

POLICY ON FRAUD PREVENTION

(Covering all employees & workers)

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Revised to reflect updated organisational structures, July 2021

POLICY ON FRAUD PREVENTION
(covering all employees & workers)

1. SCOPE

- 1.1 The aim of this Policy is to uphold the highest standard of conduct and ethics in all areas of the Council's work.
- 1.2 Fraud is defined as the use of deception with the intention of obtaining personal gain, helping someone else to gain, avoiding an obligation or causing loss to another party.
- 1.3 As a large, multi-service provider employing many staff, the Council is aware that opportunities exist for fraudulent activity to take place. This activity can take many forms and may be large or small scale.
- 1.4 The Council is committed to ensuring that the opportunity for fraud is reduced as far as is reasonably practicable and a Policy on Fraud Prevention is essential to this aim. Measures designed to prevent fraud are detailed in Section 3 of this policy.
- 1.5 Where fraud is suspected, reported or detected it will be dealt with in a firm and controlled manner.
- 1.6 The Council will actively support and foster relationships with the Police and other external agencies necessary to combat fraud. Where the Council suspects that criminal activity has occurred, it will consult directly with the Police.
- 1.7 Benefit fraud is a criminal offence and anyone found guilty of committing this offence will be pursued in accordance with the Council's policy and procedures in this area. The Council is fully committed to ensuring that Housing Benefit, Council Tax Reduction, Scottish Welfare Fund or Discretionary Housing Payment assistance is awarded only to those claimants who have an entitlement.
- 1.8 The Council is committed to working and co-operating with other organisations to prevent organised fraud. Wherever possible, subject to data protection obligations, the Council will be prepared to help and exchange information with other Councils and public bodies to deal with fraudulent activity.
- 1.9 The Monitoring Officer (the Council's Service Director: Legal and Assurance) has overall responsibility for this Policy which means undertaking periodic reviews to reflect organisational changes, best practice, operational experience or legislative updates.
- 1.10 While the Monitoring Officer has overall responsibility for this Policy, the Policy owner will be the Council's Service Director: Finance and Procurement who shall assist the Monitoring Officer as required and will ensure the integrity of

any proceedings under this Policy including determination of any procedure to be followed in cases of doubt.

- 1.11 This Policy applies to all employees and workers, including persons contracted personally to provide services to the Council, persons undergoing training or work experience as part of a training course and agency workers.

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2. CULTURE

- 2.1 The Council expects elected members, staff, suppliers and contractors to lead by example in combating fraud and to adhere to a culture of zero tolerance to fraud if it is detected. In addition, staff must adhere to the standards of personal conduct and behaviour outlined in both the Council's Employee Code of Conduct and the Disciplinary Code.
- 2.2 The Council expects Executive Directors and the Chief Officer of the Edinburgh Health and Social Care Partnership to deal firmly and quickly with any employee who is found to be involved in fraudulent activity. The Monitoring Officer, the Chief Executive or Head of Internal Audit and Risk will refer matters to the Police if they suspect criminal fraudulent activity is being planned or has taken place.
- 2.3 Where you believe that you have encountered fraudulent activity, the Council expects you to raise any concerns without delay.
- 2.4 Fraudulent acts may include:
- **Financial issues** – for example, where staff have fraudulently obtained money from the Council (paying or creating invalid invoices; Housing Benefit or Council Tax Reduction, Discretionary Housing Payment or Scottish Welfare Fund-related fraud; inflated expense claims; false overtime claims) or have assisted a third party to obtain money from the Council;
 - **Systems issues** – for example, where a process or system exists which is misused by staff (planning applications; tendering arrangements; procurement processes);
 - **Equipment issues** – for example, where Council equipment is misused for personal use (vehicles; phones; computers; machinery);
 - **Asset issues** – for example, where there is a misuse of resources (false ordering or accounting; improper acquisition or use of materials or equipment)
 - **Other issues** – for example, where staff break the law or financial procedures; receive hospitality which is not permitted by the Council's Employee Code of Conduct or supply confidential information to gain financially as a result of their office or official duties.
- 2.5 These activities could:
- be illegal;
 - be in breach of the Council's policies or procedures (see Appendix 1);
 - fall below established standards or practices; and/or
 - amount to misconduct or gross misconduct.

This is not an exhaustive list.

- 2.6 If you make an allegation but it is not subsequently established by an investigation, no action (disciplinary or otherwise), will be taken against you if it was made in good faith, that is you believed it to be true.
- 2.7 However, the Council must ensure that any process is not misused. In the unlikely event that your reported concern or issue is found to be deliberately vexatious or malicious this will be considered as a disciplinary matter.
- 2.8 This policy along with the Whistleblowing Policy, the Anti-Bribery Policy and Procedure and the Employee Code of Conduct form a regulatory suite of provisions. These are intended to complement each other by creating a comprehensive package of employee and management responsibilities and employee rights.

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3. FRAUD PREVENTION

Vigilance

- 3.1 Managers have the prime responsibility for ensuring their systems are sound and that they operate as intended. Both internal and external auditors have a role in carrying out independent reviews of systems and the adequacy of the controls in place.
- 3.2 Many cases of fraud occur because of the failure to comply with existing controls. Therefore, it is essential that robust control systems are supported by supervisory checking and being alert to the risks of fraud.

Identification of Fraud

- 3.3 External and internal fraud is not always easy to identify. Often suspicion may be raised but it is not acted upon and reported. Fraud is often committed where there is:
 - **Opportunity** to commit fraud. This is where internal controls are weak and access to assets and information allows fraud to occur.
 - **Rationalisation** (in the mind of the individual) that justifies fraudulent behaviour. This can be for a variety of reasons.
 - **Motivation** or a need to commit fraud. This can be for financial reasons or other factors.

Danger Signs

- 3.4 You must always be alert to the risk of fraud. Danger signs of **external** fraud include:
 - Photocopies of documents when originals would be expected;

- Adjusted or modified documents;
- Discrepancies in information, e.g. signatures and dates;
- Unexpected queries from stakeholders or suppliers, e.g. bank account detail changes;
- Requests for non-standard types of payment;
- Unexpected trends or results, e.g. from reconciliations.

3.5 Danger signs of **internal** fraud include:

- Evidence of excessive spending by staff in cash/contract work;
- Inappropriate relationships with suppliers;
- Reluctance of staff to take leave;
- Adjusted or modified documents;
- Undue possessiveness of, or anomalies between, work records;
- Pressure from colleagues to avoid normal control procedures;
- Abnormal travel and subsistence claims, overtime or flexible working hour patterns.

3.6 The danger signs highlighted above are not exhaustive and any indication or observation of fraudulent activity should be reported.

Internal Controls

Separation of Duties

3.7 The opportunity for fraud must be reduced wherever possible. Allocating responsibility for too many functions to one person can constitute a high risk of fraud and should be avoided. The risk of fraud can be reduced by ensuring the proper separation of duties so that, for example, more than one person must be involved in ordering, receiving and authorising payments for goods and services.

3.8 The separation of key functions forms an integral part of systems control and is essential in minimising the potential scope for irregularity by staff acting on their own. The need for proper separation of duties applies as much to grant systems as it does to procurement procedures.

3.9 Without adequate separation of duties, the effectiveness of other control measures is undermined. Where resources are limited and separation of duties is not possible, alternative management controls must be employed, such as evidenced supervisory checking.

Prevention and Detection

3.10 Appropriate preventative and detection controls should be put in place to counter the risk of fraud. Procedures set up to prevent and detect fraud must be proportionate to the risk involved and be carefully followed and monitored.

3.11 Preventative controls are designed to limit the possibility of fraud occurring. Detection controls are designed to spot errors, omissions and fraud after the

event. Support for managers in establishing appropriate controls is provided by Finance and Internal Audit.

3.12 Managers with responsibility for awarding contracts, paying invoices, authorising additional salary payments or expenses, authorising grants and other financial transactions must ensure they have clear control procedures. It is important that:

- There is an adequate separation of duties and proper authorisation processes;
- Staff dealing with these procedures are familiar with them; and
- Accounting and other records, such as cash balances, bank balances and physical stock counts, are reconciled.

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4 RESPONSIBILITIES

Employees and workers (including those employees with line management responsibilities)

- 4.1 The Council operates within a regulatory framework for dealing with its affairs. A list of relevant Council policies and procedures is included in Appendix 1. You have a duty to read and to comply with the provisions of these documents.
- 4.2 Those employees with line management responsibilities must ensure that you have access to these documents. If you knowingly or wilfully breach any of these rules or regulations, the Council will take formal disciplinary action against you, up to and including dismissal.
- 4.3 Individual services have their own measures, designed to ensure efficient and effective operation of internal controls, including the effective segregation of duties to prevent fraudulent activity. Examples of these include accounting control procedures, procedural working manuals, operating procedures and approval/authorising managers' lists. You must be made aware of and comply with the internal controls designed to prevent fraud in your individual services by your managers.
- 4.4 The Disciplinary Code indicates that fraud in any form could constitute gross misconduct. You should be reminded periodically of this (e.g. during performance review meetings, 1 to 1's or group briefings), and that the Council operates a policy of zero tolerance where fraud is detected.
- 4.5 You should not use any information obtained in the course of your employment for personal gain or benefit nor should you pass that information on to others who might use it in any fraudulent activity, for example, to order goods or services or to make fraudulent claims using a staff member's details.
- 4.6 The Council recognises that a key preventative measure in dealing with Fraud is to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of all potential staff, both temporary and permanent.

In particular, those employees with line management responsibilities for recruitment must ensure that relevant employment checks, including written references and PVG checks, where appropriate, are secured in respect of all successful applicants before an appointment can be confirmed.

- 4.7 In order to reduce the risk of fraud, orders and contracts must be awarded in accordance with the Council's approved Contract Standing Orders and Financial Regulations. If you are involved in any form of tendering exercise you must follow approved procedures and must clearly act in a transparent, fair and impartial manner when dealing with contractors, sub-contractors and suppliers.

Internal Audit

- 4.8 The Council's Internal Audit service plays an important role in the prevention and detection of Fraud. The maintenance of an adequate and effective control system of internal audit is a legislative requirement. Internal Audit independently review the efficiency and effectiveness and whether internal controls are adequate within the Council by undertaking a comprehensive programme of work targeted at key risks. It is the responsibility of management to ensure that corrective action is taken where weaknesses are identified.

- 4.9 The Council's financial and non-financial systems are also independently monitored by Internal Audit. Senior management are responsible for continuously improving the systems both through their own self-assessments and by positive and prompt responses to audit recommendations, where weaknesses have been identified.

External Audit

- 4.10 The adequacy and appropriateness of the Council's financial systems are independently monitored and assessed by the Council's external auditors, appointed by the Accounts Commission for Scotland.

Corporate Leadership Team

- 4.11 The Corporate Leadership Team will take an overview of the Policy on Fraud Prevention and ensure that it is well publicised and its implementation monitored. The CLT is responsible for ensuring that the Council develops and maintains effective controls to detect and prevent Fraud.

Governance, Risk and Best Value Committee

- 4.12 The Governance, Risk and Best Value Committee performs a scrutiny role in relation to the application of the approach laid down in this Policy on Fraud Prevention.

Trade Unions

- 4.13 The Council has fostered good working relationships with the Trade Unions. The Council will continue to consult with the Trade Unions to ensure that appropriate control measures are in place to prevent and detect fraud and also

to protect Council staff from unfounded vexatious or malicious allegations of fraud.

Police

- 4.14 The Council will also seek the advice of the Police in relation to the prevention and detection of fraud.

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5. REPORTING FRAUD

- 5.1 Dishonesty harms the Council and the reputation of its staff. You have an important and valuable role to play in preventing and tackling fraud in the workplace. You are responsible for ensuring that you follow the instructions given to you by management, particularly in relation to the safekeeping of the assets of the Council.
- 5.2 The Council has the co-operation of the Trades Unions to ensure that all staff are aware of how to report allegations of fraud.
- 5.3 Executive Directors and the Chief Officer of the Edinburgh Health and Social Care Partnership have the responsibility for the prevention and detection of fraud. It is often the alertness of staff to the possibility of fraud, which assists detection. Allegations and complaints are key sources of investigation regarding fraud.
- 5.4 You are expected to be aware of the possibility that fraud may exist in the workplace and to share any concerns with management. If you feel unable to speak to your manager or Executive Director for any reason, you must refer the matter to the Head of Internal Audit and Risk, or the Service Director: Legal and Assurance (Monitoring Officer) or the Chief Executive or by using another reporting method, for example, the Council's Whistleblowing Policy.
- 5.5 If fraud is reported to line managers they should report the matter to: -
- the Head of Internal Audit and Risk;
 - the Service Director: Legal and Assurance (Monitoring Officer); or
 - the Chief Executive.
- 5.6 You should raise any concerns that you may have, without fear of recrimination. Such concerns will be treated in the strictest confidence and will be properly investigated.

What should you do if you suspect fraud?

- 5.7 If you have a reasonable belief that fraud has occurred, you should raise these concerns as noted at paragraph 5.10 below.
- 5.8 You should not use this Policy for complaints relating to your employment as they are best addressed using the Council's grievance procedures.

- 5.9 You are responsible for acting professionally if you have a concern regarding fraud, including an expectation on you to report suspected fraud.
- 5.10 You should raise concerns with your immediate manager in the first instance. If that is not appropriate or if your concerns are very serious, you can contact any of the following individuals:
- Head of Internal Audit and Risk;
 - Service Director: Legal and Assurance (Monitoring Officer);
 - Chief Executive.
- 5.11 Reporting suspected or actual fraud ensures:
- where appropriate, suspected cases of fraud are investigated properly;
 - where appropriate, a disciplinary investigation is undertaken;
 - there is a consistent, standardised and transparent process for dealing with and recording all suspected cases of fraud; and
 - the proper implementation of a structured response to any suspected or detected act of fraud.

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6. TAKING ACTION

- 6.1 The action taken by the Council will depend on the nature of the concern.

The matters raised may be:

- investigated internally;
 - referred to the Police;
 - referred to the external auditor; or
 - form the subject of an independent inquiry.
- 6.2 The Accounts Commission also has powers to request or carry out an investigation into fraud.
- 6.3 The Council is also committed to investigating all apparent fraud matches produced from the bi-annual Audit Scotland National Fraud Initiative report.
- 6.4 When the possibility of fraud is the subject of a report or a disclosure, senior management in the service area will decide how to progress the matter, taking account of the individual circumstances of the case.
- 6.5 Where a Council policy or procedure is initiated, the appropriate steps involved in the operation of that procedure will be followed, e.g. disciplinary procedures.

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7. REPORTING TO STAFF

- 7.1 The Council accepts that staff who report alleged fraud need to be assured that the matter has been properly addressed and, subject to legal and legislative constraints, will endeavour to provide them with information about the outcomes of any investigation.

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8. REPORTING TO ELECTED MEMBERS

- 8.1 A biannual report on the numbers and types of cases and Police referrals will be provided by the Service Director: Legal and Assurance/Monitoring Officer to the Governance, Risk and Best Value Committee.

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9. ANONYMITY

- 9.1 If a disclosure regarding fraud is made anonymously this could make it difficult for the Council to deal with the disclosure effectively. You are therefore strongly encouraged to make yourself known when making a disclosure under this Policy.
- 9.2 The Council will do its best to protect your identity when you raise concerns and do not wish for your name to be disclosed. It must be appreciated, however, that the investigation process may have to reveal the source of information and a statement may be required as part of evidence gathering.
- 9.3 Disclosures regarding fraud which are made anonymously will still be considered under this Policy. Factors to be taken into account would include: -
- the seriousness of the issues raised;
 - the credibility of the concerns; and
 - the likelihood of confirming the allegations from attributable sources.

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10. MALICIOUS/VEXATIOUS ALLEGATIONS

- 10.1 If you make an allegation in good faith but it is not confirmed by an investigation, no action will be taken against you.
- 10.2 It is stressed, however, that the Council will protect itself and you from false and malicious allegations by taking disciplinary action where appropriate.
- 10.3 The Council will take all reasonably practicable steps to ensure that the negative impact of either an unfounded vexatious or malicious allegation is mitigated.

- 10.4 You will be given support and protection to allow you to feel confident in making a disclosure regarding fraud.
- 10.5 Where you make a disclosure regarding fraud, the Council is required to take appropriate action to ensure that you are protected from any form of victimisation, bullying or harassment.
- 10.6 Victimisation, bullying or harassment of anyone making a disclosure regarding fraud will be regarded as a serious disciplinary offence/gross misconduct. It will also be regarded as a serious disciplinary offence to attempt to deter someone from making a disclosure regarding fraud.

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11. CONTACT WITH THE MEDIA

- 11.1 This Policy has been developed to enable you to express concerns on the basis that fraud may have occurred or may be occurring. However, reporting of a concern regarding fraud does not mean that such matters should be made available for public consumption through the media and/ or social media.
- 11.2 Disclosure to the media is prohibited during the course of, or after completion of an investigation either conducted internally or via those external bodies referred to in this Policy. Disclosure to the media in these circumstances may lead to disciplinary action against you.

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12. GENERAL

- 12.1 This Policy is not intended to replace any other statutory reporting procedures operated by the Council.
- 12.2 Matters of concern relating to your employment situation which would normally be dealt with under the Council's Grievance Procedure should continue to be handled in that way.

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13. REVIEW

- 13.1 This policy will be added to the Council's policy register and will be reviewed annually or earlier in the light of operational experience or changing legislative circumstances.

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14. LOCAL AGREEMENT

- 14.1 This document is a local collective agreement between the Council and the recognised Trade Unions. Every effort will be made by both parties to ensure that this document will be maintained as a local collective agreement, and adjusted by agreement to meet changing future needs. In the event of failure to reach agreement, both parties reserve the right to terminate this local agreement by giving four months' notice in writing. In such circumstances, the terms of the local agreement will cease to apply to existing and future employees.

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APPENDIX 1

List of Council policies and procedures for the prevention of fraud

Anti-Bribery Policy

Anti-Bribery Procedure

Whistleblowing Policy

Benefit Fraud Prosecution Policy

Contract Standing Orders

Council Financial Regulations

Disciplinary Code

Disciplinary Procedure

Information Security Protocol

Employee Code of Conduct

Employees' Conditions of Service

Equality and Diversity policy

GTC Code of Conduct for Teachers

ICT Acceptable Use Policy