

# **Counter Fraud & Corruption Policy**



## **Swale Borough Council**

**Policy Owner (Officer):** Head of Audit Partnership

**Preparation Date:** July 2019

**Next Full Review:** June 2021

# Introduction

1. All fraud, bribery and corruption (collectively referred to as Economic Crime) is unacceptable. The Council will not tolerate any Economic Crime that comes to its attention. Economic Crime diverts resources and limits the capacity of the Council to improve the lives and opportunities for its residents, businesses and visitors.
2. The Council should therefore safeguard its funds and resources against those minded to commit Economic Crime. This includes creating and upholding a culture of high ethical standards, honesty and transparency.
3. This policy aims to:
  - Explain how the Council intends to tackle Economic Crime
  - Provide guidance to Officers, and
  - Ensure Officers can recognise Economic Crime and understand reporting needs.

## Policy Statement

4. We seek to ensure we properly protect our resources from fraud, bribery and other economic crime.
5. The Section 151 Officer is responsible for overseeing and providing strategic management and support for work to tackle Economic Crime.
6. Officers must report any suspicions of Economic Crime as soon as possible to ensure proper investigations, minimise losses and maximise the chances of financial recovery. We set out routes for reporting in the Whistleblowing Policy (Appendix D) and summary reporting flow chart (Appendix A).
7. Mid Kent Audit will lead investigations into Economic Crime, calling on the expertise of other partner agencies (including the police) as needed. The decision on involving other agencies rests with the Head of Audit Partnership, after suitable consultation.
8. Under no circumstances should any Officer themselves begin an investigation into suspected or alleged Economic Crime.
9. All Officers must cooperate with investigations into Economic Crime. This includes:
  - Providing information and intelligence
  - Making time and documentation available to the investigators on request, and
  - Not revealing information about open investigations to unauthorised people.
10. We will ensure consistency, fairness and objectivity in all our investigative work.

11. We encourage everyone to report genuine suspicions. We will provide all reasonable protection to those who raise genuine concerns in good faith. However, we will not tolerate malicious allegations and these may result in further action.
12. We will seek all available sanctions against those found to have committed Economic Crime. These include criminal, civil and disciplinary sanctions. We will also aim for repayment of any financial gain from individuals involved in Economic Crime.
13. The Policy's scope intends to cover people working for or with the Council. This will include officers, Members, contractors and partner agencies. It does not aim to direct members of the public. However, if members of public do have information to share related to Economic Crime we encourage reporting to the Council or other relevant agencies using the contact information set out in appendix D.
14. The Council has only very limited standing to investigate incidents where we are not the victim. However, we will relay any information or reports we receive to the relevant agency.

## **Roles and Responsibilities**

### **Members**

15. As elected representatives, all Members of the Council have a duty to act in the public interest and do what they can to ensure the Council uses its resources properly.
16. Members therefore work within the Constitution which includes the Code of Member Conduct and Financial Regulations.
17. We encourage Members to use the reporting routes set out in appendices A and D to record any concerns or suspicious activity that comes to their notice.

### **Officers**

18. We expect all officers to be alert to the possibility of Economic Crime and report any suspicious activity. We list possible channels for reporting at appendix D.
19. We also expect officers to apply with apt Code of Conduct and Council policy and procedures. Failing to adhere to policy and procedures may result in disciplinary action.
20. Officers must also properly account for and safeguard the money and assets in their charge.

### **Partners, suppliers, contractors and consultants**

21. We expect all people and organisations working with the Council to be aware of the possibility of Economic Crime and report any genuine concerns or suspicions. We may demand specific adherence to this or similar policies in significant partnership arrangements.

## Specific roles and responsibilities

22. Chief Executive: Overall accountability for the effectiveness of the Council's arrangements for tackling Economic Crime.
23. Section 151 Officer: To ensure the Council has adopted a fitting strategy, upholding an effective control environment and an adequately resourced and effective internal audit service to deliver detailed work on tackling Economic Crime.
24. Monitoring Officer: To advise Members and Officers on ethical issues, standards and powers to ensure the Council works within the law and Codes of Practice.
25. Audit Committee: To oversee the Council's strategies and policies and consider the effectiveness of arrangements for tackling Economic Crime.
26. External Audit: Statutory duty to ensure the Council has acceptable arrangements in place for ensuring economy, efficiency and effectiveness in its use of resources.
27. Head of Audit Partnership: Acts as Head of Counter Fraud in developing and carrying out this policy and providing suitable advice to Officers and Members. Also responsible for overseeing investigation of any reported issues and ensuring the Council deals with all suspected or reported irregularities quickly and suitably.
28. Mid Kent Audit: To consider and recommend action necessary to improve controls arising from irregularities and so reduce the risk of recurrence.
29. Management: To promote staff awareness and ensure prompt reporting of all suspected or reported irregularities. Also to put in place proper means within their services to assess the risk of fraud and other economic crime and to reduce those risks through effective control.
30. Mid Kent Human Resources: Advising with taking forward disciplinary proceedings against employees who have committed an offence. It is not unusual for criminal and disciplinary investigations to overlap. If there is overlap, the Council should seek to investigate separately but with close liaison. This may include sharing information at suitable times.

## General Corporate Level Procedures

31. We will ensure there is support for work to tackle Economic Crime and all levels within the Council. We note CIPFA's Code of Practice on managing risk of fraud and corruption (*Fighting Fraud Locally*) and draw three key themes to support our approach.

| Acknowledge and inform                                                                                                                                                    | Prevent and deter                                                                                                                                                             | Pursue and hold to account                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• Assess and understand fraud risk</li><li>• Committing to tackling economic crime</li><li>• Preserving a robust response</li></ul> | <ul style="list-style-type: none"><li>• Using information and technology</li><li>• Improving controls</li><li>• Developing and maintaining a strong ethical culture</li></ul> | <ul style="list-style-type: none"><li>• Prioritising recovery and use of sanctions</li><li>• Collaboration</li><li>• Monitoring and reporting</li></ul> |

### Assessing and understanding fraud risk

32. We will continue development of this policy and strategy through gaining a clear understanding of the threat, emerging risks, trends and savings when dealing with Economic Crime. We will complete this risk assessment referring to benchmarking and published information (for example, CIPFA's Fraud Survey) at least yearly.

### Committing resource

33. The risk assessment will support an annual plan for approval of Members as part of the Internal Audit & Assurance plan. This will include proactive targeting of higher risk topics, raising staff awareness and providing training and support materials.

### Preserving a robust response

34. We will ensure all our Officers understand what Economic Crime is and their role in tackling it. This will include following the correct reporting procedures, especially Whistle-Blowing, and making sure suitable secure reporting channels remain available. We will also take seriously and act on reports of suspected Economic Crime.

## **Using Information and Technology**

35. We will seek to make use of the information we hold in assessing risk and prevention and detection of Economic Crime. We may use personal information and data-matching to detect and prevent fraud, and ensure spending of public money in the most cost effective way.
36. We may also share information with others responsible for auditing or managing public funds.

## **Improving Fraud Controls**

37. The most effective method of tackling Economic Crime is prevention. We will work over time to realign resources towards prevention and deterrence. This will include considering fraud risk in designing new systems and in general risk assessments of new and continuing ventures.
38. We will also consider developing best practice in the field, and learning from others. For example, by regular review of CIPFA's Code of Practice and other publications and membership of and engagement with relevant professional bodies.
39. We will also refer matters arising from investigations. Whatever their result, we will consider whether there are lessons for the Council to learn in improving controls.

## **Developing and Upholding a strong ethical culture**

40. The culture and tone of the Council must be one of honesty with zero tolerance towards fraud and corruption. We show this already through codes of conduct for officers and members, but will continue to reinforce the right culture by:
  - Raising awareness of Economic Crime with training for new and existing Officers and Members, making use of e-learning packages where fitting.
  - Publicising the successes of efforts to tackle Economic Crime so the risk and result of detection are clear to potential offenders.

## **Prioritising recovery and use of sanctions**

41. We will seek to ensure those who have committed Economic Crime are held to account for their actions; crime must not pay. Where we discover economic crime we will consider a full range of sanctions, including civil, disciplinary and criminal action. We will also seek to recoup losses and confiscate assets gained from crime.
42. Criminal prosecutions deter potential offenders and reinforce our lack of tolerance for economic crime. Successful prosecutions need professional investigation to ensure evidence gathering complies with law. Investigative staff must have proper training, suitable skills and access, where necessary, to specialist support to secure effective prosecution.

## **Collaborating with Others**

- 43. We recognise that organised crime in particular works across boundaries and services. Effective cooperation and working with other agencies (including the Police) will be essential in developing and ensuring the success of our response.
- 44. This may include, in particular, sharing data and information with partner agencies. Where we do share data, we will do so in line with relevant laws and rules. We note such laws often specifically allow sharing in this circumstance (for example section 29 of the DPA 1998). We will also join regional and national data sharing exercises, such as the National Fraud Initiative, to help improve our work in tackling Economic Crime.

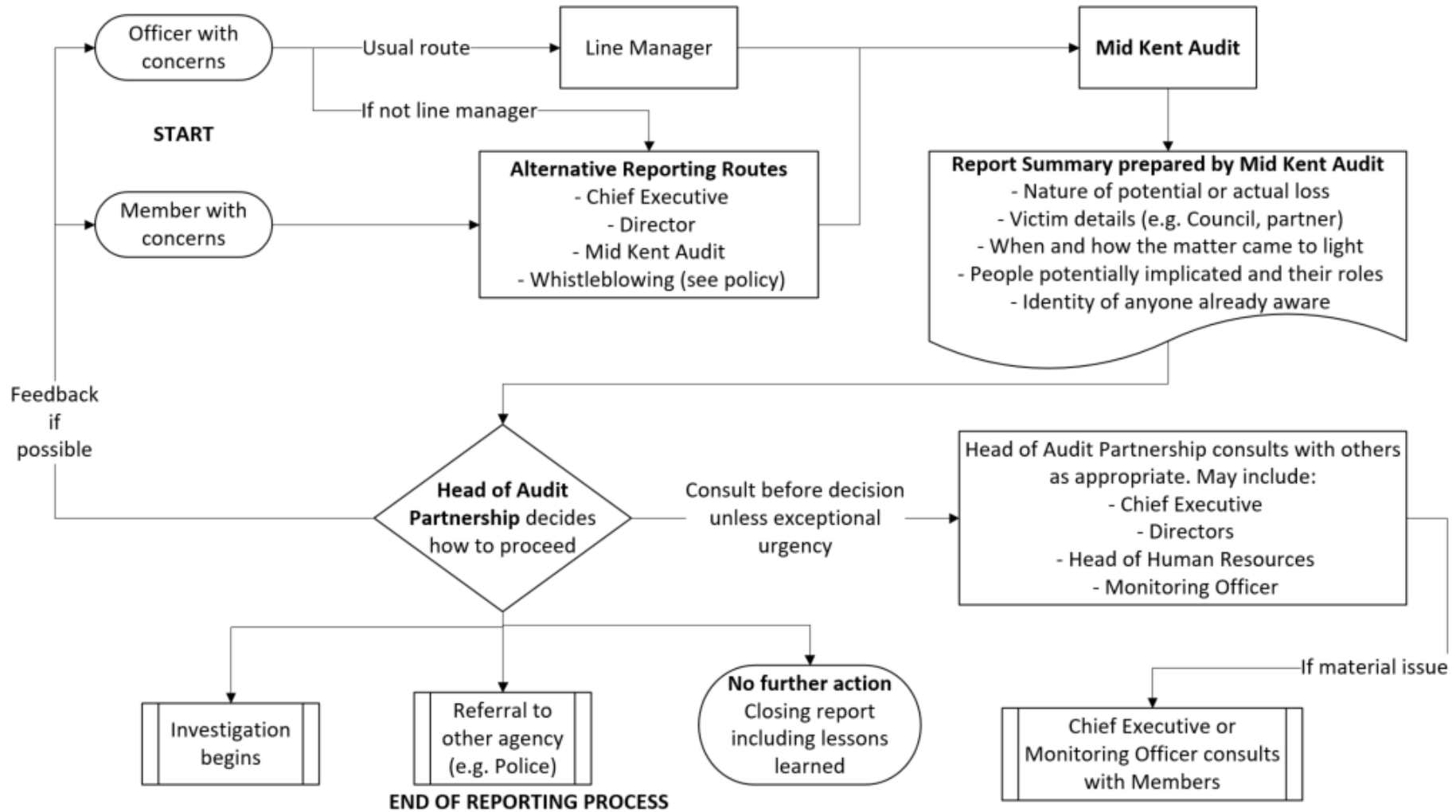
## **Monitoring and Reporting**

- 45. We will provide regular updates to Senior Management and Members on reported Economic Crime and result of investigations. We will also report progress towards delivery of each year's counter fraud plan.

## **Further Advice and Support**

- 46. We recognise the primary responsibility for prevention and detection of fraud rests with management. It is essential that Officers report irregularities or suspected irregularities to their line manager or, alternatively, to the Head of Service or Mid Kent Audit. We will provide all reasonable protection to those who raise genuine concerns in good faith.
- 47. If you have a matter you wish to discuss, you can contact the Head of Audit Partnership on extension 2056 or [rich.clarke@midkent.gov.uk](mailto:rich.clarke@midkent.gov.uk) for confidential advice.

## Appendix A: Counter Fraud & Corruption Reporting Process





# **Appendix B – Economic Crime Offences**

## **Fraud**

The Fraud Act 2006 defines three principal ways of committing fraud:

- Fraud by false representation (section 2);
- Fraud by failing to disclose information (section 3), and
- Fraud by abuse of position (section 4).

For fraud to occur, the person's conduct must be dishonest. It must also intend to make a gain, or cause loss (or risk of loss) to someone.

The gain intended does not have to be personal for the individual, but could be for another person (who does not even need to know of the conduct).

It is not necessary for the conduct to succeed to be a crime. Even where the Council detects fraud before suffering loss, the person may have committed a criminal offence.

The Fraud Act also covers behaviour often known by other names, such as deception, forgery, extortion, conspiracy, embezzlement, misappropriation, peculation or false accounting.

Fraud carries a maximum sentence of 10 years imprisonment and an unlimited fine. Offenders may also face resulting action seeking to recover any assets gained because of criminal acts.

## **Bribery and Corruption**

Bribery is giving or offering someone a financial or other advantage aiming to encourage that person to perform their duties improperly or to reward someone for having done so. It also covers asking for, agreeing to receive or accepting the advantage offered.

The Bribery Act 2010 reformed the law of bribery, making offences clearer and helping tackle it proactively. This includes separate offences for offering a bribe (section 1) and accepting a bribe (section 2).

It also introduced a corporate offence, which means the Council (and its individual senior officers) could face exposure to criminal liability for failing to prevent bribery (section 7).

What might form a 'bribe' is much broader than just money. It includes offering, seeking or accepting any advantage which can include gift, services or offers of employment.

Bribery carries a maximum sentence of 10 years imprisonment and an unlimited fine. Offenders may also face resulting action seeking to recover any assets gained because of criminal acts.

## **Theft**

Under the Theft Act 1968, theft is physical misappropriation of any tangible assets. A person is guilty if they dishonestly appropriate property belonging to another with the intention of permanently depriving the other of it.

Theft carries a maximum sentence of 7 years' imprisonment. Offenders may also face resulting action seeking to recover any assets gained because of criminal acts.

## **Money Laundering**

The Money Laundering Regulations set out that this is how criminals seek to disguise the origins and ownership of the results of their crimes. The intended result is to leave the criminal with money that no one can trace back so the criminal can then use it without suspicion.

Councils are increasingly used by criminals as unwitting parties in money laundering scams. All employees should be aware of the risk of money laundering and follow the procedures set out when they see suspicious transactions.

## **Economic Crime related to Council Tax and Business Rates**

The Council keeps a separate Revenues Compliance team who lead on efforts to prevent and detect Economic Crime in these fields. See separate policies for further information.

## **Appendix C – Economic Crime Investigation Protocol**

[Information about the process of undertaking an investigation, including specifics on the roles of officers in supporting investigation. For example, on safeguarding evidence and submitting to interview. This appendix will not be published in full outside the audit team or with advice from the audit team as it gives details of method. However, it will give a summary of investigative practice addressing the following points (also expressed in the whistleblowing policy)].

- All reports will be taken seriously and reviewed
- Investigations will be independent and impartial, aimed at establishing the facts of the situation reported.
- Investigators will be trained and supervised, working to an established investigative method.

If proper for the circumstances, that method will be in line with Criminal Procedures Investigation Act 1996 and the Police and Criminal Evidence Act 1984.

## **Appendix D – Whistleblowing Policy & Procedures**

[See separate policy].

## **Appendix E – Anti Bribery Policy & Procedures**

[Further detail, including specifics on what we regard as ‘adequate procedures’ to act as a shield against the section 7 Corporate offence. Also will include information on ‘facilitation payments’ and other euphemisms that might seek to cover offences. Will be developed after further consultation with officers in relevant services].

## **Appendix F – Anti Money Laundering Policy & Procedures**

[See separate policy]

## **Appendix G – Investigation Liaison Protocols**

[Any specific intra-council protocols. One already exists between audit/HR and there’s scope for similar between audit/legal and audit/IT. These will be added to this document as they are developed. Could potentially include protocols with third parties, but they are more likely to be case-by-case. Will not be published in full outside the audit team and relevant services as they will give details of method. However, will include general principles common to any protocols:].

- Fair and impartial investigations.
- Appropriate co-operation and information sharing between agencies and services.