



**AUDIT AND RISK MANAGEMENT COMMITTEE  
12 JUNE 2017**

<b>REPORT TITLE:</b>	<b>COUNTER FRAUD POLICIES</b>
<b>REPORT OF:</b>	<b>CHIEF INTERNAL AUDITOR</b>

**REPORT SUMMARY**

The purpose of this report is to provide Members of the Committee with details of the outcome of the recent periodic review of the Council's overall Counter Fraud and Corruption arrangements and to seek formal Committee approval for the proposed Counter-Fraud and Corruption Strategy, Anti-Fraud and Corruption Policy, Fraud Response Plan and revised Anti-Bribery Policy.

**RECOMMENDATION**

The Audit and Risk Management Committee approves the following strategy and policy documents:

- (i) Counter-Fraud and Corruption Strategy (Appendix 1)
- (ii) Anti-Fraud and Corruption Policy (Appendix 2)
- (iii) Fraud Response Plan (Appendix 3)
- (iv) Revised Anti-Bribery Policy (Appendix 4)

## **SUPPORTING INFORMATION**

### **1.0 REASON FOR RECOMMENDATION**

- 1.1 To follow a structured approach in ensuring that the Council has sound governance arrangements in place relating to acknowledging, preventing and pursuing fraud, corruption and bribery related risks.
- 1.2 To provide assurance to the Council's stakeholders that:
  - Fraud related risks facing the Council are being effectively considered and managed;
  - Fraud related activity will not be tolerated by the Council and perpetrators of fraud will be subject to severe sanctions;
  - Public resources are being protected from abuse and utilised efficiently in providing value for money services.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 No other options considered.

### **3.0 BACKGROUND**

- 3.1 To support the work of local authorities, the Chartered Institute of Public Finance and Accountancy (CIPFA) published a Code of Practice on Managing the Risk of Fraud and Corruption. Although the Code is not currently mandatory, it represents best practice and compliance with the Principles set out in the Code helps the Council secure good governance and demonstrate effective financial stewardship of public monies.
- 3.2 The Code was first published in 2014/15 and an initial assessment undertaken by the Council to ensure compliance in key areas at that time, an online assessment tool and further guidance was subsequently made available to Council's during 2016/17 and the Council's processes re-assessed for full compliance with all aspects of the Code.
- 3.3 The assessment tool and guidance contains 68 performance statements which were used to measure the Council's effectiveness against the five key principles of managing the risks of fraud and corruption, which are to:
  - Acknowledge the responsibility for countering fraud and corruption;
  - Identify the fraud and corruption risks;
  - Develop an appropriate counter fraud and corruption strategy;
  - Provide resources to implement the strategy;
  - Take action in response to fraud and corruption.

3.4 On completion of the assessment a written statement was generated by CIPFA summarising the Council's performance to date, against each of these principles, and scoring activities against three levels of performance 'Good', 'Basic' and 'Poor'. The results for Wirral Council are detailed below:

a) **Acknowledge responsibility**

The Council has reached a **Good** level of performance. The leadership team including officers and Members is acknowledging the risks and demonstrating positive leadership to help build an anti-fraud culture and proactively manage risk. There are some areas where more could be done on a regular basis to ensure the focus is maintained and to publicly demonstrate the Council's anti-fraud commitment.

b) **Identify risks**

The Council has reached a **Basic** level of performance against this standard. This includes the identification of some fraud risks. To improve more needs to be done to ensure that there is a regular review of fraud risks to the Council's principal activities and ensure arrangements for reporting and escalation of risks are robust. The Council should ensure that it is regularly reviewing external evidence of fraud risks and supporting fraud awareness amongst its managers and staff.

c) **Develop strategy**

The Council is meeting the **Basic** standard set out in the Code of Practice. It has put in place a strategy to address its fraud and corruption risks and has defined responsibilities for implementation and oversight. The Council's high level of performance in this area means that it is taking robust steps to improve and maintain its resilience to fraud.

d) **Provide resources**

The Council has reached a **Good** level of performance against this standard. The Council has put in place appropriately skilled resources and reviews its resourcing needs. There are some areas where more needs to be done to ensure that its counter fraud capability is able to operate effectively across the Council and collaborative arrangements.

e) **Take action**

The Council has reached a **Good** level of performance against this standard. The Council is proactive in addressing its fraud risks and takes appropriate action to referrals. It has put in place arrangements to provide assurance and accountability over its performance and so is able to identify its strengths and weaknesses. There are some areas where improvements can be made to the effectiveness of its arrangements and to ensure they fully address the scope of the Counter-Fraud and Corruption Strategy.

**Overall Assessment**

The Council has reached a **Good** level of performance against the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption. This means that the Council has put in place effective arrangements across many aspects of the Code of Practice and is taking positive action to manage its risks. The Council is performing well against the Code and is actively working to improve its resilience to fraud and to manage its fraud risks. There are some areas that should be

reviewed to develop and improve existing arrangements and the Council should consider further opportunities to extend the effectiveness of its counter fraud and corruption arrangements.

- 3.5 Early indications are that the Council compares favourably with other neighbouring authorities which is encouraging and reflects the extensive work that the Council has undertaken in developing initiatives such as the Mersey Region Counter Fraud Hub and associated publicity campaigns as well as targeted joint working.
- 3.6 Internal Audit are currently liaising with relevant officers across the Council to ensure that action points identified following the assessment are implemented in a timely fashion. One of the main areas identified relates to the completion of a Corporate Fraud Risk Assessment for the Council, with key fraud risks being incorporated within a formal Risk Register. At the time of writing this report, significant progress has been made in carrying out this task, with emphasis being placed on the main areas of fraud highlighted within CIPFAs Fraud and corruption Tracker (CFaCT) 2016.

### **Counter Fraud and Corruption Strategy**

- 3.7 CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption states that an organisation needs a counter fraud strategy setting out its approach to managing its risks and defining responsibilities for action.
- 3.8 It is recognised that to reduce losses to fraud and corruption to an absolute minimum, a strategic approach with a clear remit covering all areas of fraud and corruption that may affect the Council is required. There needs to be a clear understanding of the importance of the links between policy work (to develop a counter-fraud and corruption culture, create a strong deterrent effect and prevent fraud and corruption by designing robust policies and systems) and operational work (to detect and investigate fraud and corruption and seek to apply sanctions and recover losses where they are found).
- 3.9 Until 2017, the Council had an Anti-Fraud and Corruption Policy and Fraud Response Plan and adopted a strategic approach, but had not documented the overarching strategy. The Council's draft Counter-Fraud and Corruption Strategy clearly identifies the Council's commitment to an effective Counter-Fraud and Corruption approach, as part of its overall Corporate Governance arrangements. The draft strategy outlines the principles that the Council is committed to in preventing and reporting fraud and corruption.
- 3.10 The draft Counter-Fraud and Corruption Strategy is attached as Appendix 1 to this report for Member consideration and approval.
- 3.11 Regular reports on any activity relating to this Strategy, and progress against the Action Plan, will be provided to the Audit and Risk Management Committee.
- 3.12 The Annual Counter Fraud report which is presented to this Committee in November each year will in future incorporate an assessment of the Council's performance against the Strategy and the effectiveness of the Strategy. Conclusions will also be featured in the Annual Governance Statement.

## **Anti-Fraud and Corruption Policy and Fraud Response Plan**

- 3.13 An Anti-Fraud and Corruption Policy and Fraud Response Plan forms an important part of the Counter-Fraud and Corruption Strategy by setting the tone, culture and expectations of the Council, as part of the corporate framework.
- 3.14 Wirral Council has had an Anti-Fraud and Corruption Policy and Fraud Response Plan for many years. As part of the 2017 review both documents have been updated to take account of current best practice and guidance.
- 3.15 The Anti-Fraud and Corruption Policy outlines the Council's attitude to, and position on, fraud and corruption and sets out responsibilities for its prevention and detection. It also communicates important deterrence messages to employees, Members and third parties that fraudulent conduct will not be tolerated by the Council and that the fight against fraud and corruption is endorsed and supported at the most senior level.
- 3.16 The Fraud Response Plan details the Council's procedures for responding to any incidents of suspected fraud or corruption. The Plan sets out how suspicions should be raised and how investigations will be conducted and concluded.
- 3.17 The draft Anti-Fraud and Corruption Policy and Fraud Response Plan are attached as Appendix 2 and 3 to this report and include the relatively minor updates required for Member consideration and approval.

## **Anti-Bribery Policy**

- 3.18 There has been no change to the Bribery legislation since it came in to force in July 2011. However, some minor changes have been made to the Anti-Bribery Policy following a review in 2017.
- 3.19 The Anti-Bribery Policy sets out the actions required by Wirral Council officers to ensure compliance with the Bribery Act 2010 and details the sanctions which are applicable to individuals and to the Council, in the event of a prosecution under the Act.
- 3.20 The sanctions are severe and offences include the corporate offence of "failing to prevent an act of bribery". There is however a defence available to the Council of having "Adequate Procedures" in place. To successfully rely on this defence the Serious Fraud Office would have to be satisfied that the anti-bribery philosophy is embedded in the culture of the Council. In order to prove that the Council has adequate procedures in place, the Ministry of Justice has advocated a list of actions which the Council should have undertaken. The list includes:
- Completion of a risk assessment to identify all areas of the organisation potentially susceptible to Bribery;
  - Ensuring that there is top level commitment to a culture of zero tolerance to bribery;
  - Putting in place proportionate due diligence procedures;
  - Ensuring that all pertinent policies are practical and accessible and understood by all employees;

- Ensuring that there is a system in place to monitor and review the effectiveness of the organisation's approach.

3.21 An assessment of the Council's anti-bribery arrangements will be reviewed during 2017/18 by the Internal Audit Team and the findings will subsequently be reported to Members.

3.22 The draft Anti-Bribery Policy is attached as Appendix 4 to this report for Member consideration and approval.

## **Conclusion**

3.23 In aligning the Council's Counter Fraud and Corruption Strategy with CIPFA's Code of practice on managing the risks of fraud and corruption, the Council continues to apply best practice.

3.24 The adoption and promotion of an effective Counter Fraud and Corruption Strategy, helps the Council proactively encourage the detection of fraud and irregularities, and manage them appropriately.

3.25 It is essential that the Strategy and Policies named above are embedded within the culture of the Council and pro-actively drawn to the attention of all employees and Members of the Council. To facilitate this, they will be made available on the Council's Intranet and Internet sites and e-learning packages.

## **4.0 FINANCIAL IMPLICATIONS**

4.1 There are none arising from this report.

## **5.0 LEGAL IMPLICATIONS**

5.1 Local Authorities have a statutory duty to make arrangements for the proper administration of their financial affairs. That duty includes the prevention, detection and deterrence of fraud and corruption. The Counter Fraud and Corruption Strategy, Anti-Fraud and Corruption Policy and Fraud Response Plan provides a framework for fraud awareness, response and key actions relating to improving the Council's counter fraud and corruption framework. In the absence of an up to date strategy and policies there is a risk that fraud and corruption may not be monitored or be unreported.

5.2 The Bribery Act 2010 reformed the criminal law to provide a new, modern and comprehensive scheme of bribery offences that enables courts and prosecutors to respond more effectively to bribery at home or abroad and provides a more effective legal framework to combat bribery in the private and public sector. It replaced the fragmented offences in common law and the Prevention of Corruption Acts 1889-1916. The Act created two general offences covering the offering, promising or giving of an advantage and requesting, agreeing to receive or accepting of an advantage. It also introduced a corporate offence of failure to prevent bribery by persons working on behalf of a business. An organisation can avoid conviction if it can show that it has adequate procedures in place to prevent bribery.

## **6.0 RESOURCE IMPLICATIONS**

6.1 It is envisaged that all work will be carried out within existing resources.

## **7.0 RELEVANT RISKS**

7.1 As the Council is required to make significant cuts in its current and future budgets, it is essential that it continues to maintain strong defences against fraud and corruption, directing its resources most effectively to mitigate the risk of fraud and reduce loss to the public purse.

7.2 Failure by the Council to fully embed a culture of zero tolerance to bribery could lead to the prosecution of the Council under Section 7 of the Bribery Act 2010, with the potential sanction of an unlimited fine, disbarment from certain trading opportunities and consequential adverse publicity.

## **8.0 ENGAGEMENT/CONSULTATION**

8.1 The Counter-Fraud and Corruption Strategy and revised policies have been developed following consultation with relevant officers within the Council and discussions with colleagues within neighbouring Councils.

## **9.0 EQUALITY IMPLICATIONS**

9.1 There are no specific equality implications arising from this report.

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## **APPENDICES**

Appendix 1- Counter-Fraud and Corruption Strategy  
Appendix 2 - Anti-Fraud and Corruption Policy  
Appendix 3 - Fraud Response Plan  
Appendix 4 - Anti-Bribery Policy

## **REFERENCE MATERIAL**

Managing the Risk of Fraud and Corruption– CIPFA Publication  
The Local Government Counter Fraud and Corruption Strategy 2016-19  
The Bribery Act 2010 – Ministry of Justice Publication