



**HYNDBURN**

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# Anti-Fraud & Corruption and Bribery Policy

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Policy and Guidance Document

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## **POLICY STATEMENT**

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Hyndburn Borough Council is committed to ensuring that quality services are developed and delivered for the benefit of the Community of Hyndburn.

To assist in this goal, the Council will take all necessary steps to ensure that the public's assets and interests are protected. The public is entitled to expect conduct of the highest standards from members and employees of the Council. The Council therefore recognises the need for the highest standards of probity in dealing with public money and expects its members and employees to demonstrate the highest standards of integrity at all times.

The Council will:-

- promote a fair, equitable and honest approach to service delivery with those providing and receiving those services;
- actively seek out instances of fraudulent and corrupt practices and pursue the perpetrators to the full extent of the Law;
- encourage people with concerns about potential fraud & corruption to inform the Council of their suspicions;
- treat complaints of potential fraud & corruption or bribery fairly and equitably; and
- regularly review its own procedures to ensure they offer effective protection of the Council's interests and reputation.

The Council expects that individuals and organisations (e.g. suppliers, contractors and service providers) that it deals with will act with integrity and without thought or actions involving fraud & corruption or bribery. Where relevant, the Council will include appropriate clauses in its contracts about the consequences of fraud & corruption or bribery and evidence of such acts are most likely to lead to the termination of the particular contract and may lead to prosecution.

## **AIMS OF THE POLICY**

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In order to achieve the aims in the policy it is necessary to develop a robust approach on fraud & corruption or bribery and how the Council will react to it. This will encourage an anti-fraud culture throughout the authority. This policy sets out the various measures that have been put in place to combat fraud & corruption and bribery.

This policy should also be read in conjunction with the Council's Criminal Facilitation of Tax Evasion (CFTE) Policy. Bribery is often something which can be associated with Fraud & Corruption.

Fraud & corruption or bribery cannot be dealt with in isolation and the Council will work with the police and other external agencies in order to investigate and prosecute cases of fraud or corruption and bribery.

Fraud and corruption can be defined as follows: -

- **FRAUD** is the intentional distortion of financial statements or other records by persons internal or external to the organisation which is carried out to conceal the misappropriation of assets or otherwise for gain.
- **CORRUPTION** is the offering, giving, soliciting or acceptance of an inducement or reward that may improperly influence the action of any person.

This Policy applies to elected members, co-opted members of committees and all officers (full time, part time, temporary and casual) who work for the Council. The term 'officer' includes all types of employees of the Council.

## **BRIBERY**

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As part of the culture of Anti-Fraud & Corruption it is necessary to consider the implications of bribery as this is closely linked to the pursuit of a culture which is against both Fraud and Corruption. Bribery falls within the Bribery Act 2010.

Bribery applies to all employees, whether permanent, temporary, agency, fixed term contracts, paid or unpaid. It also applies to all elected Members and to all contractors, organisations who do business with the Council and partner agencies/organisations. The general public can also be included especially where they attempt to bribe a Council employee or Elected Member.

It is necessary to be aware of how, when and what constitutes bribery. The 2 sections of the Bribery Act 2010 shown below detail some key points and potential offences that could arise:-

### **SECTION 1 – OFFENCES OF BRIBING ANOTHER PERSON**

Someone who offers, promises or gives financial or another advantage to another and intends the advantage to:

- i.) induce a person to perform improperly a relevant function or activity or
- ii.) rewards a person for such improper performance of such function or activity

## **SECTION 2 – OFFENCES RELATING TO BEING BRIBED**

Someone who agrees to or accepts a financial or other advantage intending that as a consequence, a relevant function or activity should be performed improperly.

In both sections 1 and 2 the offence still occurs even if the person who performs the improper function or activity is not the person who received the bribe. This could occur if a senior officer was the person who was bribed and then they instructed a more junior member of staff to carry out a function or activity in a specific way which was in connection with the bribe. The junior member of staff could also commit an offence if it can be proven they knew what they were doing was wrong.

Allegations of bribery are treated very seriously by the Council and will be investigated and dealt with in accordance with Council policies and where evidence exists in accordance with the relevant legislation applicable at that time.

### **What to do if you suspect bribery**

If you believe that bribery is or has taken place **DO NOT** try investigating the issue yourself as your actions could result in the collapse of a case and could also result in you getting into trouble.

#### **Employees:-**

If you work for the council then you should immediately inform any of the people listed in the “Raising Concerns” section of this Policy on page 11.

#### **Elected Members:-**

If you are an Elected Member you should immediately inform the Monitoring Officer, who is also the Executive Director (Legal & Democratic Services) on 01254 380146. If the Monitoring Officer is not available then you should contact one of the other people listed in the “Raising Concerns” section of this Policy on page 11.

#### **Contractors / Partners / Members of the Public:-**

If you are a contractor, partner organisation with the Council or a Member of the Public **DO NOT** try and investigate the issue yourself. Please contact one of the people listed in the “Raising Concerns” section of this Policy on page 11.

## CORPORATE FRAMEWORK

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The Corporate Framework supports Anti-Fraud & Corruption through a whole range of high level component parts, some of the key ones include: -

- Anti-Fraud & Corruption and Bribery Policy that emphasises the importance of probity to all concerned
- Criminal Facilitation of Tax Evasion (CFTE) Policy
- Codes of conduct for Members and Officers
- Whistleblowing Policy
- Anti-Money Laundering & Proceeds of Crime Policy
- Complaints Procedure
- Council Constitution & associated rules and regulations
- Sound internal control systems, procedures and reliable records
- Effective internal audit
- Effective recruitment procedures
- Council's Disciplinary Procedure
- Induction and training
- IT Security Policy
- Gifts & Hospitality Registers for Officers and Members ➤ Members Register of Interests

## PREVENTION & DETERRENCE

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Within the overall Corporate Framework there are a number of key people and measures which can help in the prevention of fraud and corruption:-

- Officers of the Council
- Members
- Internal Control Systems
- Combining with others to prevent and fight fraud

### Officers of the Council

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 officers, in terms of their propriety and integrity. In this regard, temporary staff should be treated in the same manner as permanent officers.

Written references should be obtained with specific assurances regarding the known honesty and integrity of potential officers before formal employment offers are made.

All officers must abide by the Council's Code of Conduct for Employees, which sets out the Council's requirement on personal conduct. This Code is issued with the Employee Handbook and is referred to in all Contracts of Employment. Officers of the Council are expected to follow any code of conduct related to their personal Professional Institute or other governing body, where the employee is a member of such an Institute.

Breaches of the Code of Conduct are likely to be subject to the Council's Disciplinary Procedures and may result in dismissal.

The Executive Director (Legal & Democratic Services) is the appointed Monitoring Officer and in that capacity has overall responsibility for the maintenance and operation of the Authority's Whistleblowing policy.

## **Members**

Members are required to operate within:-

- The Council's Code of Conduct for Members
- The Council's Member / Officer Relations Protocol (also applies to Officers)
- The Council's codes of conduct for the Planning Committee and Judicial Committee
- Sections 94-96 of the Local Government Act 1972
- The Council's Constitution (also applies to Officers)

These matters together with other guidance are brought to the attention of members as part of their induction programme. Specific training is given at the annual induction day and at annual code of conduct training sessions.

The Council has in place a Standards Committee, which promotes and maintains high standards of member conduct and assists members to observe the code of conduct.

## **Internal Control Systems**

The Council has a Constitution, which includes various rules and codes of conduct, which require officers to act in accordance with best practice when dealing with the Council's affairs, including:-

- Employee Code of Conduct
- Member / Officer Relations Protocol

## ➤ Anti-Money Laundering & Proceeds of Crime Policy

The Deputy Chief Executive has a statutory responsibility under Section 151 of Local Government Act 1972 to ensure that proper arrangements are made for the Council's financial affairs. This includes: -

- Measures to enable the prevention and detection of inaccuracies and fraud;
- Identification of the duties of officers dealing with financial transactions and the separation of duties of those officers in relation to significant transactions

The latter requirement is a key control in the prevention of impropriety.

The Council's aim is to have sound financial systems and procedures, which incorporate efficient and effective internal controls. As part of this, the 'separation of duties' should be considered as a fundamental control in systems especially where significant transactions are involved.

The Council has an obligation to ensure adequate controls are in place in order to comply with the S.151 responsibilities attributed to the Deputy Chief Executive in accordance with the Local Government Finance Act 1972. The existence, appropriateness, and effectiveness of these internal controls is independently monitored and reported upon by the Council's Internal Audit Section. The Council also has an Audit Committee, which plays a key role in the monitoring of the Council's controls and risks with particular emphasis on the effectiveness of these controls.

## **Combining with Others to Prevent and Fight Fraud**

The Council is committed to exchanging information with other local and national agencies in order to identify and prevent fraud using data matching techniques. Such activity is carried out in full compliance of the Data Protection Act 2018, General Data Protection Regulation (GDPR), Code of Data Matching Practice for National Fraud Initiative Data Matching Exercises as directed by the Local Audit & Accountability Act 2014 and any other such data matching exercises as necessary in accordance with the law / relevant legislation. Any employee found to be perpetrating a fraud on another local or national agency is likely to face disciplinary action where this has implications for the Council's trust and confidence in the employee. In certain cases disciplinary action could lead to dismissal.

With the rapid increase in recent years of frauds perpetrated against a variety of local authorities and benefits agencies, which usually involve fraudsters having multiple identities and addresses or using malicious software / hacked and stolen data to perpetrate a fraud, the necessity for liaison with other organisations has become paramount and some of these include: -

- Police

- External Auditors
- National Fraud Initiative
- National Anti-Fraud Network (NAFN)
- Action Fraud UK (Part of the National Fraud Investigation Bureau operated by City of London Police)
- Department for Work & Pensions
- Other Government agencies and public bodies

There are a number of ways to deter potential fraudsters from committing or attempting fraudulent, bribery or corrupt acts, whether they are inside or outside the Council. These include:-

- Publicising the fact that the Council is firmly set against fraud and corruption and states this at every opportunity e.g. clauses in contracts, statements on benefit claim forms, statements on forms that request personal data, publications etc.;
- Acting robustly and decisively when fraud, bribery and corruption are suspected and proven e.g. termination of contracts, dismissal, prosecution etc.;
- Taking action to effect the maximum recoveries for the Council e.g. through agreement, court action, penalties, insurance etc.;
- Having sound internal control systems that still allow for innovation but at the same time does not provide the opportunity for fraud, bribery and corruption.

## DETECTION & INVESTIGATION

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It is the responsibility of all the Council's Management to prevent and detect fraud, corruption and bribery.

In addition, Internal Audit and External Audit will liaise closely and implement an annual programme of audits that will test for fraud and corruption.

However, despite the best efforts of managers and auditors, many frauds are discovered by chance or "tip off". It is often the alertness of employees and the public that enables detection to occur.

The Council's Anti-Fraud & Corruption and Bribery Policy provides officers and members with a clear path for raising concerns and facilitating "tip offs", and the fraud response arrangements outlined in this Policy, enable such information or allegations to be properly dealt with. The Council's Whistleblowing Policy also gives advice on how to raise a concern and the safeguards and support that are available to those who raise concerns.



Where an officer, Member, contractor or a member of the public has belief that a fraud is or has been committed, or that corruption is or has taken, or that bribery has place then they **MUST NEVER** attempt to investigate the situation no matter how easy it may seem. Such 'unofficial' investigations are likely to render the evidence unusable within the Council's disciplinary procedures or inadmissible in court due to it being gathered outside the procedures laid down by the Police & Criminal Evidence Act 1984 and Regulation of Investigatory Powers Act 2000 if unauthorised directed surveillance has taken place. It could also leave the Council open to criticism and in some cases potential legal proceedings could be made against the Council and / or the person who carried out the 'unofficial' investigation.

Council employees who are authorised to carry out investigations are bound by various Council policies, acts of law and are trained to carry out such investigations.

Senior management are responsible for following up any allegation of fraud, corruption or bribery that they receive and are required to inform the Internal Audit Section of **all** suspected irregularities, irrespective of whether they are ultimately proven. Internal Audit **must** be informed to ensure that procedures and controls can be re-assessed to ensure further similar irregularities should not arise.

The investigating officer will: -

- Deal promptly with the matter
- Record all evidence that has been received
- Ensure that evidence is sound and adequately supported
- Make secure all of the evidence that has been collected
- Carry out internal investigations of the allegation(s) to determine whether there is prime facie evidence of fraud and if so whether this requires the involvement of external agencies as part of that investigation
- Where appropriate, contact other agencies e.g. Police
- When appropriate, arrange for the notification of the Council's insurers
- Report to senior management, and where appropriate, present management with a report to allow consideration of whether to take disciplinary action in accordance with the Council's Disciplinary Policy and procedures
- Seek advice and assistance from Internal Audit and Legal & Democratic Services, also Human Resources if employees are potentially involved

Reporting suspected irregularities is essential to the Anti-Fraud & Corruption and Bribery Policy and ensures:-

- Consistent treatment of information regarding fraud, corruption and bribery
- Proper investigation by an independent and experienced Internal Audit Team or other person(s) authorised to carry out such investigations
- The optimum protection of the Council's interests

Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with management, the Human Resources Section, and Legal Services etc. and if or when necessary other agencies, such as the Police or External Audit. This is to ensure that all allegations and evidence are properly investigated and reported upon, and where appropriate, maximum recoveries are made for the Council.

The Council's disciplinary procedures will be used where the outcome of the Audit Investigation indicates improper behaviour; "reasonable belief" of gross misconduct is sufficient grounds for dismissal, rather than the higher standard of proof as is required in a court of law.

Where financial impropriety is discovered or suspected and the prime facie evidence corroborates such allegations, the Council's policy is that the Police will be called in. The Crown Prosecution Service determines whether or not a prosecution will be pursued. Referral to the Police is a matter for the Head of Audit & Investigations and the relevant Director / Chief Officer.

Various officers will be consulted during investigations and the Chief Executive will be kept informed of referrals to the Police. Referral to the Police may inhibit action under the Council's disciplinary procedure and managers must take advice from Human Resources before taking action under the disciplinary procedure.

The Council's External Auditor also has powers to independently investigate fraud and corruption, and the Council can use these services for this purpose too.

## **RAISING CONCERNS**

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Although the Policy specifically refers to fraud, corruption and bribery, it equally applies to all financial malpractice. Fraud and corruption includes a wide range of irregularities and criminal acts that are financial or finance related. It includes for example: -

- Theft of property, including assets and cash
- False accounting
- Obtaining property by deception
- Pecuniary advantage by deception
- Computer abuse and computer crime
- Bribery and corruption

Officers and Members can be exposed to a number of pressures from contractors, landlords, the public etc. to act in a particular way in a particular case. This may involve pressure to show "favouritism" regarding access to all kinds of services and benefits (e.g.

grants, benefits, gaining contracts, planning permission etc.)

Members and Officers are an important element in the Council's stance on fraud, corruption and bribery, and they are positively encouraged and expected to raise any concerns that they may have on these issues where they are associated with the Council's activity.

Officers should normally raise concerns through their immediate manager, however it is recognised that they might feel inhibited in certain circumstances. In this case, officers should contact: -

<b>David Welsby</b>	Chief Executive	01254 380110 Internal Ext. 2110
<b>Jane Ellis</b>	Executive Director (Legal & Democratic Services) & Monitoring Officer	01254 380146 Internal Ext. 2146
<b>Martin Dyson</b>	Executive Director (Resources) & s151 Officer	01254 380973 Internal Ext. 2973
<b>Mark Beard</b>	Head of Audit & Investigations	01254 380634 Internal Ext. 2634
<b>Daniel Watson</b>	Appointed External Auditor (Mazars LLP)	0161 238 9349

### **Officers**

If Officers have a concern regarding a Member, then this **must** be brought to the attention of the Executive Director (Legal & Democratic Services) in her role as Monitoring Officer.

### **Elected Members**

Members should address their concerns to the Chief Executive or Executive Director (Legal & Democratic Services) in the first instance.

## **Members of the Public & Other Non-Council Organisations**

A member of the public, contractor, representative from any other partnership arrangement, or any other non-Council organisation must bring their concern to one of the 5 nominated officers described in the 'Raising Concerns' section of this policy.

All concerns raised will be treated in confidence, properly investigated and dealt with fairly. However, there is a need to ensure that any investigation process is not misused. For example, any internal abuse such as raising malicious or vexatious allegations is likely to be subject to the Council's disciplinary procedures.

The Council's Whistleblowing policy also gives further guidance on how to raise concerns and it gives details about the support and safeguards that are available to those that do raise concerns.

### **Internal Audit Awareness of any Concerns Raised**

Following a concern being raised the manager or nominated officer / external auditor named above, you **must** make Internal Audit aware of the issue.

If the concern that has been raised is ultimately proven, this may highlight a serious system weakness in a given area or highlight risks that have arisen which have been exploited to allow the Fraud, Corruption or Bribery to occur. By informing Internal Audit, this ensures that the system controls can be checked or the risks can be analysed and steps can be put in place to rectify these issues to ensure that this does not arise again.

## **TRAINING**

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The Council recognises that the continuing success of its Anti-Fraud & Corruption and Bribery Policy and its general credibility will depend largely on the effectiveness of programmed training, communication and responsiveness of officers throughout the organisation.

To facilitate this, the Council supports the concept of full induction, training and follow-up training. This applies particularly to officers involved in internal control systems and financial and finance related systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. This also applies to casual, temporary and agency staff, who may not be aware of the standards of probity that are required in the public sector. Elected Members are supported through induction, training and follow-on

training and are made aware of their roles and responsibilities in particular the need for honesty and probity in all areas that they are involved in.

Officers who work in areas where higher levels of fraud may occur will receive fraud awareness sessions in order to ensure that officers are made aware of any important issues and be given advice on what to look for in order to spot a potential fraud. In addition to this, briefings will also be held with employees who advise the public as to what advice to give to the public who may want to report a potential fraud.

The review of the Council's internal control systems and the investigation of fraud, corruption and bribery is the responsibility of the Internal Audit Team, apart from the investigation of Members, which is the responsibility of the Monitoring Officer. In addition, the investigation of fraudulent Housing Benefit claims now rests with the Department for Work & Pensions (DWP) with effect from 1<sup>st</sup> April 2015 and suspected housing benefit fraud must be reported direct to the DWP.

The officers involved in the review of internal control systems and investigative work should be properly and regularly trained.

## **CONCLUSIONS & FUTURE UPDATING OF THIS POLICY**

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The Council has in place a clear network of systems and procedures to assist it in the fight against fraud, corruption and bribery. It is determined that these arrangements will keep pace with any future developments, in both prevention and detection techniques, regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.

To this end the Council maintains a continuous overview of such arrangements and, in particular, through the roles of the Monitoring Officer, Deputy Chief Executive, Internal Audit and the various codes and procedure rules.

The Anti-Fraud & Corruption and Bribery Policy is part of the Corporate Governance Policies Work Programme and will be reviewed annually by the Head of Audit & Investigations and updates or changes will be made as necessary. Where updates or changes are significant, the revised Policy will be re-approved by Standards Committee. The Head of Audit & Investigations will update the title page of the policy with the reviewed date, policy version and when it was last approved by Standards Committee.