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# **ANTI-FRAUD, BRIBERY AND CORRUPTION STRATEGY**

**OCTOBER 2024**

## **1 PURPOSE OF THE ANTI-FRAUD, BRIBERY AND CORRUPTION STRATEGY**

- 1.1 The Council is committed to high legal, ethical and moral standards and the proper accountability of public funds. The Council views fraud, bribery and corruption very seriously and does not tolerate fraud, bribery or corruption in the administration of its responsibilities, whether from inside or outside the authority. The Council's expectation of propriety and accountability is that Councillors, and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. The Council also expects that individuals and organisations who have dealings with the Council will conduct their business in accordance with the law, with integrity, and without fraud, bribery and corruption.
- 1.2 The purpose of this Anti-Fraud, Bribery and Corruption Strategy is to support the Council's 2024-29 Council Plan by protecting the Public Purse as every pound lost through fraud cannot be spent on services. In particular, this Strategy:
- sets out the aims and long term vision of the Council's Anti-Fraud, Bribery and Corruption framework
  - outlines the Council's approach to Anti-Fraud, Bribery and Corruption.
- 1.3 This Strategy does not set out the steps to take if a fraud is suspected. If fraud is suspected it needs to be reported immediately in line with the Fraud Response Plan (Appendix 1)

## **2 AIMS AND OBJECTIVES**

- 2.1 The key aims and objectives of the Council's Anti-Fraud, Bribery and Corruption framework are to:
- maintain a culture that will not tolerate fraud, bribery or corruption
  - ensure staff and Councillors demonstrate the highest standards of honesty and integrity at all times
  - commit to an Anti-Fraud, Bribery and Corruption Strategy that covers the best practice principles of prevention, detection, deterrence, investigation, sanctions and redress
  - establish and maintain effective systems of internal controls
  - promote efficiencies to tackle fraud, bribery and corruption through collaboration, partnership and regional partnership working
  - support the work of the police and other external agencies, such as the Department for Work and Pensions, the Cabinet Office (National Fraud Initiative) and the National Audit Office in fighting fraud in the public sector
- 2.2 This Strategy also supports the national Fighting Fraud and Corruption Locally Strategy 2020 which advocates turning strategy into action by councils considering their counter fraud response and performance against each of these six 'C' themes:
- Culture – creating a culture where fraud, bribery and corruption are unacceptable and that is measurable

- Capability - assessing the full range of fraud risks and ensuring that the range of anti-fraud measures deployed is appropriate
- Capacity – deploying the right level of resources to deal with the level of fraud risk that is monitored by those charged with governance
- Competence – having the right skills and standards commensurate with the full range of counter fraud, bribery and corruption activity
- Communications – raising awareness internally and externally, deterring fraudsters, sharing information and celebrating successes
- Collaboration – working together across internal and external boundaries, with colleagues, with other local authorities, and with other agencies; sharing resources, skills and learning, good practice, innovation and information.

### 3 DEFINITIONS

#### 3.1 Fraud

The Fraud Act 2006 defines three types of action which could each constitute fraud. The important point here is that it is the “intent” by a person to make a gain for themselves or another or cause another to make a loss or be exposed to the risk of a loss. Whether a person is successful or not in their outcome is not important, for an offence to have been committed.

- i. Fraud by false representation is committed when a person:
  - a) makes a false representation either expressly or implied dishonesty i.e. by lying;
  - b) knows that the representation is or might be untrue or misleading;
  - c) intends by that representation to make a gain for themselves or another or cause loss to another or expose another to a risk of loss.
- ii. Fraud by failing to disclose information is committed when a person:
  - a) dishonestly fails to disclose information to another person which they are under a legal duty to disclose;
  - b) intends by that failure to make a gain for themselves or another or cause loss to another or expose another to a risk of loss.
- iii. Fraud by abuse of position is committed when a person:
  - a) occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person;
  - b) dishonestly abuses that position;
  - c) intends by that abuse to make a gain for themselves or another or cause loss to another or expose another to a risk of loss.

A person may be regarded as having abused their position even though their conduct consisted of an omission rather than an act.

### 3.2 Bribery

Bribery is defined as “the offering, giving, receiving, or soliciting of any item of value to influence the actions of an official or other person in charge of a public or legal duty.”

### 3.3 Corruption

Corruption is defined as “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”. Corruption includes any illegitimate use of office and may include a range of different types of crime. For example, the corruption definition can be extended to cover “the failure to disclose an interest in order to gain financial or other pecuniary gain”. Bribery is limited to the giving or acceptance of payment of other illegitimate advantages.

3.4 Fraud, bribery and corruption can be encompassed by the term “economic crime”, which refers to a broad category of activity involving money, finance or assets, the purpose of which is to unlawfully obtain a profit or advantage for the perpetrator or cause loss to others.

## 4 **RISK AND RISK MANAGEMENT**

4.1 It is important that the Council recognises and actively manages its risks relating to fraud, bribery and corruption, using its Risk Management Strategy to help achieve this. Therefore, fraud, bribery and corruption risks are routinely considered as part of the Council’s strategic risk management arrangements using both pro-active and reactive components as part of its robust response to fraud risk management.

4.2 The key fraud risk areas for councils have been identified in the 2016-19 Local Government Counter Fraud and Corruption Strategy and those relevant to this council are listed below, although this is not an exhaustive list:

- Tenancy: Fraudulent applications for housing or succession of tenancy, subletting of the property
- Right To Buy fraud: Fraudulent applications under the right to buy/acquire
- Procurement: Tendering issues, split contracts, double invoicing
- Payroll: False employees, overtime claims, expenses
- Council Tax: Discounts and exemptions, council tax support
- Business Rates: Fraudulent applications for exemptions, grants and reliefs, unlisted properties, and rates avoidance
- Grants: Work not carried out, funds diverted, ineligibility not declared
- Internal Fraud: Diverting council monies to a personal account, accepting bribes, stealing cash, misallocating social housing for personal gain, working elsewhere while claiming to be off sick, false overtime claims, wrongfully claiming benefit while working, abuse of position such as misuse of assets/resources
- Identity Fraud: False identity/fictitious persons applying for services/payments

- Money Laundering: Exposure to suspect transactions
- Insurance Fraud: False claims including slips and trips
- Disabled Facility Grants: Fraudulent applications for adaptations to homes aimed at the disabled
- Blue badge misuse and fraud: Acknowledging the scheme is administered by the County Council
- No recourse to Public Funds: Fraudulent claim of eligibility
- Local Enterprise Partnerships: Voluntary partnership between local authorities and business, procurement fraud and grant fraud
- Cyber Dependent Crime and Cyber Enabled Fraud: Enables a range of fraud types resulting in for example diversion of funds, creation of false applications for services and payments
- Commission of Services: including joint commissioning, joint ventures, commercial services, third sector partnerships – conflicts of interest, collusion.

4.3 The United Kingdom Anti-Corruption Strategy 2017-22 sets out a long term framework for tackling corruption. For local government, including St Albans City and District Council, this sets out the following goals:

- Greater procurement transparency, enabling better identification and mitigation of corruption risks.
- Strengthened awareness and capability within contracting authorities leading to a stronger awareness of corruption risks and more capability to detect and deter illegality.

## 5 APPROACH

5.1 The prevention and detection of fraud, bribery and corruption and the protection of the public purse is everyone's responsibility. This Strategy sets out below the key components to achieve this:

### Proactive

- strengthening the anti-fraud, bribery and corruption culture to increase resilience to fraud and corruption
- preventing fraud, bribery and corruption through the implementation of appropriate and robust internal controls, undertaking fraud risk assessments and cyber security measures
- increasing fraud, bribery and corruption awareness for councillors and officers
- deterring fraud, bribery, and corruption by publicising the actions the Council takes against fraudsters.

### Reactive

- detecting fraud, bribery and corruption through data and intelligence analysis

- implementing effective whistleblowing arrangements
- investigating fraud, bribery and corruption referrals
- applying sanctions, both civil and criminal
- seeking redress, including the recovery of assets and money.

5.2 The principles of the Council's Anti-Fraud, Bribery and Corruption Strategy are focused on the following four pillars of activity (as taken from the 2020 Fighting Fraud and Corruption Locally Strategy): govern, acknowledge, prevent and pursue. These are supported by one further pillar - protect.

<b>Govern</b>	<b>Acknowledge</b>	<b>Prevent</b>	<b>Pursue</b>
Having a holistic approach to tackling fraud is part of good governance	Acknowledging and understanding fraud, bribery and corruption risks	Preventing and detecting more fraud and corruption	Being stronger in punishing fraud and corruption or recovering losses
Having robust arrangements and executive support to ensure anti-fraud, bribery and corruption measures are embedded throughout the organisation	Assessing and understanding fraud, bribery and corruption risks  Committing the right support and resources to tackling fraud, bribery and corruption  Maintaining and demonstrating a robust anti-fraud, bribery and corruption response  Communicating the risks to those charged with Governance	Making better use of information and technology  Enhancing fraud, bribery and corruption controls and processes  Developing a more effective anti-fraud, bribery and corruption culture  Communicating the Council's activities and processes	Prioritising fraud recovery and the use of civil sanctions  Developing capability and capacity to punish corruption and fraudsters  Collaborating across geographical and sectoral boundaries  Learning lessons and closing the gaps
<b>Some specific examples for St Albans City and District Council</b>			
Strategic Leadership Team that oversees this Strategy  Fraud included in the Audit and Governance Committee's Terms of Reference	Risk management process  Fraud, bribery and corruption policy and processes  Fraud, bribery and corruption awareness and training	Whistleblowing policy  Strong internal control culture  Staff and supplier vetting  Participation in the National Fraud Initiative	Fraud response plan  Enforcement powers, application of sanctions and prosecutions  Collaboration and joint prosecutions with other local

<b><u>Officer Corporate Fraud Group</u></b>	<b><u>Fraud risk assessments</u></b>	Staff and Councillor Code of Conduct and Declarations of Interest Information security and IT policies <b><u>Contract with the Hertfordshire Shared Anti-Fraud Service to both prevent and pursue housing related fraud</u></b>	authority fraud teams Working with neighbouring council fraud teams Developing skills of staff for evidence gathering for potential investigations which may lead to prosecutions
Protect			
Recognising the harm that fraud can cause in the community. Protecting itself and its residents from fraud.			
<ul style="list-style-type: none"> <li>• protecting against serious and organised crime, protecting individuals from becoming victims of crime and protecting against the harm that fraud can do to the community</li> <li>• for St Albans this will also cover protecting public funds, protecting the Council from fraud and cybercrime and also protecting itself from future frauds</li> </ul>			

## 6 ROLES AND RESPONSIBILITIES

<b>Responsibility</b>	<b>Role</b>
Councillors	As elected representatives, all councillors of the Council have a duty to the public to maintain the highest standards of conduct and ethics, and to ensure the Council is open and transparent in all the decisions it makes  Councillors are required to adhere to the Council's constitution, which incorporates a Councillor Code of Conduct
Audit and Governance Committee	To satisfy itself there are adequate arrangements in place to manage risk (including that relating to fraud, bribery and corruption) effectively. To monitor Council policies on anti-fraud, bribery and corruption and to receive periodic reports on fraud and corruption.
Chief Executive	Overall corporate management and operational responsibility for all officers and for setting the tone for the anti-fraud culture
Section 151 Officer	Ensure that appropriate advice is given on all financial matters for keeping proper financial records and accounts and for maintaining an effective system of internal financial

	control. Ensure that the Council has adopted an appropriate Anti-Fraud, Bribery and Corruption Strategy
Solicitor to the Council The Monitoring Officer	Statutory responsibility to advise the Council on the legality of its decisions and to ensure the Council's actions do not give rise to illegality or maladministration. Also encourages the promotion and maintenance of high standards of conduct within the Council. Considers the evidential and public interest tests in the event of a potential prosecution.
Managers (all levels, including Strategic Directors, Assistant Directors <b>and Service Managers</b> )	<p>Establish sound systems of internal control and the management of risk in their service's operations. Such systems must safeguard the Council's assets and interests from fraud, bribery, corruption and theft</p> <p>Responsible for preventing and detecting fraud, bribery and corruption and ensuring they operate effective mechanisms in their area of control to:</p> <ul style="list-style-type: none"> <li>• Prevent theft, fraud, bribery and corruption thereby safeguarding the Council's assets and interests</li> <li>• Promote employee awareness</li> <li>• Assess the risk of fraud, bribery and corruption and take appropriate action</li> <li>• Take prompt action in line with the Fraud Response Plan where they suspect or are alerted to possible theft, fraud or corruption</li> </ul>
All staff	<p>Comply with Council policies and procedures, to be aware of the possibility of fraud, bribery and corruption. To report any genuine concerns to management, Internal Audit or via the Whistleblowing Policy.</p> <p>All staff have a responsibility to prevent, detect and report on fraud, bribery and corruption or suspected cases.</p>
Internal Audit	<p>Providing assurance on the effectiveness of systems and procedures to prevent and detect fraud, bribery and corruption (by undertaking audits). Investigating fraud, bribery and corruption, assessing and evaluating fraud and corruption risks, and promoting organisational learning</p> <p>Supporting managers in minimising fraud, bribery and corruption related risk and are alert in all their work to risks and exposures that could allow fraud, bribery and corruption to take place.</p>
Partners and Contractors	Required to comply with the Council's policies and procedures when undertaking work for and jointly with the Council
External Audit	Under the International Standard on Auditing 240, when conducting an audit, External Audit are responsible for obtaining reasonable assurance that the financial statements taken as a whole are free from material misstatement, whether caused by fraud or error.



## 7 REPORTING, REVIEW AND MONITORING PERFORMANCE

- 7.1 The Section 151 Officer, in conjunction with the Head of Internal Audit, will develop a rolling Anti-Fraud Action Plan to support the Strategy. It will be the responsibility of the Chief Executive to ensure there are adequate resources to support the action plan.
- 7.2 The Audit and Governance Committee will receive periodic fraud reports from Internal Audit to assist in its oversight of the Council's Anti-Fraud, Bribery and Corruption Strategy and arrangements.

## 8 SUPPORTING POLICIES, PROCEDURES AND PROCESSES

- 8.1 The Council has a wide range of policies, procedures and processes that are in place to formalise arrangements for the prevention, detection and investigation of fraud. These include:

- Anti-Fraud, Bribery and Corruption Strategy (this document)
- Fraud action plan
- Whistleblowing Policy (located on the Council's StaffNet)  
[Whistleblowing Policy June 2023 \(final\).docx](#)
- Fraud Response Plan (Appendix 1)
- Anti-Bribery Policy Statement (Appendix 2)
- Anti Money Laundering Policy and procedures (located on the Council's StaffNet)
- Criminal Finances Act (Appendix 3)
- Employee and Councillor Codes of Conduct (located in the Council's StaffNet for employees in the conduct folder at):  
[Code of conduct Updated April 2024 final \(002\).docx](#)  
For Councillors this is on the website as part of the Constitution at:  
<https://stalbans.moderngov.co.uk/ecSDDisplay.aspx?NAME=SD378&ID=378&RPID=3056008>
- Financial Regulations (located on the Council's StaffNet and are part of the constitution as above)
- Contract Standing Orders (located on the Council's StaffNet and are part of the constitution as above)

### Contact

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## Alternative Contacts

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- The Monitoring Officer, Judith Adamson 01727 819559  
[Judith.Adamson@stalbans.gov.uk](mailto:Judith.Adamson@stalbans.gov.uk)
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## **Appendix 1 - FRAUD RESPONSE PLAN**

### **1. Introduction**

The Fraud Response Plan defines how the Council applies its policies and procedures to suspected theft, fraud, corruption and bribery.

It links with various other documents, including the Anti-Fraud, Bribery and Corruption Strategy and the Whistleblowing Policy. The procedures for dealing with suspected money laundering are different (refer to the Prevention of Money Laundering procedures (Appendix 3) for the necessary actions).

Different rules apply to benefits fraud.

This fraud response plan guides managers on how to react to suspicions of fraud, theft, corruption and bribery.

Additionally, it outlines how investigations will be progressed, the manager's role and the role of the Investigating Officer.

### **2. Purpose of the Fraud Response Plan**

The Fraud Response Plan is designed to ensure timely and effective action in the event of suspected fraud to:

- minimise the impact of fraud by taking prompt action
- prevent further losses where fraud has occurred
- maximise recovery of losses
- ensure the accuracy and integrity of evidence for successful disciplinary and court action
- identify lessons to be learned to improve internal controls to prevent a recurrence in the future
- maximise positive publicity when fraud is discovered and dealt with it effectively
- deter others from committing fraud

In addition to obvious frauds involving theft of assets or the misappropriation of funds, the following are examples of the types of activity that may be regarded as fraud. The list is merely indicative and not exhaustive:

- manipulation or misreporting of financial information
- misuse of the Council's assets, including cash, stock and other assets
- deception (e.g. misrepresentation of qualifications to obtain employment)
- offering or accepting bribes or inducements from third parties
- conspiracy to breach laws or regulations
- fraudulent completion of official documents (e.g. VAT receipts)
- time recording fraud
- theft of intellectual property (e.g. unauthorised use of a brand name/logo, theft of customer data or product design)

### **3. The Manager's role in dealing with suspected fraud**

#### First response

Where managers suspect a fraud has taken place the first course of action must be to contact the Section 151 Officer and the Head of Internal Audit who decide at what point to inform the Monitoring Officer and the Chief Executive.

The only exception to this is where the matter is clearly related to the Benefits system. In such cases, refer the matter direct to the Department of Works and Pensions (DWP), details of which can be found on the Council's web site. Alternatively, it can be referred to the Revenues and Benefits Manager, who will liaise with the DWP on the Council's behalf.

The Section 151 Officer will retain overall responsibility and control for any investigation but will delegate responsibility for leading the investigation to an Investigating Officer ensuring they are independent of the Service area under investigation and appropriately experienced and trained. Internal Audit will provide advice and guidance to the Investigating Officer if they are not appointed as such. Investigations of suspected fraud should only be undertaken by Officers authorised by the Section 151 Officer.

There may be circumstances where it is appropriate for local managers to undertake some preliminary exploration to check on the validity of an allegation or irregularity to establish whether there is a case to be investigated. Where this occurs, advice should be sought from the Section 151 Officer or Internal Audit as such activity may alert the fraudster, resulting in the destruction of evidence or compromising the collection of further evidence.

Where initial investigations point to the likelihood of a criminal act having taken place, the Section 151 Officer or Monitoring Officer will inform the Police. Crime numbers should be obtained and provided to Internal Audit and Insurance for reporting purposes.

#### Initial Enquires

Speed is of the essence, therefore the Investigating Officer should make discreet initial enquires to determine if there actually appears to be an irregularity. During this initial enquiry the Investigating Officer should:

- determine the facts and factors that gave rise to the suspicion
- examine the factors to determine whether a genuine mistake has been made or whether an irregularity has occurred
- document their findings, ensuring access is restricted i.e. not held in an 'open area' of the network
- secure any relevant documentation and records if this can be done without alerting the perpetrator

The Investigating Officer should not formally interview staff at this stage.

#### **4. Formal Investigation**

The Section 151 Officer will instigate a formal investigation, in consultation with Internal Audit and the relevant Assistant Director/ Strategic Director, to be undertaken by the appointed Investigating Officer. In the absence of the Section 151 Officer, their responsibilities are transferred in the first instance to ~~the Deputy Section 151 Officer,~~ then the Monitoring Officer or Chief Executive.

Consideration will be given by the Section 151 Officer whether to involve other agencies such as Police, HM Revenue and Customs, Cabinet Office, the Department for Work and Pensions, the National Anti-Fraud Network, the Serious and Organised Crime Agency, External Audit and other councils.

The Section 151 Officer, in consultation with Human Resources, will consider whether it is necessary to suspend one or more employees to protect evidence, colleagues or assets in line with disciplinary procedures.

#### **5. Conducting the Investigation**

The exact format of an investigation is fluid, but some general principles will apply to all investigations:

- investigate and report back to the Section 151 Officer promptly. If the investigation extends more than two or three days then the Section 151 Officer should be given regular updates
- comply with legislation on interviewing (Police and Criminal Evidence Act, PACE) and surveillance (Regulation of Investigatory Powers Act, RIPA). However, it is not normally necessary, even when there may be a criminal offence, to conduct interviews under PACE rules. The police can re-interview witnesses and suspects later on in the process
- record all evidence received, ensuring that it is sound and adequately supported (see further guidance below)
- keep written records of all fact-finding meetings
- email correspondence about the investigation should be discreet and use an agreed case name rather than real names or locations
- all sensitive attachments should be password protected (or, preferably, not emailed)
- hold evidence securely, with appropriate restriction to access (both manual and electronic documentation)
- maintain confidentiality and discretion throughout and share information on a need to know basis. In particular, be mindful that senior officers may need to hear disciplinary cases, and therefore should not know details of cases
- where appropriate, contact other enforcement agencies e.g. Police, HM Revenue and Customs. This should be always enacted via Internal Audit or Legal Services as they may have established lines of communication and referral protocols
- investigators must not accept any offer of repayment of money or resignation at any stage, as this could prejudice the investigation. Any such offers should be

recorded in the interview notes, and passed on to the Section 151 Officer for consideration (in consultation with Human Resources)

The Council has the right to suspend any employee involved pending the outcome of an investigation. Suspension does not imply guilt but suspension can prevent the removal or destruction of vital evidence. When suspects are not suspended, supervision will usually need to be increased. Always seek advice from Human Resources on suspensions and any subsequent disciplinary action. If the police are pursuing a criminal offence, the Council will begin the disciplinary process without waiting for the outcome of any court case.

The Section 151 Officer will report losses to the Council's Insurance team at the earliest stage.

## **6. Actions Following the Completion of an Investigation**

Upon completion of an investigation, the Investigating Officer will report findings in an appropriate format (usually written) to the Section 151 Officer. The final report will also be issued to the Chief Executive, the Monitoring Officer and the Head of Internal Audit, and if appropriate to the relevant Assistant Director / Strategic Director.

In all cases the Council's insurers should be informed of actual losses as soon as these have been established.

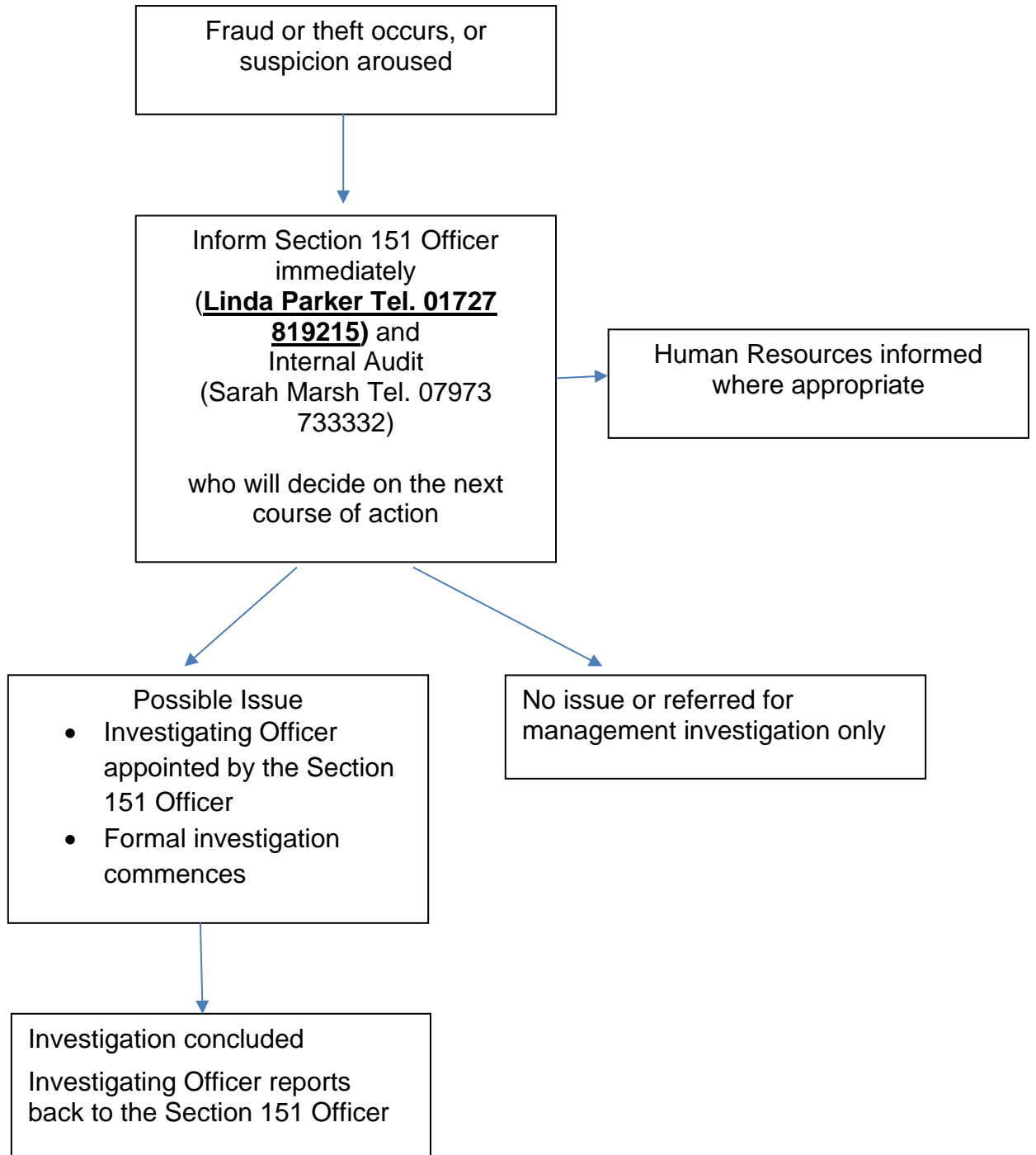
The line manager must remedy control weaknesses identified during the course of the investigation. Internal Audit will provide advice and support on effective controls.

Internal Audit will keep a record of all investigations and final outcomes in the theft, fraud, corruption and bribery register, including crime numbers. This information informs of future prevention strategies, and is used in reporting fraud and corruption at the Council.

The Communications Team should be informed where appropriate so that publicity can be managed effectively.

Whenever fraud has been proved, the Council will make every effort to recover the losses. The method used will vary depending on the type of loss and the regulations and powers available. All means of recovery including recovery under the Social Security Administration Act 1992, attachments to earnings, civil court proceedings and criminal court compensation will be used as appropriate to the offence.

## Outline of Fraud Response Process



## **Appendix 2 - ANTI-BRIBERY POLICY STATEMENT**

The Council is committed to the prevention, deterrence and detection of bribery and has zero tolerance towards bribery.

Bribery is a criminal offence. The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor does it or will it, accept bribes or improper inducements. To use a third party as a conduit to channel bribes to others is also a criminal offence.

### **Bribery**

Bribery is defined as an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to facilitate or expedite a routine procedure
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by the Council in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy.

### **Objective of this policy**

This policy provides a consistent framework to enable staff to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach of policy. The Council requires that all staff, including those directly employed, agency staff, contractors, and Councilors:

- act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible
- comply with the laws and regulations of all jurisdictions in which the Council operates.

### **Scope of this policy**

This policy applies to all the Council's activities. For partners, subsidiaries, joint ventures and suppliers the Council will seek to promote the adoption of policies consistent with the principles set out in this policy.

The responsibility to control the risk of bribery occurring resides at all levels of the Council. It does not rest solely within assurance functions, but in all service areas.

The Council commits to:



- setting out a clear up-to-date anti-bribery policy
- making all employees aware of their responsibilities to adhere strictly to this policy at all times
- raising awareness, and where appropriate offer training, so all employees can recognise and avoid the use of bribery by themselves and others
- encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- taking firm and vigorous action against any individuals involved in bribery
- provide information to all employees to report breaches and suspected breaches of this policy
- include appropriate clauses in contracts to prevent bribery

### **Gifts and hospitality**

This policy is not meant to change the requirements of the Council's gifts and hospitality policy (included in the Officer Code of Conduct). This makes it clear that:

Staff must not accept gifts or hospitality unless authorised to do so by their line manager. Any offers that are considered unacceptable must be declined. Staff may only accept modest gifts usually of a promotional nature and given to a wide range of people. Examples of gifts that are acceptable are wine, chocolates, calendars, diaries, pens and other small items of a low value.

### **Public contracts and failure to prevent bribery**

Under the Public Contracts Regulations 2006 a company was automatically and perpetually debarred from competing for public contracts where it was convicted of a corruption offence. This is no longer the case under the Public Contracts Regulations 2015 as a business can no longer be permanently debarred. Instead, it will face a term of debarment which can be no longer than the maximum statutory term of exclusion and public authorities are obliged to bring debarment to an end where a company satisfactorily demonstrates "self-cleaning".

### **Staff responsibilities**

All staff are required to avoid activity that breaches this policy. Staff must:

- ensure that they read, understand and comply with this policy
- raise concerns as soon as possible as they believe or suspect that a conflict with this policy has occurred, or may occur in the future

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in summary dismissal for gross misconduct.

### **Raising a concern**

This Council is committed to ensuring that all of its officers have a safe, reliable, and confidential way of reporting any suspicious activity. Officers have a responsibility to

help detect, prevent and report instances of bribery. If an officer has a concern regarding a suspected instance of bribery or corruption, they should report it.

There are multiple channels to help staff raise concerns they should refer to the Whistleblowing Policy and determine their favoured course of action. Staff who do not have access to StaffNet should contact the Head of Internal Audit, **their Assistant Director** or Strategic Director. Concerns can be raised anonymously.

In the event that an incident of bribery, corruption, or wrongdoing is reported, the Council will act as soon as possible to evaluate the situation. The Council has a clearly defined Anti-Fraud, Bribery and Corruption Strategy which sets out procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not anonymous.

The Council aims to encourage openness and will support anyone who raises a genuine concern in good faith under this Policy, even if they turn out to be mistaken. The Council is committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith. If you have any questions about these procedures they can be directed to the Head of Internal Audit, the Council's Section 151 Officer or the Council's Monitoring Officer.

### **Bribery Act 2010**

Under the Bribery Act 2010 there are four core bribery offences:

1. offering, promising or giving a bribe
2. requesting, agreeing to receive or accepting a bribe
3. bribing a foreign public official; and
4. a corporate offence of failing to prevent bribery.

A local authority, such as St Albans City and District Council, could be liable to prosecution if an employee, agent, or subsidiary bribes another person, intending to obtain an advantage for the local authority.

For individuals, the penalties for committing a crime under the Act are a maximum of 10 years' imprisonment, along with an unlimited fine, and the potential for the confiscation of property under the Proceeds of Crime Act 2002

## **Appendix 3 – CRIMINAL FINANCES ACT: PREVENTING TAX EVASION – POLICY STATEMENT**

### **Introduction**

The Criminal Finances Act 2017 targets corruption, money laundering and tax evasion. It aims to recoup more criminal assets and is part of the government's strategic approach to reducing financial crime. The Act builds on the existing legislation to offer greater enforcement powers and additional measures to protect the public purse. The Act itself improves reporting procedures and data sharing and makes it easier to seize funds obtained through criminal means.

One of the most significant elements of the Criminal Finances Act was the introduction of the two new corporate tax offences. These offences extend liability for tax evasion from the individual and any facilitators, to the corporation / partnership with the risk of criminal prosecution and unlimited fines.

The Council would be an organisation to which the act would apply and would therefore be liable to prosecution if an individual working with or trading with it deliberately evaded paying tax. The Council, if found to be facilitating tax evasion, could face an unlimited fine and consequent damage to its reputation.

The criteria for failure to prevent criminal facilitation of tax evasion are as follows:

- There must be criminal tax evasion under either UK law or foreign law
- It must be enabled by the Council's employee, agent or those performing services for, or on behalf of, the organisation
- The Council must have failed to prevent that person from enabling the facilitation

Part of a robust defence is a policy outlining the steps that the Council will take to prevent tax evasion.

### **Definition of tax evasion**

Tax evasion is a criminal offence which is committed through the deliberate and dishonest evasion of tax (either UK tax or tax in a foreign country) or through taking steps to enable another person to evade tax. For the facilitation of tax evasion to be a criminal act, a person must have deliberately and dishonestly helped another person to evade tax: it does not include the accidental, ignorant or negligent facilitation of tax evasion.

Tax is defined widely to cover all forms of UK taxation, including corporate tax, income tax, VAT, stamp duty, National Insurance contributions etc. It is not the same as tax avoidance which is the legal minimisation of tax payable.

Corporate criminal offences related to tax evasion are detailed in Part 3 of the Criminal Finances Act 2017 and can be summarised as:

- Failure to prevent facilitation of UK tax evasion – this is aimed at catching corporations facilitating the evasion of UK taxes;

- Failure to prevent facilitation of foreign tax evasion – this covers the evasion of foreign taxes facilitated by an entity that has a connection with the UK (e.g. a UK based office) and where there is dual criminality with the UK.

Although these apply mainly to the regulated sector, anyone can be convicted of these offences.

Factors which require particular consideration when carrying out council business include:

- Payment of a substantial sum in cash / businesses that are cash intensive;
- Payment received from unknown or un-associated third parties;
- A secretive client: e.g. refuses to provide requested information without good reason;
- Anonymous transactions;
- A previous transaction for the same client which has been, or should have been, reported to the nominated officer;
- Any concerns about the identity or honesty of a client;
- Transactions with countries identified as not having robust anti-money laundering or counter-terrorism financing arrangements;
- Transactions with countries subject to sanctions or embargoes or similar measures imposed, for example, by the United Nations.

### **Obligations of the Council**

The Council, in order to put in place proportionate anti-tax evasion safeguards, will:

- Continue to apply customer due diligence measures when dealing with new clients or undertaking certain transactions;
- Appoint nominated officers to whom suspicions of tax evasion activity should be reported;
- Implement internal reporting procedures;
- Establish internal procedures with respect to tax evasion;
- Train relevant staff in the subject.

The Council's actions to comply with these obligations are outlined below.

#### Nominated officers

The Council has nominated the Section 151 Officer, as the nominated officer to whom suspicions of tax evasion activity should be reported.

The Council has nominated the Head of Internal Audit as the nominated deputy officer to whom such suspicions should be reported.

#### Reporting Procedure

If a member of staff or other individual acting on behalf of the Council suspects any instance of tax evasion or its facilitation, they should contact the nominated officer or deputy immediately. Alternatively, the Council's whistleblowing procedure can also be engaged.

The nominated officer will make a full assessment of the evidence presented with the report, before deciding whether it constitutes a sufficient case for suspecting tax evasion or its facilitation has taken place. If the nominated officer so determines, it is their duty to report it to the HMRC. All documentary evidence collected by the nominated officer will be recorded and retained in line with the council's retention policy.

All transactions involved in the suspected activity are to be ceased immediately until further notice from the HMRC. Any person(s) proceeding with any transaction involved in the suspected activity could be committing an offence and therefore be liable for prosecution.

### **Risk Assessment**

It is unlikely that any one individual Council Officer would benefit individually from Tax Evasion. There would have to be collusion either with a supplier or another council employee for an individual to benefit. However, the Council's Internal Audit Team has the right to conduct compliance checks paying attention to areas of high risk and report back to the Senior Leadership Team and the Audit and Governance Committee as part of its reporting on counter fraud activities.