

North Yorkshire Fire & Rescue Authority Anti Fraud and Corruption Policy

1. INTRODUCTION

1.1 The Authority is committed to operating an effective Anti-Fraud and Corruption Policy designed to:

- Encourage fraud prevention
- Promote detection of fraud, and
- support relevant fraud investigations where appropriate.

2. SCOPE

2.1 This policy applies to all staff and Members of the Authority, contractors, suppliers and service users.

3. DEFINITIONS OF FRAUD AND CORRUPTION

3.1 For the purposes of this Policy, the definition of “fraud” is as covered in the Fraud Act 2006 (see paragraph 4.2 below) and is characterised by dishonest acts, whereby the individual knowingly makes a false representation, (including by omission), with the intention of acquiring a gain for themselves and/or others, or places the Authority at risk of a loss.

3.2 It is important to note that the Fraud Act 2006 focuses on the ‘intention’ of the act, so whether there has been an actual gain or loss is immaterial to whether a fraud has been committed. Additionally, for the purposes of the Policy, fraud includes acts such as forgery, theft, extortion, bribery, embezzlement, misappropriation, false representation, concealment of material facts and collusion. Fraud can be perpetrated by persons outside as well as inside an organisation.

3.3 Many of the offences referred to as fraud were covered by the Theft Acts of 1968 and 1978 with fraud for practical purposes defined as the use of deception with the intention to obtain an advantage, avoid an obligation, or cause loss to another party. This definition implied deliberate intent and thus could exclude negligence. The Fraud Act 2006 makes it no longer necessary to prove a person has been deceived. The focus is now on the dishonest behaviour of the subject and their intent to make a gain or loss. Cases can still be prosecuted under the Theft Acts with the Fraud Act being used for matters after 15th January 2007.

3.4 For the purposes of this Policy, “corruption” is defined as the “offering, giving, soliciting or acceptance of an inducement or reward, which may influence a person to act against the interest of the organisation”.

3.5 Corruption relates to rewards or inducements, such as bribes. Under the Prevention of Corruption Act 1916 any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract

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will be deemed by the Courts to have been received corruptly unless the employee proves the contrary. The criminal acts of corruption are covered in the Prevention of Corruption Acts 1906 and 1916. The Bribery Act of 2010 introduced the offences of offering and receiving a bribe.

4. MAIN ASPECTS OF THE LEGISLATION

4.1 FRAUD ACT 2006

4.1.1 A person is guilty of fraud if they are in breach of the following sections:-

- 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.

4.1.2 Fraud by False Representation

A person is in breach of this section if they:-

- a) Dishonestly make a false representation, and
- b) Intend, by making the representation:-
 - i) to make a gain for themselves or others, or
 - ii) to cause loss to another or to expose another to a risk of loss.

4.1.3 Fraud by Failing to Disclose Information

A person is in breach of this section if they:-

- a) Dishonestly fail to disclose to another person information which they are under a legal duty to disclose, and
- b) Intend, by failing to disclose the information:-
 - i) to make a gain for themselves or others, or
 - ii) to cause loss to another or to expose another to a risk of loss.

4.1.4 Fraud by Abuse of Position

A person is in breach of this section if they occupy a position in which they are expected to safeguard, or not to act against, the financial interests of another and,

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- a) Dishonestly abuse that position, and
- b) Intend, by means of the abuse of that position-
 - i) to make a gain for themselves or others, or
 - ii) to cause loss to another or to expose another to a risk of loss.

4.2 THEFT ACT 1968 AND THEFT ACT 1978 (as amended)

The Theft Act 1968 defines a number of criminal offences including theft and the achievement of a gain through deception. These include the following:

4.2.1 Theft

A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

4.2.2 Obtaining Pecuniary advantage by Deception

A person who by any deception dishonestly obtains for himself/herself or another any pecuniary advantage.

4.2.3 Obtaining Services by Deception

This includes remission or avoidance of a debt achieved through deception.

4.3 BRIBERY ACT 2010

4.3.1 The Bribery Act of 2010 introduced the offences of offering and receiving a bribe. It places specific responsibility on the Authority to have in place sufficient and adequate procedures to prevent bribery and corruption taking place. Under the Act, Bribery is defined as "Inducement for an action which is illegal unethical or a breach of trust. Inducements can take the form of gifts loans, fees rewards or other privileges.

4.3.2 Corruption is broadly defined as the offering or the acceptance of inducements, gifts or favours payments or benefit in kind which may influence the improper action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

4.3.3 To demonstrate that the Authority has in place sufficient and adequate procedures and to show openness and transparency all staff are required to comply with the requirements of the Staff Code of Conduct.

5. THE AUTHORITY'S APPROACH

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- 5.1 The Authority has high expectations of propriety and accountability from Members and employees at all levels and that in particular they will adhere to legal requirements, rules, procedures and practices.
- 5.2 The Authority also expects that individuals and organizations (e.g. suppliers, contractors, service providers) will act towards the Authority with integrity.
- 5.3 The Authority's Anti-Fraud and Corruption Policy is based on a series of interrelated procedures designed to frustrate any attempted fraudulent or corrupt act. These cover:
- Culture
 - Prevention
 - Detection and Investigation
 - Training
- 5.4 The Authority is also aware of the high degree of external scrutiny of its affairs by a variety of bodies including:
- Audit Commission
 - The Public/Service Users – though the Authority's Complaints and Consultation Procedures
 - Central Government Departments
 - HM Revenue and Customs
 - Local Government Ombudsman
- 5.5 The Director of Finance and Technical Services is the Authority's Section 151 officer as defined by the Local Government Act 1972. He has an overriding and statutory responsibility to ensure that there are adequate and effective financial procedures in place. He also carries out the Authority's responsibility to ensure that there is an effective internal audit function.
- 5.6 That function is currently carried out by Veritau Ltd, a company jointly owned by NYCC and the City of York.
- 5.7 The External Auditor has a statutory duty to ensure that the Authority has in place adequate arrangements for the prevention and detection of fraud and corruption.

6. CULTURE

- 6.1 The Authority's employees are a key element in the prevention of fraud and corruption. They are encouraged to raise any concerns that they may have in the knowledge that such concerns will be treated in confidence, properly investigated and dealt with fairly.
- 6.2 Any concerns may be raised with

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- Function Heads/Group Managers
- Principal Officers
- Internal Audit
- External Audit
- 24 Hour Anti-Fraud Confidential Hotline
- Chief Fire Officers Hotline

6.3 The Anti Fraud24 Hotline is operated by Veritau on the Authority's behalf and confidentiality of callers is guaranteed under this system. The telephone number is 01609 760067.

6.4 The Authority has a separate Whistleblower's Policy in place in accordance with the Public Interest Disclosure Act. Copies of the Policy are available to any employee on request and is available on the Intranet. Employees or members of the public may report concerns by e-mail if they wish. The email address is counter.fraud@veritau.co.uk.

6.5 The Authority will be robust in dealing with malpractice. Senior management is expected to deal swiftly and firmly with those who defraud the Authority or who are corrupt.

6.6 Senior management is responsible for ensuring that all suspected or reported irregularities are dealt with promptly and in accordance with proper practice. They will ensure that:

- Any case of suspected or reported fraud, corruption or similar irregularity is reported at the earliest opportunity to the Director of Finance and Technical Services and/or Veritau.
- any evidence that may have come into their possession is kept safe and secure (taking advice from Veritau if appropriate)
- the Authority's disciplinary procedures are implemented when and where appropriate. ***Fraud and Corruption cases are regarded as Gross Misconduct and as such may warrant the sanction of summary dismissal.***

6.7 Veritau will ensure that:

- Any case of suspected or reported fraud or corruption or other irregularity is dealt with promptly
- All evidence is sound, properly recorded and adequately secured
- The outcome of Investigations are reported to senior management
- All matters warranting referral to the Police are reported as soon as is practicable and that there is adequate liaison with the Police thereafter

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- All investigation reports are adequately followed up to ensure that systems weaknesses and disciplinary action identified as appropriate have been addressed

7. PREVENTION

7.1 Employees

- 7.1.1 The Authority recognizes that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage. Employee recruitment is required to be in accordance with the policies and procedures laid down by the Corporate Management Board.
- 7.1.2 Employees of the Authority are expected to abide by its policies and procedures which set out the requirements on personal conduct. Employees are also expected to follow any Code of Conduct related to their personal Professional Institute.
- 7.1.3 The Authority has in place a Disciplinary Policy which sets out actions/behaviours which will result in disciplinary action.
- 7.1.4 The Authority has in place a Constitution containing Financial and Contract Procedure Rules that provide a framework of control. Employees must operate within these procedures and breaches will be regarded as a disciplinary matter. The role that the employees are expected to play in the Authority's framework of internal control will feature in employee Induction procedures.

7.2 Members

7.2.1 Members are required to operate within:

- Members' Code of Conduct
- Authority Standing Orders
- Sections 94-96 of the Local Government Act 1972
- Local Authorities Members' Interest Regulations 1992 (SI.618)

7.2.2 The Authority's Standards Sub-Committee seeks to promote and maintain high standards of conduct by Members as well as assisting them in the observance of the Authority's Code of Conduct.

7.3 Combining with other agencies

7.3.1 Arrangements are in place and continue to be developed to encourage the exchange of information between the Authority and other public agencies on national and local fraud and corruption activity in relation to Local Authorities. Any such exchange of information is undertaken in accordance with relevant statutory provisions.

7.3.2 These public agencies include:

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- Police
- ALARM (formerly the Association of Local Authority Risk Mangers)
- The Chartered Institute of Public Finance and Accountancy
- Local, Regional and National Auditor Networks
- The National Fraud Initiative
- Audit Commission

8. DETECTION AND INVESTIGATION

- 8.1 The systems of internal controls within the Authority have been designed to prevent fraud so far as possible. The controls are reviewed regularly by the Director of Finance and Technical Services through the audit process. However, it is the responsibility of all Principal Officers, Function Heads and their managers to prevent and detect fraud and corruption.
- 8.2 That said, it is often the alertness of employees and members of the public that enables detection and appropriate action to take place when there is evidence that fraud or corruption may be in progress. Through its Whistleblowing Policy Statement and Complaints Procedures, the Authority has in place arrangements to enable such information to be properly dealt with.
- 8.3 It is a requirement of Financial Regulations that all suspected irregularities are reported to the Director of Finance and Technical Services. That reporting mechanism is essential to the Anti-Fraud and Corruption Strategy and:
- Ensures consistent treatment of information regarding fraud and corruption.
 - Facilitates proper investigation by an experienced audit team.
 - Ensures the proper implementation of a fraud response plan.
- 8.4 Depending on the nature and anticipated extent of the allegations, Internal Audit will work closely with management and other agencies such as the Police to ensure that all allegations and evidence are properly investigated and reported upon.
- 8.5 The Authority's Disciplinary Procedures will be used where the outcome of the Audit Investigation indicates improper behaviour.
- 8.6 Where impropriety is discovered and there is evidence that a criminal offence could have occurred, the Authority's policy is that the Police will be called in where appropriate. This will not delay the matter being dealt with quickly on an internal basis.
- 8.7 Depending on the nature and anticipated extent of the allegations, following consultation with the Chief Fire Officer, Director Finance and Technical Services and relevant senior manager, referral to the Police will be dealt with by the Chief Internal Auditor
- 8.8 In addition to the internal audit function, the External Auditor also has powers to independently investigate fraud and corruption.

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6. CONCLUSION

- 5.1 The Authority has in place a number of systems and procedures to assist in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation.
- 5.2 To this end the Authority maintains a continuous overview of such arrangements in particular, through its Director of Finance and Technical Services, the Financial Procedure Rules and audit arrangements.
- 5.3 This Policy Statement will be subject to review to ensure its currency.