

REPORT TO: <b>Audit Committee</b>	DATE <b>30 March 2010</b>	CLASSIFICATION	REPORT NO.	AGENDA NO. <b>5.4</b>
REPORT OF: <b>Corporate Director, Resources</b> ORIGINATING OFFICER(S): <b>Head of Audit Services</b>		<b>Anti Fraud and Corruption Strategy</b>  <b>Ward(s) Affected: N/A</b>		

## 1. Introduction

- 1.1 This report provides Audit Committee with an updated Anti Fraud and Corruption Strategy following the best practice guidance issued by the CIPFA publication "Managing the Risk of Fraud – Actions to Counter the Risk of Fraud- Red Book 2".
- 1.2 Audit Committee will recall that the Council undertook a review of its arrangements earlier in the financial year to benchmark its arrangements against the requirements of the best practice guide as prescribed by CIPFA. The small number of additional actions required to maintain best practice, have been worked on during the year and attached is a revised Anti Fraud and Corruption Strategy which is intended to ensure the Council continues to meet best practice.

## 2. Recommendations

- 2.1 The Audit Committee is asked to note this report.

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### LOCAL GOVERNMENT ACT 1972 (AS AMENDED) SECTION 100D

#### LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of "background papers"

Name and telephone number of holder  
And address where open to inspection  
*Minesh Jani, 0207 364 0738*

### **3. Background**

3.1 As part of our ongoing efforts to ensure the strategy and systems in place within the Council remain relevant and meets best practice the Anti Fraud and Corruption Strategy as well as a range of other procedures and practices within the Council including Prosecutions Policy, Joint Working etc. were the subject of an independent review.

3.2 The review was undertaken by the former Head of Legal Services and evaluated the existing strategy and arrangements against the following five key tests. These are further broken down into a number of additional key questions which seek to evidence the effectiveness of the Councils overall Governance arrangements.

3.3 The key tests were:-

#### **3.3.1 Adopting the right strategy**

*Does the organisation have a counter fraud and corruption strategy that can be clearly linked to the Effective policies and procedures in relation to identifying, reporting and investigating suspected fraudulent/corrupt activity are in place.*

#### **3.3.2 Measuring Fraud and Corruption Losses**

*Are fraud and corruption risks considered as part of the organisation's strategic risk management arrangements.*

#### **3.3.3 Creating and Maintaining a strong structure**

*Do those tasked with countering fraud and corruption have the appropriate authority needed to pursue their remit effectively, linked to the organisation's counter fraud and corruption strategy.*

#### **3.3.4 Taking action to tackle the problem**

*Is the organisation undertaking the full range of necessary action.*

#### **3.3.5 Defining Success**

*Relevant officers and Committees are made aware of investigations which may effect their*

3.4 The methodology used to undertake this review was to examine the available evidence against each of these tests and develop recommendations to ensure we meet best practice where this was considered necessary.

3.5 The Red Book 2 requirements form part of the new Comprehensive Area Assessment testing under the Key Lines of Enquiry sections 2.3 and 2.4 The questions they cover are:-

- Does the organisation promote and demonstrate the principles and values of good governance?
- Does the organisation manage its risks and maintain a sound system of internal control

#### **4. Progress update**

4.1 The Red Book 2 requirements form part of the new Comprehensive Area Assessment testing under the Key Lines of Enquiry sections 2.3 and 2.4 The questions they cover are:-

- Does the organisation promote and demonstrate the principles and values of good governance?
- Does the organisation manage its risks and maintain a sound system of internal control?

4.2 The review found that against each of the tests undertaken, the Council's arrangements were generally good with most points either fully or partially met.

4.3 Some of the questions required further development to meet full compliance and where this has been found there are suggestions to enhance the arrangements further.

4.4 The expectation is that the Council will have reached full compliance by the end of this financial year.

4.5 At the 29<sup>th</sup> September 2009 Audit Committee, Members received a report on the Council's progress made in compliance with the Red Book 2 requirements and the actions required to "achieve full compliance". Attached as appendix A is an update which shows that we are on course to be compliant by the end of March 2010.

4.6 The attached Appendix B is an updated Anti Fraud and Corruption Strategy that includes the additional best practice suggestions from the independent review.

**5. Comments of the Chief Financial Officer**

5.1 The comments of the Corporate Director of Resources have been incorporated into this report.

**6. Concurrent Report of the Assistant Chief Executive (Legal Services)**

6.1. There are no immediate legal implications arising from this report.

**7. One Tower Hamlets Considerations**

7.1 There are no specific One Tower Hamlets Considerations issues arising from this report.

**8. Equal Opportunity Considerations**

8.1. There are no specific Equal Opportunities issues arising from this report.

**9. Anti-Poverty Considerations**

9.1. There are no specific Anti-Poverty issues arising from this report.

**10. Risk Management Implications**

10.1. The implications arising from failure to control and manage risks could result in vulnerability to the systems of control that may be exploited. This report identifies areas of risk for management to mitigate.

**11. Sustainable Action for a Greener Environment (SAGE)**

11.1. There are no specific SAGE implications.

## APPENDIX A

1. ADOPTING THE RIGHT STRATEGY					
Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to enhance compliance	
1.1	Does the organisation have a counter fraud and corruption strategy that can be clearly linked to the organisation's overall strategic objectives?	<ul style="list-style-type: none"> <li>• Anti Fraud and Corruption Strategy with links to overall governance arrangements</li> <li>• Annual Fraud Plan which is also reported to the Audit Committee</li> <li>• Annual Anti Fraud Report to the Audit Committee and Standards Committee</li> <li>• Monthly meetings between the Monitoring Officer and Head of Audit Services</li> <li>• Anti Fraud and Corruption Strategy</li> </ul>	Y	Revisions to be made to the Strategy and updated on Intranet and Internet by September 2009.	
1.2	Is there a clear remit 'to reduce losses to fraud and corruption to an absolute minimum' covering all areas of fraud and corruption affecting the organisation?		Y	The introduction to the Anti Fraud and Corruption Strategy should be amended to specifically state that it is the Council's aim to reduce losses to fraud and corruption to an absolute minimum.  <b>This is now in place</b>	
1.3	Are there effective links between 'policy' work (to develop an anti-fraud and corruption and 'zero tolerance' culture, create a strong deterrent effect and prevent fraud and corruption by designing and redesigning policies and systems) and 'operational' work (to detect and investigate fraud and corruption and seek to apply sanctions and recover losses where it is found)?	<ul style="list-style-type: none"> <li>• Anti Fraud and Corruption Strategy</li> <li>• Annual Fraud Plan which includes risk assessment and is reported to the Audit Committee</li> <li>• Annual Anti Fraud Report to the Audit Committee and Standards Committee</li> <li>• Anti fraud and corruption clause in Council contracts</li> <li>• Ethical Governance Protocol for Council contracts</li> <li>• Financial Regulation CR6 Preventing Fraud and Corruption</li> <li>• Sanctions Policy</li> </ul>	Y	The Anti Fraud and Corruption Strategy should be included as a specific item in the Council's corporate induction process for new employees. The Sanctions Policy should be expanded to cover all areas of fraud and corruption and to include a recovery of losses and a police referrals policy. The risk assessment included in the Annual Fraud Plan should be expanded to include financial impact. The outcome of audit investigations include proportionate proposals for counter fraud measures where appropriate and this practice should be formalised as a requirement for consideration in all cases.	

## 1. ADOPTING THE RIGHT STRATEGY

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to enhance compliance
1.4	<b>Is the full range of integrated action being taken forward or does the organisation 'pick and choose'?</b>	Overall compliance is assessed by reference to the extent to which the Council meets the criteria specified in Section 4.1 to 4.34 of the Red Book Review included in the latter section of this appendix.	Y	
1.5	<b>Does the organisation focus on outcomes (i.e. reduced losses and not just activity (i.e. the number of investigations, prosecutions, etc.)?</b>	The Annual Anti Fraud Report to the Audit Committee and Standards Committee is currently predominantly activity based.	Y	The Annual Anti Fraud Report should therefore be expanded to include targets for reduction in losses and consideration should be given as to whether it is possible to quantify losses and introduce targets in additional areas to benefits and NFI.
1.6	<b>Has the strategy been directly agreed by those with political and executive authority for the organisation?</b>	The revised Anti Fraud and Corruption Strategy was approved by the Audit Committee on 30 <sup>th</sup> June 2008 and compliance is further demonstrated by previous publication of the Anti Fraud and Corruption Strategy during 2006 in a leaflet accompanying pay/allowance advices for all Councillors, employees and pensioners and an intranet article.	Y	The Anti Fraud and Corruption Strategy should be amended to include reference to the internal approval process for adoption of the Strategy and specify the Lead Cabinet Member with overall responsibility for the Strategy.

## 2. MEASURING FRAUD AND CORRUPTION LOSSES

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
2.1	<b>Are fraud and corruption risks considered as part of the organisation's strategic risk management arrangements?</b>	<ul style="list-style-type: none"> <li>• Corporate Fraud Risk Register</li> <li>• Annual Fraud Plan which includes risk assessment and is reported to the Audit Committee</li> </ul>	Y	
2.2	<b>Is the organisation seeking to identify accurately the nature and scale of losses to fraud and corruption?</b>	<ul style="list-style-type: none"> <li>• Anti Fraud and Corruption Strategy which includes a definition of fraud</li> <li>• Annual Fraud Plan which includes risk assessment and is reported to the Audit Committee</li> <li>• Annual Anti Fraud Report to the Audit Committee and Standards Committee</li> </ul>	Y	<p>The Annual Anti Fraud Report should be expanded to include homelessness and all other proceedings initiated by the Council in addition to benefits and parking related cases to include estimated potential losses for each area. The report should also include civil proceedings taken (if any) and anonymised information about disciplinary sanctions applied (if any). Consideration should be given to adopting a method of assessing losses prevented in areas susceptible to such a calculation.</p> <p><b>Developed in 2009/10. To be included in 2009/10 Annual Anti Fraud Report as a standard item, together with the Insurance Claims experience and exposure to Fraud in the year.</b></p>
2.3	<b>Does the organisation use accurate estimates of losses to make informed judgments about levels of budgetary investment in work to counter fraud and corruption?</b>	<ul style="list-style-type: none"> <li>• Annual Fraud Plan which includes risk assessment and is reported to the Audit Committee</li> <li>• Annual Anti Fraud Report to the Audit Committee and Standards Committee</li> </ul>	Y	<p>The risk assessment included in the Annual Fraud Plan should be expanded to include financial impact so that the Council can demonstrate that it has taken account of the level of potential losses when determining the allocation of resources for counter fraud measures. The Annual Anti Fraud Report should be expanded to include homelessness and all other proceedings initiated by the Council in addition to benefits and parking related cases to include estimated potential losses for each additional area. Corporate Anti Fraud should consider setting up a system to record losses to fraud and corruption.</p>

### 3. CREATING AND MAINTAINING A STRONG STRUCTURE

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
3.1	<p><b>Do those tasked with countering fraud and corruption have the appropriate authority needed to pursue their remit effectively, linked to the organisation's counter fraud and corruption strategy?</b></p>	<ul style="list-style-type: none"> <li>• Anti Fraud and Corruption Strategy</li> <li>• Constitution</li> <li>• Scheme of Management</li> <li>• Financial Regulation CR6 - Preventing Fraud and Corruption</li> </ul>	Y	<p>Financial Regulation CR6 should be amended as part of the current review of Financial Regulations to include specific reference to the Head of Audit Services in the investigation of potential fraud and corruption. Revisions have been included in the revised regulations.</p> <p><b>This has been revised and will be introduced when Financial Regulations are re issued.</b></p>
3.2	<p><b>Is there strong political and executive support for work to counter fraud and corruption?</b></p>	<ul style="list-style-type: none"> <li>• Anti Fraud and Corruption Strategy</li> <li>• Annual Fraud Plan which includes risk assessment and is reported to the Audit Committee</li> <li>• Annual Anti Fraud Report to the Audit Committee and Standards Committee</li> <li>• Statements by the Lead Member Resources &amp; Performance (ELA Article 02/10/08)</li> </ul>	Y	<p>Consider issuing a joint statement from the Leader of the Council and the Chief Executive.</p>



### 3. CREATING AND MAINTAINING A STRONG STRUCTURE

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
3.3	<p><b>Is there a level of financial investment in work to counter fraud and corruption that is proportionate to the risk that has been identified?</b></p>	<p>Evidence of Compliance</p> <ul style="list-style-type: none"> <li>Annual Fraud Plan which includes risk assessment and is reported to the Audit Committee</li> </ul>	Y	<p>Consideration should be given to benchmarking expenditure on counter fraud and corruption arrangements with other comparable local authorities. As in recommended in 2.3 above, the risk assessment included in the Annual Fraud Plan should be expanded to include financial impact so that the Council can demonstrate that it has taken account of the level of potential losses when determining the allocation of resources for counter fraud measures. The Annual Anti Fraud Report should be expanded to include homelessness and all other proceedings initiated by the Council in addition to benefits and parking related cases to include estimated potential losses for each area.</p> <p><b>The Audit and Housing Benefit Services are benchmarked via the CIPFA Benchmarking Clubs. The out turn report for 2008/09 on the Anti Fraud Annual report identified actual and notional values for all losses incurred as a result of fraud and error.</b></p>
3.4	<p><b>Are all those working to counter fraud and corruption professionally trained and accredited for their role?</b></p>	<ul style="list-style-type: none"> <li>Benefits, and Parking Services officers PINS accredited</li> <li>Qualified Trading Standards Officers</li> <li>Head of Audit Services is a certified fraud examiner</li> <li>Ad hoc other training – e.g. witness training for those giving evidence in criminal proceedings</li> </ul>	Y	<p>The Head of Audit Services to identify services with profession skills gaps and recommend and develop relevant training.</p> <p><b>This has been completed.</b></p>

### 3. CREATING AND MAINTAINING A STRONG STRUCTURE

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
3.5	Do those employees who are trained and accredited formally review their skills base and attend regular refresher courses to ensure they are abreast of new legislation?	<ul style="list-style-type: none"> <li>• PDR Process</li> <li>• Fraud circulars</li> <li>• Refresher courses</li> <li>• London Borough Fraud Investigation Group</li> </ul>	Y	<p>The Head of Audit Services should review random sample of PDR records to ensure this area of personal development is being affected and reviewed.</p> <p><b>This has been completed.</b></p>
3.6	Are all those working to counter fraud and corruption undertaking this work in accordance with a clear ethical framework and standards of personal conduct?	<ul style="list-style-type: none"> <li>• Employees' Code of Conduct</li> <li>• Audit Manual</li> <li>• Fraud investigation policy code of conduct</li> </ul>	Y	
3.7	Is there an effective propriety checking process?	<ul style="list-style-type: none"> <li>• At present CRB checks only are obtained for specific services and corporate anti fraud staff</li> </ul>	Partial	<p>Current arrangements do not include the more extensive pre employment screening required to meet the requirements of this criteria and consideration should be given to implementing applicant propriety checks, including the resources available/required for the introduction of such a process.</p> <p><b>This is being examined with HR and an appropriate electronic identity vouching tool is being evaluated.</b></p> <p>This will form part of the process mentioned above and will go live in early 2010.</p>
3.8	Does the organisation regularly review its propriety checking and are random checks carried out to ensure that it is implemented?	<ul style="list-style-type: none"> <li>• See compliance and recommendations for 3.7 above</li> </ul>	Partial	

### 3. CREATING AND MAINTAINING A STRONG STRUCTURE

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
3.9	<b>Are framework agreements in place to work with other organisations and agencies?</b>	<ul style="list-style-type: none"> <li>There are no such formal agreements in place at present. The Anti Fraud Forum which was established in 2007 and includes partner organisations such as the police, PCT and Tower Hamlets Homes is however well placed to consider any proposed arrangements which might be developed. The Forum's terms of reference already include these matters and the Forum oversee implementation and review of any agreements and ensure they focus on the practicalities of common work.</li> </ul>	Y	<p>Agreements should be developed with the police and NHS as a minimum and approved by the Forum as soon as possible. SLA's in place with PCT and Housing Benefits.</p> <p><b>Protocol in place with PCT and Internal Audit and Housing Benefits.</b></p>
3.10	<b>Are the framework agreements focused on the practicalities of common work?</b>	<ul style="list-style-type: none"> <li>See compliance and recommendations for 3.9 above</li> </ul>	Y	
3.11	<b>Are there regular meetings to implement and update these arrangements?</b>	<ul style="list-style-type: none"> <li>See compliance and recommendations for 3.9 above.</li> </ul>	Y	<b>This is through the Anti Fraud Forum which meets four times per annum.</b>

#### 4. TAKING ACTION TO TACKLE THE PROBLEM

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
4.1	<p><b>Is the organisation undertaking the full range of necessary action?</b></p>	<ul style="list-style-type: none"> <li>• Anti Fraud and Corruption Strategy</li> <li>• Annual Fraud Plan which is also reported to the Audit Committee</li> <li>• Annual Anti Fraud Report to the Audit Committee and Standards Committee</li> <li>• Ethical Governance Protocol for Council contracts</li> <li>• Financial Regulation CR6 - Preventing Fraud and Corruption</li> <li>• Sanctions Policy</li> <li>• Audit Manual</li> <li>• Anti Fraud Forum</li> <li>• CRB Checks</li> <li>• Constitution</li> <li>• Scheme of Management</li> </ul>	Y	<p>The recommendations arising out of this review should be implemented</p>
4.2	<p><b>Does the organisation have a clear programme of work attempting to create a real anti fraud and corruption and zero tolerance culture (including strong arrangements to facilitate whistle blowing)?</b></p>	<ul style="list-style-type: none"> <li>• Anti Fraud and Corruption Strategy including whistle blowing arrangements</li> <li>• Confidential Whistle Blowing hotline</li> <li>• Annual Fraud Plan which is also reported to the Audit Committee</li> <li>• Annual Anti Fraud Report to the Audit Committee and Standards Committee</li> <li>• Statements by the Lead Member Resources &amp; Performance (ELA Article 02/10/08)</li> <li>• In your best interests! Pulling Together Article – October 2008</li> <li>• Beat the cheats adverts</li> <li>• E-Learning</li> </ul>	Y	

#### 4. TAKING ACTION TO TACKLE THE PROBLEM

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
4.3	Are there clear goals for this work (to maximize the percentage of staff and public who recognize their responsibilities to protect the organisation and its resources)?	There are no goals in place for this work.	Y	The Annual Fraud Plan and Report should be expanded to include targets and timelines for assessing and evaluating the extent to which an anti fraud and corruption culture is developing and embedded within the Council.
4.4	Is this programme of work being effectively implemented?	See compliance and recommendations for 4.3 above.	Y	
4.5	Are there arrangements in place to evaluate the extent to which a real anti fraud and corruption culture exists or is developing throughout the organisation?	See compliance and recommendations for 4.3 above.	Y	
4.6	Are agreements in place with stakeholder representatives to work together to counter fraud and corruption?	The Council has agreed anti fraud and corruption clauses for use in its contracts and adopted an Ethical Governance Protocol but has not yet developed agreements with stakeholder representatives.	Y	Agreements with staff groups, professions and the unions should be developed.
4.7	Have arrangements been made to ensure that stakeholder representatives benefit from successful counter fraud and corruption work?	There are currently no specific arrangements in place.	Y	A policy should be agreed to ensure that feedback is provided so that remedial action can be taken and recovered or prevented losses are returned/retained in the stakeholder's budget.
4.8	Does the organisation have a clear programme of work attempting to create a strong deterrent effect?	Annual Fraud Plan which is also reported to the Audit Committee	Y	

#### 4. TAKING ACTION TO TACKLE THE PROBLEM

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
4.9	Does the organisation have a clear programme of publicity to counter fraud and corruption?	<ul style="list-style-type: none"> <li>• Statements by the Lead Member Resources &amp; Performance (ELA Article 02/10/08)</li> <li>• In your best interests! Pulling Together Article – October 2008</li> <li>• Beat the cheats adverts</li> <li>• Intranet postings</li> <li>• Pay slip notifications</li> <li>• Hospital Newsletters</li> <li>• Borough Map</li> </ul>	Y	Publicity has been targeted at successes and areas of known loss but a comprehensive publicity programme for each year should be agreed with Communications and reviewed as part of the Annual Fraud Plan.
4.10	Has the organisation successfully published work in this area?	See compliance and recommendations for 4.9 above.	Y	
4.11	Has the publicity been targeted at the greatest fraud losses?	See compliance and recommendations for 4.9 above.	Y	
4.12	Does the organisation seek to design fraud and corruption out of new policies and systems and to revise existing ones to remove apparent weaknesses?	Review of key projects in advance of contract award: <ul style="list-style-type: none"> <li>➢ Purchase Cards</li> <li>➢ Commensura</li> <li>➢ SX3</li> <li>➢ Tollgate</li> </ul>	Y	
4.13	Do concluding reports on investigations include a specific section on identified policy and systems weaknesses that allowed the fraud and corruption to take place?	In practice, the outcome of audit investigations include proportionate proposals for counter fraud measures where this is considered appropriate.	Y	This practice should be formalised as a requirement for consideration in all investigations.  <b>We have undertaken work in 2009/10 on Housing Benefit claims to Parking Permits.</b>
4.14	Is there a system in place for considering and prioritising action to remove identified weaknesses?	In practice, the outcome of audit investigations identify the extent of any weaknesses and allocate responsibility for implementing changes where this is considered appropriate.	Y	This practice should be formalised as a requirement for consideration in all investigations and a grading system against which weaknesses are measured should be approved by the Audit Committee <b>To be prepared and presented to the audit Committee as part of the Outturn report.</b>

#### 4. TAKING ACTION TO TACKLE THE PROBLEM

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
4.15	<b>There effective whistle blowing arrangements in place?</b>	Anti Fraud and Corruption Strategy including whistle blowing arrangements Telephone survey on awareness of strategy – March 2008 <ul style="list-style-type: none"> <li>• Confidential Whistle Blowing hotline</li> <li>• Beat the cheats adverts joint publication with Benefits Fraud</li> <li>• Intranet postings</li> <li>• Pay slip notifications</li> <li>• Benefits and Parking officers PINS accredited</li> <li>• Head of Audit Services is a certified fraud examiner</li> <li>• Ad hoc other training – e.g. witness training for those giving evidence in criminal proceedings</li> </ul>	Y	The Annual Anti Fraud Report should be expanded to identify the sources and nature of disclosures made under the whistle blowing procedure.
4.16	<b>Are analytical intelligence techniques used to identify potential fraud and corruption?</b>	National Fraud Initiatives and reactive/proactive IDEA data matching	Y	
4.17	<b>Are there effective arrangements for collating, sharing and analysing intelligence?</b>	<ul style="list-style-type: none"> <li>• Each Fraud Service has it's own data case handling systems</li> <li>• Internal protocols for information sharing between Audit and Benefits, Payroll, Parking, Trading Standards and ad hoc arrangements with the DWP other LA's and Police</li> </ul>	Y	Any agreements developed in accordance with the recommendations contained in 3.9 above should include provision for information/data sharing with other organisations, such as police and NHS.

#### 4. TAKING ACTION TO TACKLE THE PROBLEM

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
4.18	<b>Are there arrangements in place to ensure that suspected cases of fraud or corruption are reported promptly to the appropriate person for further investigation?</b>	<ul style="list-style-type: none"> <li>• Anti Fraud and Corruption Strategy</li> <li>• Financial Regulations</li> <li>• Internal information exchange</li> <li>• Employee Code of Conduct</li> <li>• NFI notifications and consultation</li> <li>• Whistle blowing Process</li> </ul>	Y	<p>The Anti Fraud and Corruption Strategy should be included as a specific item in the Council's corporate induction process for new employees. A leaflet should be produced for managers reminding them of their obligation to report actual or suspected cases of fraud and corruption to internal audit. The leaflet could also usefully identify the key indicators of potential fraud and corruption and provide an outline of the process followed by internal audit in accordance with the Audit Manual for the investigation of suspected fraud and corruption.</p> <p><b>Agreed for implementation from April 2010</b></p>
4.19	<b>Are arrangements in place to ensure that identified potential cases are promptly and appropriately investigated?</b>	<ul style="list-style-type: none"> <li>• Audit Manual</li> <li>• NFI targets</li> <li>• Whistle-blowing time frames</li> <li>• Benefits time frames within key work objectives</li> </ul>	Y	
4.20	<b>Are proactive exercises undertaken in key areas of risk or known system weaknesses?</b>	<ul style="list-style-type: none"> <li>• Fraud Risk Register</li> <li>• Annual Fraud Plan</li> <li>• Annual Audit Plan</li> </ul>	Y	<p>The risk assessment included in the Annual Fraud Plan should be expanded to include financial impact so that the Council can demonstrate that it has taken account of the level of potential losses when determining the allocation of resources for counter fraud measures. The Annual Anti Fraud Report should be expanded to include homelessness and all other proceedings initiated by the Council in addition to benefits and parking related cases to include estimated potential losses for each additional area. The level of proactive fraud work should also be reviewed</p> <p><b>This is included as part of the 2010/11 plan.</b></p>



#### 4. TAKING ACTION TO TACKLE THE PROBLEM

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
4.21	<b>Is the organisation's investigation work effective?</b>	<p>There are currently no arrangements in place for analysing investigations that have been undertaken in terms of timeliness, outcomes, level of sanctions, prosecutions and the amount of losses recovered.</p> <ul style="list-style-type: none"> <li>• Audit Manual</li> <li>• Fraud investigation policy code of conduct</li> </ul>	Y	<p>These arrangements should be implemented and the outcome reported to the Audit Committee and relevant stakeholders.</p> <p><b>A coordinated approach has been developed and will be reported as part of the outturn report for 2009-10.</b></p>
4.22	<b>Is it carried out in accordance with clear guidance?</b>	<ul style="list-style-type: none"> <li>• Anti Fraud and Corruption Strategy</li> <li>• Constitution</li> <li>• Scheme of Management</li> <li>• Financial Regulation CR6 - Preventing Fraud and Corruption</li> <li>• RIPA and PACE authorised officers</li> </ul>	Y	<p>Implementing the recommendation for 4.21 above could also be used for monitoring and quality assurance purposes.</p>
4.23	<b>Do those undertaking investigations have the necessary powers, both in law and where necessary, within the organisation?</b>	<ul style="list-style-type: none"> <li>• NFI Monitoring by the audit commission</li> <li>• Benefits time frames within key work objectives</li> <li>• Whistle blowing reporting</li> <li>• Reporting to Audit Committee</li> </ul>	Y	<p>Financial Regulation CR6 should be amended as part of the current review of Financial Regulations to include specific reference to the Head of Audit Services in the investigation of potential fraud and corruption. Any agreements developed in accordance with the recommendations contained in 3.9 above should include provision for internal rights of investigation with other organisations, such as the NHS.</p> <p><b>This is now in place.</b></p> <p>Implementing the recommendation for 4.21 above could also be used for monitoring and quality assurance purposes.</p>
4.24	<b>Are referrals handled and investigations undertaken in a timely manner?</b>	<p>Deloitte's periodic external audits</p>	Y	<p>In 2009 The Head of Audit Service to introduce client feedback surveys following each investigation which can also be used to provide feedback to investigators on their performance.</p>
4.25	<b>Does the organisation have arrangements in place for assessing the effectiveness of investigations?</b>			

#### 4. TAKING ACTION TO TACKLE THE PROBLEM

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
4.26	Does the organisation have a clear and consistent policy on the application of sanctions where fraud and corruption is proven to be present?	Sanctions Policy	Y	The Sanctions Policy should be expanded to cover all areas of fraud and corruption and to include a recovery of losses and a police referrals policy.
4.27	Are all possible sanctions disciplinary/regulatory, civil and criminal considered?	Annual Fraud Report MATT & YAS investigations	Partial	The Anti Fraud and Corruption Strategy and Sanctions Policy should be amended to include specific reference to 'triple tracking'. <b>To be developed with Legal Services during 2009-10.</b>
4.28	Does the consideration of appropriate sanctions take place at the end of the investigation when all the evidence is available?	MATT & YAS investigations Recommendation:	Partial	Any revisions to the Sanctions policy should reflect current practice to consider sanctions at the end of an investigation unless earlier intervention is necessary (for example civil proceedings to obtain a freezing order to protect assets) or where earlier intervention is possible (for example disciplinary action not dependent on the outcome of a criminal investigation). <b>This will be formalised by march 2010.</b>
4.29	Does the organisation monitor the extent to which the application of sanctions is successful?	Annual Anti Fraud Report to the Audit Committee and Standards Committee	Partial	The Annual Fraud Report should be expanded to include an analysis and comparison in the successful application of sanctions in previous years. <b>To be effected for 2009/10 out turn.</b>
4.30	Does the organisation have a clear policy on the recovery of losses incurred to fraud and corruption?	There is no current policy.	Partial	Revisions to the Sanctions Policy should include the addition of a recovery of losses policy. <b>To be implemented during 2009-10.</b>

#### 4. TAKING ACTION TO TACKLE THE PROBLEM

Item Ref	Item Ref	Item Ref	Item Ref	Item Ref
4.31	<p><b>Is the organisation effective in recovering any losses incurred by fraud and corruption?</b></p>	<p>There is no monitoring of the recovery of losses at present.</p>	Y	<p>An analysis and monitoring information relating to the recovery of losses should be included in the Annual Anti Fraud Report to the Audit Committee and Standards Committee.</p> <p><b>To be effected as part of the 2010-11 reporting cycle.</b></p>
4.32	<p><b>Does the organisation use the criminal and civil law to the full in recovering losses?</b></p>	<p>Partial compliance demonstrated by: MATT &amp; YAS investigations</p>	Partial	<p>The Anti Fraud and Corruption Strategy and Sanctions Policy should be expanded to reflect current practice and to consider to parallel sanctions, POCA applications and the potential for insurance claims.</p> <p><b>To be considered as part of the 2010-11 plan.</b></p>
4.33	<p><b>Does the organisation monitor proceedings for the recovery of losses?</b></p>	<p>Annual Anti Fraud Report to the Audit Committee and Standards Committee</p>	Y	<p>Consideration should be given as to whether it is possible to quantify losses in additional areas to benefits and NFI and to reporting the amount of losses recovered by reference to individual cases (where the losses are significant) and otherwise by reference to categories or types of case, for example depending on the sanction applied.</p>
4.34	<p><b>What is the organisation's successful recovery rate?</b></p>	<p>There is no monitoring of the recovery of losses at present.</p>	Y	<p>An analysis and monitoring information relating to the recovery of losses should be included in the Annual Anti Fraud Report to the Audit Committee and Standards Committee.</p> <p><b>To be effected as part of the 2010-11 reporting cycle</b></p>

## 5 DEFINING SUCCESS

Item Ref	Key Objective	Evidence of Compliance	Compliance Met Y/N	Actions to achieve full compliance
5.1	<b>Are there clear outcomes described for work to counter fraud and corruption?</b>	<ul style="list-style-type: none"> <li>• Red Book Review</li> <li>• Annual Fraud Plan which is also reported to the Audit Committee</li> <li>• Annual Anti Fraud Report to the Audit Committee and Standards Committee</li> </ul>	Partial	<p>Fully implementing the recommendations of the Red Book Review will establish clearer outcomes which relate to actual sums lost and harm caused by fraud and corruption.</p> <p><b>Full compliance will provide the Council with confidence that arrangements meet best practice and have demonstrated a 'value added' benefit.</b></p>
5.2	<b>Do the desired outcomes relate to the actual sums lost to and harm caused by fraud and corruption?</b>	See recommendation relating to 5.1 above.	Partial	<p><b>Full compliance will provide the Council with confidence that arrangements meet best practice and have demonstrated a 'value added' benefit</b></p>

**LONDON BOROUGH OF TOWER HAMLETS**  
**ANTI FRAUD AND CORRUPTION STRATEGY**

**This document should be read in conjunction with the Council's Anti- money Laundering Policy**

**1. INTRODUCTION**

- 1.1 The London Borough of Tower Hamlets has a revenue and capital budget of almost £1 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 to fraud and corruption, both from within & without.
- 1.2 The Council is committed to making sure that the opportunity for fraud and corruption is reduced to an absolute minimum and have strategies and policies to underpin this commitment through our Governance procedures. The lead member for Resources drives this strategy as part of the Council's overall Risk Management arrangements.
- 1.3 Where there is the possibility of fraud, corruption and other problems, we will deal with it in a firm and controlled manner.
- 1.4 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."

## **2. BACKGROUND**

- 2.1 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.
- 2.2 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.

2.3 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.

2.4 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

### **3. THE LEGISLATIVE FRAMEWORK**

3.1 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 Councils systems of internal control, practices and systems. This requirement was further reinforced by the Accounts and Audit Regulations 2003.

3.2 There is now a requirement for the annual accounts to include a statement on internal control to be certified by the Chief Executive and Leader of the Council.

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

3.4 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.

#### **3.5 Relevant Legislation**

3.5.1 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 (Fraud) Act 1997
- Public Interest Disclosure Act 1998
- Audit Commission Act 1998
- Data Protection Act 1998
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- Proceeds of Crime Act 2002
- Money Laundering Regulations 2003

- The Identity Card Act 2006

3.5.2 Further information on a number of these can be found at Appendix 1.

#### **4. THE ANTI- FRAUD ENVIRONMENT**

4.1 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.

4.2 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

4.3 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.

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

4.5 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.

4.6 We will deal with all information fairly and confidentially. We will endeavour not to reveal the names of the people who gave us the information. Our Fraud Response Plan (Appendix 2) gives more advice on this issue.

4.7 We expect our Directors and Heads of Service to deal firmly and quickly with anyone who is responsible for fraud or corruption. The Chief Executive/Director of Resources in consultation with the Head of Audit Services may refer matters to the police if there is suspicion of any criminal activity having taken place.

4.8 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.

## **5 PREVENTING FRAUD AND CORRUPTION**

5.1 The diversity and scope of the Councils 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 four cornerstone principles as follows:

### **5.2 Anti fraud culture**

5.2.1 The council believes that the ongoing 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.

5.2.2 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.

### **5.3 Internal Controls**

5.3.1 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.

### **5.4 Effective Action**

5.4.1 Corporate Directors and Service Heads will report all suspicions of fraud or corruption to the Head of Audit Services via the Director of Resources/ Chief Executive in their respective roles of Head of Paid Services and Section 151 officer. If elected members are suspected then the Chief Executive/Monitoring Officer will co-ordinate the investigation. Following investigation, the appropriate action will be taken which may include disciplinary action, civil recovery and referral to the police.

5.4.2 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.

## **6. DETECTING, INVESTIGATING AND RECOVERY**

- 6.1 This section should be read with our Fraud Response Plan (see Appendix 2) and also our Prosecution Policy (Appendix 4).
- 6.2 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.
- 6.3 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 and investigation is covered by established professional practice as prescribe by CIPFA and in compliance with the Councils Fraud Response Plan and legislative guidance.
- 6.4 All cases referred either by the Whistle blowing telephone line or via an internal referral are formally risk assessed by the Head of Audit Services and approval sought from the Head of Risk Management. Each case is then recorded for tracking on a database maintained by Internal Audit. It is important that transparency is maintained in all decision making and consequently there is a process verification and review of the basis elements of the enquiry throughout the audit/investigation process.
- 6.5 It is important to note that the auditor 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.

### **6.6 Data Matching**

- 6.6.1 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 identity 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
- 6.6.2 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.

6.6.3 Data matching is conducted within the requirements of the current Data Protection legislation, and the new Audit Commission protocols effective from 2006 and staff side consultation.

## **6.7 Housing or Council Tax Benefit Fraud**

6.7.1 This Service is managed by the Central Benefits Section within the Resources Directorate.

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

6.7.3 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

6.7.4 Other possible fraudulent activity include 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

## **7. TRAINING AND AWARENESS**

7.1 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.

7.2 Future training will include ;-

- Organised workshops will continue to be delivered during for 2010/11
- Induction training to new Investigating Officers under the Council's Disciplinary Code.
- Departmental management team training
- Regular on-line alerts and training

## **8. CONCLUSION**

- 8.1 Tower Hamlets Council is committed to tackling fraud and corruption whenever it happens. Our ongoing response relies heavily on the principles included in this document.
- 8.2 We will continue to review our processes and procedures to ensure this strategy document remains effective following endorsement of the current approach by the Audit Panel and Standards Committee.

## APPENDIX 1

### The Fraud Act 2006

The Fraud Act 2006 came into effect on 15 January 2007. It applies to England, Wales and Northern Ireland and is based on the recommendations of the Law Commission report "Fraud" published in 2002.

The act replaces all the deception offences in the Theft Acts of 1968 and 1978 and replaces them with a single offence of Fraud as outlined in Section 1 of the act.

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 458 of the Companies Act 1985) 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 Identity Card Act 2006

The Identity Card Act 2006 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 license or a driving license 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 shall be liable, on conviction on indictment to imprisonment for a term not exceeding ten years or to a fine, or both.

This legislation is evolving and guidance will be updated as it becomes clearer.

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

The Proceeds of Crime Act 2002 and Money Laundering Regulations 2003 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 National Criminal Intelligence Service (NCIS). 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 Head of Audit Services fulfils the role of Money Laundering reporting officer. There is a process and procedure for reporting concerns to the National Criminal Intelligence Service (NCIS) and Metropolitan Police via prescribed documentation. The areas most likely to be exposed to Money Laundering are physical cash, asset transactions and planning gain receipts.

If you have a concern regarding this you have a duty to report your concern to the Head of Audit Services who will investigate the matter.

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

To demonstrate the Councils commitment to open/ transparent government it has adopted the Home Office guidelines and documentation for Directed Surveillance and Covert Human Intelligence Sources- Informants/ whistleblowers. This act was introduced in response to the Human Rights Act 1998 and the London Borough of Tower Hamlets is committed to maintaining its principles.

The Office of Surveillance Commissioners ('OSC') are tasked with carrying out regular inspections of Law Enforcement Agencies to ensure compliance with the Regulation of Investigatory Powers Act 2000 ('RIPA') in so far as directed surveillance and the use or conduct of a covert human intelligence source ('CHIS') is concerned. As part of that implementation, the OSC advise that Law Enforcement Agencies to develop a Corporate Policy. As the Council is classed as a Law Enforcement Agency and in order to follow the OSC's requirement as to a Corporate Policy, this Policy has been formulated and which came into effect from July 27<sup>th</sup> 2004.

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:

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall 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.

RIPA was 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 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) a criminal offence;
- (b) a failure to comply with any legal obligation;
- (c) a miscarriage of justice;
- (d) 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.

### **Internal Audit**

The Internal Audit Service is usually the most appropriate unit to investigate suspected fraud. It is essential, therefore, that every case of suspected fraud is reported to Internal Audit.

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

Experienced Audit staff will be assigned to manage fraud and/or corruption investigations. Such investigations by Internal Audit 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 Head of Audit Services - Tony Qayum Ext. 4773
- Internal Audit - Fraud Co-ordination Manager - Lino Messore Ext. 4774
- Head Risk Management Minesh Jani Ext 0738
- Monitoring Officer - Isabella Freeman Ext 4800
- Director of Resources – Chris Naylor Ext 4700
- Via the Confidential Staff Whistle blowing Hotline on Free phone 0800 528 0294 (See Whistle blowing process – Appendix 3)
- Public Concern at Work 020 7404 6609

### **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 Head of Service. 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 Internal Audit Service (Tony Qayum Ext. 4773 or Lino Messore Ext. 4774). Alternatively, the Councils confidential Staff Whistle blowing 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

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 Chief Executive.

It is paramount that officers do not act in a manner that may give rise to an action for slander or libel.

## **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 Head of Audit Services 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.

## APPENDIX 3

### Whistle blowing Process

The introduction of 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 Whistle blowing facility which would enable staff, partners 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 Whistle blowing telephone line in September 2000 and has regularly publicised via articles in Pulling Together, the Councils 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 Whistle blowing 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 Whistle blowing procedure is designed to supplement, rather than replace the existing procedures wherever practicable. These channels are:

- ◆ The Councils Complaints Procedure
- ◆ The Grievance Procedure
- ◆ Line Management
- ◆ The Housing Benefit Fraud Hotline (0207 364 7443)
- ◆ The Social Services Complaint's Unit (0207 364 2143)
- ◆ The Audit Commission

## **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.

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 Anonymous concerns will be considered at the discretion of the Council.

- of the issues raised
- the likelihood of obtaining the necessary information
- the experience of previous related reports

The following charts 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 Whistle blowing Hot Line (or write to Tony Qayum –Head of Audit Services – 4<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 all calls will be kept, and the Registration Officer will report this to the Chief Executive</li> </ul> <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 Chief Executive, and the Chief Executive must ensure that justified action is reported back to the Registration Officer</li> <li>• An external registered body will independently audit the Registration and the Investigation of your concerns.</li> </ul>
<p>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.</p>	

## APPENDIX 4

### LONDON BOROUGH OF TOWER HAMLETS

#### BENEFIT FRAUD ENFORCEMENT POLICY

##### 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 Authority 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 Authority 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 Theft Act 1968 may be used where appropriate.

The Authority 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 30% 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 Councils Legal Section, 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?

#### **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. Factors to be taken into account should include:

- Whether there has been unnecessary delays in carrying out the investigation (i.e. unexplained lapses of time).
- Whether the offender has any serious mental or physical health problems.
- The age of the offender.
- Whether the person has voluntarily disclosed the offence before the investigation discovered the fraud.

- Whether a vulnerable person would be put at risk by a prosecution (i.e. an informant).

### **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 Whistle blowing hotline and will be referred to the appropriate Service Head for investigation and action as necessary.

### **Tenancy Fraud**

The public sector has a limited number of properties 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 public sector 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 housing from Registered Social Landlords or subletting for personal gain uses up precious resources that should be available to families in need.

### **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 the problem you might have difficulties in obtaining a mortgage or other bank credit.
- Contact your local Police and 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***