

GWYNEDD COUNCIL
ANTI-FRAUD, ANTI-BRIBERY AND ANTI-CORRUPTION STRATEGY
2019 – 2022

1. PURPOSE

The purpose of this document is to explain what the Council will do in 2019 – 2022 in order to minimise the risk of fraud and corruption, to investigate suspicions, and the steps we will take in response.

This document:

- Explains what the Council means by fraud, bribery and corruption;
- Sets out the standards that the Council expects from its Elected Members and employees;
- Encourages fraud prevention;
- Promotes fraud detection;
- Shows how the Council will investigate fraud, bribery and corruption;
- Promotes fraud awareness.

2. INTRODUCTION

In carrying out its functions and responsibilities, the Council has always adopted a culture of openness and fairness. The Council expects that Elected Members, employees, consultants, suppliers, contractors and other partner organisations will adopt the highest standards of propriety and accountability.

Gwynedd Council will continue with a zero-tolerance attitude to Fraud, Bribery and Corruption.

3. DEFINITIONS

Fraud

The Fraud Act 2006 outlines a general offence of fraud and three ways of committing it:

- **Fraud by false representation** – where an individual dishonestly and knowingly makes a representation that is untrue or misleading.
- **Fraud by wrongfully failing to disclose information** – where an individual wrongfully and dishonestly fails to disclose information to another person when they have a legal duty to disclose it, or where the information is of a kind that they are trusted to disclose it, or they would be reasonably expected to disclose it.
- **Fraud by abuse of position** – where an individual who has been given a position in which they are expected to safeguard another person's financial interests dishonestly and secretly abuses that position of trust without the other person's knowledge.

Common types of fraud to which the Council could fall victim would include (the lists are not exhaustive):

Fraud by false representation:

- false or exaggerated travel claims or overtime claims,
- invoices presented for services not received,
- having alternative employment when "signed off" work by a GP,
- recording incorrect hours on the flexible hours scheme.

Fraud by wrongfully failing to disclose information

- Failure to disclose a relevant or unspent criminal conviction on an application form for a job,
- Contractors failing to disclose Health and Safety prosecutions on tender documents,
- Understating the value of Council assets before disposal to family, friends or one's self.

Fraud by abuse of position

- Where individuals within the organisation are entrusted with the care of public money, and their position within the organisation has facilitated the offence. Particular offences under this section would include theft from home care clients by their carers, or fraudulently awarding contracts to friends and / or family members.

In all of the above, the Fraud Act outlines two basic requirements which must be met before any of the above can be charged: the defendant’s conduct must be dishonest and his/her intention must be to make a gain or cause a loss (or the risk of a loss) to another. Therefore, in terms of the behaviour that is pertinent to this Strategy:

- No loss or gains need to materialise – an intent to make a gain or cause a loss will be construed as an act of fraud
- A gain does not have to be for the person committing the act of fraud – it could be for another
- “Gain” and “loss” are as defined by Section 5 of the Fraud Act – it could be money or other property (whether real or personal, tangible or intangible), it could be permanent or temporary and:
 - a “gain” includes a gain by keeping what one has, as well as gain by getting what one does not have, and a “loss” includes a loss by not getting what one might get, as well as a loss by parting with what one has.

Internal and External Fraud

In this strategy, “Internal Fraud” is defined as fraud perpetrated by the Council’s own employees or members, with an intention of causing a loss to Gwynedd Council, and where the fraud has been perpetrated or facilitated as a result of an individual’s or group of individuals’ position within the organisation. “External fraud” is defined as fraud committed by individuals from outside the organisation, or from outside an employee’s normal area of work, with a view to causing a loss to the Council.

In most cases, any fraudulent act would be easily identifiable as “internal” or “external” fraud, but in some cases the situation may be more ambiguous since an employee or member of the Council can commit external fraud as well as internal fraud against the authority. For example, a Council employee making a claim for a means-tested grant but deliberately withholding certain information that would affect the amounts of grant paid would be viewed as an “external fraud”. However, should a member of staff who plays a part in the process of administering the grant take advantage of their employment to fraudulently divert grant monies to themselves, this would be seen as an “internal fraud”.

Action:	Hold regular workshops of relevant officers to discuss matters arising, emerging risks and share good practice
Reason:	Whether fraud is internal, external or a combination of both, the types of fraud that are attempted, and the method of doing this, will develop over time. Workshops will provide an opportunity to identify what needs to be done to respond to this.

Benefit and Council Tax Reduction Fraud

Action:	Collaboration with the Department for work and pensions to develop the work of investigating fraud Council tax reduction
Reason:	Since 2014, responsibility for investigating offences relating to Housing Benefit fraud has transferred from the Council to the Fraud and Error Service within the Department for Work and Pensions. However, that service does not investigate and prosecute offences relating to the Council Tax Reduction Scheme. The Finance Department had concluded that further work can be done in this area to improve effectiveness.

Corruption and Bribery

Corruption is defined as “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.

Under the Bribery Act 2010, the following are offences:

- **Active bribery:** offering, promising or giving a bribe (Section 1).
- **Passive bribery:** requesting, accepting or agreeing to accept a bribe (Section 2).
- **Bribing a foreign public official** (Section 6).
- **Corporate offence of failing to prevent bribery:** commercial organisations which fail to prevent persons associated with them from bribing on their behalf (Section 7).

To be able to fully defend this offence, the Council puts procedures in place to prevent persons associated with it from bribing on its behalf.

The six principles of the procedures which should be in place are as follows:

1. **Proportionate procedures:** the procedures that are introduced should be proportionate to the bribery risks faced and to the nature, scale and complexity of the Council’s activities. These procedures should also be clear, practical, accessible, effectively implemented and enforced.
2. **Top level commitment:** the Council and Cabinet should be committed to preventing bribery by persons associated with the Council. A culture in which bribery is never acceptable should be fostered.
3. **Risk assessment:** The nature and extent of exposure to potential external and internal risks of bribery is assessed. This assessment should be periodic, informed and documented.
4. **Due diligence:** due diligence procedures are applied in a proportionate and risk-based method, in respect of persons who perform or will perform services for, or on behalf of the Council to mitigate identified bribery risks.
5. **Communication (including training):** seek to ensure bribery prevention policies and procedures are embedded and understood throughout the Council.
6. **Monitoring and review:** procedures designated to prevent bribery are monitored and reviewed with improvements made where necessary.

Proceeds of Crime

The Proceeds of Crime Act 2002 provides for the confiscation or civil recovery of the proceeds from crime, which requires payment from the convicted individual based on the benefit obtained from their crimes. The Act allows the confiscation of money, material assets and hidden assets.

Examples of where this Act can be used by the Council are as follows:

- Planning enforcement.
- Environmental Health – fly tipping, illegal dumping of tyres.
- Housing – false claims from landlords.
- Animal Health – dog breeding licence.
- Trading standards – selling of fake goods.
- Staff – expenses fraud.

In order to proceed with a case under the Proceeds of Crime Act 2002, an individual (or group of individuals) must have been found guilty of an offence in court. Consideration must then be made on the ability of the individual to pay and the amount concerned.

4. CULTURE

The Council is determined that the culture and tone of the organisation is one of honesty and opposition to fraud and corruption. There is an expectation and requirement that individuals and organisations associated in whatever way with the Council will act with integrity and that elected members and employees at all levels will lead by example.

Action:	Continue to subscribe to the CIPFA Counter Fraud Centre and make use of the facility, including the source identifying fraud risks, to ensure access to good practice
Reason:	This service is a valuable source of good practice and relations with other bodies working in the field.

Various Codes of Conduct

“The Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001” sets out an approach to work that is both honest and fair. Employees must act in line with the code at all times which includes:

- General Principles;
- Accountability;
- Political Neutrality;
- Relations with Members, the Public and Other Employees;
- Equality;
- Stewardship;
- Personal Interests;
- Whistleblowing;
- Treatment of Information;
- Appointment of Staff;
- Investigations by Monitoring Officers.

The Council has a Code of Conduct for Members that sets out the following principles:

- Selflessness
- Honesty
- Integrity and Propriety
- Duty to Uphold the Law
- Stewardship
- Objectivity in Decision-making
- Equality and Respect
- Openness
- Accountability
- Leadership

together with the duty to disclose and register interests.

All Elected Members and staff are required to declare any offers of gifts or hospitality which are in any way related to the performance of their duties in relation to the Council in accordance with the Code of Conduct regarding Gifts and Hospitality which has been adopted by the Council.

Keeping an Overview

Action:	Include an item on counter fraud work on the Audit and Governance Committee agenda twice a year
Reason:	As "those charged with governance", the Audit and Governance Committee is required to maintain an overview of what is being done to deal with fraud and corruption. To that end, it is proposed to report twice a year, or more frequently as required, on the authority's anti-fraud activities.

Whistleblowing Policy

Employees have an important role to play in dealing with fraud and corruption and the Council will encourage staff to warn and provide information if they suspect a case of fraud or corruption. Staff can do this in the knowledge that such concerns will be treated in confidence and properly investigated. Reporting procedures are outlined in the Council's Whistleblowing Policy. This scheme gives staff a safe and reliable method for reporting honestly any concerns regarding illegal, fraudulent or corrupt behaviour, financial malpractice, endangering the public or the environment, abuse of clients, etc. Whilst the areas covered by the Council's Whistleblowing Policy will be far wider than fraud, bribery and corruption, the encouragement to report such behaviour is an essential part of this policy.

Members and the general public are also encouraged to report concerns of fraudulent or corrupt behaviour by contacting the Senior Manager Revenues & Risk or the Audit Manager.

Systems of Internal Controls

In order to safeguard public funds, it is essential that employees comply with internal controls and systems that have been put in place by management to prevent fraud and corruption. When fraud or corruption has occurred due to weakness in the Council's systems and procedures, Heads of Department will ensure appropriate controls are implemented to prevent recurrence. In most cases, Internal Audit will review such controls as part of its overall assurance review, and should be given the support and co-operation of all managers and staff.

Managers have an additional responsibility for:

- Ensuring that staff for whom they are responsible are aware of the risk of fraud and corruption.
- Taking steps to prevent fraud and corruption through the use of appropriate internal controls and monitoring.
- Implementing agreed Internal Audit recommendations.
- Encouraging staff to report suspected fraud, bribery and corruption as directed in the Council's Whistleblowing Policy.

Being Proactive

Action:	Assess the possibility of using data better in order to identify and investigate fraud
Reason:	Internal audit has set time aside in its annual audit plan in order to undertake proactive anti-fraud work. However, it is incumbent on all who carry out services to be alert to the risk of fraud. We will look into the possibility of units, either in conjunction with Internal Audit or separately, using the data they have – within the law – to search for suspicious patterns.

Co-operation with Investigators

All elected members and employees are expected to provide investigators with all assistance requested, and will provide a statement to the Police should they be required to do so.

5. PREVENTION OF FRAUD, BRIBERY AND CORRUPTION

The Council seeks to prevent fraud, bribery and corruption by:

- Raising awareness of the risk of fraud, bribery and corruption;
- Making Members and employees aware of their roles and responsibilities;
- Working with other agencies and bodies.
- Creating a culture where corruption and fraudulent behaviour is unacceptable behaviour.
- Seeking, where appropriate and in a proper manner, to publicise cases of fraud, bribery or corruption perpetrated against the authority

All Members and employees should be aware of the possibility that fraud, bribery, corruption and theft may exist in the workplace and be able to share their concerns with the appropriate people.

It is essential that the policies and procedures for raising concerns are clearly set out and made available to Members, employees and the public. The Council must regularly review and update these policies and procedures.

Both Members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Examples of such situations would include:

- Externalisation of services;
- Internal tendering;
- Planning; and
- Land issues.

Action:	The Council will be alert to the risk of fraud with new developments within the Council
Reason:	New developments, possibly, create new risks in terms of fraud. Where appropriate, the risk of fraud to be part of major projects risk assessment.

Internal Controls and Audit Assurance

Managing the risk of fraud, bribery and corruption is the responsibility of management, who must make sure that suitable levels of internal check are included in working procedures, in particular financial procedures. It is essential (where practically possible) that duties are specified and segregated, so that individuals cannot carry out a complete transaction without input and/or verification by another appropriate officer.

The Audit Manager is to be notified of all suspected or detected fraud, bribery, corruption or impropriety, to inform her opinion on the internal control environment and Internal Audit's work programme as well as to allow her to ensure appropriate action is taken.

Internal auditors are alert in all their work to minimise risks and exposures that could allow fraud, bribery or corruption to occur. Internal auditors are also alert to any indications that fraud, bribery or corruption may have been occurring and will advise the appropriate officers accordingly. However, audit procedures alone, even when performed with due professional care, cannot guarantee that fraud, bribery or corruption will be detected.

Recruitment

The Council must follow safe recruitment procedures when employing new staff or agency staff. This includes reviewing the previous employment records of potential staff with regard to their propriety, integrity and identity. This applies to both temporary and permanent staff. This may be done by the use of references from previous employers and review of qualification.

Inter-agency Co-operation

The Council is also committed to working and co-operating with other organisations to prevent organised fraud and corruption. Wherever possible, the Council will be prepared to develop and encourage the exchange of information (on national and local fraud and corruption activity) with other local authorities and external agencies, such as the Police, inter-authority audit officer groups, the Wales Audit Office and Government departments (including the Department of Work and Pensions). A leading example of this is the National Fraud Initiative (NFI) exercise that occurs every 2 years.

Due care in protecting the integrity and confidentiality of data is particularly important when exchanging information. Internal Audit will control and help exchanges of information.

6. DETECTION AND INVESTIGATION OF FRAUD, BRIBERY AND CORRUPTION

Under the Code of Conduct for Employees¹ and the Council's Financial Procedure Rules² employees must report any suspected cases of fraud or corruption to the Head of Finance, Senior Manager Revenues & Risk or the Audit Manager, either directly or through their line manager. Reporting cases in this way is essential to the Anti-Fraud, Anti-Bribery and Anti-Corruption Strategy and makes sure that:

- Suspected cases of fraud, bribery and corruption are investigated properly;
- The Fraud, Bribery and Corruption Response Plan is carried out properly;
- There is a standard process for dealing with all suspected cases of fraud, bribery and corruption;
- The public and the Council's interests are protected;
- Any possible sanction (criminal, civil, disciplinary or a combination of all three) is not compromised.

In order to maintain compliance with both the Internal Audit Code of Practice and the Council's Financial Procedure Rules, Gwynedd Council's strategy for investigating suspected fraud, bribery and corruption is that all cases are to be referred to Internal Audit for investigation. The Audit Manager will work with management and other agencies to decide on the type and course of investigation. All investigations will be conducted pursuant to the Fraud and Corruption Response Plan.

The investigation will be undertaken in compliance with the Council's Disciplinary Policy and Procedure. Whereas the policy states that a formal investigation is not necessary for what the relevant line manager considers to be minor offences, no manager will view fraud, bribery, corruption or financial impropriety as a minor offence. Further, the Disciplinary Policy and Procedure also states that "how detailed the investigation is will be entirely dependent on the seriousness of the allegations". There will always be a presumption of formal action in cases of alleged fraud, bribery and corruption, and they will always be deemed as being sufficiently serious to warrant an official Internal Audit investigation.

The Disciplinary Policy and Procedure gives the following as examples of acts that constitute gross misconduct:

- Theft from the Council or any of the Council's clients.
- Serious fraud that would make the employee unsuitable to work with for the Council.
- Deliberate falsification of any records.
- A serious breach of confidence.

Steps under the Proceeds of Crime Act 2002 will also be considered where applicable.

¹ **Paragraph 20.8:** In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose.

² **Rule 16.14.6:** Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or any arrangement to claim an inappropriate payment from the Council, or other property of the Council, the Head of Service or other officer making the discovery shall comply with the Council's Anti-fraud and Corruption Strategy and immediately notify the Head of Finance and/or Senior Manager Audit & Risk, who shall take such steps as he/she considers necessary by way of investigation and report.

7. TRAINING

The Council recognises that the continuing success of this Strategy and its general credibility will depend, in part, on the effectiveness of programmed training and responsiveness of employees throughout the organisation.

During the lifetime of the Strategy, training and events will be held that have been specifically tailored to increase staff awareness and understanding on the characteristics of fraud, bribery and corruption within their areas of work, and their responsibilities when dealing with suspicions.

Action:	Establish a team Task and Finish Group to identify ways of raising awareness of fraud across the Council
Reason:	Before arranging training, must invest time to consider what will work. It is assumed that the most efficient way to do this would be with a small team of officials.

The Council is also committed to training and developing employees who are involved in investigating fraud, bribery and corruption, and will provide suitable training.

Action:	Being proactive by attending training events provided by professional bodies, and/or provide training jointly with other authorities in order to maximise effectiveness
Reason:	It is essential that the skills of key officials are maintained, so that they are aware of the new risks, and investigate correctly.

8. CONCLUSION

Gwynedd Council is committed to tackling fraud, bribery and corruption; its response will be effective, organised and based on the principles included in this document.

The Council shall continue to review its rules and procedures, therefore it is essential that this Strategy is regularly reviewed to maintain its effectiveness and continued compliance with legislation.