

# **POLICY ON FRAUD AND CORRUPTION**

## ***Introduction***

Perth & Kinross Council attaches the highest importance to the proper conduct of all its business. The Council confidently expects that its members, employees and contractors will behave with honesty and integrity in all their actions in the public service.

This policy statement sets out the arrangements put in place by the Council to ensure that these standards are adhered to. It also describes the action that will be taken where there are grounds to believe that fraudulent or corrupt behaviour may have taken place.

The contents of the policy are arranged as follows:

- i Section 2 sets out the scope of the policy and some key definitions;
- ii Section 3 describes the principles supporting the Council's Policy on Fraud and Corruption;
- iii Section 4 explains the measures put in place by the Council to prevent or deter instances of fraud or corruption, including the roles of those responsible for maintaining these arrangements;
- iv Section 5 describes in more detail the arrangements put in place to ensure that instances of suspected fraud or corruption are reported;
- v Section 6 presents the Council's policies relating to the investigation of suspected fraud or corruption;
- vi Section 7 sets out the action that the Council will take on the completion of an investigation into suspected fraud or irregularity;
- vii Section 8 describes the arrangements in place for communicating and reviewing this policy.

## ***Scope Of The Policy And Definitions***

This policy applies to all:

- i elected councillors;
- ii employees of the Council;
- iii contractors to the Council;

iv other individuals, organisations or activities financially supported by the Council.

The policy relates to all resources controlled by Perth & Kinross Council, whether directly owned or managed as part of its function as a public authority.

For the purposes of this policy, the term 'fraud' includes all attempts, successful or otherwise, to gain by dishonesty at the expense of the Council. It includes acts of deception, such as forgery, false representation and concealment. It includes theft by those in a position of trust, including Council employees and contractors.

The term 'corruption' is defined in law. For the purposes of this policy, it includes all criminal attempts to induce someone else to act against the interests of the Council. It includes bribery, blackmail and extortion.

### ***Principles of the Policy***

In combating fraud and corruption, Perth & Kinross Council aims to:

- i protect the public's resources from unnecessary loss;
- ii create a sound basis for public confidence in the management of Council services.

Perth & Kinross regards no level of fraud or corruption as acceptable and will put in place and maintain effective arrangements to counter it. This includes the promotion of openness and honesty in the Council's dealings, and the implementation of effective procedures to support this organisational culture.

In order to achieve these objectives, Perth & Kinross Council will put in place practical measures to ensure:

- i that there is a high degree of awareness (among those to whom it applies) of the requirements of the Council's Policy on Fraud and Corruption;
- ii that its systems incorporate sufficient internal controls to deter and detect instances of fraud or corruption;
- iii that where suspicions arise, they are properly reported;
- iv that it responds to, and where appropriate, investigates, accusations or suspicions relating to fraud or corruption;

## ***Preventing Fraud and Corruption***

The Council recognises that the cost, in human and financial terms, of responding to incidents of suspected fraud or corruption greatly exceeds the cost of putting in place measures to prevent such incidents. It is the Council's aim to develop an organisational culture that works to deter crime at the outset. The Council's preventive measures include the following:

- i a clearly understood structure of duties and responsibilities among elected members, employees and contractors;
- ii clear guidance as to the standards of behaviour expected by all, including the adherence to the relevant Codes of Conduct;
- iii written procedures for all significant Council activities, that incorporate the appropriate internal controls to deter fraud or corruption;
- iv high standards in the recruitment, training and development of employees in order to ensure that all are able to reinforce the high ethical standards of the Council by their leadership and example;
- v the support of specific anti-fraud and anti-corruption activities within the Council;
- vi co-operation with external agencies with an anti-crime role, such as the police and the Council's external auditors.

A key element in the culture of prevention is certainty, on the part of the potential criminal, as to the consequences of their actions. Although Sections 5 and 6 below describe the Council's response to actual suspicions of fraud or corruption, it should be recognised that their consistent application is itself an important part of the Council's strategy of prevention.

## ***Reporting Fraud or Corruption***

Suspicions of fraud or corruption can arise from a number of sources, including the Council's normal internal controls, audit activity or complaints from employees, contractors or members of the public. Guidance on how to raise concerns within the Council is provided in the policy "Reporting Concerns – Fraud and Corruption".

Whatever the source of suspicion, systematic processes must be in place to assess them in order to reach a decision as to whether an investigation is justified. These decisions should be adequately documented, with an explanation of the underlying reasons.

## ***The Investigation of Fraud and Corruption***

In general, investigations other than those relating to suspected benefit fraud will be undertaken by the Council's Internal Audit team and in accordance with the Internal Audit Investigations Procedure.

Internal investigations will be carried out in accordance with recognised best practice; the relevant evidence will be obtained with the aim of establishing objectively whether:

- i the complaint or suspicion appears to be justified;
- ii where this is the case, the identity of the person(s) responsible.

All available sources of evidence will be considered, including paper and computerised records, personal interviews and other observations. Evidence may be obtained covertly in accordance with the law and with Council policies.

Where appropriate, there will be early consultation with the police and a decision to refer the investigation may be made at any stage, taking into account the advice received.

For each internal investigation, a chief officer will be identified by agreement as the person responsible for receiving the results of the investigators' work.

## **Post-Investigation Policies**

### **General**

On completion of an internal investigation, The Council will respond promptly to its findings, in order to ensure that the appropriate action is taken. In taking action, the Council will be guided by its assessment of what is in the public interest. The following types of post-investigation action will be considered:

- i the involvement of the police with a view to prosecution;
- ii disciplinary action in respect of Council employees;
- iii action in respect of Council contractors;
- iv the recovery of any losses sustained by the Council;
- v the review of the Council's system of internal controls;
- vi reporting within the Council and externally.

### **Reporting to the Police and Prosecution**

The decision to prosecute rests with the Crown Office; except where an alternative arrangement has been agreed, this decision is normally taken on the basis of evidence presented to it by the police. As described above, in many cases of suspected fraud or corruption, the police will be notified at the outset. In other cases, the Chief Executive or the relevant Executive Director will decide whether the

involvement of the police is appropriate, taking the circumstances into account. These circumstances may include:

- i the materiality of the incident;
- ii the likely impact of a criminal investigation on any action being taken within the Council, including disciplinary action and the review of internal controls.

In general, however, where an internal investigation concludes that the Council appears to have been the victim of a criminal act, the Chief Executive or the relevant Executive Director will ensure that the incident is reported to the police.

The decision to formally report the results of an internal investigation to the police rests with the Chief Executive or the relevant Executive Director as appropriate. Decisions will be recorded along with the reasons.

### **Disciplinary Action**

As with all cases of apparent misconduct by Council employees, instances of fraud or corruption will be dealt with by management under the Council's disciplinary procedure.

### **Fraud or Corruption involving Contractors**

Where an instance of fraud or corruption comes to light involving a contractor or an individual, organisation or activity supported by the Council, a decision will be taken as to whether it is in the public interest for this relationship to be terminated.

The decision to terminate a contract rests with the Chief Executive or the relevant Executive Director as appropriate, having sought the advice of the Head of Legal Services. Decisions will be recorded along with the reasons.

### **Recovery of Losses**

Following an investigation, it may appear likely that the Council has suffered a loss, whether directly financial or in some other form. In these cases, the Council will take reasonable action to recover any such losses, in order to safeguard public resources and to provide a degree of deterrence against future losses.

Losses may be recovered in the following ways:

- i through agreed restitution, i.e. repayment by the perpetrator;
- ii through legal action;
- iii by means of insurance claims.

In each case, the Council will determine the most appropriate course of action, having considered the likely costs and benefits of each and taking into account the

wider public benefit arising from any 'deterrence effect'. The Head of Legal Services will be consulted before any restitution is agreed or any legal action is taken.

The Head of Finance will ensure that the Council's insurance strategy takes into account an assessment of the risk of loss through fraud and corruption.

### **Review of Internal Controls**

Where it becomes apparent that the Council may have suffered a loss through fraud or corruption, the relevant officers will consider whether any changes to the scheme of internal controls are necessary, having considered any recommendations made by the internal or external auditors. Similar action will be taken where an instance of attempted fraud or corruption comes to light.

Any necessary changes to the scheme of internal controls will be implemented without undue delay. In some cases it may be necessary for the investigation process to be completed first, in order to clarify the reasons for any failure of control, or in order to avoid compromising the investigation process itself.

### **Reporting**

Any action taken as a consequence of an internal investigation will be monitored through Internal Audit's 'follow up' arrangements and reported to committee as appropriate.

The Monitoring Officer and the Chief Internal Auditor will jointly and annually report to the Council on the strength and effectiveness of the Council's anti-fraud and anti-corruption arrangements. This report will provide information on any allegations or suspicions in connection with fraud, corruption or other crime within the Council and will describe the action taken.

The Chief Internal Auditor will report to the Council's external auditors as required, describing the results of investigations or other anti-crime work carried out within the Council.

### **Publicity**

Following a successful anti-crime initiative the Council may, where appropriate, publicise the action it has taken, in order to reinforce its anti-fraud and anti-corruption culture and to deter future crime.

Public or media interest in investigations or other anti-crime activity will be handled in accordance with the Council's Media Policy.

## **Communication and Review of the Policy**

The Executive Director (Corporate Services) will ensure that this policy is communicated effectively to elected councillors, Council employees and to the public.

The Executive Director (Corporate Services) will make arrangements for the regular review of this policy, in order to ensure that it remains up to date.