



**ANTI FRAUD AND CORRUPTION &
PROSECUTION POLICY STATEMENT
AND STRATEGY**

**(INCLUDING BRIBERY, THEFT AND FINANCIAL
IRREGULARITIES)**

PRODUCED BY: HEAD OF INTERNAL AUDIT

SUBJECT TO BI-ANNUAL REVIEW

PRESENTED TO:

CORPORATE MANAGEMENT TEAM: MARCH 2013

APPENDIX 1

AUDIT COMMITTEE: MARCH 2013

CABINET: 18TH JUNE 2013

ANTI FRAUD AND CORRUPTION & PROSECUTION POLICY STATEMENT

Southend on Sea Borough Council (the Council) and **maintained schools** are committed to adhere to and promote the common principles of good governance for public sector organisations. This is because they recognise that good governance leads to good management, good performance, good stewardship of public money, good public engagement and, ultimately, good outcomes for citizens and service users.

In order to achieve this, it is important to effectively manage risk. Otherwise resources that should be spent on front line services could be lost. This is particularly the case when dealing with the risk of fraud and corruption.

Therefore the Council and **individual maintained schools** have adopted a zero tolerance to fraud and corruption. They will not tolerate fraud, corruption, bribery, theft or financial irregularities perpetrated by:

- councillors, **school governors** or employees of the Council or **maintained schools** against the Council, **maintained schools** or others
- customers, suppliers, claimants or other third parties against the Council or **individual maintained schools**.

They are determined that the culture and tone of these organisations is one of honesty and opposition to fraud and corruption. It is therefore expected that councillors, **school governors** or employees of the Council or **maintained schools** to adopt and promote the Nolan Committee's *Seven Principles of Public Life* (**Appendix 1**) and participate in counter fraud initiatives.

They will ensure probity in local administration and governance by taking positive action against all forms of fraud and corruption.

Where fraud or corruption is suspected the Council will:

- consider cases on their merits and investigate appropriately, all enquiries being carried out with the utmost propriety
- work within guidelines based on best practice and relevant legislation.

Where fraud or corruption is proven the Council will:

- take the appropriate action which could include disciplinary proceedings, prosecution and / or referral to the police
- seek to recover losses using criminal and civil law
- seek compensation and costs as appropriate.

The Council and **maintained schools** are therefore committed to reduce losses from fraud and corruption to an absolute minimum across all areas of activity.

The Council will deliver this policy through the strategy outlined in this document and delivery of the Counter Fraud Team's annual service plan. The strategy will be reviewed periodically to ensure continued compliance with good practice guidance.

ANTI FRAUD AND CORRUPTION STRATEGY

INTRODUCTION

An overriding responsibility of public sector organisations is the provision of effective and efficient services to clients and stakeholders in a manner that seeks to ensure the best possible protection of the public purse in its delivery arrangements.

The impact of fraud and corruption on a public sector organisation can have consequences that are serious and often far reaching. Fraud and corruption can directly affect the ability of the public sector to serve the most vulnerable in society. Financial and reputational loss are the obvious key risk areas but instances of fraud and corruption can also bring a range of other serious consequences including breakdown of trust, political fall-out, impact on morale and the risk of potential litigation.

The indications nationally are that losses due to fraud and corruption are on the increase, a trend that is likely to continue given the current economic climate.

Therefore, the need for effective risk management in the public sector is more essential than ever, as:

- public expectations increase and tolerance of failure by public service organisations reduces
- the impact of government reforms in the public sector take effect.

The Accounts & Audit (England) Regulations 2011 also require the Council to have proper arrangements in place for managing risk:

“The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body’s functions and which includes the arrangements for the management of risk.”

In producing this strategy, reference has been made to current good practice guidance as set out in:

- Chartered Institute of Public Finance and Accountancy (CIPFA) / Society of Local Authority Chief Executives and Senior Managers (SOLACE) publication: Delivering Good Governance in Local Government – Framework
- National Fraud Authority, Fighting Fraud Locally
- Association of Local Authority Risk Managers (ALARM) Publication: Managing the Risk of Fraud
- CIPFA Publication: Managing the Risk of Fraud
- Audit Commission Publication: Protecting the Public Purse: Local Government Fighting Fraud.

ANTI FRAUD AND CORRUPTION STRATEGY

WHAT IS COVERED UNDER THE TERM FRAUD & CORRUPTION?

Fraud is the performing of an act to deliberately deceive in order to gain an unfair advantage. Fraud may be committed against the Council or **maintained schools** by councillors, school governors or employees of the Council or **maintained schools** (internal fraud) or by third parties (external fraud).

An offence is committed contrary to the Fraud Act 2006 if a person is dishonest and intends to make a gain or to cause a loss to another by:

- making a false or misleading statement
- failing to disclose information to another person which he/ she is under a legal duty to disclose
- abusing a position of trust.

Corruption is the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person. This involves the abuse of position by a councillor, **school governor** or employees of the Council or **maintained schools** within the Council or **maintained school** in order to confirm an unfair advantage on a third party (who can be either internal or external to the Council or **maintained school**).

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

An offence is committed contrary to the Bribery Act 2010:

- by giving or receiving a bribe (section 1 and 2)
- by bribing a Foreign Official with the intention of obtaining or retaining business or an advantage in the conduct of business (section 6)
- where a commercial organisation fails to stop people who are operating on its behalf from being involved in bribery (section 7).

Theft is defined under Section 1 Theft Act 1968 as the dishonest appropriation of property belonging to another person with the intention of permanently depriving the other person of it.

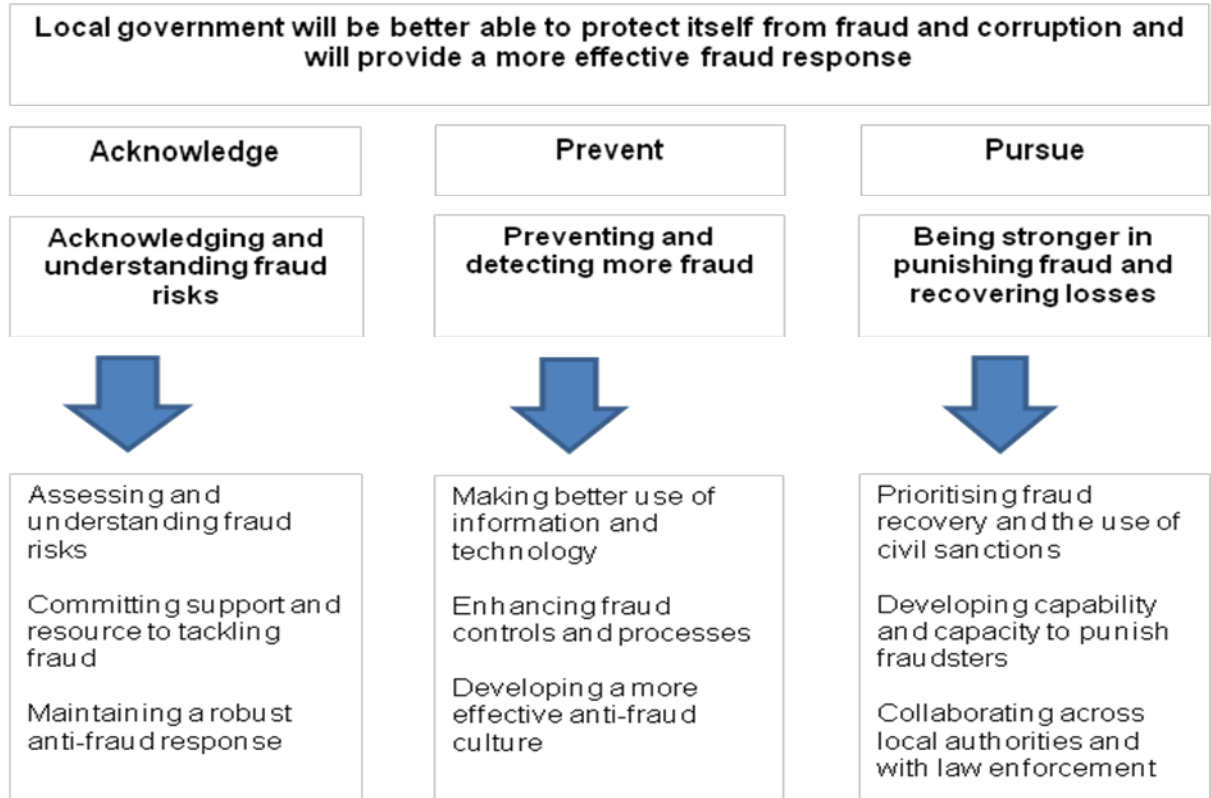
Financial Irregularity is the evading of internal controls which may or may not be fraudulent, such as intentional misstatement or omission of significant information in accounting records, financial statements, other reports, documents or records. Irregularities include:

- fraudulent financial reporting which renders financial statements misleading
- misappropriation of assets.

WHAT THIS STRATEGY AIMS TO DELIVER

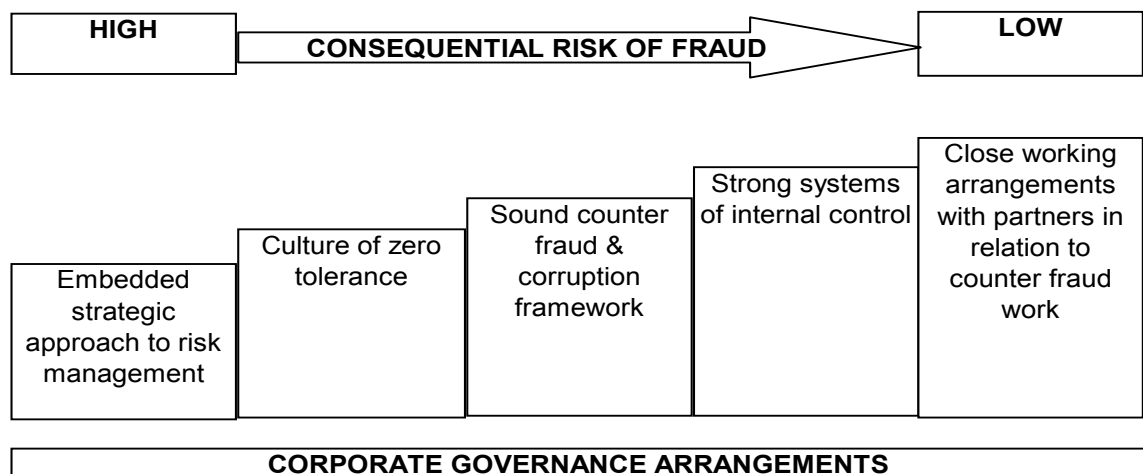
This strategy is designed to deliver the vision in the National Fraud Authority's publication 'Fighting Fraud Locally', that by 2015, local government will be better able to protect itself from fraud and have in place a more effective fraud response. Adopting the strategic approach outlined below, is seen as the route to achieving this vision and embed a more collaborative approach to tackle the fraud threat.

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GOVERNANCE ARRANGEMENTS

In delivering this strategic approach, the Council and **maintained schools** will aim to maintain the five key essentials of corporate governance that need to be in place in order to manage the risk of fraud and corruption at an acceptable level.



Source: ALARM Managing the Risk of Fraud

OPERATIONAL PROCESSES

The Council and **maintained schools** will then ensure that they:

- adopt the right operational strategy for the size and nature of the organisation

ANTI FRAUD AND CORRUPTION STRATEGY

- accurately identify the risks
- create and maintain a strong framework through:
 - giving those doing this work the necessary authority and support to pursue their remit effectively
 - ensuring staff doing this work have specialist training and accreditation
 - having effective propriety checks in place
 - developing effective relationships with other organisations to facilitate collaborative working on this agenda.
- take action to tackle the problem which includes:
 - continually working on maintaining the anti fraud and corruption culture
 - focusing more on deterrence and prevention as this is more cost effective
 - taking focused action to detect fraud, corruption, bribery, theft and financial irregularities, investigating it robustly and exploring all options regarding sanctions or redress.
- define success, based on outcomes not merely activity.

Source: CIPFA *Managing the Risk of Fraud*

OTHER RELATED POLICIES

This Anti Fraud and Corruption & Prosecution Policy Statement and Strategy should be read in conjunction with the relevant:

- Risk Management Policy Statement and Strategy
- Whistleblowing Policy (Confidential Reporting Policy)
- Anti-Money Laundering Policy and Strategy
- Employees, Councillors or **Governors'** Codes of Conducts

THE BENEFITS

The financial cost of fraud and corruption does not fully reflect the personal impact it can have on victims. In the public sector, every pound lost through fraud, corruption, bribery, theft and financial irregularities directly affects citizens by increasing national and local taxation levels and housing rents or threatening essential services such as social care, housing and education. The honest majority pay for it.

Fraud and corruption is likely to increase during a time of financial constraint as:

- economic distress can increase the incentive to commit such offences
- controls to prevent and detect it can come under pressure as councils and **maintained schools** reduce their costs.

Therefore, having an embedded anti fraud and corruption culture throughout the Council and **maintained schools** will help minimise the loss of resources through fraudulent or corrupt activity.

ANTI FRAUD AND CORRUPTION STRATEGY

DELIVERING THE STRATEGY

REPORTING ALLEGATIONS / SUSPICIONS

Allegations and / or suspicions may arise from any source within or external to the Council or **maintained schools**. Anybody who suspects fraud, corruption, bribery, theft or other financial irregularity in respect of the Council, **maintained schools** or private funds if appropriate, is expected to report the matter in accordance with Financial Procedure Rules / Scheme for Financing Schools:

- to the **Counter Fraud Team**:
 - on **01702 215254** or via counterfraud@southend.gov.uk or
 - via the Council's **Confidential Report Line on 01702 215215**
 - via any of the above under the provisions of the Whistleblowing Policy
- in exceptional circumstances, to the **Chief Executive or Chair of the Audit Committee via 01702 215101**.

The **Counter Fraud Team** will take the details of the concern and log it on a central record. They will then take whatever action is appropriate to ensure that the concerns are investigated in accordance with the respective policies.

Action will be taken swiftly and firmly to deal with those who defraud the Council or **maintained schools** or who are corrupt.

ROLES AND RESPONSIBILITIES

In order to ensure the successful implementation of the strategy, clear roles and responsibilities have been established for councillors, **school governors** or employees of the Council or **maintained schools** which are detailed in **Appendix 2**.

MONITORING DELIVERY

The **Counter Fraud Team's annual service plan** is designed to deliver the objectives of this strategy. Progress in delivering this service plan will be reported upon periodically to the Corporate Management Team and the Audit Committee. **An annual report will be produced demonstrating compliance with the requirements of the national Fighting Fraud Locally Strategy.**

DATA MATCHING

The Council will actively pursue opportunities to both develop and participate in data sharing exercises internally and externally, in the quest to prevent and detect fraud and corruption. These will include the Audit Commission's National Fraud Initiative and ongoing data matching with the Department of Works and Pensions.

This will be done in line with the Information Commissioners Code of Practice for Data Sharing.

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PROSECUTION

All allegations of fraud and corruption will be taken seriously, thoroughly investigated and rigorous action taken when it is substantiated. Where there is clear evidence that a fraudulent or corrupt act has been committed, the following tests will be applied before a case is considered for prosecution:

- **The Evidential Test:** There must be enough evidence to provide a realistic prospect of conviction.
- **The Public Interest Test:** A prosecution will usually take place unless there are public interest factors tending against prosecution that clearly outweigh those tending in favour. Although there may be public interest factors against prosecution in a particular case, often it should go ahead and those factors should be put to the court for consideration when sentence is being passed.

The Crown Prosecution Service's 'Code for Crown Prosecutors' published 2000 and **revised January 2013**, details various public interest factors that should be referred to when making a decision to prosecute.

The Council will, in most instances, prosecute where the fraud or corruption is perpetrated:

- was not a first offence, or
- was planned, or
- involved more than one person and
- meets the Public Interest Test detailed above.

The **Counter Fraud Team** being involved in the detection and investigation of fraud and corruption will maintain detailed guidance as to the:

- relevant public interest factors and thresholds to be applied
- required sufficiency and standards of evidence obtained, before referring cases for prosecution
- appropriate sanctions that can be considered
- options available to seeking redress for any losses (where appropriate).

The Council and **maintained schools** believe fair and effective prosecution is essential in order to protect public funds and deter fraudulent or corrupt activity. The Council and **maintained schools** will ensure that successful prosecutions are reported to the media in order to demonstrate their continual drive to prevent fraud, corruption, bribery, theft or other financial irregularity.

DISCIPLINARY ACTION

The Council and **maintained schools** will also invoke internal disciplinary action in line with the relevant Discipline and Dismissal at Work Policy against those suspected of fraud, corruption, bribery, theft or other financial irregularity if this is considered to be appropriate. This may be the only action taken or 'parallel sanctions' may be pursued which means internal disciplinary proceedings will be started at the same time as pursuing external prosecution (such as civil action).

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MEASURING EFFECTIVENESS

Over the next two years there is a significant increase in the overall awareness of these arrangements as demonstrated when the next survey is undertaken.

This should in turn lead to an increase in the number of potential cases of fraud, corruption, bribery, theft or other financial irregularity reported.

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APPENDIX 1: NOLAN COMMITTEE'S PRINCIPLES OF PUBLIC LIFE

INTRODUCTION

The Council has set out the principles of good governance it applies in its Local Code of Governance which is consistent with the CIPFA / SOLACE Guidance Delivering Good Governance in Local Government Framework. However councillors, **school governors** or employees of the Council or **maintained schools** must also refer to the Nolan Committee's *Seven Principles of Public Life*, as set out below, to help ensure that their own conduct complies with these overarching good governance principles.

SELFLESSNESS

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

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APPENDIX 2: ROLES AND RESPONSIBILITIES

GROUP OR INDIVIDUALS	ROLE	RESPONSIBILITIES ARE TO:
Cabinet	<p>To approve arrangements for managing risk (including fraud and corruption)</p> <p>To ensure risk has been properly evaluated and managed as part of its decision making process</p>	<ul style="list-style-type: none"> • Approve the Anti Fraud & Corruption Policy, the Whistleblowing Policy and the Anti Money Laundering Policy once challenged by the Audit Committee • Ensure all aspects of risk are considered and understood when making any policy decisions • Monitor performance, which includes active consideration of related risks and the corporate risk register
Governing Bodies		<ul style="list-style-type: none"> • Adopt the relevant Anti Fraud & Corruption Policy, the Whistleblowing Policy and the Anti Money Laundering Policy • Obtain assurance during the year that these policies have been understood and complied with • Monitor performance, which includes active consideration of related risks and the maintained school's risk register
Audit Committee	<p>To satisfy itself that there are adequate arrangements in place to manage risk (including that relating to fraud and corruption) effectively</p>	<ul style="list-style-type: none"> • Challenge the Anti Fraud & Corruption, Whistleblowing and Anti Money Laundering Policies to ensure they are fit for purpose • Ensure delivery of the Counter Fraud Team's service plan, which is designed to deliver these policies, is monitored throughout the year • Seek assurance that any control issues identified through fraud and corruption investigations are properly dealt with
Corporate Management Team	<p>To ensure there are appropriate corporate arrangements in place to enable the organisation to effectively manage risk and they are operating as designed</p>	<ul style="list-style-type: none"> • Challenge and approve the Anti Fraud & Corruption Policy, the Whistleblowing Policy and the Anti Money Laundering Policy and the Counter Fraud Team service plan • Monitor the delivery of the Counter Fraud Team's service plan and ensure appropriate and timely action is taken to address any control weaknesses identified through investigations undertaken
Maintained School Senior Management Teams		<ul style="list-style-type: none"> • Ensure staff are aware of the roles and responsibilities under these policies • Engage in any counter fraud initiatives relevant to maintained schools

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APPENDIX 2: ROLES AND RESPONSIBILITIES

GROUP OR INDIVIDUALS	ROLE	RESPONSIBILITIES ARE TO:
<p>Chief Executive / Corporate Directors Heads of Service / Group Managers Head Teachers / Senior Maintained School Staff</p> <p>(Individually or Collectively)</p>	<p>To ensure that risk is managed effectively both organisationally and in each service area in line with the corporate strategies including those relating to Risk Management & Anti Fraud & Corruption</p>	<ul style="list-style-type: none"> • Be satisfied that there are appropriate processes in place to train all councillors, school governors or employees of the Council or maintained schools re: <ul style="list-style-type: none"> • this policy’s contents and their respective roles and responsibilities under this policy • the standards and requirements of the respective Codes of Conduct • Deal with any councillors, school governors or employees of the Council or maintained schools who are suspected of fraud, corruption, bribery, theft or financial irregularity in accordance with the respective Code of Conduct and where relevant the Disciplinary and Appeals Procedures • Report all potential or indications of fraud, corruption, bribery, theft or financial irregularity identified to the Counter Fraud Team whether or not support is required to investigate the matter • Investigate any potential irregularities relating to their service area arising from matching data from different sources and report any that are potential cases of fraud to the Counter Fraud Team • Respond to all audit reports in writing within a timetable agreed with the Council’s Head of Internal Audit detailing the action intended, to address any recommendations which could reduce exposure to fraud, (as required by Financial Procedures Rules / Scheme for Financing Schools)
<p>All Employees / Elected Members/ Governors</p> <p>Individually or collectively)</p>	<p>To manage risk effectively in their job</p>	<ul style="list-style-type: none"> • Bring to the attention of line management (for staff), the Head of Democratic Services (for councillors) or the Clerk to the Governors any positions held outside the Council or maintained school that may conflict with Council or maintained school roles and responsibilities • Disclose any financial or non-financial interests that could conflict with the Council’s or maintained school’s interests • Be aware of the standards and requirements of the respective Code of Conducts and all relevant legislation (as per the individual’s Job Description) • If unsure of the standards required, request guidance from an appropriate senior manager

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APPENDIX 2: ROLES AND RESPONSIBILITIES

GROUP OR INDIVIDUALS	ROLE	RESPONSIBILITIES ARE TO:
		<ul style="list-style-type: none"> • Act with integrity at all times and to be honest and trustworthy by complying with all laws and regulations applicable to the Council's or maintained school's business • Ensure potential conflicts of interest are raised immediately when asked to be involved in something so that the Council's or maintained school's impartiality cannot be brought into question when making decisions • As a general rule, do not accept gifts or hospitality as this could be seen as compromising impartiality. If they are accepted, then record them in the gifts and hospitality register • Report suspected fraud, corruption, bribery, theft or other financial irregularity that could have an impact on the Council or maintained school (as required by Financial Procedures Rules / Scheme for Financing Schools to the Council's Counter Fraud Team. Failure to do so could expose an individual to risk of subsequent disciplinary action • Report the matter using the Whistleblowing Policy if that is more appropriate
Individual managers and the outsourced recruitment service.	To apply proper recruitment practices that minimise the risk of fraud	<ul style="list-style-type: none"> • Check the validity of information provided on the job application forms (wherever possible) e.g. references and qualifications before making an offer of appointment
Head of Internal Audit	To ensure robust and effective anti fraud and corruption arrangements are maintained	<ul style="list-style-type: none"> • Update the Anti Fraud & Corruption, Whistleblowing and Anti Money Laundering policies and strategies at least bi-annually • Obtain agreement for any amendments required to these documents from the Head of Finance & Resources (the Section 151 Officer), Head of HR & Communications, the Corporate Management Team and the Audit Committee before they are submitted to Cabinet for approval • Produce an annual Counter Fraud Team service plan that delivers the Anti Fraud & Corruption Strategy

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APPENDIX 2: ROLES AND RESPONSIBILITIES

GROUP OR INDIVIDUALS	ROLE	RESPONSIBILITIES ARE TO:
		<ul style="list-style-type: none"> • Report on the delivery of the Counter Fraud Team service plan at least twice a year to the Corporate Management Team and the Audit Committee • Report annually on compliance with the Fighting Fraud Locally strategy requirements • Encourage the reporting of concerns by delivering a variety of awareness raising activities each year • Explore possibilities of joint working with partners in this area
<p>Counter Fraud Team</p>	<p>To prevent, detect and investigate fraud, corruption, bribery, theft or financial irregularity.</p> <p>To work effectively with partners in this endeavour.</p>	<ul style="list-style-type: none"> • Deal appropriately with information received via the confidential report line or the on line reporting facilities • Maintain a log of all allegations made (excluding those relating to benefits), and report them to the Head of Finance & Resources (the Section 151 Officer) and the Head of Internal Audit • Investigate and report upon suspected cases of fraud or corruption in accordance with documented procedures, with the support and or involvement of Internal Audit where appropriate • Comply with specific procedures, government guidelines and relevant legislation in the prevention and detection of benefit fraud • Maintain procedures that are consistent with the Department for Work & Pensions' (DWP) Housing and Council Tax Benefit Security Guidance • Inform the Head of Paid Service (Chief Executive), the Monitoring Officer (Head of Legal & Democratic Services), Head of Finance & Resources (the Section 151 Officer) and the Head of Internal Audit of any allegations that require investigation and the progress / outcome of such cases • Report quarterly to the Corporate Management Team and the Audit Committee on the outcome of investigations undertaken

ANTI FRAUD AND CORRUPTION STRATEGY
APPENDIX 2: ROLES AND RESPONSIBILITIES

GROUP OR INDIVIDUALS	ROLE	RESPONSIBILITIES ARE TO:
Internal Audit	To provide assurance as to whether the risk management arrangements are fit for purpose	<ul style="list-style-type: none"> • Periodically provide an independent view of the robustness of the corporate approach to risk management and compliance therewith • Review and comment on the content and relevance of service risk registers (particularly with regard to the identification of fraud and corruption risks) in supporting the delivery of the service plan objectives when undertaking risk based audits • Review and appraise the adequacy, reliability and effectiveness of the Council’s framework of governance, risk management and control including those relating to fraud and corruption • Report recommendations to management, relating to weaknesses in internal controls, which could leave the Council or maintained schools open to fraud, corruption, bribery, theft or financial irregularity
Customers, contractors, suppliers, third parties	To help safeguard public money	<ul style="list-style-type: none"> • Be honest in their dealings with the Council and maintained schools • Report any suspicions they have re public money which may be inappropriately spent • Co-operate with any investigation be it by the Council and or police