

**ANTI FRAUD AND CORRUPTION STRATEGY**

**This document should be read in conjunction with the Council's Anti-money laundering, Anti-Bribery and Enforcement Policy**

**INTRODUCTION**

The London Borough of Tower Hamlets has a revenue and capital budget of in excess of £1.4 billion and employs around 10,000 staff, inclusive of those employed within our schools. It works with an extensive number of partners including the third sector and private sector. The scale, complexity and profile of the Council put it at potential risk from fraud and corruption, both from within & without.

We are committed to making sure that the opportunity for fraud and corruption is reduced the lowest possible risk. Where there is the possibility of fraud, corruption and other problems, we will deal with it in a firm and controlled manner.

It is essential that the Council is able to prevent and detect fraud, thus ensuring that services are provided honestly and efficiently and Public funds are administered properly. The Anti-Fraud and Corruption Strategy outlines the principles that the Council is committed to in preventing and reporting fraud and corruption. It should be noted that the scope of this document is concerned only with matters associated with potential cases of fraud and corruption and does not consider other matters of malpractice which are properly covered by other policies within the Council's procedures.

**Definitions of Fraud and Corruption**

**Fraud**           The intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain."

**Corruption**    "The offering, giving, soliciting or acceptance of an inducement or reward which may influence the actions of any person."

## **BACKGROUND**

The Committee on Standards in Public Life, Chaired by Lord Nolan strengthened the need to have clear procedures for staff to raise concerns if they feel that malpractice has occurred.

The Council expects all of its staff, partners and Members to comply with the seven principals of public life in all of its activities. These are

### **Selflessness**

Holders of public office take decisions in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in their performance of the official duties.

### **Objectivity**

In carrying out public business, including making public appointments, awarding contract, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership**

Holders of public office should promote and support these principles by leadership and example.

The Council is committed to delivering an Anti-Fraud culture within the authority and among people and organisations that deal with it. It will attempt to raise the awareness of fraud, both within the authority, and in the community. It will encourage the reporting of suspected fraud and will take appropriate action when fraud, corruption or irregularity comes to light.

The strategy set out in this document covers the following areas:

- Legislative framework
- The anti-fraud environment
- Preventing fraud and corruption
- Detecting, investigating and recovery
- Training and awareness

This document should be read in conjunction with the Council's Anti-Money Laundering Policy and response to the Bribery Act 2010.

## **THE LEGISLATIVE FRAMEWORK**

Under the Local Government Act 1972 the Chief Financial Officer has a duty to ensure that there is an adequate process of Internal Audit to ensure the independent appraisal of the Council's systems of internal control, practices and systems. This requirement is further reinforced by the Local Audit and Accountability Act 2014 which established new arrangements for the auditing of local public bodies and the Accounts and Audit Regulations 2015.

There is a requirement under the 2015 Regulations for an annual governance statement to be prepared and approved by resolution of a committee, or by Full Council. The annual governance statement must be prepared in accordance with proper accounting practices and approved before the annual statement of accounts can be approved.

From time to time there will be a need to examine allegations and incidents that may have regard to fraud, corruption or financial malpractice.

In these circumstances the Council will ensure that any inquiry is legal, meets professional standards and that whistleblowers raising a genuine concern are afforded protection in accordance with the law.

### **Relevant Legislation**

The following is an outline of some of the primary legislation that covers investigation of fraud and corruption:-

- The Fraud Act 2006
- The Theft Acts 1968 and 1978 ( as amended)
- Social Security Administration (Fraud) Act 1997
- The Public Interest Disclosure Act 1998
- The Bribery Act 2010
- Data Protection Act 1998
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- Proceeds of Crime Act 2002
- Money Laundering Regulations 2007

- The Identity Documents Act 2010
- The Prevention of Social Housing Fraud Act 2013
- Local Audit and Accountability Act 2014

**Further information on a number of these can be found at Appendix 2.**

## **THE ANTI- FRAUD ENVIRONMENT**

We expect all people and organisations that are in any way associated with the Council to be honest and fair in their dealings with us, our clients and customers. We expect our members and employees to lead by example in these matters.

To support this we have a number of procedures and rules to make sure that our financial, working and organisational procedures are properly controlled. These are an important part of our internal control process, and it is important that all members and staff know about them.

The most important of these are as follows:

- Standing Orders
- Financial Regulations
- Code of Conduct for Employees
- Code of Conduct for Members
- Scheme of Delegation
- Risk Management Strategy and Local Code of Corporate Governance
- Anti money laundering policy
- Anti-bribery policy

Where regulations are breached the Council reserves the right to take formal action which may include ending their employment with the Council and civil and /or criminal proceedings being commenced.

In the case of elected members the Council's Monitoring Officer will be responsible for reporting matters to the appropriate authority.

We believe our members and employees have an important part to play in dealing with fraud and corruption and we will encourage our staff and members to report suspected fraud or corruption.

Where money laundering is suspected, staff and members must follow the Suspicious Activity Reporting procedures set out in the Council's anti-money laundering policy.

We will deal with all information fairly and confidentially. We will endeavor not to reveal the names of the people who gave us the information. Our Fraud Response Plan (Appendix 3) gives more advice on this issue.

We expect our Directors and Heads of Service to deal firmly and quickly with anyone who is responsible for fraud or corruption. Head of Paid Service/Director of Resources in consultation with the Corporate Anti- Fraud Manager may refer matters to the police if there is suspicion of any criminal activity having taken place.

The conduct of an investigation is a serious, expensive and disruptive business. Therefore where it is found that allegations are unfounded and vexatious or malicious, this will be taken very seriously and dealt with under the Council's disciplinary code.

## **PREVENTING FRAUD AND CORRUPTION**

The diversity and scope of the Council's business functions and services exposes the authority to the risk of fraud. We are committed to fighting fraud and corruption, whether attempted from inside or outside the authority. We will take appropriate action against the perpetrators. The Council's strategy for fighting fraud and corruption is based on four cornerstone principles as follows:

## **Anti -fraud culture**

The Council believes that the on-going development of a culture of honesty and openness is a key element in tackling fraud. The Council expects all elected members and employees to carry out their duties in accordance with appropriate legal requirements, internal codes of conduct including Human Resource Strategy guidance, procedures and regulations and to act at all times with honesty and probity in the discharge of their duties. The Council expects that all outside individuals and organisations, including partners, suppliers, contractors and claimants will act towards the authority with honesty and integrity.

Where IT systems are being utilised all parties are required to comply with the requirements of the Data Protection Act 1998, Acceptable Use Policy and the Computer Misuse Act 1990.

## **Internal Controls**

The Council has in place a framework of controls and procedures to deter fraud from taking place and detect it when it does. It is the responsibility of all members and employees to work within this framework. These controls include codes of practice, schemes of delegation, standing orders and financial regulations and a risk management strategy.

## **Effective Action**

Corporate Directors and Service Heads will report all suspicions of fraud or corruption to the Corporate Anti-Fraud Manager via the Head of Paid Service and the Director of Resources (in his role of Section 151 officer or Chief Finance Officer). If elected members are suspected then the Head of Paid Service and Monitoring Officer will coordinate the investigation. Following investigation, the appropriate action will be taken which may include disciplinary action, civil recovery and referral to the police.

As set out in paragraph 4.6 above, where money laundering is suspected, the procedures set out in the Council's Anti-Money Laundering Policy will apply. This may entail making a report in appropriate cases to **the Council's Anti-Money Laundering Reporting Officer and Corporate Anti-Fraud Manager (Tony Qayum)**.

## **Publicity**

Where evidence of irregularity has been found and prosecuted all cases will be publicised through press articles etc. to maximise awareness and to act as a deterrent to others.

## **DETECTING, INVESTIGATING AND RECOVERY**

**This section should be read with our Fraud Response Plan (see Appendix 2) and also our Enforcement Policy (Appendix 4).**

The Council has robust processes designed to reduce the risk of fraud and corruption these include regular management review of systems and procedures to ensure compliance with financial control, a risk based internal audit review cycle, risk management review process and governance guides including hospitality procedures and declarations of interests.

Where appropriate and in accordance with the fraud response plan the Internal Audit Service will undertake formal investigations into fraud and corruption. The process utilised in undertaking an investigation is covered by established professional practice as prescribe by CIPFA and in compliance with the Council's Fraud Response Plan and legislative guidance.

All cases referred either by the Whistle blowing telephone line or via an internal referral are risk assessed by the Corporate Anti-Fraud Manager and approval sought from the Head of Risk Management. Each case is then recorded for tracking on a database maintained by Risk Management. It is important that transparency is maintained in all decision making and consequently there is a process verification and review of the basic elements of the enquiry throughout the investigation process.

### **(Whistleblowing process – see Appendix 3)**

It is important to note that the investigator receiving the complaint will not be the sole investigator of the enquiry, therefore ensuring the utmost independence is maintained during the currency of an investigation.



## **Data Matching**

As a proactive commitment to the prevention and detection of fraud the Authority has actively participated in the National Fraud Initiative, which is a data matching exercise carried out by the Audit Commission under their powers within the Audit Commission Act 1998. This data match looks at wide variety of data sources and compares them to each other to identify potential fraud and irregularity. The potential fraud and irregularity areas include:-

- Benefits
- Payroll and Pensions
- Creditors
- Street Traders
- Insurance
- Private and Voluntary Adult Homes
- Child Minders
- Blue badge misuse

In addition data matching is also carried out with the Benefit Agency (Department of Works and Pensions) and the Inland Revenue under their own statutory powers.

Data matching is conducted within the requirements of the current Data Protection legislation, and the Audit Commission protocols and staff side consultation.

## **Housing and /or Council Tax Benefit Fraud**

This Service is managed by the Corporate Anti-Fraud Team within the Resources Directorate.

The framework for benefits related investigations and sanctions is contained within Appendix 4

Concerns regarding possible Housing or Council Tax Benefit Fraud, these can be reported using the Benefit Fraud Hotline on (0207 364 7443 – 24 hour answer phone service) or you can speak to a Benefit Investigator direct on 0207 364 7425 or 7426 or 7442

*Other possible fraudulent activity includes the following (see Appendix 5 for more details):-*

- Tenancy fraud
- Grants
- Insurance claims
- Parking permits including Blue Badge Scheme
- Identity theft fraud
- Protect yourself
- Advance fee fraud

### **Training and Awareness**

All staff in the authority will be trained in fraud awareness and anti-fraud and corruption procedures, and this training will be reinforced regularly. It is the responsibility of chief officers to ensure that staff are properly trained. The Director of Resources will provide advice and assistance in the provision of training in fraud awareness to staff.

### **Future training will include;-**

- Organised workshops will continue to be delivered during for 2015/16
- Induction training to new Investigating Officers under the Council's Disciplinary Code.
- Departmental management team training
- Regular on-line alerts and training
- Multimedia anti-fraud/anti-money laundering training

### **Conclusion**

Tower Hamlets Council is committed to tackling fraud, corruption and money laundering whenever it happens. Our ongoing response relies heavily on the principles included in this document and our Anti-Money Laundering policy.

We will continue to review our processes and procedures to ensure these strategy documents remains effective and up to date following endorsement of the current approach by the Audit Committee and Standards Advisory Committee.

## APPENDIX 1

### **The Fraud Act 2006**

The Fraud Act 2006 came into effect on 15<sup>th</sup> January 2007 and replaces all the deception offences in the Theft Acts of 1968 and 1978 with a single offence of Fraud, as outlined in Section 1 of the 2006 Act. The Act targets fraudulent behaviour, not the consequences of that behaviour. The Act also requires an assessment of what the person intended to happen as a result of their dishonest behaviour.

The offence can be committed in three different ways thus-

- False representation (Section 2)
- Failure to disclose information when there is a legal duty to do so (Section 3)
- Abuse of position (Section 4)

The Act also creates new offences of possession (Section 6) and making or supplying articles for use in frauds (Section 7).

The offence of fraudulent trading (Section 993 of the Companies Act 2006) will apply to sole traders (Section 9). Obtaining services by deception is replaced by a new offence of obtaining services dishonestly (Section 11).

Further information on this legislation can be found at <http://www.opsi.gov.uk/acts.htm>

### **The Bribery Act 2010**

The Bribery Act 2010 creates offences of offering or giving a bribe; and requesting, receiving or agreeing to accept a bribe; and bribing foreign officials. A relevant function or activity includes any function of a public nature; any activity connected with a business or performed in the course of a person's employment; or any activity performed by or on behalf of a body of persons whether corporate or unincorporated.

The Act also creates a new offence which can be committed by commercial organisations which fail to prevent persons associated with them (including third party providers) from bribing another person on their behalf. The commercial organisation will have a defence if it can show that it had adequate

procedures in place to prevent persons associated with it from committing bribery. To ensure that adequate procedures are in place six principles should be adhered to: proportionate procedures; top level commitment; risk assessment; due diligence; communication; monitoring and review.

### **The Identity Documents Act 2010**

The Identity Documents Act 2010 defines what constitutes an identity document and includes

- an ID card
- a designated document
- an immigration document
- a UK passport
- a passport issued by or on behalf of the authorities of a country or territory outside the UK or by or on behalf of an international organisation
- a document that can be used instead of a passport- for example a visa
- a UK diving licence or a driving licence issued by or on behalf of the authorities of a country or territory outside the United Kingdom

Under this legislation it is an offence to hold a false identity document. A person found guilty of this offence could be sentenced to up to two years' imprisonment and a person convicted of having apparatus or material to create false identify documents may face up to ten years imprisonment or a fine, or both.

### **The Proceeds of Crime Act 2002**

The Proceeds of Crime Act 2002 and Money Laundering Regulations 2007 place some important obligations upon professional advisers from a wide range of sectors, including tax advisers, accountants, auditors, insolvency practitioners and legal advisers. Such professionals who carry on relevant business are required to fulfil a range of obligations to prevent money laundering. In particular they are required to report their knowledge or suspicion of money laundering to the Serious Organised Crime Agency (SOCA). This covers the proceeds of all crime including all acts of tax evasion and fraud.

At Tower Hamlets we have followed the guidance of CIPFA and the Corporate Anti-Fraud Manager, Tony Qayum fulfils the role of Money Laundering reporting officer. There is a process and procedure for reporting concerns to the Police via prescribed documentation. The area's most likely to be exposed to Money Laundering are physical cash, asset transactions, revenue overpayments and planning gain receipts.

***If you have a concern regarding this you have a duty to report your concern to the Corporate Fraud Manager who will investigate the matter.***

### **Regulation of Investigatory Powers Act 2000**

Section 6(1) of the Human Rights Act 1998 provides that it is unlawful for a public authority to act in a way that is incompatible with a Convention right. Article 8 of the European Convention of Human Rights provides that “*Everyone has the right to respect for his private and family life, his home and his correspondence.*”

There can be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The Regulation of Investigatory Powers Act 2000 (‘RIPA’) was therefore introduced, to ensure that surveillance and certain other intelligence gathering complies with the European Convention of Human Rights. Specifically, Part II of RIPA provides a statutory framework that is compliant with the European Convention of Human Rights when using intrusive surveillance techniques and by introducing national standards that apply to the Police and other Law Enforcement Agencies. The London Borough of Tower Hamlets is committed to maintaining these principles.

To demonstrate the Council’s commitment to open and transparent government, it has adopted the Home Office guidelines and documentation for Directed Surveillance and Covert Human Intelligence Sources-Informants/whistleblowers. The Office of Surveillance Commissioners (‘OSC’) are tasked with carrying out regular inspections of Law Enforcement Agencies to ensure compliance with RIPA in so far as directed surveillance and the use or conduct of a covert human intelligence source is concerned. As part of that implementation, the OSC advise that Law Enforcement Agencies, including this Council, develop a Corporate Policy. To comply with this requirement, this Policy was introduced from July 27<sup>th</sup> 2004 and has been updated regularly since then in accordance with good practice.

## **The Public Interest Disclosure Act 1998**

The Public Interest Disclosure Act 1998, which came into force in 1999, provides whistleblowers with statutory protection against dismissal and victimisation. The Act applies to people at work raising genuine concerns about crime, civil offences, miscarriage of justice, and danger to health and safety or the environment. It applies whether or not the information is confidential and extends to malpractice overseas.

The Act distinguishes between **internal disclosures** (a disclosure in good faith to a manager or the employer is protected if the whistleblower has reasonable suspicion that the malpractice has occurred or is likely to occur), **regulatory disclosures** and **wider disclosures**. Regulatory disclosures can be made in good faith to prescribed bodies such as the Health and Safety Executive, the Inland Revenue and the Financial Services Authority.

Wider disclosures (e.g. to the police, the media, and MPs) are protected if, in addition to the tests for internal disclosures, they are reasonable in all the circumstances and they meet one of three conditions. Provided they are not made for personal gain these conditions are, that the whistleblower:

- reasonably believed he would be victimised if he raised the matter internally or with a prescribed regulator;
- reasonably believed a cover-up was likely and there was no prescribed regulator; or
- had already raised the matter internally or with a prescribed regulator.

For protection from victimisation to be afforded under the Public Interest Disclosure Act, it is necessary in the first instance to consider the nature of the information revealed, and decide whether the disclosure is a 'qualifying disclosure' within Section 43(B) of the Employment Rights Act 1996.

The question is whether the worker concerned honestly believes that the information revealed tends to show that there has been, or is, or is likely to be a relevant failure - past, present or future.

The relevant failure may be:-

- a criminal offence;
- a failure to comply with any legal obligation;
- a miscarriage of justice;
- a danger to the health and safety of any person;

[Extract from Internet Report prepared by 'Public Concern at Work']



## **APPENDIX 2**

### **Fraud Response Plan**

As part of the Borough's Anti-Fraud and Corruption Strategy, it is best practice to have a Fraud Response Plan in place. The plan offers staff direction and help in dealing with matters of suspected Fraud and Corruption indicating responsibilities, and sources for guidance.

### **RISK MANAGEMENT**

The Risk Management Service is usually the most appropriate unit to investigate suspected fraud. It is essential, therefore, that every case of suspected fraud is reported to the Corporate Anti-Fraud Manager.

The Director of Resources will advise and decide on how an inquiry will be progressed and, in conjunction with the Head of Paid Services, whether external agents such as the Police need to be informed.

Experienced Investigation staff will be assigned to manage fraud and/or corruption investigations. Such investigations by Risk Management will give due regard to Audit Commission Guidelines, Codes of Practice and relevant legislation.

At the conclusion of the investigation, management of the service concerned will be informed as to the outcome together with recommendations as to proposed action. The Planned Audit Team will ensure that all recommendations agreed are fully implemented following an actual follow-up audit within six months of the conclusion of the investigation. This will therefore inform the risk based audit approach and the local/corporate risk registers.

### **REPORTING SUSPECTED FRAUD AND CORRUPTION**

Staff are at the forefront in helping the authority to detect fraud. It is often members of staff who are the first to notice suspected cases of fraud and corruption.

The authority encourages staff to report issues concerning fraud or corruption. Financial Regulations and the Officers Code of Conduct require staff to raise their concerns where irregularity is suspected.

When the employee first uncovers a case of suspected fraud or corruption the action they initially take can often be vital to the success of any investigation that ensues. It is essential that their actions be in line with the guidance given in this document.

Guidance on 'What to do' when you suspect fraud and/or corruption are given in the Sections headed 'Action by Employees' and that on 'Action by Managers'

NB. Your suspected fraud and/or corruption matter should be reported to one of the following :-

- Your Line Manager - (where appropriate)
- Your Head of Service- (where appropriate)
- Your Corporate Director- (where appropriate)
- The Corporate Anti-Fraud Manager - Tony Qayum Ext. 4773
- Corporate Fraud Team – Corporate Fraud Team Leader – Sue Oakley Ext. 7423
- Head Risk Management and Audit - Minesh Jani Ext 0738
- Interim Monitoring Officer - Meic Sullivan-Gould Ext 4800
- Acting Director of Resources – Chris Holme Ext 4700
- Via the Confidential Staff Whistleblowing Hotline on Free phone 0800 528 0294 (See Whistleblowing process – Appendix 3)
- Public Concern at Work- 020 7404 6576

### ACTION BY EMPLOYEES

Where fraud or corruption is suspected:

- Write down your concerns immediately
- Make a note of all relevant details e.g. telephone conversations, dates times, names, actions
- Any notes or evidence in their possession, which supports what is being reported, must be kept intact and placed in a secure location
- Report the matter immediately to either your line manager or your Service Head. If this is not possible/or appropriate due to your concerns potentially about your own service or line

manager, it can be reported to the Risk Management Service (Tony Qayum on Ext. 4773 email [tony.qayum@towerhamlets.gov.uk](mailto:tony.qayum@towerhamlets.gov.uk) or Sue Oakley Ext. on 7423 and email [sue.oakley@towerhamlets.gov.uk](mailto:sue.oakley@towerhamlets.gov.uk)). Alternatively, the Council's confidential Staff Whistleblowing telephone line can be used for this (0800 528 0294). Give that officer any notes you have made or any evidence that you have gathered.

- Do not tell anybody else about your suspicions
  - Be prepared to assist Internal Audit or any authorised body in any investigation
  - Do not attempt to carry out an investigation yourself as this may jeopardise any future enquiry and compromise your evidence
- 
- Where money laundering is suspected, follow the guidance set out in the Council's Anti-money laundering policy

Please note that under no circumstances should a staff member speak to or write to representatives of the press, TV, radio or to another third party about a suspected fraud without the express authority of the Head of Paid Services.

Suspicions of money laundering must not be discussed with any person save for the Council's Money Laundering Reporting Officer as set out in the Council's Anti-Money Laundering policy.

It is paramount that officers do not act in a manner that may give rise to an action for slander or libel, or which may amount to an offence of "tipping-off" under the Proceeds of Crime Act 2002.

### ACTION BY MANAGERS

Where fraud or corruption is suspected:

- Listen to the concerns raised by staff and treat every reported case seriously, sensitively and confidentially. Never give members of staff the impression that their well-meaning concerns are being treated with anything other than the utmost seriousness

- All staff concerns should be given a fair hearing, along with reassurance that their report of such issues will not affect them adversely
  - Attempt to gain as much information as possible from the member of staff reporting the concern. This should include any notes or evidence in their possession, which supports what is being reported. Such evidence must be kept intact and placed in a secure location
  - Assess whether the suspicions may have some foundation before taking the matter further
  - All suspected concerns involving suspected fraud and corruption must be reported in compliance with Financial Regulations to the Director of Resources or to the Corporate Fraud Manager and give that officer any notes or evidence that has been gathered
  - Be prepared to assist Internal Audit or any authorised body in any investigation
  - Do not attempt to carry out any investigation.
- Where money laundering is suspected, follow the guidance in the Council's anti-money laundering policy.

## APPENDIX 3

### Whistleblowing Process

The Public Interest Disclosure Act 1998 (see appendix A for further information) has enhanced the need for an Anti Fraud culture to be present in all Public Service environments. This entails meaningful and accessible means for Staff, Members and Partners to raise concerns in confidence.

The cornerstone of an Anti-Fraud and Corruption Strategy is a Whistleblowing facility which would **enable staff, contractors, third sector and voluntary providers and Members** to raise concerns of a serious nature in confidence and with assurance that if the matters reported are well-founded they will be investigated without fear of comeback to the whistleblower

The Council launched a confidential Whistleblowing telephone line in September 2000 and has regularly publicised this via articles in internal news publications, the Council's Intranet and within the Authority's Corporate Governance arrangements, including the Authority's Financial Regulations

*"Do you have a genuine concern about Unlawful or improper conduct by Council officers or Councillors"?*

- If you do, we need to know about it
  
- You are not a snitch, if you raise a genuine concern you will be helping the Council
  
- You will not be asked to prove your concern is true, only that it is honestly raised
  
- You must have a concern about unlawful conduct for example possible abuse of authority or dishonest activity
  
- Your concern should not be a grievance or complaint about services. These have different routes for redress
  
- You should not raise malicious or false concerns
  
- If you raise a genuine, but, unfounded concern, you will not be involved in any follow up

action

- You can remain anonymous and be treated with strict confidence if you request

#### A Supplement not a Substitute – The Usual Channels for Complaint

It is important to note that the Whistleblowing strategy is not intended to replace any of the complaint/concern mechanisms already in place at Tower Hamlets.

*Anyone, including elected members, staff, service users, partners and members of the Public are encouraged to raise genuine complaints or matters of concern with the Council through existing procedures.*

**Where an appropriate avenue exists people should use it. The Whistleblowing procedure is designed to supplement, rather than replace the existing procedures wherever practicable. These channels are:**

The Council's Complaints Procedure

The Grievance Procedure

Line Management

The Housing Benefit Fraud Hotline (0207 364 7443)

The Council General Inquiry number (020 7364 5000)

The External Auditor

Public Concern at Work 020 7404 6576

#### SAFEGUARDS

**The Council recognises that a decision to “blow the Whistle” can be a difficult one to make. This may be influenced by the fear of reprisal from those who may have perpetrated the alleged malpractice or from the organisation as a whole.**

The Council will not tolerate any victimisation and will take appropriate action to protect any person who raises a concern in good faith, including any necessary disciplinary action.

Wherever possible, the Council will protect the anonymity of any member of staff who raises a concern and who does not want his/her name to be disclosed.

However, this may not always be possible, as any investigation process may in itself reveal the source of information and a statement by the Whistleblower may be a necessary part of evidence, particularly if it is thought the matter may lead to a criminal prosecution.

The Council will protect individuals and the organisation from false, malicious and vexatious expressions of concern. If staff make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered and implemented. To protect staff who maybe the subject of a false, malicious and vexatious expression of concern or a mistaken belief, the Council will investigate the complaint in a timely manner and in accordance with the following timescale:

- A professional investigator will review and classify the matter within 15 days;
- If, following an investigation it is determined that there is a case to answer a decision will be made for an independent confidential investigation to be carried out, under the Council's Disciplinary Code. This will be communicated to the person who is the subject of the complaint in accordance with the Council's existing Disciplinary Investigation procedures as will all timescales outlined in the appropriate HR strategy.

The Council will do its best to protect an individual's identity when s/he raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence. The Council will try to ensure that the negative impact of either a false or unfounded allegation on any "accused" person is minimised. This entails acting with the strictest independence and professional confidentiality.

In determining if action to investigate will take place, the Council will consider the following:-

- whether it is the Council's business
- the credibility of the concern

the seriousness of the issues raised

the likelihood of obtaining the necessary information

the experience of previous related reports

Anonymous concerns will be investigated at the discretion of the Council

The following chart shows how to get your concerns investigated, and takes you through the agreed procedures on how each concern is dealt with to ensure transparency and that it is being treated seriously.

<ul style="list-style-type: none"><li>• I think a fraud or unlawful act may have been committed</li><li>• What should I do?</li><li>• Who should I contact?</li></ul>	<ul style="list-style-type: none"><li>• Is it serious and well founded?</li><li>• If Yes</li><li>• You can raise your concerns in confidence on the Whistleblowing Hot Line (or write to Tony Qayum – Corporate Anti-Fraud Manager - 7<sup>th</sup> Floor Mulberry Place)</li></ul>
<ul style="list-style-type: none"><li>• What will happen if I ring the Hotline</li></ul>	<ul style="list-style-type: none"><li>• You will be asked for details of your concern</li></ul>
<ul style="list-style-type: none"><li>• Will I have to give my name?</li></ul>	<ul style="list-style-type: none"><li>• NO</li></ul>
<ul style="list-style-type: none"><li>• So what will happen next?</li></ul>	<ul style="list-style-type: none"><li>• Your concern will be given a reference number. You can call in 10 days to check progress</li></ul>
<ul style="list-style-type: none"><li>• Who does anything about it?</li></ul>	<ul style="list-style-type: none"><li>• A Registration Officer will take details of your call, and a professional investigator will review and classify it.</li><li>• A register of <u>all calls</u> will be kept, and the Registration Officer will report this to the Acting</li></ul>



	<p>Director of Resources</p> <p>A final decision will be made and if appropriate an independent confidential investigation will be carried out</p>
<ul style="list-style-type: none"> <li>• Won't it just be covered up?</li> </ul>	<ul style="list-style-type: none"> <li>• NO - there is independence between the Registration Officer and the Investigation Officer. The Investigation Officer is answerable to the Acting Director of Resources and the Acting Director of Resources must ensure that justified action is reported back to the Registration Officer.</li> </ul>
<p><b><i><u>PLEASE CALL 0800 528 0294</u> if you have any concerns or would like further details of the process.</i></b></p> <p><b><i>Strict Confidentiality and Anonymity will be preserved if requested.</i></b></p>	

## APPENDIX 4

### LONDON BOROUGH OF TOWER HAMLETS BENEFIT FRAUD ENFORCEMENT POLICY

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#### 1) Background

The Benefits service positively encourages the take up of Housing and Council Tax Benefit but acknowledges its responsibility to prevent and detect benefit fraud.

Benefit offences are taken seriously by the Council and it is our aim to apply prosecutions and sanctions in cases where such action is deemed appropriate.

This policy is designed to provide a suitable framework to ensure a fair and consistent approach is applied for cases under consideration.

#### 2) Legislative framework

The Council currently has the power to prosecute offenders under Section 111A and 112 of the Social Security Administration Act 1992 which is generally the legislation most appropriate to benefit fraud offenders. However other legislation such as the Fraud Act 2006 may be used where appropriate.

It is important to note that the section 112 of the Welfare Reform Act 2012 will remove the Council's powers to prosecute housing and council tax benefit fraud, and this is being progressively rolled out across the UK. Tower Hamlets will stop prosecuting new offences from February 2016, except where an investigation is already underway.

Currently, the Council may apply sanctions in cases where prosecution is feasible, but is not the preferred option. The available sanctions are:

- Administrative Penalty – where a penalty fine of 50% (as of May 2012) of the fraudulently overpaid benefit can be applied. The offender has the right to refuse to accept the penalty

but the Authority should then proceed with prosecution action on the case. Therefore the case must be of suitable quality for prosecution action from the outset.

The legislation pertaining to Administrative Penalties is contained within Section 115A of the Social Security Administration Act 1992 (as amended by Section 15 of the Social Security (Fraud) Act 1997).

- Formal Caution – an oral warning that is administered when a claimant has admitted to an offence. These are generally used in less serious cases where lower amounts of money are involved.

The caution is offered in cases where the claimant has admitted the offence, and he/she has a choice in whether to accept or decline the caution. If the caution is declined the Authority should proceed with prosecution action. An accepted caution is recorded on the Department of Work and Pensions Central database and the record is kept for 5 years. Prior to offering Formal Cautions or Administrative Penalties the Central Database is checked. It would not be appropriate to issue more than one caution or penalty to an individual. If the check shows they have accepted a caution or penalty previously the Authority should proceed with prosecution action against that individual.

Both Administrative Penalties and Formal Cautions are offered in a special interview by an officer who has not dealt with the investigation of the case. The format of the interview is fully proceduralised by the Department of Work and Pensions (DWP) to ensure clarity, fairness and consistency.

### 3) **Prosecution**

Prosecutions on benefit fraud cases are generally facilitated by the Council's Legal Service, but they may also be taken by the DWP or the Police where necessary, according to circumstances.

### 4) **Suitability for Prosecution and Sanction Action**

Cases are scrutinised by the Investigations Manager for the suitability for prosecution or sanction action taking into account a number of factors.

Primarily evidence and the public interest test are applied before further additional details of the case are taken into account. Details of the considered criteria are given below:

A) ***Sufficiency of evidence***

- Is there enough evidence to provide a realistic prospect of conviction?
- Has the evidence been collected in an appropriate manner?
- Can the evidence be used in court?
- Is the evidence reliable?

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B) ***Public interest test***

Generally it must be seen to be in the public interest to prosecute. Poor publicity surrounding an attempted prosecution can lead to criticism of the Authority. To consider whether it is in the public interest to prosecute then seven (7) questions need to be considered:

- (a) How serious is the offence committed? The more serious the offence, the more likely it is that a prosecution is required. When deciding the level of seriousness of the offence committed, prosecutors should include amongst the factors for consideration the suspect's culpability and the harm to the victim by asking themselves the questions at b) and c).
- (b) What is the level of culpability of the suspect? The greater the suspect's level of culpability, the more likely it is that a prosecution is required. Culpability is likely to be determined by the suspect's level of involvement; the extent to which the offending was premeditated and/or planned; whether they have previous criminal convictions and/or out-of-court disposals and any offending whilst on bail or whilst subject to a court order; whether the offending was or is likely to be continued, repeated or escalated; and the suspect's age or maturity (see paragraph d) below for suspects under 18).

Prosecutors should also have regard when considering culpability as to whether the suspect is, or was at the time of the offence, suffering from any significant mental or physical ill health as in some circumstances this may mean that it is less likely that a prosecution is required. However, prosecutors will also need to consider how serious the offence was, whether it is likely to be repeated and the need to safeguard the public or those providing care to such persons.

- (c) What are the circumstances of and the harm caused to the victim? The circumstances of the victim are highly relevant. The greater the vulnerability of the victim, the more likely it is that a prosecution is required. This includes where a position of trust or authority exists between the suspect and victim. A prosecution is also more likely if the offence has been committed against a victim who was at the time a person serving the public.

Prosecutors must also have regard to whether the offence was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or the suspect demonstrated hostility towards the victim based on any of those characteristics. The presence of any such motivation or hostility will mean that it is more likely that prosecution is required.

In deciding whether a prosecution is required in the public interest, prosecutors should take into account the views expressed by the victim about the impact that the offence has had. In appropriate cases, this may also include the views of the victim's family.

Prosecutors also need to consider if a prosecution is likely to have an adverse effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence. If there is evidence that prosecution is likely to have an adverse impact on the victim's health it may make a prosecution less likely, taking into account the victim's views. However, we do not act for victims or their families in the same way as solicitors act for their clients, and prosecutors must form an overall view of the public interest.

- (d) Was the suspect under the age of 18 at the time of the offence? The criminal justice system treats children and young people differently from adults and significant weight must be attached to the age of the suspect if they are a child or young person under 18. The best interests and welfare of the child or young person must be considered including whether a prosecution is likely to have an adverse impact on his or her future prospects that is disproportionate to the seriousness of the offending. Prosecutors must have regard to the principal aim of the youth justice system which is to prevent offending by children and young people. Prosecutors must also have regard to the obligations arising under the United Nations 1989 Convention on the Rights of the Child.

As a starting point, the younger the suspect, the less likely it is that a prosecution is required. However, there may be circumstances which mean that notwithstanding the fact that the suspect is under 18, a prosecution is in the public interest. These include where the offence committed is serious, where the suspect's past record suggests that there are no suitable alternatives to prosecution, or where the absence of an admission means that out-of-court disposals which might have addressed the offending behaviour are not available.

- (e) What is the impact on the community? The greater the impact of the offending on the community, the more likely it is that a prosecution is required. In considering this question, prosecutors should have regard to how community is an inclusive term and is not restricted to communities defined by location.
- (f) Is prosecution a proportionate response? Prosecutors should also consider whether prosecution is proportionate to the likely outcome, and in so doing the following may be relevant to the case under consideration.

➤ The cost to the CPS and the wider criminal justice system, especially where it could be regarded as excessive when weighed against any likely penalty. (Prosecutors should not decide the public interest on the basis of this factor alone. It is essential that regard is also given to the public interest factors identified when considering the other questions in paragraphs 4.12 a) to g), but cost is a relevant factor when making an overall assessment of the public interest.)

- Cases should be capable of being prosecuted in a way that is consistent with principles of effective case management. For example, in a case involving multiple suspects, prosecution might be reserved for the main participants in order to avoid excessively long and complex proceedings.
- (g) Do sources of information require protecting? In cases where public interest immunity does not apply, special care should be taken when proceeding with a prosecution where details may need to be made public that could harm sources of information, international relations or national security. It is essential that such cases are kept under continuing review.

C) *Additional factors of the case*

A key consideration in the decision whether to prosecute is the level of *dishonesty* involved in the fraud. An investigated case may result in a relatively large amount of overpaid benefit, but another with a lower amount of overpayment may present as more serious because of the level of knowledge and deception involved.

Other factors taken into consideration are:

- Whether there is evidence of a previous instance of benefit fraud.
- Where the offender was in a position of trust (e.g. employee or Councillor).
- Where there is evidence of collusion (e.g. with landlord or employer)
- Where the person has declined an Administrative Penalty or Caution.
- Where Authorised Officer powers have been obstructed.
- Where there are errors or flaws in the benefit assessment process.

The facts of the case are provided by the investigating officer in summary form at the end of the investigation following a taped Interview under Caution and calculation (by the Benefit Office) of any resulting overpayment.

The Principal Investigation Officer heading the relevant team will evaluate the case and pass her/his recommendations on to the Team Manager.

The Team Manager will consider all the available evidence and determine whether any further action will be appropriate on the case in terms of criminal prosecution action, Formal Caution or Administrative Penalty. The above mentioned points are taken into consideration as are any serious social or personal factors that may have come to light during the investigation. The amount of the benefit overpaid as a result of the perceived fraudulent activity is taken into consideration but is not a definitive measure of what action is to be taken on the case.

The Authority aims to facilitate prosecution action on all cases where there is suitable evidence and supporting criteria. The team has an officer dedicated to preparing the paperwork required and liaising with the Legal department to ensure optimum results are achieved when the case goes to court.

## **APPENDIX 5**

Concerns on the following can be reported via the Whistleblowing hotline and will be referred to the appropriate Service Head for investigation and action as necessary.

### **Unlawful Subletting of Social Housing Property**

The Council through Tower Hamlets Homes and its Registered Partners has a limited number of homes available to let and lettings are prioritised according to housing needs. Tenancy fraud involves obtaining properties by deception (for example, individuals claiming to be homeless when they already own a property or are already living at an address), or continuing to claim to be living at a property when they have moved out and sublet it.

We have a duty to house certain vulnerable members of society (e.g. children), and are often forced to use bed and breakfast facilities due to a shortage of Council housing. In addition, families or individuals on the housing waiting list are denied housing because people are using the Council properties for profit or simply queue jumping. Fraudulently obtaining Council housing or subletting for personal gain uses up precious resources that should be available to families in need. The Corporate Fraud Team has a dedicated resource to investigate allegations of Sub Letting and the team works with all Social Housing Landlords within the borough including Tower Hamlets Homes.

If you have any information that suggests a tenanted property is being sub let please **CALL 0800 528 0294** *if you have any concerns or would like further details of the process. Strict Confidentiality and Anonymity will be preserved if requested*

### **Grants**

The Council awards several different grants to individuals and organisations in the borough. These range from house renovation grants to voluntary organisations providing services to the community. Grant fraud usually involves either making false claims in order to obtain a grant or providing false accounts of how the money is spent.



### **Insurance claims**

The Council receives bogus insurance claims, particularly related to trips and falls on the pavement. This is a serious problem, which drains resources away from repairing and improving the highways themselves.

### **Parking permits including Blue Badge Scheme**

The Council has designated many neighbourhoods as controlled parking zones, many requiring a parking permit which is only available to residents. Parking in certain areas of the borough is at a premium, which causes some motorists to use fake permits, other residents' permits, or may fraudulently use a resident's address to obtain a permit from us. This kind of fraud reduces the availability of parking for residents and reduces the revenue to the Council.

### **Identity theft/fraud**

Identity theft is the unlawful taking of another person's details without their permission. The information stolen can be used to obtain many financial services goods and other forms of identification i.e. passports and driving licenses. The information stolen can range from a copy of birth certificate to copies of discarded bank or credit card statements and utility bills.

Once the criminals have copies of someone's identity they can embark on criminal activity in your name with the knowledge that any follow up investigations will not lead to them. With your details they can obtain documents that are in essence real but contain false information thus making it difficult for organisations to know who they really are dealing with.

### **Protect yourself!**

Be careful with your personal information. If you receive a telephone call from a credit card company, bank or other retail company asking to confirm certain details about yourself decline them and ask to call them back preferably through a central switchboard. Also, do not reveal your personal details when using your mobile phone in a public place. When destroying personal correspondence such as bank and credit card statements consider a shredder or even burning them on the garden refuse. If you cannot do either then tear the papers up into very small pieces and place in the refuse bin with other waste products.

If you move address remember to inform all of the companies that send personal information to you in the post. Always consider re-directing your post with Royal Mail. If you fail to do this people moving in might have free access to your personal details and misappropriate them.

### **How do you know if are victim to this type of fraud?**

Are you missing your regular monthly statements?

- Have you noticed charges to your accounts that are not yours? Remember to check all statements especially bank and credit card.
- Being contacted by a debt collection agency about outstanding payments for items or services that you have not ordered.

### **Protect yourself act quickly**

Firstly do not ignore the problem it might not be you that has ordered some goods or opened an account but the debt falls to your name and address.

Once blacklisted for credit it may take many years to fully recover from the problem and you might have difficulties in obtaining a mortgage or other bank credit.

Contact your local Police, report the crime and ask for a crime reference number to quote to the companies that allege that you have opened an account with them.

Check out the Home Office identity theft website at [www.identity-theft.org.uk](http://www.identity-theft.org.uk) for more information

### **Advance fee fraud**

Advance fee fraud is a popular crime, which involves a myriad of schemes and scams - mail, faxed, and telephone promises designed to facilitate victims parting with money. They usually claim to be from a general or politician in a foreign country who has a large sum of money (millions of pounds), which they wish to get out of a country, and need help in getting it out with the promise of a substantial share of the cash in return. If you receive correspondence of this sort report it to the police. Remember, if it seems too

good to be true, it probably is! For further crime prevention advice, visit the [BBC Crime Prevention website](#) or the [Home Office fraud prevention website](#)

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