



Anti-Fraud and Anti-Bribery Strategy

March 2015

Contents

		Page
1	Statement of Intent	2
2	Operating Culture	3
3	Deterrence and Prevention	4
4	Detecting and Investigating Fraud, Bribery and Corruption	7
5	Training	8
6	Fraud Response Plan	8
	<i>What does the Council want to know about?</i>	8
	<i>What should an employee do if they suspect fraud?</i>	9
	<i>What should you do if you suspect benefit fraud?</i>	9
	<i>What should a member of the public do if they suspect fraud in the Council?</i>	10
	<i>What should a member of the public do if they suspect someone is committing housing and/ or Council tax benefit fraud?</i>	10
	<i>How will the Council deal with allegations of fraud?</i>	10
	<i>Alternative methods for reporting a concern</i>	11
Appendix 1	List of Council Rules and Regulations and Other Useful Information	12

1. Statement of Intent

1.1 South Ayrshire Council is committed to providing the highest quality of service to all its residents and customers. This Anti-Fraud and Anti-Bribery Strategy outlines the measures taken by the Council to protect itself against malpractice through either fraud or corrupt practice. The Council is committed to fighting fraud, whether attempted from inside or outside of the Council, in order to protect public funds. Suppliers, contractors, employees, Elected Members and service users are expected to act with integrity and without intention to commit fraud or bribery against the Council. Any investigative activity required will be conducted without regard to any person's relationship to this organisation, or to their position or length of service. This strategy aims to promote an attitude of zero tolerance to fraud. No fraud is acceptable, regardless of the value or scale.

1.2 Definitions

The Council regards fraud, bribery, theft and corruption as follows:

(1) ***Fraud***

Fraud is the use of deception with the intention of obtaining personal gain, avoiding an obligation or causing loss to another party. Fraud can be used to describe a wide variety of dishonest behaviour such as forgery, false representation and the concealment of material facts. In relation to Housing or Council Tax Benefit, knowingly obtaining benefit to which there is no, or lesser, entitlement, is regarded as fraud. The fraudulent use of IT resources is included in this definition, where its use is a material factor in carrying out a fraud.

(2) ***Bribery***

A bribe is a financial or other type of advantage that is offered or requested with the intention of inducing or rewarding improper performance of a function or activity. It can take many different forms and could be the offering, promise or authorization of anything of value, or a reward or the giving of aid, donations or voting designed to exert improper influence. Bribes may not always be monetary and may include gifts or hospitality.

(3) ***Theft***

Theft is the dishonest appropriation of property belonging to another with the intention of permanently depriving the other of it.

(4) ***Corruption***

Corruption within the Council is 'the offer or acceptance by an Elected Member or employee (or any member of such a person's family) of a payment, favour or gift as a reward or an incentive for actions (or inactions) contrary to the proper conduct of their duties'.

1.3 The above definitions cover such acts as deception, forgery, extortion, blackmail, conspiracy, collusion, embezzlement, false accounting/ false representation, concealment of material facts, the offering of a gift or reward to influence a person's actions and misappropriation.

- 1.4 In addition, this strategy covers 'the failure to disclose an interest in order to gain financial or other pecuniary gain'.
- 1.5 Further guidance on types of fraud is contained within the Fraud Response Plan as set out in Section 6 below.
- 1.6 For brevity and ease of reference, this strategy will use the term 'fraud' throughout to cover all of the above types of dishonest act.
- 1.7 The Council will actively support and foster relationships with the police and other external agencies in order to combat fraud. Where the Council has suspicions that criminal activity may have occurred, it will consult with the police.
- 1.8 The Council's strategy is based on a series of comprehensive and related elements designed to deter any fraudulent or corrupt act. These elements are:
 - Operating Culture;
 - Deterrence and Prevention;
 - Detection and investigation procedures;
 - Training; and
 - Fraud Response Plan.

2. Operating Culture

- 2.1 The Council is determined that the culture and tone of its organisation meet the expectations of the Committee on Standards of Public Life, and is also committed to the 7 Nolan principles of: *objectivity, openness, leadership, accountability, honesty, selflessness and integrity*.
- 2.2 The Council expects Elected Members and employees, suppliers and contractors, to lead by example in opposing fraud. Anyone associated with the work of the Council must adhere to this Anti-Fraud and Anti-Bribery Strategy. Elected Members must also adhere to the Councillors' Code of Conduct. Employees must adhere to the approach outlined in the Council's Code of Conduct for Local Government Employees in South Ayrshire Council. Everyone within the Council must ensure that all procedures and practices are beyond reproach.
- 2.3 The Ethical Standards in Public Life etc. (Scotland) Act 2000 imposes on Councils and relevant public bodies a duty to help their Elected Members to comply with the relevant code; and establishes the Standards Commission for Scotland to oversee the new framework and deal with alleged breaches of the Code.
- 2.4 Managers are expected to strive to create an environment in which Employees feel able to approach them with any concerns they may have about suspected irregularities. The Council will encourage both Elected Members and employees to inform us if they suspect a case of fraud. A Fraud Response Plan is set out at Section 6 of this strategy and this explains how we deal with all information fairly and in a confidential manner with those who provided the information. The Council encourages employees to raise any concerns. If employees make allegations in good faith but they are not confirmed by an investigation, no action, (disciplinary or otherwise), will be taken against the employee who raised the concern. However,

the Council must ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations against a colleague, will be dealt with as a disciplinary matter.

- 2.5 The Council has an Equalities at Work Policy which aims to ensure that no service user or employee receives less favourable treatment than any other.
- 2.6 The Council expects its Executive Directors to deal firmly and quickly with anyone who is found to be involved in fraudulent or corrupt acts. The Chief Executive will refer matters to the police as soon as they suspect any criminal activity has been carried out. The Council will continue to seek the advice of the police in relation to the prevention and detection of fraud.
- 2.7 This strategy is intended to complement the provisions of the Public Interest Disclosure Act 1998 (PIDA). This Act provides protection for workers who make certain disclosures of information in the public interest, commonly known as 'whistleblowing'. This strategy provides procedures to enable employees to raise matters of concern with the Council without fear of reprisal.

3. Deterrence and Prevention

- 3.1 The Council operates within a sound framework for dealing with its affairs. A full list of the relevant South Ayrshire Council Policies and Procedures is included in [Appendix 1](#). All Elected Members and employees have a duty to be aware of and comply with their provisions. Managers must ensure that employees have access to these documents. If anyone fails to adhere to these Policies and Procedures, the Council may take formal action against them. This may include a sanction up to including dismissal for employees or referring Elected Members to the Commissioner for Ethical Standards in Public Life in Scotland. It may include referring the matter to the police and referral to the Procurator Fiscal resulting in a criminal prosecution. The Council will seek to recover any assets or money misappropriated through fraudulent activity.
- 3.2 Employees must follow the Code of Conduct for Local Government Employees in South Ayrshire Council which is available on Re-wired, the Council's Intranet, and is issued to all new employees. A breach of the Code may result in disciplinary action. It is the responsibility of each employee to maintain membership of, or registration with, a professional body or registration authority where membership or registration is a requirement of his/ her post. They are also required to follow any code of conduct related to their personal professional qualifications as applicable to their employment with the Council.
- 3.3 Managers are expected to introduce and implement measures which are designed to ensure efficient and effective internal controls to deter fraudulent activity and detect error. Examples of these include:
 - (1) clear written rules and procedures which are regularly updated and of which the employees for whom they are responsible are aware;
 - (2) regularly reviewing and testing the control systems for which they are responsible including spot checks on procedures and systems;
 - (3) avoiding accumulation of backlogs;
 - (4) regular rotation of employees, particularly in key posts;

- (5) designing in safeguards against fraud when designing new systems or processes;
 - (6) a committed response to any allegation of fraud reported including ensuring that any fraud or suspected fraud is reported to the relevant Head of Service or Executive Director and the Audit Services/ Programme Review Manager;
 - (7) ensuring that employees are aware of the Council's Standing Orders Relating to Contracts and Financial Regulations;
 - (8) reviewing and changing systems or procedures after any incident of fraud; and
 - (9) effective segregation of duties
- 3.4 The above are examples only to assist managers and are not an exhaustive list of measures which might be taken by them.
- 3.5 The Defalcation Procedure (which also forms part of the Discipline procedure) is operated by the Council, and which applies to all employees. This procedure contains provisions for dealing with, among other things, allegations of fraud.
- 3.6 The Council is committed to working and co-operating with other organisations to prevent organised fraud. Wherever possible, subject to data protection rules, the Council will be prepared to help and exchange information with other Councils and public bodies to deal with fraud. The Council's Internal Audit Section plays an important role in the detection of fraud. They independently review the adequacy, efficiency and effectiveness of internal controls within the Council. **It is the responsibility of Managers to ensure that corrective action is taken.**
- 3.7 The adequacy and appropriateness of the Council's financial systems are also independently monitored and assessed by the Council's External Auditors. The financial and non-financial systems are also independently audited by the Council's Internal Audit Section. Managers shall be committed to continuously improving the systems both through their own self-assessments and by positive and prompt response to audit recommendations.
- 3.8 The key role of Elected Members is to take an overview of the Anti-Fraud and Anti-Bribery Strategy and for management to ensure that the strategy is well publicised and its implementation monitored. Managers are responsible for ensuring that the Council develops and maintains effective controls to prevent fraud.
- 3.9 The Audit and Governance Panel performs a scrutiny role in relation to the application of this strategy. The Audit and Governance Panel regularly monitors the work of the Council's Internal Audit Section.
- 3.10 The Council has fostered good working relationships with the Trade Unions and will continue to consult with them to ensure that appropriate control measures are in place and that all employees are aware of how to report allegations of fraud.
- 3.11 Employees should treat any offer of a gift or hospitality if it is made to them personally with extreme caution. The overriding principle is that employees should not compromise their position as public service workers by accepting gifts or hospitality and allowing themselves to reach the position where they might be, or might be thought by others to have been, influenced in making an important

decision as a consequence. Further guidance on gifts and hospitality including the register of gifts and hospitality is provided in the Employee Code of Conduct.

- 3.12 Before retaining any fee, commission or other payment collected or received from or through their employment with the Council, employees should consult their Executive Director.
- 3.13 Employees should not use any information obtained in the course of their employment for personal gain or benefit nor should they pass it on to others who might use it in such a way. The Council cannot disclose information about individuals unless the disclosure of the information is fair and lawful in terms of the Council's powers under the Data Protection Act 1998 and other relevant pieces of legislation.
- 3.14 A key preventative measure in dealing with fraud is to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, both temporary and permanent. In particular, appropriate employment checks, including written references, will be obtained in respect of all successful applicants before a provisional offer of employment is confirmed.
- 3.15 Orders and contracts must be awarded in accordance with the Council's approved Standing Orders Relating to Contracts and Financial Regulations. Employees who are involved in any form of tendering exercises must follow approved procedures and must clearly act in a fair and impartial manner when dealing with contractors, sub-contractors and suppliers. All known relationships of a business or private nature with external contractors or potential contractors should be made known to the appropriate service manager who will advise and enter the details into the Council's register of interest (see point 3.14 below).
- 3.16 Employees and Elected Members must declare any possible conflicts which they may have in contracts entered into by the Council (see the Employee Code of Conduct and the Councillors' Code of Conduct). Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information. Where such conflicts do arise, these should be openly disclosed and recorded in the register of interests and the relevant Member/ officer should not be involved in the decision-making process. A register of interests is kept by the Council's Monitoring Officer. The Monitoring Officer has responsibility under Section 5 of the Local Government and Housing Act, 1989, to guard against, among other things, illegality, impropriety and maladministration in the Council's affairs. Additionally, Elected Members/ co-opted Members and employees have a duty to be open and honest about any incidents that they may have been involved in outside of their Council role, which could adversely impact on the Council's reputation or the ability to fulfil their Council role with impartiality.
- 3.17 ***Role of Partners, Contractors, Suppliers and Other Organisations Associated with the Council***

All organisations associated with the Council are expected to take a proactive role in preventing the occurrence of fraud regarding any dealings with the Council, in line with the due diligence expectations portrayed by the Bribery Act 2010. The standards expected are often set out through legal agreements, which specify the requirements of the Council, when setting up partnerships and other contractual

arrangements. However in the interests of good working relationships and continued dealings with the Council, all associated organisations have a general duty to be vigilant regarding the possibility of fraud, irrespective of any legal agreement, with a view to reporting any suspicions in accordance with the principles stemming from the Council's own policies, procedures and standards, which includes possible referral to the Police.

4. Detecting and Investigating Fraud, Bribery and Corruption

- 4.1 This section should be read in conjunction with our Fraud Response Plan in Section 6 and the Council's Procedures for dealing with Housing and Council Tax Benefit Fraud Sanctions and Prosecutions Policy.
- 4.2 All employees and Elected Members have an important and valued role to play in preventing and tackling malpractice at work. Employees are responsible for ensuring that they follow the instructions given to them by management, particularly in relation to the safekeeping of the assets of the Council. Employees are expected always to be aware of the possibility that fraud may exist in the workplace and be able to share their concerns with management. If for any reason they feel unable to speak to their own departmental management they must refer the matter to either the Audit Services/ Programme Review Manager, Executive Director or Monitoring Officer. Reporting cases in this way is essential to this Anti-Fraud and Anti-Bribery Strategy. This ensures that suspected cases of fraud are investigated using the Defalcation Procedures, that there is a standard process for dealing with and recording all suspected cases of fraud and the proper implementation of a structured response to any suspected act of fraud.
- 4.3 The above information is explained in more detail in the Reporting Concerns at Work Policy. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998). The Council is committed to investigating concerns in confidence and taking firm management action where malpractice is established.
- 4.4 Managers have responsibility for preventing and detecting fraud, but it is often the alertness of members of the public to the possibility of fraud and their good citizenship which aids detection. Allegations and complaints are key sources of detection regarding fraud and as such the Council treats this type of information seriously and in line with Reporting Concerns at Work.
- 4.5 Cases relating to potential housing benefit fraud will be referred to the Department for Work and Pensions Single Fraud Investigation Service (with the exception of benefit fraud involving Council Elected Members and officers, which is investigated by the Council's Internal Audit Section). Cases relating to potential Council tax reduction fraud will be referred to the Council's own investigation staff.
- 4.6 All instances of suspected fraud or other similar irregularity in the Council are normally investigated by the Council's Internal Audit Section on behalf of the Chief Executive in accordance with the Defalcation Procedures and may lead to criminal prosecution.
- 4.7 The Council is committed to investigating all apparent fraud matches produced from the bi-annual Audit Scotland National Fraud Initiative report. All cases of suspected fraud will be investigated in line with the policy and procedures stated above in 4.1, 4.2 and 4.3.

5. Training

- 5.1 The Anti-Fraud and Anti-Bribery Strategy will be communicated to employees via the Council intranet (Re-Wired) and other appropriate communications channels, and will be made available for all employees to access.
- 5.2 All new employees will be made aware of the strategy through the on-line induction module and employee essentials training module on the Council's Online Access to Skills and Training package ('COAST').
- 5.3 Training will be sourced as required for employees who are involved in investigations into fraud.

6. Fraud Response Plan

- 6.1 The Council's Anti-Fraud and Anti-Bribery Strategy outlines the principles underpinning preventing, reporting and investigating fraud. This Fraud Response Plan reinforces the Council's approach by detailing the ways which employees or members of the public can report their concerns about suspected fraud.
- 6.2 ***What does the Council want to know about?***

The Council wants to know about fraud, bribery theft or corruption (all as defined in section 1.2). Examples of fraudulent acts may include:

- (1) **Financial Issues** – for example, where individuals or companies have fraudulently obtained money from the Council (invalid invoices, benefit fraud, inflated travel or other expense claims, theft, false overtime claims).
- (2) **Systems Issues** – for example, where a process/ system exists which is open to abuse by either employees or public (planning applications, tendering arrangements).
- (3) **Equipment Issues** – for example, where Council equipment is misused for personal use (vehicles, phones, computers, machinery).
- (4) **Asset Issues** – for example, where there is a misuse of resources (theft of materials or equipment).
- (5) **Employee Issues** – for example, working for personal financial gain during the working day.
- (6) **Any Other Issues of Irregularity** – for example, where officers or Elected Members receive improper hospitality or give confidential information to gain financially as a result of their office or official duties.

Such issues could:

- (1) be unlawful;
- (2) be against the Council's Standing Orders Relating to Contracts or any of the policies listed in Appendix 1;
- (3) fall below established standards or practices; and/ or

- (4) amount to improper conduct.

This is not an exhaustive list.

The Bribery Act 2010 creates 4 offences with heavy maximum penalties in the event of conviction:

- (1) making a bribe (10 years imprisonment and/ or an unlimited fine);
- (2) accepting a bribe (10 years imprisonment and/ or an unlimited fine);
- (3) bribing a foreign public official (10 years imprisonment and/ or an unlimited fine); and
- (4) corporate offence of failing to prevent bribery on behalf of a commercial organisation. (unlimited fine).

This is not an exhaustive list.

6.3 ***What should an employee do if they suspect fraud?***

- (1) Employees and Elected Members are expected to raise any concerns that they may have, without fear of recrimination. Such concerns will be treated in the strictest confidence and will be properly investigated. Employees reporting concerns in this way are afforded certain rights through legislation (the Public Interest Disclosure Act 1998). The Council will do its best to protect employees' identities if they raise concerns and do not wish their names to be disclosed. However, it must be appreciated that the investigation may have to reveal the source of information and a statement may be required as part of the evidence. This strategy encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful but they will be considered at the discretion of the Council.
- (2) Concerns should be raised with your immediate manager. If that is not appropriate you should contact any of the following:

Audit Services/ Programme Review Manager	Hugh McLaughlin
Head of Finance and ICT	Tim Baulk
Monitoring Officer	Valerie Andrews

6.4 ***What should you do if you suspect benefit fraud?***

- (1) South Ayrshire Council is fully committed to ensuring that Housing Benefit and/ or Council Tax Benefit is awarded only to those claimants who have an entitlement. Benefit fraud is a criminal offence and anyone found guilty of committing this offence may be pursued in line with the relevant policies of the Department for Work and Pensions Single Fraud Investigation Service. The Council has a separate Counter-Fraud Team for dealing with suspected benefit fraud. For instances involving benefit fraud, employees can contact the team in any of the following ways:

By phone	Freephone 0808 100 3484
By using the online reporting form	Link
By letter to the Council at	PO Box No 31, Wellington Square, Ayr KA8 2PL

(2) The nature of the complaint will determine the Council's course of action.

6.5 ***What should a member of the public do if they suspect fraud in the Council?***

The Council encourages members of the public who suspect fraud in the Council to contact South Ayrshire Council in any of the following ways:

By phone	Freephone 0808 100 3484
By using the online reporting form	Link
By letter to the Chief Executive at	County Buildings, Wellington Square, Ayr KA7 1DR

The Chief Executive will acknowledge receipt of the information and investigate as appropriate. This may include inviting the member of the public to submit further information.

The Chief Executive may request that an officer of the Council should give a report to the Integrity Group. In such cases, the Integrity Group will determine the next steps to be taken.

Where appropriate, the Chief Executive may choose to confirm the outcome of any investigations to the member of the public who submitted the relevant information.

6.6 ***What should a member of the public do if they suspect someone is committing housing and/ or Council tax benefit fraud?***

Members of the public should notify the Chief Executive in writing if they suspect someone is committing housing benefit fraud and/ or Council tax reduction fraud, and the Council will then respond in accordance with the provisions of this Strategy.

6.7 ***How will the Council deal with allegations of fraud?***

(1) The action taken by the Council will depend on the nature of the concern. The matters raised may be:

- investigated internally;
- referred to the police;
- reported to the external auditor; and/ or
- the subject of an independent investigation.

- (2) Subject to the identity being provided, the Council will contact the whistleblower acknowledging that their concern will be dealt with according to this strategy.

The Council will do its best to protect the whistleblower's identity if requested. It must be appreciated, however, that any investigation process may have to reveal the source of information and a statement may be required as part of the evidence.

- (3) Concerns expressed anonymously will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concerns; and
- the likelihood of confirming the allegations from attributable sources.

- (4) If whistleblowers make allegations in good faith but they are not confirmed by an investigation, the matter will be closed. It is important that members of staff feel confident that they can bring concerns to the Council without fear of reprisal if the concerns are not confirmed by an investigation. It is stressed, however, that the Council will protect itself and its employees from malicious allegations by taking disciplinary action where appropriate. The Council will also try to ensure that the negative impact of either a malicious or unfounded allegation is minimised.

- (5) The Council accepts that those people who reported the alleged fraud need to be assured that the matter has been properly addressed and, subject to legal and legislative constraints, will endeavour to provide them with information about the outcomes of any investigation.

6.8 ***Alternative methods for reporting a concern***

- (1) **The Accounts Commission** – is the organisation appointed to scrutinise the Council's finances and performance. By law, they must be completely independent from the Council.
- (2) **Scottish Public Services Ombudsman** – this is an independent body set up by the Government to deal with the final stage of complaints against public bodies in Scotland.

List of Council Policies and Procedures for the Prevention of Fraud

Document <i>Reference should be made to the edition stated or as after amended</i>	Located
Statutes	
The Public Interest Disclosure Act 1998	www.legislation.gov.uk
Ethical Standards in Public Life (Scotland) Act 2000	
The Bribery Act 2010	
Standing Orders Relating to Contracts	SAC website/ Re-Wired
Financial Regulations	SAC website/ Re-Wired
Scheme of Delegation	SAC website/ Re-Wired
Council's Code of Conduct for Local Government Employees in South Ayrshire	Re-Wired
[Code of Corporate Governance]	SAC website/ Re-Wired
Councillors' Code of Conduct	Internet
Defalcation Procedure (forms part of Disciplinary Procedure and Managers Handbook)	Re-Wired
Procedure for Reporting Concerns at Work	Re-Wired
Terms and Conditions of Employment for Local Government Employees, Craft Operatives and Chief Officials	Re-Wired
Equalities at Work Policy	SAC website/ Re-Wired
Equality and Diversity Strategy	SAC website
The Council's Procedures for Dealing with Housing and Council Tax Benefit Fraud and Prosecutions	SAC website
ICT Acceptable Use Policy	Re-Wired
Risk Management Strategy	SAC website/ Re-Wired

Document <i>Reference should be made to the edition stated or as after amended</i>	Located
Freedom of Information Publication Scheme	SAC website
Environment Strategy	SAC website
Audit Scotland National Fraud Initiative Report	Re-Wired (Revenues Section (restricted access))