

MANCHESTER CITY COUNCIL

REPORT FOR INFORMATION / RESOLUTION

COMMITTEE Audit Committee

DATE: 27 June 2008

SUBJECT: DRAFT - Anti-Fraud and Corruption Policy and Guidance

REPORT OF: The City Treasurer

PURPOSE OF REPORT

To provide a copy of the draft Manchester City Council Anti-Fraud and Corruption policy and guidance.

RECOMMENDATIONS

Members are requested to comment on the draft Anti-Fraud and Corruption policy and guidance.

FINANCIAL CONSEQUENCES FOR THE CAPITAL AND REVENUE BUDGETS:

None

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BACKGROUND DOCUMENTS

N/A

WARDS AFFECTED N/A

IMPLICATIONS FOR KEY COUNCIL POLICIES

<u>Anti-poverty</u>	<u>Equal Opportunities</u>	<u>Environment</u>	<u>Employment</u>
None	None	None	None

DRAFT
Manchester City Council
Anti-fraud and Corruption Policy and Guidance

1. Background

- 1.1 The Council policy and guidance on anti-fraud and corruption has been reviewed as part of the governance working group programme to update and re-launch corporate governance policies and guidance. The policy was originally adopted on 7th April 1999 by Manchester City Council. The Anti-Fraud and Corruption Policy applies to all members and employees of the Council. It also applies, as far as it can, to any persons, companies or organisations in relation to their dealings with the Council.
- 1.2 The aim was, and remains, to establish a culture within the Council of the highest standards of probity and accountability and with no tolerance for dishonesty on the part of members, employees or others involved with the Council. A copy of the draft is provided at Appendix 1.
- 1.3 The policy has not been changed and is presented as a policy statement.
- 1.4 The guidance notes supporting the anti-fraud and corruption policy have been re-written with the aim of clarifying and confirming roles and responsibilities as well as the actions that should be taken in the event of a suspected fraud occurring. There have been no changes made to the roles and responsibilities assigned or to the overall processes in place.
- 1.5 The draft of the policy and guidance has been reviewed for accuracy by the Council's legal section. Amendments were made as a result.
- 1.6 It is intended that a summary version of this policy and guidance is produced as part of the new personal corporate governance guide. For this a summary has been drafted and reviewed for plain English by the Communications Team and is being prepared for publication. This will be available hard copy and electronically.
- 1.7 It is intended that the full policy and guidance be reviewed for plain English as part of the publication plan. This will be linked to the timetable for the finalisation of the corporate governance guidance and for launch onto the Council's website.
- 1.8 The policy and procedures are designed and communicated to ensure that irregularities are taken seriously, are investigated thoroughly and prosecuted in a diligent and effective manner with due reference to the law. The guidance note should be considered along side the Council's policy and procedures for Whistleblowing.
- 1.9 Members are asked to consider the draft guidance for Anti-Fraud and Corruption and to provide comments.

DRAFT

Manchester City Council
Anti-Fraud and Anti-Corruption
Policy and Procedures
2008

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MANCHESTER CITY COUNCIL

1. ANTI-FRAUD AND ANTI-CORRUPTION POLICY STATEMENT

1.1 Manchester City Council is committed to ensuring that the people of Manchester can have complete confidence that the affairs of the Council are conducted in accordance with the highest standards of probity and accountability. The Council is, consequently, committed to combating fraud and corruption wherever it may arise in relation to any of the Council's activities or services and involving any Members or officers of the Council or members of the public or other third parties.

1.2 The Council expects Members and officers to demonstrate the highest standards of honesty and integrity. This includes compliance with appropriate legislation, Member and Employee codes of conduct, Standing Orders, Financial Regulations, conditions of service, standards of appropriate professional bodies, and any other standards, guidelines or instructions which are relevant to the particular service or activity.

1.3 The Council is committed to establishing and maintaining effective arrangements to prevent fraud and corruption. The Council recognises, however, that fraud and corruption cannot always be prevented and so effective arrangements have been established to detect and investigate all incidents or situations where fraud and corruption is suspected.

1.4 The Council will not tolerate dishonesty on the part of any of the members or officers of the Council or any persons or organisations involved in any way with the Council. Where fraud or corruption is detected the Council will rigorously pursue appropriate action against the persons concerned including legal and / or disciplinary action.

1.5 The Council is committed to creating and maintaining an anti fraud and corruption culture and this includes establishing arrangements which enable employees, or other persons, to express concerns and suspicions without fear or repercussions or intimidation and in the knowledge that the information will be treated confidentially and will be investigated fully and rigorously.

1.6 The Council is committed to working constructively with the police and other relevant agencies in relation to combating fraud or corruption within the Council or within the wider public sector.

1.7 The Council will seek to ensure that the Council's stance on anti-fraud and corruption is widely publicised. All employees and members of the Council will be made aware of this policy statement.

1.8 This policy statement will be supported by a detailed guidance note which sets out the procedures for applying the policy.

Anti-Fraud and Anti-Corruption Procedures

2. Introduction

- 2.1 Manchester City Council is committed to the highest standards of probity and accountability to safeguard public funds. It will not tolerate dishonesty on the part of elected Members, employees or others involved with the Council. It expects that elected Members and employees at all levels will act in a manner that ensures adherence to statutory requirements and to the rules and procedures of the Council.
- 2.2 The Anti-Fraud and Corruption Policy applies to all elected Members and employees of the Council. It also applies as far as it can to any persons companies or organisations in relation to their dealings with the Council including partnership arrangements and developments involving 'arms length' companies or organisations, contractors, consultants, suppliers and claimants.
- 2.3 The Council's primary objective, through the Anti-Fraud and Corruption Policy, is to ensure that fraud and corruption does not occur within the Council and if it does occur that it is detected and dealt with effectively.
- 2.4 These guidance notes are intended to advise all elected Members and employees of their obligations and rights within this policy and to assist Chief Officers, Heads of Service and managers in dealing with any matters which arise in relation to the policy.

3. Definitions

Fraud

- 3.1 The legal definition of fraud contained within the Fraud Act 2006 includes: fraud by false representation; fraud by failing to disclose information and fraud by abuse of position. Fraud is typically associated with financial loss however this policy relates to acts of dishonesty whether or not financial loss is incurred. For the purposes of this guidance note fraud may include:
- the intentional distorting of statements or other records by persons internal or external to the Council which is carried out to conceal the misappropriation of assets, evasion of liabilities or otherwise for gain;
 - unauthorised use of Council property; or
 - theft of monies or other Council property by persons internal to the Council.
- 3.3 The theft of Council property carried out by persons external to the Council through for example break-ins, burglary and opportunist theft falls outside the scope of the Anti Fraud and Corruption Policy. Thefts of this nature should continue to be reported by Chief Officers and managers directly to Internal Audit

and the police in the normal way.

3.4 Fraud is a deliberate act of commission or omission by an individual or group of individuals. Fraud can occur in a number of ways including:

- fraud perpetrated against the Council by members of the public or other third parties
- fraud perpetrated against the Council by elected Members or employees of the Council
- fraud perpetrated jointly by members of the public or other third parties in collusion with employees or Members of the Council

3.5 Areas which may be most at risk in respect of fraud include but are not exclusively related to the following:

- Cash collection (any situation where cash or cheques are received or collected) - misappropriation, failure to account, borrowing by delaying paying monies in, falsifying of receipts, not issuing receipts;
- Credit income - suppression of invoices, issuing invoices for wrong amounts, unauthorised writing off of debts;
- Payroll - falsification of records (time sheets, overtime claims); creation of fictitious employees;
- Creditor payments - payments for work not completed or not in accordance with the specification, or for goods not supplied or not in accordance with the original order;
- Expenses claims - overclaiming of expenses;
- Benefits - overclaiming by claimants or landlords, false, fictitious or contrived claims. Evasion of liability, either in full or part, for Council Tax or National Non Domestic Rates. The unauthorised setting up or amendment of claims by employees (including payments to self, family, friends etc.). Employees aiding or abetting third parties in the completion or submission of false claims.
- Bank accounts and imprest accounts - use of accounts for unauthorised purposes;
- Equipment and vehicles - unauthorised personal use.

Corruption

3.6 Corruption is defined as the offering, giving, soliciting or acceptance of an inducement or reward that may influence the action of any person.

- 3.7 The main law relating to corruption in public bodies is contained in the Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Act 1906 as supplemented by the Prevention of Corruption Act 1916, Local Government Act 1972 and the Anti-Terrorism Crime and Security Act 2001. The law specifies that it is sufficient to prove that money or other consideration has been given or received and will presume that the money or consideration has been given or received corruptly unless the contrary is proved. This represents a reversal of the usual legal presumption of guilt and innocence.
- 3.9 Corruption occurs if a person offers gifts or consideration as an inducement or acts in collusion with others, that is with two or more person acting together. This could involve elected Members or officers of the Council, members of the public or other third parties.
- 3.10 Areas which may be most at risk in respect of corruption include but are not exclusively related to the following:
- Tendering and award of contracts;
 - Settlement of contractors claims for loss and expense, compensation, additional payments, or work not done or substandard;
 - Award of permissions, consents, licences;
 - Lettings; and
 - Disposal of assets.

4. Anti-Fraud Culture and Key Principles

- 4.1 The Council aims to ensure that elected Members and employees exercise proper stewardship of public money and that effective controls and procedures are embedded into all working practices which will prevent and detect fraud and corruption. Elected Members and employees should be aware of their roles in preventing and detected fraud and managers should ensure they lead by example in compliance with rules and regulations.
- 4.2 Legislation regulates local authorities and, amongst other things, sets out the framework that ensures that local authorities adopt effective control and governance arrangements. Within this framework, the Council has adopted a Constitution containing instructions, regulations and procedures which are designed to ensure high standards of probity in the conduct of the affairs of the Council. The Constitution can be found at www.manchester.gov.uk.
- 4.3 The primary defence against fraud and corruption is the establishment of sound practices, procedures and systems, incorporating effective controls, which are subject to effective monitoring, supervisory and managerial arrangements. It is the duty of every manager and supervisor to operate the systems and controls in their area of responsibility, necessary to prevent and detect fraud and corruption. Failure to do so, especially where such failure results in fraud, corruption or theft, may result in disciplinary action.

- 4.4 These control arrangements need to apply within an overall culture, within the Council, which positively promotes the highest standards of probity and which makes it absolutely clear that the Council will not tolerate dishonesty on the part of any of the officers or Members of the Council or any persons or organisations involved in any way with the Council.
- 4.5 Compliance with all the rules and statutes referred to above involves the implementation and maintenance of effective management arrangements, systems, controls, procedures, working practices, standards of good practice and monitoring arrangements. This combination of measures, allied to a culture that promotes the highest standards of probity, represents the Council's primary defence against fraud and corruption.
- 4.6 Where Council members or employees are involved, or where any person acts on behalf of or as an agent of the Council, or where initiatives or schemes involve funding through the Council, the principles outlined in the Anti-Fraud and Corruption Policy must be applied.

5 Roles and Responsibilities

5.1 Councillors

As elected representatives all Members have a duty to act to prevent fraud and corruption. Every elected Member has a role to play in maintaining the standards of probity and integrity that the public is entitled to expect, which obviously includes compliance with relevant rules and procedures. The Code of Conduct for Members addresses standards and expectations.

5.2 Audit Committee/Standards Committee

The Audit Committee and Standards Committee will regularly review the Anti-Fraud and Corruption Policy and will ensure that any matters arising from the implementation of the policy are properly investigated. The Head of Internal Audit will report to the Audit Committee on significant matters arising from investigations of fraud and corruption.

City Treasurer

- 5.3 The City Treasurer is responsible, on behalf of the Chief Executive, for ensuring that suspected financial irregularity is reported and investigated. The City Treasurer is responsible for deciding what investigation action is to be taken and ensuring it is completed.

Monitoring officer

Any concerns related to Members compliance with the Code of Conduct would be addressed to the Standards Committee which would request the Monitoring Officer investigate. The Monitoring Officer will as Internal Audit or others to carry out investigation work.

Internal Audit

- 5.4 Internal Audit acts on behalf of the City Treasurer in relation to the investigation of reports of financial or other irregularity and can offer advice and support to managers during this process.

The Internal Audit Section also provides advice on appropriate controls to help prevent and detect fraud and corruption and will work with Chief Officers and Heads of Service to provide assurance that controls are working as intended and to improve internal control where necessary.

Fraud Investigation Group

- 5.5 The Fraud Investigation Group (FIG) is responsible for investigating and prosecuting cases of suspected claimant fraud. This includes housing benefits, council tax benefits and discounts, student awards, renovation grants, compensation claims.

Management

- 5.6 Chief Officers and Heads of Service have a specific responsibility to publicise the anti-fraud and corruption policy to all employees and to ensure they are aware of their responsibilities as outlined in this policy and of sanctions which can be levied. The intention is to develop a culture of openness and honesty.

Managers are responsible for actively dealing with suspected cases of fraud in a reasonable timeframe.

Responsibility for maintaining effective systems, procedures and controls to prevent fraud and corruption rests with Chief Officers, Heads of Service and their managers responsible for relevant systems or particular areas of service.

Employees

- 5.7 All employees have an obligation to be vigilant to the risk of fraud and corruption. They are expected and positively encouraged to raise concerns relating to potential fraud and corruption when they become aware of it. Employees should report matters of concern as soon as possible. Reports raised in good faith will be treated in a confidential manner and investigated.

The Employees Code of Conduct addresses the Council's standards and expectations of personal conduct. Breaches of conduct will be addressed through disciplinary procedures.

6. Reporting Irregularities

Members

- 6.1 Where Members wish to report alleged irregularities, the normal reporting route should be through the Chief Officer of the service area involved or,

alternatively, (and in situations where it would not be appropriate to report through the Chief Officer) direct to the Chief Executive or City Treasurer.

- 6.2 The Chief Executive and Monitoring Officer must be informed where alleged irregularities involve Members. If allegations involve a breach of the Code of Conduct this will be referred to the Standards Committee.

Employees

- 6.3 As indications of suspected irregularities could arise in many different ways it is possible that any of the Council's employees could be the first to become alerted to a potential situation involving fraud or corruption. For this reason it is vital that all employees know what to do if they become aware of a potential irregularity.
- 6.4 Any employee, becoming aware of a potential financial irregularity must, under normal circumstances, report the situation to his line manager as soon as possible. The manager in turn should also report through the management structure and to Internal Audit as soon as possible.
- 6.5 At the appropriate management level, which is normally Chief Officer or Head of Service, the situation must be reported to the Head of Internal Audit or any member of the Internal Audit. The Head of Internal Audit will then inform the City Treasurer and agree a course of action.
- 6.6 Internal Audit will advise on and instigate such action as considered necessary for investigating the alleged irregularity. This will take into account whether the alleged financial irregularity warrants investigation by Internal Audit, whether the Police should be referred to immediately or whether the Department should conduct its own investigation.
- 6.7 Where an allegation or suspicion of fraud concerns an employee and is considered sufficiently serious to be investigated, then an Investigating Officer will be appointed. As appropriate and agreed Internal Audit will investigate fraud involving accounting and other records, evaluate systems and internal control and collate evidence providing an opinion on allegations made. This will be reported to the Investigating Officer who will have overall responsibility in taking the investigation forward for disciplinary purposes and reported to the City Treasurer where system weaknesses and control issues are involved.

Reporting Directly to Internal Audit or the Chief Executive

- 6.8 If an employee feels it would not be appropriate to report alleged or suspected irregularities through the normal line management structure, then the employee should report to a different senior manager within the Department. If the employee feels uncomfortable with this approach they can report directly to Internal Audit.
- 6.9 In certain circumstances it would be appropriate for an employee to report directly to Internal Audit anyway. For example if there were reasons to

believe that any subsequent investigation might be compromised if the situation were to be reported through departmental managers. The most likely reasons for reporting direct to Internal Audit would include because line managers were implicated in the alleged irregularity and the employee was not sure who it was safe to report to within the Department or there were reasons to believe that the situation might be suppressed or covered up by senior departmental managers.

Alternative Contact Points

- 6.10 The Council provides the reporting lines above to ensure that Elected members and employees are satisfied that reports will be treated seriously and that action will be taken. If they consider this is not the case then matters could be taken outside the Council to other contact points. The process for this is described in more detail in the Council's Whistleblowing policy and guidance.

Customers and General Public

- 6.11 Customers, suppliers and members of the public are encouraged to raise any concerns they may have through the Council's Complaints procedures that are subject to separate guidance or by writing to their local Councillor or to the Chief Executive.

7. Reporting Criteria and Notification

- 7.1 Reports from elected members or employees about suspected irregularities should adhere to the following key criteria:
- Suspected fraud, financial irregularity, improper use or misappropriation of the Authority's property or resources must be notified to the City Treasurer through Internal Audit as quickly as possible.
 - Allegations must be handled confidentially and discreetly by those managers who are directly involved in the reporting process as any leak of information may jeopardise subsequent investigations. Pending investigation and reporting, the Chief Officer or Head of Service should agree with Internal Audit to take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
 - Chief Officers or Heads of Service should treat all concerns seriously and sensitively to ensure that risks are effectively addressed and action taken.
 - The reporting manager should record and collect as much information as possible in respect of the allegation without delaying the process or compromising the investigation. If the information comes from a third party, as much information as possible should be gleaned from the informant and every effort made to ensure that it is possible to make further contact with the informant.

- Any records or information relating to the allegation must be secured so that there is no possibility of evidence being lost, destroyed, amended or otherwise tampered with. This includes IT systems as well as paper based records. Managers may need to do this quickly when the allegation is made.

8. Conduct of the Investigation

8.1 The nature of the reported irregularity must be established to assess the appropriate method of investigation. The Head of Internal Audit will work with management to ensure that necessary steps are taken to assess the risk and to determine the appropriate investigation requirements. These will be agreed and confirmed with the City Treasurer.

8.2 The general approach adopted includes:

- Any investigation requires the full support and co-operation of the relevant department. The terms of reference for Internal Audit state that Internal Auditors should have access to all records and documents of the Council and authority to require explanations from officers of the Council in relation to any matters to aid the investigation.
- All investigations will be carried out confidentially and as quickly as possible by Internal Audit or by the nominated investigating officer. The appropriate Chief Officer or Head of Service should be kept informed of developments and the final outcome of the investigation.
- Interim reports (from either the Investigating Officer or Internal Audit) may be either verbal or in writing dependent upon the circumstances of the case and the degree of urgency. The City Treasurer will be kept informed as required.
- Final reports will be formal and in writing and will be sent to the Chief Executive, City Treasurer, Head of Internal Audit and Chief Officer of the Department concerned (unless the particular subject matter of the case dictates that this distribution would not be appropriate). External Audit will be informed as necessary in agreement with Internal Audit and the City Treasurer.
- Fraud cases involving disciplinary issues will be progressed by appropriate and duly appointed 'Investigating Officers' in consultation with senior management, Personnel and Internal Audit.
- The Chief Officer or Head of Service responsible for the particular service area subject to investigation, will need to decide if the investigation is of such significance that it needs to be brought to the attention of the appropriate Executive Member.

9. Referral to the Police

- 9.1 Internal Audit or the Fraud Investigation Group will, in consultation with the City Treasurer, assess whether reference to the police is appropriate and will make the formal referral to the police. This should not usually be done by management.
- 9.2 If there is doubt about the strength of the evidence, or whether or not there is sufficient evidence of a criminal offence, legal advice will be sought to determine if referral to the police would be appropriate.
- 9.3 Once an issue has been referred to the police, they should take full control of the investigation. If the evidence supports prosecution the police will bring the appropriate charges. Ultimately, the Crown Prosecution Service (CPS) will decide whether or not the case should be prosecuted based on the available evidence. During the course of these procedures the full and prompt cooperation of all relevant Council officers will be required.
- 9.4 If the Police decide that it would not be appropriate to bring charges against any individuals, or if the CPS subsequently decides not to proceed with the case, the matter will remain as an internal issue to be addressed within the Council's own internal policies and procedures.

10. Disciplinary Cases

- 10.1 There are consequences for anyone who has committed acts of fraud or corruption against the Council and these can act as a powerful deterrent. Where cases involve employees of the Council it may be necessary, based on the available evidence, to invoke the Council's Disciplinary Procedures.
- 10.2 Any disciplinary offence involving financial irregularities, theft, fraud or corruption (including claimant fraud or council tax evasion involving employees) would normally be regarded as gross misconduct, and an employee found to have committed gross misconduct should expect to be dismissed.

11. Other Crimes against the Council

- 11.1 For any other types of crimes other than theft, fraud and corruption that are likely to have been perpetrated by Council employees (for example criminal damage or assault) then advice should be sought by appropriate senior managers of the relevant department in consultation with Personnel. Internal Audit can offer advice and support. Action should be taken by management to ensure allegations are dealt with quickly and effectively.

12. Recovery of Losses and Awards of Compensation

- 12.1 In cases where it is possible to establish that the Council has suffered a loss, either through theft or fraud, the Council through the City Treasurer will seek

compensation through either the Courts or in accordance with the local government pension scheme regulations.

12.2 Should an offender at any time during the course of an investigation or disciplinary hearing offer to repay monies then the offer should be accepted. No offers or promises should be given and the person should be informed that repayment is being accepted without prejudice to any further actions. This should then be confirmed in writing.

12.3 An offer by the defendant to resign from employment of the Council before completion of investigation action should be considered in light of the impact on the investigation and on the potential recovery of monies. Advice should be sought from Personnel and Internal Audit prior to any decision to accept a resignation.

13. Monitoring

13.1 The City Treasurer is responsible for monitoring the effectiveness of the procedures for investigation of irregularities outlined in this guidance note and for amending the procedures as necessary. Internal Audit will review the effectiveness of the internal control environment and reports will be made to Audit Committee where appropriate on the number, type and outcome of investigation matters as appropriate.

14 Training and Awareness

14.1 The success of the anti- fraud and corruption policy will be in part dependant on developing awareness and understanding throughout the organisation. Chief Officers and Heads of Service are responsible for ensuring that employees are aware of the procedures for the investigation of irregularities and for ensuring that any training needs which may arise from the application of the procedures are resourced and addressed.

14.2 Raising awareness of the Council's Anti-Fraud and Corruption Policy should form part of the induction training for all new employees and should be part of on going developmental training for managers and staff. Communication of the policies and processes should also be regularly advertised to all members and employees using internally information systems and externally to the wider population through the Council's website. This is to ensure that employees remain aware of the requirements.

14.3 Members, employees, consultants and others must make sure that they read and understand the rules and regulations that apply to them in regard to anti-fraud and corruption. Managers should ensure that this is done.

15 Conclusion

15.1 The above procedures are designed and communicated to ensure that irregularities are taken seriously, are investigated thoroughly and prosecuted in a diligent and effective manner with due reference to the law. This

guidance note should be considered along side the Council's policy and procedures for Whistleblowing.

