

Standards Committee

**Grand Jury Room, Town Hall
4 March 2011 at 2.00pm**

The Standards Committee deals with the local code of conduct for councillors and complaints against individual councillors.

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**COLCHESTER BOROUGH COUNCIL
STANDARDS COMMITTEE
4 March 2011 at 2:00pm**

Members

**Independent
Members**

Mr Derek Coe (Chairman)
Mr Peter Fitton (Deputy Chairman)
Mr Ian Andrews
Mr Sven Farmer
Mr Steven Roberts-Mee

**Parish
Representatives**

Councillor Terence Abnett
Councillor Malcolm Bartier

Councillors

Councillor Nigel Chapman
Councillor Helen Chuah
Councillor Ray Gamble
Councillor Terry Sutton

AGENDA - Part A

(open to the public including the media)

Members of the Public may wish to note that Agenda items 1 to 4 are normally brief

Pages

1. Welcome and Announcements

- (a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
- action in the event of an emergency;
 - mobile phones switched off or to silent;
 - location of toilets;
 - introduction of members of the meeting.

2. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

3. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

4. Minutes

1 - 3

To confirm as a correct record the minutes of the meeting held on 26 November 2010.

5. Standards and the Localism Bill

4 - 7

See report by the Monitoring Officer

6. Standards Committee Annual Report 2010/11

8 - 15

See report by the Monitoring Officer

7. Revised Anti-Fraud and Corruption Policy

16 - 42

See report by the Head of Resource Management

8. Exclusion of the Public

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

STANDARDS COMMITTEE

26 NOVEMBER 2010

Present :- Mr P. Fitton (Independent Member) Deputy Chairman
Chairman
Councillor Abnett
Mr Andrews (Independent Member)
Councillor Bartier
Councillor Chapman
Mr Coe (Chairman) (Independent Member)
Councillor Eden
Mr Farmer (Independent Member)
Councillor Gamble
Mr Roberts-Mee (Independent Member)

8. Minutes

The minutes of the meeting held on 11 June 2010 were confirmed as a correct record.

9. The Future of Standards for England and the Standards Framework

The Committee considered a report by the Monitoring Officer setting out the Coalition Government's proposals in relation to standards issues.

The Monitoring Officer explained that the future of the Standards Framework still remained unclear. The Decentralisation and Localism Bill had not yet been introduced into Parliament but it was expected imminently and it was anticipated that the current regime would end some time in 2012. The Monitoring Officer explained that it was proposed that Councillors would still need to register certain interests in a public register and failure to do so or declare appropriate interests would become a criminal offence. It was unclear at this stage whether this would apply to Parish Councils.

The Committee expressed some concern about the government's proposals. The proposals to replace the existing regulatory structure with a criminal sanction were a "sledgehammer to crack a nut". Those events that lead to the Committee finding breaches of the Code of Conduct and imposing a sanction were normally the result of poor judgement or lack of knowledge and did not approach the threshold of criminality. Also, the government's proposals failed to acknowledge the good work undertaken by many Councils to implement the local assessment of complaints effectively.

It was accepted that even if the government abolished the requirement for all Councils to adopt the Code of Conduct, the Council and Parish Councils could still adopt the Code themselves and agree a mechanism for dealing with any breaches. However the process would be less effective as without the statutory framework, local councils would not be able require all Councils to sign up to the Code of Conduct, it would not be able to impose suspension from office as a sanction and without a statutory appeal route, any decisions taken would be at risk of potentially expensive legal challenge.

The Committee noted that it may be necessary to meet again once the government's proposals were clearer to consider whether it should make representations to government.

RESOLVED that the contents of the Monitoring Officer's report be noted.

10. Annual Review of Local Assessment of Complaints Against Members

The Committee considered a report from the Monitoring Officer reviewing the operation of the local assessment process since December 2009.

The Monitoring Officer explained that the overall trend was that the number of complaints being received was declining. Generally the local assessment process appeared to be working well.

The Committee noted the relatively low proportion of complaints which were referred for investigation. This was significantly lower than a number referred by other Councils. The Allegations Sub-Committee considered that it struck the right balance in referring complaints and only referred complaints when this was necessary. This was a reflection on the quality of support the Committee received from officers and an appreciation of the costs involved in investigating complaints.

RESOLVED that the contents of the Monitoring Officer's report be noted.

11. Review of Training for Members on the Code of Conduct and Local Assessment

The Committee considered a report from the Monitoring Officer providing an update of training for members on the Code of Conduct and the local assessment process.

Whilst acknowledging the continued uncertainty about future of the Code of Conduct and the Standards Framework, the Code of Conduct remained in force. In addition the Committee felt that assumptions should not be made about the outcome of the legislative process. In the circumstances, training on the Code of Conduct should continue to be arranged and promoted. Once the government's proposals were clearer, information about this would be a useful component of the training.

RESOLVED that:

- (a) the contents of the Monitoring Officer's report be noted.
- (b) training sessions on the Code of Conduct should continue to be arranged and promoted to Borough and Parish Councillors

12. Local Government Ombudsman Annual Review 2009/2010

The Committee considered a report from the Monitoring Officer setting out the conclusions of the Local Government Ombudsman's Annual Review for 2009/10.

The Committee was pleased to note that there no findings of maladministration had been made against the Council and no formal reports had been issued. The amount paid out in settlements had also reduced. The Committee also noted that the average response time to Ombudsman enquiries had decreased. Overall the Committee considered that these trends were encouraging.

RESOLVED that the contents of the Local Government Ombudsman's Annual Review for 2009/10.

13. Revised Whistleblowing Policy

The Committee considered a report from the Monitoring Officer recommending that the Committee approve a revised Whistleblowing Policy.

Hayley McGrath, Risk and Resilience Manager, introduced the report and revised Whistleblowing Policy to the Committee. The most significant change was the extension of the policy to include whistleblowing by volunteers. It was confirmed that the Whistleblowing Policy would not be affected by the government's proposals for the Standards Framework.

The Committee welcomed the updated policy and noted that no allegation had been made under the policy since it had last reviewed the policy. It was suggested that the wording of paragraph 3.5 of the draft policy be amended to read:

"All concerns will be treated in confidence and the Council will use its best endeavours to protect your identity if you do not want your name to be disclosed."

RESOLVED that the revised Whistleblowing Policy be approved subject to the first sentence of paragraph 3.5 being amended to read:-

"All concerns will be treated in confidence and the Council will use its best endeavours to protect your identity if you do not want your name to be disclosed."

RECOMMENDED to Cabinet that the revised Whistle Blowing Policy be approved and referred to Council for inclusion in the Council's Policy Framework.



Standards Committee

Item
5

4 March 2011

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Standards and the Localism Bill		
Wards affected	Not applicable		

This report updates the Committee on the Government's proposals in relation to standards contained in the Localism Bill

1. Decision(s) Required

- 1.1 To note the contents of this report.
- 1.2 To request that the Monitoring Officer submits further reports on the implications of the Localism Bill once these are known.

2. Background

- 2.1 The Government's 'Programme for Government' of 20 May 2010 contained the commitment to "abolish the Standards Board regime". Primary legislation is needed to abolish Standards for England, and the provisions to do this are included in the Localism Bill which was introduced into Parliament in late 2010, with Royal Assent anticipated to be in late 2011. It is also anticipated that the Act will come into force in 2012.

3. The Localism Bill

- 3.1 The Bill abolishes the local authority members' standards regime, including the model code of conduct that all councils and councillors have to adopt and give a commitment to abide by, as well as Standards for England and statutory local authority standards committees. Local authorities will be free to adopt their own voluntary codes of conduct and establish voluntary standards committees if they so wish.
- 3.2 The current regime will be abolished on a day to be appointed by the Secretary of State. Until this point, the regime will operate as at present. After that date, no complaints can be made under the current procedure. Any ongoing investigations at the appointed date will be passed to the relevant local authority to complete.
- 3.3 The Bill abolishes the Standards Board regime, which consists of Standards for England, standards committees of local authorities, the jurisdiction of the First Tier Tribunal in relation to local government standards in England, and codes of conduct for councillors. None of the functions of Standards for England are to be preserved. The power for the Secretary of State to issue a model code of conduct and to specify principles to govern the conduct of members of relevant authorities is removed together with the requirement for relevant authorities to establish standards committees. The First Tier Tribunal loses its jurisdiction over councillor conduct issues.

- 3.4 The Bill places a duty on a relevant authority to ensure that members and co-opted members maintain “high standards of conduct”. It also defines what a “co-opted member” is and what a relevant authority is. The Bill provides that a relevant authority may adopt a voluntary code of conduct. If an allegation of a breach of a code is made in writing, the authority must take a decision on whether or not to investigate the allegation and, if it is considered that an investigation is warranted, investigate in any way the authority sees fit.
- 3.5 The Bill provides for the establishment and maintenance by the Monitoring Officer of a register of members’ and co-opted members’ interests by the local authority by giving the Secretary of State power to make regulations to specify what interests must be recorded in that register. The regulations may make provision for restrictions on taking part in the business of the council to be imposed on a member or co-opted member with a registered or declared interest. The regulations may require the register to be available to the public and may make provision about exempting sensitive information from it.
- 3.6 The Bill makes it a criminal offence to fail, without reasonable excuse, to comply with obligations imposed by regulations to register or declare personal interests or to take part in council business when prevented from so doing by such regulations. The penalty that the magistrates’ court may impose upon conviction is a fine of up to £5,000 and an order disqualifying the person from being a member of a relevant authority for up to five years. A prosecution for the offence may be brought within 12 months of the prosecuting authorities having the evidence to warrant prosecution, but only by or on behalf of the Director of Public Prosecutions.
- 3.7 The new criminal offence of failing to comply with the obligations which might be imposed by such regulations without reasonable excuse, can lead to a fine of up to £5,000 and disqualification from being a councillor for up to five years.
- 3.8 There is still uncertainty exactly how this will work. However the Government in its publication entitled “The abolition of the Standards Board regime, clarification of the law on predetermination and the requirement to register and declare interests - Impact Assessment” sheds some light on the Government’s intention. The Impact Assessment states:

Assumptions used to estimate the impact on the criminal justice system of the new criminal offence for councillors found to have breached the requirement in the Code of Conduct to register and declare personal and financial interests

1. Number of complaints relating to failure by councillors to register and/or declare personal or financial interests

Statistics from the Standards Board for England show that complaints relating to alleged breaches of the Code of Conduct by councillors totalled 6134 between March 2008 and May 2010. It is not possible to determine what proportion of these complaints relates specifically to the failure of councillors to register or declare personal interests. During the same period there were 563 found breaches of the Code of Conduct, of which 132 related to the failure of councillors to register or declare interests. Assuming that the proportion of total complaints relating to this type of offence is approximately equal to the proportion of found breaches of this offence (23 per cent), this implies that, over a two year period, around 1500 complaints are made relating to the failure of councillors to register or declare personal interests (750 annually). For the purposes of estimation, a range of 500 to 1500 complaints per year relating to this type of offence is assumed.

2. Cases dealt with by the criminal justice system

Complaints that a member has failed to comply with the new statutory requirement to register or declare personal interests will be made either to the Monitoring Officer (or equivalent) of the authority concerned or directly to the police. While a number of complaints will be made directly to the police, it is assumed that they will initially pass back to the Monitoring Officer (or equivalent) to investigate and potentially resolve without having to launch a formal investigation. Our methodology thus treats the Monitoring Officer (or equivalent) as in effect the first port of call for all complaints relating to the failure of councillors to register or declare personal interests.

Of the total complaints received by Monitoring Officers (or equivalent) relating to this type of offence, it is assumed that around 50 per cent will be dismissed without further action. In reaching this assumption, we have considered statistics from the Standards Board for England that show that 52 per cent of all complaints relating to alleged breaches of the Code of Conduct by councillors were rejected without further action. It is further assumed that around 30 per cent of complaints received by Monitoring Officers (or equivalent) will be resolved locally, without police involvement. This is expected to be possible if for instance the councillor in question agrees in the light of the complaint that he/she does in fact hold a personal interest, and agrees to register it immediately. The remaining 20 per cent of complaints it is assumed will be passed on to the police. These figures assume a slighter lower proportion of compliable investigated by the police than are currently investigated by local authorities (28 per cent). This is based on the expectation that local authorities will endeavour to resolve complaints locally where possible in order to minimise the impact on the police and criminal justice system.

Combining assumptions (1) and (2) implies that a range of 100 to 300 cases a year will be passed on to the police and thence impact on the criminal justice system.

- 3.9 The Secretary of State is given power to make transitional provision in relation to the abolition of the Standards Board regime. Allegations of misconduct can be brought against a member up to the date when section 57A of the 2000 Act is repealed. The transitional provisions made under this clause will make provision for any such allegations to be transferred from Standards for England to local standards committees, and may make provision for the penalties which can be imposed by those committees, and for rights of appeal to be modified.
- 3.10 In the meantime, the local standards framework still exists and Standards Committees and Monitoring Officers have an obligation to keep the system operating.
- 3.11 The future at present is not clear but will no doubt become clearer in the coming months as the Bill passes through Parliament. If there are any updates on this they will be presented to the meeting. Although the future of the standards regime is currently uncertain, the standards framework remains in force and Members remain subject to it until it is amended or abolished by Parliament.

4. Strategic Plan References

- 4.1 The Council's ethical arrangements forms parts of the Council's commitment to customer excellence which underpins the Council's Strategic Plan vision.

5. Financial Considerations

- 5.1 No particular implications.

6. Equality, Diversity and Human Rights Implications

6.1 No particular implications.

7. Publicity Considerations

7.1 None.

8. Consultation Implications

8.1 None.

9. Community Safety Implications

9.1 None

10. Health and Safety Implications

10.1 None

11. Risk Management Implications

11.1 None.



Standards Committee

Item
6

4 March 2011

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Standards Committee Annual Report 2010/2011		
Wards affected	Not applicable		

**This report recommends that the Committee approves its
Annual Report for 2010/2011**

1. Decision(s) Required

- 1.1 To consider and approve the Standards Committee Annual Report for 2010/2011 and to recommend to the Full Council that it be noted.
- 1.2 To authorise the Monitoring Officer in consultation with the Chairman to make any necessary changes to the Annual Report to give effect to the Committees activities up to the end of March 2011.

2. Background

- 2.1 An Annual Report is a method by which the Committee can inform the Council and the public of its activities and raise awareness of ethical issues both within the Borough Council and the Town and Parish Council's situated in the Borough. An Annual Report is seen as good practice and attached to this report is a draft second Annual report for the Committee which covers the period from April 2010 to March 2011.
- 2.3 The draft Annual Report highlights particularly the work undertaken by the Sub-Committees in dealing with the Local Assessments of allegations made against members. The Committee is also requested to recommend the Annual Report to Council for its information.

3. Strategic Plan References

- 3.1 The Council's ethical arrangements forms parts of the Council's commitment to customer excellence which underpins the Council's Strategic Plan vision.

4. Financial Considerations

- 5.1 None.

5. Equality, Diversity and Human Rights Implications

- 5.1 No particular implications.

6. Publicity Considerations

- 6.1 The Annual Report will be placed on the Council's website.

7. Consultation Implications

7.1 None.

8. Community Safety Implications

8.1 None

9. Health and Safety Implications

9.1 None

10. Risk Management Implications

10.1 None.



COLCHESTER BOROUGH COUNCIL

STANDARDS COMMITTEE

Annual Report 2010/2011

1. Introduction

This is the third Annual Report of Colchester Borough Council's Standards Committee and covers the period from 1 April 2010 to 31 March 2011. In reviewing the activities and looking back at issues highlighted in 2010/11, it also looks forward to next year.

The Borough Council is required by law to establish a Standards Committee which has an important role to play in providing training for and maintaining ethical conduct of Councillors. Article 9 and Part 3 of the Council's Constitution contain the requirements for and composition of the Standards Committee.

2. Roles and functions of the Standards Committee

The Committee's roles and functions are as follows:

- (a) To promote and maintain high ethical standards of conduct for elected and co-opted Members.
- (b) To help elected and co-opted Members to observe the Members' Code of Conduct.
- (c) To give the Council advice on adoption or revision of the Members' Code of Conduct and on informal codes/protocols covering matters such as planning and Member/officer relations.
- (d) To monitor the effectiveness of the Members' Code of Conduct.
- (e) To train or arrange training for elected and co-opted Members on matters relating to the Members' Code of Conduct.
- (f) To assess and review complaints that elected and co-opted Members have breached the Members' Code of Conduct and in connection with this function.
- (g) To develop and adopt:
 - (i) Assessment criteria for dealing with complaints;
 - (ii) Policies for dealing with vexatious, persistent and anonymous complaints and requests by complainants for confidentiality;
 - (iii) Arrangements for dealing with complaints and publicising the arrangements;
 - (iv) Procedures for dealing with local investigations; and
 - (v) Such other provisions and procedures as may be required.
- (h) To establish and maintain the following three sub-committees each with their own terms of reference:
 - Allegations Sub-Committee
 - Allegations Appeals Sub-Committee
 - Hearings Sub-Committee

- (i) To conduct Hearings and make determinations in respect of complaints that elected and co-opted Members have breached the Members' Code of Conduct in accordance with relevant statutory requirements and guidance issued by the Standards for England and in connection with this function; and
- (j) To develop and adopt procedures for dealing with such Hearings.
- (k) To grant dispensations to elected and co-opted Members with prejudicial interests.
- (l) To grant exemptions from politically restricted posts.
- (m) To maintain an overview of the Council's arrangements for dealing with complaints and Local Government Ombudsman investigations.
- (n) To undertake the functions set out at (a) to (k) above in respect of all Parish and Town Councils wholly or mainly within the Borough of Colchester and the Members of those Parish or Town Councils.

Part 5 of the Borough Council's Constitution contains its Ethical Framework comprising various Codes and protocols relevant to the functions of the Committee and in respect of which the Committee has previously given advice and made recommendations.

3. Composition

The Committee comprises Independent Members, Parish Representatives and Borough Councillors. The Borough Council agreed, at its meeting on 19 May 2010, the membership of the Committee for the 2010/2011 municipal year as follows:

Independent Members;

- Mr D Coe (Chairman)
- Mr P Fitton (Deputy Chairman)
- Mr I Andrews
- Mr S Farmer
- Mr S Roberts-Mee

Parish Representatives;

- Councillor M Bartier
- Councillor V Eden
- Councillor T Abnett

Borough Councillors;

- Councillor N Chapman
- Councillor R Gamble
- Councillor H Chuah
- Councillor T Sutton

The Independent Members were appointed by the Borough Council following a public recruitment process and provide a valuable pool of experience. The Parish Representatives are nominated annually to the Council by the Colchester Association of

Local Councils. The Borough Councillors are appointed annually and are senior members who have had/are soon to have mayoral responsibilities.

The Committee wishes to express its appreciation for the high level of support it receives from the Monitoring Officer, Andrew Weavers and Democratic Services Officer, Richard Clifford.

4. The Committee's Work Programme

The Committee agreed a work programme for 2010/2011 which covered:

- Review of the Local Assessment process
- Review of the Council's Local Code of Corporate Governance
- Review and provision of training for Members on the Members Code of Conduct
- Review of the Whistleblowing Policy
- Review of the Council's Anti- Fraud and Corruption Policy
- Consideration of the Local Government Ombudsman's Annual Letter
- Scheduled meetings so as to be able to respond to complaints within time limits

5. Main Areas of Work

5.1 Implementation of Local Assessment of Allegations Process

In May 2008 the responsibility for the initial assessment of allegations whether or not councillors had failed to follow the Members Code of Conduct was transferred from Standards for England to local Standards Committees.

Following recommendations from Standards for England, the Committee created three Sub-Committees; Allegations Sub-Committee, Allegations Appeals Sub-Committee and the Hearings Sub-Committee. The Committee itself and each of its Sub-Committees are chaired by an Independent Member.

The Committee has a duty to ensure adequate publicity for the Local Assessment process and has kept this under review.

The Local Assessment process has required meetings of the Allegations Sub-Committee (which deals with the initial assessment of allegations) to be diarised monthly. In accordance with the law these meetings are held in private.

During 2010/2011:

The Allegations Sub-Committee met twice and considered two complaints both of which were in relation to Town and Parish Councillors.

The Sub Committee made the following decisions:

- 2 complaints - no further action.

The Allegations Sub-Committee was able to consider the complaints within the recommended time limit of 20 days from receipt.

The Allegations Appeals Sub-Committee, (which hears requests for a review following a finding of no further action by the Allegations Sub-Committee) did not need to meet as there were no requests for reviews.

The Hearings Sub-Committee, (which hears and determines the findings of an investigating officers report where it is found that a Councillor has not followed the Code of Conduct) as there were no reports to be determined.

5.2 Review of the Local Assessment Process

The Committee undertook a review of its experiences in operating the process and was satisfied that it was functioning correctly. It will keep this under annual review.

5.3 Review of Ethical Governance

The Committee undertook a review of the Council's Anti-Fraud and Corruption Policy and Whistleblowing Policy which was subsequently endorsed by the full council.

5.4 Training for Members on the Code of Conduct

The Committee reviewed the level of training that should be provided throughout the year for both the 60 Borough and the 255 Town and Parish Councillors in the 27 Town and Parish Councils situated in the Borough. The Independent Members ensured that at least one of them would be present at each session.

The Committee is concerned that all Councillors receive adequate training on the Code of Conduct to ensure that they are up to date with developments and able to fulfil the functions for which they are elected in a proper manner. In the coming year the Committee will be facilitating further training and will be monitoring attendance particularly where there has been evidence of non-compliance with the Code.

6. Localism and the future of the Standards Regime

The Committee is mindful of the Coalition Government's commitment via the Localism Bill to overhaul the standards regime. The Committee is keeping a watching brief on the Governments intentions and the Bill as it progresses through Parliament and will offer advice to the Council once the future is clear. Any changes to the standards regime are not expected to come into effect until 2012 and until that time the Ethical Framework remains in force, Councillors remain subject to the Code of Conduct and the Standards Committee responsible for it's monitoring and enforcement.

7. Work Programme for 2011/2012

The main focus of the Committee in the coming year will be on the impact of the Localism Bill on the Borough Council's ethical governance arrangements, continue to monitor the Local Assessment process and also review the Borough Council's Ethical Framework and governance arrangements.

8. Conclusions

In a busy year, the Committee has completed its work programme and is well placed to continue to face the continuing challenges of handling the initial assessment of allegations and progressing matters that it considers necessary to investigate. Colchester Borough Council and the Town and Parish Council's with the Borough continues to have a sound record in ensuring good standards of conduct and it is our intention to promote, maintain and enhance those standards whilst looking forward to the challenges that the Localism Bill will bring.

Dated March 2011

Derek Coe
Chairman

4 March 2011

Report of	Head of Resource Management	Author	Hayley McGrath ☎ 508902
Title	Revised Anti-Fraud and Corruption Policy		
Wards affected	Not applicable		

**This report recommends that the Committee approves a revised
Anti-fraud and Corruption Policy**

1. Decision(s) Required

- 1.1 To agree the reviewed Anti-Fraud and Corruption Policy for 2011/12, attached at appendix 1, and to refer it to Council for inclusion in the Council's Policy Framework.

2. Background

- 2.1 Many of the external review processes that the Council has to undertake, such as external audit of the benefits process and professional body accreditations, examine the success of the Council in combating fraud and corruption. The Audit Commission look to local authorities to demonstrate that they have robust arrangements in place for combating fraud and corruption and that these are well documented and 'advertised'.
- 2.2 The anti-fraud and corruption policy is part of the Council's corporate governance framework and the anti-fraud and corruption processes form a significant part of the Annual Governance Statement self assessment, which is verified as part of the year end external audit program.
- 2.3 The anti-fraud and corruption policy was substantially updated in November 2009, with the inclusion of the Benefits sanctions policy and a procedure guide for investigating suspected irregularities.
- 2.4 The policy states that it will be reviewed on an annual basis and the review will include a self assessment of the Council's compliance with the governance checklist set by the Audit Commission paper 'Protecting the Public Purse'.

3. Results of Policy Review

- 3.1 This report confirms that a review of the policy has been undertaken and the only amendments are the inclusion of details relating to the Bribery Act 2010, which has been included as part of the definition of Corruption in the overview on page 2, and the updated version of the Benefits sanctions policy, from April 2010.
- 3.2 The completed self assessment is also included within the policy at appendix 3, page 18. This shows that the Council has robust systems in place for combating fraud and corruption.

4. Strategic Plan References

- 4.1 The standards regime forms parts of the Council's commitment to customer excellence which underpins the Council's Strategic Plan vision.

5. Financial Considerations

- 5.1 None.

6. Equality, Diversity and Human Rights Implications

- 6.1 An Equality Impact Assessment has been undertaken of the Benefit fraud policy and this is attached at appendix 2. This indicates that the policy does not unjustifiably or adversely treat any group.

7. Publicity Considerations

- 7.1 The Anti-fraud and Corruption Policy forms part of the Council's Policy Framework and will be placed on the Council's website.

8. Consultation Implications

- 8.1 None.

9. Community Safety Implications

- 9.1 None

10. Health and Safety Implications

- 10.1 None

11. Risk Management Implications

- 11.1 A clear Anti-fraud and Corruption Policy is a key element in being able to mitigate against the risk of fraud or corruption being perpetrated against the Council.



Appendix 1

DRAFT

**COLCHESTER BOROUGH
COUNCIL**

**ANTI FRAUD AND
CORRUPTION
POLICY**

March 2011

CONTEXT

Colchester Borough Council, like every Local Authority, has a duty to ensure that it safeguards the public money that it is responsible for.

The Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, members, contractors, volunteers and the public. It is committed to the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly and to the highest possible standard of openness and accountability so as to protect public safety and public money.

There will be no distinction made in investigation and action between cases that generate financial benefits and those that do not. The policy will not compromise the Council's commitment to Equal Opportunities or the requirements of the Human Rights Act or any other relevant statutory provision.

This policy has been created with due regard to the CIPFA better Governance Forum's Red Book 2 'Managing the Risk of Fraud' and the Audit Commission Publication 'Protecting the Public Purse'.

OVERVIEW

This policy provides an overview of the of measures designed to combat any attempted fraudulent or corrupt act and the steps to be taken if such action occurs. For ease of understanding it is separated into four areas as below:-

- Culture
- Responsibilities & Prevention
- Detection and Investigation
- Awareness & Monitoring

Fraud and corruption are defined by the Audit Commission as:-

Fraud – “the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain”.

In addition, fraud can also be defined as *“the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to mislead or misrepresent”.*

Corruption – “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.

The Council also abides by the Bribery Act 2010 which covers, amongst other things, the offences of bribing another person, of allowing to be bribed and organisational responsibility. Such offences include:

- The offer, promise or giving of financial or other advantage to another person in return for the person improperly performing a relevant function or activity

- Requesting, agreeing to receive or accepting a financial or other advantage intending that, in consequence a relevant function or activity should be performed improperly.
- Commercial organisation responsibility for a person, associated with the organisation, bribing another person for the purpose of obtaining or retaining business for the organisation

In addition, this policy statement also covers “*the failure to disclose an interest in order to gain financial or other pecuniary benefit.*”

CULTURE

The prevention/detection of fraud/corruption and the protection of the public purse are responsibilities of everyone, both internal and external to the organisation. The Council's elected members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will wherever possible be treated in confidence. The public also has a role to play in this process and should inform the Council if they feel that fraud/corruption may have occurred.

Concerns must be raised when members, employees or the public reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:

- A criminal offence
- A failure to comply with a statutory or legal obligation
- Improper or unauthorised use of public or other official funds
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Endangering an individual's health and/or safety
- Damage to the environment
- Deliberate concealment of any of the above

The Council will ensure that any allegations received in any way, including by anonymous letters or telephone calls, will be taken seriously and investigated in an appropriate manner. The Council has a whistle blowing policy that sets out the approach to these types of allegation in more detail.

The Council will deal firmly with those who defraud the Council or who are corrupt, or where there has been financial malpractice. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees/members raising malicious allegations) may be dealt with as a disciplinary matter (employees) or through Group procedures (members).

When fraud or corruption has occurred due to a breakdown in the Council's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence

RESPONSIBILITIES & PREVENTION

Responsibilities of Elected Members

As elected representatives, all members of the Council have a duty to protect the Council and public money from any acts of fraud and corruption. This is done through existing practice, compliance with the National and Local Code of Conduct for Members, the Council's Constitution including Financial Regulations and Standing Orders and relevant legislation. Conduct and ethical matters are specifically brought to the attention of members during induction and include the declaration and registration of interests. Officers advise members of new legislative or procedural requirements.

Responsibilities of the Monitoring Officer

The Monitoring Officer is responsible for ensuring that all decisions made by the Council are within the law. The Monitoring Officer's key role is to promote and maintain high standards of conduct throughout the Council by developing, enforcing and reporting appropriate governance arrangements including codes of conduct and other standards policies.

All suspected instances of fraud or corruption (apart from benefit claim issues) should be reported to the Monitoring Officer.

Responsibilities of the Head of Resource Management

The Head of Resource Management has been designated the statutory responsibilities of the Finance Director as defined by s151 of the Local Government Act 1972. These responsibilities outline that every local authority in England & Wales should: *"make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility or the administration of those affairs"*

'Proper administration' encompasses all aspects of local authority financial management including:

- Compliance with the statutory requirements for accounting and internal audit;
- Managing the financial affairs of the Council
- The proper exercise of a wide range of delegated powers both formal and informal;
- The recognition of the fiduciary responsibility owed to local tax payers.

Under these statutory responsibilities the Head of Resource Management contributes to the anti-fraud and corruption framework of the Council.

Responsibilities of the Senior Management Team

Managers at all levels are responsible for the communication and implementation of this policy. They are also responsible for ensuring that their employees are aware of the Council's personnel policies and procedures, the Council's Financial Regulations and Standing Orders and that the requirements of each are being met. Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Special arrangements may be applied from time to time for example where employees are responsible for cash handling or are in charge of financial systems and systems that generate payments, for example payroll or the Revenues & Benefits computer system. These procedures will be supported by relevant training.

The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. As in other public bodies Criminal Records Bureau (CRB) checks are undertaken for employees working with or who may have contact with children or vulnerable adults.

Responsibilities of Employees

Each employee is governed in their work by the Council's Standing Orders and Financial Regulations, and other policies on conduct and on IT usage. Included in the Council policies are guidelines on Gifts and Hospitality, and codes of conduct associated with professional and personal conduct and conflict of interest. These are issued to all employees when they join the Council. In addition, employees are responsible for ensuring that they follow any instructions given to them, particularly in relation to the safekeeping of the assets of the Council. Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management.

Role of Internal Audit

Internal Audit plays a vital preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud and corruption. Internal Audit investigates all employee cases of suspected financial irregularity, fraud or corruption, except Benefit fraud investigations (see appendix 1), in accordance with agreed procedures. Within the Financial Procedure Rules in the Constitution, representatives of Internal Audit are empowered to:

- enter at all reasonable times any Council premises or land
- have access to all records, documentation and correspondence relating to any
- financial and other transactions as considered necessary
- have access to records belonging to third parties such as contractors when required
- require and receive such explanations as are regarded necessary concerning any
- matter under examination
- require any employee of the Council to account for cash, stores or any other Council
- property under his/her control or possession

Internal Audit liaises with management to recommend changes in procedures to reduce risks and prevent losses to the Authority.

Role of the Benefits Investigation

Due to the specialised nature of benefit fraud investigations a separate sanctions policy has been developed that covers all aspects of the benefit investigation process. This is included at appendix 1.

Role of the Audit Commission

Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by the Audit Commission through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity, and will act without undue delay if grounds for suspicion come to their notice. The Council contributes to the bi-annual Audit Commission led National Fraud Initiative which is designed to cross match customers across authorities too highlight areas where there are potential fraudulent claims.

Role of the Public

This policy, although primarily aimed at those within or associated with the Council, enables concerns raised by the public to be investigated, as appropriate, by the relevant person in a proper manner.

Conflicts of Interest

Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

Official Guidance

In addition to Financial Regulations and Standing Orders, due regard will be had to external and inspectorate recommendations.

The Council is aware of the high degree of external scrutiny of its affairs by a variety of bodies such as the Audit Commission (including External Audit and Inspection), other Government Inspection bodies, the Local Government Ombudsman, the National Standards Board, HM Customs & Excise and the Inland Revenue. These bodies are important in highlighting any areas where improvements can be made.

DETECTION & INVESTIGATION

Internal Audit plays an important role in the detection of fraud and corruption. Included within the audit plans are reviews of system controls including financial controls and specific fraud and corruption tests, spot checks and unannounced visits.

In addition to Internal Audit, there are numerous systems and management controls in place to deter fraud and corruption but it is often the vigilance of employees and members

of the public that aids detection. In some cases frauds are discovered by chance or “tip-off” and the Council will ensure that such information is properly dealt with within its whistle blowing policies.

Detailed guidance on investigations can be found at appendix 2.

Disciplinary Action

The Council’s Disciplinary Procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. Theft, fraud and corruption are serious offences which may constitute gross misconduct against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities, including Benefit fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case.

Members will face appropriate action under this policy if they are found to have been involved in theft, fraud and corruption against the Authority. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case but in a consistent manner. If the matter is a breach of the Code of Conduct for Members then it will also be referred to Standards for England - the national standards organisation.

Prosecution

In terms of proceedings the Council will ensure consistency in the Council’s action in specific cases and to deter others from committing offences against the Authority.

Publicity

The Council will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. In all cases (both Member and Officer) where the Council has suffered a financial loss then the Council will consider the recovery of the loss. All anti-fraud and corruption activities, including the update of this policy, will be publicised.

AWARENESS & MONITORING

The Council recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of training and awareness for members and employees and accordingly will take appropriate action.

The Monitoring Officer will provide an annual report to senior management and members outlining investigations undertaken during the year.

This policy and associated procedures will be reviewed at least annually and will include a self assessment of the Council’s compliance with the governance checklist set by the Audit Commission paper ‘Protecting the Public Purse’ which has been included at appendix 3.

Appendix 1

COLCHESTER BOROUGH COUNCIL

**FRAUD SANCTIONS POLICY
FOR BENEFITS**



AMENDED 01.04.10

1. Introduction

- 1.1 Colchester Borough Council aims to provide a modern, customer focused, efficient, effective and secure Housing Benefit service that is continuously seeking to improve. This document sets out the policy of Colchester Borough Council towards sanctions, including criminal prosecutions, for offences relating to benefit fraud.
- 1.2 This policy has been developed with the aim of providing a framework to ensure a fair and consistent approach to the use of formal sanctions. It refers to criteria relating to the offence, offender, value and duration of the fraud which have to be taken into account before considering whether a sanction is appropriate, and if so, which sanction to apply.
- 1.3 This policy needs to be considered in conjunction with the council's Anti-Fraud and Corruption Policy Statement which sets out the commitment to prevent, detect and investigate benefit fraud.
- 1.4 Housing and Council Tax Benefits are administered by a local authority on behalf of the Department of Work and Pensions (DWP) as part of the statutory local government functions. Our policy is therefore a matter for our members. In practice, the policy broadly follows the approach of the DWP.

2.0 General Principles

- 2.1 Colchester Borough Council is committed to the prevention, detection, correction, investigation and, where appropriate, prosecution of fraudulent benefit claims.
- 2.2 The aim is to prevent criminal offences occurring by making it clear to our customers that they have a responsibility to provide accurate and timely information about their claims; to punish wrongdoing; and to deter offending.
- 2.3 This policy supports the DWP Public Service Agreement to reduce losses from fraud and error by 15% by 2010. It also provides a full response to the need to be effective against fraud in the full range of welfare benefits.
- 2.4 Each potential fraud is assessed against local criteria by Colchester Borough Council's Housing and Council Tax Benefits Investigation Team. This assessment will result either in cases being investigated further under criminal investigation standards or referred to the Housing and Council Tax Benefits Review Team. Review action usually comprises of an interview regarding any changes in circumstances and the allegation concerned. Further action will depend upon the outcome of the interview but they will be reminded of their responsibilities and may be advised about their future conduct and required to rectify or withdraw their claim.
- 2.5 Each case that is subject to criminal investigation is considered on its own merits, having regard to all of the facts, before an appropriate sanction is administered.

3. Organisation

3.1 Criminal investigations are undertaken in accordance with:

- Police and Criminal Evidence Act 1984 and its code of practice
- Criminal Procedures and Investigation Act 1996 and its code of practice
- all other relevant legislative and common law rules
- Departmental Policy
- advice from internal legal department

3.2 Fraud Investigators receive Professionalism in Security (PINS) training which is accredited by Portsmouth University. Additional guidance is provided by the Fraud Procedures and Instruction Manual which is regularly updated to ensure that:

- investigations are conducted in a legal and professional manner
- policy and legislation is correctly applied, and
- approved working methods are applied

3.3 Colchester Borough Council has a legal team who provide advice and guidance to investigators throughout the investigative and prosecution process if required. They do not conduct any part of the investigation but advise on the investigator's obligations, evidential requirements and any appropriate charges. Colchester Borough Council's legal team are also responsible for identifying those cases which are not suitable for criminal prosecution for evidential reasons.

3.4 Colchester Borough Council also has access to free technical support and/or legal advice from the DWP prosecution division.

3.5 Colchester Borough Council also works closely with the DWP Fraud Investigation Service (FIS) team operating under similar prosecution practices and has a Fraud Partnership Agreement (FPA) with them to support joint working activity such as joint interviews under caution and investigations, to aid in the tackling of fraud in the full range of welfare benefits.

4. Sanction Process

Where an offence has been committed the Investigation Team can consider administering a caution, offering an administrative penalty, or instigating a prosecution. The choice will depend on the factors below and taking into account the criteria within section 4.4.1.

Cautions:

4.2.1 A formal caution is an administrative sanction that a local authority in England and Wales is able to offer as an alternative to a prosecution as long as specific criteria are met, and the case is one that Colchester Borough Council could take to court if the caution was refused.

4.2.2 Cautions are usually aimed at the less serious benefit frauds and those where the overpayment is under £2,000. It also provides an additional tool for the Investigation Team to use in those cases where the deterrent effect is considered a sufficient and suitable alternative to prosecution or an administrative penalty.

4.2.3 The offender must admit to the offence in an Interview Under Caution (IUC) and provide informed consent to being cautioned. To be able to offer a caution requires the same standard of criminal evidence as for a prosecution and should only be offered if the authority could prosecute should the caution be refused.

4.2.4 If the customer is consequently prosecuted for another benefit offence the caution can be cited in court.

4.3 Administrative Penalties

4.3.1 An Administrative Penalty is the offer to the customer to agree to pay a financial penalty where the customer has caused benefit to be overpaid to them, by either an act or omission. The amount of the penalty is currently stipulated at 30 percent of the amount of the gross overpayment.

4.3.2 These penalties will be offered where the case is deemed to be not so serious to deserve any other sanction and an Administrative Penalty is considered to be a suitable alternative to prosecution and where the gross overpayment is less than £2,000. Unlike cautions, no admission of guilt is required from the customer before offering an administrative penalty, although there is a statutory requirement for investigators to ensure that there are grounds for instituting criminal proceedings for an offence relating to the overpayment.

4.4 Prosecutions

4.4.1 If there is sufficient evidence Colchester Borough Council will refer the case to the solicitors internally for consideration of criminal prosecution where one or more of the following criteria are met:

- the gross adjudicated overpayment is £2,000 or over
- false identities or other personal details have been used
- false or forged documents have been used
- official documents have been altered or falsified
- the person concerned is in a position of trust
- the person concerned assisted or encouraged others to commit offences
- there is evidence of premeditation or organised fraud
- the person concerned has relevant previous convictions
- the customer had previously been convicted of benefit fraud
- the amount of the adjudicated overpayment is under £2,000 and the offer of an administrative penalty or formal caution is not accepted.
- Is the person in sound mind and in good physical position?
- Are there any social factors (eg death in the family)?

4.4.2 In all cases, including those which do not fall within any of the above criteria, Colchester Borough Council retains discretion as to whether criminal proceedings are started.

5. Proceeds of Crime Act (POCA)

5.1 Colchester Borough Council Investigation Officers must consider in all suitable cases the ability for a court to obtain restraint and/or confiscation orders of identified assets. A restraint order will prevent a person from dealing with specific assets. A confiscation order will enable the council to recover losses from assets which are found to be the proceeds of crime.

6. Loss of Provision:

Social security (Loss of Benefit) Regulations 2001 as amended by the Social Security (loss of benefit) Amendment Regulations 2010 allow for reduction or withdrawal of Social Security benefits and allowances in payment to individuals and their partners who have accepted the offer of a caution or administrative penalty. This includes both DWP and Local Authority benefits, such as Council Tax and Housing benefit.

This provision allows the DWP and local authorities to apply a sanction in the form of a 4 week benefit sanction period where a person accepts an Administrative Penalty, caution or is convicted of benefit fraud on one occasion. Benefits can be withdrawn for the 4 week period.

7. Recovery of Debt:

7.1 Where an overpayment arising from fraud is identified Colchester Borough Council will take steps to recover the resultant debt, including taking action in the civil courts if necessary, in addition to any sanction it may impose in respect of that fraud. The council has an overpayment policy which is updated regularly.

8. Summary

8.1 This policy sets out the main areas that the council takes into consideration when investigating potentially fraudulent claims for benefits. As well as the above, the council is working towards achieving the performance standards set by the DWP for its counter fraud work.

8.1.2 Whilst the council appreciates that the majority of customers are honest, it will continue to fight abuse of the system by those who falsely claim benefits to which they are not entitled. All investigations will be completed by trained staff who will respect the rights of all customers.

Appendix 2

PROCEDURES FOR INVESTIGATING FRAUD OR CORRUPTION

1. Purpose

- 1.1 These procedures define how the Council will react to any suspected cases of fraud or corruption apart from benefit claim fraud.

2. Responsibilities

- 2.1 The responsibilities for actions identified in this plan are detailed in Annex A.

3. Initiating Action

- 3.1 Actual or suspected frauds or corruption may become apparent in a variety of ways including external sources or via the Council's whistle blowing process. In any event, actual or suspected frauds or corruption will be reported as soon as practicable to the Chief Executive and Head of Resource Management. Who will immediately inform the Council's Monitoring Officer and Head of Corporate Management where an employee is believed to be involved.
- 3.2 When practicably possible of receiving notification of actual or suspected fraud or corruption, the Head of Resource Management will, in consultation with the Chief Executive and Monitoring Officer, where appropriate, decide on the initial response.
- 3.3 The initial response may be an internal investigation, referral to the police, some other form of action, or a decision not to pursue the issue further. The Head of Resource Management will keep a formal record of the decision and the reasons behind it. The decision will be reported to the Chief Executive and Monitoring Officer and the appropriate Head of Service.
- 3.4 Where the identity of the informant is known, the Head of Resource Management will inform them in writing within ten working days of the initial receipt of the allegations, of the initial action being taken, unless the Monitoring Officer determines that there are reasons for not doing so.
- 3.5 The appropriate Head of Service (or an officer nominated by him/her) who will also inform the Council's insurance section immediately and will report criminal damage to Council property to the Police.

4. Prevention of Further Loss

- 4.1 Where initial investigation provides reasonable grounds for suspecting a Councillor of fraud or corruption the Monitoring Officer, in consultation with the Chief Executive and Head of Resource Management will decide how to prevent further loss. In respect of employees suspected of fraud or corruption, the Head of Resource Management, in consultation with the Monitoring Officer and appropriate Head of Service will decide

how to prevent further loss. This may require the suspension of the suspect(s) and the appropriate Head of Service will be requested to agree and implement the suspension. It may be necessary to plan the timing of suspension to prevent the suspect(s) from destroying or removing evidence.

- 4.2 In these circumstances, the suspect(s) should be approached unannounced. They should be supervised at all times before leaving the Council's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the Council. Any security passes and keys to premises, offices and furniture should be returned.
- 4.3 Where an employee is suspended in these circumstances, their Head of Service will immediately make the necessary arrangements to remove access to all Council computing facilities.
- 4.4 The Head of Resource Management will consider and initiate any other action necessary to protect Council assets and property. This will include considering whether it is necessary to investigate systems other than that which has given rise to suspicion, through which the suspect may have had opportunities to misappropriate the Council's assets.

5. Obtaining and Safeguarding Evidence

- 5.1 It is never possible to predict with any degree of certainty how any individual investigation will develop. It is therefore essential to ensure that, for all investigations, a chronological log is maintained of all events as the investigation proceeds.
- 5.2 A standard working paper format, appropriately headed, will be all that is required for smaller investigations. Larger or more complex investigations may necessitate the use of a diary. The purpose of these documents is to provide a history in summary form of the investigation as it proceeds.
- 5.3 It is important that all meetings, interviews, removal/taking possession of evidence, telephone discussions, etc are recorded. A more comprehensive note of any such event should be maintained in the form of a detailed working paper which should be written up either during, or as soon after the relevant event as possible, and signed, dated and timed by the responsible individual.

6. Recovery of Losses

- 6.1 Recovering losses is a major objective of any fraud or corruption investigation. The Head of Resource Management will ensure that the amount of any loss will be quantified and repayment of losses will be sought in all cases.
- 6.2 Where the loss is substantial, legal advice will be obtained immediately about the need to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice will also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment. The Council would normally expect to recover costs in addition to losses.

6.3 The appropriate Head of Service will ensure that prompt action is taken to recover insured losses by notifying the Council's insurance officer and submitting the appropriate claims information as quickly as possible.

7. References for Employees Disciplined or Prosecuted for Fraud or corruption

7.1 Any request for a reference for an employee who has been disciplined or prosecuted for fraud or corruption shall be referred to the Head of Corporate Management who will prepare any answer to a request for a reference having regard to employment law.

8. Reporting Fraud or corruption to the Audit Commission

8.1 Where the estimated amount of the loss due to a fraud or corruption is above the threshold set by the Audit Commission the Head of Resource Management will formally report the fraud or corruption to them.

9. Reporting Lines

9.1 The Head of Resource Management will report formally to the Monitoring Officer and Chief Executive, where appropriate at the following stages of the process:

Initial action stage
Referral to the police
Quantification of losses
Conclusion of the episode

10. Responsibility for Investigation

10.1 The Head of Resource Management will be responsible for procuring resources and managing internal investigations.

11. Referring Suspected Fraud or corruption to the Police

11.1 The Head of Resource Management, in consultation with the Monitoring Officer will formally refer suspected fraud or corruptions to the Police, obtaining a crime reference number in each case.

11.2 The Head of Resource Management will establish and maintain a contact point with the police for each fraud or corruption reported to them and will periodically enquire on the progress of investigations; reporting the results to the Monitoring Officer.

ANNEX A TO FRAUD AND CORRUPTION PROCEDURES

DEFINITION OF ACTIONS

Action	Responsibility	Timescale
Head of Resource Management, Chief Executive and the Monitoring Officer informed of cases of suspected or actual fraud. In addition, in consultation with the Head of Corporate Services where an employee is believed to be involved	Appropriate Head of Service	Immediate
Decide on the initial response Members suspected Employee suspected	Monitoring Officer in consultation with the Chief Executive & Head of Resource Management Head of Resource Management in consultation with Monitoring Officer and appropriate Head of Service	Within 24 hours of receiving notification of actual or suspected fraud
Record decision and report it to the Monitoring Officer and Chief Executive, where appropriate	Head of Resource Management	
Write to the informant to tell them of the initial action being taken.	Head of Resource Management	Within 10 working days of receipt of the allegation
Report criminal damage to the Police and the Council's insurance section	Head of Resource Management	Immediately
Suspension of employees suspected of committing a fraudulent act Remove access to Council buildings and collect security cards, access cards, keys and access to computer facilities etc	Appropriate Head of Service Appropriate Head of Service (or an officer nominated by him/her)	Immediately sufficient grounds for suspicion identified Upon suspension

Action	Responsibility	Timescale
Quantify losses	Appropriate Head of Service and Head of Resource Management	As soon as practical
Seek legal advice on recovery of losses and costs where estimated losses over £5,000	Head of Resource Management / Head of Corporate Services	As soon as practical
Seek to recover insured losses as quickly as possible by notifying the Council's insurance officer and submitting the appropriate claims information	Appropriate Head of Service	As soon as practical
Refer request for a reference for an employee who has been disciplined or prosecuted for fraud to the Head of Corporate Services	Appropriate Head of Service	As required
Report the fraud to the Audit Commission where the estimated amount of the loss is above the threshold set by the Audit Commission.	Head of Resource Management	As soon as it has been identified that the threshold is likely to be exceeded
Refer suspected frauds to the Police, obtaining a crime reference number in each case	Head of Resource Management in consultation with the Monitoring Officer	As soon as practical
Establish and maintain a contact point with the Police for each fraud reported to them and will periodically enquire on the progress of investigations.	Head of Resource Management	As required

Appendix 3

Audit Commission – Protecting the Public Purse

Self Assessment Checklist for Governance

Date Completed: November 2010

Completed By: Risk & Resilience Manager

	Yes	No	Comments / Actions
General			
1. Have we committed ourselves to zero tolerance against fraud?	✓		Contained in policy.
2. Do we have appropriate strategies, policies and plans?	✓		Anti-fraud and corruption policy along with risk registers
3. Do we have dedicated counter-fraud resources?	✓		Dedicated team in Benefits
4. Do the resources cover all of the activities of our organisation?		✓	Majority of counter-fraud work is undertaken in respect of benefits. Other areas are covered by standard management practise and officer judgement e.g. insurance and accounts payable.
5. Do we receive regular reports on fraud risks, plans and outcomes?	✓		There is an annual report to committee about fraud issues and fraud is included on all risk registers. Internal audit reports also identify any system weaknesses and these are regularly reported.
6. Have we assessed our management of counter-fraud resources against good practice?	✓		Audit Commission guidance – Protecting the Public Purse and CIPFA publication – Managing the Risk of Fraud.
7. Do we raise awareness of fraud risks with: <ul style="list-style-type: none"> ➤ new staff (including agency staff)? ➤ existing staff? ➤ members? 	✓		With regards to benefits - yes. Awareness for other services is to be incorporated into our routine training and corporate governance processes.
8. Do we join in appropriately with national, regional and local networks and partnerships to ensure we are up to date with current fraud risks and issues?	✓		Various groups including the Association of Local Authority Risk Managers and Monitoring Officer network as well as contact with Police.

9. Do we have working arrangements with relevant organisations to ensure effective sharing of knowledge and data about fraud?	✓		National Fraud Initiative and data sharing across authorities and agencies.
10. Do we identify areas where internal controls may not be performing as intended?	✓		Part of internal audit process.
11. Do we maximise the benefit of our participation in the Audit Commission NFI and receive reports on outcomes?	✓		We use all the reports to identify suspect areas and complete the reporting process.
Fighting fraud in the recession			
12. Have we reassessed our fraud risks because of the recession?	✓		Increased awareness, especially in benefits area. Risk has been identified in registers.
13. Have we amended our counter-fraud action plan as a result?	✓		Within benefits.
14. Have we reallocated staffing as a result?	✓		Staff reallocation was not required.
Some current risks and issues			
15. Do we take effective action to ensure that social housing is allocated only to those in need?	✓		There is a housing needs assessment and policy that ensures only eligible applicants are housed.
16. Do we take effective action to ensure that social housing is occupied by those to whom it is allocated?	✓		Managed by CBH with regular contact with Housing Officers
17. Are we satisfied that payment controls are working as intended?	✓		Verified by internal audit process – no actions identified
18. Have we reviewed our contract letting procedures against the good practice guidance issued by the Office of Fair Trading to reduce the risk of illegal practices such as cartels?	✓		Contract procedure rules comply with good practise and covers illegal practices
19. Are we satisfied that our recruitment procedures are: <ul style="list-style-type: none"> ➤ preventing employment of people working under false identities? ➤ validating employment references effectively? ➤ ensuring applicants are eligible to work in the UK? 	✓		Verified by the internal and external audit processes. No actions identified.
20. Where we are moving to direct payments (for example, social care) have we introduced suitable and proportionate control arrangements in line with recommended practice?	✓		Verified by internal audit process for those specific areas.

21. Are we effectively controlling the discounts and allowances we give to council taxpayers?	✓		Test checking and verified by internal audit process.
22. Are we satisfied that we are doing all that we can to tackle housing and council tax benefit fraud?	✓		Sanctions policy, dedicated team, regular test checking and participation in the NFI process.
23. Do we have a reporting mechanism that encourages our staff to raise their concerns of money laundering?	✓		Various policies highlight processes.

**EQUALITY IMPACT
ASSESSMENT
(EQIA)**

Please ensure that you read the EIA
Framework before completing this pro-
forma

Date Started: 2 November 2005
Date Completed: 2 November 2005
Date last reviewed: 24 October 2008

Service Group/Team: Resource Management

Lead Officer(s): John Fisher & Louisa Giddings

Name of policy, procedure or practice: Benefit Fraud Prosecution policy statement
(Written or unwritten)

Who is responsible for it and who implements it? John Fisher & Louisa Giddings

Stage 1. Scope of the EIA

For advice refer to **stage 1** of the EIA guidance

- **What are the broad aim(s) objective(s) of the policy, procedure or practice?**

To provide documented internal instruction and guidance to the Council's staff.

- **What outcomes do you want to achieve?**

To ensure and a consistent and fair mechanism for the assessment and administration of benefits.

Stage 2

Please refer to stage 2 of the EIA guidance:

In this section you need to:

- determine who your audience, users or customers are and what their needs are likely to be.
- determine what impact the policy, procedure or practice is likely to have on them.

• List of Audience; Users or Customers

Benefit practitioners
Customer Service Officers
Other Council officers and council members
DWP
Members of the public (when published as part of the Constitution)

- **List how you monitor the impact that it has on different groups. If you do not monitor the impact on different groups is there a justifiable reason for this?**
- **Please list below all data/information you have used to inform you impact assessment, including source & reference.**

Feedback from staff and customers

Examples:

Recruitment & Selection Policy, National Census Ethnicity Data, Recruitment Monitoring Statistics, Service User and Focus Group Consultation, Consultation Reports.
See EIA Framework for other likely sources of useful information

Previous policy document.
Rules and legislation as set out in the policy statement

Stage 3 Using information gathered consider if you need anything further to fully assess awareness of needs or impact on identified customers or users (yes or no). If ‘no’ record this decision below with the reasons why this conclusion has been reached. If ‘yes’ go to Stage 4.		
No. Procedures are based on government legislation and guidance that allows little discretion.		
Stage 4 4.1 Record any information below that is available from other sources		
Rules and legislation is set out in the policy statement. DWP website.		
4.2 & 4.3 List below any groups you need with to assess need or impact and methods used: <i>you may need to add extra rows</i>		
	Stake Holder Group	Consultation Method
None		Specific Needs/Requirements in relation to the Policy, Procedure or Practice and likely impact
4.4 Summarise results of consultation below		
Not applicable		

<p>4.5 Using information gathered record below if you need to take any action to remove any negative impact on identified customers or users (yes or no). If 'no' record this decision below with the reasons why this conclusion has been reached. If 'yes' go to Stage 5.</p>			
<p>No. Procedures are based on established legal rules and precedents.</p>			
<p>Stage 5 – List below proposals and actions to overcome unjustifiable or adverse treatment of any group</p>			
Actions	By whom	Groups consulted	Date completed
None.			
<p>Stage 6 Please summarise below arrangements you have made for publication of your findings. For advice please refer to stage 6 of the EIA guidance.</p>			
<p>No publicity required as this is an internal document mainly intended for use of council staff only.</p>			

<p>Stage 7 Please summarise below what arrangements you have made to monitor/review the impact of the policy, procedure and practice. For advice please refer to stage 7 of the EIA guidance. Please explain why if you have not.</p>	<p>Benefit practitioners are encouraged to give feedback about the content and effectiveness of the policy, with the aim of reviewing it from time to time. The policy will also be updated in line with any new legislation or working practices, taking account of any suggestions and benchmarking.</p>
<p>Review</p>	<p>Given low or no direct impact of this document on people outside the organisation, this assessment is due for review every three years.</p> <p>By this review on 24 October 2008, the assessment has been brought up to date, but the principle conclusion remains the same, so that no further action is necessary.</p>

