

Audit Committee – 26 September 2011

Anti Fraud & Corruption Arrangements

Summary of report:

This report presents for information and endorsement, the recently refreshed anti fraud and corruption policy and strategy, including response plan.

Background papers:

Anti fraud and corruption policy and strategy, including response plan.

Recommendation:

1. To note the contents of the report; and
2. Endorse the refreshed anti fraud and corruption policy and strategy, including response plan.



Rebecca Neill
Head of Internal Audit
5 September 2011

Background:

One of the main areas of the Audit Committees remit, as agreed by Audit Committee on 20 June 2011, is to consider the effectiveness of the Council's control environment and associated anti-fraud and anti-corruption arrangements.

In order to assist the Audit Committee in fulfilling this requirement, Committee's endorsement of the refreshed anti fraud and corruption policy and strategy is sought. The main proposed change is to reflect within the strategy section of the document, the new Bribery Act 2010 which came into force on 1 July 2011, the implications of which were presented to Audit Committee on 20 June 2011.

Anti Fraud & Corruption Policy & Strategy

The refreshed anti fraud and corruption policy & strategy is detailed at **Appendix 1**. It forms part of a suite of council policies and procedures, to support the organisation's anti fraud and corruption arrangements. These include:

- code of conduct for employees;
- members' code of conduct;
- confidential reporting policy (whistle blowing);
- financial and contract rules; and

- anti fraud & corruption policy & strategy

Once endorsed, the refreshed anti fraud & corruption policy & strategy will be communicated to all staff.

Internal Audit's Anti Fraud & Corruption Work 2011/12

As part of internal audit's programme of work this year, an allocation of internal audit days is in place to support the council's anti fraud and corruption arrangements. For 2011/12, this work includes:

- Development of policies and procedures – this includes this review of the anti fraud and corruption strategy and review of council policies and procedures following the implementation of the Bribery Act 2010.
- Training and awareness – refresh of the anti fraud toolkit; development of an e-enabled learning programme; and delivery of a targeted programme of fraud awareness training to managers.
- Publicity – issue of fraud alerts, including learning identified following notified incidents of fraud / corruption;
- Fraud risk management, including identifying key fraud risks and matching these against internal audit's planned programme of work or undertaking pro active initiatives / projects where appropriate to mitigate identified risks;
- Reactive referrals / investigations; and
- Data matching and investigations arising – via participation in the Audit Commission's National Fraud Initiative.

Progress against the above will be reported to the Audit Committee as part of internal audit's 6 monthly reporting cycle.

Resource and legal considerations:

It is important that effective systems of internal control are in place for the prevention of fraud and corruption. Where fraud or corruption is detected, robust action is always taken against the perpetrators. There is provision within the approved internal audit plan to undertake irregularity work reported to and identified by the internal audit service.

Governance Issues / Citizen Impact:

Internal audits work is intended to ensure that effective systems of internal control are in place, including those in relation to the introduction of new, or revisions to existing, systems/processes and for the prompt and vigorous investigation of potential irregularities reported to the service. This demonstrates the serious manner in which the council takes its responsibilities in ensuring effective control arrangements are in place and in dealing with reported allegations of fraud and corruption. This also offers protection to the council and its officers and provides an assurance to stakeholders and citizens regarding the security of our operations.

Performance and risk management issues:

Many audit committee activities are an important and integral part of the council's performance management and corporate governance frameworks. The internal audit

strategic plan is risk assessed to ensure that areas most at risk are examined as a priority and includes an allocation of time to undertake unplanned irregularity and consultancy work.

Irregularities may be noted during regularity audit reviews or be reported from a number of sources, including council managers, employees, occasionally via the confidential reporting policy (whistle blowing), and externally. Irrespective of how the allegations are reported, however, each will be subject to investigation. Some result in little investigatory time having to be spent, others can take longer. Relevant action, where found to be appropriate, will always be taken, i.e. disciplinary, court proceedings, police referral and recovery of losses.

Equality Implications:

None arising from this report.

Consultation:

The policy, strategy and response plan documents were last endorsed by Audit Committee in December 2006.

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ANTI FRAUD / ANTI CORRUPTION POLICY & STRATEGY

1 Anti Fraud and Anti Corruption Policy Statement

- 1.1 Walsall Council acknowledges its responsibility for the proper administration of public funds and wishes to emphasise to both the public and its employees the importance it places on probity, financial control and honest administration. The council's arrangements for the prevention and detection of fraud and corruption will continue to be kept under constant review and suspected irregularities will be vigorously pursued and all appropriate action taken.
- 1.2 The council's financial and contract rules include reference to the stance on fraud and corruption. This is further reflected within the 'Code of Conduct for Employees' thereby setting out the council's commitment to honest administration and the standards expected of employees in this area.

2 Anti Fraud and Anti Corruption Strategy Statement

- 2.1 The purpose of this strategy document is to make clear to members, employees, stakeholders and the general public, the council's approach to fraud and corruption in the administration of its affairs. The council's position in these matters will thereby be known to all concerned and will result in no ambiguity in the approach that will be adopted in having to deal with matters of this nature.
- 2.2 Therefore, in administering its responsibilities the council is committed to an effective anti fraud and anti corruption strategy designed to:
- encourage prevention;
 - promote detection;
 - identify a clear pathway for investigation.
- 2.3 There are internal and external threats from fraud and corruption. The council's expectation is that members and employees at all levels will lead by example to ensure high standards of propriety and accountability are established and adhered to and that personal conduct is beyond reproach at all times.
- 2.4 All individuals and organisations coming into contact with the council, particularly those who are provided with financial support, are expected to act towards the council at all times with integrity and without fraudulent or corrupt intent.
- 2.5 The Anti Fraud and Anti Corruption Strategy is based on a series of comprehensive and inter-related procedures designed to frustrate any attempted fraudulent or corrupt act and covers the following:
- Culture (Section 3)
 - Prevention (Section 4)

- Detection and Investigation (Section 5)
- Training (Section 6)

2.6 The council is also aware of the high degree of external scrutiny of its affairs by a variety of bodies including:

- Local tax payers
- Service users
- Business community
- External Audit
- Government departments and inspectorates
- Local Government Ombudsman
- H M Revenue and Customs

2.7 A fraud and corruption response plan is attached at **Appendix 1** to ensure that senior managers adopt a consistent approach in their actions on being notified or becoming aware of a suspected fraud.

3 CULTURE

3.1 The Audit Committee provide an independent and objective overview of internal control through its responsibilities for:

- considering the effectiveness of the council's control environment and associated anti-fraud and anti-corruption arrangements;
- reviewing the effectiveness of key control strategies including; risk management, the local code of governance, arrangements for delivering value for money, anti-fraud arrangements and anti-corruption; and
- being satisfied that the council's assurance statements, including the annual governance statement properly reflect the risk environment and any actions to improve it.

3.2 The anti fraud and anti corruption policy statement set out in section 1 describes the policy on probity, financial control and honest administration and the commitment to the fight against fraud, whether perpetrated by members, employees, contractors or the public. Reference to this stance is included within financial and contract rules and is also reflected within the code of conduct for employees. The council is thereby stressing that it will deal with such matters seriously and take all necessary action, both to prevent such occurrences and to detect and deal with identified cases.

3.3 The council expects that employees support this approach by reporting matters of genuine concern to their assistant directors, senior managers or supervisors as set out in section 13 of the code of conduct for employees. It is acknowledged that employees may find some difficulty in reporting a concern about a financial irregularity particularly when there may have been fraudulent or corrupt action. The council, however, can assure employees raising such concerns that they will be fully supported, they will have nothing to fear from reprisals and that there will be no adverse impact on their personal situation. Where anonymity is requested every effort will be made to guarantee such confidentiality.

- 3.4 The reporting of concerns by members of the public is also encouraged by publishing appropriate telephone numbers in the telephone directory and by ensuring that the council, particularly internal audit, is seen to be both accessible and responsive. This requires a positive reaction to all expressions of concern including those which are anonymous. As with employees, requests for confidential treatment will be honoured.
- 3.5 Executive directors, assistant directors and senior managers are responsible for ensuring that any allegation or instance of irregularity, fraud or corruption notified to them are immediately reported to the head of internal audit who will then arrange, through clearly defined procedures to:
- deal promptly with the matter;
 - record all evidence received;
 - ensure evidence is both sound and adequately supported;
 - ensure the security of all evidence collected;
 - notify as appropriate, the chief executive, the relevant executive director(s) and the assistant director or senior manager(s);
 - liaise with the Police, if necessary;
 - assist the assistant director or senior manager in progressing disciplinary procedures as appropriate.
- 3.6 The council will deal quickly and thoroughly with any employee, contractor, supplier or other person(s) so engaged who attempt a fraudulent or corrupt act against the council and will be robust in dealing with any malpractice, financial or otherwise.

4 PREVENTION

Employees

- 4.1 The council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff in terms of their propriety and integrity. Employee recruitment must, therefore, be in accordance with procedures detailed within the 'recruitment and employment selection good practice manual'. In particular written references should be obtained regarding the known honesty and integrity of potential employees before employment offers are made, together with evidence of their right of entitlement to work in the UK.
- 4.2 Appropriate Criminal Record Bureau ('Police') checks should be completed before any formal job offer is made.
- 4.3 Council employees are expected to follow the code of conduct for employees and any code related to their personal professional qualifications. The role that employees are expected to play in the internal control framework will be featured in employee induction procedures and continuing training programmes.
- 4.4 All employees will be bound by the requirements of the code of conduct for employees and will be required to declare within their service area 'register of interests', any interest in contracts and any other matters or association with any council activity which could cause potential conflict.

Members

- 4.5 Members are required to adhere to the National Code of Conduct and to any other members' code introduced locally to supplement the national guidance. As part of the compliance with these codes members will be required to declare each year and where circumstances so dictate, relevant interests in contracts and other matters which will be recorded in the register maintained for this purpose by the head of legal and democratic services.

Gifts and Hospitality

- 4.6 All council members and employees are required to refuse any offers of gifts or hospitality which are in any way related to the performance of their official council duties. All such offers made to employees should be recorded in the appropriate gifts and hospitality register. In some instances it may be to the benefit of the council to accept the hospitality of outside agencies. This will be a decision for the member involved or in the case of employees, the appropriate assistant director, or senior manager. The decision however, together with the reason for the meeting and the hospitality given must be fully recognised and recorded. All members and employees will ensure they act within the law and be mindful of the Bribery Act 2010, which came into force on 1 July 2011 and sets out the offences of:
- offering a bribe;
 - being bribed; and
 - a corporate offence of failure to prevent bribery.

Systems

- 4.7 The council regularly reviews its financial and contract rules and codes of conduct. These documents place a duty on members and employees to act in accordance with established best practice when dealing with the affairs of the council.
- 4.8 Significant emphasis has been placed on the thorough documentation of financial systems and every effort is made to continually review and develop these systems in line with best practice, including systems thinking techniques, to ensure efficient and effective internal controls. The adequacy and appropriateness of the council's financial and other systems is independently monitored by both internal and external audit. Senior management places great emphasis on being responsive to agreed audit report recommendations / actions.

5 DETECTION AND INVESTIGATION

- 5.1 The array of preventative systems, particularly internal control systems, within the council has been designed to provide indicators of any fraudulent activity and thereby also to act as a deterrent.

- 5.2 Internal audit and the benefits investigation team will also undertake specific tests or initiatives to detect fraud. Examples include:
- data matching both internally and with the Audit Commission locally and nationally (National Fraud Initiative), to match data across different financial and other systems to detect fraud;
 - seeking information from the National Anti Fraud Network (NAFN).
- 5.3 It is often the alertness of staff and the public to indicators of fraud that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may be in progress.
- 5.4 As indicated in section 3, employees are expected to support this policy by reporting matters of genuine concern to their managers or supervisors. If employees prefer to raise concerns other than with line management, alternative routes are available, including:
- internal audit; the head of internal audit (☎ 01922 652831) or other officers within internal audit (see internal telephone directory for relevant extensions), are always available to receive notifications of concern and investigate accordingly
 - the chief executive
 - other executive director(s)
 - the external auditor
 - the Police
 - on line reporting: a form is available on the internet and intranet to enable concerns to be reported in a secure and confidential manner.
- 5.5 Abuse of the process by raising malicious, unfounded allegations will be treated as a serious disciplinary matter. Employees however, should not be deterred from raising genuine concerns and in so doing they will be supported in every possible way.
- 5.6 Despite the best efforts of assistant directors, senior managers and auditors, inevitably a number of frauds are discovered by chance or tip off and the council has arrangements in place to enable appropriate action to be taken in such instances.
- 5.7 Dependent upon the nature and anticipated extent of the allegations, internal audit will normally work with management and other agencies such as the Police to ensure that all allegations and evidence are properly investigated and reported upon with appropriate maximum recoveries being made to the council.
- 5.8 Assistant directors and senior managers will be expected to implement the council's disciplinary procedures where the outcome of the audit or other investigation indicates improper conduct on the part of employees.
- 5.9 The council will expect the Police to independently take action to prosecute offenders where financial impropriety is discovered. Referral to the Police will not prohibit action under the disciplinary procedures.

6 TRAINING

- 6.1 The council recognises that the continuing success of its anti fraud and anti corruption strategy and its general credibility will depend largely on the effectiveness of training and the responsiveness of employees throughout the organisation.
- 6.2 To facilitate this the council supports the concept of induction and on going training and development, particularly for employees involved in internal control systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced.
- 6.3 There is the possibility of disciplinary action against staff that ignore such job related training and instructional guidance.
- 6.4 Investigation of fraud and corruption centres on the internal audit service. It is therefore apparent that staff involved in this work should also be properly and regularly trained in all aspects of it. The training plans of audit staff reflect this requirement.

7 CONCLUSION

- 7.1 The council has in place a clear network of systems, procedures and controls to assist in the fight against fraud and corruption in all of its activities. It is determined that these arrangements will keep pace with future developments in both preventative and detection techniques.
- 7.2 A continuous overview of such arrangements takes place through, in particular:
- the Audit Committee, whose remit includes considering the effectiveness of the council's control environment and associated anti-fraud and anti-corruption arrangements;
 - the executive director - resources, who has overall responsibility for the directorate including finance, legal, constitutional, business change, human resources and development (HRD) and communication services;
 - the assistant director – finance who has overall responsibility for the council's financial affairs under Section 151 of the Local Government Act 1972, and Section 114 of the Local Government Finance Act 1988;
 - the internal audit service, discharging the internal audit responsibilities detailed within financial and contract rules, section 6 of the Accounts and Audit Regulations 2003 as amended by the 2006 and 2011 regulations and in compliance with the CIPFA Code of Practice for Internal Audit in Local Government in the UK 2006; and
 - the external auditor.

Updated September 2011

**WALSALL COUNCIL
FRAUD AND CORRUPTION RESPONSE PLAN****APPENDIX 1****1 INTRODUCTION**

The council is committed to the values of probity and accountability, but the determined perpetrator will often attempt to find a way around systems and controls. It is therefore, necessary for all assistant directors and senior managers to be aware of what is required in the event of being notified of or discovering a suspected fraud. This document sets out the process, identifies the procedure for employees who wish to notify any suspicions and indicates how employees should respond.

2 NOTIFICATION OF A SUSPECTED FRAUD

2.1 Suspected fraud can be discovered in a number of ways but in all cases it is important that employees feel able to report their concerns and are also aware of the means by which they are able to do so. The council has several means available to employees:

2.1.1 Line Management

If an employee discovers or becomes aware of suspected fraud or corruption then this should immediately be reported to the head of internal audit. Should the employee report the suspected fraud or corruption to their line manager, senior manager or assistant director, they in turn should immediately pass on the information obtained from the employee to the head of internal audit who will consult with the chief executive or executive director as appropriate.

In some cases the notifying employee may prefer to report the suspicion to one of those persons shown at paragraph 5.4 of the main policy.

2.1.2 Internal Audit

Although the primary role of internal audit is to provide an opinion as to the extent of assurance that can be placed on the adequacy of systems, procedures and controls within the council (the internal control environment), they are also charged with the responsibility for investigating cases of suspected fraud and corruption. Internal audit has many years experience in fraud investigation and the head of internal audit and his/her officers will always be receptive to discussing concerns raised by employees or the general public. In each case where anonymity is requested however, this will be scrupulously observed as far as they are able.

2.1.3 Other Avenues

If other methods of notification within the council are preferred then the chief executive or other executive director(s) can be contacted. Where this involves suspected irregularity, fraud or corruption, these officers should immediately report the matter to the head of internal audit.

2.2 Notification Procedure

2.2.1 For reporting purposes, the normal sequence of events where any financial irregularity is suspected, is as follows:

- the employee to inform the head of internal audit immediately they become aware of or suspects that financial irregularity has occurred or is likely to occur;
- the employee informs their line / senior manager or assistant director whenever they suspect that financial irregularity has occurred or is likely to occur;
- the assistant director or senior manager / line manager must immediately inform the head of internal audit of the reported information. Where appropriate, the head of internal audit will notify the chief executive and relevant executive director(s) of initial findings;
- should the employee prefer, he/she can inform the chief executive or executive director of the suspected irregularity or fraud as shown in paragraph 5.4 of the policy. These officers must then immediately inform the head of internal audit of the reported information.
- the employee may use the on line notification form held on the internal audit intranet page;
- where there is evidence to suggest that a criminal offence may have been committed, the head of internal audit, following consultation with the chief executive in appropriate cases, will inform the Police;
- the matter will then proceed in accordance with the disciplinary procedure.

3 INTERNAL AUDIT INVESTIGATION OF A SUSPECTED FRAUD

3.1 Initial Stages

3.1.1 Once fraud is suspected it is critical that any investigation is conducted in a professional manner aimed at ensuring that the current and future interests of both the council and the individual(s) are protected. The latter is equally important as a suspicion should not be seen as guilt to be proved.

3.1.2 It is also crucial that the notifying employee does not feel threatened. The council undertakes to protect the identity of such employees and not to release the source of notification at any time during the investigation.

3.1.3 For each notified suspicion where the disciplinary procedure is invoked, an 'investigating officer' will be appointed to be in charge of the investigation on a day to day basis. This will usually be an assistant director / senior manager who will be assisted by the head of internal audit or a senior audit officer.

3.2 Rights Accorded to Internal Audit

To facilitate the investigation of fraud (as well as normal audit work), the head of internal audit and his/her authorised representatives, are able to:

- access council premises at reasonable times;

- have access to all assets, records, documents, correspondence and control systems;
- receive any information and explanation considered necessary concerning any matter under examination;
- require any employee of the council to account for cash, stores or any other council asset under his/her control;
- access records belonging to third parties such as contractors when required; and
- directly access the head of paid service and the standards committee.

3.3 Subsequent Steps

3.3.1 The head of internal audit in conjunction with the investigating officer must:

- discuss, at an early stage, the initial findings with the assistant director or senior manager, and in consultation with the assistant director or senior manager and head of HRD assess whether there is a need for any employee to be suspended. The decision should be kept under review at all stages of the ensuing investigation;
- identify a course of action (what, who, when, how, and where);
- identify the reporting process (who by, to whom, when and how);

3.3.2 The head of internal audit and investigating officer will each open a file to record chronologically:

- telephone conversations;
- face to face discussions;
- records/documents reviewed;
- tests undertaken and results.

The file should be indexed, all details recorded, no matter how insignificant they initially may appear and ensure the correct form of evidence is obtained and appropriately retained. It should be ensured that any interviews conducted are done so in the correct manner in particular with due regard to the requirements of the Police and Criminal Evidence Act and the disciplinary procedure.

3.3.3 The head of internal audit or his / her representatives will always be available to offer advice and guidance.

4 LIAISON WITH EXTERNAL AUDIT AND THE POLICE

4.1 External Audit

Each local authority is required to report suspected frauds, where the likely loss is estimated to exceed £10,000, to the Audit Commission and this will be arranged by the head of internal audit at an appropriate time.

4.2 Police

- 4.2.1 The experts at investigating fraud and corruption matters are the Police who will also advise on the likely outcome of any intended prosecution. Following consultation with the chief executive as appropriate, the head of internal audit is under a duty to report suspected offences to the Police.
- 4.2.2 The Police welcome early notification of suspected criminal offences and, where appropriate, informal discussion may take place before formal referral, to establish the precise nature of offences and the evidential requirements.
- 4.2.3 If the Police decide that a formal investigation is necessary, all employees must cooperate fully with any subsequent inquiries or recommendations. All contact with the Police following their initial involvement will normally be via the head of internal audit or the investigating officer.
- 4.2.4 Where the Police decide to formally investigate, this will not normally prejudice any internal disciplinary procedures which should wherever possible continue as normal. The internal investigation however, and that of the Police should be co-ordinated to make maximum use of resources and information. At times it may be appropriate to await the outcome of the Police inquiry before concluding any disciplinary action. Care should be taken to ensure that the internal inquiries do not undermine the Police inquiries.
- 4.2.5 Internal audit will take responsibility for preparing any required statements and assembling all evidence and exhibits. Occasionally, witness statements may be required from other parties and internal audit will co-ordinate this with the Police.
- 4.2.6 Internal audit, in conjunction with the appropriate assistant director or senior manager, will ensure a compensation order is incorporated into any criminal prosecution and will also ensure other avenues of recovery such as fidelity guarantee or civil claims are robustly pursued.

5 INTERNAL REPORT

- 5.1 At appropriate intervals, as soon as the initial detection stage has been completed and prior to the final report, the head of internal audit and/or the investigating officer may prepare an interim, confidential report on the progress of the investigation. The report will be to the assistant director or senior manager and the relevant executive director(s). The head of HRD will also be kept up to date in respect of disciplinary issues and, depending upon the nature and extent of the fraud, the chief executive will be kept informed. The interim reporting process will identify the:

- findings to date;
- interim conclusions drawn from those findings;
- action taken to date;
- further actions deemed to be necessary.

6 FINAL REPORT

This report will supersede all other reports and will be the definitive document in which all action taken will be recorded. It will be used by management for disciplinary action purposes unless disciplinary action has been taken on the basis of an interim report. It will also be used to identify any system weaknesses which facilitated the fraud and make recommendation(s) for improvement. The format of the report will not always be the same but will always include the following basic information:

- how the investigation arose;
- the personnel involved;
- their position and responsibilities in the council;
- the facts and evidence identified;
- the financial implications including losses and recoveries;
- a summary of the findings and agreed actions, both regarding the fraud itself and additional work to address the system weaknesses identified during the investigation.

7 PORTFOLIO HOLDER / AUDIT COMMITTEE INVOLVEMENT

- 7.1 Using the reports identified in the preceding section, a summary report may be submitted to the appropriate portfolio holder identifying salient features of the investigation, the findings, action taken and lessons learned.
- 7.2 The internal audit 6 monthly monitoring report to the Audit Committee will provide a summary of all suspected irregularities investigated.

Updated September 2011