

STRATFORD DISTRICT COUNCIL

POLICY: ANTI-FRAUD AND CORRUPTION

DEPARTMENT: Corporate Services	RESPONSIBILITY: Director - Corporate Services
REVIEW DATE: 2018/19	NEXT REVIEW: 2021/22
VERSION: 5 D19/19374	APPROVAL DATE: 13/08/2019

BACKGROUND

- ❖ Section 101(1) of the Local Government Act 2002 requires the Stratford District Council (“Council”) to manage its financial affairs prudently and in a manner that promotes the current and future interests of the community.
- ❖ For the purposes of this policy, fraud, in its basic form, is defined as a deliberate act of deception by one or more persons that is intended to secure private benefit, and cause actual or potential harm to the Council. Private benefit is not limited to personal gains, but also includes benefits to associated third parties such as friends and family.
- ❖ Corruption is the abuse of a position of trust for dishonest gain. It can include bribery and coercion, accepting bribes, destruction or inappropriate use of Council records, or similar forms of conduct.
- ❖ Both fraud and corruption involve an element of intention, on behalf of the perpetrator.
- ❖ Fraudulent behaviour may result in loss of Council funds and other assets, loss of productive staff time, incompetent decision making, and public distrust. The Council regards fraud as entirely unacceptable and will apply a 'Zero Tolerance' approach to fraudulent behaviour.
- ❖ Maximum penalties a person can face if they are convicted of fraud or corruption offences under the Crimes Act 1961 or the Secret Commissions Act 1910 range from substantial fines to 14 years’ imprisonment – in addition to a criminal conviction for fraud.

PURPOSE

The purpose of this policy is to:

- Define fraud,
- Outline prevention mechanisms,
- Establish responsibilities for fraud prevention and detection,
- Prescribe the process for reporting suspected fraud, and
- Set out the actions that will be taken to respond to suspected fraud.

This policy shall apply to all employees of, and contractors to Council, controlled and uncontrolled entities, and shall also apply to elected members and all persons with honorary or unpaid staff status, and former employees.

PRINCIPLES

The following principles shall guide the Council in making decisions about how to manage the risk of fraud and deal with any incidents that may arise.

1. Public trust and confidence in the Council is of utmost importance

- The Council must maintain and promote high ethical standards. The Council must provide confidence to the community regarding the administration of ratepayer funds.
- Council assets are owned by the community to which it serves and there is an expectation on all staff and elected members to act with integrity to safeguard public resources.
- The Council is committed to being transparent, open, and fair in all dealings with the public.

2. Financial Loss from fraud

- The cost of fraud can range from no financial damage, to millions of dollars over several years. The potential impact of a financial loss due to fraud is particularly high where there is a culture of fraud throughout the organisation, or an environment where fraudulent behaviour is ignored or overlooked.
- The Council will at all times, where there is a financial loss, seek to recover the full amount of losses from the person, or people, who perpetrated the fraud, including interest, and costs relating to the investigation.
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3. Employees and elected members have obligations and responsibilities in preventing, detecting, and reporting fraud

- All employees and elected members are expected to act honestly and with integrity, and to safeguard the public resources for which the Council is responsible.
- Employees and elected members who suspect fraud are obligated to report details of the suspected fraud to the Fraud Control Officer as per the fraud procedures outlined in this Policy. The Council's Fraud Control Officer is the Director - Corporate Services. The Fraud Control Officer is responsible for implementing and updating this policy and the controls and procedures prescribed within this policy, receiving fraud-related complaints, and managing the fraud reporting process as outlined within this policy.
- "Zero tolerance" means all fraud is required to be reported and the procedures within this policy must be followed. All proven cases committed by employees will be treated as misconduct and result in formal disciplinary procedures, as outlined in the Council's Human Resources Policy. All proven cases committed by elected members will be addressed via the Stratford District Council's Code of Conduct. Reporting of fraud to the Police is at the Chief Executive Officer's discretion, irrespective of the role (e.g. staff, elected member, contractor) of the perpetrator. Where the perpetrator is the CEO, this responsibility transfers to the district mayor.

FRAUDULENT BEHAVIOUR

For the purposes of this policy, "fraud" shall include all acts of deception, misrepresentation or omission committed with the intention of gaining an unjust or illegal financial, or personal,

advantage or to cause an unjust or illegal loss or disadvantage to gain any form of private benefit. Such behaviour includes, but is not limited to the following, whether or not it actually results in a benefit:

Purchasing and Payroll

- Inappropriate or false expenditure reimbursement claims;
- Unauthorised use of a Council credit card;
- Presenting false credentials or qualifications to gain employment;
- Creating false invoices or presenting false invoices for payment;
- Knowingly authorising creditor invoices without the financial delegated authority;
- Failure to observe the Council's one-up principle for authorising creditor invoices;
- Misuse of petty cash by not providing complete receipts;
- Altering cheques for personal benefit;
- Deliberately not recording leave taken, or any other employee theft of time;
- Creating false employees or falsifying wages.

Corruption

- Where an employee or elected member abuses their power for personal gain, by seeking bribes or blackmailing others;
- Forgery or alteration of documents or accounts belonging to Council;
- Accepting or seeking anything of material value from contractors or persons, including before, during and after, any procurement or consenting processes;
- Obtaining funds or any other benefit through misleading claims, representations or by false pretences;

Asset Security

- Misappropriation or improper disposal of assets, including cash, assets, and supplies;
- Unapproved removal of records, furniture, fixtures, and equipment;
- Excessive personal use of Council data or IT systems, hardware or software without permission;
- Unauthorised personal use of Council facilities, vehicles or office equipment and stationery;
- Unauthorised issuing of credit notes and refunds for rates and debtors.

Reporting and Communications

- Manipulating reporting to obscure wrongdoing;
- Making a false insurance claim;
- Concealing or misrepresenting a financial loss or loss of an asset;
- Making a false representation on behalf of Council;
- Supporting others in, or in any way being party to, fraud or not reporting known instances of fraud.

Information Security

- Disclosing confidential or proprietary information to third parties resulting in a real or perceived personal advantage;
- Profiteering for personal or another person or entities gain as a result of insider knowledge of Council's activities;
- The release of confidential Council data for personal gain;
- Cyber-attacks, ransom threats and hacks by third parties.

FRAUD PREVENTION

The Council will proactively take all reasonable steps to prevent fraud by developing and maintaining a policy framework that clearly sets out expectations of behaviour, and promotes robust internal controls for all aspects of the protection of assets, procurement processes, payroll, and treasury and cash management.

The Council recognises that there are three particular conditions often associated with fraud and corruption. These are incentives/pressures on the perpetrator, opportunities to be able to perpetrate fraud, and rationalising attitudes towards fraud. The Council acknowledges that it is able to influence and manage these conditions to some degree by:

1. Establishing an Environment / Culture that discourages Fraud

- Regular fraud training for all staff, and implementing fraud awareness activities;
- Expectations for employees' and elected members' behaviour are clear and visible. For employees, these are documented in the human resources policy while for elected members, these are set by the Stratford District Council Code of Conduct.
- Induction processes for new employees and elected members that include fraud awareness and code of conduct training;
- A safe, documented, and widely available process for employees and elected members to report suspected fraud;
- Instilling a sense of pride and loyalty by employees and elected members towards the Council;
- Encouraging staff and elected members to be curious, ask questions, and not be afraid to speak out and disclose mistakes or potential anomalies;
- Discouraging bullying and intimidating behaviour that could lead to coercion or pressure on someone to act in a way that could be in breach of this policy;
- Ensuring staff, elected members and suppliers are fully aware of the Council's policies on tendering processes, acceptance of gifts, and conflicts of interest;

2. Implementing Controls to prevent and detect Fraud

- Segregation of duties, where appropriate, to ensure checks and balances are in place;
- Limiting system and records access and ensuring audit trails are in place;
- Monthly balance sheet reconciliations reviewed by authorising manager;
- Regular, random physical audits of high-risk assets including petty cash and IT hardware, and annual stock-takes of inventory at the i-Site and TSB Pool;
- Robust confirmation and sign-off process for adding and amending new creditors;
- Regular suspicious transaction analysis;
- All creditor invoices, and expense reimbursement claims to be reviewed and approved by the purchasers direct manager (enforcement of one-up principle);
- Mandatory purchase ordering and goods receipting;
- Pre-employment screening that includes checking for criminal convictions for all new staff, and comprehensive, direct, referee checking with at least one former direct manager within the past 3 years;
- Ensuring that staff appointed to positions of responsibility are appropriately qualified and experienced;
- Enforcement of annual leave being taken, managers to review leave balances regularly;
- Conduct biennial independent fraud risk assessments, and ensure internal controls are being complied with through regular independent internal audits;
- Internal Quality Management Systems to be followed for the signing off of Consents;
- Requirement to regularly change passwords.

3. Senior Leadership Team displaying Ethical Leadership

- Demonstrate the highest standards of ethical behaviour – all Directors should undertake ethical leadership training;
- Identifying and managing the fraud risks to which systems, operations and procedures are exposed;
- Following up, strictly in accordance with this policy, on any reports of fraud;
- Following a confirmed fraud incident, taking all appropriate actions to avoid any further harm to the Council and if necessary implementing root-cause analysis to identify whether any systemic issues exist that need to be eliminated;
- Update the Declaration of Interests Register (for senior management) annually, or as necessary where there are new dangers.

4. Making everybody Accountable

- All Council officers must take reasonable steps to safeguard Council funds and assets against fraud, theft, unauthorised use and misappropriation;
- If there is evidence of irregular or improper behaviour, or that a fraud may have been committed, it must be reported immediately as per the Fraud Response Plan below.
- All employees and elected members must fully cooperate with any investigation into suspected fraud or corruption.

REPORTING - FRAUD RESPONSE PLAN

1. Notification Process

- ❖ All suspected cases of fraud should be reported to the Fraud Control Officer. Staff can report fraud in person, by letter, or by email to fraudofficer@stratford.govt.nz. Formal notifications must be in writing.
- ❖ The report should include sufficient detail to initiate an investigation. It must include an explanation of the alleged fraud and the name/s of the alleged perpetrator/s. It may also include dates, amounts, and documentation to support the claims made.
- ❖ If reporting the allegation of fraud to the Fraud Control Officer is not appropriate, the alternatives are the Chief Executive Officer, the Chair of the Audit and Risk Committee, or The District Mayor.
- ❖ If the Chief Executive Officer is suspected of fraud then the Fraud Control Officer will immediately notify the Chair of the Audit and Risk Committee and the Mayor.
- ❖ Staff and elected members reporting suspected fraud are covered by the Council's Procedures for the Protected Disclosure Act 2000, incorporated in the Human Resources Policy. The Act gives the person making a protected disclosure immunity from legal or disciplinary proceedings, and gives an employee the right to take a personal grievance against their employer if they suffer any retaliatory action as a result of making the disclosure.
- ❖ The Fraud Control Officer shall acknowledge the receipt of a fraud notification as soon as practically possible. The acknowledgement must advise the person reporting the fraud that they will be protected under the Protected Disclosure Act 2000.
- ❖ The Fraud Control Officer (or if implicated, one of the alternates) shall maintain a confidential log of all notifications and investigations.
- ❖ Except where a notification involves one of the alternates (or the circumstances notified may reasonably be regarded as having the potential to involve), the Fraud Control Officer shall ensure notification to all of the alternates as soon as is reasonably practical.

- ❖ Where the notification is of a significant nature, as defined above, it shall be reported by the Fraud Control Officer to:
 - The CEO, the Chair of the Audit and Risk Committee and the Mayor within 48 hours,
 - The Audit and Risk Committee at the next quarterly meeting (summary nature, particularly having regard to whether the fraud involves an Audit and Risk Committee member).

2. Investigation Process

- ❖ Suspected fraud will be investigated in an independent, open minded and professional manner. The interests of the person reporting the fraud, the Council, and the suspected individual, will be protected as much as possible and good employer processes will be followed at all times.
- ❖ The investigation shall be carried out by the Investigation Officer who shall be the Fraud Control Officer (the Director - Corporate Services) or their delegate. Where it is has been determined that one or more of the specified delegates should not be advised of the notification, the Chief Executive Officer shall determine who should conduct the investigation. No other employees or elected members may undertake their own investigations, unless assigned to do so in the Fraud Control Officer or Chief Executive Officer's absence.
- ❖ Evidence will be protected and all reasonable steps will be taken to ensure it is not contaminated, lost or destroyed. Immediate steps will be taken to secure physical assets including computers, and paper or electronic records. This may mean that an employee under investigation is required to take leave immediately, and during the full period of investigation.
- ❖ Recovery of assets and protection from financial loss of insurance cover will be priorities of the investigation.
- ❖ The investigation process will start with a preliminary investigation, the purpose of which shall be to determine whether a more comprehensive investigative process should commence, and will involve obtaining as much information as possible before anyone is questioned or interviewed.
- ❖ Where the initial investigation reveals there are reasonable grounds to believe fraud may have occurred, the initial process followed will include advising the person(s) in writing of the expected process, including whether a disciplinary process may ensue.
- ❖ Natural principles of justice shall apply, where a person shall be treated as innocent until proven guilty. A fraud may be 'confirmed' by taking into account the following:
 - An admission of guilt,
 - Supporting documentation, invoices, emails, audit trails, IT records, computer history,
 - Confirmation from an independent source e.g bank, police, elected member, auditors,
 - Other staff members written accounts,
 - A consistent or regular pattern of similar behaviour.

The Investigation Officer will seek independent HR advice and the services of appropriately experienced and qualified third parties, where appropriate, to assist in the investigation, to ensure that the Council remains legally compliant throughout the investigation.

For employees, an allegation of fraud may result in an employee being subject to the Council's Disciplinary Policies. Where fraud is found to have occurred it may amount to serious misconduct and may result in appropriate disciplinary action (up to and including dismissal). The Council's HR Policy provides further guidance on the disciplinary process. For elected members, where fraud is found to have occurred, this may result in an elected member being subject to the process of Council's Code of Conduct. Reporting of fraud to the Police is at the Chief Executive Officer's discretion, irrespective of the role (e.g. staff, elected member, contractor) of the perpetrator.

- ❖ The Investigation Officer will be responsible for comprehensive recording and reporting of all aspects of the investigation.

3. Confidentiality

- ❖ Subject to the requirements of the investigation or any legal requirements, everyone involved in a formal investigation or informal process has:
 - The right to have information they disclose kept confidential.
 - The duty to respect the rights of others to the maintenance of confidence.
 - The right to have any limits of confidentiality explained to them.
- ❖ The identity of the person making the notification, or any details which may identify them, shall be confidential, to the extent provided for under the Council's Protected Disclosures Act 2000 Procedures. Exceptions under the Act include where disclosure is essential to the effective investigation of the allegations, to prevent serious risk to public health and safety, or to comply with the principles of natural justice.
- ❖ The Fraud Control Officer must keep all fraud officer emails secure and must not print these out.
- ❖ It is important that throughout the process confidentiality is maintained and any disclosure of personal details such as names, is on a need to know basis only.

4. Reporting

- ❖ Throughout any investigation the Investigation Officer may keep the following informed of progress and developments on a regular basis:
 - District Mayor,
 - Chief Executive Officer,
 - Chair of the Audit and Risk Committee,
 - Council's external auditors,
 - NZ Police or Serious Fraud Office ("SFO"), if appropriate, and
 - Any other relevant bodies, including where appropriate, the Chairs of the Council Committees.
- ❖ The SFO investigates serious or complex fraud where there are multiple victims and the alleged perpetrator is in a position of trust, or there are allegations of bribery and corruption, particularly involving public officials. Anyone is able to make a complaint to the SFO, whose mandate is to prosecute the perpetrators of fraud, and not to recover any losses (which is considered a civil matter). The Council will report a fraud event to the SFO where it warrants prosecution of the perpetrator. The decision to report to the SFO will be made by the Chief Executive Officer.

- ❖ On completion of an investigation where fraud has been confirmed, there will be a full report to the Audit and Risk Committee setting out:
 - a) The background of the fraud and how the investigation arose,
 - b) What action was taken in response to the allegations,
 - c) The conduct of the investigation,
 - d) A brief summary of the facts and supporting evidence,
 - e) Whether legal action is to be undertaken, and if other authorities have been alerted,
 - f) Recommendations to minimise the opportunity for fraud through improvements in controls and processes and the plan for implementing these,
 - g) Actions and outcomes in the recovery of losses through restitution and insurance,
 - h) The recommendations of the police, external auditors, and any other third party involved in the investigation.

Related Policies, Procedures & Forms

- Procurement Policy
- Delegations Policy
- Human Resources Policy (internal policy)

Relevant Legislation

- Protected Disclosures Act 2000
- Employment Relations Act 2000
- Privacy Act 1993
- Crimes Act 1961
- Secret Commissions Act 1910
- Local Government Act 2002