



## **Pendle Borough Council**

# **Anti-Fraud, Bribery, Theft and Corruption Policy**

September 2023

## **ANTI-FRAUD, BRIBERY, THEFT AND CORRUPTION POLICY**

### **1. INTRODUCTION**

- 1.1 The purpose of this document is to set out the Council's policy for dealing with issues of fraud, theft and corruption. Every organisation, whether large or small, is at risk from fraud and councils are no exception to this. All councils have a duty to protect the public purse and a major part of this is by limiting exposure to fraud and corruption and reducing risk through effective prevention and detection.
- 1.2 Councils, even the smallest, are constantly under threat from fraudsters whether that be single person discount fraud, reducing council revenue or a cyberattack causing a major data loss, reputational damage and fines from the Information Commissioner.
- 1.3 Identifying and stopping fraud means that our scarce resources can be directed as intended to provide key public services to those that depend on them.

### **2. AIMS AND SCOPE**

- 2.1 The Council is determined to protect itself, its employees and the public from fraud, theft and corruption.
- 2.2 This policy aims to:
  - provide an understanding of the Council's stance on fraud, theft and corruption in relation to the Council's activities, members, employees and those undertaking the Council's business;
  - provide mechanisms for concerns to be raised and dealt with confidentially; and to
  - encourage members of the Council, employees and the public to feel confident in raising serious concerns and act upon concerns about practice.
- 2.3 There is a public expectation that people who work in, and on behalf of, public bodies such as the Council, are expected to observe the highest principles of conduct in providing services and carrying out day to day activities for and on behalf of the community.
- 2.4 The fundamental elements of the Policy are to:
  - positively encourage deterrence and prevention;
  - promote detection;
  - investigate substantiated complaints in a confidential and fair manner;
  - protect those who raise concerns in good faith;
  - take all necessary and appropriate action to secure punishment of offenders and recovery of losses.
- 2.5 The Local Government Association Counter Fraud Hub has a range of practical support and guidance to help counter fraud professionals, procurement practitioners and contract managers to easily access a wide range of existing resources and can be accessed via the link below (<https://www.local.gov.uk/counter-fraud-hub>). This

includes the most recent Strategy; Local Government Fraud Strategy – Fighting Fraud & Corruption Locally in the 2020s.

### 3. DEFINITIONS

3.1 **Dishonesty** includes certain knowledge that a statement is false or an action is wrongful, belief falling short of certainty or recklessness, i.e. realising that something could well be false or wrong but going ahead anyway, without first taking reasonable steps to check.

3.2 **Wrongful Gain** includes gain by avoiding loss or expense, e.g. where somebody is not billed for a Council service which (s)he should be required to pay for.

3.3 **Wrongful Loss** includes not only loss of or damage to money or other property, but also damage to public confidence in the Council.

#### 3.4 **Fraud**

*“the intentional distortion of financial statements or other records / representations by persons internal or external to the organisation, which is carried out to conceal the misappropriation of assets or money or otherwise for gain, or to cause a loss to another.”*

The Fraud Act 2006 further defines fraud in three classes:

- False representation (i.e. false claims, invoices, qualifications)
- Failure to disclose information where there is a legal duty to do so (i.e. failing to declare a criminal conviction or driving disqualification)
- Abuse of position (i.e. using ones position and authority in order to facilitate a fraud)

3.5 **Theft** is defined in the 1968 Theft Act:

*“a person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it”*

Theft includes,

- unauthorised borrowing or use of vehicles or other equipment owned, leased or hired by the Council;
- the theft of property or assets which are owned by the Council;
- unauthorised use, copying or retention of copyright material such as documents, drawings, maps and computer software of which the Council is either the copyright owner or a licensed user;

3.6 **Corruption** is essentially ‘bribery’ in UK law. It can be defined as: “An inducement or reward offered, promised or provided to someone to perform a relevant function or activity improperly in order to gain a personal, commercial, regulatory and/or contractual advantage, on behalf of oneself or another.” An example would be bribing a Council officer to act improperly to award a contract to a preferred supplier, regardless of all other considerations and suitable suppliers and bypassing normal procurement procedures.

The Bribery Act 2010 makes it a criminal offence to:

Section 1 - Give, Promise or Offer a Bribe

Section 2 - Request, Agree to Receive or Accept a Bribe

Section 6 - Bribe a Foreign Public Official

Section 7 – Commit a corporate offence of Failing to Prevent Bribery

## **4 ENCOURAGING THE PREVENTION OF FRAUD, THEFT AND CORRUPTION**

### **Organisational Culture**

- 4.1 Fundamental to the prevention of fraud, theft and corruption is that the culture of the organisation is such that it is not tolerated. The Council is determined to promote and strengthen this culture.
- 4.2 The Council requires all individuals and organisations associated in whatever way with the Council to act with integrity and that members and employees at all levels will lead by example.
- 4.3 Members and employees play an important part in creating, maintaining and promoting this culture. Both are encouraged to voice any serious concerns about any aspect of the Council's activities. The Council has a **Whistle-blowing Policy**, which ensures any concerns raised will be properly investigated in a professional and confidential manner.
- 4.4 The Council will raise awareness of its stance against fraud, theft and corruption by:-
  - promoting this Policy via internal communication, e.g. Intranet, Newsletters, Team Briefings;
  - ensuring all current and new employees are provided with a copy of this Policy and are made aware of the procedures for raising concerns in respect of such issues
  - publishing this Policy on the Council's website;
  - providing training as necessary to members and employees on the practical aspects of combating fraud, theft and corruption.

### **Nolan Principles**

- 4.5 The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services. The principles are always worth repeating:

- **Selflessness:** Holders of public office should act solely in terms of the public interest.
- **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** Holders of public office should be truthful.
- **Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

### **Role of Members**

- 4.6 As elected representatives, all members of the Council have a duty to ensure that the Council acts appropriately and uses its resources prudently and in accordance with the law. They have a vital role in setting the culture of non toleration of fraud, theft and corruption both in the decisions they take and in their own behaviour. They are required to adhere to, amongst other things, the Councillor **Code of Conduct for Members** and **Contract Procedure Rules** and **Financial Procedure Rules**.
- 4.7 Members are required to declare disclosable pecuniary interests in the Register of Members' Interests and to declare certain gifts and hospitality. Members also declare any Related Parties as part of the Statement of Accounts.

### **Role of Management**

- 4.8 Each Service Manager is responsible for the successful implementation of controls designed to prevent and/or detect fraud, theft and corruption within their service area.
- 4.9 Each Service Manager will ensure that all current and new staff are aware of this Policy.
- 4.10 Managers at all levels are responsible for ensuring that their staff are aware of the contents of Council's Constitution which are relevant to their duties. They are also required to ensure that their staff are aware of their responsibilities for safeguarding the resources for which they are responsible.

4.11 Managers will also strive to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities and will also ensure that staff are aware of the mechanisms for reporting suspected fraud, theft and corruption.

### **Role of Employees**

4.12 All employees are expected to give the highest possible standard of service to the public and the Council, where it is part of their duties, to provide appropriate advice to members, fellow employees and members of the public with impartiality.

### **Selection and Training of Employees**

4.13 The Council recognises that a key preventative measure against fraud, theft and corruption is to employ staff who have the highest standards of propriety and integrity. The Council strives to achieve this through effective recruitment and training policies and procedures. These include:-

- obtaining written references prior to appointing staff, including those employed on a temporary basis;
- Confirming qualification required for any role;
- undertaking DBS checks for designated posts.

4.14 The Council acknowledges that effective training, guidance and supervision are fundamental to maintaining the skills of employees in order to reduce the risk of fraud, theft and corruption and to enable them to recognise areas of malpractice. The Council will use the Performance Appraisal framework to identify employee development and training needs as a means of addressing this.

4.15 Upon appointment all staff will be issued with the **Employee Code of Conduct** and will be required to sign a statement that they have read and understood it.

4.16 The Employee Code of Conduct details the minimum standards that apply to all employees' own conduct in the Council's activities and includes rules on relationships, personal interests, hospitality and confidentiality.

### **Statutory and Professional Obligations**

4.17 In addition to the need to comply with the Employee Code of Conduct, employees have to comply with the law and in some cases with professional obligations.

### **Internal Audit**

4.18 The Accounts and Audit Regulations 2015 require the Council to maintain an adequate and effective system of internal audit. Internal Audit will independently review the adequacy, efficiency and effectiveness of internal controls within the Council's systems by undertaking a comprehensive programme of work targeted at key risk areas.

- 4.19 Any weaknesses in internal control systems will be reported to management with recommendations to address the issues raised. It is the responsibility of managers to ensure that corrective action is taken as necessary.
- 4.20 The adequacy and appropriateness of the Council's systems and procedures is independently monitored and assessed by External Audit and the control and operating systems by Internal Audit.

## **5 DETERRING FRAUD, THEFT AND CORRUPTION**

- 5.1 A key element of this Policy is to ensure that an adequate framework is in place to deter fraud, theft and corruption. Developing the culture of the organisation to not accept fraud, theft and corruption, as outlined above, is fundamental to deterrence. The following also support deterrence.

### **A Clear Commitment to take Disciplinary Action**

- 5.2 Fraud, theft and corruption are serious offences and employees will face disciplinary action in accordance with the Council's **Disciplinary Procedure** if there is sufficient evidence that they have been involved in such activities. Disciplinary action will be taken in addition to criminal proceedings, unless special circumstances make this inappropriate.

### **A Clear Commitment to take Legal Action**

- 5.3 Where necessary, the Council will involve the Police to pursue the investigation and prosecution of offenders. The decision as to whether to prosecute offenders will ultimately rest with the Crown Prosecution Service although the Council reserves the right to instigate proceedings if necessary. The Council will ensure that whenever a criminal prosecution is being considered, the decision must take into account the public interest, the merits of the case and the evidence, and human rights, in particular, that all persons will be treated fairly.

### **Publicity**

- 5.4 Where a prosecution is successful, the Council will issue publicity intended to act as a deterrent to potential fraudsters.

## **6 THE DETECTION OF FRAUD, THEFT AND CORRUPTION**

- 6.1 Fraud, theft and corruption may come to light in various ways. It is therefore important that these are recognised and any concerns taken seriously.
- 6.2 It is expected that any member or employee will report all actual or suspected fraud, theft and corruption. Arrangements are in place to allow any person from inside or outside the Council to express concerns easily, securely and anonymously if necessary.
- 6.3 This Policy includes Money laundering, which is by definition a criminal process which attempts to make it look like the money that criminals have is legitimately earned. What they're doing is taking 'dirty money' – and effectively 'cleaning' it. Money

laundering lets them do that, by making it look like the money they have is from a legal source.

6.3 Appendices A and B set out the procedures to be followed in the event that Fraud, Theft or Corruption is suspected.

#### **Systems/Procedures Supporting Detection**

6.4 A number of controls exist within thin the Council to ensure , these include:-

- Internal Control Systems and Procedures – Well devised and properly operated controls will identify fraud, theft and corruption. As indicated above, it is the responsibility of managers to ensure that Internal Control systems and procedures exist and are being adhered to;
- Budgetary Control Procedures – The budget monitoring framework should highlight unusual spending patterns, unexpected income shortfalls or overspends which may be indicators of fraud, theft and corruption;
- Complaints – the Council’s Complaints Procedure and the recording and follow up of complaints may help to uncover not just poor service provision but possibly fraud, theft and corruption
- Whistle Blowing – The Whistle-Blowing Policy and protection rights under the Public Interest Disclosure Act will lead to information from concerned third parties to help detect corruption, where especially where formal controls can be made ineffective by collusion.
- Information from Other Public Bodies – This may take the form of specific individual referrals or by taking part on national schemes such as the National Fraud Initiative.
- Internal Audit Review – As indicated above Internal Audit is a key management tool for the prevention and detection of fraud, theft and corruption.

#### **Potential Signs of Fraud, Theft and Corruption**

6.5 Potential signs of fraud, theft and corruption on the part of an individual include:

- Apparently living beyond their means
- Under financial pressure
- Exhibiting signs of stress or behaviour not in keeping with their usual conduct
- Not taking annual leave
- Refusing to allow another employee to be involved in their duties
- Attracting complaints from Members of the public
- Failing to apply an adequate system of internal control
- Having private discussions with contractors

### **7 INVESTIGATION OF ALLEGATIONS OF FRAUD, THEFT AND CORRUPTION**

7.1 Investigation into suspected fraudulent activity or corrupt practices will normally be undertaken by Internal Audit who will liaise as appropriate with the Corporate



Director in the role of Council's Monitoring Officer, the Chief Executive, other Services Managers as required and the Police.

- 7.2 The Council will ensure that only Internal Audit staff with appropriate training and experience are used to investigate cases of fraud, theft and corruption and that any such investigations are undertaken in a confidential manner.
- 7.3 Investigation methods will be appropriate to the concerns raised and will follow legal requirements and best practice. In particular, any investigation will have regard to the Criminal Procedure and Investigations Act (CPIA), the Police and Criminal Evidence Act (PACE) and the Human Rights Act.
- 7.4 Upon completion of the investigation, Internal Audit will produce a report. The reporting procedure is essential as it ensures:-
- the consistent treatment of information regarding any suspected fraud and/or corruption;
  - an effective investigation by an experienced audit team;
  - the proper implementation of structured response to any suspected act of fraud and/or corruption;
  - that the investigation will be undertaken in accordance with the relevant legislation as indicated in 7.3 above.
- 7.5 Depending on the nature and anticipated extent of the allegations, Internal Auditors will normally work closely with management and other agencies such as the Police to ensure that the allegations and evidence are properly collected, investigated and reported upon.

#### **Follow Up**

- 7.6 Most instances of fraud, theft and corruption highlight a lack of adequate internal control. It may be that the system was weak, that controls were bypassed or no controls existed.
- 7.7 The Council's expects that all Service Managers will respond to reports from Internal Audit and, where weaknesses in internal controls have been identified, take measures to put in place the necessary controls as are required.
- 7.8 The Council will normally seek to recover the losses incurred as result of fraud, theft and corruption; this will include taking appropriate legal action to ensure redress if necessary. Where the Council has suffered loss as a result of fraud, theft or corruption by an employee the Council may be entitled to have recourse to his/her accrued pension rights to make good the loss.
- 7.9 The Council's Insurers should be informed as soon as possible of the loss. Where it is possible to do so, details of the case should be given together with some indication of the likely loss and what recovery action is being attempted.

7.10 Making claims under the Council's insurance arrangements in fraud, theft and corruption cases should be regarded as a last resort, and only be instigated once all other avenues or recovery have been fully explored. Receipt by the Council of a payment from its insurers does not protect offenders from legal proceedings.

7.11 If any persons under investigation offers a settlement in respect of any losses to the Council, it should be made clear that any monies offered will only be accepted:

- without prejudice to any other action the Council may wish to take;
- that acceptance is only in respect of losses (including any interest on loss) identified to date and that the Council reserves the right to seek recovery of any further losses that may come to light in the future.

#### **PROCEDURES FOR DEALING WITH ALLEGATIONS OF FRAUD, THEFT AND CORRUPTION**

8.1 Appendices A and B set out the procedures to be followed by employees and members of the public respectively when they suspect fraud, theft and corruption. Appendix C sets out an intended response plan to deal of suspicion of fraud or corruption.

**What an Employee of the Council should do if they suspect Fraud, Theft or Corruption**

If you suspect fraud, theft or corruption is being committed within the Council or committed against the Council, you should follow the procedure below:-

1. Make an immediate note of your concern, note all relevant details such as:
  - What was observed;
  - Details of conversations;
  - The date, time, name of parties involved;
  - Any other details you consider relevant.

Do NOT attempt to investigate the matter yourself.

2. Convey your suspicions to either:

a) Your Line Manager or Service Manager

When an employee or Manager becomes aware of, or suspects, fraud or corruption, it must immediately be reported to the Service Manager, the Head of Legal & Democratic Services in the role of Council's Monitoring Officer and the Chief Executive. Upon receipt of such notification, these Officers shall take the necessary steps to pursue the allegation. This will usually include one or more of the following actions:-

- request Internal Audit to undertake an investigation into the matter (by agreement with the Director of Resources);
- refer to the Police;
- refer to the External Auditor.

OR

b) Follow the procedure outlined in the Council's Whistle-Blowing) policy which provides protection for staff against harassment or victimisation where concerns have been raised in good faith.

3. Deal with the matter promptly

If you suspect fraud, theft or corruption, deal with the matter promptly as a delay may cause the Council to suffer further financial losses.

4. The above demonstrates a number of ways in which your concerns can be raised within the Council. If you are not satisfied with the action taken, you may wish to take the matter outside the Council. This should only be seen as a last resort but the following are possible contact points:-

- A Member of the Council;
- Other Regulatory Organisations;
- The Local Government and Social Care Ombudsman;

- Your own Solicitor;

If you do take the matter outside the Council, however, you need to ensure that you do not disclose confidential information and that disclosure is privileged in accordance with the Public Interest Disclosure Act 1988.

**What a Member of the Public/Outside Organisation Should Do if they Suspect Fraud, Bribery, Theft or Corruption**

1. Make a note immediately of your concern

Note all relevant details such as what was observed, details of conversations, the date, time and name of parties involved. Do not attempt to investigate the matter yourself.

2. Convey your suspicions in writing marked PRIVATE AND CONFIDENTIAL- TO BE OPENED BY ADDRESSEE ONLY to:-

The Chief Executive  
Pendle Borough Council  
Market Street,  
Nelson,  
Lancashire, BB9 7LG

Or by e-mail to [rose.rouse@pendle.gov.uk](mailto:rose.rouse@pendle.gov.uk)

OR alternatively to:-

Head of Legal and Democratic Services  
Pendle Borough Council  
Market Street, Nelson,  
Lancashire, BB9 7LG

Or by e-mail to [howard.culshaw@pendle.gov.uk](mailto:howard.culshaw@pendle.gov.uk)

3. If the suspected fraud relates Housing or Council Tax Benefit, notify your suspicions in writing marked PRIVATE AND CONFIDENTIAL to:-

NBFH,  
PO Box 224,  
Preston,  
PR1 1GP

Alternatively, telephone the National Benefit Fraud Hotline (NBFH) on 0800 854 440 or visit the website <https://www.gov.uk/report-benefit-fraud>

The above demonstrate a number of ways in which your concerns can be raised confidentially. If you are not satisfied with the action taken, or you wish to contact someone other than the Officers above, you may wish to take the matter outside the Council. The following are possible contact points:-

- The External Auditor
- Other Regulatory Organisations
- The Local Government and Social Care Ombudsman
- Your own Solicitor
- The Police.