution, the Council will seek to impose one of the following sanctions:
  - LGFA 1992 Sch3 penalty
  - Welfare Reforms Act 2012 Section 116 Civil Penalty
  - An Administrative Penalty
  - A Prosecution (*The Fraud Act 2006 or The Council Tax reduction schemes (Detection of Fraud and Enforcement) (England) regulations 2013.*)

The Council may also decide to issue a Caution letter in some circumstances where further sanctions are not deemed necessary. This letter explains why the case was considered by the Compliance Team and why a caution was given. It clarifies that any future changes in circumstance must be notified within the prescribed timeframe.

24 The Council will continue to work in partnership with other Local Authorities and other agencies to reduce and prevent the incidence of fraud. Since October 2014 onwards a Single Fraud Investigation Service (SFIS) has taken over the responsibility for the investigation of Housing Benefit fraud. Therefore the Compliance and Fraud Team liaise closely with SFIS regarding the referral, investigation and prosecution of fraud cases.

### 3 GENERAL PRINCIPLES

3.1 Each case must be considered on its own facts and merits. However, there are general principles that must be applied in all cases.

3.2 Officers tasked with undertaking investigations into allegations of fraud must be Accredited Counter Fraud Specialists (ACFS) and have regard to all legislation and statutory guidance relating to criminal investigations, including the Police and Criminal Evidence Act 1984, the Code of Practice for Crown Prosecutors and the Criminal Procedure and Investigations Act 1996. **Note:** Relevant legislation and guidance can be found on the [Home Office website](#)

3.3 For the purposes of the Human Rights Act 1998 Uttlesford District Council is a public authority. Therefore officers must apply the principles of the European Convention on Human Rights in accordance with the Act. **Note:** Relevant legislation and guidance can be found on the [Home Office website](#)

3.4 Officers must not allow any personal views about ethnic or national origin, disability, sex, religious beliefs, age, political views or the sexual orientation of the alleged offender to influence their decisions.

### 4 THE DECISION MAKING PROCESS

4.1 Where an offence has been committed the Council can consider administering a caution, applying a civil penalty, an administrative penalty or instigating a prosecution. In considering a case for prosecution the Council must be satisfied that the case would qualify for court action on the strength of evidence and the public interest factors. When considering the next step the following guidelines are applied for consideration.

| <b>Council Tax &amp; Business Rates cases</b> |   |
|---|---|
| <b>Value of Fraud</b>                         | <b>Action to be taken</b>   |
| Under £200                                    | No punitive action is taken, A caution is likely to be given in these circumstances   |
| £200 - £1000                                  | A £70 civil penalty is imposed for failure to inform the Council of a change within the 28 day timeframe prescribed (Council Tax) |
| Over £1000                                    | Prosecution will be considered  |

| <b>Local Council Tax Support Cases</b> |  |
|--|--|
| <b>Value of Fraud</b>                  | <b>Action to be taken</b>  |
| Under £200                             | No punitive action is taken, A caution is likely to be given in these circumstances  |
| £201 - £500                            | A £70 civil penalty for Council Tax or £50.00 for Housing Benefit is imposed for failure to inform the Council of a change within the 28 day time frame prescribed |
| £501 - £1000                           | Case will be considered for administrative penalty   |
| Over £1000                             | Prosecution will be considered   |

The above tables represent guidelines only. Where the Council is considering a prosecution, other factors are also taken into consideration. Every case is considered individually and on its own merits and circumstance.

## **5 DECISION TO PROSECUTE**

5.1 As a general rule, the Council will consider a case for prosecution if one or more of the following criteria are met:

- the person/company concerned occupies a position of trust;
- the person/company has demonstrated a clear intention to defraud;
- the person has already received a schedule 3 or Welfare reform Act penalty;
- there is evidence of premeditation or organised fraud;
- the person/company has assisted or encouraged others to commit offences;
- the person has declined an administrative penalty (Local Council Tax Support).

5.2 In all cases the Council must be satisfied that there is a realistic prospect of conviction. Therefore, it is essential that there is sufficient admissible evidence so that a court, properly directed in accordance with the law, is more likely than not to convict the defendant of the alleged offence.

5.3 When deciding whether there is enough evidence to prosecute, the Council must consider whether the evidence can be used and is reliable. This is known as the evidential stage.

### **The Evidential Stage**

5.4 There must be sufficient evidence to provide a realistic prospect of conviction against each defendant on each recommended charge. The Council needs to prove beyond reasonable doubt that an offence has been committed. In considering the evidence the following factors should be considered:

- (i) Any evidence held should be admissible, reliable and sufficient so that a court properly directed in accordance with the law is more likely to convict than dismiss the case against the defendant.
- (ii) Any circumstances and/or evidence made available to the defence, which could cause a doubt in the prosecution's case.

- 5.5 In deciding the strength of the prosecution case the following factors should be considered:
- (i) The reliability of any admission taking into account the defendant's understanding or lack of understanding of all the circumstances.
  - (ii) The strength of the evidence of witnesses. The case may be weakened if the defence questions their reliability because of their motive, background, or previous convictions.
  - (iii) The evidence of the defendant's identity should be strong enough to withstand any questioning by the defence.
- 5.6 If the case does not pass the evidential stage it is unsuitable for prosecution, no matter how serious the allegations are. If the evidential stage has been satisfied, a decision will be made as to whether or not it would be in the public interest to prosecute. Cases that pass the evidential test will not automatically be prosecuted and various factors should be borne in mind when considering whether or not it is in the public interest to do so.

### **Public Interest Factors**

- 5.7 The Public Interest factors can increase the need to prosecute or may suggest an alternative course of action. These factors will vary from case to case and not all the factors will apply to each case. It is a matter of common sense which factors are relevant and which does not apply. In making the decision to prosecute all available information must be carefully and fairly considered.
- 5.8 The Code for Crown Prosecutors should be used as a guide in determining whether or not prosecution is in the Public Interest. The latest copy of the code can be found at [www.cps.gov.uk](http://www.cps.gov.uk). All cases where the evidential and public interest factors have been satisfied should be considered for prosecution if the relevant criterion is met.
- 5.9 Failure to consider Evidential and Public Interest factors when reaching a decision on prosecution can have serious consequences. The laying of criminal information when there is insufficient evidence to do so can amount to an abuse of the process leaving the prosecutor open to legal action by the intended defendant.

## **6 ALTERNATIVES TO PROSECUTION**

### **6.1 Civil Penalty –Council Tax & Housing Benefit**

Schedule 3 of the LGFA 1992 & Welfare Reforms Act 2012 Section 116 provides for a system of civil penalties, which can be imposed by the billing authority where a person fails to comply with certain requirements as to the supply of information; including the

notification of information relating to entitlement to discounts, exemptions or Housing Benefit Claims. This will be payable in addition to any adjusted liability or via an invoice.

Further information can be found in the separate Council Tax and Housing Benefit Civil Penalties Policy

### **The Administrative Penalty – Local Council Tax Support**

- 62 Regulation 11 of Council Tax Reduction Scheme (Detection of Fraud & Enforcement) (England) Regulations 2013)  
[www.legislation.gov.uk/ukxi/2013/501/regulation/11/made](http://www.legislation.gov.uk/ukxi/2013/501/regulation/11/made)  
allows Local Authorities to issue an administrative penalty as an alternative to prosecution where:
- (i) Grounds exist for instituting proceedings
  - (ii) Prosecution is possible but not the preferred option
  - (iii) The case is not so serious that prosecution should be considered from the outset and
  - (iv) The offer of an administrative penalty would not cause severe financial hardship placing vulnerable family members at risk
- 63 Administrative Penalties can be issued to:
- (i) Local Council Tax Support Scheme customers who are believed to have committed an offence
  - (ii) Employers of Local Council Tax Support claimants who are believed to have committed an offence and where the employer has condoned, hidden or assisted the alleged offender in committing an offence.
- 64 Local Council Tax Support Scheme - Administrative Penalty  
This is a financial penalty and can be offered if the following conditions are met:
- (i) A reduction has been given to council tax liability under the Local Council Tax Support Scheme which is greater than that which the customer was entitled, Regulation 11, Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013)
  - (ii) The making of the overpayment / excess support was attributable to an act or omission on the part of the defendant.
  - (iii) There are grounds for instituting criminal proceedings for an offence relating to the overpayment upon which a penalty is based.
  - (iv) It is a first offence where the overpayment is generally below £1000
- 65 If a person declines to agree to pay a penalty, or subsequently changes their mind, the case must then be considered for criminal proceedings unless exceptional circumstances apply.

## **7 AUTHORITY TO PROSECUTE**

- 7.1 Where a case has been investigated and the investigator believes the case has been proven, the investigator will make recommendation on the appropriate action to be taken. The subsequent recommendation will be reviewed and either approved or rejected by the Revenues Manager.
- 7.2 The Head of Legal Services acting for the Council will make the final decision as to whether a case is suitable for criminal proceedings after taking into consideration the Code of Conduct for Crown Prosecutors and this policy.
- 7.3 The Council will publish details of successful prosecutions on the Council's website.

## **8 OTHER METHODS OF REDRESS**

- 8.1 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 under the Proceeds of Crime Act 2002. (for offences prior to 23/03/03 CJA 1998). **Note:** Relevant legislation and guidance can be found on the [Home Office website](#) a restraint order will prevent a person from dealing with specific assets. A confiscation order will enable the Council to recover its losses from assets which are found to be from the proceeds of crime.
- 8.2 Where an overpayment arising from fraud is identified the Council will take steps to recover the resultant debt, including taking action in the Civil Courts if necessary, this will be in addition to any sanction it or the Criminal Courts may impose in respect of that fraud.

## **9 DISCIPLINARY**

Where a member of staff has received a formal caution, an administrative penalty or has been found guilty by the Court of a benefit fraud offence, the Head of Service will report the matter to Human Resources for consideration of disciplinary action.

## **TENANCY FRAUD POLICY**

### **1 INTRODUCTION**

- 1.1 With the high demand for social housing it is important that the Uttlesford District Council manages the risks of tenancy fraud effectively. The Council is committed to ensuring that our properties and those of our housing association partners are allocated to those in the most housing need and are occupied by those to whom they have been allocated.
- 1.2 Those who commit tenancy fraud are depriving people in genuine housing need from accessing social housing. This is unacceptable.
- 1.3 This policy details how the Council is tackling fraud by ensuring that the Council's housing stock is properly managed and that tenancy fraud is prevented and appropriately dealt with when detected.

### **2 LEGISLATION**

- 2.1 Following the implementation of the Prevention of Social Housing Fraud Act 2013, both local authorities and other registered social landlords have been given more powers to investigate social tenancy fraud. The Act creates new criminal offences of subletting, carrying a maximum sentence of 2 years' imprisonment and/or an unlimited fine, and allows the recovery of any profits made by tenants who sublet their properties
- 2.2 The Council will make appropriate use of these powers, as well as utilising its ability to seek possession through the Courts under the Housing Act, and will take appropriate action when other criminal offences are committed, for example under the Theft Act 1968 and the Fraud Act 2006.
- 2.3 Proceedings may be brought under any relevant legislation as part of the Council's responsibility to tackle social housing tenancy fraud.
- 2.4 A non-exhaustive list of other legislation that can be used to combat tenancy fraud is listed below:-
  - Law of Property Act 1925
  - Criminal Evidence Act 1984
  - Housing Act 1985 as amended
  - Housing Act 1988 as amended
  - Criminal Procedure and Investigations Act 1996
  - Article 8, Human Rights Act 1998

- Regulation of Investigatory Powers Act 2000
- General Data Protection Regulations and the Data Protection Act 2018

### **3      DEFINITION OF TENANCY FRAUD**

3.1      Tenancy Fraud can occur in a variety of circumstances and at any stage during the lifetime of a tenancy. The following list is not exhaustive but includes the main types of tenancy fraud:

- Fraudulently obtaining a social housing tenancy by misrepresentation as to identity or personal circumstances.
- Withholding information or making a false statement when applying for a social housing tenancy
- Unlawful subletting, including subletting the whole property or multiple sublets within one property while ceasing to occupy the same.
- Non occupation by the tenant as their sole or principal home, including tenancy abandonment.
- Falsely claimed succession where a tenant dies and someone who is not eligible to succeed to the tenancy retains the property
- Unauthorised assignment of the tenancy such as an unauthorised mutual exchange or transfer of tenancy without the landlord's permission
- "Key selling" - where the tenant leaves the property and passes on the keys in return for a one off lump sum payment or favour
- Providing misleading information on identity or personal circumstances when purchasing a socially rented home under the Right to Buy

### **4      IMPACTS OF TENANCY FRAUD**

4.1      Tenancy fraud can have the following harmful effects:-

- Preventing applicants in genuine need from accessing social housing, meaning they may spend longer in overcrowded or temporary accommodation
- Properties which are used fraudulently are more likely to be neglected and experience disrepair which can incur a greater level of cost for the Council to remedy when issues are identified
- Properties which are used fraudulently may be more likely to be associated with other illegal activity or anti-social behaviour

- Where a property is unlawfully sub-let, the sub-tenant may be unaware of their situation and find themselves at risk of financial losses, eviction and/or homelessness
- The Council can incur substantial and potentially irretrievable financial losses if a fraudulent Right to Buy application is not identified, in addition to the loss of a property which could have been allocated to an applicant in genuine need

## **5 PREVENTION OF TENANCY FRAUD**

5.1 The Council's focus is on preventing fraud occurring and the measures that the Council takes to prevent social housing tenancy fraud includes the following:

- Using a range of publicity methods to raise awareness of tenancy fraud amongst customers, the public and partner agencies. All applicants and tenants will be made aware that tenancy fraud is regarded extremely seriously, will not be tolerated and will be dealt with swiftly and severely. This will include warning notices placed within the standard application forms to ensure applicants are aware of the implications in providing false or misleading information
- The use of publicity as a deterrent will include articles periodically placed in the Tenants' Newsletter and on the Council's website. This will include publicity around successful prosecutions made by the Council
- Verifying information provided by the applicant on applying for social housing, or making a homeless application, or when signing up to a new tenancy. This will include checking forms of identification provided by the applicant, their tenancy history and their household circumstances
- New tenancy visits within 6 weeks of the tenancy commencing to check all correct persons have taken up occupancy
- Regular Tenancy Inspections to verify who is still in occupation
- Encourage tenants and members of the public to report suspected cases of tenancy fraud to the Council. A confidential webpage to report fraud is available
- Housing Officers will act upon reports of tenancy fraud and investigate cases using a variety of means, including ID verification, cross-reference checks and tenancy visits. Investigations will be conducted in accordance with relevant legislation to ensure that evidence gathered is admissible and collected lawfully
- Work in partnership with other service areas of the Council to cross-reference information in order to detect fraud.
- Provide data to Pan Essex data matching system. The Council also provides data for the National Fraud Initiative (NFI) which is an exercise that matches electronic

data within and between public and private sector bodies to prevent and detect fraud.

## **6      ENFORCEMENT/ACTION**

- 6.1      The Council's Housing Management and Legal Teams work together when social housing fraud is detected and take the most appropriate action considering the type and extent of the fraud.
- 6.2      In some cases it may be considered appropriate to allow the tenant to return the keys of the property with no need for further court action.
- 6.3      For tenants who do not surrender the property the Housing Team will instruct the Legal Team to instigate civil action through the courts serving Notice to Quit, Notice of Possession Proceedings or Notice Seeking Possession, as appropriate.
- 6.4      Where the Council considers that criminal prosecution should be pursued legal proceedings will be instigated by the Council's Legal Team.

## **7      SUPPORTING SUB-TENANTS**

- 7.1      If a sub-tenant is discovered during an investigation the Council will support the household by offering advice and assistance which may be in the form of completing homeless application if applicable and applying to the Council's Choice Based Lettings Scheme. They will be advised of the legal process the Council will take in gaining possession of the property so that they are aware of the time scale involved for them to vacate the property.

## **8      DATA SHARING**

- 8.1      The Council shares relevant information with third parties for the purposes of preventing, investigating and tackling tenancy fraud. When sharing personal information we will comply with all aspects of the General Data Protection Regulations (GDPR) and the Data Protection Act (DPA) 2018. The Council's GDPR privacy notices can be found on the Council's website at [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)
- 8.2      The Council also participates in data matching exercises such as the National Fraud Initiative in order to detect and prevent fraud, which involves all tenant data being shared with government or other social housing providers. The Council also assists government in their fraud enquiries.

## **9      EQUALITY AND DIVERSITY**

- 9.1      The Tenancy Fraud Policy will be operated strictly in accordance with Council policy irrespective of age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origins), sexual orientation, religion or belief, or because someone is married or in a civil partnership.

**10      REVIEW AND CONSOLIDATION**

10.1      This policy will be reviewed within 24 months of implementation and prior to implementation will be consulted upon with the Council's Tenants Forum and Housing Board.

**11      PUBLICITY**

11.1      A copy of this policy will be placed on the Council website and be available in print on request. It will be publicised to existing tenants via the Tenant's Newsletter.

**PROSECUTION POLICY**

- 1 The Council is committed to preventing fraud and corruption and has developed a Counter Fraud and Corruption Strategy in order to minimise its occurrence.
- 2 Having a prosecution policy does not take the place of internal disciplinary codes and procedures of the Council. Employees or Councillors may be subject to internal disciplinary procedures as well as prosecution. Liaison will take place with the Police to ensure that any internal disciplinary procedures do not prejudice or interfere with criminal proceedings.
- 3 It is the policy of the Council that where there is prima facie evidence that a criminal offence has been committed then the case will be referred to the Police for investigation
- 4 Where following a police investigation the police or the Crown Prosecution Service decide not to prosecute, the Monitoring Officer will consider whether the evidence obtained is such that there is a reasonable prospect of securing a conviction. If there is a reasonable prospect of securing a conviction, and if the public interest test is met, then a prosecution will be brought by the Council. Civil action may also be taken to recover any loss to the Council.
- 5 Employees should be aware that it may be fair for the Council to suspend or dismiss them during the course of a police investigation or while they are awaiting trial or after a police investigation which has resulted in a decision not to prosecute.