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SCARBOROUGH BOROUGH COUNCIL

Counter Fraud and Corruption Strategy

August 2018

DOCUMENT CONTROL

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Owner	
Protective Marking	NOT PROTECTIVELY MARKED
Cabinet Approval Date	
Council Approval Date	
Policy Date/Period	
Policy Review Frequency	3 Yearly

REVIEW HISTORY

Date	Reviewed By	Version	Any Revisions?
21 November 2016	Alison Johnson	2	Yes
16 August 2018	Alison Johnson	3	Yes

REVISION HISTORY (only required where changes made)

Date	Revised By	Version	Description of Revision
21 November 2016	Alison Johnson	2	Updates
16 August 2018	Alison Johnson	3	Updates

DOCUMENT REVISION APPROVALS

Version	Approval	Date
	Cabinet	
	Council	

1 FOREWORD

1.1 Fighting Fraud Locally estimates that fraud costs the UK £7.3 billion per year. The loss to local government (excluding benefits) is £2.2 billion. In light of this, it is essential that public bodies take effective action to minimise fraud losses and maximise funds available to provide services.

1.2 Scarborough Borough Council is committed to putting in place effective measures to counter fraud to protect the public funds entrusted to it. This document sets out the Council's policy and strategy in relation to fraud and corruption perpetrated against it, and its arrangements for preventing and detecting fraud. It forms part of the Council's overall policy framework for combating fraud and corruption and should be read in conjunction with the:

- Constitution
- Financial Regulations
- Codes of Conduct for members and officers
- Disciplinary Procedures
- Whistleblowing Code of Practice
- Complaints Procedures
- Gifts and Hospitality Protocols
- Register of Employee Interests
- Anti-Money Laundering Policy
- Fraud Response Plan (Appendix A)

1.3 The strategy is based on good practice guidance including:

The local government fraud and corruption strategy 2016-2019, and the principles set out in the Chartered Institute of Public Finance and Accountancy's (Cipfa's) Code of Practice on Managing the Risks of Fraud and Corruption (2014)

2 DEFINITIONS AND SCOPE

2.1 For the purpose of this document, the term fraud is used broadly and includes:

- acts which would fall under the definition in the Fraud Act 2006
- anything which could be considered fraudulent in accordance with the generally held view of fraud as causing loss or making a gain at the expense of someone by deception and dishonest means
- any act of bribery or corruption including specific offences covered by the Bribery Act (2010)
- acts of theft
- any other irregularity which is to the detriment of the Council whether financially or otherwise, or by which someone gains a benefit they are not entitled to.

2.2 Fraud and corruption against third parties is not covered, except where there may be an impact on the service provided by the Council (for example fraud committed against people or organisations the Council provides funding to). Other acts which may affect the Council such as offences involving violence are also not covered. Cases such as these should be reported directly to the police.

3 PRINCIPLES

3.1 The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by members, officers, customers of its services, third party organisations contracting with it to provide goods and/or services, or other agencies with which it has any business dealings. There is a basic expectation that members, employees, and contractors' staff will act with integrity and with due regard to matters of probity and propriety, the requirement to act lawfully and comply with all rules, procedures and practices set out in legislation, the Council's Constitution and policy framework, and all relevant professional and other codes of practice.

3.2 The Council will seek to assess its exposure to risks of fraud and corruption and to prioritise resources available to prevent and deter fraud.

3.3 The Council will consider any allegation or suspicion of fraud seriously, from whatever source, and if appropriate will undertake an investigation to confirm whether fraud has occurred and determine the appropriate outcome. Allegations of fraud may be subject to prioritisation using risk assessment criteria and any investigation conducted will be proportionate. The Council may refer any incident of suspected fraud to the police or other agency for investigation, if appropriate.

3.4 To act as a deterrent, the Council will take action in all cases where fraud (or an attempt to commit fraud) is proved. The action taken will be in proportion to the act committed. This may include prosecution, application of internal disciplinary procedures, or any other action deemed appropriate to the offence (for example referral to a professional body). Decisions on sanctions will be made in accordance with any relevant codes and policies.

3.5 To minimise losses and to ensure those committing fraud do not benefit from it, the Council will attempt to recover any losses incurred through civil or legal action. In addition, the Council will seek to apply any appropriate fines or penalties, and recover any costs incurred in investigating and prosecuting cases.

4 RESPONSIBILITIES

4.1 Overall responsibility for this strategy rests with the Cabinet.

4.2 The Audit Committee has a responsibility to review governance policies, and to consider reports relating to fraud and corruption.

4.3 The Director (Section 151) as chief financial officer is required to ensure the Council has appropriate systems of control in place to prevent and detect fraud.

4.4 The Director (Section 151) is also the Council's nominated officer for the purposes of the Money Laundering Regulations (2017), and has a statutory responsibility for reporting any issues referred in this capacity. The Director (Section 151) also encourages the promotion and maintenance of high standards of conduct within the Council.

4.5 The Council's Audit and Fraud Team are jointly responsible for:

- reviewing counter fraud and corruption policy and strategy and recommending any required changes
- leading on fraud prevention and detection issues for the Council
- investigating suspected cases of fraud or corruption.

4.6 In addition, the Audit and Fraud Unit carries out internal audit work to ensure that systems of control are operating effectively, which contributes to the reduction in opportunities for committing fraud.

4.7 Officers within Human Resources are responsible for:

- ensuring there are appropriate HR policies and arrangements which help counter fraud and corruption for example disciplinary procedures, the code of conduct, and recruitment procedures
- supporting investigators and service departments to undertake investigations and, where appropriate, subsequent disciplinary processes.

4.8 Members are required to demonstrate the highest standards of conduct and to help to foster a culture of honesty, openness, fairness and trust within the Council. They should act in accordance with the Council's Code of Conduct, and must have regard to requirements around personal interests, declaring relevant matters, and reporting any concerns of fraud or corruption.

4.9 All service managers have a responsibility for the prevention and detection of fraud within their service areas. For example through the maintenance of effective systems of internal control and ensuring that any weaknesses identified as a result of investigations are addressed. Key activities to combat fraud risks include:

- making employees aware of the Council's Constitution and related policies and procedures, and ensuring that their requirements are met in everyday business activities
- making partners and contractors aware of the Council's policies and procedures to counter fraud and corruption and ensuring appropriate arrangements are put in place to manage fraud risks
- fostering an anti-fraud culture and an environment where staff feel comfortable reporting concerns
- ensuring proper recruitment procedures and checks are followed, to help ensure the honesty and integrity of new employees
- training, development and performance management to ensure adherence to proper practices.

4.10 All staff have a general responsibility to be aware of the possibility of fraud and corruption, and to report any suspicions that they may have to their line manager, or other officers in accordance with whistle blowing procedures.

5 OVERALL COUNTER FRAUD ARRANGEMENTS

Introduction

5.1 The purpose of this section is to set out the Council's framework for countering the risk of fraud and corruption. While the Council aims to follow best practice in relation to counter fraud activity, it recognises that new and emerging fraud risks will require a dynamic approach to fraud prevention and detection.

Measurement

5.2 The Council will assess potential risks and losses due to fraud and corruption, and will use these to prioritise counter fraud activity. Measuring fraud risks is inherently difficult and there are no developed standards or tools available to do it. The approach adopted will therefore include a range of activity for example:

- recording and monitoring information on actual frauds
- monitoring intelligence available through national, regional and professional fraud networks
- using the outcomes of internal audit work, risk management, and liaison with senior officers and partners to assess fraud risks.

5.3 The outcomes of fraud work will be reported through the Audit Committee.

Culture

5.4 The Council will promote a culture whereby all staff, members, service users, and contractors are aware that fraud or corruption in any form is unacceptable. To do this, it will:

- ensure that there are clear arrangements in place for reporting suspicions about potential fraud or corruption, whether that be by staff, Council members, partners, stakeholders, contractors or members of the public
- investigate reported suspicions and where evidence of fraud or corruption is found apply appropriate sanctions and take any other action necessary in accordance with the financial regulations, sanctions policy, disciplinary procedures, Members Code of Conduct, or any relevant legislation or guidance
- ensure that the consequences of committing fraud and/or partaking in corrupt practices are widely publicised.

Prevention and Detection

5.5 The Council will take part in projects led by other agencies to identify potential fraud for example the Cabinet Office's National Fraud Initiative data matching exercise.

5.6 Targeted project work (for example local and internal data matching exercises) may be carried out to identify fraud and corruption in known high risk areas. Work may include joint exercises with other agencies, including other local councils and partners.

5.7 Intelligence available through national, regional and local networks of investigators will be used to monitor new areas of fraud and take proactive measures to prevent problems. Intelligence will be shared where appropriate.

5.8 The Council has established relationships with a number of other agencies. It will continue to develop these relationships and develop new ones to further the prevention and detection of fraud. Organisations which the Council will work with include:

- the police
- external audit
- the courts
- the Department for Works and Pensions
- other councils
- other partner agencies and organisations

5.9 The Council will work with partners and contractors to embed counter fraud arrangements as part of the relationship for example through contracts, partnership agreements, reporting requirements and information sharing arrangements.

5.10 While managers are responsible for preventing and detecting fraud and corruption it is often the alertness of staff or members of the public which identifies fraud. Allegations and complaints are key sources of information and are treated seriously by the Council. The Audit and Fraud Team will work with Council departments to ensure that systems for reporting and investigating suspected fraud and corruption are robust.

5.11 The Council will undertake fraud awareness training for staff, members, and partners where appropriate, in line with priorities identified through fraud risk assessment activity. This may include induction training, e-learning, or other facilitated training.

Investigation

5.12 All suspected cases of fraud, corruption, theft or other irregularity will be considered for investigation. The nature of the investigation will depend on the circumstances of each case. The Audit and Fraud Team should be the primary contact for any suspected fraud and they will provide advice on whether other agencies should be notified (e.g. the police). The Audit and Fraud Team will determine the extent of the investigation to be carried out in consultation with the Regularities Response Team.

5.13 All staff involved in the investigation of fraud will be appropriately trained. They will be required to comply with any relevant legislation and codes of practice. For example the Police and Criminal Evidence Act (PACE), the Regulation of Investigatory Powers Act (RIPA), the Data Protection Act, and the Criminal Procedures Investigations Act. Investigators will take into account the individual circumstances of anyone involved in an investigation and adjustments to procedure will be made where necessary to ensure that all parties are treated equitably (where it is appropriate and reasonable to do so).

5.14 As part of the outcome of every investigation, a review of any weaknesses in control will be made and if necessary recommendations will be made to address the issues identified. These will be set out in a formal report to the managers of the service concerned, and will be followed up to ensure the issues are addressed.

Publicity

5.15 The Council will publicise all successful prosecutions undertaken either by itself or by partner organisations, to act as a deterrent against future fraud. Where other sanctions are applied, the case may be publicised where it is appropriate to do so.

5.16 Other targeted publicity may be used to raise the awareness of fraud to staff, members, the public, and other agencies. This will consist of both internal and external publicity and will aim to:

- ensure all stakeholders are alert to the possibilities of fraud and raise awareness about potential fraud
- inform all stakeholders of the procedures to be followed if they have suspicions of fraud
- ensure that all stakeholders are aware that the Council will not tolerate fraud and the consequences of committing fraud.

Recovery of Money

5.17 Where a loss has been incurred by the Council or additional costs have been incurred as a result of fraud or corruption, the Council will seek to recover them from the individual or organisation concerned. This will help to ensure that the financial impact of fraud on the Council is minimised and act as a deterrent. As a further deterrent, the Council will seek to levy any appropriate fines or penalties where it is possible and desirable to do so.

5.18 All appropriate methods of recovery will be considered and may include (but is not limited to):

- raising invoices and pursuing civil recovery through the courts
- insurance claims
- recovery from assets held by the organisation or individual (using the Proceeds of Crime Act or any other relevant legislation)
- bankruptcy where appropriate
- recovery from future salary payments if an individual remains an employee of the Council
- recovery of pension contributions from employees or members who are members of the North Yorkshire Pension Fund.
- Recovery of salary paid to an employee if an individual does not remain an employee of the Council.

6 REVIEW

6.1 The arrangements set out in this policy document will be reviewed on a 3 year basis by the Audit and Fraud Team. Any changes required will be reported to members.

Appendix A

FRAUD RESPONSE PLAN

1 INTRODUCTION

1.1 The purpose of this Fraud Response Plan is to set out the action to be taken when a fraud is suspected or discovered. The Plan is part of the Council's overall antifraud and corruption arrangements, embodied within the Council's Constitution and, as such, will be applied to all identified incidents of fraud and corruption that affect the Council, whether committed by elected members, employees, or persons from outside the Council such as contractors, suppliers, partners, other bodies associated with the Council or members of the public.

1.2 Adhering to the Plan will enable the Council to:

- deal with fraud and corruption in a consistent and responsible manner
- ensure any loss or damage is minimised
- take appropriate action against the perpetrators
- recover any identified losses to the fullest degree possible
- review the reasons for the incident and, where necessary, take action to prevent a recurrence
- deter would-be fraudsters through communicating outcomes.

2 IDENTIFYING CONCERNS

2.1 Suspicion of fraud or irregularity may arise through a number of means, including:

- supervision and / or checking of work carried out
- random spot checks by managers
- operation of management and control procedures
- independent checks carried out by Internal Audit
- suspicions of fraud reported to managers and the Audit and Fraud Team by elected members, employees, contractors, suppliers, partners, other bodies associated with the Council or members of the public.
- Internal data matching

3 REPORTING

3.1 Individuals should communicate concerns at the earliest opportunity to allow investigations to take place without undue delay and minimise the risk of possible wrongdoing. In the first instance reports should be made verbally (in person / via telephone) or in writing (letter / email) to:

- the Audit and Fraud Team
- an appropriate Director / Service Manager
- the Chief Executive where it may not be appropriate to inform the Director / Service Manager
- the Council's Monitoring Officer where a councillor, the Chief Executive or a Corporate Director is alleged to be directly involved.

3.2 It is preferable for individuals to follow the normal channels (as detailed above) and allow any ambiguity within the details provided to be clarified. This will ensure all relevant information is obtained / taken into account.

3.3 Members / employees of the Council reporting an irregularity on reasonable grounds and in good faith can also do so under the Council's Whistleblowing Code of Practice if they feel they may be victimised by raising their concerns. The Council's Whistleblowing Policy provides protection in such instances, including anonymity where requested, to ensure that suspected wrongdoing can be reported without fear of reprisal.

3.4 For all other people outside of the Council, confidentiality will be maintained in respect of reports made reasonably and in good faith, whether or not they are subsequently substantiated. Again the Council encourages openness and cooperation from those raising concerns in the interests of investigating issues efficiently and effectively, but concerns can be raised anonymously if desired.

4 REACTING TO REPORTS OF POTENTIAL FRAUD, CORRUPTION OR IRREGULARITY

4.1 All reported cases will be treated seriously and investigated in accordance with relevant legislation and the Council's counter fraud and corruption strategy. Where an allegation is found to have been made frivolously, maliciously or for personal gain, the Council may instigate subsequent action against the person making the allegation.

4.2 All investigations will be carried out thoroughly with a view to establishing the truth, but will be sensitive to the alleged wrongdoers to ensure minimisation of any possible damage where allegations cannot be substantiated.

4.3 Once a concern is reported, appropriate steps will be taken to secure all possible evidence and ensure a complete and objective investigation takes place in all cases, whether financial or not. Management will liaise with the Audit and Counter Fraud Team as appropriate, to ensure full consideration of the issues and the extent to which immediate action needs to be taken and who will take it.

5 CONDUCT OF THE INVESTIGATION

5.1 The Audit and Fraud Team are responsible for overseeing all fraud investigations to ensure that they conform to the same standard and are in accordance with legislation, professional practice and any agreed procedures.

5.2 Primary responsibility for the investigation of criminal aspects of fraud rests with The Audit and Fraud Team. However, responsibility for any employment related matters lies with service managers with support from Human Resources. Practically there are overlaps between these roles and the responsibilities for conducting a specific investigation will be determined when the initial facts are known and the potential severity of the fraud is ascertained.

Considerations will include:

- who will conduct the investigation
- arrangements for collecting and documenting evidence
- estimated time span
- adherence to legislation / professional standards
- consideration of the need to suspend / transfer from duty any employee involved
- agreed reporting mechanism
- consideration of who may chair the disciplinary hearing / appeal should the need arise
- liaison with Human Resources.

5.3 The Audit and Counter Fraud Team will act as a liaison with the police or other investigating bodies, where appropriate. Referrals to the police will be subject to agreement with the relevant senior officers. Referral to an outside agency will not prevent continuing investigation within the Council. All staff will cooperate fully with police enquiries and wherever possible enquiries will be coordinated to maximise the effective and efficient use of resources and information.

5.4 Any necessary investigation will be conducted without regard to any person's relationship with the Council, position, status or length of service, but subject to any legislative requirements.

5.5 Regardless of who undertakes the investigation, following an examination of records and / or the conduct of interviews with relevant persons, findings will be documented and a report made to management for appropriate action to be taken.

6 CONSIDERATION OF FURTHER ACTIONS

6.1 Where initial enquiries provide reasonable grounds for suspecting an elected member or a Council officer, appropriate consideration will be given to the need to suspend from duty, or transfer to other duties, the individual(s) concerned. Any suspensions will result in the individual(s) being escorted off the premises, having been allowed to collect personal property only. Items such as security passes, petty cash floats, mobile telephones and keys to premises, offices and furniture will be recovered instantly and where Council property is held at the individual's home, he / she will be accompanied by a member of staff to achieve such recovery.

6.2 Management will consider the need for / process of denying suspended or transferred individuals access to colleagues, premises / property / records relevant to the investigation. Where necessary, steps will be taken to change locks, withdraw access to computer systems and instruct colleagues accordingly to ensure a complete and objective investigation can take place.

6.3 Following an investigation, disciplinary action will be considered where appropriate and any such action required will be conducted in line with relevant employment legislation, recognised Codes of Practice and the Council's own documented procedures.

6.4 It is the responsibility of management to ensure that losses arising from an investigation are recovered, where appropriate. Support will be provided by the Audit and Fraud team where required. All appropriate methods of recovery should be considered. Examples are set out in the Counter Fraud and Corruption Strategy.

6.5 Where investigations do not substantiate the allegations the outcome will only be communicated to persons who have a legitimate need to know, so as to minimise any possible damage to the reputation of individuals suspected, but subsequently found innocent, of fraud.

6.7 To act as a deterrent and reduce the risk of recurrence, outcomes of investigations where fraud, corruption or irregularity is substantiated will be communicated to staff and members in broad terms where appropriate.

7 REVIEW

7.1 The Fraud Response Plan will be reviewed periodically taking account of all incidents of fraud, corruption and irregularity, to ensure that it remains appropriate and relevant.