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**ANTI-FRAUD AND CORRUPTION STRATEGY**  
**(including Anti Bribery)**  
**December 2011**

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**Anti-fraud and Corruption Policy (including Anti Bribery)**

**1. Introduction**

- 1.1 This document sets out Central Bedfordshire's policy and strategy in relation to fraud and corruption. It has the full support of the Council's Members and Central Bedfordshire Management Team (CMT). This also incorporates the Council's approach to Anti Bribery and Facilitation payments.
- 1.2 Central Bedfordshire is committed to the eradication of fraud, corruption and misappropriation and to the promotion of high standards of integrity, with the objective of being a model of public probity, affording maximum protection to the funds administered.
- 1.3 To deliver Central Bedfordshire's corporate strategy, there is a need to maximise the financial resources available. In order to do this fraud and misappropriation must be minimised.
- 1.4 Furthermore, Central Bedfordshire recognises its fiduciary responsibility to protect public funds and will endeavour to implement secure systems and high standards of conduct. The strongest possible sanctions will be sought against those who seek to defraud the Council. This includes members, officers, contracting partners and external individuals and organisations.
- 1.5 The strategy to deal with fraud, corruption and misappropriation is built upon seven key concepts: Culture, Deterrence, Prevention, Detection, Investigation, Sanctions and Redress.

**2. Roles and Responsibilities**

- 2.1 The prevention, detection and reporting of suspected fraud, bribery and other forms of corruption are the responsibility of all those working for the organisation or under its control. All staff members, contractors and partners are required to comply with the policy, and raise concerns as soon as possible if they believe or suspect a conflict with this policy has occurred.
- 2.2 All Members are expected to act in a manner which sets an example to the community whom they represent and to the staff of Central Bedfordshire who implement their policy objectives.
- 2.3 All officers are expected to conduct themselves in ways which are beyond reproach, above suspicion and fully accountable. No financial malpractice will be tolerated and those found guilty of it will be pursued, so that the most appropriate and severe sanctions are applied.
- 2.4 There is a special responsibility on the Central Bedfordshire senior management team, Assistant Directors, the Monitoring Officer, and other relevant chief officers to lead their staff by example. The Council expects these officers to set the standard by their own behaviour. This includes practicing the Nolan's principles of public life. (The Seven Principles of Public Life, identified by Nolan, are set out at Appendix A).
- 2.5 It is the responsibility of directors and managers to be aware of the appropriate financial and other anti-fraud regulations and to be responsible for raising awareness of and ensuring conformance to them by the staff for whom they are responsible.
- 2.6 Those organisations undertaking work on behalf of the Council are required to maintain strong anti-fraud principles. The Council is happy to work with such organisations and to provide

advice on anti-fraud measures. Through contract documentation it will be ensured that partners take the issue of fraud seriously. Contractor partners will be required to have adequate recruitment procedures and controls when they are handling finance on behalf of the Council. This expectation will be written into all contract terms and agreements.

- 2.7 Members of the public receive financial assistance and benefits from the Council through a variety of sources e.g. Council Tax Benefit and various Grants. The anti- fraud effort will be balanced against the desire to ensure genuine claimants receive their full entitlement, and the same principles will apply in dealing with fraud in all of areas of expenditure that directly support the community.

### **3. Definitions**

- 3.1 For the purposes of this policy, fraud is defined as the intentional distortion of records for gain; corruption as the offering or acceptance of inducements designed to influence official action; financial malpractice as theft of funds or assets from the Council or its clients and intentional, unauthorised breaches of financial regulations; and misuse of official position as employees or their friends, relatives or acquaintances benefiting inappropriately from exercise of duty.
- 3.2 Bribery is defined as an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.
- 3.3 This policy excludes housing benefit fraud, responsibility for which is within the Benefits Service, and is covered within a separate policy document.

### **4. Culture**

- 4.1 The strategy to reduce fraud is based on deterrence, prevention, detection, investigation, sanctions and redress within an over-riding anti-fraud culture. This culture will be promoted across all service areas and within the community as a whole. One pound lost to fraud means one pound less for public services. Fraud is not acceptable and will not be tolerated.
- 4.2 The Council will seek to promote an anti-fraud culture within the community by publicising the impact of fraud on the community, and will also seek to assist partners and the community to understand and reduce fraud risks through a programme of awareness training. Furthermore, specific publicity and general campaigns will be used to deter potential fraudsters.
- 4.3 Central Bedfordshire takes a holistic approach to anti-fraud measures. Fraud prevention and system security is an integral part of the development of new systems and ongoing operations. Managers will consider the fraud risks and take advice where appropriate when implementing any financial or operational system.
- 4.4 The holistic approach extends to the investigation of allegations and the prevention of fraud through system reviews. Internal Audit provides the Council's fraud investigation and system audit functions. They employ a multi-disciplinary approach to the deterrence, prevention, detection, investigation, sanctions and redress of fraudulent activity. In addition, the team are free to work with other agencies in the pursuance of Central Bedfordshire's anti-fraud aims.

## 5. Deterrence - The Governance Framework

5.1 Central Bedfordshire takes ultimate responsibility for the protection of its finances and those that are administered on behalf of the Government or the Community. In turn, managers have a duty to protect their service area from losses due to fraud and irregularity and are responsible for implementing proper internal controls.

5.2 The governance framework, which underpins the operation of the Council, has a number of facets that exist to protect the Council against losses from fraud and act as a deterrent. These include:

- An established Standards Committee and an adopted code of conduct for Members.
- Members formally signing a declaration accepting the terms of the code of conduct.
- The constitution, financial regulations, standing orders and the scheme of delegation.
- Constitution arrangements which are disseminated to the public, partners, members and staff.
- Internal control reviews by Internal Audit, including pro- active fraud work.
- A confidential reporting policy (“whistleblowing” procedure).
- An anti-fraud and corruption policy (including Anti Bribery).
- Policies on the Regulation of Investigatory Powers Act (RIPA), and Money Laundering.
- Data Protection procedure.
- A complaints procedure.
- Relevant documents being made available to the public, partners, staff and members.
- Transparency over how public money is spent, in line with the Government’s requirements for publication.
- Training for staff and members on the corporate strategy documents and what the arrangements mean for their behaviour.
- Monitoring and testing of the operation of the ethical framework.
- Participation in national anti-fraud initiatives and organisations like the CIPFA Better Governance Forum.
- The promotion of awareness of anti-fraud and corruption issues reinforced by training and publicity.
- Effective disciplinary procedures as detailed in the staff handbook.
- Effective recruitment procedures.

5.3 The respective roles and responsibilities of stakeholders are detailed within this document. For clarity, the specific responsibilities are summarised at Appendix B.

## **6. The Fraud Risks**

6.1 Central Bedfordshire is responsible for the proper administration of its finances. This not only includes direct income and expenditure but also that administered on behalf of the Government, on behalf of clients and that for which it is the responsible accountable body. All of these sources of income and expenditure and assets are vulnerable to fraud.

6.2 Central Bedfordshire will be vigilant in all of these areas and will apply the same principles of deterrence, prevention, detection, investigation, sanctions and redress across all its services. The Council will not be afraid to tackle difficult or uncomfortable cases and will take a robust line and seek the maximum appropriate sanctions and redress in all areas of operation.

## **7. Prevention**

7.1 Members will comply with the Code of Conduct for Members and any ancillary codes that the Council implements. The Council will provide fraud awareness training to its Members and encourage an open and honest dialogue between Members and Officers.

7.2 These matters and other guidance are specifically brought to the attention of Members at the induction course for new Members. The Council will ensure that the processes that are particularly vulnerable, such as planning, licensing, and disposals and tendering are adequately protected through internal control mechanisms.

7.3 It is recognised that systems are vulnerable from attack from within the organisation, particularly by those who misuse inside knowledge of control weaknesses through their official position. Prevention is better than cure and all managers must ensure that as far as possible their systems are adequately protected by sound internal controls. It is the responsibility of all managers to establish and maintain systems of internal control and to ensure that the Council's resources are properly applied and on the activities intended. This includes responsibility for the prevention and detection of fraud, corruption and financial malpractice.

7.4 It will be ensured that an adequate and effective internal audit is undertaken of the Council's systems and processes. Internal Audit will assist managers to implement proper controls and remedy control failures.

7.5 It will be ensured that procedures relating to recruitment, staff conduct and disciplinary processes are robust and are followed. With regard to the vetting of new entrants, references will be taken in all cases and personal testimonials will not be accepted. Where qualifications are required for a particular post, candidates will be required to submit original certificates for checking. If a doubt arises as to the authenticity of a qualification, this will be verified with the examination board / professional body.

7.6 Where posts involve positions of trust, such as cash handling, legal or accountancy posts, reference checks with previous employers will incorporate specific questions as to the integrity of the applicants.

7.7 Where agency staff are being employed in positions where they have access to finance, personal data or other assets, their references will be checked direct with their previous employer. The Council will not rely on references supplied by staffing agencies.

7.8 Where necessary, officers will undertake checks with the Criminal Records Bureau (CRB).

- 7.9 The Council will expect its partners to have adequate controls in place to minimise fraud, and will provide fraud awareness training to partners as required. It will also provide support and training to community partners to help them implement proper controls and protect the funds they administer.
- 7.10 The Council will implement strong systems of verification of all claims for all types of financial assistance, and will utilise all data available to corroborate information given by applicants for the purposes of prevention and detection of fraud. It will also monitor and review grants and assistance given to external organisations to ensure applications are genuine. All staff involved in assessing applications will be given ongoing fraud awareness training.

## **8. Detection**

- 8.1 Through Internal Audit reviews and the work of the Monitoring Officer the possibility of fraud will be considered in all vulnerable areas and appropriate tests are devised to detect fraud.
- 8.2 All internal audit reviews will have regard to the possibility of fraud. Auditors and Investigators will receive reciprocal training to ensure that both have a full understanding of system controls and potential fraud areas. A series of proactive anti-fraud audits in high risk areas will be undertaken with a view to uncovering fraud and misappropriation.
- 8.3 The Council actively encourages the reporting of suspected acts of fraud or impropriety whether they be committed by colleagues or members. All members of staff, the public and Councillors are encouraged to contact Internal Audit with any suspicion of fraud, corruption, financial malpractice or the misuse of official position. There is a dedicated free fraud hotline **0300 300 8182** and e-mail address **"[tellusaboutfraud@centralbedfordshire.gov.uk](mailto:tellusaboutfraud@centralbedfordshire.gov.uk)"** to report any suspected fraud. All referrals received from members of the public will be evaluated and investigations undertaken into all appropriate cases.
- 8.4 In addition the Council operates a Confidential Reporting Policy (Whistleblowing Policy) for those employees who wish to utilise the protection offered by the Public Interest Disclosure Act 1998.
- 8.5 All methods available will be utilised to detect fraud. This includes data matching, open source research, surveillance and intelligence led investigation. The Council will also actively participate in the Audit Commission's National Fraud Initiative (NFI). and work with all Government agencies to detect and prevent fraud and other crimes affecting the well-being of the community.
- 8.6 Where partners are involved with the administration of Council finances, or those for which it has responsibility, the Council will conduct internal audit reviews and pro-active anti-fraud exercises as for its own service areas.
- 8.7 Fraud trends will be analysed in order to identify high risk areas and undertake pro-active anti-fraud drives based on that analysis.

## **9. Investigation**

- 9.1 Allegations of fraud and corruption made against Members will be fully investigated in accordance with the provisions of the Local Government Act 2000 and any subsequent statute or codes of practice. The Standards Committee is responsible for the initial assessment of alleged breaches of the Members' Code of Conduct.

- 9.2 The Council will fully assist the Standards Committee or other law enforcement agencies with any investigation concerning a Member.
- 9.3 Allegations about Members that are received by Internal Audit will be referred immediately to the Monitoring Officer. The Monitoring Officer may utilise Internal Audit for the purposes of any investigation.
- 9.4 Internal Audit is charged with leading on any other suspected issues of fraud or irregularity, with the exception of Housing Benefits. A dedicated Team has been established for investigations in this area. Internal Audit reports to the Chief Finance Officer and will be free to examine all allegations of fraudulent, financial misconduct, corruption and other behaviour affecting the finances or integrity of the Council.
- 9.5 Internal Audit will investigate any allegation that may have a direct or indirect impact on the finances for which the Council is responsible. This will include cases where staff may have financial information relating to organisations which are, or have been, funded by the Council or with whom the Council have a contract. Staff have a duty to assist the Council with any matter under investigation. Failure to assist with an investigation may be considered as a breach of trust or failure to comply with financial regulations. This could lead to disciplinary action being taken.
- 9.6 The Council's partners will provide full access to their financial records, as they relate to Council finances, and their staff will be required to assist fully with any investigation. These conditions will be included in any contract terms or agreements. Personnel records of any person suspected of being involved in fraud will be made available to Internal Audit.
- 9.7 Internal Audit will work with other public sector bodies including; the Department of Work and Pensions (DWP), the Police, Revenue & Customs and the Immigration Service for the purposes of preventing, detecting and investigating crime. Internal Audit will liaise with these agencies while utilising their services, where applicable, to undertake their investigations.

## **10. Sanctions and Redress**

- 10.1 The Council will utilise its own Standards Committee to the fullest extent to promote high standards and regulate the conduct of Members.
- 10.2 The Council will seek the strongest available sanctions against staff who commit fraud against the Council, its clients or the public purse. This may include disciplinary action, prosecution and civil proceedings. Employees found guilty of gross misconduct at disciplinary for offences of fraud, theft, serious financial malpractice, using their position for personal gain or for the gain of others, will be subject to the Council's formal processes. This applies to employees who improperly benefit from the Council as a corporate body and not just those who steal funds from their own unit. It also applies to employees who defraud or steal from the Council's clients. It may also take disciplinary action against staff who commit fraud against other Local Authorities, or any other agency administering public funds. As with all disciplinary matters, the level of proof required is that of the balance of probability. Disciplinary cases involving allegations of fraud, corruption and financial malpractice will be handled on this basis.
- 10.3 At the conclusion of each investigation, the Investigator will produce a report. The manager whose responsibility encompasses the area of that investigation will formally accept the report and take the appropriate action (disciplinary or other). If the Head of Internal Audit and Risk is not satisfied that the appropriate action has been undertaken they will refer the matter to the Chief Finance Officer.

- 10.4 Internal Audit will also highlight any system weaknesses that are identified as a result of an investigation. These will be addressed through an agreed action plan. The relevant service area manager is responsible for implementing the action plan. Internal Audit will monitor implementation of agreed actions. Failure to implement adequate system controls following a loss to fraud will be the subject of a report to the relevant Director, and/or Committee. All potential misconduct cases must be handled using the Authority's Disciplinary Procedure and Internal Audit's investigating officers will liaise with line managers and Human Resources advisers to ensure effective use of the Authority's procedures.
- 10.5 The decision to refer the matter on for further action, such as prosecution, will be taken by the Chief Finance Officer the relevant service director and the Council's Monitoring Officer upon a recommendation from the Head of Internal Audit and Risk in accordance with any prosecution policy in force at the time.
- 10.6 The Council will also seek the strongest available sanctions against partners and contractor staff who commit fraud against the Council or who commit fraud against the public purse, and may request that the organisation takes appropriate disciplinary action against the individual and / or may require that they are removed from the Central Bedfordshire account. The ability to request removal of staff will be written into contract terms. All partners and contractors will be responsible for any losses affecting Council funds attributable to their employees. This will be written into contract terms.
- 10.7 As a deterrent, the Council may also publicise our successful sanctions in the local press.

## **Anti-fraud Strategy Part 2**

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### **Prosecution Policy**

#### **1. Introduction**

1.1 The Council's anti-fraud policy and strategy sets out its aims and objectives with regard to tackling fraud and corruption. It states that it will seek the strongest possible sanction against any individual or organisation that defraud, or seek to defraud the Council. The use of sanctions will be governed by the following policy and the principles of the policy shall apply equally to any fraud against the Council or against funds for which the Council has responsibility.

#### **2. Objectives**

2.1 The objectives of this policy are:

- To ensure that the Council applies a full range of sanctions in a just and consistent manner.
- To ensure that sanctions are applied in an effective and cost efficient manner.
- To ensure that the sanction decision making process is stringent, robust and transparent.

2.2 This policy is designed to provide a framework within which to ensure the most appropriate resolution to a case is reached. The sanction decision will have regard at all times to the Council's disciplinary policy and anti-fraud policy objectives, the individual circumstances of each person concerned and the overall impact of the punishment to both the individual and the community. A range of sanctions is available to the Council. These include disciplinary action, civil proceedings, criminal proceedings, official cautions and administrative penalties.

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

2.4 In some cases, the ultimate decision on prosecution will be taken by the Crown Prosecution Service. This will be as a result of a referral of cases to the Police. We will utilise the Police in cases where their additional powers are required to secure evidence or recovery of funds or where the matter is considered too serious to be pursued in-house.

2.5 The Council's Legal Service and external legal advisors will be used to undertake criminal prosecution and civil proceedings. In these cases, the decision to refer cases for prosecution will be taken by the Chief Finance Officer in consultation with the Head of Internal Audit and Risk, the Service Director and the Monitoring Officer.

2.6 In appropriate cases, the Council will also utilise the prosecution arm of other public agencies. This will usually be for cases involving joint investigations.

2.7 When considering a case for prosecution, it is generally accepted that there are two "tests" to be applied – the evidential test and the public interest test. Only when both these tests are satisfied can a case be considered suitable for prosecution.

### **3. Evidential Test**

- 3.1 Is there enough evidence to provide “a realistic prospect of conviction”?
- 3.2 In order to ensure that a “realistic prospect of conviction” exists, officers will at all times ensure that investigations are conducted in accordance with relevant legislation and in line with published Codes of Practice and Guidance with regard to evidence gathering, interviewing and rules of disclosure.
- 3.3 The Council does not have the resources of the police and CPS available to it and to ensure the cost effectiveness of actions, will require the evidence to be of a standard to make the prospect of a conviction highly likely.
- 3.4 The evidence gathered will be examined in the first instance by the investigator and their manager. When both are satisfied that sufficient evidence exists to successfully prosecute and that the Public Interest test is also satisfied, in consultation with the Council’s legal team and any external advisors, the case file will be passed on to the police for investigation. Both the Council’s Legal team and the CPS will apply their own inspection of the evidence to ensure that a realistic prospect of conviction exists.

### **4. Public interest Test**

- 4.1 In order to ensure consistency and correctness when considering a case for Sanction / Prosecution, the guidelines applied by the Crown Prosecution Office – as detailed in Section 10 Prosecution of Offences Act 1985 will be followed by officers. In addition, the guidance provided by relevant Government agencies on prosecution will also be considered.

### **5. Public interest Factors**

- A conviction is likely to result in a significant sentence.
- The defendant was in a position of authority or trust.
- The evidence shows that the defendant was a ringleader or an organiser of the offence.
- There is evidence that the offence was premeditated.
- There is evidence that the offence was carried out by a group.
- The defendant’s previous convictions or cautions are relevant to the present offence.
- There are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct; or the offence, although not serious in itself, is widespread in the area where it was committed.
- Aggravating and mitigating factors will be taken into consideration when deciding on the appropriate sanction.

### **6. Officer Fraud and Corruption**

- 6.1 In all cases of fraud, financial misconduct, serious and intentional breach of financial regulations and corruption committed by officers the Council will seek disciplinary action. Such cases would normally be considered as gross misconduct.

- 6.2 Where a financial loss has been identified, it will always seek to recover this loss either through the civil or criminal process.
- 6.3 Fraud committed by officers will also be considered for criminal prosecution.
- 6.4 The factors that will affect the decision to prosecute will be based on the evidential and the public interest test. Prosecution will be sought in all cases involving theft from vulnerable clients or where there is evidence of corruption of public officials.

## **Nolan Committee Report – The Seven Principles of Public Life**

### **Selflessness**

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

### **Integrity**

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

### **Objectivity**

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

### **Accountability**

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

### **Openness**

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

### **Honesty**

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

### **Leadership**

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

**APPENDIX B**

| <b>Stakeholder</b>                                       | <b>Specific Responsibilities</b>  |
|--|---|
| Chief Executive  | Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption.   |
| Monitoring Officer                                       | To advise Councillors and officers on ethical issues, standards and powers to ensure that the Council operates within the Law and statutory Codes of Practice.  |
| Chief Finance Officer (Section 151 Officer)              | To ensure the Council has an adequately resourced and effective Counter Fraud and Internal Audit and Risk Management Service.   |
| Audit Committee  | To monitor the Council's policies and consider the effectiveness of the arrangements for Counter Fraud and Whistleblowing.  |
| Standards Committee                                      | The Committee promotes and maintains high standards of conduct by Members and is responsible for assessing and determining complaints against Members.  |
| Councillors  | To support and promote the development of a strong counter fraud culture.   |
| External Audit   | Statutory duty to ensure that the County Council has in place adequate arrangements for the prevention and detection of fraud, corruption and theft.  |
| Internal Audit and Risk                                  | Responsible for developing and implementing the Anti Fraud and Corruption Strategy (including Anti Bribery) and investigating any issues reported under this policy and the Confidential Reporting (Whistleblowing) Policy. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this policy and that action is identified to improve controls and reduce the risk of recurrence. |
| Managers   | To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption and theft and to reduce these risks by implementing robust internal controls.   |
| Staff  | To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns to the appropriate management, the Chief Executive, the Chief Finance Officer, the Monitoring Officer, or Internal Audit and Risk.  |
| Public, Partners, Suppliers, Contractors and Consultants | To be aware of the possibility of fraud and corruption against the Council and report any genuine concerns or suspicions.   |
| Investigator.  | Person responsible for conducting a thorough investigation, in accordance with HR procedures. May be employee's manager or nominated individual e.g. Internal Audit officer.  |

## CENTRAL BEDFORDSHIRE COUNCIL

### 1. Policy Statement – Anti- Bribery

- 1.1 Bribery is a criminal offence. The Council does not, and will not, pay bribes or offer an improper inducement to anyone for any purpose, nor does it or will it, accept bribes or improper inducements.
- 1.2 To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery.
- 1.3 The Council is committed to the prevention, deterrence and detection of bribery. It has zero-tolerance towards bribery, and aims to maintain anti-bribery compliance “business as usual”, rather than as a one-off exercise.

### 2. Objective of this policy

- 2.1 This policy provides a coherent and consistent framework to enable the Council's employees 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.
- 2.2 The Council requires that all personnel, including those permanently employed, temporary agency staff, and contractors:
  - act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible
  - comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the organisation operates, in respect of the lawful and responsible conduct of activities

### 3. Scope of this policy

- 3.1 This policy applies to all of the Council's activities. For partners, joint ventures and suppliers, the Council will seek to promote the adoption of policies consistent with the principles set out in this policy.
- 3.2 Within the Council the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all service areas and corporate functions.
- 3.3 This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, partners, non-executives, agents, Members (including independent members), volunteers and consultants.
- 3.4 The policy sets out the Council's commitments and definitions, along with an overview of the four key offences under the Bribery Act. It sets out the six principles that the Council will follow. In addition, the policy outlines the penalties that may be imposed, staff responsibilities and information on how to raise a concern.

### 4. The Council's Commitment

- 4.1 The Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date.
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times.
- Training all employees so that they 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 individual(s) 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.

## **5. Definition of Bribery**

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

## **6. The Bribery Act**

6.1 There are four key offences under the Act:

- bribery of another person (section 1).
- accepting a bribe (section 2).
- bribing a foreign official (section 6).
- failing to prevent bribery (section 7).

6.2 The Bribery Act 2010 ([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100023\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1)) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation.

6.3 An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

## **7. Definition of “Commercial Organisation”**

7.1 The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.”

7.2 The Council is therefore a “commercial organisation”.

## 8. Definition of “Adequate Procedures” – The Six Principles

8.1 Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the Council. It is for the Council to determine proportionate procedures in the recommended areas of six principles. These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations.

8.2 **The Council is committed to proportional implementation of the principles, as set out below:**

- ***Proportionate procedures***

An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.

- ***Top level commitment***

The top-level management (be it a board of directors, the owners or any other equivalent body or person) are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.

- ***Risk Assessment***

The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

- ***Due diligence***

The organisation applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

- ***Communication (including training)***

The organisation seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

- ***Monitoring and review***

The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

## 9. Penalties

9.1 An individual guilty of an offence under sections 1, 2 or 6 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both

- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

9.2 Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

## **10. Bribery is not tolerated**

10.1 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 us 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.

## **11. Facilitation payments**

11.1 Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

## **12. Gifts and hospitality**

12.1 This policy is not meant to change the requirements of the Constitution with regards to gifts and hospitality. (See F3 of Constitution).

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

13.1 Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council has the discretion to exclude organisations convicted of this offence.

## **14. Staff responsibilities**

14.2 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid activity that breaches this policy.

14.2 You must:

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

14.3 Failure by a member of staff to comply with the procedures set out in this policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's disciplinary policies and procedures.

## **15. Raising a concern**

15.1 The Council is committed to ensuring that there is a safe, reliable, and confidential way of reporting any suspicious activity, and wishes every member of staff to know how they can raise concerns.

15.2 All staff have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

15.3 There are multiple channels to help you raise concerns. Please refer to the Confidential Reporting (Whistle blowing Policy) for more information. Preferably the disclosure will be made and resolved internally (e.g. to your head of department/on line reporting/telephone hotline). Secondly, where internal disclosure proves inappropriate, concerns can be raised with the regulator (e.g. external auditor. See link to “BIS prescribed persons” at the end of this document). Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).

15.4 Concerns can be anonymous. 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 clearly defined 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.

15.5 Staff who refuse to accept or offer a bribe or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. The Council is committed to openness, probity and accountability and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

15.6 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.

See Appendix D for useful officer contact details.

## **16 Useful links**

CIPFA Better Governance Forum [CIPFA Better Governance Forum - CIPFA Networks](#)

The Bribery Act [Bribery Act 2010](#)

Bribery Act final guidance <http://www.cipfanetworks.net/governance/briberyact2010/finalguidance>

Bribery Act quick start guide <http://www.cipfanetworks.net/governance/briberyact2010/quickstartguide>

Joint Prosecution Guidance <http://www.cipfanetworks.net/governance/> Joint Practice Guidance

National Fraud Authority [National Fraud Authority](#)

Transparency International [Transparency International UK](#)

Public Concern at Work [Public Concern at Work - Making Whistle blowing Work - 0207 404 6609](#)

The British Standards Institution (Code of Practice on whistle blowing arrangements 2008, Anti Bribery Management System Standard late 2011) [BSI: Standards, Training, Testing, Assessment & Certification](#)

Department for Business Innovation and Skills (Blowing the whistle to a prescribed person) [http://www.direct.gov.uk/prod\\_consum\\_dg/groups/dg\\_digitalassets/@dg/@en/@employ/documents/digitalasset/dg\\_177605.pdf](http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/@employ/documents/digitalasset/dg_177605.pdf)

Ministry of Justice  
The Bribery Act 2010  
[www.justice.gov.uk/guidance/bribery.htm](http://www.justice.gov.uk/guidance/bribery.htm)

## Useful Contacts

### **Charles Warboys, Chief Finance Officer**

TEL: 0300 300 6147

EMAIL: [charles.warboys@centralbedfordshire.gov.uk](mailto:charles.warboys@centralbedfordshire.gov.uk)

### **Kathy Riches, Head of Internal Audit and Risk**

TEL: 0300 300 6155

EMAIL: [kathy.riches@centralbedfordshire.gov.uk](mailto:kathy.riches@centralbedfordshire.gov.uk)

### **24 Hours CBC Fraud Hotline**

TEL: 0300 300 8182

EMAIL: [tellusaboutfraud@centralbedfordshire.gov.uk](mailto:tellusaboutfraud@centralbedfordshire.gov.uk)

### **John Atkinson Head of Legal and Democratic Services (Monitoring Officer)**

TEL: 0300 300 6255

EMAIL: [john.atkinson@centralbedfordshire.gov.uk](mailto:john.atkinson@centralbedfordshire.gov.uk)

### **Richard Carr, Chief Executive**

TEL: 0300 300 4009

EMAIL: [richard.carr@centralbedfordshire.gov.uk](mailto:richard.carr@centralbedfordshire.gov.uk)