

# **Anti-Fraud, Theft, Bribery & Corruption Policy** ***(including Anti-Money Laundering)***

# Thurrock Council Anti-Fraud, Theft, Bribery and Corruption Policy (Including Anti-Money Laundering)

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### VERSION CONTROL SHEET

<i>Title:</i>	<b>Anti-Fraud, Theft, Bribery &amp; Corruption Policy (including Anti-Money Laundering)</b>
<i>Purpose:</i>	<b>To advise council workers what fraud, theft, bribery, corruption and money laundering is, how to report it and what action will be taken.</b>
<i>Owner:</i>	<b>Counter Fraud &amp; Investigation Service</b>
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Change History		
Date	Change Details	Approved by
<b>January 2015</b>	Inclusion of the Counter Fraud & Investigation Service	

## 1. Introduction

- 1.1 Thurrock Council takes allegations of fraud, theft, bribery, corruption and money laundering very seriously and is committed to making sure that the public funds we administer are used correctly.
- 1.2 The Council uses this document to set out its zero tolerance approach to any criminal financial misconduct, whether it's committed by external or internal threats, a standardised approach will be taken to all instances.
- 1.3 The country as a whole is facing a large financial deficit where tackling fraud and error is a major part of protecting public funds that can be used to administer frontline services. Fraud has a serious effect on the economy costing the UK in the region of £74 billion per year with the affect on public services government standing at £21 billion a year.
- 1.4 Thurrock Council, as with all public bodies, faces the threat from economic crime on a regular basis with attacks on the processes designed to provide Council services to service users in areas including: Housing, Benefits, and Social Care support.
- 1.5 This policy applies to the whole of the Council and is designed to create a common understanding of the threat from economic crime and what can be done by every Council Member, Officers, Workers and Service Users who interact with Council services.
- 1.6 It is the responsibility of the Counter Fraud & Investigation Service to maintain and update this Policy and Strategy.

## 2. What is Theft, Fraud, Bribery, Corruption & Money Laundering?

### THEFT

- 2.1 The legal definition of theft is "A person is guilty of theft if they dishonestly appropriate property, belonging to another, with the intention of permanently depriving the other of it."
- 2.2 Theft can affect organisations in many ways and can be committed differently but it is still a criminal offence and still as serious.

### FRAUD

- 2.3 The Fraud Act 2006<sup>1</sup> introduced the first statutory definition of fraud whereby:

*"A person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence).*

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<sup>1</sup> Fraud Act 2006 - <http://www.legislation.gov.uk/ukpga/2006/35>

*Fraud can be committed by:*

- (a) section 2 (Fraud by False Representation),*
- (b) section 3 (Fraud by Failing to Disclose Information), and*
- (c) section 4 (Fraud by Abuse of Position). “*

#### Fraud by false representation

A fraud will be committed if a person dishonestly makes a false representation and when doing so intends to make a gain or cause loss (or a risk of loss) to another.

#### Fraud by failing to disclose information

A fraud will be committed if a person dishonestly fails to disclose information where there is a legal obligation to do so and when doing so intends to make a gain or cause loss (or a risk of loss) to another.

#### Fraud by abuse of position

A person will commit fraud if he occupies a position in which he is expected to safeguard, or not act against, the financial interests of another person and he dishonestly abuses that position; and in doing so intends to make a gain or cause loss (or a risk of loss) to another.

## **BRIBERY**

- 2.4 A bribe is *“a financial or other advantage that his offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of such as advantage would constitute the improper performance of such a function or activity.”*
- 2.5 The types of offending relating to Bribery are:
  - 2.5.1 **Bribery** - giving or receiving something of value to influence a transaction dishonestly makes a false representation
  - 2.5.2 **Illegal gratuity** - giving or receiving something of value after a transaction is completed, in acknowledgment of some influence over the transaction
  - 2.5.3 **Extortion** - demanding a sum of money (or goods) with a threat of harm (physical or business) if demands are not met
  - 2.5.4 **Conflict of interest** - where a worker has an economic or personal interest in a transaction
  - 2.5.5 **Kickback** - a portion of the value of the contract demanded/ provided as a bribe by an official for securing the contract.

- 2.6 The Bribery Act 2010, which came into force on 1<sup>st</sup> July 2011, introduced four primary offences in a single piece of legislation with all previous statutes being repealed.
- 2.6.1 Section 1 – Offences of bribing another person, where:
- (a) *a person offers, promises or gives a financial or other advantage to another person, and*
  - (b) *intends the advantage –*
    - (i) *to induce a person to perform improperly a relevant function or activity, or*
    - (ii) *to reward a person for the improper performance of such a function or activity.*
- 2.6.2 Section 2 – Offence relating to being bribed
- 2.6.3 Section 6 – Bribery of foreign public officials
- 2.6.4 Section 7 – Failure by a commercial organisation to prevent bribery
- 2.7 Under the Bribery Act, an organisation has a defence if it can show that it has adequate bribery prevention procedures in place. The Ministry of Justice guidance<sup>2</sup> on the Bribery Act 2010, explains what needs to be in place to rely on this defence:
- 2.7.1 *Proportionality: The action we take should be proportionate to the risks we face and to the size of our organisation.*
- 2.7.2 *Top Level Commitment: Those at the top of an organisation are in the best position to ensure their organisation conducts business without bribery. We want to show that we have been active in making sure that our staff (including any middle management) and the key people who do business with us and for us understand that we do not tolerate bribery.*
- 2.7.3 *Risk Assessment: Think about the bribery risks we might face.*
- 2.7.4 *Due Diligence: Knowing exactly who we are dealing with can help to protect our organisation from taking on people who might be less than trustworthy.*
- 2.7.5 *Communication: Communicating our policies and procedures to staff and to others who will perform services for us enhances awareness and helps to deter bribery by making clear the basis on which our organisation does business.*
- 2.7.6 *Monitoring and Review: The risks we face and the effectiveness of our procedures may change over time.*

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<sup>2</sup> <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-quick-start-guide.pdf>

- 2.8 Prior to 2011, under Common Law, a person commits an offence where a person *“Offering, giving or receiving, any undue reward, by or to any person whatsoever in a public office, in order to influence his behaviour in office and incline him to act contrary to the known rules of honesty and integrity.”*

## **CORRUPTION**

- 2.9 Corruption can be committed in many ways but normally involves *“two or more people entering into a secret agreement.”*
- 2.10 Indicators showing this type of offending can include the following:
- 2.10.1 Abnormal cash payments
  - 2.10.2 Pressure exerted for payments to be made urgently or ahead of schedule
  - 2.10.3 Private meetings with public contractors or companies hoping to tender for contracts
  - 2.10.4 Lavish gifts being offered or received
  - 2.10.5 An individual who never takes time off even if ill, or holidays, or insists on dealing with specific contractors himself or herself
  - 2.10.6 Making unexpected or illogical decisions accepting projects or contracts
  - 2.10.7 Abuse of the decision process or delegated powers in specific cases
  - 2.10.8 Agreeing contracts not favourable to the organisation either because of the terms or the time period
  - 2.10.9 Unexplained preference for certain contractors during tendering period
  - 2.10.10 Avoidance of independent checks on the tendering or contracting processes
  - 2.10.11 The Council’s or its suppliers/partner’s procedures or guidelines not being followed
- 2.11 The Local Government Act 1972 requires under section 117(2) that employees must disclose any personal interest in contracts that have been, or are proposed to be, entered into by the Council. Failure to do so is a criminal offence.

## **MONEY LAUNDERING**

- 2.12 Money laundering is the process by which ‘criminal property’ (a person’s benefit from criminal conduct) is given the appearance of having originated from a legitimate source.
- 2.13 Criminal conduct is anything that is a criminal offence in the United Kingdom. It could be fraud, theft, drug dealing, prostitution, and includes offences such as breaching building planning law and trade mark offences.

- 2.14 Criminal property is defined as anything which is a person's benefit from their criminal conduct. That could be money, real and personal property (houses, buildings, boats, cars horses, watches etc), things in action and other intangible or incorporeal property (i.e. debts, intellectual property such as copyright, designs, patents etc)
- 2.15 The criminal offence of money laundering is committed when 'criminal property' is transferred, concealed, disguised, converted or removed from England, Wales, Scotland & Northern Ireland.
- 2.16 Offenders may attempt to 'launder' their illegal proceeds by using Council services on the basis that they receive 'clean' money back from the appearance of a legitimate source (i.e. a payment to them from the Council's bank account).
- 2.17 This type of offending is perpetrated by a person paying for a debt they have with the Council in large amounts of cash, or overpaying their debt with the intention of seeking to receive a refund of that overpayment amount back as "clean money."

### 3. **Anti-Fraud Culture**

- 3.1 The culture of the Council has always been one of openness and the core values of fairness, trust and value support this. The Council's culture therefore supports the effective opposition to fraud and corruption.
- 3.2 The prevention and detection of fraud, bribery and corruption and the protection of the public purse is everyone's responsibility. Concerns must be raised when members or workers reasonably believe that one or more of the following has occurred:
- Fraud, theft, bribery, corruption, money laundering
  - A criminal offence
  - Failure to comply with a statutory or legal obligation
  - Improper unauthorised use of public or other funds
  - A miscarriage of justice
  - Maladministration, misconduct or malpractice
  - Deliberate concealment of any of the above
- 3.3 The authority will ensure that any allegations received in any way, including by anonymous letters or phone calls, will be taken seriously and investigated in an appropriate manner, subject to the requirements of appropriate legislation.
- 3.4 The authority takes a zero tolerance approach to any theft fraud, bribery and corruption and will deal firmly with those who cause or seek to cause a loss to the authority, or who are corrupt, or where there has been any financial malpractice.
- 3.5 There is of course a need to ensure that any investigation process is not misused, and therefore any abuse (such as employees raising malicious allegations) may be dealt with as a disciplinary manner.



- 3.6 Where criminal activity is suspected or established, all Council services are required to refer the matter to the Counter Fraud & Investigation Service for investigation.
- 3.7 Every person working at Thurrock Council, supported by their Line Manager, Human Resources, Internal Audit and the Counter Fraud & Investigation Service will ensure that the following steps are undertaken to assist all staff being aware of this approach:
- Ensure everyone has an awareness of the Anti-Fraud, theft, bribery & corruption Policy
  - Participate in in-house training programs covering fraud, theft, bribery & corruption prevention and detection
  - Ensure everyone understands that internal controls are designed and intended to prevent and detect fraud, theft, bribery and corruption
  - Encourage staff to report any of the activity described in this policy directly to those responsible for the investigation without fear of unlawful disclosure or retribution (see *Whistleblowing*).

#### 4. Our Written Rules

- 4.1 Thurrock Council has in place specific controls supported by policies and codes to outline its commitment to delivering best service to the residents of the borough. These codes of conduct and policies ensures that all Members, employees and people working here know what is expected from them.
- 4.2 The most important of these is the Council Constitution<sup>3</sup>, this can be found on the intranet (In-Form) and contains the following:
- Contracts rules
  - Scheme of delegation
  - Financial procedure rules
  - Officers' code of conduct
  - Members' code of conduct
  - Employees' conditions of service
  - Employee disciplinary rules
- 4.3 Chief Officers must ensure that all staff have access to the relevant rules and regulations and that staff receive suitable training.

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<sup>3</sup> Thurrock Council Constitution - <http://www.thurrock.gov.uk/democracy/constitution/pdf/constitution.pdf>

- 4.4 Members and employees must ensure that they read and understand the rules and regulations that apply to them and act in accordance with them.

## 5. Expected Behaviour

- 5.1 The Council requires all staff and elected Members to act honestly and with integrity at all times and to safeguard the resources for which they are responsible. Fraud is an ever-present threat to these resources and hence must be a concern to all staff and elected Members. The purpose of this statement is to set out specific responsibilities with regard to the prevention of fraud.

**Section 151 Officer** (Chief Finance Officer) is responsible for:

- Proper administration of the authority's financial affairs
- Reporting to Members and External Audit if the Council, or one of its representatives makes, or is about to make a decision which is unlawful, or involves illegal expenditure or potential financial loss (Local Government Finance Act 1988 s.114)

**Monitoring Officer** is responsible for:

- Reporting on contraventions or likely contraventions of any enactment or rule of law
- Report on any maladministration or injustice where the Ombudsman has carried out an investigation
- Receiving copies of whistleblowing allegations of misconduct
- Promoting and maintaining high standards of conduct through and with the support of the Standards Committee
- Advice on vires (legality) issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members

**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 to which systems and procedures are exposed
- Developing and maintaining effective controls to prevent and detect fraud
- Ensuring that controls are being complied with

**Individual members of staff** are responsible for:

- Their own conduct and for contributing towards the safeguarding of corporate standards (including declaration of interest, private working, whistleblowing etc.)
- Acting with propriety in the use of official resources and in the handling and use of corporate funds, such as when dealing with contractors and suppliers
- Reporting details immediately to the Counter Fraud & Investigation Service and their line manager (if possible) if they suspect that a fraud, theft, bribery,

corruption and money laundering has been committed or see any suspicious acts or events

**Internal Audit** is responsible for:

- The independent appraisal of control systems
- The implementation of an annual audit plan to include identification of fraud risks to the Counter Fraud & Investigation Service

**Counter Fraud & Investigation Service** is responsible for:

- The investigation into allegations of any allegations of financial misconduct including money laundering, fraud, bribery, theft and corruption committed against the authority
- Prosecution (or the application of an alternative sanction) of offenders
- All action under the Proceeds of Crime Act 2002 and Criminal Justice Act 1988 in respect of financial investigation, restraint, detention, forfeiture and confiscation
- The co-ordination of participation in the National Fraud Initiative (NFI)
- Providing Anti-Fraud, Money Laundering, Theft, Bribery & Corruption Awareness Training
- Taking redress against offenders under criminal and civil law
- Referring any matters to & receiving information and intelligence from all law enforcement agencies (Police, HMRC, Home Office etc) where appropriate

**External Audit** has specific responsibilities for:

- Reviewing the stewardship of public money
- Considering whether the Council has adequate arrangements in place to prevent fraud and corruption
- Signing off the annual accounts of the authority

**Elected Members** are each responsible for:

- Their own conduct
- Contributing towards the safeguarding of corporate standards, as detailed in the Members' Code of Conduct

5.2 The Council is accountable to its residents and is responsible for conducting its business in an open, honest, equal and fair manner. In so doing, it will take positive action against any identified fraudulent or corrupt activities.

5.3 The Council's employees and elected Members are one of the most important elements in its stance on fraud and corruption and they are positively encouraged to raise any concerns they may have relating to Council activities. They can do this in the knowledge that such concerns will be treated in confidence, properly investigated and fairly dealt with.

## 5.4 Principles of Conduct

The Secretary of State has, by order, set out ten general guiding principles that apply to the conduct of those in public life, such as Members and co-opted Members of the Council. They are also good guidance for others who serve the public. The Council has largely developed its working behaviour around these principles. They are:

- **Selflessness** – Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person
- **Honesty and integrity** – Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour
- **Objectivity** – Members should make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits
- **Accountability** – Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should cooperate fully and honestly with any scrutiny appropriate to their particular office
- **Openness** – Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions
- **Personal judgement** – Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions
- **Respect for others** – Members should promote equality by not discriminating against any person and by treating people with respect, regardless of race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.
- **Duty to uphold the law** – Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them
- **Stewardship** – Members should do whatever they are able to do to ensure their authorities use their resources prudently and in accordance with the law
- **Leadership** – Members should promote and support these principles by leadership and by example, and should act in a way that secures or preserves public confidence

## 6. Preventing Fraud, Theft, Bribery, Money Laundering and Corruption

### Action by Employees & Workers

- 6.1 If you suspect fraud, theft, bribery, corruption and/or money laundering anywhere within the Council, you should do the following:
- (i) Write down your concerns immediately. Make a note of all relevant details, such as what was said in phone or other conversations, the date, the time and the names of anyone involved.

- (ii) Report the matter immediately to the Counter Fraud & Investigation Service and your line manager (if possible), or the confidential whistleblowing line providing any notes you have made or any evidence you have gathered.
- (iii) Don't tell anyone else about your suspicions.
- (iii) In cases of suspected money laundering, immediately notify the Council's designated Money Laundering Reporting Coordinator (MLRC) – in the Counter Fraud & Investigation Service.

6.2 You have a duty to assist the Council with any matter under investigation by the Counter Fraud & Investigation Service.

6.3 Under **no circumstances** should you try to carry out an investigation yourself. This may damage any subsequent investigation and could harm potential evidence.

### Action by Managers

6.5 If you find out about suspected fraud, theft, bribery, corruption and/or money laundering, you should do the following: -

- (i) Listen to the concerns of your staff and treat every report you receive seriously and sensitively. Staff should be encouraged to raise any concerns they have with their manager and the Counter Fraud & Investigation Service directly.
- (ii) Make sure that all staff concerns are given a fair hearing. You should also reassure staff that they will not suffer victimisation because they have told you of their suspicions.
- (iii) Get as much information as possible from the member of staff, including any notes and any evidence they have that may support the allegation. Do not interfere with any evidence and make sure it is kept in a safe place.

6.6 **Do not** try to carry out an investigation yourself. This may damage any subsequent investigation and could harm potential evidence.

6.7 Report the matter immediately to the Counter Fraud & Investigation Service.

6.8 Do not tell anyone else about your suspicions.

### Counter Fraud & Investigation Service

6.8 The Counter Fraud & Investigation Service is charged with leading the Council's fight against fraud, money laundering, theft, bribery and corruption. The

department is directly responsible to the Council's Head of Corporate Finance (s.151, "Chief Finance Officer") and are required to investigate all allegations of fraud, money laundering, theft, bribery and corruption, financial misconduct, and/or any other financial irregularity.

- 6.9 The department is formed of experts in investigating allegations relating to this policy so it is important that every suspicion is reported to them as soon as possible. The department will investigate all allegations received thoroughly and maintain a strict code of confidentiality.
- 6.10 The Group Manager Counter Fraud & Investigation will decide how any enquiry will be carried out, and whether it should be shared with outside organisations such as the police, HMRC, DWP or other regulatory/enforcement agencies.
- 6.11 Only experienced nationally accredited investigation staff will conduct investigations. Any investigation the department carries out will be in line with the Thurrock Council Investigation Staff Manual, government guidelines Codes of Practice and relevant legislation.
- 6.12 The Group Manager Counter Fraud & Investigation will report to the Head's of the affected service the detail of any investigation (where appropriate), and advise them what action they may need to take.
- 6.13 If possible, feedback will also be provided to the person who initially raised the concerns.
- 6.14 The Counter Fraud & Investigation Service also reports quarterly to the Council's Standards & Audit Committee.

## **7. Whistleblowing**

- 7.1 The Council is committed to providing the highest quality service to residents and visitors to Thurrock. This involves ensuring that the local community can have full trust and confidence in the way the Council manages its services and resources and making sure that all those who are vulnerable such as children, the elderly and people with learning disabilities are provided for safely, effectively and in accordance with best practice
- 7.2 The Council's Whistleblowing Policy<sup>4</sup> is intended to encourage and enable staff to raise serious concerns. Council workers reporting concerns this way are afforded certain rights and protection through legislation enacted under the Public Interest Disclosure Act 1998.

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<sup>4</sup> Whistleblowing Policy-[https://inform.thurrock.gov.uk//ssp/human\\_resources/pdf/hrdoc\\_whistleblowing.pdf](https://inform.thurrock.gov.uk//ssp/human_resources/pdf/hrdoc_whistleblowing.pdf)

- 7.3 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.
- 7.4 Management are responsible for reporting all allegations received from whistleblowing under the confidential reporting code to the Monitoring Officer. The Monitoring Officer will refer the allegations relating to suspected fraud, money laundering, theft, bribery and corruption to the Counter Fraud & Investigation Service for investigation. All such cases should be recorded in a register maintained by the Monitoring Officer.
- 7.5 The investigating officer, an Accredited Investigator, will deal with the matter promptly, efficiently and in accordance with the law, involving such outside agencies as appropriate (including the police). Where a service provider employee is involved, the supplier will be informed where appropriate in liaison with the Chief Finance Officer and Counter Fraud & Investigation Service.

## **8 Detecting and investigating theft, fraud, bribery, money laundering and corruption**

- 8.1 Under our Code of Conduct for Employees and Financial Procedural Regulations, employees must report any suspicions about theft, fraud, bribery, money laundering, theft and corruption to the Counter Fraud & Investigation Service.
- 8.2 All members of staff should assist officers of the Counter Fraud & Investigation Service when they are conducting enquiries into allegations.
- 8.3 The Counter Fraud & Investigation Service is designated by the s.151 Officer (*Head of Corporate Finance*) to inspect all documents, records and accounts relevant to an investigation held in any form.
- 8.4 Should surveillance be considered necessary during the course of an investigation this will be conducted in line with the Regulation of Investigatory Powers Act 2000 (RIPA) and the Council's own corporate RIPA policy. Failure to follow this policy could have severe consequences for the Council and only officers trained in this specialist area of investigations should carry out these types of enquiries.
- 8.5 In cases where a Thurrock Council worker is suspected of being involved in any of the offences detailed in this policy, the CFIS will maintain priority over how an investigation takes place. As soon as it is identified that there is a prima facie case of any of these offences against a Thurrock Council worker, the Group Manager Counter Fraud & Investigation will agree an action plan with the Head of Human Resources, Head of Corporate Finance and Head of Legal Services. **Appendix 2** outlines the Council's response to Thurrock Council worker investigations.

- 8.6 CFIS will communicate the outcomes of our investigations where appropriate (e.g. via internal newsletters and the press).
- 8.7 The External Auditor also has powers to investigate fraud and corruption.

## 9. Money Laundering

- 9.1 All local authorities and government departments have a responsibility to develop anti-fraud policies to show those seeking to defraud the public purse that such action is unacceptable and will not be tolerated.
- 9.2 In addition to the Proceeds of Crime Act 2002<sup>5</sup>, the Money Laundering Regulations (2003<sup>6</sup>, 2007<sup>7</sup>) and related legislation having placed responsibilities on regulated entities and every person carrying out “relevant business” within the meaning of the Regulations to report where they know, or suspect, or have reasonable grounds to suspect, that money laundering may be taking place.
- 9.3 Thurrock Council is not classified as a “relevant business” but it is good practice to assess the risks of potential exposure; and, where appropriate, we should regard ourselves as “relevant business” and act accordingly.
- 9.4 Money laundering includes not only the direct proceeds of crime, but any dealings with criminal property. It includes possessing, or in any way dealing with, or concealing, the proceeds of any crime. Any failure to report suspicions of money launderings is a criminal offence.
- 9.5 All employees and Council workers have a clear obligation under this legislation and regulations to report suspicions of money laundering and there can be severe penalties for individuals who fail to act in accordance with the legislation.
- 9.6 All Council workers must report any suspicions of money laundering to the Money Laundering Reporting Coordinator (MLRC) in the Counter Fraud & Investigation Service to ensure that:
- Alleged instances of money laundering are investigated properly.
  - All alleged cases of money laundering are investigated consistently.
  - The Council’s interests are protected.
- 9.5 Anyone working at Thurrock Council must not do anything that could result in the suspect being alerted (known as ‘tipping off’) to the fact there is a suspicion regarding their activity or that the matter has been reported.

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<sup>5</sup> Proceeds of Crime Act - <http://www.legislation.gov.uk/ukpga/2002/29/contents>

<sup>6</sup> Money Laundering Regulations 2003 - <http://www.legislation.gov.uk/uksi/2003/3075/contents/made>

<sup>7</sup> Money Laundering Regulations 2007 - <http://www.legislation.gov.uk/uksi/2007/2157/contents/made>



## 10. Information Sharing

- 10.1 As a responsible data controller, Thurrock Council always ensures that personal data in its possession is safeguarded pursuant with the 8 Principles of the Data Protection Act 1998.
- 10.2 Personal data is defined as information that can be used to identify a living individual. This can be automatically processed information held on computer, as well as in manual paper records. Personal information can be video recordings and audio tapes.

*Examples of personal information are:*

*Name and address, national insurance number, bank account number, photograph or electronic image, intentions or expressions of opinion, service files on families or individuals, spreadsheets/databases identifying individuals, email correspondence discussing an individual.*

*Sensitive personal data under the DPA includes:*

*The racial or ethnic origin of an individual, individuals political opinions, individuals religious beliefs or other beliefs of a similar nature, whether individuals are a member of a trade union, details of physical or mental health or condition, details of an individuals sexual life, any proceedings for any offence committed or alleged to have been committed by individuals.*

- 10.3 The Data Protection Act provides an exemption to a data controller (Thurrock Council) for releasing information, under Section 29(3), for the prevention and detection of crime or; the apprehension and prosecution of offenders, as long as it is for a stated purpose and only if not releasing it would likely prejudice (significantly harm) any attempt to prevent or detect a crime.
- 10.4 The Counter Fraud & Investigation Service, in conducting an investigation, may contact any service in the Council to obtain information from any of these data classes. The requesting officer will detail what information they need, why they are requesting it, and how it will be used. All requests for information will be made in written form, authorised by a senior officer of the Counter Fraud & Investigation Service.
- 10.5 In addition to these investigations into allegations, the Counter Fraud & Investigation Service conducts pro-active operations to match data held in the Council to highlight potential fraudulent activity. The processing of any personal data for this purpose falls under Schedule 2, Paragraph 6 (1) of the Data Protection Act 1998, which states:

*“The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case because of prejudice to the rights and freedoms or legitimate interests of the data subject.”*

10.6 Before such activity is undertaken however, the Group Manager Counter Fraud & Investigation will work with the Information Manager to ensure the activity is proportionate, necessary and legal.

## **11. Fraud Awareness & Training**

11.1 We recognise that the key to the continuing success of our anti-fraud culture depends upon programmed fraud awareness training for staff and those who work with us.

11.2 We support the principle of providing training for all our staff, to ensure that their responsibilities and duties are regularly reviewed and reinforced.

11.3 We will seek to ensure our stance on fraud and corruption is widely publicised both internally and externally to the Council. All Members, employees, workers and other associated bodies/persons with whom the Council conducts its business will be appropriately informed of this policy and the supporting framework as outlined in Section 4 above.

11.4 We are also committed to training and developing our staff that are involved in investigating fraud, bribery, money laundering and corruption, and will ensure suitable training is provided.

## **12. Prosecution, Sanction and Redress**

12.1 Thurrock Council takes a zero tolerance approach to all types of fraud, theft, bribery, money laundering and corruption where as a matter of principle, it would be wrong to assume that any sanction(s) should be held in abeyance to await another proceed to conclusion. The Council will always seek to sanction offenders and recover all losses as the victim of criminality.

### ***Housing & Council Tax Benefit & Council Tax Reduction Scheme Fraud***

12.2 The Counter Fraud & Investigation Service is responsible for investigating all suspected benefit fraud, where a claimant is suspected of failing to declare their earnings, income or capital, or conceal circumstances, to obtain benefits that they are not entitled to. *This responsibility on the Council to investigate Housing Benefit fraud ceases on 31st October 2015. As of 1<sup>st</sup> November 2015 the DWP will have sole responsibility for preventing, detecting and deterring all benefit fraud (including Housing Benefit & Council Tax Benefit).*

12.3 Offences concerning benefit fraud fall under several pieces of legislation including: the Social Security Administration Act 1992, Theft Acts 1968, 1978, Criminal Attempts Act 1981, Forgery and Counterfeiting Act 1981, Criminal Justice Act 1987 and the Fraud Act 2006.

12.4 At the conclusion of an investigation the following course of action will be considered:

- Take No Action
- Recovery of Overpayment Only
- Administration of a simple caution (Local Authority)
- Invoke an Administrative Penalty
- Prosecution

#### Recovery of Overpayment Only

12.5 This option will be used where the circumstances of the case are such that any form of sanction will be inappropriate, although if benefit has been overpaid Thurrock Council will still pursue the claimant for repayments. This option is considered when:

- The case would involve Thurrock Council in adverse publicity
- The case papers reveal possible error in procedures, such as an unnecessary delay
- Any Sanction or prosecution action would place a child or vulnerable person at risk, such as an informant.

#### A Local Authority (Simple Caution)

12.6 Thurrock Council may consider issuing a caution in the following circumstances: -

- The claimant has never previously offended
- There was no planning involved in the fraud
- Penalty action is not appropriate
- The offence is minor
- The amount of overpayment is relatively low (below £500) or the fraud has taken place over a relatively short period of time
- The offence was admitted during an interview under caution
- The person has expressed remorse of regret
- It may not be in the public interest to prosecute, i.e. there might be social or medical factors to consider
- There is a strong likelihood of the full amount being repaid.

*If the person refused the caution the case will normally be prosecuted.*

#### An Administrative Penalty

12.7 The penalty is the equivalent of a fine- amounting to 30% or 50% of the overpaid benefit (depending on when the offending took place) under s.115a of the Social Security Administration Act 1992). The amount is not negotiable with the claimant.

12.8 The Council may consider issuing an Administrative Penalty in the following circumstances:

- The claimant has never previously offended

- There was no planning involved in the fraud
- There was no other person involved in the fraud
- A caution is not appropriate
- The offence is minor
- The amount of overpayment is relatively low or the fraud has taken place over a relatively short period of time
- The offence was not admitted during the Interview Under Caution.
- It may not be in the public interest to prosecute i.e. there may be social or medical factors to consider.

*If the person refuses the Administrative Penalty the case will normally be prosecuted.*

#### Prosecution

- 12.9 Cases investigated that have identified large overpayments, aggravating factors such as a forged, counterfeit documents, false identities, organised or over a protracted period will always be recommended for prosecution.
- 12.10 Any person prosecuted by Thurrock Council will be reported to the local Criminal Justice Unit in Essex Police for their details to be recorded on the Police National Computer.

#### ***Insider (Employee) Fraud***

- 12.11 If an employee is suspected of a criminal offence the allegation must be immediately referred to the Counter Fraud & Investigation Service for relevant enquiries to take place.
- 12.12 All reports of fraud by an employee will be investigated expeditiously in-line with relevant investigative legislation (PACE, CPIA, CJA) and the Council's Code of Conduct.
- 12.13 If an Investigator believes that an employee has committed a criminal offence the employee must be interviewed on tape and under caution under PACE (pursuant with the Investigation Staff Manual).
- 12.14 At the end of the investigation into an employee a full investigation report along with all relevant evidence and witness statements will be submitted by the Group Manager Counter Fraud & Investigation to the Head of Human Resources, Head of Legal Services and the Head of Corporate Finance for consideration of any relevant sanctions. The decision on how to deal with an employee suspected of a criminal offence will be dealt with pursuant with the guidance in Appendix 2.

#### **Redress**

- 11.2 Thurrock Council will always seek to recover assets lost due to criminality. There are several ways losses can be recovered. Thurrock Council's Counter Fraud & Investigation Service deploys Accredited Financial Investigators with the powers

conferred under the Proceeds of Crime Act 2002 to investigate, restrain and confiscate assets attributed to criminality.

- 11.3 In housing specific cases the Council can consider: Instigating recovery of property, Removal from Housing Register, Cancellation of Temporary Accommodation, Disallowed from Right to Buy (RTB), Sue for loss of rent or RTB/portable discount, Benefits Tracing of address for recovery of overpayment from Landlord or Tenant, and Asylum Seekers Tracing of address for recovery of overpayment from Landlord or Tenant.
- 11.4 The Council can also consider: Charges on property, Third Party (Garnishee), Attachment of earnings, Freezing Injunctions, Insurance Claims (fidelity guarantee), Pursuing debts via legal proceedings, Confiscation orders, Compensation orders and Restitution Orders.

## Appendix 1

### What to do if you suspect fraud or corruption

#### Summary

It is important that everyone who works at the Council does everything they can to prevent and detect all economic crime to ensure that we can continue to provide an excellent service to the residents of Thurrock.

#### ***What should I do if I think there's a fraud?***

The Council has a code of conduct for all employees, which makes it clear that employees should report any impropriety or breach of procedure that they encounter in working for the Council.

Employees (including managers) wishing to raise concerns about fraud should first contact the Counter Fraud & Investigation Service, ***in confidence*** on **03000 999 111**. The Counter Fraud & Investigation Service is staffed by experts in their field who are able to act on any concerns you raise. You do not have to give your name.

Employees should also speak to their Line Manager, if possible, about their concerns.

If you wish to speak to someone outside the Council about your concerns you can contact the confidential independent reporting line on: **0800 854 572** where Focus EAP Ltd provides a comprehensive employee support programme.

Your call will be answered by a trained counsellor who will treat your call sensitively, provide you with support, information and guidance, as appropriate, and guide you through the Whistleblowing process. With your express permission Focus will then report the issue directly to the highest-ranking Officer of the Council who is not implicated by the issue. Your identity will not be revealed to anyone within the Council without your agreement.

#### ***Alternative methods***

You can report any concerns about fraud to your local Councillors.

A Trade union representative can be contacted by raise a matter on their behalf.

The police – suspicions of fraud or corruption may be reported directly to the police.

The Local Government Ombudsman – this is an independent body set up by the government to deal with complaints against Councils in the United Kingdom.

Public Concern at Work – this is a charity, which provides free and strictly confidential legal help to anyone concerned about a malpractice, which threatens the public interest. They operate a help line on **0207 404 6609** or can be emailed at: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk).

## Relevant Contacts

Contact	Details
<p>Counter Fraud &amp; Investigation Service</p> <p><i>(Responsible for investigating all allegations of economic crime)</i></p>	<p>CO2, 4<sup>th</sup> Floor Civic Offices New Road Grays Essex, RM17 6SL</p> <p>Tel: 03000 999 111 Fax: 01375 652789 E-mail: <a href="mailto:cfidreport@thurrock.gov.uk">cfidreport@thurrock.gov.uk</a></p>
<p>Head of Corporate Finance <i>(s.151 Chief Finance Officer)</i></p> <p>Sean Clark</p>	<p>CO2, 3<sup>rd</sup> Floor Civic Offices New Road Grays Essex, RM17 6SL</p> <p>Tel: 01375 652010 E-mail: <a href="mailto:sclark@thurrock.gov.uk">sclark@thurrock.gov.uk</a></p>
<p>Internal Audit</p> <p>Gary Clifford</p>	<p>CO2, 3<sup>rd</sup> Floor Civic Offices New Road Grays Essex, RM17 6SL</p> <p>Tel: 01375 652702 E-mail: <a href="mailto:gclifford@thurrock.gov.uk">gclifford@thurrock.gov.uk</a></p>
<p>Confidential Whistleblowing Line</p> <p>Focus EAP Ltd</p>	<p>Tel: 0800 854 572</p> <p>E-Mail: <a href="mailto:support4u@focuseap.co.uk">support4u@focuseap.co.uk</a></p>
<p>Public Concern at Work</p>	<p>Suite 306 16 Baldwin Gardens, London, EC1N 7RJ</p> <p>Tel: 020 7404 6609 E-mail: <a href="mailto:helpline@pcaw.co.uk">helpline@pcaw.co.uk</a> (helpline) <a href="mailto:whistle@pcaw.co.uk">whistle@pcaw.co.uk</a> (enquiries) Website: <a href="http://www.pcaw.co.uk">www.pcaw.co.uk</a></p>

## Appendix 2

### Managing Cases of Suspected Employee Fraud/Bribery/Corruption/Money Laundering

#### 1. Background

- 1.1 Allegations concerning an employee's involvement in any form of fraud, theft, bribery, corruption and money laundering, are the most serious and organisation can face. How an organisation responds to such allegations is key to ensuring that the rights of those affected, the Council and most importantly the employee are protected from unlawful infringement.
- 1.2 Thurrock Council is fortunate to have a nationally recognised service that is highly trained and effective in investigating the most serious allegations of criminality. The Counter Fraud & Investigation Service is Thurrock Council's key responsible service that, working to national best practice and law, can respond to allegations of any criminality alleged against a Council worker.
- 1.3 This protocol is designed to outline a detailed strategy to respond to related allegations and provides a statement of policy which everyone working at Thurrock Council must follow.

#### 2. Action by a Line Manager

- 2.1 If you suspect that an employee is involved in any form of fraud, theft, bribery, corruption or money laundering, you should report it immediately to the Counter Fraud & Investigation Service on **03000 999 111**. This number is manned, 24 hours a day by a criminal investigation expert who can provide you with immediate advice, guidance and support on how to proceed next.
- 2.2 As soon as a report is received by the Counter Fraud & Investigation Service a coordinated response will be devised with Human Resources, Legal Services, the Council's statutory Chief Finance Officer and your Line Management.
- 2.3 Do not interfere with any of the potential evidence and make sure it is kept in a safe place.
- 2.4 **Do not** try to carry out an investigation yourself. This may damage any subsequent investigation and could harm potential evidence.

#### 3. Action by a Human Resources

- 3.1 Any allegations of fraud, theft, bribery, corruption and money laundering received by a member of staff in Human Resources must be first referred to the Counter Fraud & Investigation Service.
- 3.2 If you suspect that an employee is involved in any form of fraud, theft, bribery, corruption or money laundering, you should report it immediately to the Counter Fraud & Investigation Service on **03000 999 111**. This number is manned, 24 hours a day by a criminal investigation expert who can provide you with immediate advice, guidance and support on how to proceed next.



- 3.3 In some cases the decision to commence action defined in the Council's disciplinary policy can have a serious consequence to the ability of detecting serious misconduct that has resulted in or is continuing to result in financial loss to the Council or its service users.
- 3.4 It is therefore the policy that no action, forming part of the Council's disciplinary policy, will be taken unless it is agreed in advance, collaboratively, by the Group Manger Counter Fraud & Investigation, Section 151 Officer (Head of Corporate Finance), Head of Human Resources and Head of Legal Services.
- 3.5 Do not interfere with any evidence and make sure it is kept in a safe place.
- 3.6 **Do not** try to carry out an investigation yourself. This may damage any subsequent investigation and could harm potential evidence.

#### 4. **Action by the Counter Fraud & Investigation Service**

- 4.1 Any allegations of fraud, theft, bribery, corruption and money laundering are investigated and managed by the Counter Fraud & Investigation Service. Using national best practice, advanced techniques and legislation, the service is able to fully scope and investigate any allegations to the highest levels of proof.
- 4.2 After approval to commence enquiries the CFIS will make an initial assessment as to whether there is enough information to warrant further investigation.
- 4.3 At the conclusion of this initial review stage the following options will be considered:

##### **No Evidence of a Criminal Offence**

- 4.4 If at the conclusion of the initial review stage it is clear that there is no evidence of a criminal offence being committed, and after consultation with the Head of Corporate Finance, the CFIS will close the investigation in writing, ensuring that the Head of Human Resources, Head of Legal Services and the staff members' Head of Service are informed of the reasons for the closure.
- 4.5 Whilst such action represents the closure of the criminal investigation, it does not preclude any further action which is deemed necessary by the Head of Human Resource in accordance with the Council's policy.
- 4.6 Any relevant documentation collected during the course of the initial enquiry will be made available to the Head of Human Resources, subject to any regulatory restrictions, should it be necessary.

##### **Evidence of a Criminal Offence**

- 4.7 Where evidence is identified to support the allegation, the CFIS, in conjunction with the Head of Corporate Finance, will determine the appropriate course of action with respect to any further investigation.
- 4.8 Where an investigation is to continue, this will be conducted solely by the CFIS.

4.9 If an alleged criminal offence implicates the Head of Corporate Finance, the details will be reported directly to the Chief Executive and also the Monitoring Officer, by the CFIS.

## 5. **Suspension**

5.1 In some cases during the course of an investigation there may be need to consider the suspension of a worker from the Council until the investigation can be completed. Examples of such instances are:

5.1.1 To prevent the loss, destruction or concealment of evidence

5.1.2 To prevent the continuation of the offence i.e. where the subject can continue to commit offences related to the enquiry, resulting in further loss to the Council

5.1.3 In cases where the professional conduct of the subject could place other Council staff or service users in a position of risk

5.1.4 Gross misconduct (as detailed in the Council's policy)

5.2 Whilst the decision to suspend a person, when a referral is being investigated rests with the manager, under advisement of by Human Resources, the CFIS will provide all the available facts at the time to ensure that the most appropriate decision is made.

5.3 Such action should be considered on a case to case basis and would also need to be taken in accordance with the Council's disciplinary procedure regarding the suspension of staff.

5.4 The Council's disciplinary procedure requires that an individual is aware of why they are suspended. This should be borne in mind when considering whether to suspend. If a CFIS investigation is to take place and it is thought necessary to suspend, this could be where the success of the investigation could be dependent on the individual not being aware it is taking place (as they may destroy incriminating evidence etc). In these circumstances the joint decision by the Group Manager Counter Fraud & Investigation, Head of Corporate Finance, Head of Human Resources and Head of Legal Services, will be made as to how to progress the suspension.

5.5 Investigating officers are reminded that the Council seeks to keep staff suspensions to a minimum and every effort should be made to conclude any investigation thoroughly and quickly. Where another law enforcement agency (Police etc) are involved and a member of staff is suspended then the Group Manager Counter Fraud & Investigation, Head of Corporate Finance, Head of Human Resources and Head of Legal Service must be informed.

## 6. **Continued Investigation**

6.1 After approval from the Head of Corporate Finance, the CFIS will conduct an investigation in accordance with the Investigation Staff Manual.

6.2 During the conduct of the enquiry all requests for the release of information should first be approved by the CFIS in order to prevent jeopardising the ongoing criminal investigation.

6.3 Where a member of staff is suspended in these circumstances it is important that no one informs them of a CFIS investigation – subject to 5.4 above.

## 7. Conclusion of Investigation

7.1 At the conclusion of a criminal investigation there are four possible outcomes which may need to be considered, these are not mutually exclusive.

7.2 These are:

7.2.1 No case to answer

7.2.2 Criminal prosecution

7.2.3 Civil action

7.2.4 Internal disciplinary process.

7.3 The investigation should be completed before a decision is taken on the appropriate combination of sanctions to be applied.

7.4 No Case to Answer

7.4.1 In some cases after investigation by the CFIS, there may be insufficient evidence to recommend any sanctions against the subject to whom the enquiry related. In these cases the CFIS will provide a report to the Head of Corporate Finance in which the details of the case and the reason that no further action can be taken will be explained. This report will bear no details of the subject of the enquiry or any person that assisted with the conduct of the enquiry and will be in accordance with paragraphs 4.4 to 4.6.

7.5 Criminal Prosecution

7.5.1 Where a prima facie case is established against the subject, it may be decided that criminal prosecution is the most appropriate sanction.

7.5.2 In these cases the CFIS will report to the Head of Corporate Finance and approval must also be sought from the Head of Legal Services.

7.6 Civil Action

7.6.1 Where it is cost effective and desirable for the purpose of deterrence and to recover monies lost as a result of fraudulent activity, it may be decided that civil redress is the most appropriate course of action. In such instances, the CFIS will submit a final report to the Head of Corporate Finance, which not only outlines the case and identifies offences, but also clearly identifies the losses sustained by the Council. It is then the responsibility of the Council to use the civil law to recover any losses. Legal advice may be sought to clarify the issues in these cases.

## 7.7 Internal Disciplinary Process

- 7.7.1 In certain instances, although a prima facie case of crime has been established, it may be recommended that internal disciplinary proceedings should be pursued.
- 7.7.2 Where this recommendation is made, the CFIS will produce a report for the Head of Human Resources detailing the facts of the case, any witnesses identified and evidence obtained during the course of the investigation and the criminal offences and losses that have been established.
- 7.7.3 Prior to passing any reports to the Head of Human Resources the CFIS must first seek approval from the Head of Corporate Finance. Where the Head of Corporate Finance decides that the report could not be passed to the Head of Human Resources, then the Head of Corporate Finance will discuss this with the Head of Human Resources and/or the Chief Executive.
- 7.7.4 Where an internal disciplinary proceeding is held, the involvement of the CFIS will be restricted to the provision of information as outlined in 7.7.2, and where necessary, called as a witness to present the findings of their report. Under no circumstances should the CFIS be appointed as the investigating officer with respect to this form of sanction. However, the CFIS can assist the investigating officer by clarifying areas of concern and conduct further work as required.
- 7.7.5 When conducting a disciplinary investigation, in order to demonstrate that they are acting fairly and reasonably, the employer should inform the employee if they know of any existing or potential criminal (i.e. police) investigation. ***At no time should anyone make any express or implied promise that criminal proceedings will not be brought, provided an employee answers all questions.*** Such an approach would put at risk any further prosecution and such agreements are unenforceable as they are contrary to public law.
- 7.7.6 The decision regarding applying the most appropriate sanction will be made at a disciplinary hearing by the appropriate manager of the member of staff. As provided for in the Council's disciplinary guidance for Managers, if the Head of Corporate Finance believes there is a need to have financial representation / advice regarding the matter, then a senior member of the Corporate Finance will be on the disciplinary panel to advise the manager.
- 7.7.7 For staff who are members of a professional body (i.e. HCPC) there may also be a need to make a referral to that organisation. The Head of Human Resources, in consultation with the CFIS, will be responsible for liaising with the appropriate Director to ensure that this is carried out in accordance with Council's disciplinary procedures and the requirements of the various bodies' codes of practice.

## 8. Parallel Sanctions

- 8.1 In the case of some investigations, the option of pursuing parallel or triple sanctions may be considered.
- 8.2 There is nothing to prevent an employer conducting a disciplinary enquiry if criminal charges are being considered or a criminal investigation is in progress, as long as the process is not in conflict of either process and is conducted fairly and in accordance with the Council's disciplinary procedure.
- 8.3 In such instances the CFIS will carry out an investigation with a view to pursuing criminal prosecution whilst, simultaneously, appropriate investigating officers appointed under the disciplinary procedure will conduct an internal disciplinary enquiry. The advantage of this approach is that all appropriate action is taken by the Council at the earliest opportunity.
- 8.4 Where such an approach is approved by the Head of Corporate Finance, the CFIS will provide sufficient copies of evidence to Human Resources as detailed in paragraph 7.7.2, in order that internal disciplinary proceedings can commence. The CFIS will continue the criminal investigation and follow the procedures outlined in paragraphs 6.1 and 6.3.
- 8.5 The decision to run parallel sanctions will be determined on a case by case basis with emphasis on a successful criminal sanction being of the highest priority. No disciplinary action should be commenced if there is a risk to the investigation being conducted by the CFIS. Crucial to the success of this approach will be the establishment and maintenance of clear communication channels between all parties pursuing separate actions (whether criminal, disciplinary or civil).
- 8.6 In investigating economic crimes under the disciplinary procedure there is a need to ensure that the process is applied carefully to ensure that any legal process is not compromised e.g. the employee cannot be entrapped into making any statement against their own interests also an agreement not to prosecute, in return for consideration, may be unlawful, unenforceable and contrary to public policy. ***Therefore, those conducting a disciplinary interview should never make any express or implied promise of offer that the case will not give rise to criminal sanction if the employee answers questions.***
- 8.7 An employee interviewed in a disciplinary interview must not be given the impression that the Council has any discretion about whether criminal matters will be pursued with the CFIS or other law enforcement agency in order to gain cooperation with the process.
- 8.8 There is nothing to stop the CFIS or other investigator from conducting an interview under caution before or after a disciplinary interview has taken place. In practice, where a criminal liability is known or suspected any interview must be conducted under criminal legislation before a disciplinary interview. It should be noted that it would be the answers given in the interview under caution which could be used as evidence in any subsequent criminal proceedings can be used in any disciplinary proceeding. The disciplinary interview may be excluded from any criminal trial however depending on the facts of the case.

- 8.9 The employee does not have to answer questions during a disciplinary interview but if there is sufficient evidence of guilt and the employee cannot or will not provide an explanation, the Council may act on the evidence available at that time and fairly dismiss the employee. It does not follow that dismissal before the outcome of criminal proceedings will necessarily be unfair.
- 8.10 The employer is entitled to consider whether the material before it is strong enough to justify dismissal without waiting for the employee's explanation. If the evidence produced is, in the absence of explanation, sufficiently indicative of guilt, the Council may be entitled to act, and may fairly dismiss the employee.
- 8.11 There would be nothing to prevent the Council from pursuing civil proceedings for the recovery of money during a criminal investigation. It would be for the defendant in those civil proceedings to apply for an adjournment of the civil proceedings. In order to achieve this, the defendant would have to show that it was just and convenient to interrupt the employer's ordinary right to have the claim processed, heard and decided. The defendant would have to show that there was a real, not merely, notional, risk that there would be a miscarriage of justice in the criminal proceedings in order to persuade the court to exercise its discretion in their favour.
- 8.12 If asked for a reference the Council is obliged to notify a prospective employer that the individual was dismissed from the organisation and the reasons for dismissal.
- 8.13 Redress**
- 8.14 Irrespective of the sanctions pursued, it is the responsibility of the Council to use all measures available to them to recover any monies lost due to economic crime misconduct activity.
- 8.15 Criminal Redress**
- 8.16 With respect to criminal sanctions, this will be sought through the application for a Proceeds of Crime Act or similar order at court. This order will not only outline the losses sustained by the Council but also the cost of the investigation. Whilst such an award is discretionary such applications will be made by the CFIS in every criminal case.
- 8.17 Civil Redress**
- 8.18 Civil redress is available to the Council in all instances when initial attempts to recover the loss have failed eg. Non award of a compensation order or failure of internal administrative procedures. In such instances the Council can consider making an application to either the Small Claims or County Court (depending on the value to be recovered).
- 8.19 Consideration should be made as to the cost effectiveness of this form of address and the Council may wish to consult their solicitors prior to pursuing such action.

8.20 The Council should also consider if the economic crime case type may allow for recovery of contributions made to the Local Government Pensions Scheme and / or Her Majesty's Revenue and Customs and should liaise with the CFIS.

### **8.21 Internal Disciplinary**

8.22 Human Resources / Corporate Finance should endeavour to seek to recover all monies lost by the Council using the Council's internal overpayment procedures, whilst conducting an internal disciplinary process against a staff member.