

Anti-Fraud and Corruption Strategy

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A. Introduction

1. Kent County Council is committed to the Local Government Fraud Strategy: Fighting Fraud Locally which means the Council will:
 - **Acknowledge** the threat of fraud and the opportunities for savings that exist.
 - **Prevent** and detect all forms of fraud.
 - **Pursue** appropriate sanctions and recover any losses.
2. The Council is committed to the highest standards of probity in the delivery of its services, ensuring proper stewardship of its funds and assets. This strategy promotes:
 - A zero-tolerance attitude to fraud requiring staff and Members to act honestly and with integrity at all times, and to report all reasonable suspicions of fraud.
 - The prevention of fraud and the promotion of an anti-fraud culture.
 - The investigation of all instances of actual, attempted and suspected fraud committed by staff, Members, consultants, suppliers and other third parties and the recovery of funds and assets lost through fraud.

B. Culture

3. Kent County Council wishes to promote a culture of honesty and opposition to fraud and corruption. It will ensure probity in local administration and governance and expects:
 - Members and staff to lead through example by acting with integrity at all times and ensuring adherence to legal requirements, policies and procedures, rules and good practice.
 - All individuals and organisations (eg suppliers, contactors and service providers) with whom it comes into contact will act with integrity in all dealings with the Council.
 - Members, staff, bodies and organisations external to the Council, to report suspected fraud, corruption or other irregularity to the Head of Internal Audit in accordance with the Council's Financial Regulations, and Fraud Response Plan for Managers (Annex 1).
 - Senior managers to deal promptly and firmly with those who defraud, or seek to defraud the Council, or who are corrupt. The Council will always be robust in dealing with financial malpractice or those who breach statutory and legal obligations and its code of conduct.

C. Roles and Responsibilities

The Role of Elected Members

4. As elected representatives, all Members of Kent County Council have a duty to act in the public interest and to do whatever they can to ensure that the Council uses its resources in accordance with statute.
5. This is achieved through Members operating within the Constitution which includes the Code of Member Conduct, Financial Regulations and Spending the Council's Money.

The Role of Employees

6. Kent County Council expects its employees to be alert to the possibility of fraud and corruption and to report any suspected fraud or other irregularities to the Head of Internal Audit.
7. Employees are expected to comply with the appropriate Code of Conduct and the Council's policies and procedures.
8. Employees are responsible for complying with Kent County Council's policies and procedures and it is their responsibility to ensure that they are aware of them. Where employees are also members of professional bodies they should also follow the standards of conduct laid down by them.
9. Employees should follow instructions given to them by management. They are under a duty to properly account for and safeguard the money and assets under their control/charge.
10. Employees are required to provide a written declaration of any financial and nonfinancial interests or commitments, which may conflict with KCC's interests. KCC Financial Regulations specify that employees who have a direct or indirect financial interest in a contract shall not be supplied with, or given access to any tender documents, contracts or other information relating to them, without the authority of the senior manager.
11. Failure to disclose an interest or the acceptance of an inappropriate reward may result in disciplinary action or criminal liability. Staff must also ensure that they make appropriate disclosures of gifts and hospitality.
12. Managers at all levels are responsible for familiarising themselves with the types of fraud that might occur within their directorates and the communication and implementation of this strategy.
13. Managers are expected to create an environment in which their staff feel able to approach them with any concerns that they may have about suspected fraud or any other financial irregularities.

Kent County Council's Commitment

14. Fraud and corruption are serious offences and employees and Members will face disciplinary action if there is evidence that they have been involved in

these activities. Where criminal offences are suspected consideration will be given to pursuing criminal sanctions which may involve referring the matter to the police.

15. In all cases where the Council has suffered a financial loss, appropriate action will be taken to recover the loss.
16. In order to make employees, Members, the public and other organisations aware of the Council's continued commitment for taking action on fraud and corruption, details of completed investigations, including sanctions made will be publicised where it is deemed appropriate.

D. Prevention

Recruitment checks

- ~~17. A key measure to preventing fraud and corruption is to carry out rigorous pre-employment checks to establish the previous record and history of potential employees in terms of their integrity and propriety. This includes:-~~
 - ~~• obtaining suitable and relevant references;~~
 - ~~• checking gaps in employment history;~~
 - ~~• checking qualifications;~~
 - ~~• checks by the Disclosure and Barring Service (DBS).~~
- ~~18. The recruitment of temporary, permanent employees and agency staff is treated the same.~~

Responsibilities of management

19. The primary responsibility for the prevention and detection of fraud is with management. They must ensure that they have the appropriate internal controls in place, that they are operating as expected and being complied with. They must ensure that adequate levels of internal checks are included in working practices, particularly financial. It is important that duties are organised in such a way that no one person can carry out a complete transaction without some form of checking or intervention process being built into the system.

Internal Audit

20. Internal Audit is responsible for the independent appraisal of controls and for assisting managers in the investigations of fraud and corruption.
21. Internal Audit includes proactive fraud work in its annual audit plan, identifying potential areas where frauds could take place and checking for fraudulent activity.

Working with others and sharing information

22. The Council is committed to working and co-operating with other organisations to prevent ~~organised~~ fraud and corruption and protect public funds. ~~Wherever possible the Council will assist and exchange information with other appropriate bodies to facilitate the investigation of and to combat fraud. The Council may use personal information and data-matching techniques to detect and prevent~~

fraud, and ensure public money is targeted and spent in the most appropriate and cost-effective way. In order to achieve this, information may be shared with other bodies responsible for auditing or administering public funds including the Audit Commission, the Department for Work and Pensions, other local authorities, HM Revenue and Customs, and the Police. Kent County Council's Internal Audit Section will facilitate the exchange of information.

National Fraud Initiative

23. Kent County Council participates in the National Fraud Initiative (NFI). This requires public bodies to submit a number of data sets (currently to the Audit Commission but in future to the Efficiency and Reform Group, which is a joint Cabinet Office and Treasury initiative) for example payroll, pension, and accounts payable (but not limited to these) which is then matched to data held by other public bodies. Any positive matches (eg an employee on the payroll in receipt of housing benefit) are investigated.

Whistleblowing Procedure

- ~~24. The Council's Whistleblowing Procedure is intended to encourage and enable staff and organisations or individuals to raise serious concerns. Whilst employees are afforded certain rights and protection through legislation enacted under the Public Interest Disclosure Act 1998, the Council will do its best but cannot guarantee to protect the identity of an individual who raises a concern but does not want their name to be disclosed.~~
- ~~25. Employees (including managers) wishing to raise concerns should obtain a copy of the Whistleblowing Procedure on KNet.~~

Training and awareness

26. The successful prevention of fraud is dependent on risk awareness, the effectiveness of training (including induction) and the responsiveness of staff throughout the Council.
27. Management will provide induction and ongoing training to staff, particularly those involved in financial processes and systems to ensure that their duties and responsibilities are regularly highlighted and reinforced.
28. Internal Audit will provide fraud awareness training on request and will publish its successes to raise awareness.

E. Detection and Investigation

29. The Council is committed to the investigation of all instances of actual, attempted and suspected fraud committed by staff, Members, consultants, suppliers and other third parties and the recovery of funds and assets lost through fraud.
30. Any suspected fraud, corruption or other irregularity should be reported to the Head of Internal Audit. The Head of Internal Audit will decide on the appropriate course of action to ensure that any investigation is carried out in accordance with Council policy and procedures, key investigation legislation and best practice. This will ensure that investigations do not jeopardise any potential disciplinary action or criminal sanctions.

31. Action could include:
- Investigation carried out by Internal Audit staff;
 - Joint investigation with Internal Audit and relevant directorate management;
 - Directorate staff carry out investigation and Internal Audit provide advice and guidance;
 - Referral to the Police.
32. The responsibility for investigating potential fraud, corruption and other financial irregularities within KCC lies mainly (although not exclusively) with the Internal Audit Section. Staff involved in this work will therefore be appropriately trained, and this will be reflected in training plans.

E. Raising Concerns and the Whistleblowing Policy

Suspicious of fraud or financial irregularity

33. All suspected or apparent fraud or financial irregularities must be brought to the attention of the Head of Internal Audit in accordance with Financial Regulations. Where the irregularities relate to an elected Member, there should be an immediate notification to the Head of Paid Service or the Monitoring Officer.
34. If a member of the public suspects fraud or corruption they should contact the Head of Internal Audit or Counter Fraud Manager in the first instance. They may also contact the Council's External Auditor, who may be contacted in confidence.
35. The Council's Internal Audit Section can be contacted by telephone on 01622 694694 or by mail to internal.audit@kent.gov.uk.

Whistleblowing Policy

36. Employees (including Managers) wishing to raise concerns should refer to the Council's Whistleblowing [Procedure Policy and associated procedures](#).
37. The Council's Whistleblowing Policy encourages individuals to raise serious concerns internally within KCC, without fear of reprisal or victimisation, rather than over-looking a problem or raising the matter outside. All concerns raised will be treated in confidence and every effort will be made not to reveal the individual's identity if this is their wish. However, in certain cases, it may not be possible to maintain confidentiality if the individual is required to come forward as a witness.
38. Employees wishing to raise concerns can obtain a copy of the Whistleblowing Procedure on KNet.

~~Suspected or apparent fraud and irregularities must be brought to the attention of the Head of Internal Audit in accordance with Financial Regulations. Where the irregularities relate to an elected Member, there should be an immediate notification to the Head of Paid Service or the Monitoring Officer.~~

~~If a member of the public suspects fraud or corruption they should contact the Head of Internal Audit or Counter Fraud Manager in the first instance. They may also~~

~~contact the Council's External Auditor, who may be contacted in confidence via the Council's main telephone switchboard.~~

~~33.39. The Council's Internal Audit Section can be contacted by telephone on 01622 694694 or by mail to internal.audit@kent.gov.uk.~~

F. Conclusion

~~34.40.~~ Kent County Council will maintain systems and procedures to assist in the prevention, detection and investigation of fraud. This strategy will be reviewed annually and is available on the Council's Intranet (KNet).

Fraud Response Plan

A. Introduction

1. This Fraud Response Plan forms part of the Council's overall Anti-Fraud Strategy 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.
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 for Managers provides such guidance to ensure effective and timely action is taken. Other documents that should be referred to when reading the Plan include:
 - Officers' Code of Conduct
 - Disciplinary procedure
 - Financial Regulations

B. Objective of the Fraud Response Plan

3. 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
 - Identify any lessons which can be acted upon in managing fraud in the future

C. How to Respond to an Allegation of Fraud

Management

4. Where it is appropriate to do so, and where this can be done without alerting the perpetrator to the investigation, and staff involved have sufficient experience to do so without compromising any potential disciplinary or criminal investigation, initial enquiries may be made to determine if there actually does appear to be an issue of fraud or other irregularity.
5. The purpose of the initial enquiry is to confirm or repudiate the suspicions that have arisen so that, if necessary, further investigation may be instigated.

6. During the initial enquiry, managers should:
 - Determine the factors that gave rise to the suspicion
 - Examine factors to determine whether a genuine mistake has been made or whether a fraud or irregularity has occurred (i.e. any incident or action that is not part of normal operation of the system or the expected course of events)
 - Where necessary, carry out discreet enquiries with staff and / or review documents.
14. If the results of the initial inquiry indicate that a more detailed investigation should be undertaken, managers should contact Internal Audit.
15. Internal Audit should be informed as soon as possible of all suspected or discovered fraud or corruption, in order that they may offer advice on any specific course of action that may be necessary. Managers must inform Internal Audit of:
 - All the evidence that they have gathered.
 - The actions they have taken with regard to the employee (e.g. suspension or redeployment) or any other action taken to prevent further loss.

Internal Audit

16. Depending on the size of the fraud or the circumstances of its perpetration, the Head of Internal Audit will consider whether Internal Audit staff should undertake the investigation. If appropriate, advice and guidance will be provided to enable an investigation to be undertaken by the manager's own staff.
17. Internal Audit will review the outcome of the investigation (irrespective of whether undertaken by its own staff or directorate staff), to ensure that appropriate action is taken to help disclose similar frauds and make recommendations to strengthen control systems.

Investigating Officer

11. The respective Investigating Officer (either from the directorate or from Internal Audit) 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
 - where appropriate, contact other agencies
 - when appropriate, arrange for the notification of the Council's insurers

- report to senior management, and where appropriate, recommend that management take disciplinary/criminal action in accordance with this strategy and the Council's Disciplinary Procedures.
12. Where circumstances merit, close liaison will take place between the Investigating Officer, the respective Directorate and Human Resources as appropriate.

Evidence

13. The best form of evidence is original documentation. Where it is not possible to obtain originals, for whatever reason, a copy will normally suffice. The copy should be clearly endorsed as a copy and if possible certified as a true copy of the original. This should preferably be certified by the person who took the copy from the original source document.

Interviews

14. Managers should not conduct any interviews with any suspect or potential witness without seeking advice before hand from Internal Audit.
15. The matters under investigation may constitute criminal acts, and consequently any interview of potential suspects must be conducted and recorded under specific guidelines as detailed in the Police and Criminal Evidence Act 1984 (PACE). Criminal proceedings may be compromised by conducting interviews outside of the scope of PACE.
16. Normal practice will be that Internal Audit staff conduct and/or control any interview related to suspected criminal offences.

D. If Evidence of a Criminal Offence is Discovered

17. At the conclusion of an investigation it may be appropriate to pursue a criminal prosecution. This can be achieved by referring the evidence to the police or alternatively KCC could instigate its own criminal proceedings.
18. Section 222 of the Local Government Act 1972 empowers local authorities, where they consider it "expedient for the promotion or protection of the interests of the inhabitants of their area to:
- prosecute or defend or appear in legal proceedings and, in the case of civil proceedings, institute them in their own name, and
 - in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment".

Police referral

19. Where there is evidence that a criminal act has taken place and referral to the police is considered appropriate by the Head of Internal Audit, any necessary Police liaison will be undertaken by Internal Audit staff.
20. Once referred to the police the decision whether to charge, caution or discontinue any case will rest solely with the police and the Crown Prosecution Service and their decision is final.

Instigating Criminal Proceedings and the Decision to Prosecute

21. This section is not intended to be prescriptive and each case will be considered on its individual merits. This section describes criteria relating to the alleged offence, alleged offender and value of the fraud that will be taken into account.
22. When the Council is considering instigating criminal proceedings the case will be objectively assessed by the Head of Internal Audit who will separately assess the circumstances and the evidence in relation to each potential defendant and each alleged offence.
23. The Head of Internal Audit will give due regard to aggravating and mitigating factors; any evidence pointing towards a statutory (or other) defence; and the Code for Crown Prosecutors. In relation to the Code for Crown Prosecutions consideration will be given to:
 - whether there is sufficient ~~admissible~~ evidence ~~that a criminal offence has been committed and there is a~~ realistic prospect of conviction, what the defence may be and how it is likely to affect the prospects of conviction
 - whether the prosecution is in the public interest.
24. It has never been the rule that a prosecution will automatically take place once the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour.
25. When deciding the public interest the following questions will be considered. The questions are not exhaustive, and not all the questions may be relevant to every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.
~~The following are some specific criteria which will be taken into account (when relevant) whenever a prosecution is contemplated. This will ensure that a prosecution is brought only where it is appropriate to do so and promote consistency in the decision-making process.~~
 - How serious is the offence committed?
 - What is the level of culpability of the suspect?
 - What are the circumstances of and the harm to the victim?
 - Was the suspect under the age of 18 at the time of the offence?
 - What is the impact on the community?
 - Is prosecution a proportionate response?
 - Do sources of information require protecting?

Mitigating factors

- ~~Prompt acknowledgement of guilt.~~
- ~~Making timely and appropriate compensation to the victim(s).~~

- ~~Previous good character.~~
- ~~Age of the defendant.~~
- ~~Degree of culpability.~~
- ~~Other strong mitigation.~~

Aggravating factors

- ~~The impact or potential impact of the offence is so serious that prosecution is the only suitable method for disposal.~~
- ~~There has been long term or recurring offending.~~
- ~~Age or vulnerability of the victim(s).~~
- ~~Amount of gain for the offender or the amount of loss to the victim relative to the victim's status.~~
- ~~Impact of the crime on the victim.~~
- ~~Prevalence of the offence and its impact on the community.~~
- ~~Any attempt by the offender to conceal his/her identity, whether directly or indirectly, such that the victim, and/or investigating agencies, cannot easily identify or trace the person.~~
- ~~Lack of remorse.~~
- ~~The offender's history including previous advice, warnings, cautions and convictions.~~
- ~~There is evidence of significant and/or continuing consumer or public detriment.~~
- ~~There is risk to public health and safety, the environment, animal health and welfare, or a potential impact on disease control and/or traceability.~~
- ~~The offender has acted fraudulently or is reckless or negligent in their activities.~~
- ~~The offer of a simple or conditional caution has been rejected.~~
- ~~An officer was obstructed.~~

26. If during the course of the prosecution process new information becomes available, or the defendant's circumstances alter, a re-assessment of the course of action will be made and, if necessary, a prosecution withdrawn or a different allegation substituted.

After the Decision

27. Once the Head of Internal Audit has decided whether a criminal prosecution should be pursued by the Council, the appropriate Corporate Director will be consulted. If a prosecution is to be pursued the case will be referred to Legal Services who will review the case and if appropriate instigate criminal proceedings on behalf of the Council.
28. It should be noted that the final decision regarding whether or not a case is presented in court rests with the prosecuting solicitor. Where the prosecuting solicitor is the Council's Legal Services, a decision not to proceed with a case will only be taken after discussion in the first instance with the instructing officer.

Simple and Conditional Cautions

29. Where a prosecution could succeed and the offender admits their guilt, but the individual circumstances of the case suggest that a more lenient approach may be appropriate, in accordance with the Code for Crown Prosecutors consideration will be given to -offering a simple caution or referring the matter to the police requesting they deal with the case by way of a conditional caution.
30. No simple caution will be offered unless there is admissible evidence of sufficient weight to suggest that a court would be more likely than not to convict, and there are no statutory bars (e.g. in relation to time limits or statutory notices).

Monitoring

31. The Head of Internal Audit will report annually on the number of cases referred for prosecution and their outcomes to the Governance and Audit Committee.

Glossary of Terms

Fraud

The term 'fraud' is commonly used to describe the use of deception to deprive, disadvantage or cause loss to another person or party. This can include theft, the misuse of funds or other resources or more complicated crimes such as false accounting and the supply of false information.

The legal definition of fraud contained within the Fraud Act 2006 includes; fraud by false representation; fraud by failing to disclose information and fraud by abuse of position. Fraud is typically associated with financial loss however the strategy relates to acts of dishonesty whether or not financial loss is incurred.

Bribery and Corruption

~~Corruption is defined as the offering, giving, soliciting or acceptance of an inducement or reward that may influence the action of any person.~~

~~The main law relating to corruption in public bodies is contained in the Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Act 1906 as supplemented by the Prevention of Corruption Act 1916, Local Government Act 1972 and the Anti-Terrorism Crime and Security Act 2001.~~

~~The law specifies that it is sufficient to prove that money or other consideration has been given or received and will presume that the money or consideration has been given or received corruptly unless the contrary is proved. This represents a reversal of the usual legal presumption of guilt and innocence.~~

~~Corruption occurs if a person offers gifts or consideration as an inducement or acts in collusion with others (two or more persons acting together). This could involve elected Members or officers of the Council, members of the public or other third parties.~~

Bribery

The terms bribery and corruption are often used interchangeably. For example, corruption usually involves two or more people entering into a secret agreement. The agreement could be to pay a public official to secure a favour of some description, such as the award of a contract.

The Bribery Act 2010 replaced the Prevention of Corruption Acts 1889 to 1916 with a new consolidated scheme of bribery offences. New UK anti-bribery legislation also came into force on 1 July 2010. The Bribery Act 2010 makes it an offence to;

- Offer, promise or give a bribe (section 1).
- Request, agree to receive, or accept a bribe (section 2).
- Bribe a foreign public official in order to obtain or retain business (Section 6).
- The Act also introduced a new corporate offence (section 7) of failure by a commercial organisation to prevent bribery in the course of its business.

The Council's anti-bribery policy and procedures can be accessed on KNet.