

*Working together*



**South Hams District Council  
And  
West Devon Borough Council**

**ANTI FRAUD, CORRUPTION AND  
BRIBERY  
- RESPONSE PLAN**

July 2016

# SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL

## ANTI FRAUD, CORRUPTION AND BRIBERY - RESPONSE PLAN

### 1. Introduction

The Council is committed to the values of probity and accountability, but the determined perpetrator will always seek a way round systems and procedures. It is therefore necessary for all managers to be aware of the Councils' **Anti-Fraud, Corruption & Bribery Policy and Strategy**, and what is required in the event of being notified of a suspected fraud.

This document sets out the process for staff who wish to notify any suspicions and also how the Councils' officers should respond.

It also links to the Councils' **Confidential Reporting Policy and Disciplinary Procedures**.

*The term Fraud in this document means Fraud or Corruption or Bribery.*

### 2. Notifying Suspected Fraud

Suspected fraud can be discovered in a number of ways but in all cases it is important that staff feel able to report their concerns and are aware of the means by which they are able to do so.

The Council has several means available to its staff.

#### Line Management

If an employee discovers a suspected fraud then it should be reported to the line manager as a matter of urgency. Whilst line managers should establish as many details as possible by discussion with the notifying officer only, he/she should formally report the incident to the S.151 Officer without delay.

The Monitoring Officer also needs to be informed of any actual or suspected breach of the law or codes of practice.

In some cases the notifying individual may prefer to report the suspicion to an independent officer or even to remain anonymous, thus the Council has other means available (see **paragraph 5.6 of the Anti-Fraud, Corruption & Bribery Policy and Strategy**).

#### S.151 Officer, Executive Directors, Monitoring Officer and/or Internal Audit

Concerns may be raised directly with any of the officers above.

#### Internal Audit

The primary role of Internal Audit is to objectively assess and report upon the adequacy of systems and procedures, the control environment and governance framework, as part of the Councils' 'System of Internal Control'.

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However, they are also charged with the responsibility for being the usual means of investigating suspected fraud.

Internal Audit has many years' experience in fraud investigation and the Internal Audit Team will always be receptive to discussing concerns raised by staff or the general public. The team's Internal Audit Manual and the Councils' **Confidential Reporting Policy** sets out their conduct for such investigations.

Contact direct to Internal Audit by telephone may be the most appropriate vehicle for staff to raise concerns. Where it is the wish for the individual to report suspicions in an anonymous manner then this provides a suitable medium.

However, the Council will always encourage individuals to come forward and be identified as this is an indication that it is not merely someone with a 'grudge' making false accusations and also allows the suspicion to be acted upon with greater effectiveness and efficiency. The Councils' **Confidential Reporting Policy** highlights the protection that is available to those that do come forward.

#### **3. Investigating Suspected Fraud**

##### Housing and Council Tax Benefits

See the separate document **Benefit Fraud Prosecution and Sanction Policy**.

##### All Other Suspected Fraud

##### Initial Steps

If a fraud is suspected it is critical that any investigation is conducted promptly in a professional manner aimed at ensuring that the current and future interests of both the Council and the suspected individual(s) are protected. The latter is equally important, as a suspicion must be substantiated before guilt is proved.

It is also crucial that the notifying employee does not feel threatened. The Council undertakes to protect the identity of such employees in line with its policy on confidential reporting.

**For each notified suspicion the Line Manager concerned, the S.151 Officer and Group Manager, must in consultation with the COP Lead for Human Resources:**

- ◆ Involve **the Councils' Monitoring Officer** if a breach of the law, code of conduct or maladministration is suspected or has occurred;

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- ◆ Initially assess whether there is a need for any employee to be suspended in accordance with the Councils' Disciplinary Procedure;
- ◆ Identify a course of action (what, who, when, how, where);
- ◆ Identify the reporting process (who by, to whom, when and how) to ensure the strict confidentiality is continuously maintained; and
- ◆ Bring the matter to the attention of the Executive Directors and Leader of the Council when fraud is evident.





#### Responsibilities of the Investigating Officer

**An Investigating Officer will be appointed by the Executive Directors and/or S.151 Officer for fraud, corruption or bribery investigations, who must have regard to the Disciplinary Procedures at all stages of the investigation.**

**Investigating Officers for 'non-fraud related' only allegations of misconduct will be appointed in accordance with the Disciplinary Procedures though the COP Lead for HR.**

The Investigating Officer will:

- (a) Open a file to record chronologically;

-  Telephone conversations;
-  Face-to-face discussion;
-  Records/documents reviewed; and
-  Tests undertaken and results.

The file should be indexed and all details recorded no matter how insignificant they initially appear.

- (b) Ensure the correct form of evidence is obtained and appropriately retained, namely;

- ◆ Prime documents;
- ◆ Certified copies;
- ◆ Physical items;
- ◆ Secondary evidence (e.g. discussions, etc.);
- ◆ Circumstantial; and
- ◆ Hearsay.

- (c) Ensure that the requirements of the Data Protection Act, and Regulation of Investigating Powers Act (**RIPA**) 2000 are met, in respect of any surveillance work to be carried out, as directed by the Monitoring Officer in accordance with the related procedures.

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- (d) Ensure interviews are conducted in the right manner. The important requirements of the Police and Criminal Evidence Act 1984 have to be considered but it will actually be appropriate if fraud is suspected for the matter to be referred to the Police so as to ensure evidential requirements are strictly observed.

Where the Investigating Office is not within Internal Audit then the latter will always be available to offer advice and guidance and the advice of the Monitoring Officer should also be sought where appropriate.

#### **4. Liaison with External Audit and the Police**

##### External Audit

The Council has a duty to report all frauds to their external auditors to allow them to take a view on the Councils' control environment and the potential impact on their opinion to the statement of accounts. The S.151 Officer will do this at the earliest opportunity were the fraud is significant, and for all other fraud annually in line with the external auditor's requirements.

##### Police

The experts at investigating fraud are the Police. The Crown Prosecution Service will also make a decision as to whether or not a prosecution is to be initiated. Initial contact with the Police should only be undertaken following discussion between the S.151 Officer, the Investigating Officer, the Monitoring Officer and usually, the Executive Directors. It is the policy of the Police to welcome early notification of suspected fraud.

If the Police decide that formal investigation is necessary, all staff should co-operate fully with any subsequent requests or recommendations. All contact with the Police following their initial involvement will usually be via the Investigating Officer.

Where the Police decide to formally investigate this will not impede any internal disciplinary procedures; these should continue as normal. However, the internal investigation and the Police's should be co-ordinated both to make maximum use of resources and information and in order not to prejudice each other's investigation.

#### **5. Interim Report**

As soon as the initial 'detection' stage of the investigation has been completed an interim confidential report, which may be verbal but is more likely to be in a written format, should be made by the Investigating Officer. The report is to be made to the S.151 Officer and any other officer decided upon at the preliminary stage.

The Interim Report should set out:

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- ◆ The findings to date;
- ◆ The interim conclusions drawn from those findings; and
- ◆ To seek approval to continue the investigation if this is appropriate, including providing an initial estimate of the cost, in staff time or money, of the investigation.

If it is decided to continue the investigation then future reporting arrangements and any changes to the planned action should be confirmed.

This may also require a need to extend the Regulation of Investigating Powers Act (RIPA) approval if any covert surveillance is involved.

#### **6. Final Report**

This report will supersede all other reports and be the definitive document on which management (in a disciplinary situation) and possibly the Crown Prosecution Service (in a criminal situation) will base their initial decisions.

- The format of the Final Report will not always be the same as each case is unique, but will frequently set out:
  - ◆ How the investigation arose;
  - ◆ Who the suspects are;
  - ◆ Their position in the Council and their responsibilities;
  - ◆ How the investigation was undertaken;
  - ◆ The facts and evidence which were identified; and
  - ◆ A summary of findings and recommendations, both regarding the fraud itself and any additional work required on the system weaknesses, identified during the investigation.

The Investigating Officer must ensure that the Regulation of Investigating Powers Act (RIPA) approval is closed as required by the Act.

#### **7. Outcomes**

Likely outcomes will be dependent upon the evidence and conclusions of the final report following any audit investigation, Police Investigation or Council Investigation (via Investigating Officer) under this Policy and Procedure are:

- ✓ Implementation of disciplinary proceedings (under the **Disciplinary Procedure**);
- ✓ Criminal Prosecution;
- ✓ Civil Prosecution;
- ✓ Exonerate person(s) concerned; and/or
- ✓ Take no further action.

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Where appropriate, the Investigating Officer will also calculate the loss to the Council and advise the S.151 Officer accordingly to enable redress to be sought.

The Investigating Officer will also make recommendations to managers to improve systems and processes where weaknesses have been identified during the course of the investigation.

#### **8. Confidentiality**

All proceedings under the **Anti-Fraud, Corruption & Bribery Policy and Strategy** and this response plan shall remain confidential except as may be required to be disclosed by law or in the preparation and course of legal proceedings.

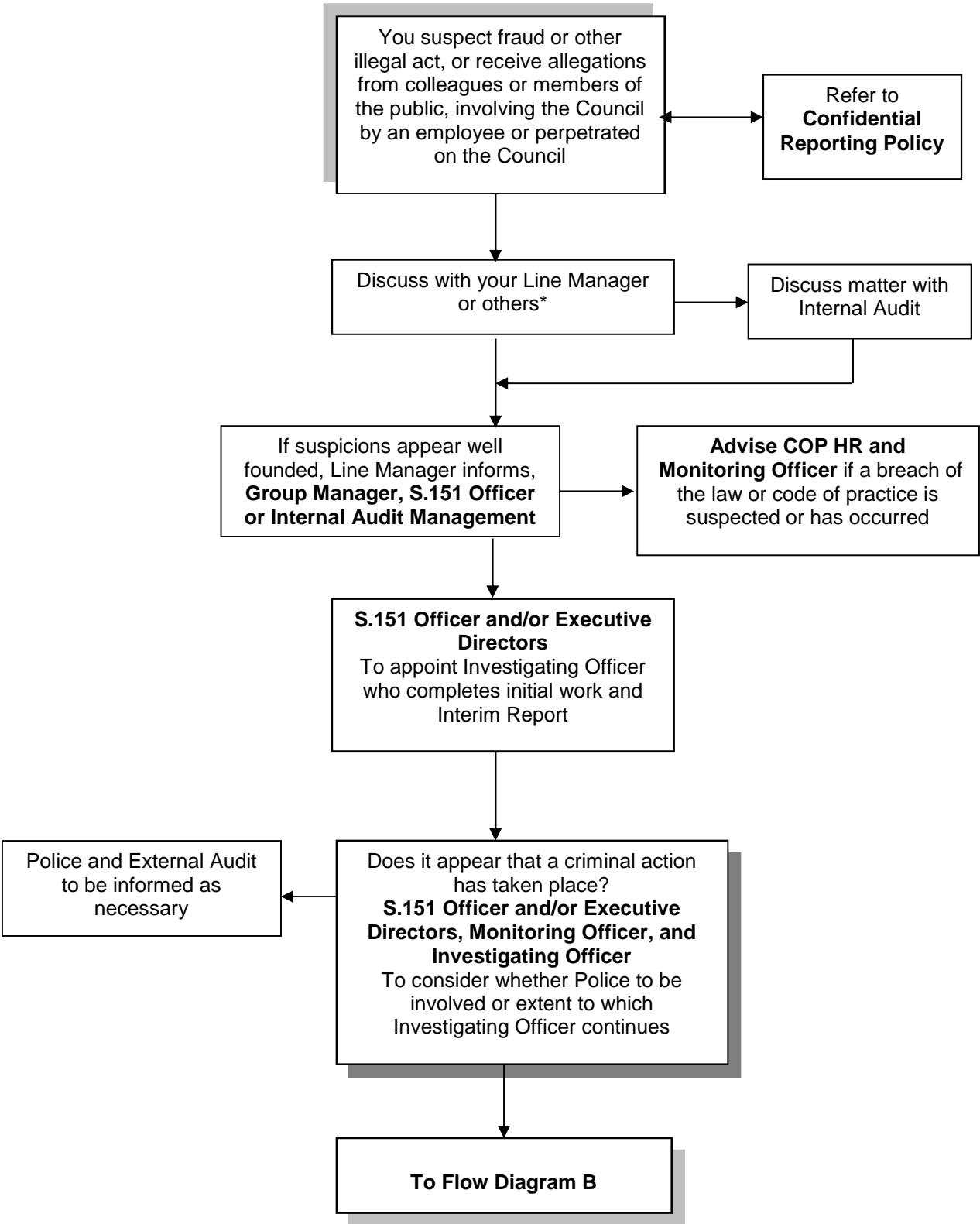
#### **9. Postscript – Defamation**

Any reports adverse to an individual must be substantiated by clear evidence if the risks of inadvertent defamation are to be minimised.

Defamation in law is defined as:

“The publication (i.e. communication) of a statement which tends to lower a person in the estimation of the right-thinking members of society generally or which tends to make them shun or avoid that person”.

**FRAUD – DETECTION AND INVESTIGATION STAGE**



\*Other options for reporting of fraud are detailed at Section 2 of this Response Plan. For example Internal Audit may be contacted direct by telephone.



**FRAUD – DECISIONS AND ACTIONS STAGE**

