ANTI-FRAUD AND CORRUPTION STRATEGY

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Anti-Fraud and Corruption Strategy

SECTION 1: ANTI-FRAUD AND CORRUPTION

Introduction

1. This document sets out the Council’s policy and strategy in relation to fraud and corruption. It has the full support of the Council’s Audit Committee and Corporate Management Team.

2. The Council takes its responsibilities to protect the public purse very seriously and is committed to the highest standards of openness and accountability in order to ensure the proper use and protection of public funds and assets.

3. To fulfil the Council’s corporate strategy we need to maximise financial resources available to us. In order to do this we must reduce fraud and misappropriation to a minimum.

4. The Council will not tolerate fraud or corruption by its councillors, employees, suppliers, contractors or service users and will take all necessary steps to investigate all allegations of fraud or corruption and pursue sanctions available in each case, including removal from office, dismissal and/or prosecution.

5. Our strategy is based upon three key themes: Acknowledge, Prevent and Pursue, and adhere to the Local Government Fraud Strategy: Fighting fraud Locally.

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6. This Anti-Fraud and Corruption Strategy summarises the Council’s position, building on the content of a number of corporate policy statements incorporated in the Council’s Constitution, namely;

Members Code of Conduct
Officers Code of Conduct
Whistleblowing Policy
Financial Procedure Rules
Procurement Procedure Rules and Contract Regulations

A Fraud Response Plan which is available to all Council officers, also provides guidance to staff and managers on what actions they need to take in the event of their becoming aware of or suspicious of a fraud or an act of corruption being committed against the Council, either internally or externally by individuals or organisations.

What is fraud?

7. The Fraud Act 2006 details the legal definitions of fraud, and is used for the criminal prosecution of fraud offences. The Council also deals with fraud in non-criminal disciplinary matters.

8. For the purposes of this document fraud defined as; the dishonest action designed to facilitate gain (personally or for another) at the expense of the Council, the residents of the Borough or the wider national community.

9. The definition covers various offences including; deception, forgery, theft, misappropriation, collusion and misrepresentation. Although use in this context is not intended to limit the full use of the Fraud Act 2006 in the investigation and prosecution, by the Council, of any offences.

What is corruption?

10. Corruption is the offering or acceptance of inducements designed to influence official action or decision making. These inducements can take many forms including cash, holidays, event tickets, meals.

11. The Bribery Act 2010 received Royal Assent on 8 April 2010 and reforms the criminal law to provide a new, modern and comprehensive scheme of bribery offences that will enable courts and prosecutors to respond more effectively to bribery at home or abroad.
12. Further guidance is available from the Ministry of Justice to explain to organisations what action is required to ensure they are compliant.

**What is theft?**

13. Theft is stealing any property belonging to the Council or which has been entrusted to it (i.e. client funds), including cash, equipment, vehicles, data.

14. Theft does not necessarily require fraud to be committed. Theft can also include the stealing of property belonging to our staff or members whilst on Council property.

**Corporate Responsibilities**

15. The Council is committed to the maintenance of a robust framework of procedures and policies, which combine to act as an effective deterrent to fraudulent activity and provide the means for reporting or detecting fraud or corruption.

16. The Council’s endorsement of this strategy sends a clear message that fraud against the Council will not be tolerated and where reported or identified will be dealt with in a professional and timely manner using all the sanctions available. Through the creation and enhancement of a strong **Anti-Fraud Culture** the Council aims to deter potential perpetrators from targeting its finances and services.

17. Within the corporate framework there are a number of facets that exist to protect the Council against fraud. These include;


- An established Audit Committee.

- An established Standards Committee and an adopted code of conduct for Members.

- The Town Clerk and Executive Director of Finance with statutory responsibility for the oversight of all financial affairs.

- A Chief Solicitor with statutory responsibility for monitoring the legality of the Council’s affairs.
• Declaration of interest and gifts and hospitality procedures for Members and Officers.

• Effective employee vetting procedures - recruitment checks and CRB where appropriate and a detailed staff code of conduct.

• Internal controls regularly reviewed and annually certificated by managers.

• Periodic checks by Internal Audit.

• A confidential reporting code (Whistleblowing procedure).

• An Anti-Fraud and Corruption Policy.

• An online Fraud Awareness training tool underpinned with Fraud Awareness Training available for staff through Council’s Learning and Development schedule.

• A Complaints procedure available to the public.

• An External Audit.

• Relevant documents, including invoices over £500, being made available to the public, partners, staff and members.

• A dedicated audit team working alongside a team of trained investigators within the Corporate Investigation Group.

• An Anti-Fraud Forum attended by fraud investigators and enforcement officers of the Council, and external partners including Police, Immigration and Housing Associations.

• Participation in the Audit Commission’s National Fraud Initiative, and membership to the National Anti Fraud Network and London Fraud Forum.

• A webpage dedicated to fraud prevention offering advice to residents.

18. The Council takes a holistic approach to anti-fraud measures which extend to the investigations of allegations and the prevention of fraud through system reviews.
19. The Corporate Investigation Group employs a multi-disciplinary approach which includes pro-active work determined by a formal risk assessment. In addition the team are free to work with other agencies in pursuance of the Council’s anti-fraud aims.

20. Our strategy to reduce fraud is based on prevention, detection, sanction/redress and deterrence, which underpins an overarching anti-fraud culture.

21. Fraud is not acceptable and will not be tolerated.

22. We will seek to promote an anti-fraud culture across the community by publicising the impact of fraud on the community. We will also seek to assist our partners and stakeholders to understand and reduce the threats of fraud. Furthermore we will seek to deter fraudsters through specific publicity and general campaigns.

**Prevention**

23. The Council recognises that fraud and corruption are costly, both in terms of financial losses and reputational risk. The prevention of fraud is therefore a key objective of the authority and fundamental roles and responsibilities are outlines below.

**Councillors’ Responsibilities**

24. The Council expects its Councillors to lead by example at all times and to maintain the highest standards of probity, honesty, integrity and accountability in their dealings with the Council. This expectation is detailed in the Council’s Constitution under the Members Code of Conduct, available on the internet and intranet sites.

25. Councillors are required to declare any potential conflicts of interest which could be deemed to impact on the way they perform their roles for the Council. Councillors are also required to register any gifts or hospitality offered or received over a given value.

**Management Responsibilities**

26. Managers are responsible for ensuring that adequate systems of internal control exist within their areas of responsibility and that such controls, checks and supervision operate in such a way as to prevent or detect fraudulent activity. The primary responsibility for the prevention and detection of fraud, therefore, rests with managers.
Managers need to assess the types of risks and scope for potential internal and external frauds associated with the operations in their area. Internal Audit undertake independent assessments of the key risks and associated controls within systems across the Council.

27. Managers should ensure that all staff receive training in ‘Fraud Awareness’. The level and extent of this will depend on the work that individual employees carry out. When employees are an integral part of the control framework, it is crucial they are regularly reminded of fraud and risk issues. In many cases it may be sufficient to include information in the new employee induction process. The Tri-borough Director of Audit, Fraud, Risk and Insurance should be consulted as necessary to provide advice on this.

28. Managers are required to report all instances of suspected, reported or detected fraud to the Tri-borough Director of Audit, Fraud, Risk and Insurance, who will offer advice on the best approach to each incident in line with the Council’s Fraud Response Plan. This ensures that there is a consistent and co-ordinated professional approach to all investigations and that the associated procedures are fully compliant with legislation. Any subsequent investigation will normally be a joint exercise between local management and the Internal Audit team.

**Employee Responsibilities**

29. Members of staff are a very important element in the Council’s efforts to combat fraud and corruption. The Council’s *Financial Procedure Rules* clearly state:

   “All officers have a duty to act if they believe there is a possibility of fraud, corruption or poor value for money taking place or the rules are being breached.”

30. The Officers’ Code of Conduct reinforces the requirement for all staff to be vigilant and describes how they should raise any concerns they may have.

31. The Code requires that employees report their suspicions or knowledge of any possible fraud or corruption to their Line Manager. Where an employee feels unable to use this route they are expected to report to the Head of Service or independently to the Tri-borough Director of Audit, Fraud, Risk and Insurance.

32. The Council’s *Procurement Procedure Rules and Contract Regulations* at paragraph 2.08 reminds employees that the Council regards any
corrupt practices as completely incompatible with its public service role. It also states that it is a serious criminal offence for employees to solicit or receive any gift, loan or reward for showing favour in their official capacity. All employees must comply with the Officers Code of Conduct regarding the declaration of personal interests.

33. The Council’s policy on Anti Money Laundering arising from the Proceeds of Crime Act 2002 also places an employee under a duty to report matters. Where an employee is aware of or suspects through the course of their duties that money laundering is occurring and fails to report this they could be deemed to be personally liable under the legislation with a maximum term of imprisonment of 5 years and unlimited fines. Contrary to popular belief money laundering does not just relate to large sums of cash and organised crime. It also includes smaller sums and activities such as individuals fraudulently claiming Housing Benefits for example.

34. Through its Whistle-blowing Policy the Council provides employees and councillors with the means to report instances of suspected fraud, corruption or breaches of the Council’s policies to senior managers, the Tri-borough Director of Audit, Fraud, Risk and Insurance, the Head of Human Resources, the Audit Commission and the independent charity, Public Concern at Work. The policy offers employees and councillors protection from recrimination and allows them anonymity if they so choose.

**Contractor Responsibilities**

21. The Council expects all contractors it has dealings with to act with complete honesty and integrity in all dealings with the Council, its service users and residents. The Council requires the employees of contractors to report any suspicions or knowledge they may have in relation to fraud and/or corruption against the Council. Contractors or their employees should report all concerns to the Council’s client-side staff who will in turn report the matter to the appropriate line manager.

**Internal Audit Responsibilities**

22. As part of the Council’s system of internal control the Internal Audit section are required to undertake a risk-based assessment of all major systems operating across the Council and undertake an agreed plan of audits to test the controls in place.
23. The Tri-borough Director of Audit, Fraud, Risk and Insurance is responsible for providing a pro-active corporate anti-fraud function to facilitate the identification and subsequent investigation of alleged acts of fraud or corruption.

24. The Tri-borough Director of Audit, Fraud, Risk and Insurance is responsible for receiving and reviewing notifications of all frauds reported within the Council, monitoring all investigations, whether undertaken by the Corporate Investigation Group or local management and analysing the fraud situation within the Council.

25. The Tri-borough Director of Audit, Fraud, Risk and Insurance is responsible for making appropriate arrangements to co-ordinate the Council work on the Audit Commission’s National Fraud Initiatives and to undertake internal data matching across council systems.

26. The Tri-borough Director of Audit, Fraud, Risk and Insurance is responsible for managing the Council’s whistleblowing hotline and monitoring to ensure that appropriate investigations are undertaken in accordance with the Whistle Blowing Policy.

27. The Tri-borough Director of Audit, Fraud, Risk and Insurance is responsible for advising all Business Groups on all instances of reported or detected fraud or corruption and where appropriate undertaking any subsequent investigation.

28. The Tri-borough Director of Audit, Fraud, Risk and Insurance is responsible for reporting to and liaising with the local police on individual cases and for issuing guidance to members and management in relation to fraud and corruption related legislation and procedures.

**General Public - Responsibilities**

27. The Council’s expectation is that residents, service users and other members of the public will not tolerate abuse of the Council’s assets or services. They are therefore encouraged to report any suspicions or knowledge they may have regarding any acts of fraud and corruption being perpetrated against the Council.

28. The public are made aware of the Corporate Investigation Group’s hotline which is supported by on-line report forms, an investigation mailbox and appropriate media campaigns including handouts and posters. The contact numbers/addresses are secure and all referrals will be treated professionally and in confidence.
The telephone numbers/email addresses to make reports to are:

**General Fraud and Corruption Issues**

Corporate Investigation Group: 020 7361 2777, email: andrew.hyatt@rbkc.gov.uk
email: investigations@rbkc.gov.uk

Whistleblowing: [Reporting Concerns at Work](#)
PART 2: SANCTION POLICY

Introduction

1. The Council’s anti-fraud policy and strategy sets out our aims and objectives with regard to tackling fraud and corruption. It states that we will seek the strongest possible sanction against any individual or organisation that defraud, or seek to defraud the Authority.

2. The use of sanctions will be governed by the following policy and the principles of the policy shall apply equally to any fraud against the Authority or against funds for which the Authority has responsibility.

3. The objectives of this policy are:
   1. To ensure sanctions are imposed in a just and consistent manner.
   2. That they are applied in an effective and cost efficient manner.
   3. To ensure that the sanction decision making process is stringent, robust and transparent.

4. The sanction decision will have regard at all times to the Council’s anti-fraud policy objectives, the individual circumstances of each person concerned and the overall impact of the punishment to both the individual and the community.

5. A range of sanctions are available to the Council. These include disciplinary action, civil proceedings, criminal proceedings, official cautions and administrative penalties. In appropriate cases we will take more than one form of action. For example, where staff have defrauded the Council we may take disciplinary, prosecution and civil recovery action.

6. One option available to the Council is criminal prosecution. We recognise that this is a serious step to take and the decision to refer cases for prosecution will not be taken lightly.

7. The ultimate decision on prosecution will be taken by the prosecuting body. In some cases this will be the Council or the Crown Prosecution Service. We will utilise the Council’s Financial Investigators and/or the Police in cases where their additional powers are required to secure evidence or recovery of funds or where the matter cannot be fully pursued in-house.
8. We will utilise the Council’s Legal Service to undertake criminal prosecution.

9. The Tri-borough Director of Audit, Fraud, Risk and Insurance will be responsible for ensuring investigations into suspected fraud are conducted in a professional manner in accordance with the Police and Criminal Evidence Act 1984 (PACE), Criminal Procedures in Investigation Act 1996 (CPIA), Human Rights Act and Regulatory Investigators Power Act 2000 (RIPA). All evidence gathering will comply with the Data Protection Act 1998.

10. Each case is unique and must be considered on its own facts and merits. Investigators must be fair, independent and objective. They must not let any political views or personal views about ethnic or national origin, sex, religious beliefs, or the sexual orientation of the suspect, victim or witness influence their decisions. They must not be affected by improper or undue pressure from any source.

11. It is the duty of the Council to make sure that the right person is prosecuted for the right offence. In doing so, the Council must always act in the interests of justice and not solely for the purpose of obtaining a conviction.

12. Where necessary, the Council will work in co-operation with other organisations such as the Police, Department for Work and Pensions, Home Office, Her Majesty’s Revenue and Customs, other Local Authorities and departments within the Royal Borough of Kensington and Chelsea.

13. In appropriate cases, we will also utilise the prosecution arm of the Department for Work and Pensions. This will usually be for cases involving joint investigations involving Local Authority and DWP benefits.

14. When considering a case for prosecution it is generally accepted that there are two “tests” to be applied – the evidential test and the public interest test. These are set out in The Code for Crown Prosecutors.

15. The Code for Crown Prosecutors is a public document, issued by the Director of Public Prosecutions that sets out the general principles Crown Prosecutors should follow when they make decisions on cases.

**Evidential Stage Test**

16. Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge.
They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

17. When deciding whether there is sufficient evidence to prosecute, prosecutors must consider whether the evidence can be used and whether it is reliable. There will be many cases in which the evidence does not give any cause for concern. But there will also be cases in which the evidence may not be as strong as it first appears.

18. The evidence gathered will be examined in the first instance by the investigating officer and their manager. When both are satisfied that sufficient evidence exists to successfully prosecute and that the Public Interest Stage is also satisfied the case file will be passed on to either the Council’s legal team, the DWP Solicitor or the Crown Prosecution Service via the police. All prosecutors will then apply their own inspection of the evidence to ensure that both tests are met.

**Public interest test**

19. Where there is sufficient evidence to justify a prosecution or to offer an out-of-court disposal, prosecutors must go on to consider whether a prosecution is required in the public interest.

20. A prosecution will usually take place unless the prosecutor is sure that there are public interest factors tending against prosecution which outweigh those tending in favour, or unless the prosecutor is satisfied that the public interest may be properly served, in the first instance, by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal.

21. The more serious the offence or the offender’s record of criminal behaviour, the more likely it is that a prosecution will be required in the public interest.

22. Aggravating and mitigating factors will be taken into consideration when deciding on the appropriate sanction.

**Officer Fraud and Corruption**

23. In all cases of fraud, theft, financial misconduct, serious and intentional breach of financial regulations and corruption committed by officers we will seek disciplinary action. The normal recommendation would be “gross misconduct”.
24. Where a financial loss has been identified we will always seek to recover this loss either through the civil or criminal process.

25. Where appropriate under this policy we will refer cases to the relevant prosecuting authority for criminal prosecution.

**Housing Benefit Fraud**

26. In the area of Housing Benefit fraud additional sanctions are available to the Council such as an administrative penalty.

| NB: the Council will no longer be responsible for the investigation or prosecution of welfare fraud offences with effect from 1 March 2015. |

**Administrative Penalties**

27. In accordance with the Social Security Administration (Fraud) Act 1997, the Council may administer a fixed penalty arising from the offence. This is in addition to the total overpayment amount.

28. When the Council offers an Administrative Penalty officers will:

   - Explain details of the penalty; and
   - Ask if the defendant wished to accept it.

29. If the financial penalty is not accepted then the matter will be referred to the Council’s Legal Services for prosecution.

30. In all cases of fraud we will seek to recover the overpaid benefit.

**Tenancy Fraud**

31. The Council’s Corporate Anti-Fraud Service support the work of the Council’s Housing Department and will investigate suspicions of Tenancy Fraud.

32. This includes:

   - Unauthorised sub-letting
   - Abandonment
   - False succession applications
   - Right to buy
   - General tenancy breaches
33. In all cases of tenancy fraud the Council will seek repossession of the property and recovery of any financial losses. The Council’s view is that one property lost to fraud is one less property available to use for genuine applicants.

34. Tenancy Fraud will also be considered for criminal prosecution. The factors that will affect our decision to prosecute will be based on the evidential and the public interest test.

35. With effect from 15th October 2013 the Prevention of Social Housing Fraud Act will be available to prosecute offenders.

**Other Fraud**

36. Disabled Parking Badge, Direct Care Payments, Renovation Grants, Regeneration Funding and other applications for financial assistance. In cases where the Council suffers a financial loss, we will always seek recovery. Where an organisation is involved in the fraud, the Council will also make referrals to the relevant governing body, i.e. Charities Commission, Registrar of Companies.

37. The Council will also consider criminal prosecution. The factors that will affect our decision to prosecute will be based on the evidential and the public interest test. This will include cases of attempted fraud i.e. deliberate misuse or forgery/counterfeiting Disabled Parking Badges.

**PART 3: FURTHER INFORMATION**

**Tri-borough Director of Audit, Fraud, Risk and Insurance**

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