

## Report of the Executive Director Core Services

CABINET – 8<sup>th</sup> January 2020

### CORPORATE ANTI-FRAUD AND CORRUPTION POLICIES

#### 1. Purpose of the Report

- 1.1 To present for approval the revised Corporate Anti-Fraud and Corruption Policy, Corporate Anti-Fraud and Corruption Strategy, Corporate Anti-Bribery Policy, Corporate Prosecutions Policy, Corporate Fraud Response Plan, Confidential Reporting Policy and the Anti-Money Laundering Policy.

#### 2. Recommendation

- 2.1 **It is recommended that Cabinet approve the policies and continue to support and endorse the corporate approach to minimise the risk of fraud, corruption and bribery within the Authority's overall ethical framework.**

#### 3. Introduction and Background Information

- 3.1 Barnsley Council is committed to ensuring that the people of the Borough can have confidence that the affairs of the Council are conducted in accordance with the highest standards of probity and accountability.
- 3.2 In seeking to ensure this commitment is met, the Council has an Anti-Fraud and Corruption Policy and framework which set out its overall approach to combating fraud, corruption and wrongdoing. Below this sit other supporting procedural documents and behavioural codes which describe the arrangements in place for preventing, detecting and investigating fraud and error. These together with a strong internal control environment are the main methods to help protect the Council against the risk of fraud.
- 3.3 The revised Corporate Anti-Fraud and Corruption Policy, Corporate Anti-Fraud and Corruption Strategy, Corporate Anti-Bribery Policy, Corporate Prosecutions Policy, Corporate Fraud Response Plan, Confidential Reporting Policy and the Anti-Money Laundering Policy were presented to the Audit Committee in December 2019.

#### 4. The Framework

- 4.1 The framework of counter fraud policies address specific areas of risk and clearly state the Council's zero tolerance approach to fraud and illegal activity, as well as providing mechanisms which officers can use to raise concerns of wrongdoing or fraudulent activity. Each policy is supported by procedural guidance which sets out the responsibilities and expectations for staff including the specific actions which

they must follow to enable the Council to demonstrate good governance and comply with its legal obligations.

- 4.2 Three of the policies remain largely unchanged only requiring minor alterations due to amendments to other Council policies and updates to legislation e.g. Data Protection Act 2018. All of the remaining policies have been refreshed and revised. A summary of the amendments are recorded below:

Corporate Anti-Fraud and Corruption Policy, Corporate Anti-Fraud and Corruption Strategy and Corporate Anti-Bribery Policy

- 4.3 A statement from the Chief Executive reinforcing the Council's commitment to zero tolerance of fraud has been included at the beginning of the Corporate Anti-Fraud and Corruption Policy and Corporate Anti-Fraud and Corruption Strategy.
- 4.4 The Council's definition of bribery has been refreshed and is now consistent across the above policies.
- 4.5 Paragraphs 11.2 and 12.1 of the Corporate Anti-Bribery Policy have been revised following changes to the Council's Code of Conduct and the publishing of Central Governments SI 2019 no 560 – The Public Procurement (Amendment etc.) (EU) Regulations 2019.

Corporate Fraud Response Plan

- 4.6 The Corporate Fraud Response Plan defines how the Council will respond to allegations and provides guidance for employees and Members on reporting a suspected fraud.
- 4.7 Although the Corporate Fraud Response Plan has not been reviewed for a number of years the majority of the detail remains the same.
- 4.8 The main changes are the format of the document and making it easier for employees, managers and Members to understand the process and how to report suspicions of fraud.
- 4.9 A preservation of evidence section has also been included providing examples of common forms of evidence and how they should be preserved.

Corporate Prosecutions Policy

- 4.10 It is acknowledged that, even with strong preventative measures, motivated fraudsters may still succeed, and the Council must therefore have a robust enforcement response to pursue fraudsters and to deter others. The Corporate Prosecutions Policy sets out the circumstances in which the Council will take legal action against anyone committing a fraudulent or corrupt act against it.

4.11 Criminal prosecutions, civil action and disciplinary action all deter offenders and reinforce a culture of zero tolerance towards fraud and corruption.

4.12 This policy:

- provides guidance on the criteria required in order for a criminal prosecution to be pursued (the Evidential and Public Interest Tests);
- clarifies that disciplinary action will be taken in all cases where an employee has committed a fraud against the Council;
- clarifies that in some cases more than one form of sanction may be appropriate. For example, where the employee has defrauded the Council, disciplinary, prosecution and civil recovery action may be taken;
- makes it clear that the Council will seek recovery of losses; and
- recognises that publicity of successfully prosecutions will act as a deterrent to others who may be contemplating committing fraud.

#### Confidential Reporting (Whistleblowing) Policy

4.13 Effective whistleblowing procedures are a key part of good governance, establishing a culture of openness, probity and accountability across all aspects of the Council's work. Ensuring that employees, Members and contractors/agents of the Council feel empowered to raise concerns through the correct channels allows the Council to address any risks as early as possible.

4.14 The Confidential Reporting Policy (previously recorded as the Whistleblowing Policy) was last reviewed by Audit Committee in 2014 and sets out how individuals can raise suspected instances of wrongdoing within the Council.

4.15 In recent years there have been a number of significant developments in relation to whistleblowing in the public sector which have highlighted several common issues around the negative treatment of whistleblowers, a failure to act on concerns raised, poor process and uncertainty amongst workers over how to raise concerns.

4.16 In response to these issues Internal Audit Services has reviewed the Whistleblowing Policy and retitled it Confidential Reporting Policy in an attempt to remove the negative association of 'whistleblowing'. In addition, the following sources of best practice and guidance have been used whilst conducting the review:

- The Whistleblowing Commission Code of Practice;
- Department for Business Innovation & Skills Whistleblowing Guidance for Employers and Code of Practice; and
- National Audit Office Assessment Criteria for Whistleblowing Policies.

4.17 Whilst most of the changes are a refresh or rewording, the following key changes have been made:

- Consolidation of the policy and separate supporting guidance into one single document for ease of use;
- Inclusion of a separate section to provide clarity over the reporting arrangements for school based staff;
- Greater clarity on the difference between raising a whistleblowing concern, a complaint and grievance;
- Greater clarity for individuals on what they should expect from the Council when they do raise a concern and what protection they will be afforded. This includes the Public Interest Disclosure Act 1998 (PIDA) legislation and what makes a 'qualifying disclosure' under the Act;
- Greater reassurance and clarity for individuals as to how concerns will be handled;
- Inclusion of a 'frequently asked questions' section to provide additional clarity
- Under the section 'monitoring of whistleblowing complaints', we have included that details of all referrals received by managers should be notified to the Head of Internal Audit, Anti-Fraud and Assurance to allow a central record to be maintained.

#### Corporate Anti-Money Laundering Policy

- 4.18 The Corporate Anti-Money Laundering Policy has been revised following the introduction of the Money Laundering, Terrorist Financing and Transfer of Funds (Information to the Payer) Regulations 2017 (MLR 2017).
- 4.19 The risks to the Council of contravening the legislation are relatively low and some requirements of the legal and regulatory requirements do not apply to public authorities. However, the Council cannot be immune from the risks surrounding money laundering and therefore it is appropriate that the Council complies with the principles of the money laundering legislation by taking proportionate safeguards to minimise the likelihood of money laundering.
- 4.20 Whilst explaining what money laundering is and the legal and regulative framework that is in place to govern it, the Corporate Anti-Money Laundering Policy also specifies the processes the Council needs to have to ensure that it does all it can to prevent it and its employees being exposed to money laundering and to ensure that the Council complies with all legal and regulatory requirements.
- 4.21 The majority of the Policy has been updated to comply with the changes to the legislation. In addition, the policy and separate supporting guidance have been combined into one single document to make it easier for officers to understand the process and how to report any suspicious activity.
- 4.22 The Corporate Anti-Money Laundering Policy gives information and guidance in the following areas:
- What is Money Laundering;
  - What are the obligations of the Council;

- The Money Laundering Reporting Officer;
- How to recognise suspicious activity that may be linked to Money Laundering;
- Money Laundering offences;
- The reporting procedure and reporting forms;
- Consideration of disclosure report by the Money Laundering Reporting Officer;
- Customer due diligence;
- Record keeping; and
- Risk Assessment;

## **5. Financial Implications**

- 5.1 None directly arising from this report. However there are clearly potentially significant financial implications should serious incidents of fraud, thefts etc. occur. The policy framework seeks to minimise this risk.

## **6. Risk Considerations**

- 6.1 A corporate counter fraud framework sets a high level commitment to ensuring that appropriate safeguards are in place for mitigating the risk of fraud and corruption within the Council.

## **7. Employee Implications**

- 7.1 There are no direct employee implications arising from this report. The Trade Unions have considered and commented where appropriate on the draft policies and received their agreement.
- 7.2 The policies form part of the framework of policies and procedures all employees are expected to be aware of and follow.

## **8. Legal Implications**

- 8.1 Confidential reporting (or Whistleblowing) is recognised as being in the public interest; in refreshing the procedure, the requirements of the Public Interest Disclosure Act and Enterprise and Regulatory Reform Act are acknowledged.
- 8.2 The Council must comply with The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and it is therefore important that proper Governance procedures are in place. The Council's counter fraud framework and assurance reviews assist the Council in complying with anti-corruption law.

## **9. Other**

- 9.1 The following sources of information were used for this report:
- The Whistleblowing Commission Code of Practice;

- Assessment Criteria for Whistleblowing Policies (National Audit Office, January 2014) ;
- Whistleblowing: Guidance for Employers and Code of Practice (Department for Business Innovation and Skills, March 2015);
- The Code for Crown Prosecutors (Crown Prosecution Service, January 2013)

## **10. List of Appendices**

10.1 The following policies and strategies are appended to this report:

Corporate Anti-Fraud and Corruption Policy  
Corporate Anti-Fraud and Corruption Strategy  
Corporate Anti-Bribery Policy  
Corporate Prosecutions Policy  
Corporate Fraud Response Plan  
Confidential Reporting Policy  
Anti-Money Laundering Policy

**Contact Officer: Head of Internal Audit, Anti-Fraud and Assurance**  
**Date: 17<sup>th</sup> December 2019**