



# Anti-Fraud and Corruption Policy

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Policy and Procedure Document

**Audit and Risk Management**

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# Anti-Fraud and Corruption Policy

## 1. Introduction

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- 1.1 Manchester City Council's governance framework is designed to ensure that we operate in line with the law and appropriate professional standards; and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. It sets clear expectations that both Members and staff uphold the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.2 Fraud and corruption divert scarce resources from the public purse and corrode public confidence in the delivery of Council services and the morale of those who work for us. An important part of the governance framework is the policy framework and approach to preventing, detecting and investigating all forms of fraud, corruption and other irregularity.
- 1.3 The Council has a zero tolerance to fraud and illegal activity. It is expected that all individuals and organisations associated with the Council act with integrity. This Policy commits the Council to pro-active, practical steps to prevent, detect and investigate fraud and corruption – and for all staff and Members to report incidents that occur.
- 1.4 This Anti-Fraud and Corruption Policy describes the overall approach to combating fraudulent activity against the Council. It is one element of a wider set of policies in place to prevent fraud and wrongdoing. These include the Counter Fraud Strategy and the Whistleblowing, Anti-Money Laundering and Anti-Bribery and Criminal Facilitation of Tax Evasion policies.

### **Aims and Scope**

- 1.5 The policy seeks to:
  - Maintain and promote a zero tolerance culture to fraud and corruption;
  - Safeguard public money by reducing losses from fraud and corruption to an absolute minimum by taking practical, risk informed steps and maintaining a strong deterrent;
  - Consistently detecting incidents of fraud and then to investigate and take robust action against those found to be committing any such acts;
  - Promote confidence in the Council and its work by ensuring Members and staff act with integrity.
- 1.6 This policy applies to Manchester City Council, and as a consequence it applies to Members and all employees and workers of the Council, including temporary and agency staff as well as those employed in community schools, community special schools, voluntary controlled schools and maintained nursery schools. It also extends to any other individuals who work for the Council, including consultants, contractors, and sub-contractors who are engaged in work for the Council.
- 1.7 The Council expects contractors and partners in receipt of funding through Council resources to have their own equivalent arrangements in place.

- 1.8 This policy defines fraud and corruption broadly to cover a range of related wrongdoings. Often in this document the term 'fraud' is used as a shorthand term to cover a range of wrongdoings that include theft, bribery and corruption.

## 2. Key Principles

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- 2.1 The Council is committed to ensuring that the people of Manchester can have confidence that the affairs of the Council are conducted in accordance with the highest standards of probity and accountability. The Council is committed to combating fraud and corruption wherever it may arise in relation to any of the Council's activities or services and involving any Members or officers of the Council or members of the public or other third parties.
- 2.2 The Council expects Members and officers to demonstrate the highest standards of honesty and integrity. This includes compliance with appropriate legislation, Member and Employee Codes of Conduct, Standing Orders, Financial Regulations, conditions of service, standards of appropriate professional bodies, and any other standards, guidelines or instructions which are relevant to the particular service or activity.
- 2.3 The Council is committed to establishing and maintaining effective arrangements to prevent fraud and corruption. The Council recognises, however, that fraud and corruption cannot always be prevented and so effective arrangements have been established to detect and investigate all incidents or situations where fraud and corruption is suspected.
- 2.4 The Council will not tolerate dishonesty on the part of any of the Members or officers of the Council or any persons or organisations involved in any way with the Council. Where fraud or corruption is detected the Council will rigorously pursue appropriate action against the persons concerned including legal and/or disciplinary action, including dismissal.
- 2.5 The Council is committed to creating and maintaining an anti-fraud and corruption culture and this includes establishing arrangements which enable employees, or other persons, to express reasonable concerns and suspicions without fear or repercussions or intimidation and in the knowledge that the information will be treated confidentially and will be investigated fully and rigorously.
- 2.6 The Council is committed to working constructively with Greater Manchester Police (GMP) and other relevant agencies in relation to combatting fraud and corruption within the Council and within the wider community.
- 2.7 The Council will ensure that its stance on anti-fraud and corruption is widely publicised. All Members and officers of the Council will be made aware of this policy.

## 3. Definitions

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### Fraud

- 3.1 Fraud is a deliberate act of commission or omission by an individual or group of individuals and can occur in a number of ways, including:
- Fraud perpetrated against the Council by members of the public or other third parties.
  - Fraud perpetrated against the Council by elected Members, employees or workers of the Council.
  - Fraud perpetrated jointly by members of the public or other third parties in collusion with Members, employees or workers of the Council.
- 3.2 The Fraud Act 2006 states that a person is guilty of fraud if s/he is in breach of any of the following:

#### Fraud by False Representation

That is if a person:

- (a) Dishonestly makes a false representation, and
- (b) Intends, by making a representation:
  - (i) To make a gain for him/herself or another; or
  - (ii) To cause loss to another or to expose another to a risk of loss.

#### Fraud by Failing to Disclose Information

That is if a person:

- (a) Dishonestly fails to disclose to another person information which is under a legal duty to disclose, and
- (b) Intends, by failing to disclose the information:
  - (i) To make a gain for him/herself or another; or
  - (ii) To cause loss to another or to expose another to a risk of loss.

#### Failure by Abuse of Position

That is if a person:

- (a) Occupies a position in which s/he is expected to safeguard, or not to act against, the financial interests of another person.
- (b) Dishonestly abuses that position, and
- (c) Intends by means of the abuse of that position:
  - (i) To make a gain for him/herself or another; or
  - (ii) To cause loss to another or to expose another to a risk of loss.

- 3.3 The Fraud Act focuses on what the perpetrator intended rather than what necessarily resulted – the intention to cause a victim loss through fraud is sufficient to pursue a prosecution.
- 3.4 The Fraud Act 2006 repeals certain offences that are detailed in the Theft Acts of 1968 and 1978. The term ‘fraud’ is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or

more complicated crimes like false accounting or the supply of false information. In legal terms, all of these activities are the same crime, theft, examples of which include deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment or material facts and collusion.

- 3.5 The theft of Council property carried out by persons external to the Council through for example a break-in, burglary or opportunistic theft falls outside the scope of the Anti-Fraud and Corruption Policy. Thefts of this nature should continue to be reported by managers directly to Internal Audit and Risk Management and GMP in the normal way.

### **Corruption (and Bribery)**

- 3.6 Corruption is the deliberate use of position for direct or indirect personal gain. This covers the offering, giving, requesting, soliciting or acceptance of any inducement (bribe) or reward, which may influence the action of any person to act inappropriately. The definition of a bribe in these circumstances is not confirmed to a sum of money – it may be an item of value.
- 3.7 The Bribery Act 2010 creates the following offences:
- Active bribery: promising or giving a financial or other advantage;
  - Passive bribery: agreeing to receive or accepting a financial or other advantage;
  - Bribery of foreign public officials to obtain or retain business; and
  - The failure of commercial organisations to prevent bribery by an associated person (corporate offence).
- 3.8 To protect itself against the corporate offence, the Act requires an organisation to have 'adequate' procedures in place to prevent bribery. Further details are provided within the Council's Anti-Bribery and Criminal Facilitation of Tax Evasion Policy.

### **Money Laundering**

- 3.9 Money laundering is the process by which criminals attempt to 'recycle' the proceeds of their criminal activities in order to conceal its origin and ownership whilst retaining use of funds.
- 3.10 The Proceeds of Crime Act 2002 (as amended by the Crime and Courts Act 2013, Serious Crime Act 2015 and the Criminal Finances Act 2017), Terrorism Act 2000 (as amended by the Criminal Finances Act 2017) and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 cover a range of activities and offences in relation to money laundering. The primary offences are listed below:
- Concealing, disguising, converting or transferring criminal property or removing it from the UK;
  - Entering into or becoming concerned in an arrangements which you know or suspect facilitates the acquisition, retention, use of control or criminal property by or on behalf of another person;
  - Acquiring, using or possessing criminal property;
  - Failure to disclose knowledge or suspicion of another person(s) involvement in money laundering; and

- Tipping off or making a disclosure which is likely to prejudice an investigation being carried out by a law enforcing authority, knowing that such an investigation is in motion.

3.11 The burden of identifying and reporting acts of money laundering rests within the Council. Any service that receives money from an external person or body is potentially vulnerable to a money laundering operation. The need for vigilance is vital and any suspicion concerning the appropriateness of a transaction should be reported to the Money Laundering Reporting Officer. Further details are provided within the Council's Anti-Money Laundering Policy.

### **Tax Evasion**

3.12 The Criminal Finances Act 2017 created two new offences; failure to prevent the facilitation of tax evasion in the UK and/or abroad. Tax evasion is the deliberate and dishonest act to facilitate tax evasion by a taxpayer. The Act attributes criminal liability to an organisation when its employees, contractors or any associated person (defined widely to include third party providers) as seen to be facilitating tax evasion.

3.13 A successful prosecution could lead to an unlimited fine. The Council is therefore required to have reasonable measures, procedures and safeguards to prevent such facilitation taking place. Further details are provided within the Council's Anti-Bribery and Facilitation of Tax Evasion Policy.

### **Irregularity**

3.14 These are acts of commission or omission which fall short of the criminal burden of proof but which require action to strengthen organisational governance and controls. These may include instances where disciplinary action is deemed appropriate or where training and development may be required.

## **4. Roles and Responsibilities**

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<b>Stakeholder</b>	<b>Specific Responsibilities</b>
<b>Members</b>	To comply with the Members Code of Conduct regarding standards and expectations and related Council policies and procedures. To be aware of the possibility of fraud, corruption, bribery and theft, and to report any reasonable concerns.
<b>Audit/Standards Committee</b>	To monitor the adequacy and effectiveness of the arrangements in place for combating fraud and corruption via reports from the Head of Internal Audit and Risk Management.
<b>Chief Executive</b>	Accountable for the effectiveness of the Council's arrangements for countering fraud and corruption and for the approval of the anti-fraud policy framework.
<b>Monitoring Officer</b>	Statutory responsibility to ensure the Council operates within the law. Overall responsibility for investigating breaches of the Members Code of Conduct.

<b>Deputy Chief Executive and City Treasurer (S151)</b>	To ensure on behalf of the Chief Executive that the Council has adopted and implemented an appropriate Anti-Fraud and Corruption Policy/Strategy and that the Council has adequate resources and effective arrangements to deliver 'Counter Fraud' activity.
<b>Internal Audit</b>	Responsible to the S151 officer and Chief Executive for developing and promoting to the Council the requirements of the Anti-Fraud and Corruption Policy/Strategy and monitoring and/or undertaking the assessment and investigation of any referred issues. To ensure that all referrals are dealt with promptly and in accordance with this framework and that action is identified to improve controls and reduce the risk of recurrence. See Section 6 Fraud (and Corruption) Response Plan.
<b>Directors, Heads of Service, Service Managers</b>	To promote staff awareness and help ensure that suspected fraud and irregularity is immediately referred and progressed as per the Council's confidential reporting procedure (Whistleblowing). To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption, bribery and theft and to reduce these risks by implementing effective internal controls.
<b>Employees and Workers</b>	To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption, bribery and theft and to report any reasonable concerns to management, Internal Audit, the Monitoring Officer or S151 officer.
<b>External Audit</b>	Statutory duty to ensure that the Council has adequate arrangements in place for the prevention and detection of fraud, corruption, bribery and theft.
<b>Residents, Service Users, Contractors and Consultants</b>	To report any genuine concerns/suspicious in according with the Council's confidential reporting procedure (Section 4 Whistleblowing Policy)

## 5. The Council's Approach

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5.1 The Council's approach to mitigating and fighting fraud and corruption is set out in the Counter Fraud Strategy. This incorporates the following:

- Awareness and training;
- Implementing proportionate and risk-based preventative, deterrent and detective measures – including addressing identified weaknesses.
- Reporting and investigating instances of fraud and corruption.
- Sanctioning those perpetrating fraud and corruption and recovering losses.
- Monitoring and reviewing the anti-fraud and corruption framework.

Key elements of each of these is expanded upon below:



## **Training and Awareness**

- 5.2 Raising awareness of the Council's Anti-Fraud and Corruption Policy Framework should form part of corporate communications to both Members and staff. This should also form part of the induction process for all new employees.
- 5.3 Training needs should be kept under review, linked to periodic risk assessments. Where there are areas for which the assessment of workforce learning and development needs along with the Council's exposure to the risk of fraud and corruption is relatively high, and/or staff are uncertain of the steps required to implement controls to minimise fraud and corruption, or of the procedures to follow, bespoke training can be developed.

## **Proportionate and Risk Based Preventative, Deterrent and Detection Measures**

- 5.4 It is the role of management to establish controls to prevent, deter and detect fraud and irregularity. Core functions oversee this through approval and monitoring arrangements within finance, HR and procurement etc.
- 5.5 Internal Audit will maintain a Fraud Risk Assessment detailing business area activities and the areas where there is the potential for fraud and corruption. This will set out responsibility for each risk area; measures in place to prevent, deter and detect fraud and irregularity and actions required to strengthen procedures.
- 5.6 Specific fraud risks for particular projects and business areas may also be captured in locally held risk registers and mitigating actions taken.

## **Reporting and Investigating Instances of Fraud and Corruption**

- 5.7 The Council aims to ensure the process for raising concerns around fraud and irregularity is simple and effective. The Council aims to promote an environment in which employees feel able to raise concerns without fear of reprisals and are confident their concerns will be thoroughly investigated.
- 5.8 The Council's Whistleblowing Policy explains that staff who blow the whistle are protected; they will not suffer a detriment or be dismissed, provided the concern is raised in good faith.

## **Sanctioning and Recovery of Losses**

- 5.9 The Council is committed to pursuing all possible sanctions for proven cases of fraud and irregularity. That may include disciplinary, civil or criminal sanctions.

## **Monitoring and Review**

- 5.10 The Council's anti-fraud and corruption framework will be kept under review to ensure it is working effectively and opportunities for preventing and detecting fraudulent or corrupt activity are maximised.
- 5.11 Periodic reporting will be undertaken by the Head of Internal Audit and Risk Management to the S151 Officer and Audit Committee.

## 6. Fraud (and Corruption) Response Plan

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- 6.1 The Fraud Response Plan sets out the steps the Council will take when fraud, corruption and related wrongdoings are reported in order to:
- Assess and investigate the report/referral;
  - Prevent any further loss in the immediate future;
  - Secure evidence for any disciplinary, civil or criminal action; and
  - Ensure processes are strengthened to prevent recurrences of similar wrongdoing.
- 6.2 The aim of the plan is to ensure the Council takes a consistent and thorough approach to dealing with reported incidents of fraud and irregularity. It supports the outcomes and mitigates the negative impacts identified within the scope of the Anti-Fraud and Corruption Policy.
- 6.3 Where a suspected incident of fraud or irregularity involves an allegation of improper behaviour by a Member or the Chief Executive, the Monitoring Officer will ensure these are investigated appropriately.

### Reporting Suspected Fraud

- 6.4 Employees/workers should raise concerns regarding suspected fraud or irregularity as soon as possible; either directly with management or Internal Audit. Management should ensure that any such concerns received are forwarded to Internal Audit in a timely manner.
- 6.5 The Council's Whistleblowing Policy sets out the process for employees and workers to report incidents – and the protections in place for employees and workers who do blow the whistle.
- 6.6 The Counter Fraud Team within Internal Audit will maintain a central record of all reported incidents of suspected fraud or irregularity.
- 6.7 Allegations must be handled confidentially and discreetly by managers directly involved in the reporting process to avoid jeopardising any subsequent investigation. Pending investigation, the Chief Officer/Head of Service must agree with Internal Audit the actions to be taken to prevent further losses and also secure all relevant records/evidence to avoid the removal, alteration or deletion of evidence. This applies to electronic and paper records.
- 6.8 All investigations are to proceed in line with the Fraud Response Plan; it is not for employees or workers to actively investigate suspected wrongdoing or gather additional evidence outside of this.
- 6.9 Incidents of suspected fraud may also be discovered through other programmes of work; for example through internal audit reviews and data matching exercises including the National Fraud Initiative (NFI). These will be handled by Internal Audit.

## **Triage and Risk Assessment**

- 6.10 All reported incidents of corporate fraud or irregularity will be risk assessed. This ensures details of incidents or issues are collated and recorded and enables an assessment of the Council's exposure to risk to be undertaken. Any other relevant stakeholders such as Chief Officers, Human Resources, Legal Services, GMP and the Corporate Insurance Team will be identified and notified as far as necessary at this point.
- 6.11 Results of the risk assessment will be used to confirm whether there are sufficient grounds (and supporting information/evidence) to proceed to investigation. Risk assessments, including details of initial decisions will be retained/reviewed within Internal Audit.
- 6.12 Every reported incident of fraud is taken seriously. Whilst in some cases there will prima facie be grounds for concern, in other cases, where there is a lack of evidence and/or the facts are not easily established, it will be necessary to undertake preliminary fact-finding prior to confirming whether an investigation is required. The investigating officer will determine what fact-finding work is required.
- 6.13 At the end of the preliminary fact-finding, the following outcomes are possible:
- There are no grounds for concern and no further action is required.
  - There is no evidence of a specific fraud having taken place, but work is needed to make processes more secure and/or tighten systems of internal control.
  - There are concerns about conduct; the matter is not covered by the anti-fraud and corruption framework and should be dealt with under disciplinary or other people related processes.
  - There is sufficient grounds for concern regarding fraud and/or irregularity; an investigation is undertaken with a view to potential civil or criminal prosecution with recovery and disciplinary action.

## **Conduct of Investigation**

- 6.14 The completion of the Risk Assessment will inform the appropriate method of investigation. Fraud and irregularity cases involving potential disciplinary issues will be progressed by appointed 'Investigating Officers' in consultation and agreement with Internal Audit, senior management and HR.
- 6.15 The following principles are adopted when undertaking an investigation:
- Any investigation requires the full support and co-operation of the relevant Directorate. The Terms of Reference for Internal Audit state that Internal Auditors should have access to all records and documents of the Council and authority to require explanations from officers of the Council in relation to any matters to aid the investigation.
  - All investigations will be carried out confidentially and as quickly as possible by Internal Audit or by the nominated Investigating Officer. The appropriate Chief Officer or Head of Service should be kept informed of developments (and the final outcome of the investigation).

## Interviewing

- The Investigating Officer will hold any necessary interviews with the person(s) raising the concern, where that has been the reason for initiating the investigation. Reference will be made to the protections afforded by the Council's Whistleblowing Policy.
- If the subject of the allegation or concern is to be interviewed by the Investigating Officer, the officer must be trained within the context of the interview required: in particular, whether the interview relates to suspicion of a criminal offence having occurred or whether the interview is for a potential internal disciplinary purpose. Interviews for a criminal offence should not be undertaken by staff who are not trained in the requirements of the Police and Criminal Evidence Act 1984. Such interviews should only occur after Internal Audit and/or GMP have been consulted.
- On completion of interview(s) a record should be shared with the subject(s) of the investigation in order to offer the opportunity for any feedback regarding the accuracy of the recorded account. Where possible and appropriate confirmation of the key findings of investigations will be confirmed prior to the reporting and conclusion of the investigation. This is to enable the subject(s) of the investigation to offer any final explanations or mitigations. Where investigations result in disciplinary or criminal proceedings, it may be appropriate to provide this feedback as part of disclosure within those processes.

## Searches

- The Investigating Officer must have the knowledge and skills to conduct any searches legally, so as not to expose the Council to any undue risk of challenge or breach of legislation. Any searches should be conducted only after Internal Audit have been consulted on/engaged with and relevant approval(s) obtained.

## Reporting

- Interim reports (from either the Investigating Officer or Internal Audit) may be either verbal or in writing dependant on the circumstances of the case and the degree of urgency. The S151 Officer will be kept informed as required; wider circulation will be restricted as with final outcome reports.
- Final reports will be in writing and will be issued under restricted circulation to the relevant Chief Officer/Strategic Director, Chief Executive, Deputy Chief Executive and City Treasurer, Monitoring Officer and Director of HR. External Audit will be informed as necessary in agreement with Internal Audit and the S151 Officer.
- The Chief Officer/Strategic Director responsible for the particular service area subject to investigation, will need to decide if the investigation is of such significance that it needs to be brought to the attention of the appropriate Executive Member.
- The Head of Internal Audit and Risk Management will decide how and at what stage to provide, in confidence, feedback to the person(s) who raised the initial concerns on progress/completion of an investigation (but not necessarily outcomes). This is irrespective of whether or not the allegations were substantiated.

- Where investigations do not substantiate the allegations, the outcome will only be communicated to those persons who have legitimate need to know, so as to minimise any possible damage to the reputation of individuals suspected, but considered not to have committed fraud or irregularity.
- Where an investigation identifies vulnerabilities in a particular system or process, or a lack of safeguards, Internal Audit will liaise with management over how improvements can be made.

## **Actions from the Fraud Investigation**

6.16 There are a range of potential actions that could arise from investigation as follows:

### No Further Action

- If allegations are not founded or there is insufficient evidence to investigate further, the final report will confirm as such to key stakeholders. Officers subject to allegations who have been interviewed as part of the process will be advised accordingly.

### Feedback and Management Action

- The investigation may conclude that there is no basis to consider disciplinary or criminal action, but that there is a need to address weaknesses or non-compliance with policies, procedures or other systems of internal control. This could involve management feedback to relevant officers and agreement of management or officer actions to address areas of potential irregularity or non-compliance in future.

### Disciplinary

- Where fraud investigations involve employees or workers of the Council it may be necessary, based on the evidence, to invoke the Council's Disciplinary Procedures.
- Any disciplinary offence involving financial irregularities, theft, fraud or corruption (including claimant fraud or council tax evasion involving employees) would normally be regarded as gross misconduct and an employee found to have committed gross misconduct should expect to be dismissed.
- The offer by an employee or worker to resign from the Council's employment before completion of an investigation should be considered in light of the impact on both the investigation and on any potential recovery action. Advice should be sought from HR and Internal Audit prior to any decision to accept a resignation.

### Referral to the Police

- The police will be contacted by Internal Audit, HR or Legal Services without delay where criminal offences are deemed to have taken place. If there is doubt over the strength or sufficiency of evidence, advice may be sought from Legal Services to determine whether a referral to the police would be appropriate.
- If the police decide a criminal investigation is necessary, the internal and police investigations will be co-ordinated where appropriate; but the latter will take

precedence, recognising an internal investigation could prejudice the police's work – including by alerting those under suspicion or compromising evidence. The advice of the police will inform the approach to any internal investigations.

- Where there is an ongoing police investigation, it may still be appropriate for HR to proceed with disciplinary action. In such instances HR will seek advice from the Police to ensure any criminal investigation will not be compromised. HR will take any decisions as to whether to instigate internal disciplinary proceedings in parallel with any police investigation.

### Recovery

- Recovery of losses is a major objective of any proven fraud investigation. Where the loss is substantial, legal advice will be obtained over the approach to freeze the offender's assets, pending conclusion of a criminal investigation.
- Legal advice will be obtained about the prospects of recovering losses through the civil courts, where the offender refuses repayment.
- Should an offender at any time during the course of an investigation or disciplinary hearing offer to repay monies then the offer should be accepted. No offers or promises will be given and the person should be informed that repayment is being accepted without prejudice to any further action.

# Appendix A

## Fraud Response Plan

