

# FLINTSHIRE COUNTY COUNCIL

## Fraud and Irregularity Response Plan

DRAFT – V1.4.2 – ~~December~~ June 2019

(with Tracked Changes)

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<u>Policy Owners</u>	<u>Internal Audit Manager</u>
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<u>Approved by Constitution and Democratic Services Committee (Version 1.8)</u>	<u>June 2019</u>
<u>Approved by Council (Version 2)</u>	

## 1. Introduction

- 1.1 ~~This document provides guidance to all employees (including centrally employed teachers) of Flintshire County Council (as defined by the Employment Rights Act) and is commended to School Governing Bodies and other associated employers as best practice e.g. NEWydd, Aura. The document also applies to Third Party individuals (Partners, Consultants, Suppliers, Volunteers, Contractor and employees of Council suppliers and contractors, who are employed to deliver a service / goods to the Council). This document provides guidance to , and employees staff and management in the event of their becoming aware of, or suspecting a fraud or corrupt act being committed in Flintshire by a Council Member, member of staff, contractor or a supplier.~~
- 1.2 A one page flowchart is also included at the end of this document, to provide an at-a-glance summary of the process.
- 1.3 The plan is not intended for use where there is suspicion of child abuse. Where concerns are noted in relation to child protection, these should be referred in the first instance to the Duty and Assessment Team, Social Services on 01352 701000 for a preliminary discussion. Additionally if concerns raised relate to modern slavery and trafficking or any safeguarding issues please contact Social Services on 01352 701053 (Children) or 01352 702540 (Adults).

## 2. Objectives

- 2.1 The objectives of ~~this a fraud~~ Fraud and ~~irregularity~~ Irregularity response ~~Response plan~~ Plan are to ensure that timely and effective action can be taken to:
- ~~ensure~~ establish there is a clear understanding over who will lead any investigation and to ensure local managers, Internal Audit and People and Resources are involved as appropriate;
  - prevent further losses of funds or other assets where fraud has occurred and maximise recovery of losses;
  - ~~ensure~~ demonstrate there is substance and evidence to support any allegation against an employee before that employee is subject to disciplinary action;
  - minimise the risk of inappropriate action or disclosure taking place which would compromise an investigation or recovery of losses;
  - secure evidence and ~~ensure~~ containment of any information or knowledge of any investigation into the matter reported;
  - identify the perpetrators and maximise the success of any disciplinary / legal action taken. ~~;~~ and

### 3. Whistleblowing Policy

- 3.1 If you prefer to raise your concerns confidentially the Council has a Whistleblowing Policy (available on the infonet) in accordance with the provisions of the Public Interest Disclosure Act 1998. The policy provides the individual with a method of raising concerns about any financial or other malpractice in the Council.
- 3.2 Under that policy, if you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent apart from exceptional cases. For example this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing. It is also possible that the investigation itself may serve to reveal the source of information, although this will be avoided where possible.
- 3.3 Subject to the constraints of Data Protection Legislation and the Council's duty of confidentiality to the workforce staff and Councillors, we will give you as much feedback as we properly can within an agreed timescale.

### 4. Employee Responsibilities

- 4.1 As an employee individual (employee, member or third party individual of the Council), there are a number of actions you may be required to take depending on who is involved in the fraud or irregularity corruption. You should remember, however, that when you know of or suspect a fraud or irregular corrupt act, you must not discuss it with other individuals or work colleagues either before or after reporting it to the appropriate person so that the investigation is not compromised.
- 4.2 An irregularity is an administrative or financial mismanagement that comes about either by act or omission.
- 4.32 You should never confront the suspected individual or act in a manner which might draw their attention to your suspicions.
- 4.43 At the earliest opportunity you should clearly record all the activities you have witnessed and information you have received or are aware of. It is important to record as much information as possible to inform any subsequent management assessment or investigation, including dates, times and sequences of events.

#### Suspected Fraud by another Council Employee

- 4.54 As an employee if a work colleague is giving rise to suspicions that she / he is committing a fraudulent or corrupt act within the Authority, then under normal circumstances you should report it to your **line manager**. However, you may

not wish to report to your line manager, particularly if you suspect them of committing a fraud or corrupt act, or having an involvement in what you have observed. Therefore, the option exists to report your concerns to any of the following officers:

- **Your line Manager's Manager;**
- **Your Chief Officer;**
- **The Internal Audit Manager**

In addition, suspicions can be reported to your Trade Union, see Para 4.

### **Suspected Fraud by an Elected Member**

4.65 If you need to report a suspicion, ~~or~~ an actual fraud or corrupt act by a Councillor, you should report this to one of the following officers in the Council:

- **The Chief Officer Governance, who is the Council's Monitoring Officer;**
- **The Internal Audit Manager**

### **Suspected Fraud by a ~~contractor~~Contractor, ~~supplier~~Supplier, Volunteer or a ~~member~~Member of the ~~public~~Public**

4.76 If the fraud or corrupt act is being committed in your Service area, then under normal circumstances you should report your concerns to your **line manager**. If your suspicions do not relate directly to your area, then you should not ignore the information you have, but should report the matter directly to the **Internal Audit Manager**. This could include information that comes into your possession through your profession or social life.

### **Whistleblowing policy**

~~3.1 If you prefer to raise your concerns confidentially the Council has a Whistleblowing policy (available on the intranet) in accordance with the provisions of the Public Interest Disclosure Act 1998. The policy provides employeesstaff with a method of raising concerns about any financial or other malpractice in the Council.~~

~~3.2 Under that policy, if you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent apart from exceptional cases. For example this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing. It is also possible that the investigation itself may serve to reveal the source of information, although this will be avoided where possible.~~

~~3.3 Subject to the constraints of Data Protection legislation and the Council's duty of confidentiality to employeesstaff and Councillors, we will give you as much feedback as we properly can within an agreed timescale.~~

### **4.85 MembersTrade Union RoleResponsibilities**

4.8 Where Members come into possession of information which may indicate that a fraudulent or corrupt act is being perpetrated against Flintshire County Council, they must report this to either the **Chief Executive, the Internal Audit Manager, the relevant Chief Officer, or the Council's Monitoring Officer (Chief Officer Governance)**. The officer in receipt of the report should ensure that any subsequent investigation follows the requirements of this fraud response plan.

4.9 Under no circumstances should a Member discuss a suspected fraud with other Members or the press

~~Should any employee who is a member of a recognised Trade Union have any concerns regarding their own behaviour, or that of others, in relation to any potential fraudulent activity then they can seek advice and assistance from their Trade Union.~~

~~5.2 Whilst discussions between the Trade Union members and their Trade Union are confidential, the disclosure of any potential fraudulent activity to a Trade Union Official will result in it being disclosed to the Organisation for them to investigate it fully. Disclosure of information to the Trade Unions will protect the identity of the individual making the disclosure and they will of course receive the full support of their Trade Union throughout the ensuing process.~~

#### **4.96. Trade Union Members Responsibilities**

~~6.1 Should any employee who is a member of a recognised Trade Union have any concerns regarding their own behaviour, or that of others, in relation to any potential fraudulent activity then they can seek advice and assistance from their Trade Union.~~

~~Whilst discussions between the Trade Union member and their Trade Union are confidential, the disclosure of any potential fraudulent activity to a Trade Union Official will result in it being disclosed to the Organisation for them to investigate it fully. Disclosure of information to the Trade Unions will protect the identity of the individual making the disclosure and they will receive the full support of their Trade Union throughout the ensuing process~~Where Members come into possession of information which may indicate that a fraudulent or corrupt act is being perpetrated against Flintshire County Council, they must report this to either the **Chief Executive, the Internal Audit Manager, the relevant Chief Officer, or the Council's Monitoring Officer (Chief Officer Governance)**. The officer in receipt of the report should ensure that any subsequent investigation follows the requirements of this fraud response plan.

~~6.2 Under no circumstances should a Member discuss a suspected fraud with other Members or the press.~~

#### **4.107. Third Party Responsibilities (Partners, Consultants, Suppliers, Contractors, Volunteers and employees of these)**

74.10 Where a Third Party comes into possession of information which may indicate that a fraudulent or corrupt act is being perpetrated against Flintshire County Council, they must report this to either the Chief Executive, the Internal Audit

Manager, the relevant Chief Officer, or the Council's Monitoring Officer (Chief Officer Governance).

#### 4.118 Management's Senior Accountable Officers Role Responsibilities

~~68.14.11~~ As soon as a complaint or an allegation is received by a manager (including referrals made by Members as in 4.1), it is their responsibility to inform the **Internal Audit Manager** in accordance with Finance Procedure Rule 4.311.17(e) and People and Resources (where the allegation relates to an employee member of staff) to undertake an initial risk assessment of the facts. This enquiry should be carried out as quickly as possible, with the objectives of either substantiating or repudiating the allegation that has been made.

~~68.2.4.12.~~ At no time during the preliminary investigation should the manager confront the alleged suspect, nor put evidence at risk. Under no circumstances should a manager discuss a suspected employee fraud with other staff members or peer managers.

~~4.13.68.3~~ If there are suspicions that similar frauds are or could be being committed the situation should be discussed with the **Internal Audit Manager**.

#### Trade Union Responsibilities

4.14 Should any employee who is a member of a recognised Trade Union have any concerns regarding their own behaviour, or that of others, in relation to any potential fraudulent activity then they can seek advice and assistance from their Trade Union.

4.15 Whilst discussions between the Trade Union member and their Trade Union are confidential, the disclosure of any potential fraudulent activity to a Trade Union Official will result in it being disclosed to the Organisation for them to investigate it fully. Disclosure of information to the Trade Unions will protect the identity of the individual making the disclosure and they will receive the full support of their Trade Union throughout the ensuing process

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### **79. What will Hhappen nextNext?**

~~795.1~~ After the initial assessment has been carried out and where evidence suggests there is a potential fraud or irregularity, a detailed investigation will need to be undertaken. Depending on the nature of the allegation the options for this will be:

- Appoint an Investigating Officer; this will usually be a senior officer in the relevant service and will be appointed ~~actioned~~ by People and Resources. He/she will carry out the investigation (for investigations under the disciplinary policy) in conjunction with People and Resources;

- Internal Audit carry out the investigation ([for all fraud related investigations](#)) in conjunction with the Investigating Officer;
- The matter is referred to the Police (in conjunction with Internal Audit where required);
- The matter is referred to an external agency for investigation ~~eg.e.g.~~ [Housing Benefit fraud](#) ~~or~~ [National Anti-Fraud Network \(NAFN\)](#).

## **610. How will the investigation ~~Investigation~~ proceed?**

~~6.110.4~~ Every case is unique. The Internal Audit Manager will work with the appointed Investigating Officer and People and Resources to ensure the most appropriate course of action is taken.

Considerations will include:

- The preparation of an investigation plan;
- The potential requirement to suspend a member of staff, in accordance with the Council's Disciplinary Procedure, while the investigation is undertaken;
- The need to secure evidence (including documents, computer records, CCTV ~~recording~~ ~~tapes~~, ~~etc~~);
- The commissioning of specialist services from both within and outside the Council (e.g. surveillance experts, forensic IT specialists, specific service areas or subject matter experts);
- Carrying out interviews to gather information and witness statements (any interviews must be conducted fairly and will, where possible, be ~~tape~~-recorded);
- ~~Potential referral to other internal or external agencies, e.g. Housing Benefit Fraud team, the Department for Work & Pensions, the Police, Standards Committee, [National Anti-Fraud Network](#);~~
- [Consider whether RIPA \(Regulation of Investigatory Powers Act\) approval is required. This is usually where surveillance needs to be undertaken;](#) ~~and~~
- [Advise and assist management in implementing new procedures and internal controls where necessary.](#)

## **7.11. Investigation ~~outcomes~~ Outcomes (Recovery and Sanctions)**

### **Allegations against an Employee**

7.144.4 If an allegation is substantiated following an investigation, the disciplinary process will be instigated.

7.244.2 At the same time, if there is evidence that fraud has been committed against the Council, the Internal Audit Manager will formally consider referring the matter to the Police (if not already done so at initial assessment stage), and liaise with them over whether formal charges will be brought and an investigation taken forward to possible prosecution. A referral to the Police will be carried out, normally following consultation with the Head of Senior Manager, Human Resources and Organisational Chief Officers for People & Resources, and the Development, the Chief Officer Governance and the Chief Executive.

7.344.3 In appropriate circumstances the Council will consider taking civil action against the accused employee to recover any debt caused as a result of their actions.

### **Allegation against a Councillor**

7.444.4 Any allegations which are substantiated against a Councillor will be considered under their ~~code~~ Code of ~~conduct~~ Conduct by the Council's Monitoring Officer and could result in a referral to the standards committee, Public Service Ombudsman for Wales or the Police.

### **Allegation against a Contractor or Supplier**

7.544.5 If an allegation of fraud against the Council by a contractor or supplier is substantiated, it will be referred to the police and may result in prosecution.

7.644.6 In addition to the criminal route, wherever applicable, the action taken by the Council will also follow a civil route, in order to recover assets or monies obtained by the potential offender.

### **External Audit**

744.7 In some cases it may be necessary to immediately inform the Council's External Auditor of the fraud or corruption. This will be the responsibility of the Internal Audit Manager.

### **Audit Committee**

744.8 Except in special circumstances, after taking into consideration issues of confidentiality, fraud investigations will normally be reported in outline to the Audit Committee every quarter. Where it would be proper to do so, the Chair of

the Audit Committee will be briefed immediately with any sensitive/serious matters.

~~7.11.9~~ Any variation from the approved ~~F~~fraud ~~and~~ ~~il~~irregularity ~~response~~ ~~Response~~ ~~Plan~~Plan, together with reasons for the variation, will be reported to the Audit Committee where it would be appropriate to do so.

### Press and Publicity

~~7.11.10~~ The ~~Business and Corporate~~ Communications Team will deal with the press and publicity in all matters regarding fraud and corruption. Where appropriate, the details of all successful prosecutions for fraud will be released to the media through the ~~Business and Corporate~~ Communications Team. Such disclosures will maintain the confidentiality of the initial referral. Staff ~~and~~ Managers ~~or~~ Members must not directly disclose to the press the details of any cases suspected or under investigation.

~~7.11.11~~ Disclosure of details to the media without the express authority of the ~~Business and Corporate~~ Communications Team could be regarded as a disciplinary matter. The aim is to publicise the Council's intolerance of fraud or corruption both within the Council and by users of its services. It also serves to publicise our successes against those who would perpetrate such fraud or corruption against the Council.

## 8.12. Conclusion

~~8.12.4~~ The Fraud and Irregularity Response Plan for ~~the Council's Workforce, Service Teams and Senior Accountable Officers~~Employees~~Staff~~ and Management, ~~is part of a number of policies listed below (see appendix a) which in conjunction with the Anti-Fraud and Corruption Strategy, the Whistleblowing Policy, the Codes of Conduct (Employees and Members), the Prosecution Policy and the Employee Disciplinary Policy will supports~~ the Council's objectives in countering and investigating corporate fraud and corruption.

- Anti-Fraud and Corruption Strategy
- Whistleblowing Policy
- Codes of Conduct (~~Staff Officers~~ and Members)
- Prosecution Policy
- Employee Disciplinary Policy
- Code of Corporate Governance
- Financial Procedure Rules
- Contract Procedure Rules
- ~~Members Code of Conduct~~
- ~~Employees Code of Conduct~~

However no guidance such as this can be expected to cover all eventualities and, therefore, if you have any issues or are unsure of the action to take in a given situation you should immediately contact the Internal Audit Manager.

### 9.13. ~~Review of Fraud and Irregularity Response~~ Plan Monitoring

9.143.4 The Fraud and Irregularity Response Plan will be subject to annual review and update.

9.2 All related policies such as the Whistleblowing Policy and Anti-Fraud and Corruption Strategy can be found on the Council's [Website and the Infonet](#)

Response Plan

\* This document should be read in conjunction with the Council's Whistleblowing Policy

