

r

Teignbridge District Council's Anti Fraud and Corruption Policy

Version Control:

| Version | Date | Author | Comment |
|---------|----------|---------------|-----------------|
| 1 | 14.12.22 | Audit Manager | Draft Version 1 |
| 1 | 23.5.23 | Audit Manager | Final Version 1 |

Authorisation:

| Approved: | By: |
|-----------|----------------|
| 14.12.22 | CMT / SLT |
| 18.1.23 | Audit Scrutiny |
| 23.5.23 | Council |

Introduction and Principles

This policy sets out Teignbridge District Council's commitment to tackling all forms of fraud and corruption.

Fraud, bribery and corruption are crimes that should not be tolerated both from within the Council and from external sources. They can:

- undermine the standards of service the Council is aiming to achieve
- divert valuable resources from delivering our services
- reduce public confidence in the Council

The Council will ensure that the opportunity for fraud, bribery and corruption is reduced to the lowest possible level. It is committed to the highest possible standards of openness, probity, honesty, integrity, and accountability. Any proven fraud will be dealt with consistently and robustly. Appropriate sanctions and redress will be pursued against anyone perpetrating, or seeking to commit fraud, corruption or theft against the Council.

Scope

This policy applies to:

- Council employees, Councillors, contractors, agency workers, volunteers, partner organisations, and service users (the general public).

The Chief Finance Officer and Head of Corporate Services has a statutory responsibility under section 151 of the Local Government Act 1972 to ensure the proper arrangement of the Council's financial affairs.

The Head of Legal Services has a statutory responsibility to advise the Council on the legality of its actions and decisions.

Managers have a duty to ensure their staff are aware of and adhere to this policy.

Definitions

Fraud

The [Fraud Act 2006](#) defines fraud as follows:

- fraud by false representation, i.e. if an individual dishonestly makes a false representation and intends by making the representation to make gain for themselves or another, or to cause loss to another or expose another to risk of loss;
- fraud by failing to disclose information, i.e. if an individual dishonestly fails to disclose to another person information which they are under a legal duty to disclose and intends, by means of abuse of that position, to make a gain for themselves or another, or to cause loss to another or expose another to risk of loss; and
- fraud by abuse of position, i.e. if an individual occupies a position in which they are expected to safeguard or not to act against, the financial interests of another person, and they dishonestly abuse that position to make a gain for themselves or another, or to cause loss to another.

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, these activities include:

- deception
- bribery
- forgery
- extortion
- corruption
- theft
- conspiracy
- embezzlement
- misappropriation
- false representation
- concealment of material facts, and
- collusion

In addition, the Fraud Act deals with offences relating to the possession of articles for use in fraud, making or supplying articles for use in frauds, and obtaining services dishonestly, personally or for another.

Bribery

The [Bribery Act 2010](#) came into force in the UK on 1st July 2011.

It sets out the criminality of accepting and giving of bribes and applies to both individual staff, councillors, and the Council corporately.

The Bribery Act 2010 introduces four main offences, simplified as the following:

- bribing another person: a person is guilty of an offence if he or she offers, promises or gives a financial or other advantage to another person;
- offences relating to being bribed: a person is guilty of an offence if he or she requests, agrees to receive, or accepts a financial or other advantage. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate advantage or not;
- bribery of a foreign public official: a person who bribes a foreign public official is guilty of an offence if the person's intention is to influence the foreign public official in their capacity, duty or role as a foreign public official; and
- failure of commercial organisations to prevent bribery: organisations, which include the Council, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business.

A 'financial' or 'other advantage' may include money, assets, gifts or services.

Prior to entering into any business arrangements, all Council officers must ensure that they have taken all reasonable steps to identify any potential areas of risk relating to bribery or corruption.

Corruption

This is the deliberate use of a person's position of entrusted power for direct or indirect personal gain.

"Corruption" covers the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately.

'[Misconduct in a public office](#)' is a common law offence and is committed when the holder of a public office acts, or omits to act, in a way contrary to their duty.

Theft

The misappropriation of cash, cash equivalents, or other tangible assets. A person is guilty of “theft” if they dishonestly appropriate property belonging to another with the intention of permanently depriving the other of it.

Money Laundering

This describes any process used by criminals to conceal the origins of illegally obtained money, through criminal activities.

Guidance for employees is provided in the Council’s Anti-Money Laundering Policy ([link to be provided](#)).

Anyone suspecting Money Laundering should confidentially report this to the designated Money Laundering Reporting Officer – the Chief Finance Officer and Head of Corporate Services.

Principles, Aims and Objectives

Councillors and Managers will lead by example and at all levels employees and members of the Council will comply with the Constitution, Council policies, Financial Instructions, Contract Rules, and Codes of Conduct.

The primary responsibility for the prevention and detection of fraud rests with management. Any concerns or suspected irregularities must be reported and acted upon (see reporting section later).

The aims and objectives of this policy are to:

- promote an environment which protects the Council against fraud and loss;
- maintain an “anti fraud” culture in which all stakeholders play a part: the public, Councillors, staff, and managers;
- provide “counter fraud” measures in systems and processes which proactively deter, prevent, and detect fraud, bribery, corruption and theft;
- ensure instances of suspected fraud are investigated;
- ensure appropriate sanctions and recovery of losses are pursued against perpetrators;
- ensure the Council promotes awareness of counter fraud and implements best practice improvements to systems, digital processes, and internal controls to reduce the opportunity for fraud and corruption.

Responsibilities

Managing Director: Overall accountability for the effectiveness of the Council’s counter fraud arrangements.

Monitoring Officer: to advise Councillors and Officers on ethical issues, standards, and statutory responsibility to ensure the Council operates lawfully.

Chief Finance Officer and Head of Corporate Services (Section 151 Officer): to ensure there is an effective internal control framework, and a system of internal audit in place, in accordance with the Accounts and Audit Regulations.

Audit Scrutiny Committee: to monitor the effectiveness of the Council's counter fraud policies.

Councillors: to comply with the Constitution and Members Code of Conduct and related Council policies and procedures; to be aware of the possibility of fraud, corruption and theft; and to report any genuine concerns accordingly.

External Audit: statutory requirement to assess the Council's counter fraud arrangements in respect of the Financial Statements.

Internal Audit: contributes to the development and application of the Council's Anti Fraud and Corruption arrangements; to consider the risk of fraud in internal audit work; to investigate suspected or reported fraud where appropriate; to make recommendations to improve counter fraud mitigations where required.

Strategic Leaders and Service Managers: to promote awareness and ensure all suspected or reported irregularities are immediately referred for investigation; and to assess the types of risk their services are exposed to, ensuring counter fraud controls are implemented and operating effectively.

All Staff: to comply with Council policies and procedures, to be aware of and alert to the possibility of fraud, corruption and theft, and to report any concerns to management and / or internal audit. To co-operate fully with any internal reviews or investigations.

Public, Partners, Suppliers and Contractors: to be aware of the possibility of fraud and corruption against the Council and report any genuine concerns / suspicions.

Reporting Avenues, Advice and Support

Anyone can use make a report using our [report a fraud form](#) on the internet. (This is received and triaged by Internal Audit).

Or write to: Teignbridge District Council, Forde House, Newton Abbot TQ124XX.

Employees can also raise concerns with their line manager, or if this is not appropriate, then to any member of the Strategic Leadership Team, the [Audit Manager](#), the [Monitoring Officer](#), or Head of HR.

The Council will provide reasonable protection to those who raise genuine concerns in good faith, in line with the [Whistleblowing Policy](#). (link to be provided).

The Council will investigate and take appropriate action in line with the Disciplinary Policy if a member of staff is suspected of fraud or corrupt behaviour. Fraud, attempted fraud or

corruption will be considered gross misconduct for which the highest penalty is dismissal without notice. An Investigating Officer will be appointed by the Managing Director and/or Chief Finance Officer for fraud and corruption investigations.

External means of raising a concern include:

- the Council's [External Auditor](#)
- [Devon and Cornwall Police](#)

The Council will work with other bodies as appropriate in order to strengthen our defences against fraud and corruption, examples include:

- Cabinet Office National Fraud Initiative
- National Anti Fraud Network
- External Audit
- Department for Work and Pensions
- HM Revenue and Customs
- Police

Review

The policy will be reviewed as and when a change to legislation, working practices, or guidance from specialist counter fraud bodies dictates.