

# BHCC Anti-Fraud and Corruption Strategy and Framework

## Key points

- This strategy and framework set out the Council's commitment to preventing, detecting and deterring fraud and corruption to ensure public funds are used for their intended purposes.
- The Council expects the highest ethical and legal standards from its members, officers, contractors and agents carrying out business on its behalf.
- The framework includes guidance on types of fraud and corruption, how to report concerns and the investigation process.
- All cases of suspected fraud, financial irregularity or corruption must be reported to the Chief Internal Auditor or the Audit Manager (Counter Fraud).
- The strategy sets out the main objectives for tackling the risk from fraud and corruption and applies equally to Members and staff.
- It is an expectation that where employees have work place concerns, or suspect wrongdoing, that this is raised through appropriate channels.
- A Whistleblowing Policy has been produced to support staff in raising workplace concerns.

## Introduction

The public is entitled to expect the Council to conduct its business with integrity, honesty and openness and demand the highest standards of ethical conduct from those working for and with it.

The Council takes its statutory duty to protect the public funds it administers seriously. It is essential that it protects the public purse and ensures that Council funds are used only for their intended purpose: to support and deliver services to our community. As such the Council maintains a zero tolerance approach to fraud and corruption whether it is attempted from outside the Council or within.

This strategy forms part of the Council's counter fraud framework, a collection of interrelated policies and procedures including the Code of Conduct, Financial Regulations and Whistle Blowing Policy. It also includes policies and procedures that are specifically targeted at countering fraud and corruption.

## Aims

This strategy sets out the Council's commitment to preventing, detecting and deterring fraud and corruption.

This strategy aims to:

- Embed an anti-fraud culture where people are empowered to challenge dishonest behaviour;
- Actively prevent, deter and promote detection of fraudulent and corrupt acts;
- Maintain the Council's awareness of emerging fraud risks such as those associated with digital and cyber security;
- Provide clear guidance on the roles and responsibilities of members and officers; and
- Identify a clear pathway for investigative and remedial action.

## Definitions

**Fraud** - can be broadly described as, someone acting dishonestly with the intention of making a gain for themselves or another, or inflicting a loss (or a risk of loss) on another; including:

- Dishonestly making a false statement or representation;
- Dishonestly failing to disclose to another person, information which they are under a legal duty to disclose;
- Committing fraud by abuse of position, including any offence as defined in the Fraud Act 2006.

**Theft** - is the dishonest taking of property belonging to another person with the intention of permanently depriving the owner of its possession.

**Obtaining Services Dishonestly** – is broadly where services which were to be paid for were obtained knowing or intending that no payment would be made.

**Bribery** – is the inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages, whether monetary or otherwise.

**Corruption** – is the abuse of entrusted power for private gain. It affects everyone who depends on the integrity of people in a position of authority. The Bribery Act 2010 repealed all Corruption Acts in whole and therefore, whilst corruption exists as a term, any offences committed would fall under the Bribery Act.

This strategy also covers other irregularities or wrongdoing, for example failure to comply with Financial Regulations, Standing Orders, National and Local Codes of Conduct, Health and Safety Regulations and all other relevant laws and legislation that result in an avoidable loss to the Council.

## Culture

The Council is committed to the highest ethical standards as set out in the Code of Conduct. The Council believes the 'seven principles of public life' are the foundation of a strong anti-fraud culture and expects all members, officers and contractors to follow these principles, as well as all legal rules, policies and procedures.

The seven principles of public life and a brief explanation are listed below:

<b>Principle</b>	<b>You should...</b>
Selflessness	Act solely in terms of the public interest and not for the purpose of gain for yourself, family or friends.
Integrity	Avoid placing yourself under any obligation to people or organisations that might seek to influence you in your work.
Objectivity	Act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
Accountability	Be accountable to the public for your decisions and actions and submit yourself to scrutiny as appropriate.
Openness	Act and take decisions in an open and transparent manner. Information should only be withheld from the public if there are clear and lawful reasons for doing so.
Honesty	Be truthful. This includes declaring any conflicts of interest and taking steps to resolve such conflicts.
Leadership	Actively promote and support these principles by applying them to your own behaviour and challenging poor behaviour.

In essence, we expect everyone carrying out Council business to protect the public interest and also to challenge instances of dishonest behaviour. The promotion of a strong anti-fraud culture is therefore vital, as not only will it deter potential fraudsters but it will also encourage a safe environment in which individuals can raise concerns.

Allegations relating to potential fraud, financial maladministration, conflicts of interest, breach of confidentiality, improper use of resources, ICT misuse or any other forms of financial irregularity will be reported to Orbis Internal Audit, who will take appropriate action.

The Council's Whistleblowing Policy can also be used for raising concerns that relate to other serious concerns such as general maladministration, possible abuse of clients, health and safety risks and damage to the environment.

Members of the public are also encouraged to report concerns through any of the above routes or, if appropriate, through the Council's Complaints Procedure.

The Council's Whistleblowing Policy also makes it clear that whilst it hopes that concerns will be raised internally within the Council, if the employee still feels unable to raise their concerns internally they can be raised with relevant outside bodies listed in the policy.

The Council takes the threat of fraud and bribery seriously and has allocated specific resource, to focus on coordinating its approach to protecting its assets and finances from fraud, bribery and wrongdoing.

### **Strategic approach**

Fraud by its very nature is secretive and conducted in such a manner that fraudulent actions are actively concealed. It is therefore vital that the Council has a strong anti-fraud culture and a robust anti-fraud programme.

<b>What we will do:</b>	
<b>Acknowledge</b>	<ul style="list-style-type: none"> <li>• Acknowledge and understand fraud and misconduct risks;</li> <li>• Conduct and maintain a fraud risk assessment for the Council;</li> <li>• Develop and maintain a strong framework of internal controls;</li> <li>• Commit support and resources to tackling fraud; and</li> <li>• Maintain a robust counter fraud response.</li> </ul>
<b>Prevent</b>	<ul style="list-style-type: none"> <li>• Develop and maintain an effective and strong anti-fraud culture;</li> <li>• Implement a robust anti-fraud and misconduct programme;</li> <li>• Ensure that the standards in public life adopted are set out clearly in the Councils policies and effectively communicated;</li> <li>• Conduct employee and third-party due diligence; and</li> <li>• Regularly communicate with staff on countering fraud and provide fraud awareness training.</li> </ul>
<b>Detect</b>	<ul style="list-style-type: none"> <li>• Maintain and promote our confidential reporting hotline;</li> <li>• Make better use of data and technology to prevent and detect fraud and wrongdoing;</li> <li>• Enhance fraud controls and processes;</li> <li>• Benchmark where possible, with other authorities;</li> <li>• Promote Whistleblowing; and</li> <li>• Regularly liaise with others to share knowledge and data of known fraud and to learn and share best practice on fraud risk and prevention.</li> </ul>

<b>Respond</b>	<ul style="list-style-type: none"> <li>• Develop and maintain internal investigation protocols and disclosure protocols;</li> <li>• Provide a consistent and effective response for dealing with fraud cases;</li> <li>• Develop capability and capacity to pursue fraud and wrongdoing;</li> <li>• Collaborate across local authorities and with law enforcement; and</li> <li>• Ensure we have both the capability and capacity to investigate and prosecute fraud.</li> </ul>
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## Acknowledge

The Council accepts that no authority is immune from the risk of fraud, bribery and wrongdoing. It seeks to use all available recourse to help to reduce the opportunity, motivation and justification for fraud, bribery and wrongdoing and to act robustly when it is identified.

A fraud and misconduct risk assessment will be conducted and maintained to help the Council understand the risks it faces from fraud, bribery and wrongdoing. The Council will also document the controls in place to mitigate these risks, identify gaps or weaknesses in the control mechanisms and develop a bespoke work programme to target and reduce the risks.

The Council will develop and maintain a strong framework of internal controls designed to prevent and detect irregularity, misconduct and fraud. The framework includes the following key elements:

- Code of Conduct
- Whistleblowing Policy;
- Anti-money Laundering Policy;
- Financial Regulations;
- Contract Standing Orders.

Support and resources will be allocated to counter the risk from fraud, bribery and wrongdoing.

In maintaining a robust counter fraud response the Council will provide corporate and targeted anti-fraud and bribery training and awareness for all employees to assist them in identifying instances of possible fraud, bribery and wrongdoing and provide mechanisms to enable staff to report their concerns in a timely manner.

The Council will regularly review its approach to tackling fraud, keeping abreast of emerging risks and current trends which occur across the Council and nationally.

## Prevent

The Council faces a variety of risks and threats and acknowledges that prevention is the best and most efficient way to tackle fraud, bribery and wrongdoing and to prevent / minimise losses.

The best defence against fraud, corruption, bribery and wrongdoing is to create and maintain a strong and robust anti-fraud culture within the Council. The Council will promote the standards of business conduct it expects and requires from all its employees (including contractors and Councillors) as documented in the Council's Code of Conduct.

The Council will develop, maintain and communicate to its employees an anti-fraud programme, which ensures that they are aware of the key part they play in countering fraud and risk and are sufficiently trained.

Practical counter fraud and risk guidance will be developed and disseminated to staff which details risk identifiers and is based on lessons learned elsewhere and recognisable risk scenarios.

The Council also recognises that a key preventative measure to combat fraud and misconduct is to ensure that the appropriate due diligence is exercised in the hiring, retention and promotion of employees and relevant third parties. This applies to all staff whether, permanent, temporary, contracted or voluntary. Procedures will be followed in accordance with the Council's recruitment and selection toolkit. We will always undertake the appropriate pre-employment checks (for example: qualification verification and obtaining references) before any employment offer is confirmed.

Any system weakness identified as part of the work carried out by Orbis Internal Audit will be recorded, with controls recommended to minimise any system weaknesses and these will be agreed and monitored to ensure compliance as part of the audit process.

## Detect

The array of preventative systems, particularly internal control systems within the Council, has been designed to prevent and deter fraud and provide indicators of any fraudulent activity.

Employees are the first line of defence against most acts of attempted fraud, corruption and bribery. The Council expects and requires staff to be alert to the risks and possibilities of fraudulent attempts and to raise any such concerns at the earliest opportunity. Concerns can be raised with the Internal Audit and Counter Fraud Team as follows:

- Confidential Reporting Hotline: 01273 291847
- E-mail: [Anti-Fraud@brighton-hove.gov.uk](mailto:Anti-Fraud@brighton-hove.gov.uk)

Employees also have a duty to protect the assets of the Council, including information, as well as property. When they have a concern of this nature, they are expected and required to report it, as soon as possible in accordance with the Council's Whistleblowing Policy.

The Council's Whistleblowing Policy has also been developed to provide a clear framework for reporting such concerns. The whistleblowing policy can be viewed [here](#).

The Council does not tolerate the victimisation or harassment of anyone raising a genuine concern. Employees are expected to report concerns and are afforded protection from any harassment or discrimination by the Public Interest Disclosure Act. Any harassment or victimisation of a 'whistle-blower' will be treated as a serious disciplinary offence, which will be dealt with under the Council's Disciplinary Policy and Procedures.

Both locally and nationally, arrangements are in place and continue to be developed, to encourage the lawful exchange of information and collaborative working between the Council and other agencies, to assist in countering fraud, corruption, bribery and wrongdoing.

The Council will proactively seek to prevent, deter and detect fraud using all available resources and technology and will actively take part in joint exercises such as data matching to minimise the fraud risk and loss to public funds.

The Council will, where appropriate, seek to make the best use of publicity to prevent, deter and detect instances of fraud, corruption and bribery.

## **Respond**

Fraud, corruption and malpractice will not be tolerated and where it is identified the Council will deal with proven wrongdoings in the strongest possible terms, including:

- Disciplinary action;
- Reporting to the Police;
- Seek maximum financial recovery of any losses on behalf of the tax payer, including use of civil legal action through the courts.

Where information relating to a potential or actual offence or wrongdoing is uncovered, a comprehensive and objective investigation will be conducted. Any investigation will take account of relevant policies and legislation.

The purpose of any investigation is to gather all available facts to enable an objective and credible assessment of the suspected violation and to enable a decision to be made as to a sound course of action.

In such instances, Orbis Internal Audit will work closely with management and where appropriate, other agencies such as the Police, to ensure that all allegations and evidence are properly investigated and reported upon.

Referral to the Police on matters of alleged fraud or other financial irregularity is a matter for the Orbis Chief Internal Auditor, in consultation with the Chief Finance Officer and the relevant senior managers. Any referral made to the Police, will not prohibit action under the Council's disciplinary procedure.

In cases of alleged theft, fraud, corruption or other irregularity involving staff, the Council may pursue the case through its disciplinary processes, even if the member of staff has resigned.

## Brighton & Hove City Council Policies

[Whistleblowing Policy](#)

[Code of Conduct](#)

[Code of Conduct for Members](#)

**The following policies are attached as Annexes:**

- 1.1 Anti-Money Laundering
- 1.2 Sanctions Policy

## 1.1 Anti-money laundering policy

### Policy statement

Brighton & Hove City Council will do all it can to:

- Prevent any attempts to use the Council and its staff to launder money;
- Identify potential areas where money laundering may occur; and
- Comply with all legal and statutory requirements, especially with regard to the reporting of actual or suspected cases of money laundering.

### 1. Introduction

- 1.1 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Proceeds of Crime Act 2002 and the Terrorism Act 2000 (and all relevant amending legislation) place obligations on the Council, including its members and employees, with respect to suspected money laundering.
- 1.2 While most money laundering activity in the UK occurs outside of the public sector, vigilance by Council employees and members can help identify those who are, or may be, perpetrating crimes relating to the financing of terrorism and money laundering.
- 1.3 This policy forms part of the Council's counter fraud framework and sets out:
  - Definitions and legal background in respect of money laundering;
  - The Council's approach to money laundering including the responsibility of members and officers to report suspicions promptly; and
  - Guidance and procedures for members and officers.

### 2. Scope of the policy

- 2.1 This policy applies to all members and officers of the Council and aims to maintain the high standards of conduct that the public is entitled to expect from the Council.
- 2.2 It is vital that all members and officers are aware of their responsibilities and remain vigilant; criminal sanctions may be imposed for breaches of legislation.
- 2.3 Failure to comply with the procedures set out in this policy will result in action being considered under the Sanctions Policy. This may include disciplinary action in line with the Officer, or Member, Code of Conduct.

### 3. Definitions and legal background

- 3.1 Money laundering is the process of converting illegally obtained money or assets into 'clean' money or assets with no obvious link to their criminal origin.
- 3.2 There are three primary money laundering offences set out in legislation:
  - Concealing, disguising, converting, transferring, or removing from the UK any criminal property (Section 327 of the Proceeds of Crime Act 2002);
  - Entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (Section 328); and

- Acquiring, using or possessing criminal property (Section 329).

3.3 There are also two secondary offences:

- Failure to disclose any of the three primary offences; and
- Tipping off (the act of informing a person suspected of money laundering in such a way as to prejudice an investigation).

3.4 Any member or employee of the Council may potentially be implicated in money laundering if they suspect money laundering and either become involved with it in some way and/or do nothing about it. The key requirement is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.

#### **4. The Money Laundering Reporting Officer (MLRO)**

4.1 The officer nominated to receive disclosures about money laundering activities within the Council is the Auditor Manager (Counter Fraud):

Simon White Audit Manager (Counter Fraud)	Surrey County Council Room 318, County Hall Penrhyn Road Kingston upon Thames Surrey, KT1 2DN
Telephone: 0208 541 9191 / 07779 455501 Email: simon.white@surreycc.gov.uk	

4.2 In the absence of the MLRO, the Principal Auditor (Counter Fraud) is authorised to deputise:

Alex McLaren Principal Auditor	Brighton Town Hall Bartholomew Square Brighton BN1 1JP
Telephone: 01273 292573 / 07592 103574 Email: Alex.Mclaren@brighton-hove.gov.uk	

#### **5. Procedures**

##### ***Cash***

- 5.1 The Council will not accept any cash payment in excess of £5,000 irrespective of whether this is through a single payment or series of linked payments. 'Cash' includes notes, coins, banker's drafts and travellers cheques.
- 5.2 This does not necessarily mean that cash transactions below this value are legitimate and legal. Professional scepticism is encouraged at all times and any suspicions must be reported to the MLRO or their deputy.

##### ***Responsibilities of members and officers***

- 5.3 Any member or officer who suspects money laundering activity must report their suspicion promptly (as soon as practicable) to the MLRO or their deputy if appropriate. If you prefer, you can discuss your suspicions with your line manager first.
- 5.4 Your disclosure must be made at the earliest opportunity following the information coming to your attention, not weeks or months later, and should be made to the MLRO or deputy using the form attached at the end of this policy.
- 5.5 You must follow any subsequent directions from the MLRO or deputy. You must not:

- Make any further enquiries into the matter;
- Take any further steps in any related transaction without authorisation from the MLRO or deputy;
- Disclose or otherwise indicate your suspicions to the person suspected of money laundering; or
- Discuss the matter with others or make a note on file that a report to the MLRO or deputy has been made, as this may alert the suspected perpetrator.

### ***Responsibilities of the MLRO***

- 5.6 The MLRO or deputy must promptly evaluate any disclosure to determine whether it should be reported to the National Crime Agency (NCA). Any decision not to submit a report to the NCA must be recorded.
- 5.7 If they so determine, the MLRO or deputy must promptly submit an online Suspicious Activity Report (SAR) to the NCA. Alternatively, a SAR may be manually reported to the NCA. Both online and up to date manual reporting forms are available on the NCA's website.
- 5.8 If a disclosure provides the MLRO or deputy with knowledge or reasonable grounds to suspect that a person is engaged in money laundering, and they do not disclose this to the NCA as soon as practicable, the MLRO or deputy will have committed a criminal offence.

### ***Risk based approach, customer due diligence and record retention***

- 5.9 Under MLR 2017, the Council is obliged to adopt a risk-based approach towards anti-money laundering regulations and how they approach due diligence.
- 5.10 MLR 2017 stipulate risk mitigation policies must be in writing and be proportionate to the risks identified. They must include internal controls over money-laundering and terrorist financing risks. They must also include revised customer due diligence procedures as well as reporting, record keeping and monitoring requirements.
- 5.11 Regulation 18 of MLR 2017 requires a written risk assessment to identify and assess the risk of money laundering and terrorist financing that the Council faces. This will:
  - Assist in developing policies, procedures and controls to mitigate the risk of money laundering and terrorist financing;
  - Help in applying a risk-based approach to detecting and preventing money laundering terrorist financing Inform an assessment of the level of risk associated with particular business relationships and transactions and enable appropriate risk-based decisions about clients and retainers;
  - Inform an assessment of the level of risk associated with particular business relationships and transactions and enable appropriate risk-based decisions about clients and retainers.
- 5.12 In carrying out risk assessments we will take into account information on money-laundering and terrorist financing risks made available by the Law Society and/or SRA, and risk factors relating to:
  - Customers;

- Geographic areas where the Council operates;
  - Products and services;
  - Transactions;
  - Delivery Channels.
- 5.13 Under MLR 2017, there ceases to be "automatic" simplified due diligence requirements for any transactions. Instead, a relevant person needs to consider both customer and geographical risk factors in deciding whether simplified due diligence is appropriate. There are various levels of due diligence as follows:
- Simplified due diligence is only permitted where it is determined that the business relationship or transaction presents a low risk of money laundering or terrorist funding, taking into account the risk assessment;
  - Enhanced due diligence' (Regulation 33) for those with a high-risk status, for example remote transactions where the customer is not physically present to be identified would require additional appropriate documents to be requested;
  - The 'beneficial owner', the individual that ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted, should be identified;
  - The business relationship should be scrutinised throughout its existence and not just at the beginning.
- 5.14 In all cases, the evidence of the customer identification and record of the relationship/transaction should be retained for at least five years from the end of the business relationship of transaction(s). The records that must be kept are:
- A copy of, or references to, the evidence of the identity obtained under the customer due diligence requirements in the Regulations;
  - The supporting evidence and records in respect of the business relationships and occasional transactions which are the subject of customer due diligence measures or ongoing monitoring;
  - A copy of the identification documents accepted and verification evidence obtained;
  - References to the evidence of identity.
- 5.15 If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot proceed any further.
- 5.16 The customer identification procedure must be carried out when the Council is carrying out 'relevant business' and:
- Forms a business partnership with a customer;
  - Undertakes a one-off transaction (including a property transaction or payment of a debt) involving payment by or to a customer of £5,000 or more;
  - Undertakes a series of linked one-off transactions involving total payment by or to the customer(s) of £5,000 or more;
  - It is known or suspected that a one-off transaction, or a series of them, involves money laundering;
  - This must be completed before any business is undertaken for that customer in relation to accountancy, procurement, asset management, audit and legal services with a financial or real estate transaction.

5.15 In the above circumstances, employees must:

- Identify the person seeking to form the business relationship or conduct the transaction (an individual or company);
- Verify their identity using reliable, independent sources of information, Identify who benefits from the transaction;
- Monitor transactions to make sure they are consistent with what you understand about that person or country;
- Understand the source of their funds;
- Ensure there is a logical reason why they would want to do business with the Council.

5.17 Transaction and business relationship records should be maintained in a form from which a satisfactory audit trail may be compiled, and which may establish a financial profile of any suspect account or customer.

5.18 The steps that will be followed to continuously mitigate the risks associated with money laundering are:

- Applying customer due diligence measures to verify the identity of customers and any beneficial owners obtaining additional information on customers;
- Conducting ongoing monitoring of the transactions and activity of customers with whom there is a business relationship;
- Having systems to identify and scrutinise unusual transactions and activity to determine whether there are reasonable grounds for knowing or suspecting that money laundering or terrorist financing may be taking place.

5.19 Risks will be reviewed continuously as part of the annual review of the Council Risk Register.

## 6. Guidance and training

6.1 The Council will:

- Make members and officers aware of the requirements and obligations placed on the Council, and on themselves as individuals, by anti-money laundering legislation; and
- Give targeted training to those considered to be the most likely to encounter money laundering.

6.2 Further information can be obtained from the MLRO and the following sources:

- Anti-money laundering responsibilities from gov.uk:  
<https://www.gov.uk/guidance/money-laundering-regulations-your-responsibilities>
- Anti-money laundering guidance from the Law Society:  
<http://www.lawsociety.org.uk/support-services/advice/articles/quick-guide-to-the-money-laundering-regulations-2017/>
- CIPFA: [www.cipfa.org/members/members-in-practice/anti-money-laundering](http://www.cipfa.org/members/members-in-practice/anti-money-laundering)
- The National Crime Agency: [www.nationalcrimeagency.gov.uk](http://www.nationalcrimeagency.gov.uk)

[OFFICIAL – SENSITIVE]

**Confidential report to the Money Laundering Reporting Officer**

To: Money Laundering Reporting Officer

From: \_\_\_\_\_ *[insert your name]*

Title/Service: \_\_\_\_\_ *[insert your post title and service]*

Telephone: \_\_\_\_\_

Date of report: \_\_\_\_\_

Response needed by: \_\_\_\_\_ *[e.g. transaction due date]*

**Name(s) and address(es) of person(s) involved:**

*[If a company/public body please include details of nature of business]*

**Nature, value and timing of activity involved:**

*[Please give full details e.g. what, when, where, how. Continue on a separate sheet if necessary]*

	Yes	No	
Has any investigation been undertaken?	<input type="checkbox"/>	<input type="checkbox"/>	If 'yes' please provide
Have you discussed your suspicions with anyone else?	<input type="checkbox"/>	<input type="checkbox"/>	details below

**Details of investigation undertaken and/or discussions held:**

**THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS**

[OFFICIAL – SENSITIVE]

**To be completed by the Money Laundering Reporting Officer**

Date report received:

Date acknowledged:

<b>Evaluation</b>		
What action is to be taken?		
Are there reasonable grounds to suspect money laundering activity? If so, please provide details		
<b>Reporting</b>		
If there are reasonable grounds for suspicion, will a report be made to the NCA?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If 'no', reasons for non-disclosure		
If 'yes', date of report to NCA		Online / Manual [delete as appropriate]
<b>Consent</b>		
Is NCA consent required for any ongoing or imminent transactions?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If 'yes', please confirm details		
Date consent received from NCA		
Date consent passed on to officer		
<b>Other relevant information</b>		

Signed \_\_\_\_\_

Date: \_\_\_\_\_

**THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS**

## 1.2 Sanctions Policy

### 1 Introduction

- 1.1 The purpose of this policy is to ensure that Brighton and Hove City Council has a set of guidelines in place that will assist in the decision making process when appropriate sanction action is necessary as a result of an investigation.
- 1.2 This policy does not intend to be prescriptive as a number of factors will need to be considered on a 'case-by-case' basis before appropriate sanction action can be decided upon. Specifically, consideration will be given to the circumstances of each case, the seriousness of the offence and the person involved in the matter.
- 1.3 All overpayments or monetary losses that result from proven fraud will be pursued rigorously and, where necessary, legal action will be taken to effect recovery.
- 1.4 In the event of a successful prosecution the decision to publicise the outcome will take into account the following criteria:
  - Interest of Brighton and Hove City Council
  - Deterrent value to others
- 1.5 This policy will be continually reviewed and updated as a result of new case decisions, legislation and case law.

### 2 Sanction/Prosecution Options

- 2.1 A person involved in perpetrating fraud may commit an offence which could relate to any of the following Acts (this is not an exhaustive list):
  - Fraud Act 2006
  - Local Council Tax Reduction Scheme (Fraud and Enforcement) Regulations 2013
  - Prevention of Social Housing Fraud Act 2013
  - Housing Act 1996
  - Proceeds of Crime Act 2002
  - Theft Act 1968 & 1978
  - Forgery & Counterfeiting Act 1987
  - Criminal Justice Act 1987
  - Data Protection Act 1998 & Computer Misuse Act 1990
  - Identity Card Act 2006 & Identity Document Act 2010
- 2.2 The Counter Fraud Team will investigate all types of fraud or criminal activity committed against Brighton and Hove City Council and in relevant cases will take appropriate sanction action.
- 2.3 The following options will be considered when there is evidence of an offence:
  - Take no further action;
  - Disciplinary Action for internal cases;
  - Civil Action to recover money, interest, costs or property;
  - Prosecution.

### 3 Sanction Guidelines

3.1 Each case will be considered on individual circumstances, however guidelines have been developed to assist in the decision making process. These guidelines relate to all cases of fraud including but not limited to tenancy fraud and/or employee fraud for example.

3.2 Consideration when deciding on an appropriate course of action will be given to:

- The Public Interest Test;
- Circumstances of the offence;
- Factors relating to the offender;
- Other relevant factors and mitigating circumstances.

3.3 Where the decision is made that a matter is not in the public interest to prosecute the following factors will be considered:

- The court is likely to impose a very small or nominal penalty;
- The loss or harm caused was minor and resulted in a single incident resulting from a misjudgement;
- If the offender is considered vulnerable;
- The value of the loss;
- The offender has not previously offended;
- The act was calculated or premeditated;
- There was no other persons involved.

3.4 The following factors will be considered where prosecution is the most likely course of action:

- The deterrent value of a prosecution;
- The length of time the fraud has continued;
- Whether the offence was calculated and premeditated;
- Sufficient evidence leading to a reasonable prospect of conviction and there are no serious errors in benefit assessment or the investigation;
- Evidence of collusion (with landlord, employer or family member etc);
- Offender holds a position of trust;
- Previous history relating to fraud.

If any of the following factors exist, it may be unlikely that prosecution will be pursued:

- Serious errors in investigation or assessment of loss;
- Unacceptable delay in investigation or the case is 'out of time' for prosecution under certain time limited legislation;
- Poor publicity may be attracted, or low deterrent factors exist;
- Vulnerable person may be put at risk;
- Evidence is insufficient to gain conviction;
- Voluntary disclosure of the offence by the offender before the fraud was uncovered, and true remorse is shown;
- Evidence that the person has committed the offence under duress.

3.5 Some factors relating to the offender may exist that could influence Brighton and Hove City Council's decision on whether to prosecute or impose another type of sanction. Examples of these factors are as follows:

- Poor health, either mental or physical, of the offender likely to be considerably and permanently worsened by prosecution;
- Young, elderly or vulnerable persons;
- Families;
- Whether the offender has reasonable understanding of the offence committed.

#### **4 Other relevant policies**

- Counter Fraud Strategy
- Whistleblowing Policy
- Anti- Money Laundering Policy
- Staff Code of Conduct
- Code of Conduct for Members

