

Counter Fraud, Bribery and Corruption Policy and Strategy

Southend-on-Sea Borough Council
Counter Fraud, Bribery and Corruption Policy and Strategy

VERSION CONTROL SHEET

Title:	Counter Fraud, Bribery and Corruption Policy and Strategy
Purpose:	To advise council workers and suppliers on what fraud, bribery and corruption is, how to identify it and report it.
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Nov 2018	Revision of formatting and reporting methods, legislative changes.	Joe Chesterton, Strategic Director (Finance & Resources)
August 2019	Revision of formatting and reporting methods, legislative changes.	Joe Chesterton, Strategic Director (Finance & Resources) John Williams, Strategic Director (Legal & Democratic Services)

Policy Statement

Southend-on-Sea Borough Council is serious about protecting the public money we are charged with to protect. We take a strong stance against those who seek to commit fraud against the council.

It is an unfortunate reality that Southend-on-Sea Borough Council, like any large organisation, is not immune from fraud, bribery and corruption from both those outside the organisation and the few who may work here and commit crime.

Cases of internal fraud are extremely rare and we have a strong framework of policies and controls in place to detect any risks, supported by our Internal Audit Service and Counter Fraud & Investigation Directorate.

This policy sets out what the council will do to make it the most difficult environment for fraud to occur and the responsibility on everyone in the council to find fraud and report it.

Fraud in councils can happen anywhere. No team or department is immune. As a council we spend around £520m annually. International standards say that about 3% of that spending will be lost due to fraud and corruption. That equates to £15m, every year.

It is important that we look after our resident's money and make sure no one misuses it. It is incumbent on all of us in the council to report any suspicions we may have and support the Internal Audit and Counter Fraud services in their work.

Alison Griffin

Chief Executive & Town Clerk

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Southend-on-Sea Borough Council
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1. Introduction

- 1.1 As a local authority Southend-on-Sea Borough Council (the Council) is responsible for delivering key frontline services such as maintaining roads, keeping our borough clean and green, educating our children and young adults as well as supporting the vulnerable in health and social care support.
- 1.2 We deliver these services with the £520m of public money we have in our budget. Criminals do and will continue to seek to take that money from the Council. Criminals can come in all forms from services users, to suppliers and the colleagues sitting next to us.
- 1.3 The way to beat those who seek to take the public's money is to make sure our systems and controls in place are strong, and then consistently implement them. This means all of the procedures we have as teams are robust and auditable, so we can prevent fraud and identify possible concerns.
- 1.4 This policy sets out what fraud, bribery and corruption is, how you can spot it and what to do if you suspect it.
- 1.5 Every council worker and our partners are responsible for following this policy and reporting their suspicions to our Head of Internal Audit and Counter Fraud & Investigation Directorate.
- 1.6 As council workers we are public officials who must all follow the seven Principles of Public Life, also known as the Nolan Principles. These are:

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty

Holders of public office should be truthful.

7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

2. What is Fraud?

- 2.1 In this policy 'fraud' is used as shorthand for any criminal offence where money or assets belonging to the Council can be lost. It includes theft, fraud, burglary and other deception offences such as corrupt practices by those who work for us or suppliers.
- 2.2 Fraud is where a person is dishonest in their actions in order to cause a loss to the Council or expose the Council to a potential loss. It also includes where a person causes a chain of events by doing **or** not doing something, that causes **or** exposes the Council to a loss.
- 2.3 Any of the actions described above are criminal offences and can result in imprisonment.

3. How is fraud committed against Council?

Applying for Services / Making a Declaration

- 3.1 The Council provides hundreds of different services to the public we serve. Unfortunately there is a small minority of those who seek to take advantage of those services. This could be by a person embellishing their circumstances, making something up completely or purposefully not declaring something.
- 3.2 In the Council's welfare support services such as Social Care, Housing and Essential Living Fund, this could be a person not being honest about their needs, what their financial status is or what they will be using the services for. It may be a person acting on the service user's behalf that is being dishonest in order to benefit them.
- 3.3 In each of these examples the frauds are denying the legitimate use of Council funds for those who are in need.

Suppliers / Providers

- 3.4 The highest risk to the public sector is from its supply chain. A Council is a business making regular and sometimes large financial transactions with our suppliers and providers in order to deliver our services.
- 3.5 Some unscrupulous suppliers, or staff working in supplier companies, may seek to take advantage of our payment systems and processes.
- 3.6 Fraud in this area can be committed where suppliers submit false or 'erroneous' invoices or other requests for payment. Suppliers may also be dishonest in how they are delivering the services or goods we have asked them for. They may be poor quality or not supplied at all.
- 3.7 Staff that deal with our suppliers and providers must ensure that the Council is getting what it has paid for. The Council's Corporate Procurement Team is experienced in letting and managing contracts and applying the right controls when sourcing goods, works and services.

Did you know?

In 2014, the Council prosecuted a Foster Carer who stole £5,500 from a child in their care.

Council Worker Fraud

- 3.8 Like any large employer employing thousands of people, there will always be a small minority of people who seek to commit fraud or allow fraud to take place.
- 3.9 Fraud in this area can be staff who take unauthorised absences, such as:
- Claiming 'flexi time' when they haven't accrued any
 - Claiming to be working from home when they are not
 - Claiming to be working in the field but going home early / starting later.
- 3.10 Payroll or expenses fraud can also be committed by Council workers. For example, staff falsely claiming overtime for hours they have not worked or mileage or subsistence for expenses they have not incurred.
- 3.11 It is therefore important for all staff to follow the Council's procedures, particularly those staff in management positions authorising such claims or transactions, as well as colleagues who may notice irregularities.

Did you know?

The impact if all staff falsely worked half an hour less per week would effectively be a cost to the Council of £130k every year.

4. What is bribery and corruption?

- 4.1 As public servants, all workers in the Council are in a privileged position to serve the public of Southend-on-Sea. That responsibility comes with a significant amount of trust and confidence in how we conduct ourselves.
- 4.2 It has always been a criminal offence for anyone working at the council to receive gifts or hospitality where the person giving the gift or hospitality is seeking to induce us to, or reward us for doing something for their, or somebody else's benefit.
- 4.3 This type of corruption has been depicted in many different films and fictional stories since time began. Examples have seen cases of criminals:
- seeking to build a house that would normally be rejected by planners
 - wanting the Council to 'look the other way' for parking fines or other enforcement responsibilities.
- 4.4 This type of criminality is the most serious type of dishonesty.
- 4.5 Those who act corruptly or offer themselves to receive gifts or hospitality to feed this criminality bring the Council and their colleagues in to disrepute.

5. What do I do if I suspect fraud, bribery or corruption?

- 5.1 The Counter Fraud & Investigation Directorate (CFID) is responsible for dealing with any cases of suspected criminality described in this policy, **not the police**.
- 5.2 It is the responsibility of everyone working here to look for and report any possible fraud taking place. You **do not** have to speak to a manager before reporting your suspicions.
- 5.3 If you see any of the suspicious activity linked to fraud **you should**:
- △ Not tell the person that you have any suspicions about them
 - △ Take copies of any records that could help to a secure location
 - △ Telephone a member of the CFID team right away on **03000 999111 (24/7)**
 - △ Follow the instructions given by the CFID team.

6. What does the Council do with cases of suspected fraud?

- 6.1 The Council has a dedicated team of professionally trained and accredited investigation officers who fully investigate instances of suspected fraud. The CFID team work around the clock, anywhere in the UK, utilising powers to arrest persons, search their premises and seize their assets to take back what the Council has lost.
- 6.2 In cases where there may be a proven case of fraud the Council's Legal Services has dedicated Criminal Prosecutors who apply the Code for Crown Prosecutors. This code is used by a lawyer to decide, independently, whether:
- there is sufficient evidence of a crime
 - it is in the public interest to prosecute those responsible.

Did you know?

Since 2014, the Council has recovered £552k from fraudsters.

- 6.3 CFID also has a dedicated Criminal Finances Unit that is accredited by the National Crime Agency to present cases to a Judge where necessary to obtain consent to pursue actions requiring that approval, and confiscate any criminal proceeds.
- 6.4 The Council will always publicise cases of proven fraud in the media to act as a deterrent and encourage people to come forward to report fraud.
- 6.5 CFID share all the allegations they have received and the work that they have done to investigate those allegations with the Executive Director (Finance & Resources) and the Head of Internal Audit on a monthly basis.

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7. Whistleblowing

- 7.1 The Council is committed to providing the highest quality service to our residents, businesses and visitors to Southend-on-Sea. Maintaining the full trust and confidence in the way the Council manages our services and resources is essential. Our priority is making sure those in need and vulnerable are provided for safely, effectively and in accordance with best practice.
- 7.2 The Council's Whistleblowing Policy is intended to encourage and enable workers to raise serious concerns. Council workers reporting concerns this way are afforded certain rights and protection through legislation enacted under the Public Interest Disclosure Act 1998.
- 7.3 Workers who report concerns will be supported and protected from reprisals. Everything possible will be done to protect their confidentiality. They will be advised of the action that has been taken by the person to whom they reported their concerns.
- 7.4 Management are responsible for reporting all allegations received from whistleblowing under the confidential reporting code to the Monitoring Officer. The Monitoring Officer will refer the allegations relating to suspected fraud, money laundering, bribery and corruption to the Counter Fraud & Investigation Directorate for investigation. All such cases should be recorded in a register maintained by the Monitoring Officer.
- 7.5 CFID will deal with the matter promptly, efficiently and in accordance with the law, involving such outside agencies as appropriate (including the police). Where a service provider employee is involved, the supplier will be informed where appropriate in liaison with the Executive Director (Finance & Resources) and CFID.

8. Information Sharing

- 8.1 As a responsible data controller, the Council always ensures that personal data we hold is safeguarded in accordance with the Data Protection Act 2018 and the General Data Protection Regulation.
- 8.2 The Council will use data to ensure that we are protected from any cases of suspected fraud, bribery or corruption as well as money laundering and identify those involved.
- 8.3 Any workers contacted by the CFID, Internal Audit or Legal Services as part of a criminal investigation must provide any Council data held in any form (paper or electronically). Council workers must not tell anyone that they have been asked for any material for an investigation, unless permitted to by the CFID, Internal Audit or Legal Services.
- 8.4 Any concerns workers may have about releasing information should be directed to the Assistant Director for Fraud & Investigation, Head of Internal Audit, Strategic Director (Finance & Resources) or Strategic Director (Legal & Democratic Services).

9. Monitoring Delivery

- 9.1 The CFID leads the Council's fight against fraud and economic crime, including bribery and corruption. The team reports quarterly to the Council's Corporate Management Team and Audit Committee on its work to tackle the problem and its performance in delivering this Strategy.

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Appendix 1: Roles & Responsibilities

Expected Behaviour

The Council requires all staff and Councillors to act honestly and with integrity at all times and to safeguard the resources for which they are responsible. Fraud is an ever-present threat to these resources and hence must be a concern to all staff and Councillors. The purpose of this statement is to set out specific responsibilities with regard to the prevention of fraud.

Section 151 Officer (Executive Director (Finance & Resources)) is responsible for:

- Proper administration of the authority's financial affairs
- Reporting to Councillors and External Audit if the Council, or one of its representatives makes, or is about to make, a decision which is unlawful, or involves illegal expenditure or potential financial loss (Local Government Finance Act 1988 s.114)

Monitoring Officer is responsible for:

- Reporting on contraventions or likely contraventions of any enactment or rule of law
- Report on any maladministration or injustice where the Ombudsman has carried out an investigation
- Receiving copies of whistleblowing allegations of misconduct
- Promoting and maintaining high standards of conduct through and with the support of the Standards Committee
- Advice on vires (legality) issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Councillors

Managers are responsible for:

- Maintaining internal control systems and ensuring that the authority's resources and activities are properly applied in the manner intended
- Identifying the risks to which systems and procedures are exposed
- Developing and maintaining effective controls to prevent and detect fraud
- Ensuring that controls are being complied with, including making sure their staff are performing well and meeting council policies and procedures.

Individual members of staff are responsible for:

- Their own conduct and for contributing towards the safeguarding of corporate standards (including declarations of interest, gifts & hospitality, private working, whistleblowing etc.)
- Acting with propriety in the use of official resources and in the handling and use of corporate funds, such as when dealing with contractors and suppliers
- Reporting details immediately to the Counter Fraud & Investigation Directorate if they suspect that a fraud, theft, bribery, corruption or money laundering has been committed, or see any suspicious acts or events

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Internal Audit is responsible for:

- The independent appraisal of control systems
- Reporting to the Corporate Management Team and the Audit Committee on the council's governance framework
- The implementation of an annual audit plan to include identification of fraud risks to the Counter Fraud & Investigation Directorate

Counter Fraud & Investigation Directorate is responsible for:

- The investigation into allegations of any money laundering, fraud, bribery, theft, corruption and related offences committed against the authority
- Reporting of persons for consideration of prosecution (or the application of an alternative sanction)
- All action under the Proceeds of Crime Act 2002 and Criminal Justice Act 1988 in respect of financial investigation, restraint, detention, forfeiture and confiscation
- The co-ordination of participation in the National Fraud Initiative (NFI)
- Providing Counter-Fraud, Money Laundering, Theft, Bribery & Corruption Awareness
- Taking redress from offenders under criminal and civil law
- Referring any matters to & receiving information and intelligence from all law enforcement agencies (Police, HMRC, Home Office etc) where appropriate.

External Audit has specific responsibilities for:

- Reviewing the stewardship of public money
- Considering whether the Council has adequate arrangements in place to prevent fraud and corruption
- Signing off the annual accounts of the authority

Councillors are each responsible for:

- Their own conduct
- Contributing towards the safeguarding of corporate standards, as detailed in the Members' Code of Conduct

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Appendix 2: Key Contacts

Contact	Details
Counter Fraud & Investigation Directorate	9 th Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN Tel: 03000 999 111 E-mail: counterfraud@southend.gov.uk Web: southend.gov.uk/fraud
David Kleinberg Assistant Director for Fraud & Investigation	Tel: 03000 999 111 E-mail: davidkleinberg@southend.gov.uk
Joe Chesterton Strategic Director (Finance & Resources) <i>(s.151 Chief Finance Officer)</i>	10 th Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN Tel: 01702 215200 E-mail: joechesterton@southend.gov.uk
John Williams Strategic Director (Legal and Democratic Services) <i>(Monitoring Officer)</i>	2 nd Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN Tel: 01702 215102 E-mail: johnwilliams@southend.gov.uk
Andrew Barnes Head of Internal Audit	9 th Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN Tel: 07827 348375 E-mail: andrewbarnes@southend.gov.uk
Protect <i>(Independent charity for whistleblowing, providing free independent legal advice)</i> 	CAN Mezzanine, 7-14 Great Dover Street, London SE1 4YR Tel: 020 3117 2520 E-mail: whistle@protect-advice.org.uk Web: pcaw.org.uk

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Appendix 3: Fraud Legislation

1 Fraud

1.1 The Fraud Act 2006 introduced the first statutory definition of fraud whereby:

“A person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence).

Fraud can be committed by:

- a) section 2 (Fraud by False Representation),*
- b) section 3 (Fraud by Failing to Disclose Information), and*
- c) section 4 (Fraud by Abuse of Position). “*

Fraud by false representation

A fraud will be committed if a person dishonestly makes a false representation and when doing so intends to make a gain or cause loss (or a risk of loss) to another.

Fraud by failing to disclose information

A fraud will be committed if a person dishonestly fails to disclose information where there is a legal obligation to do so and when doing so intends to make a gain or cause loss (or a risk of loss) to another.

Fraud by abuse of position

A person will commit fraud if he occupies a position in which he is expected to safeguard, or not act against, the financial interests of another person and he dishonestly abuses that position; and in doing so intends to make a gain or cause loss (or a risk of loss) to another.

2 Theft, Burglary and Robbery

2.1 A person is guilty of **theft** if they dishonestly appropriate property, belonging to another, with the intention of permanently depriving the other of it.

2.2 Theft includes where someone takes something “and uses it as their own”.

2.3 A person is guilty of **robbery** if they steal, and immediately before or at the time of doing so, and in order to do so, they use force on any person or put or seek to put any person in fear of being then and there subjected to force.

2.4 A person is guilty of **burglary** if they enter any building or part of a building as a trespasser and with intent to steal anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm; or having entered any building or part of a building as a trespasser they steal or attempt to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

1 Bribery

- 1.1 A bribe is “a financial or other advantage that is offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of such an advantage would constitute the improper performance of such a function or activity.”
- 1.2 The types of offending relating to bribery are:
- 1.2.1 **Bribery:** Giving or receiving something of value to influence a transaction dishonestly makes a false representation.
 - 1.2.2 **Illegal gratuity:** Giving or receiving something of value after a transaction is completed, in acknowledgment of some influence over the transaction.
 - 1.2.3 **Extortion:** Demanding a sum of money (or goods) with a threat of harm (physical or business) if demands are not met.
 - 1.2.4 **Conflict of interest:** Where a worker has an economic or personal interest in a transaction.
 - 1.2.5 **Kickback:** A portion of the value of the contract demanded / provided as a bribe by an official for securing the contract.
- 1.3 The Bribery Act 2010, which came into force on 1st July 2011, introduced four primary offences in a single piece of legislation with all previous statutes being repealed.
- 1.3.1 Section 1: Offences of bribing another person, where:
 - (a) a person offers, promises or gives a financial or other advantage to another person, and
 - (b) intends the advantage to:
 - (i) induce a person to perform improperly a relevant function or activity, or
 - (ii) reward a person for the improper performance of such a function or activity.
 - 1.3.2 Section 2: Offence relating to being bribed.
 - 1.3.3 Section 6: Bribery of foreign public officials.
 - 1.3.4 Section 7: Failure by a commercial organisation to prevent bribery.
- 1.4 Under the Bribery Act, an organisation has a defence if it can show that it has adequate bribery prevention procedures in place. The Ministry of Justice guidance¹ on the Bribery Act 2010, explains what needs to be in place to rely on this defence:
- 1.4.1 **Proportionality:** An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.
 - 1.4.2 **Top Level Commitment:** Those at the top of an organisation are in the best position to ensure their organisation conducts business without bribery. We want to show that we have been active in making sure that our staff (including

¹ <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-quick-start-guide.pdf>

any middle management) and the key people who do business with us and for us understand that we do not tolerate bribery.

1.4.3 Risk Assessment: The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

1.4.4 Due Diligence: *Knowing exactly who we are dealing with can help to protect our organisation from taking on people who might be less than trustworthy.*

1.4.5 Communication: *Communicating our policies and procedures to staff and to others who will perform services for us enhances awareness and helps to deter bribery by making clear the basis on which our organisation does business.*

1.4.6 Monitoring and Review: *we monitor and review procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.*

1.5 Prior to 2011, under Common Law, a person commits an offence where a person *“Offering, giving or receiving, any undue reward, by or to any person whatsoever in a public office, in order to influence his behaviour in office and incline him to act contrary to the known rules of honesty and integrity.”*

Corruption

1.6 Corruption can be committed in many ways but normally involves *“two or more people entering into a secret agreement.”*

1.7 Indicators showing this type of offending can include the following:

1.7.1 Abnormal cash payments.

1.7.2 Pressure exerted for payments to be made urgently or ahead of schedule.

1.7.3 Private meetings with public contractors or companies hoping to tender for contracts.

1.7.4 Lavish gifts being offered or received.

1.7.5 An individual who never takes time off even if ill, or holidays, or insists on dealing with specific contractors himself or herself.

1.7.6 Making unexpected or illogical decisions accepting projects or contracts.

1.7.7 Abuse of the decision process or delegated powers in specific cases.

1.7.8 Agreeing contracts not favourable to the organisation either because of the terms or the time period.

1.7.9 Unexplained preference for certain contractors during tendering period.

1.7.10 Avoidance of independent checks on the tendering or contracting processes.

1.7.11 The Council's or its suppliers / partner's procedures or guidelines not being followed.

- 1.8 The Local Government Act 1972 requires under section 117(2) that employees must disclose any personal interest in contracts that have been, or are proposed to be, entered into by the Council. Failure to do so is a criminal offence.



FRAUD AFFECTS COUNCILS TOO

Have you seen anything suspicious?

- Unusual applications for council services
- Suspicious identity documents or transactions
- Suppliers not delivering what we pay for

If you suspect it, report it.

Call in confidence on **03000 999 111** or
visit **southend.gov.uk/fraud**

