

# ANTI FRAUD, BRIBERY AND CORRUPTION STRATEGY / RESPONSE PLAN

Devon Audit Partnership Counter Fraud Team



## CHANGES

August 2018: Revised following a review of the corporate approach to fraud

August 2021: Revised following updated National Fighting Fraud and Corruption Locally Strategy

## Contacts

If you have any questions regarding this policy please contact the Counter Fraud Team at Devon Audit Partnership [corporatefraud@plymouth.gov.uk](mailto:corporatefraud@plymouth.gov.uk)

## Policies are available in large print, Brail or other languages

If you would like help understanding the contents of this policy, please speak to your line manager or contact the HR Policy Team for assistance.

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## **Plymouth City Council's Commitment to Prevent Fraud and Corruption in all areas of the Council's Business.**

### **I. Strategy/Response Plan**

- I.1 Fraud is a major drain on the Public Purse it is therefore imperative that all Public Sector Staff prevent fraudulent activity and understand the threats and risks involved to the country's economy and specifically the local economy. This Strategy will assist Plymouth City Council in becoming more resilient to current threats and those identified in the future. The aim is to minimise fraudulent activity with a zero tolerance approach to those who commit criminal acts of fraud against Plymouth City Council whether the threat is from outside or internally within the Council.
- I.2 Tackling fraud is an integral part of putting finances back on a stable footing and ensuring that tax-payers' hard earned money is used to protect resources for frontline services. Fraud has a serious effect on all parts of the economy and costs the UK in the region of £73 billion per year. The cost of fraud to local government is estimated at £2.2 - £7.4 billion a year. [Updated statistical information](#)
- I.3 This Strategy aligns with the [Council's Mission, Values and Priorities](#) and should be read in conjunction with the [Anti-Fraud, Bribery and Corruption Policy](#). [To be linked when updated](#)
- I.4 Through its arrangements with [Devon Audit Partnership](#), the Council has a dedicated Counter Fraud Team which delivers professional counter fraud advice, guidance and investigatory work. The team will endeavour to exceed the expectations of the local population in combating fraud; this in turn will allow the Council to use its resources on frontline services for those who legitimately need them as well as promoting re-investment in Britain's Ocean City.
- I.5 Plymouth City Council will [Govern](#), Acknowledge, Prevent, Pursue and [Protect](#) in respect of any threats posed by fraudulent activity whether by individuals or organisations with a view to making the most of its finances and promoting fairness and opportunity within the City. [Wording change to reflect updated pillars of fighting fraud and corruption locally national strategy](#)
- I.6 The Strategy's key objectives are to:
- Assess and understand the fraud risks faced by Plymouth City Council;
  - Commit the correct support and resource to tackle fraud risk areas identified;
  - Maintain a consistent and robust anti-fraud response;
  - Make better use of information and technology to counter threats of fraud;
  - Ensure all fraud controls and processes are effective and continue to enhance these;
  - Further develop an effective anti-fraud culture;
  - Pursue fraud debt recovery and the use of Civil Sanctions when appropriate;
  - Further develop capability and capacity to address and deter fraudsters;
  - Embrace/encourage collaboration across all Local Authorities and Law Enforcement Agencies in the fight against fraudulent activity;
  - Promote a zero tolerance approach to fraud.

## 2. Govern

2.1 Plymouth City Council will ensure that it has robust arrangements and executive support to ensure anti-fraud, bribery and corruption measures are embedded throughout the organisation. Having an overall holistic approach to tackling fraud is part of good governance.

2.2 It understands that the tone is set from the top of any organisation and should be included in local counter fraud strategies and response plans.

2.3 Local authorities can ensure that their counter fraud response is comprehensive and effective by considering their performance against each of the six themes – the six Cs – that emerged from research linked with the [Fighting Fraud and Corruption Locally national strategy](#):

- Culture
- Capability
- Competence
- Capacity
- Communication
- Collaboration

**Added to reflect the changes in the national strategy**

## 3. Acknowledge

3.1 Plymouth City Council acknowledges that it is not immune from fraud and that it has a duty to implement measures to protect the public purse in all areas of its business. Fraud is a hidden crime and the Council should not enable fraudulent or corrupt activity to remain hidden.

3.2 The Council commits to:

- Involving the Chief Executive in championing the fight against fraud and corruption;
- Engaging with the Audit and Governance Committee, seeking their endorsement for counter fraud and corruption work in the Council;
- Committing appropriate resources to identify, assess, detect and prevent fraud and corruption throughout all areas of business within the Council;
- Assessing and trying to understand the fraud, bribery and corruption risks facing the Council now and in the future;
- Maintaining a robust counter fraud and corruption response;
- Keeping records of all suspected and confirmed cases of fraud and corruption;
- Working with all available internal and external partners and law enforcement agencies with a view to reducing the risk of fraud across all areas of the Council's business;
- Using appropriate data matching tools available to deter and detect fraudulent/corrupt activity;
- Supporting and passing on best practice to other Authorities in respect of counter fraud and corruption work;
- Adopting best practice and learning from other Authorities in respect of counter fraud and corruption work;
- Ensuring that all staff understand how, where and when to report suspicions of fraudulent activity.

3.3 Only through its acknowledgment that it faces the continuing threat of fraud and corruption can the Council effectively counter the threat. The Council has, through its arrangements

with Devon Audit Partnership, committed to retaining a qualified counter fraud investigative capability; acknowledging the potentially wider risks from corporate fraud and corruption and its obligation to investigate all types of fraud.

#### 4. Prevent

4.1 The best way to fight fraud is to prevent it from happening in the first place. Prevention extends beyond making sure that there are appropriate systems and process controls in place. It also depends upon the development of an effective anti-fraud and corruption culture that reinforces a zero tolerance and deters criminals from committing fraud in the first place.

4.2 The Council commits to:

- Make better use of information and technology in the analysis and prediction of fraudulent or corrupt activity in all areas of the Council's business;
- Use all internally available data to maximise detection of fraud and corruption;
- Encourage other Local Authorities and stakeholders to share their data in order to maximise the detection of fraud and corruption;
- Share intelligence with other Authorities and relevant Law Enforcement Agencies in order to combat fraud and corruption;
- Use all areas of the [National Fraud data matching Initiative](#) to best effect;
- Support local and national initiatives to support the fight against fraud and corruption;
- Use the [National Anti-Fraud Network \(NAFN\)](#) to maximise information gathering in order to combat fraud and corruption;
- Implement the local government counter fraud and corruption strategy '[Fighting Fraud and Corruption Locally](#)', to improve the Council's resilience to fraud and corruption;
- Arrange Fraud Awareness training to be offered out to all internal staff and Members as well as, where appropriate, 3rd parties linked to the Council's business;
- Maximise publicity through advertising campaigns in diverse media areas to discourage those who would potentially commit fraud;
- Encourage publication of court convictions in order to dissuade potential future offenders;
- Ensure that there is a clear reporting route available for staff and the public to report suspicions of fraudulent and corrupt activity;
- Ensure that where a criminal offence is suspected that it is referred to the DAP Counter Fraud Team;
- Ensure that the DAP Counter Fraud Team are identified as a reporting line within the Whistleblowing Policy if the whistle-blower feels that this would be the most effective route.

4.3 A strong anti-fraud culture that is driven from the top down must underpin any preventative approach. This requires continuous active promotion and needs to include staff, members of the public and 3<sup>rd</sup> parties involved in the provision and procurement of the Council's services. An anti-fraud culture will seek to motivate staff and ensure that they understand the importance of tackling fraud and corruption, recognise fraud and corruption and know how and where to report it.

4.4 The Council will seek to change attitudes and behaviours towards fraud and corruption, positively re-enforcing individuals' responsibility for preventing, detecting and reporting fraud, and deterring future criminal activity against the Council.

#### 5. Pursue

- 5.1 Prevention is always preferable. However, determined fraudsters will evade even the best controls, and where fraud and corruption does occur enforcement must be comprehensive. The Counter Fraud Team will appropriately investigate all allegations to a conclusion, ensuring that where relevant the offender is prosecuted or other appropriate sanction is applied.
- 5.2 The Council will ensure that the public, and potential fraudsters, are made aware that when public funds are stolen, every effort will be made to recover losses and confiscate assets gained as a result of criminal activity.
- 5.3 The Council commits to:
- Using the services of a dedicated Counter Fraud Team to investigate all allegations of fraud and corruption concerning Plymouth City Council;
  - Ensuring that the Counter Fraud investigators (either employed or contracted) are trained to the appropriate standard, with investigations carried out in a professional manner and evidence collected and retained in accordance with the law;
  - Encouraging a higher priority for the recovery of fraudulent losses, to include the use of civil sanctions;
  - Ensuring legal capability and capacity is sufficient to pursue fraudsters;
  - Aid in the creation a more collaborative and supportive law enforcement response across Plymouth and Devon to encourage co-operation and joint working (e.g. across all 10 Devon Local Authorities, Trading Standards, the DWP, HMRC, UK Border Agency and the NHS etc);
  - Consider the use of Compensation Orders or the Proceeds of Crime Act to recover profits made by fraudulent means;
  - Use publicity from successful Prosecutions to deter others who could potentially commit similar offences in the future.

## 6. Protect

6.1 The Council commits to protecting against serious and organised crime, protecting individuals from becoming victims of crime and protecting against the harm that fraud can do to the community.

6.2 This will also cover protecting public funds, protecting its organisational integrity and reputation from fraud and cybercrime and also protecting itself from future frauds as far as can be reasonably expected.

[Added to reflect the changes in the National Strategy](#)

## 7. Information Technology and Data Matching

7.1 The Council undertakes to make better use of the information that it already holds for various Council activities in order to drive out fraud from its systems. It will look to continuously improve and expand its ability to acknowledge, prevent and detect fraud in all areas of its business through:

- The use of internal Data Matching checks to proactively Prevent/Detect fraudulent activity.
- Information Sharing: Intelligence is key in the modern fight against fraud. All appropriate Internal /External Data warehousing / matching opportunities will be explored and maximised
- Using a proactive/joined up approach to investigations across the Council and Cross boundary (if appropriate) that will generate income and savings;

## 8. Sanctions Guidelines

- 8.1 The Council seeks to provide value for money services to the public, and has a statutory duty to protect the Public Purse.
- 8.2 In the interest of making fair and balanced decisions, the Council will refer to sanction guidelines, taking into account various factors, not only the monetary value of the offence. All cases will be evaluated on their own merit and any mitigating circumstances will be taken into account.
- 8.3 The Council will co-operate with other agencies such as the Department for Work and Pensions, the Police and the Crown Prosecution Service to secure the conviction of offenders. Plymouth City Council will also instigate criminal proceedings independently of these organisations where appropriate.
- 8.4 These guidelines will assist in determining the appropriate action to be taken in relation to each case. The initial recommendation on what action is most appropriate to take lies with the Investigator. The Counter Fraud Team Manager will then make a recommendation based on the evidence for consideration by the Head of Devon Audit Partnership in accordance with the Public Interest test.

## 9. Legislative Framework

- 9.1 These guidelines take into account the requirements of the following legislation:-

- [The Social Security Administration Act 1992](#)
- [The Social Security Administration \(Fraud\) Act 1997](#)
- [Regulation of Investigatory Powers Act 2000](#)
- [Police and Criminal Evidence Act 1984](#)
- [Data Protection Act 2018](#)
- [Local Government Act 2000](#)
- [Criminal Procedures Investigation Act 1996](#)
- [Criminal Justice and Public Order Act 1994](#)
- [Human Rights Act 1998](#)
- [Fraud Act 2006](#)
- [Theft Act 1968 & 1978](#)
- [Prevention of Social Housing Fraud Act 2013](#)
- [Proceeds of Crime Act 2002 \(POCA\)](#)
- [Equality Act 2010](#)

## 10. Sanctions available to the Local Authority

- 10.1 When the Local Authority is able to prove an offence beyond reasonable doubt, or the offender makes a full confession that they have committed a criminal offence against the authority, the Council has the following sanctions available to it:
  - Administer a Local Authority Formal Caution
  - Administer a fixed penalty
  - Prosecution through the Magistrates Court
  - Seizure and liquidation of assets via POCA

## 11. Standards of Evidence

11.1 The Council will use the most appropriate deterrent against future fraudulent activity. This requires each referred case to be looked at on its individual merits; making reference to any previous sanction or convictions if applicable, before deciding on any further action.

11.2 Prosecution and the alternatives to prosecution have to follow the rules of law. Criminal offences have to be proved “beyond reasonable doubt” and not on the “balance of probability” rules applied to civil matters.

11.3 Substantive evidence is essential before the Council can determine if a sanction is justified. Evidence must be legally admissible and put forward in a legally acceptable form. The Council must therefore be satisfied that evidence is of a quality which would withstand scrutiny in a court of law. In the first instance the Counter Fraud Team Manager will assess the quality of evidence gained in the course of an investigation, ensuring that the evidence is:

- Clear
- Admissible
- Substantial
- Reliable

11.4 The Counter Fraud Team Manager will also check the case in the first instance to ensure:

- That there is sufficient evidence to show action, knowledge and, where appropriate, intent, by the individual concerned;
- That all the evidence has been obtained in accordance with the relevant legislation.

## 12. Formal Cautions

12.1 Formal cautioning is based on the principle that no prosecuting authority is under an obligation to prosecute. The use of formal cautions is purely administrative and there is no legislation covering their use.

12.2A Formal Caution may only be offered if an admission of guilt has been made, and cannot be offered if the claimant refutes or denies the allegation. It is given as an official warning to a person who has committed a fraud related offence against the Council.

12.3A Formal Caution will only be considered and administered when:-

- There is sufficient evidence to justify instigating criminal proceedings;
- The offence has been admitted during an interview under caution (A caution should never be considered purely on the basis that the claimant “will accept a caution”);
- The offender has no unspent relevant previous convictions, cautions etc;
- The person agrees to sign documentation in which they admit the offence;
- The person agrees to be cautioned and acknowledges the caution;
- Cautions will not be administered to a person under the age of 18.

12.4 For a case where the Investigating Officer has recommended a caution, the recommendation will be reviewed and sanctioned by the Counter Fraud Team Manager. The caution may be administered by the Counter Fraud Team Manager (an appropriate Accredited Counter Fraud Specialist may administer a caution in the absence of the aforementioned).

12.5 If the person is subsequently prosecuted for another offence, the caution may be cited in court. If the person refuses to accept a caution, the alternative course of action should be



criminal proceedings. Therefore, the quality of evidence for a caution must be of the same standard as that required for a prosecution.

### **13. Administering a fixed or civil penalty**

13.1 Currently the DAP Counter Fraud Team has not been authorised to administer fixed or civil penalties for offences. However, this may change in the future depending on changes in overarching policies.

### **14. Prosecutions**

14.1 The Council recognises that it is likely to be appropriate to prosecute where there is clear evidence that an offence has been committed. In taking such action, the Council will make fair and consistent decisions, and will ensure that there is sufficient evidence to make conviction more likely than acquittal.

14.2 If one or more of the following factors are apparent within a case, that case may be considered for prosecution as the first option:

- The defendant is alleged to have committed the offence while under an order of the Court;
- The gross adjudicated cost to Plymouth City Council or its partners is £5000 or over. (In line with the minimum sentencing guidelines for fraud offences);
- False identities or other personal details have been used;
- False or forged documentation has been used;
- Official documents have been altered or falsified;
- The person concerned occupied a position of trust;
- The person concerned assisted or encouraged others to commit offences;
- There is evidence of premeditated or organised fraud;
- The person concerned has relevant previous convictions;
- The person has previously been convicted of fraud;
- The offer of a formal caution or other sanction or solution has been refused;
- There is evidence of collusion.

### **15. Factors for consideration by the officer responsible for the final case review and decision on whether to prosecute**

15.1 In all cases where the Investigating Officer and the Counter Fraud Team Manager have, based on evidence, concluded that an individual should be prosecuted, a number of factors need to be taken into consideration when deciding whether to instigate the prosecution action.

15.2 The presence within a case of any of the Public Interest factors referred to in 16.1 below may preclude it from prosecution, downgrade it to an alternative sanction or a decision to take no further action; each case will be assessed individually.

### **16. Public Interest**

16.1 If the evidence obtained justifies proceedings, the Council must then consider whether this would be in the public interest, taking into account [The Code for Crown Prosecutors](#) which gives guidance on the general principles to be applied when making a decision regarding prosecutions.

Common factors include:

- Age

- Social factors
- Mental illness
- Physical illness
- Voluntary disclosure
- Technical factors

## **17. Summary**

17.1 The guidelines outlined in this strategy cover the main areas that the Council consider when dealing with alleged fraudulent activity. As well as the above Plymouth City Council is committed to improving fraud awareness throughout its own organisation and those of its partners.

17.2 Whilst the Council appreciates the majority of people are honest, it will continue to fight abuse of the 'Public Purse' by those who falsely claim/apply for money/property/support to which they are not entitled. All investigations will be undertaken by trained staff that will respect the rights of all customers, abide by the law and act in the public interest.