

Appendix 1

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 over £1 billion and employs more than 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, ensuring that all losses are kept to an absolute minimum.
- 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.
- 1.5 The Corporate Management Team and Audit Committee will have responsibility for the internal approval of the strategy and the Lead Member for Resources will have overall responsibility for the strategy.

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 Council's systems of internal control, practices and systems. This requirement was further reinforced by the Accounts and Audit Regulations 2003.
- 3.2 There is a requirement for the annual accounts to include a statement on internal control to be certified by the Chief Executive and Mayor.
- 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 Bribery Act 2010
- 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 as amended
- Proceeds of Crime Act 2002
- Money Laundering Regulations 2003
- The Identity Card Act 2006
- Local Government Act 2000

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

4. The Council's Fraud Statement

"We will not tolerate fraud by our clients, employees or members of the council.

All allegations of fraud will be investigated and where substantiated, the cases will be pursued thoroughly.

The action taken will depend on the level and circumstances of each case. In most instances, however, the action considered will involve disciplinary action (against council employees), prosecution and/or recovery of our assets and funds"

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:

- 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/Corporate Director, 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 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 around the Nolan's principles .

5.1.1 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.

5.2 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.

5.3 Effective Action

5.4.1 Corporate Directors and Service Heads will report all suspicions of fraud or corruption to the Head of Audit and Risk via the Corporate Director, 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 Council's 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 Fraud Manager and approval sought from the Head of Audit and Risk. Each case is then recorded for tracking on a Fraud Management 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. 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 Corporate Director, 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 2011/12
- 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;

- 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 Bribery Act 2010

The Bribery Act will penalise companies whose employees engage in bribery if the company does not have appropriate policies in place to prevent it. The penalties are severe including fines and imprisonment. Companies should ensure that they have appropriate policies in place and that these are communicated to their employees. Significant fines and imprisonment of up to 10 years could be the result of a failure under the Act. SME's will often have more limited resources with which to take the challenges of resisting and countering bribery and the growing requirements made by large international companies for their suppliers to have appropriate anti-bribery policies and systems in place. We set out below a summary of the legislation.

Key Points of the Bribery Act 2010 are

Section 1 of the Act makes it an offence to bribe another person in the following two scenarios:

- Where the person offering the bribe intends the advantage received to bring about an improper performance of a relevant function or activity by another person or to reward such improper performance.
- Where the person offering the bribe knows or believes that the acceptance of the advantage offered, promised or given, in itself constitutes the improper performance of a relevant function or activity.

Section 2 sets out the offences in relation to accepting bribes. The offences are set out in the form of 4 scenarios in which an individual requests, accepts or agrees to receive a financial advantage. These scenarios provide that the link between the advantage and improper performance may take 3 forms.

- The recipient of the bribe may intend the improper performance to follow as a consequence of the request, agreement to receive or acceptance of the advantage.
- Receiving, agreeing to receive or accepting the advantage may itself amount to the improper performance.
- The advantage may be a reward for the improper performance.

Relevant Function or Activity

A relevant function or activity includes:

- All functions of a public nature;
- All activities connected with the business;
- Any activity performed in the course of employment; and
- Any activity performed by or on behalf of a body of persons.

Foreign Public Officials

Section 6 of the Act makes it an offence to bribe a foreign public official. A person is guilty of this if his intention is to influence the official in his capacity as a foreign public official. This offence only covers giving and offering bribes, not accepting.

Commercial Organisations

The Act makes it an offence for a Commercial Organisation (CO) to fail to prevent bribery. A relevant CO will be guilty of this offence if a person associated with it bribes another person with the intention of obtaining or retaining business or a

business advantage for the CO. A CO can be guilty of this regardless of where the offence took place.

There is a defence open to the CO if it can show that it has in place adequate procedures to prevent bribery.

A relevant CO is:

- A body which is incorporated under the law of any part of the UK and which carries on a business anywhere.
- Any other body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the UK.
- A partnership which is formed under the law of any part of the UK and which carries on a business whether there or elsewhere.
- Any other partnership (wherever formed) which carries on a business, or part of the business in any part of the UK.

A person is associated with a CO if they perform a service on behalf of the CO, it is irrelevant in what capacity the service is performed. It may be performed as an employee, agent or subsidiary.

Offences

For offences under sections 1, 2 and 6 of the Act if this has been committed with the consent or collusion of a senior officer of a body corporate, the officer as well as the body corporate is guilty of the offence. This includes directors, senior managers and the company secretary.

Penalties

Individuals

An individual found guilty of an offence under sections 1, 2 and 6 are liable to receive:

On summary conviction

- imprisonment for a maximum term of 12 months; or
- a maximum fine of £5,000; or
- to both imprisonment and a fine of up to £5,000.

On conviction on indictment:

- imprisonment for a maximum term of 10 years; or
- a fine; or
- to both imprisonment and a fine.

A company found guilty of an offence under sections 1, 2 and 6 is liable to:

On summary conviction:

- a fine not exceeding £5,000.

On indictment:

- to a fine.

Practical Guidance

- All commercial and public sector organisations should prohibit bribery in any form whether direct or indirect and by or for the organisation.
- Commit to implementing systems to counter bribery.
- Review the adequacy of their internal procedures to prevent bribery.
- Put in place staff training and ensure you have written procedures available to staff and contracted consultants. Consider incorporating these into contracts of employment and service and enable the employer to terminate employment or engagement in the case of a breach.
- Carry out due diligence before entering into arrangements with other parties.
- Ensure that appropriate checks are carried out during the processing of payments.
- Have a strategy in place to deal with an allegation of bribery or corruption made within the company or in public. This should include ways of reducing the potential damage to the organisations reputation and how to use the media and other channels of communication to combat this.

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 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 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 Council's 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 27th 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:

CONFIDENTIAL HOTLINE FREEPHONE - 0800 528 0294

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 Corporate Director, 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 Fraud Manager - Tony Qayum Ext. 4773
- Internal Audit - Anti Fraud Co-ordinator - Lino Messore Ext. 4774
- Head of Audit and Risk - Minesh Jani Ext 0738
- Monitoring Officer - Isabella Freeman Ext 4800
- Corporate Director, Resources – Chris Naylor Ext 4700
- Via the Confidential Staff Whistleblowing Hotline on Freephone 0800 528 0294 (See Whistleblowing 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 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

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.

CONFIDENTIAL HOTLINE FREEPHONE - 0800 528 0294

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 Corporate Director, 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

Whistleblowing 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 Whistleblowing 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 Whistleblowing telephone line in September 2000 and has regularly publicised via articles in Pulling Together, 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 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"> • I think a fraud or unlawful act may have been committed • What should I do? • Who should I contact? 	<ul style="list-style-type: none"> • Is it serious and well founded? • If Yes • You can raise your concerns in confidence on the Whistleblowing Hot Line (or write to Tony Qayum –Head of Audit Services – 4th Floor Mulberry Place)
<ul style="list-style-type: none"> • What will happen if I ring the Hotline 	<ul style="list-style-type: none"> • You will be asked for details of your concern
<ul style="list-style-type: none"> • Will I have to give my name? 	<ul style="list-style-type: none"> • NO
<ul style="list-style-type: none"> • So what will happen next? 	<ul style="list-style-type: none"> • Your concern will be given a reference number. You can call in 10 days to check progress
<ul style="list-style-type: none"> • Who does anything about it? 	<ul style="list-style-type: none"> • A Registration Officer will take details of your call, and a professional investigator will review and classify it. • A register of <u>all calls</u> will be kept, and the Registration Officer will report this to the Chief Executive

	A final decision will be made and if appropriate an independent confidential investigation will be carried out
<ul style="list-style-type: none"> • Won't it just be covered up? 	<ul style="list-style-type: none"> • 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 • An external registered body will independently audit the Registration and the Investigation of your concerns.
<p><i>PLEASE CALL <u>0800 528 0294</u> if you have any concerns or would like further details of the process. Strict Confidentiality and Anonymity will be preserved if requested.</i></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 Council's 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 Whistleblowing 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 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](#)