

# Fraud Response Plan



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## **1. Introduction**

This Fraud Response Plan outlines the processes that should be followed by the Council when fraud is suspected. The response plan does not include Housing Benefit fraud. Suspicion of fraud or irregularity may be highlighted through a number of means, including the following:

- The requirement for all personnel, under the Council's Financial Regulations, to report fraud or irregularities
- Whistleblowing Policy (confidential reporting)
- Planned audit work
- Planned counter-fraud proactive projects including data matching
- Residents, Members or staff reporting concerns.

When an alleged fraud is reported it is vitally important that the response plan is followed by all responsible officers. This ensures that the matter is handled appropriately and in accordance with all legislative requirements.

Once fraud or corruption is suspected, there are four immediate issues to be addressed:

1. The proper risk assessment and investigation of the matter
2. What action, if any, should be taken in relation to any officers suspected of involvement
3. The facilitation and management of the investigation
4. Whether to involve the police or other enforcement agency and if so at what stage

## **2. Scope**

The Fraud Response Plan applies to all referrals received by the council in relation to fraud. All staff including permanent, temporary, agency, contractors, executives, agents, members, volunteers and consultants must follow the processes set out in the plan.

This Plan is in addition to the Counter Fraud Strategy and the Annual Counter Fraud Work Plan which together make up the framework of the Council's counter fraud response.

## **3. Principles**

This policy is based on the following principles:

- To follow best practice guidance for a counter fraud framework.
- To give a mechanism to report fraud.
- To define a process on the triaging and investigation of referrals.
- To outline an approach in line with the strategic objectives of the Counter Fraud Strategy and the wider Council Strategy.

## 4. What is fraud?

Fraud is a criminal offence defined by the Fraud Act 2006. Most commonly it occurs when a person dishonestly makes a false representation in order to make a gain for themselves or cause loss to another. The type of offences for which a person could be prosecuted include:

- Fraud by False Representation – lying about something with the intention to cause a gain or a loss.
- Fraud by Failure to Disclose Information – not declaring something when you have a legal duty to do so with the intention to cause a gain or a loss.
- Fraud by Abuse of Position – where someone abuses a position of trust where there is an expectation to safeguard the financial interest of another and places another at financial risk or causes a loss.

In each instance the action must be shown to have been dishonest. It must be shown that the individual's actions would be considered dishonest by the average 'man in the street'.

As well as being a criminal offence, if a council employee or contractor is found to have committed fraud it is likely that they will have also broken the terms of their contract of employment and/or the Council's Code of Conduct.

## 5. How to report Fraud

Listed below are different options to report fraud against the council by a resident or service user:

- **Telephone:** 0800 389 8313
- **Email:** [fraud@hillingdon.gov.uk](mailto:fraud@hillingdon.gov.uk)
- **Web page:** [www.hillingdon.gov.uk/reportfraud](http://www.hillingdon.gov.uk/reportfraud)
- **Write to:** Private & Confidential, Head of Counter Fraud, Counter Fraud Team, Civic Centre, High Street, Uxbridge, UB8 1UW

Whilst you can remain anonymous, it does help if your details are provided as concerns expressed anonymously are often much more difficult to investigate. For example, we may need to contact you to obtain further information or verify the information supplied.

## 6. Initial Actions to be taken when a fraud is suspected

Anyone suspecting that a fraud has taken place should raise their concern formally. If this is regarding a potential fraud against the Council by a resident or member of the public, this should be reported in line with section 5 above. If the fraud involves a staff member or employee of any form, this should be reported to the Head of Counter Fraud. Alternatively, suspicions can be raised with the Head of Internal Audit, a Counter Fraud Manager, Head of HR or any other officer listed in the Council's Whistleblowing and Anti-Money Laundering Policies.

Staff with concerns should avoid discussing their suspicions with anyone other than the officer with whom they formally raised the issue. Under no circumstance should any member of staff attempt to investigate any matter on their own without first consulting the Head of Counter Fraud or one of the above-named officers.

When reporting suspected fraud staff may raise a concern that falls within the scope of a "protected disclosure" under the provisions of the Public Interest Disclosure Act 1998. This is covered by the Council's Whistleblowing Policy.

If receiving a report of suspected fraud against a staff member, the receiving officer must ensure that the matter is promptly reported, confidentially, to the Head of Counter Fraud or one of the above-named officers.

Any officer who suspects fraud and any officer to whom this suspicion is reported must retain any evidence relevant to their suspicion and make immediate note of the issues and concerns.

Once any allegation is received by the Counter Fraud Team whether internal or external fraud, the case must be risk assessed. The allegation will be assessed in line with the team's current risk assessment procedures.

## **7. Management of the Investigation – Employees**

Before commencing an investigation into suspected fraud by an employee the Head of Counter Fraud will liaise with the relevant Corporate Director and/or Head of Service and the Head of Human Resources (HR). The Head of HR or their nominated representative will provide advice on any matter regarding the suspension of an employee and any subsequent disciplinary proceedings.

As the allegation involves fraud a member of the Counter Fraud Team will be appointed to investigate the criminal case and any internal investigation.

The Head of Counter Fraud will agree the terms of reference, its scope of operations and an initial time allocation with specific monitoring points. There will be full compliance with the requirements of the Council's disciplinary procedures if invoked.

Within the investigation the investigating officer must not only follow the Council's disciplinary procedures but also the law that governs criminal investigations, this includes:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Human Rights Act 1998
- Data Protection Act 2018
- Code for Crown Prosecutors
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Investigatory Powers Act 2016
- Public Interest Disclosure Act 1998
- Criminal Justice and Police Act 2001
- Attorney Generals Guidelines on Disclosure 2020

The appointed investigator will document all actions taken during the investigation including interviews, lines of enquiry, witness statements, notes, and meetings. This information will be presented where appropriate to the relevant Corporate Director, Head of HR or member of Legal Services in monitoring meetings to help facilitate discussions on next steps as well as seek advice.

As part of the investigative process the appointed investigator may need to interview the employee under caution or via fact finding interview. In either case the interview will be an opportunity to establish the facts, give the interviewee the chance to give their version of events and present any evidence gathered during the investigation. The interview will follow all legislative and procedural requirements.

During the course of the investigation if the investigating officer believes that surveillance is required to obtain evidence, they must discuss this with the Head of Counter Fraud. Before any surveillance commences proper approval must be sort in accordance with RIPA and the Council's Surveillance & RIPA Policy.

All prosecution cases will be reviewed by a member of Legal Services nominated by the Borough Solicitor. The nominee will deal with all aspects of court proceedings, including arranging trial dates and arranging for any Counsel opinions. Prosecution will be in line with the Council's Enforcement Policy.

If at any point during the investigation assistance is required from another agency including the police, then the investigating officer and the Head of Counter Fraud will liaise with the required agency for support.

In the event the investigation uncovers any issue in relation to the staff members employment, then the investigating officer will draft a report on their findings which will be shared with the Head of Counter of Fraud, Head of HR and relevant director.

A flow chart in appendix A illustrates the fraud management process.

## **8. Recovery of Losses**

Where there is a reasonable chance of recovery, the council will take steps to recover losses through all means available, including the use of the Proceeds of Crime Act.

## **9. Management of External Affairs**

Dependent on the size of the fraud and the extent of the investigation, the Head of Counter Fraud will consider whether and when to:

- Involve the police or other enforcement agencies
- Consult the Head of Communications
- Involve the relevant committee/senior elected members.

The Head of Counter Fraud will maintain close liaison with the Borough Solicitor and will ensure they are appraised of any high profile or high value cases.

The Council has a policy for managing external communications, (particularly in crisis situations) and this work must always be carried out by the Head of Communications or their representative.

## 10. Administration

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<b>Policy owned by</b>	<b>Alex Brown</b>	<b>Policy approved by</b>	<b>Cabinet</b>

### Version History

<b>Version</b>	<b>Approved by</b>	<b>Revision date</b>	<b>Description of change</b>	<b>Author</b>
<b>1.0</b>	<b>Cabinet</b>	<b>1<sup>st</sup> April 2024</b>	<b>Review</b>	<b>Alex Brown</b>

## 11. Appendix A – Fraud Management Process

