



Fraud Response Plan

December 2007

Fraud Response Plan

1 Introduction

1.1 Suspicion of fraud or irregularity may be raised through a number of means, including the following:

- Requirement on all personnel under financial procedural rules to report fraud or irregularity;
- Public interest disclosure procedure (confidential reporting (whistleblowing) policy);
- Planned audit work;
- Operation of proper procedures.

In addition the Council offers the following means of reporting (in confidence) potential fraud and corruption.

- Tel:01325 388096
- email: internalaudit@darlington.gov.uk

or in the case of benefit fraud

- Tel: 01325 388517
- email: HBenquiries@darlington.gov.uk

For benefit fraud the Council also participates in a national initiative run by an independent body. The Local Authority Shared Fraud hotline can be contacted during office hours or at the address below.

Tel: 0800 328 6340 or 0800 328 6341 (text phone), PO box No 647, Preston PR1 1WA

1.2 This Response Plan covers fraud investigation other than benefit fraud, which is covered separately by the Council's Housing Benefit/Council Tax Anti Fraud Strategy and Sanctions Policy.

1.3 There are a number of facets to the management of a suspected case of fraud, which may involve officers from a number of disciplines, including audit, finance, human resources and police. Additionally there are a number of specific legislative requirements. It is vitally important therefore that the response plan is followed by all concerned in order to ensure that the situation is handled professionally and to safeguard against the case being compromised. Once fraud or corruption is suspected, there are four immediate issues to be addressed:

- the proper internal investigation of the matter;
- what action, if any, should be taken in relation to the officer concerned;

- the facilitation and management of the investigation; and subsequently
- whether to involve the police and if so at what stage.

1.3. It is important that all investigations are conducted promptly.

2 Overview of Response

2.1 The Council's Financial Procedural Rules in conjunction with the Councils Anti Fraud and Corruption Policy Statement and Strategy require that awareness or suspicion of "fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources" be reported to the Director of Corporate Services. However in practice this will usually be the Head of Corporate Assurance.

http://www.darlington.gov.uk/dar_public/documents/Corporate%20Services/Democratic/Constitution/Part%204%20-%20Financial%20Procedure%20rules.pdf

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2.2 The Head of Corporate Assurance will then determine, after consultation with appropriate officers, what action should be taken. This could be the resolution of the issue within the Directorate, or a full investigation. The requirements of the Council's disciplinary procedures will be considered at this and subsequent stages.

2.3 If the Head of Corporate Assurance determines that an investigation should be carried out, an investigation team will be identified. Depending on the nature and scale of the issue this team may comprise of the Head of Corporate Assurance or one of his audit staff, or an appropriate lead investigator appointed by the relevant departmental Director with assistance from Audit Services, together with a nominated HR Officer, and Operational Manager (or nominated deputy). Additionally, the Head of Corporate Assurance will liaise with Borough Solicitor as appropriate.

2.4 The Investigating Team will be responsible for the proper investigation of the matter, with reference to all relevant legislation and the Council's disciplinary procedures.

2.5 For benefit fraud investigation the requirements of the Council's Housing Benefit/Council Tax Anti Fraud Strategy and Sanctions Policy will be followed.

3 Initial Actions to be taken when a Fraud is Suspected

3.1 In the event of a person having any suspicions whatsoever that a fraud is taking or has taken place, then the first step is to formally raise this concern. Normally this should be raised with the person's line manager or Director. If the person concerned is the line manager, the person raising the concern may wish to discuss it with another senior manager in the organisation or talk to their Director. Alternatively, they should go directly to the Head of Corporate Assurance, to any internal auditor or their HR Officer. Any of these alternatives are acceptable.

3.2 The person should avoid discussing their suspicions with anyone other than the officer with whom they formally raised the issue.

- 3.3. The officer that the issue was raised with should ensure that the matter is reported confidentially to the Head of Corporate Assurance.
- 3.4 Care should be taken, by both any officer who suspects fraud, and any officer to whom this suspicion is reported, to retain any evidence and make immediate note of the issues and concerns. All records relating to the issue under investigation should be secured as soon as suspicions arise to ensure they are not destroyed or amended.
- 3.5 At this stage, staff should not be subject to investigation or interview (including private contractors): this will be done as necessary by the staff appointed to do so or directly by the police if appropriate. The requirements of the Criminal Procedure and Investigations Act 1996 will apply to any such interviews, so it is vital that any staff conducting interviews are aware of these requirements to ensure that the investigation is not jeopardised.
- 3.6 Where in accordance with the appropriate disciplinary procedure a member of staff is to be suspended pending investigation, secure his/her desk, filing cabinets etc., and retrieve all office keys etc. so as to ensure further access is denied.

Staff raising concerns in good faith are protected by the provisions of the Public Interest Disclosure Act 1998. This is covered in more detail in the Council's Confidential Reporting Policy (Whistleblowing).

http://www.darlington.gov.uk/dar_public/Documents/Corporate%20Services/Democratic/Constitution/Code%20Of%20Conduct%20For%20Employees.pdf

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Fraud Management Process

- 4.1 A flowchart illustrating the process is included on page 7.
- 4.2 The process is co-ordinated by an "Investigating Team", comprising (depending on the scale and the nature of the issue) some combination of the following:
- Investigating Officer
 - Internal audit personnel
 - Nominated HR Manager
 - Operational Manager (or nominated deputy)

The Head of Corporate Assurance will liaise with the Borough Solicitor where appropriate..

- 4.3 There are three distinct aspects that the Investigating Team will manage:
- Issues concerning members of staff or independent contractors
 - The actual investigation
 - The external environment

Surveillance

- 5.1 The Regulation of Investigatory Powers Act 2000 imposes certain conditions should surveillance be necessary.

- 5.2 The Act covers:
- Interception of Communications;
 - Surveillance and covert Human Intelligence sources (informers);
 - Directed Surveillance;
 - Intrusive Surveillance;
 - The conduct and use of covert Human Intelligence sources;
 - Investigation of Electronic Data protected by Encryption.
- 5.3 Surveillance should not be carried out unless authorised by a nominated senior officer in the Directorate.
- 5.4 Surveillance has to be justified in accordance with the conventions of the Human Rights Act 1999
- The grounds on which the authority is sought;
 - Consideration of why directed surveillance is proportionate to what it seeks to achieve;
 - The identity or identities, where known, of those to be the subject of directed surveillance;
 - Any potential collateral intrusion (the impact on third parties);
 - Details of the action authorised;
 - Details of the investigation or operation;
 - The likelihood of acquiring any confidential material.

6 Issues Concerning Staff Members Or Independent Contractors

- 6.1 Throughout the investigation, the nominated HR Officer and Borough Solicitor will provide advice to all parties, including the operational managers, on any issue concerning staff.
- 6.2 It should be noted, however, that the Authority's Disciplinary Procedure is very clear regarding the standards of behaviour expected of employees. The Authority's Code of Conduct and Disciplinary Policy also gives examples of disciplinary action that may be taken in the event of those rules being broken.
- 6.3 Examples of behaviour that could lead to disciplinary action include:
- False entries in attendance records such as flexi sheets;
 - Breaches of confidentiality regarding information;
 - Failure to declare a direct pecuniary or otherwise conflicting interest.
- 6.4 In addition, the category of gross misconduct for which summary dismissal applies if proven include:
- Theft and unauthorised borrowing (that includes theft of intellectual property);
 - Fraud, including deliberate falsification of payment, travel claims, time or financial records;
 - Corruption.

- 6.5. The attention of all staff must also therefore be drawn to the Disciplinary Rules and Procedures of the Council.
- 6.6 It is possible that staff who are under investigation will be suspended immediately. Any suspensions, however, must be carried out by the appropriate Operational Manager who is the only individual authorised to make that decision. Any decisions regarding staff will also be made in conjunction with the nominated HR Officer and must be in accordance with Authority procedures and policies.
- 6.7 Because any investigation about fraud will invariably focus on the actions of individual members of staff or independent contractors:
- It is important that the Borough Solicitor is involved in any decision concerning staff.**
- 6.8 The nominated HR Officer will advise on issues such as:
- Liaison with Trade Unions;
 - Management of staff, suspended under suspicion, but who are subsequently reinstated;
 - Provision of references to prospective employers for staff who have been investigated;
 - Dismissal of staff found guilty.

7 Management Of The Investigation

- 7.1 Provided that the Head of Corporate Assurance is satisfied that sufficient concern or evidence exists to indicate that a fraud may have been committed, the Investigating Team will manage the investigation. It is probable that the investigation will be performed or at least assisted by internal audit. However, there could be circumstances where the assistance of the external auditors may be requested, or a member of staff with key skills.
- 7.2 The Head of Corporate Assurance has direct access to the relevant police authorities who can be consulted at an early stage and then as appropriate to provide informal advice on the conduct of the investigation.
- 7.3 The Investigating Team will agree the terms of reference, its scope of operations and an initial time allocation with specific monitoring points. There will be full compliance with the requirements of the council's disciplinary procedures if invoked.
- 7.4 The internal auditors will perform the investigation in accordance with best practice as laid down in the Internal Audit Code of Practice.
- 7.5 The Head of Corporate Assurance will report back to the appropriate Operations Manager at the agreed points or earlier, should the results of the investigation dictate. This Team will make decisions regarding:
- Involvement of the police;
 - Action to be taken (if any) against the suspected perpetrator;
 - Communications with external bodies;

- Proposed action regarding recovery of losses;
- The level of any additional routine or ad hoc investigations required in related areas;
- Producing and issuing of reports.

8 Management Of External Affairs

- 8.1 Dependent on the size of the fraud and the extent of the investigation, the Investigating Team in conjunction with the Director of Corporate Services and the Borough Solicitor will consider whether to:
- Involve the police;
 - Whether to consult the Head of Communications;
 - Involve the service committee/ senior elected members.
- 8.2 Individuals involved in the investigation must not take decisions alone to involve external organisations. These decisions must lie with the main team since any ill-thought-out or spontaneous comments/acts may jeopardise the whole investigation.
- 8.3 The Council has a policy for managing external communications, (particularly in crisis situations) and this work must always be carried out by the Head of Communications or his representative

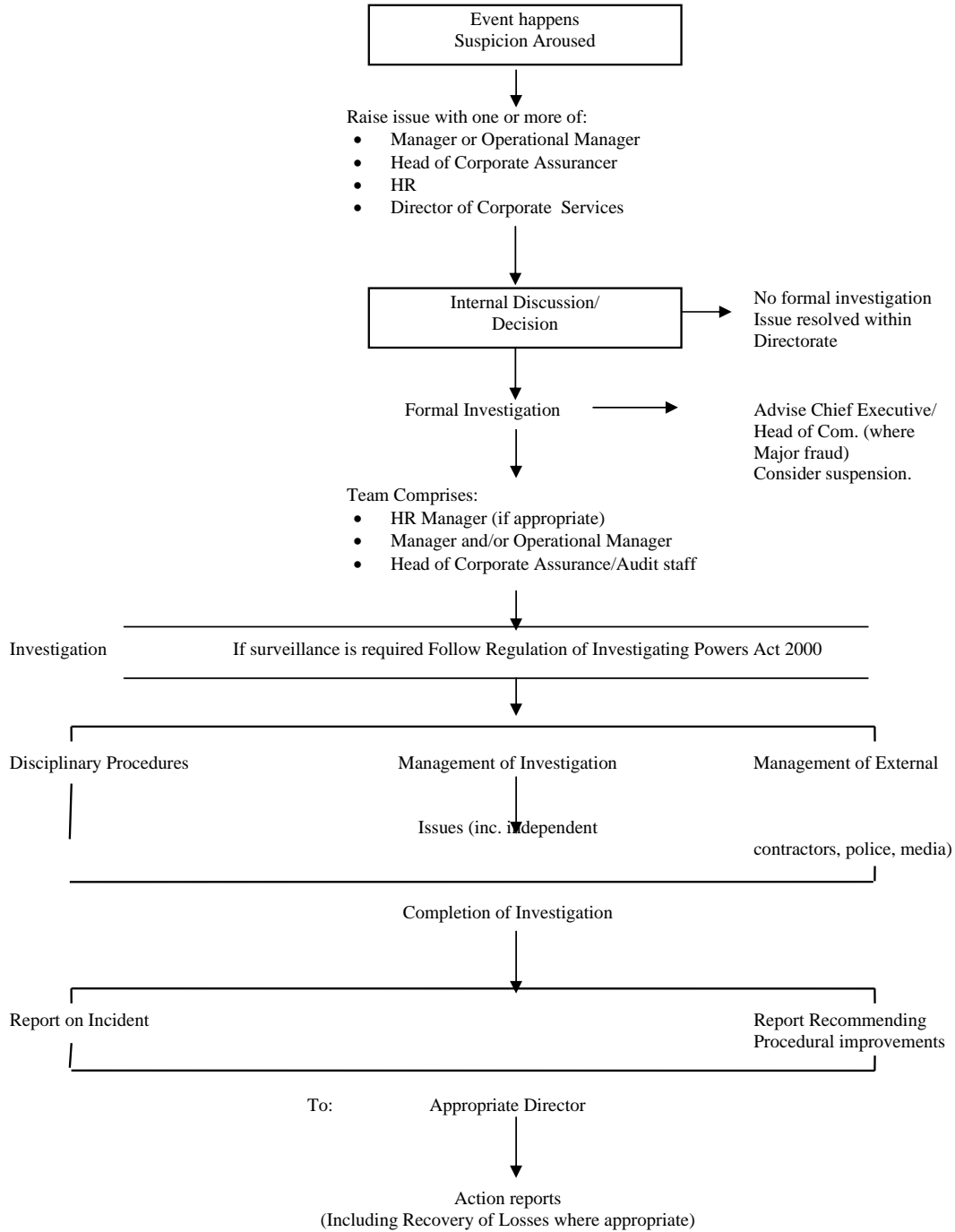
9 Witness Support

- 9.1 The Council appreciates that fraud investigations may place witnesses in a stressful situation, both during the course of the investigation and during any subsequent disciplinary or court appearance where they may be required to give evidence. The Council will attempt to support witnesses, in accordance with the following principles as discussed below:
- 9.2 Support at Work
In serious circumstances, the Council would consider redeploying managers or witnesses where a difficult relationship would result out of allegations being made. If circumstances result in a member of staff being suspended then tensions may be temporarily eased.
- 9.3 Support at a Disciplinary/Court hearing
Crown Courts have their own Witness Support Scheme. However, if a witness was appearing at a disciplinary or a Court hearing, the witness's trade union representative may also be available to help in such situations.

10 Review of Fraud Response Plan

- 10.1 This plan will be reviewed for fitness of purpose at least annually and after each use.

OUTLINE OF FRAUD MANAGEMENT PROCESS



Decision on whether to involve Police taken by the Borough Solicitor, Director of Corporate Services, Service Director and Head of Corporate Assurance. Head of Human Resource will give advice on staff suspension and subsequent disciplinary action.