

ANNEX C



## ANTI FRAUD AND ANTI CORRUPTION POLICY

This Policy has been adopted by the Audit Committee on ~~28<sup>th</sup> September 2011~~ and approved by the Council and Staff Consultative Forum on ~~19<sup>th</sup> September 2011~~. ~~If forms part of the Local Conditions of Employment and Members Code of Conduct.~~

Version Number 23

## 1. INTRODUCTION

1.1 Mole Valley District Council is a public body and will not tolerate any fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority. The purpose of this policy is to make clear the Council's attitude towards fraud and corruption. It is designed to:

- Encourage prevention
- Promote detection
- Identify a clear pathway for investigation
- Reduce financial loss or damage to the authority

1.2 ~~The Council expects all staff and elected members to lead by example to ensure that high standards of propriety and accountability are established and strictly adhered to, and that personal conduct is above reproach at all times. The Council requires all staff and elected members to act honestly and with integrity at all times, to ensure adherence to statutory and internal rules and regulations, procedures and recommended practices, and report any concerns to the relevant section.~~

1.3 ~~In addition we expect all individuals and organisations that the Council comes into contact with (e.g. suppliers, contractors, service users and partners) to act towards the Council with integrity and without intent or actions to commit fraud or corruption against the Council.~~

1.4 This policy should be read in conjunction with the Council's other policies and procedures that relate to fraud prevention and detection. These include:-

- [Fraud Strategy](#)
- Whistleblowing Policy
- Financial Regulations
- Contract Standing Orders
- Disciplinary and Dismissals Policy
- IT Security Policy
- Anti-Money Laundering Policy
- Fraud Response Plan
- Finance Manual
- [Prosecution and Sanction Policy](#)

1.5 ~~The Council maintains a separate Benefit Fraud Strategy and Benefit Fraud Sanction Policy, which relates specifically to Housing Benefit and Council Tax Benefit.~~

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## 2. COUNCIL POLICY STATEMENT

2.1 The Council expects all staff and elected members to lead by example to ensure that high standards of propriety and accountability are established and strictly adhered to, and that personal conduct is beyond reproach at all times. The Council requires all staff and elected members to act honestly and with integrity at all times, to ensure adherence to statutory and internal rules and regulations, procedures and recommended practices, and report any concerns to the relevant Manager.

2.2 In addition we expect all individuals and organisations that the Council comes into contact with (e.g. suppliers, contractors, service users and partners) to act towards the Council with integrity and without intent or actions to commit fraud or corruption against the Council.

2.3 The Council is responsible for the proper administration of its finances. This not only includes direct income and expenditure but also monies that we administer on behalf of the Government, on behalf of our clients, and that for which we are the responsible accountable body. Anyone committing fraud, either inside or outside the organisation, puts at risk all of these sources of income and expenditure and our valuable assets. Mole Valley District Council is determined that the culture and tone of the organisation is one of honesty and opposition to fraud and corruption.

2.4 Mole Valley District 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 all individuals and organisations associated in whatever capacity with the Council will act with integrity and that Council Members and staff, at all levels, will lead by example in these matters.

2.5 The Council's staff and elected Members are an important element in its stance on fraud and corruption and they are positively encouraged to raise any concerns which they may have on those issues where they are associated with the Council's activity. They can do this in the knowledge that such concerns will be treated in confidence, properly investigated and fairly dealt with.

## 3. WHAT IS FRAUD

3.1 ~~The~~ The Fraud Act 2006 came into force on the 15th January 2007. This introduced a defined offence of fraud, which is broken into three sections:

- Fraud by false representation
- Fraud by failing to disclose information
- Fraud by abuse of position

### **Fraud by false representation**

- 3.2 Fraud by false representation must be made dishonestly, and is made with the intention of making a gain or causing a loss or risk of loss to another.
- 3.3 A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. Representation can be stated by words or communicated by conduct i.e. written, spoken or by electronic means.

### **Fraud by failing to disclose information**

- 3.4 An offence will be committed if a person fails to declare information which he/she has a legal duty to disclose. The person must act dishonestly and either intends to make a gain for himself/herself, cause a loss to another or expose another to a risk of loss.

### **Fraud by abuse of position**

- 3.5 Fraud by abuse of position requires a person who is in a privileged position to act dishonestly by abusing the position held. The dishonest act must be with the intention of making a gain for himself/herself or another. Alternatively it may be with the intention of causing a loss or risk of loss to another. The offence may be committed by omitting to make a declaration as well as by an act.
- 3.6 The introduction of the Fraud Act 2006 does not prevent the prosecution of the offences under the various Theft Acts and Forgery and Counterfeiting Act, e.g. theft, counterfeiting and falsification of documents.
- 3.7 Examples of potential types of fraud which could be perpetrated against the authority are listed at the end of this document

## **4. WHAT IS CORRUPTION?**

- 4.1 Corruption is the offering, giving or accepting of an inducement or reward which would influence the actions taken by the Council, its members or officers.
- 4.2 Corruption may also be deemed to include criminal acts and situations where any Member or officer intentionally makes a decision which gives any person an advantage or disadvantage where the decision is contrary to the policy/procedures governing the decision making process and is based on no sound reasoning. The latter part of this

definition is intended to encompass all types of discrimination, both positive (where any person gains an unfair advantage) and negative (where any person is unfairly disadvantaged).

## **5. INDIVIDUAL RESPONSIBILITIES**

5.1 Fraud is an ever-present threat to the resources of the Council and therefore must be a concern to all staff and Members. Everyone in the Council has a responsibility and role to help prevent fraud.

### **Elected Members**

5.2 Each Member of the Council is responsible for the following:

- His / her own conduct
- Contributing towards the safeguarding of Corporate Standards, as detailed in the members Code of Conduct

### **Strategic Management Team**

5.3 The Strategic Management Team is responsible for ensuring the following:

- Providing firm leadership
- Facilitating
- Ensuring sufficient resources
- Embedding an anti-fraud and corruption culture

### **Managers**

5.4 All managers are responsible for:

- Maintaining internal control systems and ensuring that the Authority's resources and activities are properly applied in the manner intended
- Identifying the risks of fraud and corruption to which system and procedures are exposed
- Developing and maintaining effective controls to prevent and detect fraud
- Ensuring that controls are adhered to
- Reporting or passing on all allegations of fraud and corruption, as per the directions included in the Fraud Response Plan.
- Fully cooperating with any investigation undertaken by or under direction from the Strategic Director (Section 151 Officer), the Fraud Manager, Internal or External Audit and the Police.

### **Individual Members of Staff**

5.5 Each member of staff is responsible for the following:

- His or her own conduct and for contributing towards the safeguarding of corporate standards (including declaration of interest, private working, whistle blowing etc.)
- Acting with propriety in the use of official resources and in the handling and use of corporate funds, whether they are involved with cash or payments systems, receipts or dealing with contractors or suppliers
- Reporting details immediately to their line manager or the next most senior manager, or via directions contained in the Whistleblowing Policy, if they suspect that a fraud has been committed or see any suspicious acts or events.

## 6. Collective responsibilities

6.1 The Council supports the seven principles of Public Life set by the Committee on Standards in Public Life and would expect all members and staff to develop working behaviour around these principles.

6.2 The Seven Principles of Public Life 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 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 seek to influence them in the performance of their official duties
- *Objectivity*  
In carrying out public business, including making public appointments, awarding contracts, 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 and 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
- 6.3 The Council is determined that the culture of the organisation is one of honesty and opposition to fraud and corruption. These principles must therefore be adopted by all Members and staff and will be reflected in our procedures and ways of working in order to assist in the prevention of fraud and corruption.
- 6.4 There is an expectation and requirement that all individuals and organisations associated in whatever way with the Council will act with integrity and that Members and staff, at all levels, will lead by example in these matters.

## **7. WHISTLEBLOWING POLICY**

- 7.1 The Council's Members and staff are an important element in its stance on fraud and corruption and they are positively encouraged and expected to raise any concerns that they may have on these issues. This can be done in the knowledge that such concerns will be treated in confidence and investigated properly and fairly. If staff have any particular concerns they should report them in accordance with the Council's Whistleblowing Policy. Employees reporting concerns this way are afforded certain rights and protection through legislation enacted under the Public Interest Disclosure Act 1998. Employees who report concerns will be supported and protected from reprisals. Everything possible will be done to protect their confidentiality. They will be advised of the action that has been taken by the person to whom they reported their concerns.
- 7.2 Members should report any concerns directly to the Strategic Director (Section 151 Officer). Complaints against Members should be referred to the Council's Monitoring Officer.

## **8. THE ACTION THE COUNCIL WILL TAKE**

- 8.1 The Council will risk assess all suspicions of fraud, and make a decision based on the scale of potential loss(either financial or reputational) as to whether to investigate further All accepted allegations will be investigated promptly and fully in a professional manner in accordance with investigation procedures.

~~The Council will also undertake pro-active activity in order to identify suspicious of fraud or mispractice, including bulk data matching.~~

~~The Council will work in partnership with other local authorities, central government agencies, and other official bodies to target fraud that would impact on the Council's services, and finances.~~

~~ve f The Strategic Director is the Councils' Section 151 officer and is therefore responsible for following up any allegation of fraud or corruption. Upon receipt of any an allegation of fraud or corruption perpetrated by a member of staff or a member, he will notify the Chief Executive, relevant Corporate Head of Service, Fraud Manager and Financial Services Manager. The allegation will be risk assessed and an appropriate investigation plan initiated. Actions will be taken in line with the processes contained within the Council's Fraud response Plan. In particular where the allegation relates to a potential disciplinary and fraud matter, the investigators and HR Department will work closely to ensure that any investigation into criminal behaviour will take priority over disciplinary matters. All fraud allegations relating to staff or members will be escalated to the Section 151 Officer and Monitoring Officer respectively, who will then direct and monitor the close working.~~

~~The plan will include recommendations as to which body will investigate allegation. The Council retains the option to use the internal Fraud Section, Auditors or other outside investigation service providers. The Fraud Manager will monitor the investigation and ensure that the investigators:~~

- ~~• Deal with the matter promptly (and in any event commence the investigation within 5 working days of being notified of it)~~
- ~~• Record all evidence received~~
- ~~• Ascertain whether the evidence is sound and adequately supported~~
- ~~• Act in accordance with all investigative legislation, in order to ensure that a criminal prosecution can be taken if necessary~~
- ~~• Wherever possible act in a discreet and professional manner, whilst investigating the allegations. This is because some allegations may be unfounded or malicious, and it would be fair to protect the reputation of the accused until proven otherwise.~~
- ~~• Report back to the Strategic Director (Section 151 Officer) at the conclusion of the investigation, and at other agreed intervals.~~

~~8.2 If the allegation relates to non staff / Council related fraud, such as Council Tax or Housing Fraud, then the decision as to whether to accept the referral and who will investigate will be made by the Corporate Head of Service. The Fraud Manager will monitor the investigations progress and will keep the appropriate Service Manager and Corporate Head of Service advised of the investigation progress at regular intervals.~~

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8.3 The Council will deal swiftly and firmly with those who defraud the Council or who are corrupt. The Council will be robust in dealing with financial malpractice.

8.4 The Council also wishes to safeguard their staff against unfounded allegations. The Council will operate fair procedures, and will take disciplinary action against any staff member who makes a deliberately false accusation.

## 9. PREVENTION

~~9.1 The Council has a number of codified rules and regulations to make sure that financial, working and organisational procedures are properly controlled. These are an important part of the internal control processes, and it is important that all members and staff know about them.~~

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### Staff Selection

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~~9.2 The Council recognises that a key preventive measure in the fight against fraud and corruption is to take effective steps at the recruitment stage. Staff recruitment must therefore be in accordance with approved HR procedures and the Equal Opportunities Policy. The Council's recruitment procedures aim to ensure that staff are appointed on merit, and provides control to eliminate the appointment of unsuitable persons.~~

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~~9.3 Applicants are required to complete an application form and declare any criminal convictions that are not spent. Where appropriate, applicants may also be subject to a Criminal Records Bureau check. Written references and proof of identity are requested and checked for all successful applicants. Qualifications and / or memberships are requested and checked when required as part of the job specification.~~

### Members

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~~9.4 Members are required to comply with the Member's Code of Conduct adopted by the Council. This code is brought to the attention of Members at induction courses run for new members and is included in the Council's Constitution. Any alleged breach of the Code can be referred to the Council's Monitoring Officer. There are powers available to suspend or disqualify Members who have breached the Code.~~

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### Internal Control Systems

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~~9.5 The Council has in place a Constitution which includes Financial Regulations and Contract Standing Orders all of which must be followed by members of staff. The Strategic Director has a statutory responsibility, under Section 151 of the Local Government act 1972, for the administration of the Councils financial affairs.~~

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~~9.6 The Council is committed to using systems and procedures that incorporate efficient and effective internal controls. These include adequate separation of duties so that error or impropriety is prevented. Under Financial Regulations, Directors and Corporate Heads of Services must ensure that~~

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~~these controls are properly maintained and are effective. The existence, appropriateness and effectiveness of these internal controls is independently monitored by the Council's Internal Auditor.~~

~~9.7 Managers should take steps to reduce the possibility of fraud by being aware of situations where fraud and corruption might exist. Some examples of these situations are provided at the end of the policy.~~

### ~~National Fraud Initiative (NFI)~~

~~9.8 The Council is legally required under s.6 of the Audit Commission Act 1998 to provide relevant data and to participate in NFI. The Council provides information obtained from its databases (such as Payroll, Council Tax, Housing Benefit, Creditors and so on) which is matched with that of other authorities and agencies, to identify possible fraud.~~

~~9.9 Details of matches are returned to the Fraud Manager where further internal investigations are undertaken to identify and pursue cases of fraud and irregularity perpetrated by staff and outside persons, against Council administered activities.~~

#### ~~Awareness~~

~~9.10 The Anti Fraud and Corruption Policy and all other associated policies will be placed on the Council's internal and external website, and all staff directed towards it. The existence of the Policy and the expectations of staff will be explained to all new starters during the induction course.~~

~~9.11 Regular anti-fraud and corruption updates will be provided on the news page of the Council's internal website, including examples of recent national frauds perpetrated against Councils, and examples of situations and actions that could be viewed as fraudulent.~~

#### ~~Collaboration with Outside Agencies~~

~~9.12 The Council is committed to working and co-operating with other organisations to prevent organised fraud and corruption. Wherever possible, the Council will assist and exchange information with other appropriate bodies to assist in the investigation of and to combat fraud. The Council's Fraud Manager or Chief Internal Auditor will co-ordinate all assistance and exchange of information.~~

## ~~10. DETECTION AND INVESTIGATION~~

~~10.1 The Fraud Manager will be responsible for overseeing all fraud investigations. He will ensure that the investigators abide by all appropriate legislation that affects criminal investigations, such as PACE, RIPA and the Criminal Procedures and Investigation Act. The investigation will be carried out to a standard to support criminal proceedings if appropriate.~~

~~10.2 Depending on the seriousness of the allegation, it may be appropriate to refer the matter to the Police. This decision will be made by the Strategic Director (Section 151 Officer), appropriate Corporate Head of Service and Service Manager. The Police may be asked to assist if evidence gathering powers are insufficient or it is necessary to arrest the individual concerned.~~

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~~10.3 Specific referral instructions, individual's responsibilities and reporting procedures are included in the Council's Fraud Response Plan.~~

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## 11. COURSES OF ACTION

~~11.1 If fraud or corruption has taken place, the Council will, in appropriate cases~~

~~Prosecute the individual (s) or refer matter to the police, other legal sanction action in line with the Council's Prosecution and Sanction Policy.~~

~~Take appropriate disciplinary action where it involves an employee, which could lead to dismissal~~

~~Refer the case to the Standards Board of England where it involves a Member~~

~~Pursue recovery for all financial loss~~

~~There are mechanisms in place within the Council to act in cases of fraud and corruption. These include the following:~~

### Disciplinary Action

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~~11.2 The Council's Disciplinary procedures will be used where the outcome of the Investigation indicates improper or inappropriate behaviour involving staff. In the case of improper behaviour involving a Member, the matter will be passed to the Council's Monitoring Officer for referral to the Standards Committee.~~

### Prosecution

~~11.3 The Council will seek full redress through the legal processes available to counter any internal or external fraudulent activities perpetrated against it. This redress will be achieved through criminal and or civil Courts as considered appropriate.~~

~~11.4 The decision to prosecute will be taken by the Strategic Director in consultation with the relevant Corporate Head of Service Fraud Manager, Financial Services Manager and other internal and external agencies as appropriate. Internal agencies could include Human Resources, Legal Services and the Service Manager affected by attempted fraud. External agencies will include the Police and the Crown Prosecution Service.~~

~~11.5 If the offence is one that can be prosecuted by the Authority under legislation that allows the Authority to do so, the Prosecution will be undertaken by the Council's Legal Department. If the offence can only be prosecuted by the Police through the Crown Prosecution Service, then the Legal Services Manager will request that the Police pursue a prosecution. Referral to the Police will not prohibit action under the Council's Disciplinary policy.~~

## 12. REDRESS STATEMENT

12.1 A crucial element of the Council's response to tackling fraud is seeking financial redress – the recovery of defrauded monies is an important part of the Council's strategy and will be rigorously pursued. Redress can be defined as the recovery or attempted recovery of assets lost or defrauded. This would include any type of financial recompense for the fraud.

12.2 ~~to~~The Council will seek to recover its losses considering all the appropriate options open to it. This will include the identifying of amounts overpaid and raising of invoices. If repayment in full is not made or a suitable arrangement is not entered into within a reasonable time, civil or criminal legal action will be commenced. If the perpetrator of the offence has absconded attempts will be made to trace an address.

12.3 The recovery options available to the Council include the following:

- Charges on property
- Charges on pension
- Third Party (Garnishee)
- Attachment of earnings
- Freezing injunctions
- Confiscation orders
- Compensation
- Restitution Orders

12.4 Where appropriate, under the Proceeds of Crime Act (POCA), the Council will use a Financial Investigator to identify and recover any assets or money obtained as a result of illegal activity.

12.5 The Council maintains that criminals should not profit from their crimes. It will use every means at its disposal, therefore, to recover all overpayments considered to be fraudulent. Redress is not to be seen as an additional activity to disciplinary or criminal sanction action, but as an integral part of tackling fraud. In cases where an investigation has taken place but no disciplinary or criminal sanction action has followed, Mole Valley District Council will still seek to recover any overpayment that has occurred.

[Publicising Proven Fraud](#)

[The Council will publicise all cases of fraud or mispractice proven through the courts. This will include the names of the guilty together with details of their crime.](#)

### **13. CONCLUSION**

13.1 The Council has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments, in both preventive and detection techniques and equipment regarding fraudulent or corrupt activity. Consequently, the Council will maintain a continuous overview of these arrangements, including in particular, Standing Orders and Financial Regulations and the various Codes of Conduct and Audit arrangements. When the Council changes its services or working patterns, managers will be expected to take into account fraud prevention and detection in new systems.

13.2 The Policy will be subject to annual review by the Fraud Manager, to ensure that it remains current and effective.

### **14. EXAMPLES OF FRAUD AND CORRUPTION**

- [\\_\\_\\_\\_\\_ Theft of Council property or services](#)
- [False Homelessness / Housing application](#)
- [False Council Tax Discount application](#)
- [Council Tax support fraud](#)
- [Social Housing fraud](#)
  
- Evading liability for payment
  
- False accountancy, including the destruction, concealment or falsification of any account or record, or giving misleading, false or deceptive information
  
- Obtaining property by false pretences
  
- Misuse of office
  
- Bribery

- Working while on sick leave
- Falsifying time or mileage sheets, including flexitime
- Selling Council equipment inappropriately
- Failure to declare an interest
- Fraudulent tendering process
- Fraudulent property letting
- Accepting any gift or consideration as an inducement for doing or refraining from doing anything in relation to Council business.