COUNTER FRAUD FRAMEWORK REPORT

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SELBY
DISTRICT COUNCIL

Appendix 1

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📖 INTRODUCTION

1   Fraud is a significant risk to the UK public sector. Losses to local government due to fraud results in less funding for public services. It is estimated that the cost of fraud against local authorities is as much as £7.8 billion annually.[1] An estimated 40% of all crime committed in the UK is categorised as fraud.[2]

2   To effectively combat fraud the Council needs to have a counter fraud framework that helps prevent, detect and deter fraud. Counter fraud work also needs to develop at least as quickly as the techniques used by fraudsters.

🌐 NATIONAL PICTURE

3   Local authorities have been responsible for the administration of a number of schemes designed to support businesses and the public during the Covid-19 pandemic. No reports into the level of loss found in local authority administered schemes have been published, but the Department for Business, Economy and Industrial Strategy (BEIS) conclude that as councils deal with fraud on a day to day basis that they will have been more equipped to deal with fraud arising from these schemes.[3]

4   The Covid-19 pandemic has created opportunities for fraudsters to attack public sector organisations, private businesses, and members of the public. In March 2021, the National Audit Office (NAO) reported a significant rise in the risk fraud and error due Covid-19.[4]

5   The government has acknowledged the speed with which fraudsters adapt to exploit organisations' weaknesses. To better tackle the evolving threat, an improved national fraud and cybercrime reporting system will be introduced to replace Action Fraud.[5] Cooperation and intelligence sharing between national and local agencies will help combat fraud.

6   Cybercrime remains a significant risk to all organisations, public and private. High profile attacks across the UK and worldwide have continued throughout the pandemic, and cybercriminals have shown disregard for the effects of their actions. An attack in the United States in May 2021 stemmed from a single compromised password and account, and resulted in the company involved paying a ransom of over £3 million.

7   Supply chain attacks have also become prevalent in the last 12 months. These attacks occur when a software or IT supplier is targeted and criminals use the knowledge they gain to attack the end users of the company's software. Several high profile attacks in 2020 resulted in governments and businesses in the United States, the UK, and Europe being affected. This included unauthorised access to email accounts and

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[1] Annual Fraud Indicator 2017, Crowe Clark Whitehill
[2] Public Accounts Committee Report – Fraud and Error, June 2021, HM Government
[3] Public Accounts Committee Report – Fraud and Error, June 2021, HM Government
[4] Economic Crime Plan 2019-22, HM Government
[5] Beating Crime Plan 2021

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confidential documents, leading to data breaches. It's essential that oversight of organisational ICT infrastructure is maintained to ensure controls remain up to date and able to reduce the impact of emerging threats.

LOCAL PICTURE

8   The Council has been responsible for administering support payments to business and residents during the Covid-19 pandemic. Robust application processes and verification checks were established to minimise the impact of fraudulent attempts to claim funds. Veritau has supported the Council through participation in investigation of suspected fraudulent claims. The counter fraud team also liaises with external agencies such as the National Anti-Fraud Network, and National Investigation Service to help identify potential fraud and contribute to central investigation of organised crime. This work continues in 2021/22.

9   Raising fraud awareness with staff is key to identifying and tackling fraud. Veritau continues to engage staff and investigate reported allegations of fraud. Activity this year includes training being delivered to staff about cybersecurity awareness, and a campaign to raise awareness of bribery and corruption.

FRAUD RISK ASSESSMENT

10   Veritau completes an annual Fraud Risk Assessment, designed to identify the areas of fraud that present the greatest risk to the Council. The risk assessment is informed by national and regional reports of fraud affecting local authorities as well as the fraud reported to and investigated by the counter fraud team. The results of the assessment are used to:

- develop or strengthen existing fraud prevention and detection measures

- revise the counter fraud policy framework

- focus future audit and counter fraud work.

11   The 2021/22 Fraud Risk Assessment is included at annex 1, below.

12   Covid-19 related fraud has been downgraded from a high risk to a medium risk as a result of the high value payments seen in 2020/21 coming to an end. In response to the Omicron variant of the virus, a new grant to support hospitality and leisure businesses was announced in December 2021. Resources that have been made available by central government for pre-payment verification checks and the Council's experience gathered from administering previous payments will help mitigate fraud risks. New cases of grant fraud may be identified through the National Fraud Initiative which includes cross boundary data matches which have not been previously available to local authorities. The Council is responsible for attempting to recover incorrectly paid grants.

13   Theft of assets has also been downgraded from a high risk to a medium risk. This is a result of the easing of Covid-19 related restrictions and increased staff presence at Council premises. Although we are continuing to review the situation as the Council responds to increasing cases as a result of the Omicron variant of the virus.

14   The fraud risk assessment will be kept under review so that any significant new or emerging risks are addressed.

COUNTER FRAUD FRAMEWORK

15   The Council has a robust counter fraud framework which includes a counter fraud strategy and associated action plan, a counter fraud policy, a fraud risk assessment, and a number of related policies (e.g. whistleblowing). A review of the framework is conducted annually.

16   A new counter fraud and corruption strategy was adopted last year. The strategy sets out the Council's aims for counter fraud work over the next few years. The strategy also includes actions needed to maintain and develop counter fraud arrangements at the Council. The associated strategy action plan is reviewed and updated annually. This year's update is included at annex 2, below. It details progress made against last year's plan and introduces new priorities for the counter fraud team in 2022/23. New objectives include:

- continuing the good practice developed during Covid-19 grant administration to share intelligence that supports prevention of all types of fraud

- developing an anti-bribery policy and communicating it to employees.

17   The current review identified that the Council does not have a specific anti-bribery policy, although the Employee Code of Conduct and Register of Gifts do cover related areas. The Bribery Act 2010 created a number of offences for people who offer or accept bribes. In addition, organisations that fail to prevent these offences from occurring can be found to have broken the law as well – and could face unlimited fines. One of the criteria that a court would use to assess an organisation's liability is whether it has anti-bribery policies in place which have been communicated to, and understood by, employees.

18   A proposed revised version of the Counter Fraud and Corruption Policy is included at annex 3 below. This has been amended to incorporate a separate Anti-Bribery Policy.

ANNEX 1: Fraud Risk Assessment (January 2022)

Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
Council Tax & Business Rates Frauds (discounts and exemptions)	Council Tax fraud is a common occurrence. CIPFA report that 66% of all local government related fraud, recorded as part of their annual survey, involved Council Tax or Business Rates payments. Single Person Discount fraud accounted for £28.9m of loss due to fraud in 2019/20 according to the survey. Depending on the scheme, there are several ways in which fraud can occur. These include applicants providing false information and recipients failing to notify the Council when they no longer qualify. Revenue from Council Tax and Business Rates is a key income stream. Fraud in this area threatens this source of funding.	The Council employs a number of methods to help ensure only valid applications are accepted. This includes requiring relevant information on application forms and visits to properties (where necessary). Controls including separation of duties between collection and administration, restriction of access to records and management oversight of action such as recovery suppressions help prevent internal fraud and error. Messages reminding residents and businesses to update their circumstances when necessary appear on annual bills issued by the Council. The Council routinely takes part in the National Fraud Initiative to identify potentially incorrectly obtain discounts. In addition, the Council conducts Single Person Discount reviews through a specialist provider and is seeking to move to a	High	The counter fraud team delivers periodic fraud awareness training to staff in revenues, and customer services about frauds affecting Council Tax and Business Rates. They also undertake criminal investigations where appropriate. Internal audit work in this area is planned for quarter 4 of 2021/22.

Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
		continuous monitoring system.		
Council Tax Support Fraud	Council Tax Support is a Council funded reduction in liability introduced in 2013 to replace Council Tax Benefit. Unlike its predecessor, it is resourced entirely through Council funds. CIPFA's latest national fraud tracker showed the estimated total value of Council Tax Support fraud nationally to be £4.9m.

Frauds in this area can involve applicants failing to declare their total assets, correct household composition or household income. Those receiving support are also required to notify relevant authorities when they have a change in circumstances that may affect their entitlement to support.

The Department for Work and Pensions have reported an increase in fraud within the Universal Credit system during 2020/21 as a result of Covid-19. As Universal Credit claim are generally linked to Council Tax Support claims there is likely to be an associated increase | The Council undertakes eligibility checks on those who apply for support. There are established lines of communication with the Department for Work and Pensions where claims for support are linked to externally funded benefits.

The Council is able to report Housing Benefit and other benefit frauds to the Department for Work and Pensions but this does not necessarily allow the Council control over resolving false claims for Council Tax Support. | High | Fraud concerns are reported to the counter fraud team who determine if criminal investigation is required. The counter fraud team can undertake joint working with the Department for Work and Pensions where it is mutually beneficial (e.g. joint claims for benefit).

The counter fraud team will continue to raise awareness with relevant staff.

A Housing Benefit and Council Tax Support audit was conducted in 2020/21. Good controls were found to be in place and a substantial assurance opinion was given. |

Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
	in fraud against the Council. Fraudulently obtained Council Tax Support represents a loss of Council funds.			
Creditor Fraud	A range of frauds can be committed against the Council as a result of publically available creditor payment data. Criminals undertaking these types of fraud are often found to be operating from overseas. The most common issue is mandate fraud where fraudsters impersonate legitimate suppliers and attempt to divert payments by requesting changes in bank details. Other types of fraud in this area include whaling, where senior members of the Council are targeted and impersonated in order to obtain fraudulent payments. In recent years there have been increased instances nationally of hackers gaining direct access to email accounts of suppliers and then attempting to perpetrate mandate frauds. These attempts	The Council has a number of controls in place to identify fraudulent attempts to divert payments from genuine suppliers and to validate any requests to change supplier details. Segregation of duties exist between the ordering, invoicing and payments processes.	High	Veritau undertake work to raise staff awareness of these types of frauds. Increased awareness provides greater chances of stopping fraudulent attempts before losses occur. All instances of whaling fraud reported to counter fraud team will be reported to the relevant agencies, such as the National Cyber Security Centre, as well as directly to the email provider from where the false emails originated from. The counter fraud team share intelligence on any attempted frauds occurring nationally to ensure the Council can prevent losses. Veritau are reviewing the

Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
	are much more difficult to detect and prevent. With increased remote working due to Covid-19, there have been increased opportunities for fraudsters to impersonate budget holders or suppliers in electronic communications to divert funds.			process for managing requests to update supplier details to ensure controls could defend against the latest fraud threats. Periodic audits are undertaken in this area to ensure controls are implemented and remain effective.
Cybercrime	Cybercrime is a constantly evolving area where criminals are continually refining their techniques in order to overcome controls put in place to protect organisations, to obtain unauthorised access and information, and to frustrate systems. Types of cybercrime experienced by local authorities in recent years include ransomware, phishing, whaling, hacking, and denial of service attacks. Attacks can lead to loss of funds, systems becoming unavailable to use impacting service delivery, and loss of data.	North Yorkshire County Council provides ICT services for the Council. Working with a larger organisation who have highly skilled ICT professionals helps mitigate the threat of cybercrime. The Council also benefits from North Yorkshire County Council's participation in a regional group with other local authorities to share best practice and information about emerging threats.	High	Raising awareness with staff can be crucial in helping to prevent successful cyberattacks. Any counter fraud training delivered will reinforce cybersecurity messages to members of staff. An awareness campaign for staff took place during cybersecurity awareness month in October.

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Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
	There have been a number of high profile cyber-attacks on public and private sector organisations in recent years. Attacks stemming from the hacking of software or IT service providers have become more prevalent. These are known as supply chain attacks and are used by hackers to target the end users of the software created by the organisations targeted.			
Procurement Fraud	Procurement fraud has been highlighted as a high risk for local authorities in the CIPFA fraud tracker for a number of years. Procurement fraud, by its nature, is difficult to detect but can result in large scale loss of public funds over long periods of time. The Competition and Markets Authority (CMA) estimates that having a cartel within a supply chain can raise prices by 30% or more. CIPFA reported losses of £1.5m in 2019/20 for local authorities, due to procurement fraud. It found that 8% of fraud detected in this area involved 'insider fraud'.	The Council has established Contract Procedure Rules. The rules are reviewed regularly and ensure the requirement for a competitive process (where required) through an e-tender system. A team of procurement professionals provide guidance and advice. A tendering and evaluation framework is in operation to help prevent fraud. It also sets out the requirements for declarations of interest to be made. Contract monitoring is undertaken to help detect and deter fraud.	High	Continued vigilance by relevant staff is key to identifying and tackling procurement fraud. The counter fraud team will continue to provide training to raise awareness of fraud risks in this area. The counter fraud team and internal audit will monitor guidance on fraud detection issued by the Competition and Markets Authority and other relevant bodies. Any suspected procurement fraud is reported to Veritau for further investigation.

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Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
	The Ministry of Housing, Communities and Local Government (MHCLG) published a report in June 2020 regarding the risks of procurement fraud in local government. It identifies actions required by MHCLG to provide support to local authorities. Areas of good practice for councils are also highlights, many that the Council achieves or continues to develop.			
COVID-19 grant fraud	Throughout the Covid-19 pandemic local authorities have been responsible for providing support to businesses and residents. The Council had to respond quickly to deliver a number of support schemes in 2020/21. New processes for verifying applications had to be implemented very quickly. These schemes have been subject to attempted fraud at a local, national and international level due to the significant amount of funding available.	Over the course of 2020/21 the Council developed robust processes to identify fraudulent applications for support. This included use of national data matching resources. These resources and the Council experience can be applied to administration of any new or ongoing schemes. Government mandated pre- and post-assurance activities have been undertaken to review the success of controls in place.	Medium	Any instances of fraud are investigated by the counter fraud team. Where payments were found to have been fraudulently or incorrectly made a recovery process was instigated. Veritau conducted a post-event assurance exercise at the end of 2020/21 which reviewed payments to businesses made during the first lockdown period. The exercise concluded that the vast majority of payments sampled had been made

Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
	A new scheme to support hospitality and leisure sectors was announced in December 2021. While funding has been provided by central government, the Council was charged with the responsibility for identifying genuine applicants and investigating and recovering incorrect payments.			correctly and in line with government guidance. The counter fraud team still has a number of investigations ongoing and the results of a National Fraud Initiative data matching exercise are being reviewed. A further National Fraud Initiative exercise is being conducted in early 2022. The counter fraud team shares details of all known frauds occurring regionally and nationally.
Internal Frauds	There are a range of potential employee frauds including falsifying timesheets and expense claims, abusing flexitime or annual leave systems, undertaking alternative work while sick, or working for a third party on Council time. Some staff have access to equipment and material that may be misused for private purposes. With increased staff working	The Council has a whistleblowing policy through which concerns can be raised. An anti-bribery policy that asks staff to report concerns through the whistleblowing policy is being implemented. Controls are in place surrounding flexitime, annual leave and sickness absence. Participation in the National Fraud	Medium	The counter fraud team will investigate any suspicions of corruption while internal audit ensure that appropriate checks and balances are in place to help prevent it. The Council's anti-bribery policy will be promoted to staff in 2022.

Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
	remotely, working hours and associated claims may be more difficult to monitor. It is essential that these issues are tackled as they can cause reputational damage and affect staff morale and performance. Payroll related fraud can involve the setting up of 'ghost' employees in order to divert salary payments to others. Corruption and bribery is a significant risk to all public sector organisations, however, only low levels have ever been detected.	Initiative helps the Council identify potential cases of internal fraud. There is currently an exercise underway.		
Recruitment Fraud	Recruitment fraud can affect all organisations. Applicants can provide false or misleading information in order to gain employment such as bogus employment history and qualifications or providing false identification documents to demonstrate the right to work in the UK.	The Council has controls in place which include verification of qualifications and reviewing references to help mitigate against the risk of fraud in this area.	Medium	Where there is a suspicion that someone has provided false information to gain employment, the CFT will be consulted on possible criminal action in tandem with any disciplinary action that may be taken.
Theft of Assets	The theft of assets can cause financial loss and reputational	Specific registers of physical assets (e.g. capital items, property and ICT	Medium	Members of staff should also be vigilant and report all

Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
	damage. It can also negatively impact on employee morale and disrupt the delivery of services. The Council owns large numbers of physical items, such as IT equipment, vehicles and tools. The reduction of staff at Council premises during the Covid-19 outbreak increased the risk of theft. This risk has reduced as restrictions have lifted but the situation will remain under review as the Council responds to the Omicron variant of the virus.	equipment) are maintained. The Council's whistleblowing arrangements provide an outlet for reporting concerns of theft.		possible thefts promptly to the Police and counter fraud team.
Blue Badge Fraud	Blue Badge fraud can affect disabled residents' and visitors' ability to access areas easily. The badges are issued by North Yorkshire County Council, but the Council offers free parking to badge holders using its car parks. There is a risk of reputational damage to the Council if abuse of this scheme is not addressed. People using a Blue Badge that does not belong to them and without the badge holder present are acting contrary to the law.	Parking enforcement is undertaken by Harrogate Borough Council.	Low	The counter fraud team will investigate cases where it is suspected that blue badges are being fraudulently used in Council car parks.

Risk Area	Risk Description	Risk Controls	Risk Category	Risk Mitigation
	They may also park in some restricted areas, including on many double yellow lines.		Low	
Fraudulent Insurance Claims	The Council may receive exaggerated or fabricated insurance claims. CIPFA's 2019/20 report estimated that insurance fraud had cost local government £3.9m in the previous year.	The burden of risk is currently transferred to the Council's insurers. They have established detection and investigation processes.	Low	n/a
Treasury Management	The impact of losses in this area could be significant. There have been no recorded frauds within the Council.	Treasury Management services are provided by North Yorkshire County Council. Systems are well controlled and subject to periodic internal audit review.	Low	Internal Audit undertake periodic reviews of the controls in this area.

ANNEX 2: COUNTER FRAUD STRATEGY ACTION PLAN

Veritau has responsibility for maintaining, reviewing, and strengthening counter fraud arrangements at the Council. This includes an annual review of the Council's counter fraud policy framework.

Ongoing counter fraud work is targeted towards the high risk fraud areas (creditors, cybercrime and procurement). This work includes both proactive activities (for example conducting a rolling programme of fraud awareness training for officers, sharing fraud alerts and undertaking data matching exercises) and reactive work (for example, investigations, prosecutions and fraud loss recovery).

A number of new developments and initiatives are also planned as follows:

New one off and developmental activity:

Ref	Action Required	Target Date	Responsibility	Notes
1	Promote the Council's new Anti-Bribery Policy.	June 2022	Veritau / Communications Team	Raise awareness internally of the policy and its implications.
2	Increase sharing of counter fraud intelligence to enhance fraud prevention.	March 2022	Veritau	Veritau to promote sharing of counter fraud intelligence from regional and national forums.
3	Review Council processes for updating supplier details.	January 2022	Veritau / Finance Department	Veritau to review existing controls in place to verify changes to supplier details, and recommend any necessary action to protect the Council from the latest fraud threats.
4	Increase use of the National Anti-Fraud Network (NAFN) services across the Council.	June 2022	Veritau / Service Departments	Veritau to promote use of NAFN services to help Council departments identify fraud and recover losses.

Completed activities:

Ref	Action Required	Responsibility	Update
1	Undertake post assurance checks on grant applicants to the Small Business Grant Fund and Retail, Hospitality and Leisure Grant Fund Schemes.	Veritau / Revenues Department	A post-assurance report finalised in May 2021. A sample of Covid-19 related payments were reviewed for fraud and error. The report found that the Council had paid grants correctly and in line with Government guidance.
2	Develop a communication strategy to publicise counter fraud and corruption news internally.	Veritau / Communications Team	A schedule of regular fraud awareness campaigns was introduced in 2021/22. This work will continue in 2022/23.
3	Ensure that up to date policies are in place to enable the Council to undertake covert surveillance under the Regulation of Investigatory Powers Act and employee monitoring outside of the Act.	Veritau / Legal Department	The Council was inspected by the Investigatory Powers Commissioner in February 2021. The solicitor to the Council presented updates to the Council's RIPA policy in September 2021. This introduced the latest government code of practice.
4	Create a new data protection impact assessment to enable further data matching at the Council.	Veritau / Service departments	A data protection impact assessment template has been developed for use in future data matching activity.

Ref	Action Required	Responsibility	Update
5	Participate in Fighting Fraud and Corruption Locally working groups.	Veritau	Veritau chair a Fighting Fraud and Corruption Locally working group and seek opportunities to make further contributions.

COUNTER FRAUD AND CORRUPTION POLICY

1 Introduction

1.1 All organisations are at increasing risk of fraud and corruption. Some commentators estimate that annual fraud losses to local government in the UK could be £7.8 billion. It is therefore a risk that the Council cannot and should not ignore.

1.2 Any fraud committed against the Council effectively constitutes a theft of taxpayer's money. It is unlawful and deprives the Council of resources which should be available to provide services to the public. By putting in place effective measures to counter the risk of fraud and corruption the Council can reduce losses which impact on service delivery as a contribution to the achievement of overall Council priorities.

1.3 This document sets out the Council's policy in relation to fraud and corruption perpetrated against it, and its overall arrangements for preventing and detecting fraud. It includes the fraud and corruption prosecution policy contained in Annex A. It forms part of the Council's overall policy framework for combating fraud and corruption and should be read in conjunction with the counter fraud strategy, constitution, the financial regulations, contract procedure rules, the whistleblowing policy, anti-money laundering policy, codes of conduct, and disciplinary procedures.

2 Definitions and Scope

2.1 For the purpose of this policy, the term fraud is used broadly to encompass:

- acts which would fall under the definition in the Fraud Act (2006)
- anything which may be deemed fraudulent in accordance with the generally held view of fraud as causing loss or making a gain at the expense of someone by deception and dishonest means
- any offences which fall under the Social Security Administration Act (1992), Council Tax Reduction Schemes Regulations (2013) and the Prevention of Social Housing Fraud Act (2013)
- any act of bribery or corruption including specific offences covered by the Bribery Act (2010)
- acts of theft
- any other irregularity which is to the detriment of the Council whether financially or otherwise, or by which someone gains benefit they are not entitled to.

2.2 This policy does not cover fraud or corruption against third parties, except where there may be an impact on the service provided by the Council. In addition, it does not cover other acts – for example offences involving

violence - which may affect the Council, and which should in most cases be reported directly to the police.

3   Principles

3.1   The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by members, officers, customers of its services, third party organisations contracting with it to provide goods and/or services, or other agencies with which it has any business dealings. There is a basic expectation that members, employees, and contractors' staff will act with integrity and with due regard to matters of probity and propriety, the requirement to act lawfully and comply with all rules, procedures and practices set out in legislation, the constitution, the Council's policy framework, and all relevant professional and other codes of practice.

3.2   The Council will seek to assess its exposure to risks of fraud and corruption. It will prioritise resources available to prevent and deter fraud in order to minimise this risk.

3.3   The Council will consider any allegation or suspicion of fraud seriously, from whatever source, and if appropriate will undertake an investigation to confirm whether fraud has occurred and determine the appropriate outcome. Any investigation will be proportionate. The Council may refer any incident of suspected fraud to the police or other agencies for investigation, if appropriate.

3.4   To act as a deterrent, the Council will take action in all cases where fraud (or an attempt to commit fraud) is proved, in proportion to the act committed. This may include prosecution, application of internal disciplinary procedures, or any other action deemed appropriate to the offence (for example referral to a professional body). Prosecution decisions will be made in accordance with the fraud and corruption prosecution policy (Annex A).

3.5   As a further deterrent, and to minimise losses, the Council will attempt to recover any losses incurred through civil or legal action. In addition, the Council will seek to apply any appropriate fines or penalties, and recover any costs incurred in investigating and prosecuting cases.

3.6   The Council will not tolerate any form of bribery to or by employees, members, or suppliers. Any act of bribery puts the Council at risk of committing a criminal offence. Please see the Council's Anti-Bribery Policy which is contained in Annex B.

4 Responsibilities

4.1 Overall responsibility for counter fraud arrangements rests with the Council's Chief Finance Officer (CFO), on behalf of the Council. The CFO has a professional responsibility for ensuring the Council has appropriate measures for the prevention and detection of fraud and corruption, which are reflected in legislation.

4.2 The Audit and Governance Committee has responsibility to consider the effectiveness of counter fraud and anti-corruption arrangements at the Council. This includes monitoring of Council policies on raising concerns at work and counter fraud and corruption.

4.3 The Extended Leadership Team (ELT) are collectively responsible for ensuring that the Council has effective counter fraud and corruption procedures embedded across the organisation that comply with best practice and good governance standards and requirements.

4.4 Veritau (who provide internal audit and counter fraud services to the Council) is responsible for reviewing the Council's counter fraud and corruption policies on a regular basis and recommending any required changes to those policies. In addition, Veritau leads on fraud prevention and detection issues for the Council and is responsible for investigating suspected cases of fraud or corruption. The internal audit team carries out audit work to ensure that systems of control are operating effectively, which contributes to the reduction in opportunities for committing fraud. The Head of Internal Audit is required to report their professional opinion on the Council's control environment to members of the Audit & Governance Committee on an annual basis in accordance with proper practice.

4.5 All senior managers have a responsibility for preventing and detecting fraud within their service areas. This includes maintenance of effective systems of internal control and ensuring that any weaknesses identified through the work of internal audit or by other means are addressed promptly.

4.6 The Solicitor to the Council is the Council's nominated officer for the purposes of the Money Laundering Regulations (2007), and is responsible for reporting any issues referred to them, in this capacity.

4.7 All staff have a general responsibility to be aware of the possibility of fraud and corruption, and to report any suspicions that they may have to Veritau. Where appropriate, staff may use the whistleblowing policy to raise concerns anonymously.

4.8 Officers within human resources have a responsibility to support service departments in undertaking any necessary pre-disciplinary investigation and disciplinary process.

5 Overall Counter Fraud Arrangements

Introduction

5.1 The purpose of this section is to set out the Council's overall framework for countering the risk of fraud and corruption. While the Council aims to follow best practice in relation to counter fraud activity[6], it recognises that new and emerging fraud risks will require a dynamic approach to fraud prevention and detection.

Measurement

5.2 The Council will assess the potential risks and losses due to fraud and corruption, and will use these to prioritise counter fraud activity, and review the resources available to counter those risks. The review will include an assessment of actual levels of fraud[7] and the effectiveness of counter fraud activity in reducing losses. The outcome of this review will be reported to the Audit & Governance Committee on an annual basis as part of the audit and fraud planning cycle.

Culture

5.3 The Council will promote a culture whereby all staff, members, service users, and contractors are aware that fraud or corruption in any form is unacceptable. To do this, it will:

- ensure that there are clear arrangements in place for reporting suspicions about potential fraud or corruption, whether that be by staff, Council members, partners, stakeholders, contractors or members of the public;

- investigate reported suspicions and where evidence of fraud or corruption is found will prosecute where appropriate and take any other action necessary in accordance with the financial regulations, contract procedure rules, fraud and corruption prosecution policy, disciplinary procedures, members code of conduct, or any relevant legislation or guidance;

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[6] For example the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption.
[7] All suspected fraud should be reported to Veritau. A record of all such information will be maintained on a confidential basis.

- ensure that the consequences of committing fraud and/or partaking in corrupt practices are widely publicised.

Prevention and Detection

<u>Controls</u>

5.4 As part of its ongoing operating procedures, the Council seeks to ensure that proper systems of internal control are in place. This includes controls to directly prevent and detect fraud, such as separation of duties and management review, along with other procedures such as vetting as part of recruitment processes and systems for declaration of interests and gifts and hospitality. The effectiveness of systems of control are monitored and a formal report is made as part of the process for preparing the annual governance statement. The Council maintains a system of internal audit to provide independent review of control systems on an ongoing basis, in accordance with a risk assessment.

5.5 Services will be encouraged to consider the risk of fraud as part of the Council's risk management process. Any information on risks identified will be used to inform the annual review of counter fraud activity.

<u>Proactive Work</u>

5.6 The Council will carry out targeted project work (for example data matching exercises) to identify fraud and corruption in known high risk areas. This work will be carried out by Veritau as part of its annual workplan. Work will be prioritised based on a risk assessment as part of the annual review of counter fraud activity. Work may include joint exercises with other agencies, including other local councils.

5.7 The Council will take part in projects led by other agencies such as the Cabinet Office and the DWP to identify potential fraud e.g. the National Fraud Initiative and HBMS Data Matching Service. Resources will be allocated to follow up all data matches, and will include support through the internal audit and counter fraud teams to review potential control issues and suspected fraud. Veritau will work with service departments to ensure that they are aware of the need to include notices to service users stating that any data held may be subject to use for data matching purposes.

<u>Relationships</u>

5.8 The Council has established relationships with a number of other agencies. It will continue to develop these relationships and develop new

ones to further the prevention and detection of fraud. Organisations which the Council will work with include:

- the police
- the courts
- the Cabinet Office
- the Department for Communities and Local Government
- the Department for Works and Pensions
- other councils
- community groups

5.9 Veritau will work with Council departments to ensure that systems for reporting and investigating suspected fraud and corruption are robust.

Fraud Awareness Training

5.10 As part of its annual workplan, Veritau will provide targeted fraud awareness training to specific groups of staff, based on its annual risk assessment.

Investigation

5.11 All suspected cases of fraud, corruption, theft or other irregularity will be investigated. The nature of each investigation will depend on the circumstances of each case. Veritau will act as a first port of call for any suspected fraud and will provide advice on whether other agencies should be notified (eg the police). Veritau will determine the extent of the investigation to be carried out in consultation with the Chief Finance Officer, service departments and human resources. Where necessary, Veritau may refer cases to other agencies (for example the police) at the discretion of the Head of Internal Audit. Figure 1 overleaf outlines the fraud referral and investigation process.

5.12 All staff involved in the investigation of fraud will be appropriately trained. They will be required to comply with any relevant legislation, codes of practice and government guidance. For example the Police and Criminal Evidence Act (PACE), Regulation of Investigatory Powers Act (RIPA), the Data Protection Act, the Criminal Procedures Investigations Act (CPIA) and practitioners' guidance from the Attorney General. Investigators will take into account the individual circumstances of anyone involved in an investigation and adjustments to procedure will be made where necessary to ensure that all parties are treated equitably (where it is appropriate and reasonable to do so).

5.13 As part of the outcome of every investigation, a review of any weaknesses in control will be made and if necessary recommendations will be made to

address any issues identified. These will be set out in a formal report to the managers of the service concerned, and will be followed up to ensure the issues are addressed.

Figure 1: Selby District Council Fraud Referral and Investigation Process

Fraud suspected by officer, member, contractor or other third party - **reported directly to Veritau** via fraud hotline or fraud email address.

Veritau conduct initial assessment of referral including review of readily available information. Cases with insufficient information to support suspicion of fraud (or insufficient information to investigate) closed and referred back for management action if necessary.

Cases referred to other officers under whistleblowing policy:
- Officer notifies Veritau, who will record details.
- Consultation between officer and Veritau to determine who (if anyone) investigates.
- Where the officer (or someone they nominate) investigates then the outcome will be reported to Veritau for recording purposes.
- Where Veritau investigates, officer to be consulted on progress and at conclusion of case.

Third party frauds: eg Council tax and NNDR, housing, CTRS.

Veritau investigate to establish facts. Evidence gathered to criminal investigation standards.

Veritau consult CFO if there are any sensitive issues or if referral to police is considered.

Veritau consult service departments as necessary during investigation.

Fraud proven:
- recommendation to authorised officer about action (eg prosecution/ sanction)
- refer any management action required to service department.

Fraud not proven: case closed - refer any management action required to service department.

All cases - report control weaknesses to service and copy in CFO.

Internal fraud: internal fraud cases which may require pre-disciplinary investigation.
- Consult CFO on conduct of case.
- Liaise with HR on potential for disciplinary issues.
- Veritau consult CFO if referral to police recommended.

FACT FINDING INVESTIGATION TO CRIMINAL STANDARD

Fact finding investigation started by Veritau. Evidence gathered to criminal investigation standard.

During conduct of investigation:
- Maintain contact with CFO, HR, and service managers as appropriate.
- Liaise with HR and service where pre-disciplinary investigation may need to be started.
- Keep under review whether the case needs to be referred to the police or another agency (and liaise with CFO if so)
- Liaise with investigating manager on ongoing basis if pre-disciplinary investigation commenced.

Interviews:
- If pre-disciplinary investigation started interview witnesses and employee(s) concerned jointly with pre-disciplinary IM unless an interview under caution (IUC) is required.
- IUC to be considered if main areas requiring investigation are sufficiently advanced and there is clear evidence that offences may have been committed, which need to be put to the employee concerned.

Fraud proven - full investigation report produced for CFO including:
- recommendation that service consider pre-disciplinary investigation (if not started)
- recommendations about other appropriate sanctions for CFO to authorise
- details of any control or other issues that require addressing by the service.

Fraud not proven - full investigation report produced for CFO which outlines the findings and includes details of any control issues that require addressing by the service.

PRE-DISCIPLINARY INVESTIGATION

Pre-disciplinary investigation to start at the point there is clear evidence of potential employment related misconduct to be investigated.

This is often at the conclusion of the fact finding investigation. However, the need to act promptly and fairly may mean the pre-disciplinary investigation commences earlier. Where suspension may be appropriate (for example to preserve evidence) then a pre-disciplinary investigation will commence.

Where pre-disciplinary investigation commences before end of the fact finding investigation:
- Service appoint an investigating manager (IM).
- IM determines what information needed in relation to the pre-disciplinary investigation and will instruct Veritau, who will gather the evidence.
- IM / Veritau investigating officers to liaise on ongoing basis.
- IM interviews witnesses and employee(s) concerned jointly with Veritau investigators, unless the fact finding investigation has determined an interview under caution with the employee concerned is required.
- IM to request interim report from Veritau once the fact finding investigation has substantially concluded (ie there are no significant avenues of investigation that are incomplete). Interim report to contain all details required for IM to draw conclusions.
- Veritau investigators available as witnesses for any subsequent disciplinary process.

Civil action may be taken in relation to any investigation which identifies financial loss to the Council, or where financial redress may be sought. This will generally commence later in the investigation, once clear evidence of any actual loss to the Council has been gathered through the fact finding investigation. In some cases, accredited financial investigators may be employed at an early stage to identify and restrain assets related to criminal activity.

5.14 The Head of Internal Audit will ensure that systems for investigating fraud are reviewed on an ongoing basis, to ensure that they remain up to date and comply with good practice.

Publicity

5.15 The Council will publicise all successful prosecutions undertaken either by itself or by partner organisations, to act as a deterrent against future fraud.

5.16 In addition, where appropriate, targeted publicity will be used to raise the awareness of fraud to staff, members, the public, and other agencies. This will consist of both internal and external publicity and will aim to:

- raise awareness about potential fraud and ensure all stakeholders are alert to the possibilities of fraud;
- inform all stakeholders of the procedures to be followed if they have suspicions of fraud;
- ensure that all stakeholders are aware that the Council will not tolerate fraud and the consequences of committing fraud against it.

Recovery of Monies

5.17 Where any loss has been incurred by the Council or additional costs have been incurred as a result of fraud or corruption, the Council will seek to recover these from the individual or organisation concerned. This will help to ensure that the financial impact of fraud on the Council is minimised and act as a deterrent. As a further deterrent, the Council will seek to levy any appropriate fines or penalties where it is possible and desirable to do so.

5.18 Methods of recovery may include (but are not limited to):

- recovery from assets held by the organisation or individual (using the Proceeds of Crime Act or any other relevant legislation);
- bankruptcy where appropriate;
- recovery from future salary payments if an individual remains an employee of the Council;
- recovery of pension contributions from employees or members who are members of the North Yorkshire Pension Fund.

6 Monitoring & Review Arrangements

6.1 The arrangements set out in this policy document will be reviewed on an annual basis as part of the audit and fraud planning cycle and will include the fraud and corruption prosecution policy (Annex A), anti-bribery policy (Annex B), and other related guidance. Veritau will work with other

departments to ensure that other related guidance and policy (such as the whistleblowing policy) are reviewed on a regular basis and any amendments or necessary changes are reported to members for approval.

LAST REVIEWED AND UPDATED: 26 January 2022

FRAUD AND CORRUPTION PROSECUTION POLICY

1   Scope and Purpose

1.1   The fraud and corruption prosecution policy forms part of the Council's overall counter fraud and corruption arrangements. The policy covers all acts, and/or attempted acts, of fraud or corruption committed by officers or members of the Council, or committed by members of the public, or other organisations or their employees, against the Council.

1.2   The policy sets out the circumstances in which the Council will take legal action against the perpetrators of fraud or corruption. It also sets out the circumstances when it is appropriate to consider alternative courses of action such as offering a caution. The policy does not cover internal disciplinary procedures which are the subject of the Council's separate disciplinary policy and procedures.

1.3   This policy should be read in conjunction with the Council's constitution, financial regulations, contract procedure rules, the counter fraud and corruption policy and the strategy, the whistleblowing policy and the Council's disciplinary policy and procedures.

1.4   The policy contains specific guidelines for determining the most appropriate course of action when fraud has been identified. Offences other than fraud and corruption (for example those relevant to the enforcement of regulations) are dealt with by the appropriate service departments under other policies and relying on specific legal powers.

2   Principles

2.1   The Council is committed to deterring fraud and corruption. As part of its overall strategy to do this the Council will seek to take appropriate action against anyone proven to have attempted and/or committed a fraudulent or corrupt act against it. The Council considers that those guilty of serious fraud or corruption must take responsibility for their actions before the courts.

2.2   The policy is designed to ensure that the Council acts fairly and consistently when determining what action to take against the perpetrators of fraud or corruption.

2.3   Staff and members who are found to have committed fraud or corruption may be prosecuted in addition to such other action(s) that the Council may decide to take, including disciplinary proceedings in the case of staff and referral to the relevant officer or body in the case of members. Any decision not to prosecute a member of staff for fraud and corruption does not preclude remedial action being taken by the relevant director(s) in accordance with the Council's disciplinary procedures or other

policies.

2.4 This Policy is also designed to be consistent with Council policies on equalities. The Council will be sensitive to the circumstances of each case and the nature of the crime when considering whether to prosecute or not.

2.5 The consistent application of the policy will provide a means for ensuring that those who have perpetrated fraud and corruption are appropriately penalised. It will also act as a meaningful deterrent to those who are contemplating committing fraud or corruption. The Council recognises the deterrent value of good publicity and therefore information regarding successful prosecutions and sanctions will be made public.

2.6 Any decision taken by an authorised officer to prosecute an individual or to offer a formal sanction will be recorded in writing. The reason for the decision being taken will also be recorded.

2.7 Irrespective of the action taken to prosecute the perpetrators of fraud and corruption, the Council will take whatever steps necessary to recover any losses incurred, including taking action in the civil courts.

3 Prosecution

3.1 The policy is intended to ensure the successful prosecution of offenders in court. However, not every contravention of the law should be considered for prosecution. The Council will weigh the seriousness of the offence (taking into account the harm done or the potential for harm arising from the offence) with other relevant factors, including the financial circumstances of the defendant, mitigating circumstances and other public interest criteria. All cases will be looked at individually and be considered on their own merit.

3.2 To consider a case for prosecution the Council must be satisfied that two tests have been passed. Firstly, there must be sufficient evidence of guilt to ensure conviction. This is called the **evidential test**. Secondly, it must be in the public interest to proceed – the **public interest test.**

3.3 To pass the evidential test, authorised officers must be satisfied that there is a realistic prospect of conviction based on the available evidence (that is, there must be sufficient admissible, substantial and reliable evidence to secure a conviction).

3.4 To pass the public interest test, the authorised officer will balance, carefully and fairly, the public interest criteria against the seriousness of the offence. The public interest criteria include;

- the likely sentence (if convicted);

- any previous convictions and the conduct of the defendant;

- whether there are grounds for believing the offence is likely to be repeated;

- the prevalence of the offence in the area;

- whether the offence was committed as a result of a genuine mistake or misunderstanding;

- any undue delay between the offence taking place and/or being detected and the date of the trial;

- the likely effect that a prosecution will have on the defendant;

- whether the defendant has put right the loss or harm caused.

3.5 It will generally be in the public interest to prosecute if one or more of the following factors applies, subject to any mitigating circumstances;

- the actual or potential loss to the Council was substantial;

- the fraud has continued over a long period of time;

- the fraud was calculated and deliberate;

- the person has previously committed fraud against the Council (even if prosecution did not result) and/or there has been a history of fraudulent activity;

- the person was in a position of trust (for example, a member of staff);

- there has been an abuse of position or privilege;

- the person has declined the offer of a caution or financial penalty;

- the case has involved the use of false identities and/or false or forged documents.

3.6 Investigating officers and prosecutors will review the appropriateness of pre-charge engagement where prosecution is considered[8]. This is likely to occur where such engagement may lead the defendant to volunteer additional information that may identify new lines of inquiry. Pre-charge engagement may be instigated by the investigating officer, the Council prosecutor, the defendant's representative or a defendant themselves (if unrepresented).

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[8] Pre-charge engagement was recommended in the Attorney General's 'Guidance on Disclosure 2020'.

4 Mitigating Factors

4.1 The following mitigating factors will be taken into account when determining whether to prosecute;

Voluntary Disclosure

4.2 A voluntary disclosure occurs when an offender voluntarily reveals fraud about which the Council is otherwise unaware. If this happens, then the fraud will be investigated but the offender will not be prosecuted unless in exceptional circumstances. However, any person colluding in the crime will still be prosecuted. A disclosure is not voluntary if the:-

- admission is not a complete disclosure of the fraud;

- admission of the fraud is made only because discovery of the fraud is likely, (for example, the offender knows the Council is already undertaking an investigation in this area and/or other counter fraud activity);

- offender only admits the facts when challenged or questioned;

- offender supplies the correct facts when making a claim to Legal Aid.

Ill Health or Disability

4.3 Where the perpetrator (and/or their partner) is suffering from prolonged ill health or has a serious disability or other incapacity then the offender will not normally be prosecuted. Evidence from a GP or other doctor will be requested if the condition is claimed to exist, unless it is obvious to the investigator. It is also necessary to prove that the person understood the rules governing the type of fraud committed and was aware that their action is wrong. This may not be possible where, for instance, the offender has serious learning difficulties. However, simple ignorance of the law will not prevent prosecution.

Social Factors

4.4 A wide range of social factors may make a prosecution undesirable. The test is whether the court will consider the prosecution undesirable, and go on to reflect that in the sentence.

Exceptional Circumstances

4.5 In certain exceptional circumstances the Council may decide not to prosecute an offender. Such circumstances include;

- the inability to complete the investigation within a reasonable period of time;

- the prosecution would not be in the interests of the Council;

- circumstances beyond the control of the Council make a prosecution unattainable.

5   Alternatives to Prosecution

5.1 If some cases are considered strong enough for prosecution but there are mitigating circumstances which cast a doubt as to whether a prosecution is appropriate then the Council may consider the offer of a sanction instead. The two sanctions available are;

- a caution, or;

- financial penalty.

Simple Cautions

5.2 A simple caution is a warning given in certain circumstances as an alternative to prosecution, to a person who has committed an offence. All cautions are recorded internally and kept for a period of six years. Where a person offends again in the future then any previous cautions will influence the decision on whether to prosecute or not.

5.3 For less serious offences a simple caution will normally be considered where all of the following apply;

- there is sufficient evidence to justify instituting criminal proceedings;

- the person has admitted the offence;

- there is no significant public requirement to prosecute;

- it was a first offence, and;

- a financial penalty is not considered to be appropriate.

Only in very exceptional circumstances will a further caution be offered for a second or subsequent offence of the same nature.

5.4 Cautions will be administered by the Head of Internal Audit (or deputy), Assistant Director – Corporate Fraud, Corporate Fraud Manager, or a Senior Corporate Fraud Investigator, on behalf of the Council. If a

caution is offered but not accepted then the Council will usually consider the case for prosecution. In such cases the court will be informed that the defendant was offered a penalty but declined to accept it.

Financial Penalties

5.5 The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, permit a financial penalty to be offered to claimants as an alternative to prosecution. The penalty is set at 50% of the amount of the excess reduction, subject to a minimum of £100 and a maximum of £1000. Once a penalty is accepted, the claimant has 14 days to change their mind.

5.6 Subject to the criteria set out in the guidelines below, a financial penalty will normally be offered by the Council in the following circumstances;

- the Council believes that there is sufficient evidence to prosecute;

- it was a first offence or a previous offence was dealt with by way of a caution, and;

- in the opinion of the Council, the circumstances of the case mean it is not overwhelmingly suitable for prosecution, and;

- the claimant has the means to repay both the overpayment and the penalty, and;

- there is a strong likelihood that both the excess reduction and the penalty will be repaid.

5.7 It is important to note that the claimant does not need to have admitted the offence for a financial penalty to be offered. Financial penalties will be administered by the Head of Internal Audit (or deputy), Assistant Director – Corporate Fraud, Corporate Fraud Manager or a Senior Corporate Fraud Investigator. If a financial penalty is not accepted or is withdrawn then the Council will usually consider the case for prosecution. In such cases the court will be informed that the defendant was offered a penalty but declined to accept it.

6 Proceeds of Crime Act 2002 (POCA)

6.1 In addition to the actions set out in this policy, the Council reserves the right to refer all suitable cases for financial investigation with a view to applying to the courts for restraint and/or confiscation of identified assets. A restraint order will prevent a person from dealing with specific assets. A confiscation order enables the Council to recover its losses

from assets which are found to be the proceeds of crime.

7   Implementation Date

7.1   This revised policy is effective from 02 February 2017 and covers all decisions relating to prosecutions and sanctions after this date.

POLICY LAST REVIEWED AND UPDATED January 2022

ANTI-BRIBERY POLICY

1   Introduction

1.1   The Bribery Act 2010 enables robust action to be taken against all forms of bribery. The Council is committed to protecting the public purse and the services it provides from being abused. The Council will not tolerate bribery and promotes the prevention, detection and deterrence of bribery.

1.2   Bribery is defined as the offering, giving, receiving or soliciting of any item of value to influence the actions of an official or other person in charge of a public or legal duty. The act of bribery is the intention to gain a personal, commercial, regulatory or contractual advantage.

1.3   Facilitation payments are unofficial payments made to public officials to secure or expedite actions. These are not tolerated and are illegal.

1.4   This policy should be read in conjunction with the Employee's Code of Conduct which deals with gifts and hospitality.

2   Principles

2.1   The Council is committed to the prevention, deterrence and detection of bribery.

2.2   The Council commits to:

- making all employees and associated people (e.g. agency staff, volunteers, etc) aware of their responsibilities to adhere strictly to this policy at all times

- training members of staff so that they are aware of the Bribery Act

- encouraging all employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately

- rigorously investigating instances of alleged bribery and assist the police and other authorities in any investigations or prosecutions they undertake

- taking strong action against any individual(s) involved in bribery.

3   Scope

3.1   This policy applies to all of the Council's activities, members of staff (permanent and temporary), agency staff, volunteers, consultants, and members.

3.2   For partners, joint ventures, and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

3.3   All employees and members are required to:

- raise concerns as soon as possible if it is believed or suspected that this policy has been breached or may be breached in the future

- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

3.4   As well as the possibility of civil and criminal prosecution, employees breaching this policy may face disciplinary action, which could result in dismissal in cases of gross misconduct.

4   Offences

4.1   There are four key offences under the Bribery Act 2010.

Section 1 – Offence of bribing another person

4.2   This section makes it an offence when a person offers, promises or gives a financial or other advantage to another person and intends the advantage to induce a person to perform improperly a relevant function or activity or to reward a person for the improper performance of such a function or activity.

4.3   It is also an offence when a person offers, promises or gives a financial or other advantage to another person and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

Section 2 – Being bribed

4.4   This section makes it an offence when a person requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly.

4.5   It is an offence when a person requests, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself constitutes the improper performance of the person of a relevant function or activity.

4.6   It is an offence if a person requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance of a relevant function or activity.

4.7   It is also an offence if a person in anticipation of or in consequence of the person requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly.

Section 6 – Bribery of foreign public officials

4.8   Under this section of the Act an offence is committed when a person intends to influence a foreign official in their official capacity and intends to obtain or retain business or an advantage in the conduct of business.

4.9   It is also an offence to offer, promise or give any financial or other advantage to a foreign public official.

Section 7 – Failure of a commercial organisation to prevent bribery

4.10   A relevant commercial organisation is guilty of an offence if a person associated with the organisation bribes another person intending to obtain or retain business for the organisation or to obtain or retain an advantage in the conduct of business for the organisation and the organisation fails to take reasonable steps to implement adequate procedures to prevent such activity.

Corporate Responsibility

4.11   Selby District Council is considered to be a commercial organisation under the Bribery Act. It is therefore important that the Council takes steps to prevent bribery from occurring within the organisation.

4.12   If an offence did occur then courts would consider six tests to determine whether the Council was culpable.

- Does the Council have proportionate procedures in place to prevent bribery by persons associated with it? These should be clear, practical and accessible.

- Is there top level commitment to preventing bribery? This includes members as well as officials.

- Is the Council's exposure to potential external and internal risks of bribery periodically assessed?

- Does the Council take a proportionate and risk based approach to mitigate identified bribery risks.

- Are anti-bribery policies and procedures embedded and understood throughout the organisation? Are they communicated internally and externally?

- Are procedures monitored and reviewed regularly?

Penalties

4.13   A person guilty of an offence under sections 1, 2, or 6 of the Bribery Act may be sentenced to:

- a maximum imprisonment of 12 month and/or a fine not exceeding £5,000 (if convicted in a magistrates court).

- a maximum imprisonment of 10 years and/or an unlimited fine (if convicted at a crown court).

4.14   An organisation found guilty of allowing bribery offences to occur will be subject to an unlimited fine that is in part determined by the gain that was sought to be made through bribery offences and an assessment of an organisation's culpability by the court.

5   How to raise a concern

5.1   We all have a responsibility to help detect, prevent and report instances of bribery. If a member of staff or Councillor has a concern regarding a suspected instance of bribery or corruption then please speak up. The sooner you act, the sooner it can be resolved.

5.2   Employees who raise concerns or report wrongdoing may be concerned that there may be repercussions. The Council is committed to ensuring nobody suffers detrimental treatment because they report a concern that they believe is true, or by refusing to take part in bribery or corruption. The Council aims to encourage openness and will support anyone who raises concerns under this policy, even if those concerns prove to be incorrect.

5.3   Members of staff should consult the Council's Whistleblowing policy which sets out a number of routes for reporting concerns.

5.4   Concerns can be raised anonymously and the Council may still take action. However, it is easier and quicker if concerns are not made anonymously. The Council will take all possible precautions to ensure that the identities of people who raise concerns are protected.

6   What to do if someone reports a concern

6.1   All reports of potential bribery within the Council should be reported to the Council's Chief Finance Officer, Monitoring Officer, and Veritau.

Policy last reviewed and updated: 26 January 2022