

Warrington Schools Fraud Response Plan



Status	Statutory
Policy Written by	WBC, adopted by Governing Body
Date reviewed by Finance Committee	8.10.19
Review cycle	3 years
Date of next review	Autumn 22
Signature of Chair of Resources Committee	

Introduction

The purpose of this plan is to set out the procedures to be followed by school staff and governors where instances of fraud, bribery and corruption are suspected or detected.

The Council is committed to making sure that the opportunity for fraud, bribery and corruption is minimised and adopts a **Zero Tolerance** approach. Where fraud, bribery or corruption is found to exist the Council will respond in a firm and controlled manner. This approach is set out in more detail in the Council's Anti-Fraud and Corruption Statement and Policy, which can be found on the Council's Intranet site.

It is important to ensure that the Council takes a structured and consistent approach to the investigation of any cases of fraud, bribery and corruption. This is to ensure that:

- There is a clear understanding of who will lead investigations and the appropriate staff are informed and involved
- Further losses are prevented and potential recovery of assets is maximised
- Actions are not taken that would compromise any investigation or recovery of losses
- There is sufficient evidence to support any allegation before further action is taken
- Evidence remains secure and confidential and information relating to an investigation is confined to those staff with a need to know
- The Council does not suffer adverse publicity from unsuccessful prosecutions or disciplinary cases
- The Council does not suffer loss from successful appeals against prosecutions or disciplinary actions

It is the responsibility of all school staff and governors to act with integrity and to safeguard the public resources for which they are responsible. To this end, all suspected incidences of fraud, bribery and corruption should be reported. Failure to do so could be a breach of the relevant Code of Conduct, which could lead to disciplinary action being taken.

Other Relevant Policies

This Response Plan is issued as a guidance note for all school staff and governors and is consistent with all other relevant policies in operation within schools, namely:

- Finance and Contract Procedure Rules and the Scheme for Financing Schools
- Anti-Fraud and Corruption Statement and Policy
- Whistleblowing Procedure
- Grievance Procedure
- The Code of Conduct for Council Employees and the Code of Conduct and Practice for Registered Teachers

Definitions

The following definitions are used for the purposes of this Plan:

Fraud: there are three types of fraudulent act as defined by the Fraud Act 2006:

- *Fraud by false representation* - A person dishonestly makes a false representation

- *Fraud by failing to disclose information* - A person dishonestly fails to disclose to another person information which he is under a legal duty to disclose
- *Fraud by abuse of position* - A person occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person and dishonestly abuses that position

In all the above cases, there must also be the intent:

- to make a gain for himself or another, or
- to cause loss to another or to expose another to a risk of loss

Bribery: *“the receiving or offering of undue reward to persons in order to influence their behaviour contrary to ordinary standards of integrity and honesty”*

Corruption: *“the misuse of entrusted power or public office for private gain”*

The Code of Conduct for Council Employees states that staff should report any *“impropriety, breach of procedure, unlawfulness or maladministration”*.

The Code of Conduct and Practice for Registered Teachers states that teachers should *“Demonstrate honesty and integrity in management and administrative duties, including in the use of school property and finance”*.

Identifying and Reporting Potential Cases of Fraud, Bribery and Corruption

Suspicious may arise from a number of sources. Managers should remain vigilant for any signs that may suggest dishonest practice as part of their day-to-day responsibilities for internal controls. Other staff may also notice changes to normal work processes that could be an indicator of inappropriate activity, and should be informed of the method of alerting their concerns to the relevant manager or their Head Teacher. Appendix A details some of the potential key fraud risk areas within schools.

The procedures detailed below should be followed for all suspected cases of fraud, bribery and corruption involving Council staff, its partners and suppliers. You may also come across instances where third parties are attempting to defraud or scam the Council, for example by sending in bogus invoices or attempting to obtain bank account details. You should report these to the Internal Audit section, who will investigate further and arrange for alerts to be circulated to all relevant sections of the Council, including all schools.

The actions in this Plan do not replace the normal processes for dealing with staff performance issues or grievances. These are covered by separate policies and procedures and you should seek advice on these cases from your HR Business Manager.

Action by employees

If you become aware of a suspected fraud or irregularity, write down your concerns immediately. Make a note of all relevant details, such as what was said in phone or other conversations, the date, the time and the names of anyone involved. Report the matter immediately to either:

- your line manager (if you are able to and it is appropriate) or
- your Head Teacher or
- your Executive Director or
- the Chief Internal Auditor (tel. no. 01925 442354) or
- the school’s Whistleblowing facility

In the last two cases, you can make the referral anonymously and this anonymity will be respected. It should be noted that, if the report suggests criminal activity and the case is to be pursued by police, the identity of the person reporting the details may be needed at a later date if criminal proceedings are to be pursued effectively - identification is preferred and will assist the investigation. Confidentiality for all parties will be maintained over reports made in good faith which cannot be substantiated following investigation.

When you report your concerns, arrange to hand over your notes and any evidence you have to the appropriate investigator (see below).

You must not do any of the following:

- contact the suspected perpetrator in an effort to determine facts or demand restitution
- discuss the case facts, suspicions, or allegations with anyone outside the Council (including the press) unless specifically asked to do so by the Chief Internal Auditor
- discuss the case with anyone within the Council other than the people listed above. Any breaches of confidentiality will be treated seriously, and may result in disciplinary action being taken
- attempt personally to conduct investigations or interviews or question anyone unless asked to do so by the Chief Internal Auditor

Action by managers

If you have reason to suspect fraud, bribery or corruption in your work area, you should do the following:

- listen to the concerns of your staff and treat every report you receive seriously and sensitively
- make sure that all staff concerns are given a fair hearing. You should also reassure staff that they will not suffer because they have told you of their suspicions
- get as much information as possible from the member of staff, including any notes and any evidence they have that may support the allegation. Do not interfere with any evidence and make sure it is kept in a safe place
- report the matter immediately to the Chief Internal Auditor. This referral should be made by the Head Teacher or Assistant Director / Executive Director, as appropriate.

Do not try to carry out an investigation yourself. This may compromise any internal audit, disciplinary investigation or criminal enquiry. If in doubt, contact the Internal Audit section for advice and guidance.

Action by Governors

Where Governors come into possession of information relating to potential fraud, bribery or corruption, they should report this to the Head Teacher, Executive Director or Monitoring Officer. They will then ensure that any subsequent investigation follows the procedures outlined in this Plan.

Fraud by a contractor, supplier or member of the public

If your suspicions relate to a contractor, supplier or member of the public that you deal with in your job, you should report your concerns to the Head Teacher. If your suspicions do not relate directly to your work area, you should report the matter directly to the Chief Internal Auditor. This may include information that comes into your possession through your profession or personal life.

Malicious allegations

You must only report genuine concerns that you believe to be true. If an allegation is found to be made frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against the person making the allegation.

Investigation procedure

Internal Audit is responsible for overseeing all investigations into allegations of fraud, bribery and corruption. The Solicitor to the Council will pass any referrals made through the Whistleblowing Procedure on to the Chief Internal Auditor where the referral relates substantially to matters of fraud, bribery or corruption.

The Chief Internal Auditor will evaluate the credibility and context of the referral and the evidence available and assess what action is required. The Chief Internal Auditor will then discuss the case with the Head Teacher or Chair of Governors, the Section 151 Officer, the Assistant Director / Executive Director and the Solicitor to the Council, to decide on the way

forward. If a decision is made that the Police should be informed, the Chief Executive will also be notified. For centrally employed staff, the local authority will decide on the nature and scope of the investigation and whether it is deemed necessary to take the step to suspend any staff. For all other staff, the Head Teacher or Governing Body will be responsible for making these decisions. An investigating officer will be nominated who will undertake an independent investigation into the allegations. They will also act as the liaison between the school and Internal Audit and HR. In cases of high sensitivity or confidentiality, an investigating officer may be appointed from another school or from outside the authority. The above discussions will take place within 48 hours of the receipt of the referral to ensure that investigations get underway with the minimum of delay. This will help to maintain the integrity of any available evidence.

Where necessary, the Chief Internal Auditor will seek expert advice from outside the Council, for example if the investigation is likely to involve technical issues or the evidence is computer-based.

Any necessary investigative activity will be conducted without regard to any person's relationship to the Council, position or length of service. The investigation will be carried out under the guidance of trained staff with discretion and sensitivity. Those carrying out the investigation will confine themselves to investigating those matters which are the subject of, or are relevant to, the suspected fraud.

Investigation Results

Investigation results will not be disclosed to or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected, but subsequently found innocent of wrongful conduct, and to protect the Council from potential civil liability.

In cases where an individual is suspected of fraud which a subsequent investigation does not substantiate, it is important that the potential damage to the individual's reputation is minimised. Whoever originally reported the suspected fraud or irregularity will be informed that the investigation has revealed no wrongdoing.

Conduct of investigation

Internal Audit will conduct their investigations in accordance with the procedures detailed in their Fraud Minimisation Plan, which ensures compliance with the CIPFA Code of Practice for Internal Audit in Local Government. Investigations involving schools will also comply with the Schools' Disciplinary Procedure, particularly section 10 (Formal Disciplinary Investigations).

Reporting on Investigations

Once an investigation has been completed, a written report will be prepared which states the facts discovered by the investigation. The report will avoid speculation and no statement shall be made that cannot be supported by the facts. This report will be circulated to the Investigating Officer, the Head Teacher, the Assistant Director / Executive Director, the Section 151 Officer and the Chief Executive and will be available as evidence in any disciplinary hearing, tribunal or court case.

It may also be appropriate for Internal Audit to issue a further report setting out the control issues highlighted by the investigation. This will contain recommendations for improvements and these will be followed up in accordance with Internal Audit's working protocols. This report will be circulated to the Head Teacher and / or the Chair of Governors, Assistant Director and Executive Director.

In some cases, an interim report may be issued in the early stages of an investigation. The purpose of this report will be to present the results of initial fact-finding exercises with a view to making a recommendation on the way forward for the investigation. For example, the report may conclude that there is insufficient evidence to warrant a criminal investigation and recommend that an internal investigation be carried out, leading to a disciplinary hearing. This report will be circulated to the Investigating Officer, the Assistant Director / Executive Director, the Section 151 Officer and HR, if appropriate.

Internal Audit will report to the Audit and Corporate Governance Committee on a regular basis, summarising the results of completed investigations. These reports will not contain any personal information relating to involved parties unless these details are already in the public domain.

Disciplinary procedure

As for other cases of misconduct, matters of alleged fraud, bribery and corruption will be dealt with in accordance with the Council's Disciplinary Procedures.

Recovery of loss

Where the Council has suffered loss, restitution will be sought of any benefit or advantage obtained and the recovery of costs will be sought from the individual(s) responsible.

As a first step the individual concerned will be asked to make good the loss.

It may be appropriate to consider recovering the loss from any monies due to the individual on termination if the perpetrator is an employee. The advice of the Solicitor to the Council will be sought before attempting to make recovery.

Where an employee is a member of the Local Government Pension Scheme and is guilty of fraud the Council may be able to recover the loss from the capital value of the individual's accrued benefits in the Scheme, which are then reduced as advised by the actuary. If such action may be appropriate the Pension Trustees should be contacted in the first instance. The Trustees have discretion over whether or not a recovery is made. This provision does not apply to members of the Teachers Pension Scheme as the TP Regulations do not positively permit the recovery of funds from the Scheme in these circumstances. If the individual will not make good the loss consideration should be given to taking civil action to recover the loss, subject to legal advice received.

Appendix A

Key risk factors relating to fraud, bribery and corruption

This appendix details some of the areas within the Council's operations that could be vulnerable to the risk of fraud, bribery or corruption occurring and highlights some of the key warning signs that you should look out for. Internal Audit carry out a fraud risk assessment each year as part of their planning process and areas with a high risk score are targeted for review.

Cash Collection

- Theft by employees or outsiders
- Income received and not brought to account
- Illegal transfer/diversion of money
- Cash received 'borrowed' and paying in manipulated to cover up the action
- Changes/additions to payee details
- False creation of or authorised updates to accounting records
- Falsification and duplication of invoices to generate a false payment
- Giving invalid 'discounts' and/or 'free' services to family/friends

Procurement

- Gifts and Benefits/Improper hospitality and inducements
- Personal relationships between staff and suppliers / unofficial communication with vendors
- Unfair Invitations to Tender / unfair advantage to individual suppliers
- Deliberate manipulation of scoring data when evaluating bids or late adjustments following decision to award
- Briefing and debriefing sessions
- Discrimination in favour of a particular supplier or providing misleading information
- Conflict of interest

Imprest Accounts and Purchasing Cards

- Theft of monies by employees
- Payment made to false companies/individuals set up by staff
- Sale or use of sensitive information – for example procurement card details for personal gain
- Staff to make personal purchases using WBC orders, petty cash and procurement cards.
- Procurement cards being cloned
- Appropriate accounting entries deliberately not being made to cover up likely liabilities/losses (false accounting on reconciliation)
- Lack of money giving greater incentive to staff to 'borrow' cash
- Submitting false documents/receipts to cover personal spend which could lead to VAT fraud
- Income other than Council 'monies' is paid into the account
- Shared using of purchase card whilst named holder is on leave
- Expenditure vouchers completed for current service users who don't actually request cash, with the money pocketed by the employee

Employee Claims

- Claims by employees for payment of work not undertaken
- Claims by employees for mileage not undertaken
- 'Over' claims by employees for mileage incurred
- False claims/documentation to obtain employment
- False claims to justify absence (sickness)
- Falsifying 'flexi' timesheets and/or claiming for overtime / time off
- Unjustifiable expenses claimed during visits, events etc.
- Staff 'moonlighting' to supplement their income
- 'Ghost' staff created and paid

Misuse of Physical and Financial Assets

- Theft by a third party
- Employees steal or 'borrow' assets and falsify records to cover it up
- Employees use council equipment for personal purposes for running of own business
- Property used for personal events and not charged for adequately
- Introducing a virus to ICT assets

Other Risk Areas

- Client monies / property stolen
- Cheques intercepted and altered, then cashed
- Falsifying information to obtain grant funding
- Abuse of sickness / flexi entitlements