

Agenda Item 8

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Ward(s) affected	The report covers the whole District
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Subject	COUNTER FRAUD POLICIES
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RECOMMENDATION

That the Executive consider and approve the revised and updated (1) Anti Fraud and Anti Corruption Policy and (2) Prosecution & Sanction Policy.

1.0 Introduction

- 1.1 The updated versions of the Council's Anti Fraud & Anti Corruption Policy and Prosecution and Sanctions Policy were presented, in draft form, to the Audit Committee in November 2015. They had been revised and updated to reflect latest developments. (The previous versions were approved by the Committee in 2011.)
- 1.2 Since November, the draft policies have been considered by the Staff Consultative Forum and amended for reconsideration by the Audit Committee at its June meeting. The Policies, as amended following these consultations, are now presented for the Executive's approval at Annex A and B.
- 1.3 The main changes to the previously approved versions (from 2011) are summarised below.

2.0 Anti- Fraud and Anti- Corruption Policy (ANNEX A)

2.1 Significant changes

- Amalgamating the separate Policy and Strategy into one document as recommended by Audit Committee

- Removing the detail of Prosecution/ Sanctions / Disciplinary as these now covered in more detail in the separate Prosecution and Sanction Policy (Annex B).
- Summarising and update of “The Action the Council will take” (para 9).
- Adding a section on “Publicising Proven Fraud” (para 16)
- Identify the Fraud and Investigation Team, describing its role, and planned activity (para 5.8)
- Include intention for new Recruitment Vetting process (para 10.3)
- Include reference to the Surrey Counter Fraud partnership (SCFP) (para 10.9)
- Surveillance paragraph amended to allow for surveillance to be conducted as long as requested and authorised to a RIPA level.(para 12.8)

3.0 Prosecution and Sanction Policy (ANNEX B)

- 3.1 The new Policy replaces the previous Benefit Fraud Prosecution and Sanction Policy. It reflects the changes in working practice due to the removal of Benefit Fraud Investigation and prosecution from the Council to the centralised Department for Work and Pensions (DWP) agency, the Single Fraud Investigation Service (SFIS). Along with the remaining responsibilities in support of the SFIS, the Council is now focusing fraud and investigation work and assets towards other types of fraud committed against the local authority and partner organisations. This new focus involves working with other Surrey authorities in a partnership supported by Government funding as well as addressing fraud and investigation priorities within MVDC.
- 3.2 The Prosecution and Sanction Policy sends a clear message that the Council will take firm action against anyone committing fraud relating to any of the services provided by MVDC. It identifies the options available, the decision making considerations and process, and allows for legal action to be taken for all types of fraud and corruption.

4.0 Whistleblowing Policy

- 4.1 A third revised Policy, relating to Whistleblowing, has also been subject to consultation. Further work is required on this and it will be re-presented to Audit Committee in September. With Audit Committee’s approval, it will then be recommended to Executive.

5.0 CORPORATE IMPLICATIONS

Monitoring Officer commentary – legal implications taken into account

S151 Officer commentary - The S151 Officer confirms that all financial implications have been taken into account.

Risk – the counter fraud activity is targeted at reducing the risk of fraud and corruption and protecting the Council's assets.

Equalities Implications – there are no equalities implications arising as a direct consequence of this report.

Employment Issues – The Council's HR Team has been fully involved in the staffing issues described in the report.

Sustainability Issues - None within the report.

ANNEX A



ANTI FRAUD AND ANTI CORRUPTION POLICY

Last updated	June 2016
Responsible Officer	Financial Services Manager
Agreed by	Audit Committee 30 June 2016 Council & Staff Consultative Forum 5 July 2016 Executive 19 July 2016
Next update due	June 2018

This Policy was approved by the Audit Committee on 30th June, the Staff & Members Consultative Forum on 5th July and the Executive on 19th July. It forms part of the Local Conditions of Employment and Members Code of Conduct.

1. INTRODUCTION

1.1 Mole Valley District Council is a public body and will not tolerate any fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority. The purpose of this policy is to make clear the Council's attitude towards fraud and corruption. It is designed to:

- Encourage prevention
- Promote detection
- Identify a clear pathway for investigation
- Reduce financial loss or damage to the authority

1.2 The public are entitled to expect the council to conduct its affairs with integrity, honesty and openness and demand the highest standards of conduct from those working for it. They also expect that the Council will safeguard public funds and ensure that they are available and used for their intended purpose of providing services for the residents of Mole Valley.

1.3 The Policy outlines the Council's commitment to meeting these expectations by creating a culture of zero tolerance of fraud, theft and corruption and maintaining high ethical standards in its administration of public funds. Specifically the Council will ensure probity in local administration and governance by making sure that the opportunity for fraud, theft and corruption is reduced to the lowest practical risk with losses minimised and also taking positive action against all forms of fraud, theft and corruption.

1.4 This Policy is binding on all councillors and employees of the Council. For the purposes of this policy, the definition of employee / staff will include all permanent employees at MVDC, Members and any worker who carries out work for MVDC in any capacity. The Policy should also be a key element in setting out the provisions of partnership arrangements and third party arrangements.

1.5 This policy should be read in conjunction with the Council's other policies and procedures that relate to fraud prevention and detection. These include:-

- Whistleblowing Policy
- Financial Regulations
- Contract Standing Orders
- Disciplinary Policy
- IT Security Policy
- Anti-Money Laundering Policy
- Fraud Response Plan

- Finance Manual
- Prosecution and Sanction Policy

2. COUNCIL POLICY STATEMENT

2.1 Mole Valley District Council is determined that the culture and tone of the organisation is one of honesty and opposition to fraud and corruption. There is an expectation and requirement that all individuals and organisations associated in whatever capacity with the Council will act with honesty and integrity. The Council expects all staff and elected members to lead by example to ensure that high standards of propriety and accountability are established and strictly adhered to, and that personal conduct is beyond and above reproach at all times. The Council requires all staff and elected members to ensure adherence to statutory and internal rules and regulations, procedures and recommended practices, and report any concerns to the relevant Manager.

2.2 In addition we expect all individuals and organisations that the Council comes into contact with (e.g. suppliers, contractors, service users and partners) to act towards the Council with integrity and without intent or action to commit fraud or corruption against the Council.

2.3 The Council is responsible for the proper administration of its finances. This not only includes direct income and expenditure but also monies that we administer on behalf of the Government, on behalf of our clients, and that for which we are the responsible accountable body. Anyone committing fraud, either inside or outside the organisation, puts at risk these sources of income and expenditure and our valuable assets.

2.4 The Council will review all allegations of fraud and corruption made or identified, and investigate all allegations that are viewed as presenting a significant risk to Council or partner resources, and /or integrity. The Council will also undertake proactive actions in areas of high risk to identify fraudulent or corrupt practices. All cases of proven fraud will be subject to criminal sanction in line with the Council's Prosecution and Sanction Policy. The Council will robustly recover any amount of money identified as lost as a result of fraud or corruption.

2.5 The Council's staff and elected Members are an important element in its stance on fraud and corruption and they are positively encouraged to raise any concerns which they may have on those issues where they are associated with the Council's activity. They can do this in the knowledge that such concerns will be treated in confidence, properly investigated and fairly dealt with, in line with the Council's Whistleblowing Policy.

3. WHAT IS FRAUD

3.1 There are many definitions of fraud because of the many ways that it can be committed. However in the widest sense it is an intentional act (either dishonestly, knowingly or recklessly) to deceive or damage another with the intent to for personal gain. Acts refer to the types of fraud that can be committed, the list is not exhaustive and fraud is ever evolving. Some examples are providing false information, failure to declare information, theft, collusion, bribery, money laundering, falsification of records, counterfeiting, and claiming allowances or benefits to which there is no entitlement

3.2 It is also important to point out that fraud can also be committed in writing, or in person whether face to face or by telephone, and via correspondence such as emails or the internet. The Policy covers all types of fraud and corruption and any attempt at fraud or corruption will be taken seriously regardless of whether or not it was successful.

3.3 The Fraud Act 2006 came into force on the 15th January 2007. This introduced a defined offence of fraud, which is broken into three sections:

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

Fraud by false representation

3.4 Fraud by false representation must be made dishonestly, and is made with the intention of making a gain or causing a loss or risk of loss to another.

3.5 A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. Representation can be stated by words or communicated by conduct i.e. written, spoken or by electronic means.

Fraud by failing to disclose information

3.6 An offence will be committed if a person fails to declare information which he/she has a legal duty to disclose. The person must act dishonestly and either intends to make a gain for himself/herself, cause a loss to another or expose another to a risk of loss.

Fraud by abuse of position

3.7 Fraud by abuse of position requires a person who is in a privileged position to act dishonestly by abusing the position held. The dishonest act must be with the intention of making a gain for himself/herself or another. Alternatively it may be with the intention of causing a loss or risk of loss to another. The offence may be committed by omitting to make a declaration as well as by an act.

3.8 The introduction of the Fraud Act 2006 does not prevent the prosecution of the offences under the various Theft Acts and Forgery and Counterfeiting Act, e.g. theft, counterfeiting and falsification of documents.

3.9 Examples of potential types of fraud which could be perpetrated against the authority are listed at the end of this document

4. WHAT IS CORRUPTION?

4.1 Corruption is the offering, giving or accepting of an inducement or reward which would influence the actions taken by the Council, its members or officers.

4.2 Corruption may also be deemed to include criminal acts and situations where any Member or officer intentionally makes a decision which gives any person an advantage or disadvantage where the decision is contrary to the policy/procedures governing the decision making process and is based on no sound reasoning. The latter part of this definition is intended to encompass all types of discrimination, both positive (where any person gains an unfair advantage) and negative (where any person is unfairly disadvantaged).

5. INDIVIDUAL RESPONSIBILITIES

5.1 The purpose of this Policy is to outline the Council's approach, as well as defining roles and responsibilities, for dealing with the threat of fraud and corruption, both internally and externally. It therefore applies to:

- Employees
- Councillors
- Consultants, agency and contracted staff
- Partners and other third parties including the voluntary sector who receive funding or support from, or deliver services on behalf of the Council
- Contractors/ Suppliers with which the Council does business
- Staff and committee members of organisations funded by the Council.

5.2 All parties above, as part of conditions of office, employment, grant or contracts, are expected to demonstrate integrity and honesty. Fraud is an ever-present threat to the resources of the Council and therefore must be a concern to all staff and Members. Everyone in the Council has a responsibility and role to help prevent fraud.

Employees

5.3 All employees have an important role to play in combating fraud. Specific responsibilities include acting with propriety in the use of any Council resources and reporting any suspicion of fraud to their line manager or Whistleblowing contact directly.

Councillors

5.4 All Councillors are required to play a vital role in promoting our zero tolerance of fraud culture by leading by example, demonstrating active support of the Policy and by reporting any suspicion of fraud to the Council's Monitoring Officer or Section 151 Officer.

Councillors are currently required to operate within various laws, regulations and codes of practice, the main ones being:

- Part III Local Government Act, 2000
- Part 10 Local Government and Public Involvement in Health Act 2007
- The Member Code of Conduct
- The Council's Constitution and those of associated bodies.

These matters and other guidance are specifically brought to the attention of Councillors at the induction course for new Councillors and are in each Councillor's Handbook; they include rules on the declaration and registration with the Monitoring Officer of interests and of potential areas of conflict between Councillors' Council duties and responsibilities and any other areas of their personal or professional lives.

The Council has in place an Overview and Scrutiny process. Its remit includes the review of decisions and actions undertaken by the Council. Any matter arising from this process, in which fraud is suspected, will be referred to Internal Audit and/or the Police for independent investigation.

The Council has an established Standards Committee, which has independent representatives within its membership, to examine issues of suspected/alleged misconduct by Councillors. An annual report is produced.

The Council has an Audit Committee in place to oversee the work of Internal Audit, the audit of the Final Accounts and seek to gain assurance that systems are in place to minimise fraud and corruption across the Council.

Chief Finance Officer (Section 151 Officer)

5.5 Section 151 of the Local Government Act 1972 requires that every authority shall:

"...make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers has responsibility for the administration of those affairs".

5.6 For Mole Valley Council the Deputy Chief Executive is the appointed Section 151 Officer. The Deputy Chief Executive, in fulfilling his statutory duties, will be involved in the following activities:-

- provision of financial advice in the strategic planning and policy making process
- provision of advice on the optimal use of resources
- provision of advice on the management of capital and revenue budgets
- provision of financial advice to the Council and members to facilitate service delivery
- provision of management information
- preparation of statutory and other accounts and grant claims
- provision of an effective internal audit function
- assistance to management in providing safe, robust and efficient financial arrangements
- provision of effective income collection and payment systems
- advising on treasury management and trust funds
- advice on the safeguarding of assets, including risk management and insurance

5.7 In addition, under the Accounts and Audit Regulations 2003, as the 'responsible financial officer' he is required to determine the accounting control systems which shall include:

- "measures to enable the prevention and detection of inaccuracies and fraud"
- "identification of the duties of officers dealing with financial transactions and the division of responsibilities of those officers in relation to significant transactions."

Fraud and Investigation Team (FIT)

5.8 The FIT is the investigatory arm of the Council, and is charged with leading the fight against Fraud and Corruption. They will actively investigate all appropriately risk scored allegations of fraud and corruption. Investigations will be carried out to a professional level, and comply with all relevant guidelines.

The FIT will also undertake various pro-active anti fraud activities, designed to identify high risk cases, and provide assurance that services are not at risk.

FIT will report all findings to appropriate service managers, to assist with implementing controls, and good practice to reduce fraud risks.

Audit

5.9 The maintenance of a continuous internal audit is a statutory obligation placed upon the Section 151 Officer, on behalf of the Council. Its primary purpose may be defined as being the appraisal of the internal controls operating throughout all the Council's activities, as an assurance function to management at all levels and in all services. In addition, it has an even wider purpose in complementing and supporting the external auditor's work on behalf of the Council and all those who pay Council Tax and other fees and charges to the Council.

The Council's Financial Regulations state that:-

The Internal Audit Code of Practice clearly outlines that it is management who are responsible for managing the risks associated with fraud, including the introduction and implementation of effective control arrangements to help prevent and detect fraud. Internal Audit does not have responsibility for the prevention or detection of fraud and corruption. Internal Auditors should, however, be alert in all their work to risks and exposures that could allow fraud or corruption and to any indications that fraud or corruption has been occurring. Audit procedures alone, even when performed with due professional care, cannot guarantee that fraud or corruption will be detected.

Operational Managers

5.10 Outside the formal delegations highlighted above, all levels of management are responsible for:

- implementing and maintaining effective controls in the systems for which they are responsible, and for deterring, preventing and detecting fraud
- Ensuring there are systems in place to monitor compliance with any policies and procedures for which they are responsible
- Ensuring that they and their staff comply with policies, including this Policy.

6. COLLECTIVE RESPONSIBILITIES

6.1 The Council supports the seven principles of Public Life set by the Committee on Standards in Public Life and would expect all members and staff to develop working behaviour around these principles.

6.2 The Seven Principles of Public Life are:

- *Selflessness*

Holders of public office take decisions in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family, or their friends

- *Integrity*

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties

- *Objectivity*

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit

- *Accountability*

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office

- *Openness*

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

- *Honesty*

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

- *Leadership*

Holders of public office should promote and support these principles by leadership and example

6.3 The Council is determined that the culture of the organisation is one of honesty and opposition to fraud and corruption. These principles must therefore be adopted by all Members and staff and will be reflected in our procedures and ways of working in order to assist in the prevention of fraud and corruption.

6.4 There is an expectation and requirement that all individuals and organisations associated in whatever way with the Council will act with integrity and that Members and staff, at all levels, will lead by example in these matters.

7 INTERNAL CONTROL SYSTEMS

7.1 The Council has Contract Procedure Rules, Financial Regulations, Financial Procedures and various rules and codes of conduct in place. Staff are required to comply with this best practice when dealing with the Council's affairs.

7.2 The Council also has an Anti Money Laundering Policy which aims to prevent fraudsters laundering the proceeds of crime through the Council by placing limits on the amounts of cash that will be accepted and specifying the checks that will be made when high cash values are received.

7.3 The Council's aim is to have sound financial systems and procedures, which incorporate efficient and effective internal controls. As part of the strategy, it is essential that accurate records are kept and preserved, a management/audit trail is maintained and the principle of "separation of duties" adopted where appropriate.

7.4 The Council's Finance Manual requires that senior officers are responsible for establishing adequate internal control such that the activities within their remit are dealt with efficiently and effectively. The existence, appropriateness, and effectiveness of these internal controls is independently monitored and reported upon by the Council's Internal Audit service and reviewed by the Section 151 Officer.

8. WHISTLEBLOWING POLICY

8.1 The Council's Members and staff are an important element in its stance on fraud and corruption and they are positively encouraged and expected to raise any concerns that they may have on these issues. This can be done in the knowledge that such concerns will be treated in confidence and investigated properly and fairly. If staff have any particular concerns they should report them in accordance with the Council's Whistleblowing Policy. Employees reporting concerns this way are afforded certain rights and protection through legislation enacted under the Public Interest Disclosure Act 1998. Employees who report concerns will be supported and protected from reprisals. Everything possible will be done to

protect their confidentiality, within the constraints of legal requirements. They will be advised of the action that has been taken by the person to whom they reported their concerns.

8.2 Members should report any concerns directly to the Deputy Chief Executive (Section 151 Officer). Complaints against Members should be referred to the Council's Monitoring Officer.

9. THE ACTION THE COUNCIL WILL TAKE

9.1 The Council will risk assess all suspicions of fraud, and make a decision based on the scale of potential loss (either financial or reputational) or likelihood of establishing fraud has taken place, as to whether to investigate further. All accepted allegations will be investigated promptly and fully in a professional manner in accordance with investigation procedures. The Council will also undertake pro-active activity in order to identify suspicious of fraud or malpractice, including bulk data matching. The Council will work in partnership with other local authorities, central government agencies, and other official bodies to target fraud that would impact on the Council's services, and finances.

9.2 The Council will deal swiftly and firmly with those who defraud the Council or who are corrupt. The Council will be robust in dealing with financial malpractice.

9.3 The Council also wishes to safeguard their staff against unfounded allegations. The Council will operate fair procedures, and will take disciplinary action against any staff member who is found to have deliberately made a false accusation.

9.4 The Council is determined to create an Anti Fraud Culture. The culture can be described as that of zero tolerance, this means that the Council will take every reasonable action to prevent and deter fraud. It is not possible to prevent all fraud therefore the Council will have effective systems in place to detect fraud promptly. Once detected procedures will be in place to ensure the comprehensive investigation of all potential frauds, and if proven apply the most appropriate sanction and consider all methods of recovery. The impact on the control environment will be considered to reduce the risk of a similar occurrence in the future.

9.5 Publicity and awareness are an integral part of creating an anti fraud culture, as well as effective prevention and deterrent tools. As such we are committed to ensuring that awareness levels are as high as they can be across the Council. The Policy is available on both the intranet and the internet, and summary materials are provided in the form of an intranet webpage and newsletter. All new employees will receive Anti-Fraud and anti-Corruption Awareness training as part of their induction into the Council.

5.3 In addition where the outcomes of specific risks and investigations can be publicised they will be the subject of Council wide communications and the fraud newsletter, web alerts etc. to further enhance the deterrent effect and reduce the risk of further fraud occurring. Successful convictions for fraud or corruption may be reported publicly

10. PREVENTION

10.1 Fraud is costly, both in terms of reputational risk and financial losses. To reduce the risk of loss we must aim to prevent it from happening in the first place. There are a number of key processes, which can assist in prevention of fraud and corruption;

- Employee Recruitment and Conduct
- Internal Control Systems
- Combining with others to prevent and combat fraud
- Data Matching
- Fraud Hotline / on line reporting

Employee Recruitment and Conduct

10.2 A key preventative measure against fraud, theft and corruption is at the recruitment stage by establishing, as far as possible, the identity and the previous record of potential employees, in terms of their propriety and integrity. In this regard, temporary employees and casual workers should be treated in the same manner as permanent employees. Employee recruitment should be in accordance with procedures laid down by legislation, Council decisions, policies, procedures and codes of practice. Written references must be sought with specific assurances regarding the known honesty and integrity of potential employees before unconditional employment offers are made. Checks are made on an individual's right to work in the UK, qualifications produced in accordance with desirable/essential criteria for the post being applied for and any relevant health and criminal record checks.

10.3 Mole Valley District Council will use pre-employment vetting for all new employees, in order to check for integrity and honesty, and verify information provided. This involves checking of the information that they have provided on application, for example, against this and other Council's records, credit referencing, specialised anti- fraud vetting providers and other persons or agencies that may hold relevant information. Checks will be conducted for successful applicants only. The pre-employment vetting will be clearly noted on all job adverts and application forms. If as a result of vetting information is identified that throws doubt on the honesty or integrity of an applicant, the job offer may be withdrawn, or employment

terminated if already commenced. If evidence of fraud is identified the Council may take further legal action, including prosecution.

10.4 All employees must abide by the Code of Conduct for Employees, which forms part of each employee's contract of employment. Employees of the Council are also expected to follow any code of conduct related to any professional body and immediately notify the Council if they come into conflict with any such code.

10.5 The Council has in place employee disciplinary procedures. Any breach of conduct will be dealt with under these procedures and may result in a number of actions and even dismissal in the most serious cases.

10.6 Employees are required to declare the offer of any gift or hospitality, in line with the Code of Conduct. This requires that employees shall not accept the offer of any fees or rewards whatsoever other than their proper remuneration. Any such offer is to be recorded centrally. Employees are also expected to declare any interests they may have which could cause conflict of interest in their current role. For example Internal Audit completes an annual return declaring any pecuniary interests

Working Combining with Others to Prevent and Fight Fraud

10.7 There are a variety of arrangements in place which facilitate the regular exchange of information between the Council and other local authorities and agencies for the purpose of preventing and detecting fraud. These involve national, regional and local networks of investigators. The Council will liaise where appropriate with outside organisations to encourage closer working. However these arrangements will be subject to compliance with data protection regulations.

10.8 There is also an intelligence gathering, collation and dissemination service on fraud, theft and corruption known as the National Anti-Fraud Network (NAFN), of which the Council is a member.

10.9 The Council is also a member of the Surrey Counter Fraud Partnership (SCFP). This is a partnership of Surrey County Council and 8 of the 11 Councils in the Surrey region. The Partnership was formed in early 2015 after a successful bid to obtain central government fund for fraud deterrence. Each participating authority will employ experienced fraud investigators dedicated to investigating fraud that costs local tax payers. The partnerships will co-ordinate closer working, sharing of information, knowledge and resources, and organising County wide anti –fraud campaigns

10.10 Data matching is also undertaken. This is recognised as an important tool in the prevention and detection of fraud, and is used by many other public bodies. The Cabinet Office has implemented a Code of Data Matching for its National Fraud Initiative (NFI), which is recognised by the Information Commissioner as complying with Data Protection legislation. The Council participates in the Cabinet Office's National Fraud Initiative (NFI). The Council provides information obtained from its databases (such as Payroll, Council Tax, Housing Benefit, Electoral Register, Licensing and so on) which is matched with that of other authorities and agencies, to identify possible fraud.

10.11 Details of matches are returned to the FIT where further internal investigations are undertaken to identify and pursue cases of fraud and irregularity perpetrated by staff and outside persons, against Council administered activities.

10.12 The Council will also participate in other data matching activities, including matching Council or partner data, against data held by specialist anti fraud data collection agencies, such as credit referencing and consented data.

10.13 The Council has a Benefit Fraud Hotline (01306 879294), and introduced an online form, to allow members of the public to report individuals who are suspected of committing fraud or corruption against the Council or partners.

11. DETERRENCE

11.1 There are a number of ways to deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside or outside of the Council, and these include publicising widely the Council's stance on fraud and seeking to prosecute whenever possible.

11.2 The Council will also:-

- publicise outcomes of investigations where it is considered appropriate and will not prejudice any possible police action
- ensure the anti fraud policies and strategies are publicised, to staff, partners and public.
- act robustly and decisively when fraud, theft and corruption is suspected and proven, e.g. the termination of contracts, the dismissal and/or prosecution of offenders
- take action to effect the maximum recoveries for the Council, e.g. through outstanding pay, court action, insurance etc.
- develop and maintain robust preventative measures such as sound internal control systems that still allow for innovation and calculated risk, but at the same time minimise the opportunity for fraud and corruption.

12 DETECTING AND INVESTIGATING FRAUD

12.1 Despite the best efforts of managers and auditors to detect fraud through the operation and review of internal controls, some frauds are discovered by chance or "tip off", either through the alertness of staff or from a member of the public. In such cases, staff should report actual or suspected instances of fraud or money laundering to the Section 151 Officer or their representative.

12.2 Reporting suspected irregularities is essential to ensure compliance with this Policy and ensures:

- consistent treatment of information regarding fraud and corruption
- the Fraud Response Plan is carried out properly
- proper investigation by independent and experienced investigators and engagement of all relevant parties
- people and Council interests are protected
- internal control implications are considered.

12.3 The Fraud Response Plan identifies the persons responsible for the type and course of the investigation. Upon receipt of an allegation of fraud or corruption perpetrated by a member of staff or a member, The Fraud and Investigation Manager will notify the relevant Corporate Head of Service, and Financial Services Manager. The allegation will be risk assessed and an appropriate investigation plan initiated. Actions will be taken in line with the processes contained within the Council's Fraud Response Plan. In particular where the allegation relates to a potential disciplinary and fraud matter, the investigators and HR Department will work closely to ensure that any investigation into criminal behaviour will take priority over disciplinary matters. All fraud allegations relating to staff or members will be escalated to the Section 151 Officer and Monitoring Officer respectively.

12.4 The plan will include recommendations as to which body will investigate allegation. The Council retains the option to use the FIT, Auditors or other outside investigation service providers. The Fraud Manager will monitor the investigation and ensure that the investigators:

- Deal with the matter promptly (and in any event commence the investigation within 5 working days of being notified of it)
- Record all evidence received
- Ascertain whether the evidence is sound and adequately supported
- Act in accordance with all investigative legislation, in order to ensure that a criminal prosecution can be taken if necessary

- Wherever possible act in a discreet and professional manner, whilst investigating the allegations. This is because some allegations may be unfounded or malicious, and it would be fair to protect the reputation of the accused until proven otherwise.
- Report back to the Head of Service at the conclusion of the investigation, and at other agreed intervals.

12.5 If the allegation relates to non staff / Council related fraud, such as Council Tax or Housing Fraud, then the decision as to whether to accept the referral and who will investigate will be made by the Fraud and Investigation Manager, in agreement with the Service Manager. The Fraud and Investigation Manager will monitor the investigations progress and will keep the appropriate Service Manager advised of the investigation progress at regular intervals.

This will include referring cases to the Police where necessary. The Council will ensure management action is always taken and may prosecute offenders, after carrying out disciplinary procedures where appropriate. Any internal proceedings do not prejudice any criminal case.

12.6 Depending on the nature and anticipated extent of the allegations, fraud investigators will normally work closely with:

- Departmental Management
- Human Resources
- Legal Services
- Other agencies, such as the Police

This is to ensure that all allegations and evidence are properly investigated and reported upon, and that where appropriate, recoveries are made for the Council.

12.7 All allegations of fraudulent activity are reviewed and subject to a risk assessment. In all cases control issues will be reviewed and weaknesses identified. Some cases are followed up with a full investigation, whilst others are better dealt with as management issues. Where appropriate departments shall:

- report allegations swiftly
- record all evidence received
- ensure that evidence is sound and adequately supported
- secure all evidence collected
- where appropriate, contact other agencies, e.g. Police, DWP

- report to senior management, and where appropriate, support the Council's disciplinary procedures

12.8 Where surveillance is required as either part of investigation or as part of disciplinary action this requires authorisation by A RIPA (Regulatory Investigations Procedures Act) Authorising Officer. All surveillance will be requested and authorised under RIPA regulations, or to the same standard of a RIPA authorisations, and will include a full and fair assessment of necessity and proportionality.

12.9 The Council's External Auditors also have powers to independently investigate fraud and corruption.

12.10 Where financial impropriety is discovered relating to employees, members, or grant aided voluntary organisations, the matter may be referred to the Police for investigation . Such decisions are a matter for the Section 151 Officer. Referral to the Police will not necessarily prohibit action under the disciplinary procedure.

13 FRAUD AND INVESTIGATION TEAM ACTIVITY

13.1 The FIT will work to a regularly reviewed action plan, detailing the specific areas of activity that resources will be focused on. The Action Plan will be devised based on activities that meet these 3 key factors

- Value for money to Council or Tax payer
- Provide income
- Provide assurance

The action plan will also be driven by recent national and local trends or risk in fraud activity, lessons learned from previous fraud investigations or allegations, recommendations from audit reports, and central government direction.

14 COURSES OF ACTION

14.1 A number of sanctions are available to the Council to ensure that proven offences are punished appropriately in seeking to promote a culture of zero tolerance of fraud, and also acting as a deterrent to others to commit fraud. The possible sanctions should be considered throughout the investigation and appropriately recorded.

14.2 The following sanctions will be considered;

- internal disciplinary sanctions can range from management counselling and warnings to dismissal in the most serious cases
- Council led prosecution or other sanction, as detailed in the Council's Prosecution and Sanction Policy
- Police action can range from cautions to prohibition orders and ultimately custodial sentences for the most serious offences
- Civil recovery, the Council can apply for recovery under civil law. In these cases the Monitoring Officer in consultation with the Section 151 Officer will determine whether a private prosecution or civil action would be in the Council's interest.

The decision to recommend any or all of the above sanctions will be made on a case by case basis, having regard to the Disciplinary Policy and Prosecution and Sanction Policy in place at the time. At the conclusion of each investigation, the FIT will produce a report. The Manager whose responsibility encompasses the area of that investigation will then decide whether or not to formally accept the report and take the appropriate action (disciplinary or other).

14.3 In matters involving a staff member, where there is objective evidence available to lead to a conclusion of fraud, theft, corruption, serious financial malpractice, or use of position for personal gain or for the gain of others, this is likely to constitute gross misconduct and may lead to summary dismissal.

This applies to employees who improperly benefit from the Council as a corporate body, and not just those who steal funds from their own unit. It also applies to employees who defraud or steal from the Council's clients. We will also take disciplinary action against Officers who commit fraud against other Local Authorities, the Department of Work and Pensions or any other agency administering public funds.

14.4 Where the fraud is committed by an employee of a contractor or partner organisation, we will request that the organisation takes appropriate disciplinary action against the individual

15 REDRESS STATEMENT

15.1 A crucial element of the Council's response to tackling fraud is seeking financial redress – the recovery of defrauded monies is an important part of the Council's strategy and will be rigorously pursued. Redress can be defined as the recovery or attempted recovery of assets lost or defrauded. This would include any type of financial recompense for the fraud.

15.2 The Council will seek to recover its losses considering all the appropriate options open to it. This will include the identifying of amounts overpaid and raising of invoices. If repayment in full is not made or a suitable arrangement is not entered into within a

reasonable time, civil or criminal legal action will be commenced. If the perpetrator of the offence has absconded attempts will be made to trace an address.

15.3 The recovery options available to the Council include the following:

- Charges on property
- Charges on pension
- Third Party (Garnishee)
- Attachment of earnings
- Freezing injunctions
- Confiscation orders
- Compensation
- Restitution Orders

15.4 Where appropriate, under the Proceeds of Crime Act (POCA), the Council will use a Financial Investigator to identify and recover any assets or money obtained as a result of illegal activity.

15.5 The Council maintains that criminals should not profit from their crimes. It will use every means at its disposal, therefore, to recover all overpayments considered to be fraudulent. Redress is not to be seen as an additional activity to disciplinary or criminal sanction action, but as an integral part of tackling fraud. In cases where an investigation has taken place but no disciplinary or criminal sanction action has followed, Mole Valley District Council will still seek to recover any overpayment that has occurred.

16. PUBLICISING PROVEN FRAUD

16.1 The Council may publicise all cases of fraud or malpractice proven through the courts. This will include the names of the guilty together with details of their crime.

17. TRAINING

17.1 The Council recognises that the success and credibility of its Anti Fraud and Anti Corruption Policy will depend largely on how effectively it is communicated throughout the organisation and beyond. To this end, details of the Policy will be provided to all members and all employees and have been included on induction programmes. The Policy is also shown on the Council's web page and available on the Intranet, along with other associated material. Officers who are involved in investigating fraud and corruption will be provided with suitable training.

18. CONCLUSIONS

18.1 The Council has in place a robust network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments, in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation or related responsibilities. To this end, the Council maintains a continuous overview of such arrangements.

18.2 The Anti Fraud and Anti Corruption Policy provides a comprehensive framework for tackling fraudulent and corrupt acts against the authority. The approval of the Policy by the Audit Committee, on behalf of the Council, demonstrates the Council's commitment to protecting public funds and minimising losses to fraud and corruption. Having made this commitment, it is imperative that the Strategic Management Team put in place arrangements for disseminating the Policy and promoting fraud awareness, throughout their services.

19. EXAMPLES OF FRAUD AND CORRUPTION

- Theft of Council property or services
- False Homelessness / Housing application
- False Council Tax Discount application
- Council Tax support fraud
- Social Housing fraud
- Evading liability for payment
- False accountancy, including the destruction, concealment or falsification of any account or record, or giving misleading, false or deceptive information
- Obtaining property by false pretences
- Misuse of office
- Bribery

- Working while on sick leave
- Falsifying time or mileage sheets, including flexitime
- Selling Council equipment inappropriately
- Failure to declare an interest
- Fraudulent tendering process
- Fraudulent property letting
- Accepting any gift or consideration as an inducement for doing or refraining from doing anything in relation to Council business.

This Policy will be subject to review by the Fraud and Investigation Manager, to ensure that it remains current and effective.



ANTI FRAUD AND ANTI CORRUPTION PROSECUTION AND SANCTION POLICY

Last updated	June 2016
Responsible Officer	Financial Services Manager
Agreed by	Audit Committee 30 June 2016 Council and Staff Consultative Forum 05 July 2016 Executive 19 July 2016
Next update due	June 2018

1.Introduction

1.1 The Council's Anti-Fraud and Anti-Corruption Policy sets out the aims and objectives with regard to tackling fraud and corruption and includes the Council's Prosecution Policy Statement. It states that we will seek the strongest possible sanction against any individual or organisation that defrauds, or seeks to defraud the Council. The use of prosecution will be governed by the following Policy, and the principles of the Policy shall apply equally to any fraud against the Council, or against funds for which the Council has responsibility.

1.2 The Policy covers all circumstances, or types of fraud against the Council, and / or partner organisations.

1.3 The objective of the Prosecution Policy is to ensure that:

- The Council considers a full range of sanctions, including criminal proceedings, in a just and consistent manner;
- Sanctions are applied in an effective and cost efficient manner;
- The decision to prosecute is robust and transparent.

1.4 This Policy is designed to provide a framework to ensure that the most appropriate resolution to a case is reached. The decision to prosecute will have regard at all times to the Council's Anti-Fraud and Anti-Corruption Policy objectives, the individual circumstances of each person concerned and the overall impact of the punishment to both the individual and the community.

1.5 A range of sanctions are available to the Council. These include:

- Disciplinary action;
- Civil proceedings;
- Criminal proceedings (prosecution);
- Formal caution;
- Administrative penalties, in certain circumstances
- Civil Penalties, in certain circumstances
- Fine, and / or compensation claim.
- Recover the overpayment but take no formal action

For all options, recovery of the debt will be actively pursued.

1.6 In appropriate cases we will take more than one form of action. For example, where Officers have defrauded the Council we may take disciplinary, prosecution and civil recovery action.

1.7 The decision to take disciplinary action will be made with regard to the Council's Disciplinary Policy and Procedure and is independent of any decision to prosecute.

2. Criminal Prosecution

2.1 One sanction available to the Council is criminal prosecution. We recognise that this is a serious step to take and the decision to refer cases for prosecution will not be taken lightly.

2.2 The ultimate decision on prosecution will be taken by the prosecuting body. In some cases this will be the Council's Legal Services. In these cases the decision to refer cases to the prosecuting authority will be taken by the Business Manager, after a recommendation report is made by the Fraud and Investigation Team Manager.

2.3 Benefit Fraud investigations are no longer the responsibility of the Council. All Benefit Fraud prosecutions will be undertaken by the Department for Work and Pensions (DWP) Single Fraud and Investigation Service (SFIS). The Council will authorise SFIS to prosecute Housing Benefit Fraud offences, for as long as the role of administering the benefit retains with the Council. The decision to authorise SFIS to prosecute a Housing Benefit offence will be made by the Benefits Manager or Head of Service in his absence. In circumstance of joint working with SFIS, where the Council are investigating Council Tax Support Fraud, in conjunction with SFIS investigating Housing Benefit or another national welfare benefit, the Council will retain the right to make its own decision re prosecution or other suitable sanction, however all decisions will consider the importance of maintaining a consistent approach to the disposal of the offence.

2.4 Where an investigation has been passed to the Police to investigate, they will liaise with the Crown Prosecution Service to make the ultimate decision on whether or not to prosecute.

2.5 When considering a case for prosecution it is generally accepted that there are two "tests" to be applied - the Evidential Stage test and the Public Interest test. These are currently set out in the current Code for Crown Prosecutors. The Evidential Stage test must be considered prior to the Public Interest Test.

3. Evidential Stage Test

3.1 Is there the required level of evidence to support a prosecution? Without this the case cannot go ahead no matter how important the case or how strong the public interest is in favour of prosecution.

3.2 The evidence must be acquired in a form which can be used by the Court and be admissible, and there must be enough evidence to form a realistic prospect of conviction. In

order to ensure that a “realistic prospect of conviction” exists, Officers of the Fraud Investigation and Investigation Team will at all times ensure that investigations are conducted in accordance with relevant legislation and in line with published Codes of Practice and Guidance with regard to evidence gathering, interviewing and rules of disclosure.

3.3 The evidence gathered will be examined in the first instance by the investigator and their Manager. When both are satisfied that sufficient evidence exists to successfully prosecute and that the Public Interest Stage is also satisfied, the case file will be passed on to either the Council’s Legal team, the DWP Solicitor or the Crown Prosecution Service via the Police, with signed authority from a senior officer with delegated authority. All prosecutors will then apply their own inspection of the evidence to ensure that both tests are met.

4. Public Interest Test

4.1 In order to ensure consistency and correctness when considering a case for Sanction/Prosecution, the guidelines applied by the Crown Prosecution Service - as detailed in Section 10 of the Prosecution of Offences Act 1985, will be followed by Officers of the Fraud and Investigation Team. Aggravating and mitigating factors will be taken into consideration when deciding on the appropriate sanction.

5. Details

5.1 Council’s Prosecution and Sanction Policy has been developed with the aim of providing a rational and consistent approach to the use of prosecution or formal sanctions. The Council will not discriminate (positively or negatively) against any claimant or group of claimants.

5.2 This Policy is not intended to be prescriptive but refers to criteria relating to the offence, the offender and the value of the fraud that has to be taken into account before considering the sanction that may apply.

5.3 When the Council is able to prove beyond reasonable doubt that a criminal offence has been committed there are a number of options it has to consider, listed earlier in this document.

5.4 There can be no “blanket” approach, as each case must be considered on its own merits. These guidelines set out what the Council will normally do in a particular situation rather than define an absolute course of action. Relevant matters for consideration should include the following:

- The case passes the public Interest test;
- The case passes the evidential test and there are no serious errors in the administration process or investigation;

- The amount defrauded;
- The offence has continued for some time;
- The offence involved some pre-thought and planning;
- There is evidence of a previous fraud;
- There is evidence of collusion;
- An Authorised Officer has been obstructed in the course of their duties;
- The Perpetrator held a position of trust.

6 Conducting a Criminal Investigation

6.1 Whether there is evidence of an offence or information is held which indicates an offence may have been committed, the standards of a criminal investigation will be maintained. The principles of PACE (Police and Criminal Evidence Act), CPIA (Criminal Procedures and Investigations Act), HRA (Human Rights Act), Equality Act, Data Protection and RIPA (Regulation of Investigatory Powers Act) will be adhered to.

6.2 The objective of the investigation is to establish the facts. Where sufficient evidence of an offence or offences is found, the application of a sanction will be considered.

7 Interviewing

7.1 Interviews, undertaken by Officers, may take place when all the required evidence has been obtained. However, in many instances it could be necessary to interview earlier. In either instance, if an Officer has grounds to suspect an offence (PACE 10.1) the interview must be conducted in accordance with PACE (Police and Criminal Evidence Act) and the interviewee cautioned.

7.2 Where an interview is being conducted, but a caution has not been administered, a caution shall be administered as soon as the interviewing Officer has grounds to suspect an offence (again PACE 10.1 applies).

7.3 Where there are reasons why an interview should not be undertaken i.e. medical grounds, a decision will then be made about whether to proceed with an interview under caution.

7.4 Consideration will be given to the gender, cultural, religious, sexual orientation, age, and disability needs of claimants prior to any interview.

8. The Decision to Sanction or Prosecute

8.1 Once the investigation has been concluded, the Officer will present the case in a written format with a recommendation to the Fraud and Investigation Manager, about whether a

sanction is appropriate. The Fraud and Investigations Manager will apply the evidential test and the public interest test. Should the Manager decide that the case IS suitable for a sanction, it will be passed to the Head of Service who will make the final decision.

8.2 It should be noted that where there has been a decision to prosecute a case, in accordance with the Council's Policy, the final decision regarding whether a case is presented in Court rests with the prosecuting authority.

Consideration Factors for a Prosecution

- The amount overpaid, or loss to the Council, is significant
- The defendant was in a position of authority or trust;
- The evidence shows that the individual was instrumental in the offence;
- There is evidence that the offence was premeditated and whereby there was a calculated and deliberate attempt to defraud the Authority;
- The individual's previous convictions, cautions or administrative penalties are relevant to the present offence;
- There are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct; or the offence, although not serious in itself, is widespread in the area where it was committed;
- The period of time over which the alleged offence took place;
- There has been an attempt to defraud.

9. Consideration Factors Against a Prosecution

The Council will take into consideration a variety of factors (including those identified within the Crown prosecution Service Code for Crown Prosecutors) in deciding whether a prosecution is to proceed.

10 Formal Caution

10.1 A formal caution is an oral warning given to a person who has committed an offence and who is then required to make a written admission to the offence acknowledging that they have received a caution in return for not being prosecuted through the criminal courts.

10.2 In order to offer a caution the individual must have admitted the offence during the interview under caution and the value of loss is not significant. Cautions may be administered in cases where there is no loss but an attempt to defraud the Council has been proven.

10.3 If the caution is not accepted the matter should be referred for prosecution. Where a prosecution is brought, the Court will be informed that the case had been presented to them because the individual refused to accept a formal caution.

11. Administrative Penalties

11.1 The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 allows a financial penalty to be offered to an individual identified as responsible for an offence of Council Tax Support fraud. This is known as an Administrative Penalty. The penalty is calculated as 50% of the excess award calculated on a daily basis from the date of the award until the date the Council could reasonably be aware of the excess award subject to a minimum of £100 and maximum of £1,000.

11.2 In order to offer an Administrative Penalty it is not necessary for the individual to have admitted an offence. If the Administrative Penalty is accepted the individual undertakes to repay the original overpayment and the Administrative Penalty in return for not being prosecuted through the criminal courts. Consideration should be given as to the individual's financial circumstances in deciding the appropriateness of offering an Administrative Penalty.

11.3 If the Administrative Penalty were not accepted the matter should be referred for prosecution. Where a prosecution is brought, the court will be informed that the case had been presented to them because the individual refused to accept an administrative penalty.

12. No Action Taken and Civil Penalties

12.1 Should the value of loss be low, the Fraud and Investigations Manager will consider not issuing a formal sanction (unless intent to defraud has been proven). A warning letter advising the subject of the continued importance of reporting changes will normally be sent. The letter should also reinforce the point that future failures could result in prosecution.

13. Civil Penalties

13.1 In certain circumstances, the Council has the option to issue a civil penalty instead of taking legal sanction action. This is for irregularities in respect of Council Tax Support and Council Tax Discount.

13.2 A penalty of £70 may also be imposed by an authority on a person who negligently makes an incorrect statement in connection with an application for a CTS or where a person fails to notify a change of circumstances when required to do so under CTS regulations. A penalty of £70 may also be applied for a failure to notify of relevant information in respect of any Council Tax Discount or Exemption.

14. Failure to co-operate

14.1 At least three attempts will be made to invite an individual into the office to be interviewed. If he or she fails to attend, consideration will be made to approaching Surrey Police, to carry out an arrest, so that the interview can be undertaken at a Police Station. Authorisation to approach the Police will be obtained from the Business Manager, after having taken advice from the Council's Legal Department. Alternatively prosecution action can commence, with the agreement of the Council's solicitor.

15. Closer Working

15.1 The Council will work closely with partner organisations, to ensure that the full scale of an offence is investigated, and unified consistent sanction action is taken. The Council reserves the right to undertake sanction action (including Prosecution) where legislation allows and it is deemed in the interest of the Council, or residents to do so. An example of such action would be prosecuting for tenancy fraud offences, in relation to a Social Housing provider stock property.

15.2 The Council will support the Department for Work and Pensions (DWP) Single Fraud Investigation Service (SFIS) in taking appropriate sanctions, including prosecution, for proven offence of Housing Benefit Fraud. The Council will authorise legal action, and provide all supporting documents required by SFIS. The Council will make decisions on whether to support these actions, following the same guidelines as detailed earlier in this policy (ie Evidential and Public Interest Test).

16. Delegation of Authority

16.1 The Council will delegate the power to administer a Caution and Administrative Penalty to an offender to either specific officers or Managers of the Authority.

16.2 The officers with the delegated power will be those in the posts of: -

- Corporate Head of Service
- Service Manager, or Nominated deputy in the absence of the Manager
- Fraud and Investigation Manager
- Officers of the DWP delegated to administer caution or Administrative penalty – for HB fraud or joint working cases only.

- Officer of joint working partner, if that officer has powers delegated by own body.

16.3 The Council will delegate the power to prosecute an offender for Local Authority Benefit Fraud to the Crown Prosecution Services (CPS). In cases of other joint working, i.e. with other local authorities, this power can be delegated to a solicitor or the legal department of that other Authority.

17. Overpayment Recovery

17.1 The Council will actively pursue recovery of all overpayments in line with the Redress Statement in the Council's Anti-Fraud and Anti-Corruption Policy and Strategy.

18. Prosecution Publicity Strategy

18.1 The Council will seek to maximise publicity as a deterrent to others who might consider defrauding the Authority by issuing press releases to the local media at the conclusion of a successful prosecution. The press release will also feature on the news page of the Mole Valley District Council external website. Details included in press releases will be subject to Human Rights and Data Protection restrictions and be in line with the Council's corporate publicity policy

19. Review

19.1 The Policy will be subject to bi-annual review by the Fraud and Investigation Manager, to ensure that it remains current and effective.