

# COUNTER-FRAUD POLICY

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<b>Strategic Alignment</b>
The Counter Fraud strategy highlights the Council's zero tolerance approach to fraud and outlines how fraud risks will be managed across the organisation and how suspected or identified fraud will be managed as part of robust corporate governance arrangements designed to enable and support the delivery of all Council ambitions and priorities.

<b>Next review date</b>	
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## **1. Introduction**

- 1.1 The Counter Fraud Policy details the Council's approach to the prevention, detection and investigation of fraud across all the Council's service areas.
- 1.2 North Lanarkshire Council has a zero-tolerance approach to fraud, bribery and corruption (hereafter, referred to as 'fraud') and implements and enforces effective systems to counter these.
- 1.3 The Council expects its staff at all times to act honestly, with integrity and to safeguard public resources for which they are responsible. The Council aims to conduct all its business in an honest and ethical manner and is committed to acting professionally, fairly and with integrity in all its dealings and relationships wherever it operates.
- 1.4 The Council takes its legal obligations seriously and aims to uphold all laws relevant to countering fraud. Any instances of fraud will be investigated thoroughly and dealt with appropriately. Every opportunity will be taken to seek to recover any loss suffered by the Council as a result of fraud.
- 1.5 The Council is committed to ensuring that opportunities for fraud are minimised wherever practicable and, where appropriate and legal, will actively co-operate and share information with other local authorities and public sector bodies to assist in the prevention, detection and investigation of fraud.

## **2. Definitions**

### **2.1 Fraud**

- 2.1.1 Fraud refers to the deliberate use of deception or dishonesty to disadvantage or cause loss to another person or party and includes a wide variety of dishonest behaviour such as theft, false accounting, embezzlement, forgery, bribery, corruption, deception, false representation, concealment of material facts and other dishonest actions which result in loss. Fraud can occur within the Council or can be perpetrated against the Council by outside parties.

### **2.2 Bribery**

- 2.2.1 A bribe is an offer, promise, gift or receipt of a financial or other advantage, designed to induce another person to act improperly in the performance of their functions, to reward them for acting improperly or where the recipient would act improperly by accepting the advantage.
- 2.2.2 An advantage includes money, gifts, loan fees, hospitality, services, discounts, the award of a contract or anything else of value.
- 2.2.3 A person acts improperly where they act illegally, unethically, contrary to an expectation of good faith or impartiality, or where they abuse a position of trust. The improper acts may be in relation to any business or professional activities, public functions, acts in the course of employment, or other activities by, or on behalf of, any organisation of any kind.
- 2.2.4 The Bribery Act 2010 is a UK-wide legislation that:

- Makes it a criminal offence to give, promise or offer a bribe and to request, agree to receive or accept a bribe at home or abroad;
- Sets out a maximum penalty for bribery of 10 years imprisonment, with an unlimited fine; and
- Introduces a corporate offence of failure to prevent bribery by persons working on behalf of a business.

## **2.3 Corruption**

2.3.1 Corruption is the abuse of entrusted power or position for personal gain.

## **2.4 Money Laundering**

2.4.1 Money laundering is the process by which criminally obtained money or other criminal property is exchanged for 'clean' money or other assets with no obvious link to their criminal origins. The aim of this activity is to legitimise the possession of such monies through circulation and this effectively leads to 'clean' funds being received in exchange.

## **2.5 Insider Threat and Serious Organised Crime**

2.5.1 Insider threat is a perceived threat to an organisation that comes from people within the organisation who have inside information concerning the organisation's security practices, data and computer systems. The threat may involve fraud, theft of confidential or commercially valuable information, theft of intellectual property or sabotage of computer systems.

2.5.2 Serious organised crime (SOC) refers to criminal activity that is planned, co-ordinated and committed by individuals or groups. The motivation for these crimes is often financial gain. Examples of SOC include money laundering, fraud, bribery and corruption, cyber-crime, illegal firearms, illegal drugs, child sexual exploitation, modern slavery and human trafficking.

2.5.3 The Council has recognised insider threat as a potential risk and has put arrangements in place designed to prevent and manage this risk including participating in a number of multi-agency groups to counter the threat from SOC and counter terrorism (CT) and the creation of an internal SOC/CT Group.

## **2.6 Tax Evasion**

2.6.1 The Criminal Finances Act 2017 created two new corporate criminal offences in relation to the failure to prevent facilitation of UK and of foreign tax evasion. Tax evasion is defined as the deliberate and dishonest evasion of tax or knowingly taking steps to facilitate another person to evade tax. The Council would be guilty of an offence if a person commits a UK tax evasion facilitation offence when acting in the capacity of a person associated with the Council. Examples of this are referenced at appendix A.

## **3. Who Does This Policy Apply To?**

3.1 The scope of this policy extends to all employees, elected members, service users, contractors, agencies and suppliers and other partner organisations, including the voluntary sector.

#### **4. Who is responsible?**

- 4.1 The Chief Executive has overall responsibility for the operations and activities of the Council. This includes overall responsibility to ensure that the Council's management arrangements in respect of fraud are adequate and effective and that any lessons to be learned corporately from any fraud occurrences arising are appropriately addressed.
- 4.2 The Deputy Chief Executive and each Chief Officer is expected to display high personal standards of conduct in accordance with the Chief Officers' Code of Conduct and is responsible for establishing and maintaining a sound system of internal control within his/her areas of responsibility which supports the achievement of Council policies, aims and objectives. The system of internal control is designed to respond to and manage the wide range of risks which the Council faces, including minimising the scope for fraud. Chief Officers should ensure that their employees are made aware that they should report any matter arising which involves, or is thought to involve, a fraud or irregularity (see section 5.4 – notification).
- 4.3 The Chief Officer (Finance) has a duty, in accordance with Section 95 of The Local Government (Scotland) Act 1973, to make proper provision for the administration of the Council's financial affairs. Proper administration includes ensuring that an adequate system of financial control exists and operates effectively throughout the Council.
- 4.4 The Chief Officer (Audit and Risk) is responsible for ensuring that the Council:
- Operates an effective control environment to, wherever possible, prevent fraud;
  - Establishes and maintains an effective counter fraud policy, commensurate to the level of fraud risk identified, including establishing appropriate mechanisms for:
    - Staff to report suspected fraud risk issues;
    - Reporting significant incidents of fraud to the Chief Executive and Audit and Scrutiny Panel, acting in its role as the Council's audit committee; and
    - Co-ordinating assurances about the effectiveness of anti-fraud arrangements to support the Statement of Internal Financial Control and the Council's Annual Governance Statement;
  - Disseminates the Council's Counter Fraud Policy to all staff to ensure that they are aware of their responsibilities in relation to preventing and combating fraud;
  - Liaises on fraud matters with other relevant stakeholders, including the Risk Management Corporate Working Group and Audit and Scrutiny Panel; and
  - Ensures that vigorous, prompt and proportionate investigations are carried out where fraud occurs or is suspected.
- 4.5 All Council managers are responsible for:
- Assessing the types of likely fraud risks in the areas for which they are responsible;
  - Ensuring that an adequate system of internal control exists within their areas of responsibility and that controls are operating effectively and are being complied with; and

- Ensuring that any fraud or suspected fraud or irregularity is reported promptly.

4.6 Elected members and employees are responsible for:

- Complying with relevant codes of conduct, council policies and procedures (see Appendix C for the full list of relevant policies and procedures), including declaring and registering relevant conflicts of interest and offers of gifts or hospitality;
- Ensuring that the Council's procedures and management arrangements designed to mitigate fraud and corruption risks facing the Council operate effectively; and
- Reporting any suspicion of fraud or irregularity promptly.

4.7 Audit and Risk is responsible for:

- Ensuring that management has considered and identified the possibility of fraud as a business risk and has included any such fraud risks in their risk register;
- Assisting in the deterrence and prevention of fraud by examining and evaluating the effectiveness of controls in line with the Annual Internal Audit Plan;
- Investigating reported instances/suspicions of fraud or irregularity within the Council and reporting to the Service, Chief Executive and Audit and Scrutiny Panel on the outcome of any investigations; and
- Notifying the Council's External Auditors regarding all frauds over £5,000.

## **5. North Lanarkshire Council Approach**

5.1 Managers, staff and elected members must always be alert to the risk of fraud. The prevention, detection and notification of fraud are the responsibility of all members, officers and employees.

### **5.2 Prevention**

5.2.1 Chief Officers and managers should, in line with the Council's Risk Management Strategy, identify and analyse any potential fraud risks for their service area and design and implement appropriate internal controls to mitigate those risks.

5.2.2 Internal Audit will undertake reviews to examine and evaluate the adequacy and effectiveness of controls in line with the Internal Audit Annual Plan and in accordance with the Public Sector Internal Audit Standards (PSIAS).

### **5.3 Detection**

5.3.1 The Council will actively seek to detect fraudulent activity through a number of means including:

- appropriate management oversight and review of the extent of compliance with key management arrangements and/or the effectiveness of key controls;
- regular checks on the adequacy of internal controls and reviews by Internal Audit;
- encouraging whistleblowing by employees, Elected Members and members of the public; and

- participating in the National Fraud Initiative.

## **5.4 Notification**

### **5.4.1 Employees**

5.4.1.1 The Council accepts that, to enable the process for reporting concerns of serious wrongdoing within the Council to have credibility, employees must have the confidence that any matter highlighted will be treated confidentially and handled with discretion and tact.

5.4.1.2 In the first instance, employees should report any issue or suspicion of fraud (definition provided at section 2) or irregularity at the earliest possible stage, to their Line Manager or Chief Officer. If they do not feel that this is appropriate, they may contact the Chief Officer (Audit and Risk) or email the Internal Audit mailbox [internalaudit@northlan.gov.uk](mailto:internalaudit@northlan.gov.uk). Anonymous reports will be accepted and followed up by Internal Audit where possible, however, this should be avoided as it could hinder the investigation if further information is required.

5.4.1.3 Alternatively, an employee wishing to raise any matter on a confidential basis may do so using the Council's 'whistleblowing' arrangements, which are part of the Public Interest Disclosures Policy. This Policy is consistent with the Public Interest Disclosure Act 1998, with respect to the disclosure of information by employees, and all matters highlighted under these arrangements will be dealt with in confidence and in strict accordance with the terms of the policy. This statute protects the legitimate personal interests of staff irrespective of how an allegation is highlighted. The Policy is located at [Whistleblowing Procedure](#).

5.4.1.4 Individuals who refuse to accept or offer a bribe, wish to raise concerns or report another's wrongdoing are sometimes worried out possible repercussions. The Council aims to encourage openness and will aim to support anyone who raises genuine concerns in good faith under the Public Interest Disclosures policy. Whilst reports of fraud/suspected fraud will be dealt with sensitively, it may not always be possible to deal with fraud allegations on a confidential basis, however, the Council will, wherever possible, observe the wishes of an employee raising concerns who does not wish his/her identity to be disclosed.

5.4.1.5 The Council is committed to ensuring that no-one suffers any detrimental treatment as a result of refusing to take part in bribery or corruption or reporting suspicion of fraud. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If someone believes that they have suffered such treatment, they should inform the officer who received the original report immediately. If the matter is not remedied, this should be raised formally using the Dignity at Work Policy.

### **5.4.2 Elected Members, Third Parties and Members of the Public**

5.4.2.1 The Council is committed to dealing with any allegation of fraud brought to its attention by Elected Members, third parties (e.g. contractors, suppliers, organisations) and members of the public. Any concerns in relation to fraud can be reported by email to [internalaudit@northlan.gov.uk](mailto:internalaudit@northlan.gov.uk).

### **5.4.3 Benefit Fraud**

- 5.4.3.1 The Single Fraud Investigation Service (SFIS) work with the DWP and Social Security Scotland and have responsibility for investigating Housing Benefit Fraud. All matters relating to the allegation of fraud in respect of Housing Benefit should be reported directly to the DWP via the DWP online referral form, which can be found at <https://www.gov.uk/report-benefit-fraud> or via the Scottish Fraud Hotline on 0800 158 2071. Further information on reporting benefit fraud can be found [here](#).
- 5.4.3.2 Fraud referrals from Council staff should initially be made to the Council's Appeals and Adjudication team by telephoning 01698 403218 where the report will be added to the official SFIS referral form and passed for investigation.

## **5.5 Procedure for Managers Notified of Fraud**

- 5.5.1 Managers and Chief Officers notified of instances of fraud or irregularity must immediately notify the Internal Audit Section at [internalaudit@northlan.gov.uk](mailto:internalaudit@northlan.gov.uk).
- 5.5.2 On being informed by an employee of a fraud/suspected fraud, it is important that the manager receiving the information deals with it appropriately. In particular, the manager should:
- Deal with the employee giving the information in a way that shows that their concerns are being taken seriously;
  - Not belittle or dismiss the information;
  - Respect, as far as possible, the confidentiality of the employee;
  - Attempt to identify where any evidence may be but should not attempt to obtain it, or question anybody;
  - Follow the procedure for passing the information on, namely to the Chief Officer or Internal Audit
- 5.5.3 Line managers should not conduct their own investigations before informing Internal Audit as this may compromise any later investigation, invalidate evidence and consequently enable someone who has committed fraud to avoid punishment.
- 5.5.4 Circumstances may require the temporary relocation or suspension of an employee. Such decisions rest with the appropriate Chief Officer and must be in accordance with relevant Council policies including the Discipline Policy. It is recommended that Employee Relations are consulted before a member of staff is suspended. They are also available to provide relevant HR advice at all stages of a fraud investigation. In circumstances where an employee is suspended, he or she should be escorted from the premises immediately, only being allowed to remove personal belongings under supervision. All IT devices held by the employee should be retrieved and the employee's access to the Council's network should be suspended. Internal Audit must be advised of any such action taken by the Chief Officer as soon as possible.

## **5.6 Investigation**

- 5.6.1 The Chief Officer (Audit and Risk) is responsible for determining what course of action should be taken when allegations or concerns of possible fraud are brought to his

attention. The course of action taken will depend greatly on the specific nature of the allegations.

- 5.6.2 Internal Audit's role in relation to fraud is to act as an independent investigator to establish whether there is any substance to allegations made. This role includes establishing the facts as far as possible, quantifying any loss, identifying any control weaknesses or failures, recommending improvements to address control weaknesses, providing a written factual report on the fraud/suspected fraud to the relevant Chief Officer and attending any subsequent disciplinary proceedings, where appropriate, in the role of witness.
- 5.6.3 Once Internal Audit has been informed and has ascertained the relevant background information, a decision regarding the approach to the investigation will be taken by the Chief Officer (Audit and Risk) or his nominated representative. The audit approach to the investigation of a potential fraud is likely to vary depending on the nature and complexity of the fraud, the number and seniority of employees involved and the nature of the Service in which the suspected fraud has occurred.
- 5.6.4 The Council's Financial Regulations and approved Internal Audit Charter give Internal Audit staff unrestricted access to all Council records and authority to enter all Council premises or land at all reasonable times. Internal Audit staff can also require and expect to receive any explanations from Council staff as considered necessary to fulfil their role and responsibilities.
- 5.6.5 As part of any fraud investigation, Internal Audit may require to interview Council employees. This may take the form of a general fact-finding interview or the employee may be called to an investigative interview to answer questions specifically in relation to the alleged or suspected fraudulent activity. In the latter case, the employee will be notified in advance of his/her right to Trade Union or other representation at the interview. In either type of interview, the employee will be advised of the reasons for the interview and, where appropriate, cautioned by Internal Audit staff, thus ensuring any statement taken and subsequently used as evidence in disciplinary proceedings or in court, will not be rejected as inadmissible.
- 5.6.6 Two officers will always be present when conducting any such interviews, one asking questions and one taking notes.

## **5.7 Reporting**

- 5.7.1 On completion of an investigation, a written report will be prepared by the Chief Officer (Audit and Risk) and sent to the relevant Chief Officer detailing the findings of the investigation. Where possible, the report will include recommendations to improve controls, thus mitigating the threat of similar frauds re-occurring in the future.

## **5.8 Investigation Outcomes**

- 5.8.1 Fraud is a serious offence against the Council and several outcomes are possible depending on a number of factors.
- 5.8.2 The Council will seek to recover any financial loss it has suffered through fraudulent or corrupt activity, either through court compensation or by pursuing civil action. Any party or person committing fraudulent activity or behaviour against the Council may be subject to relevant measures as available to the Council and other relevant agencies under the

law. These may include warnings, recovery of losses through legal action, fines, interest charges and custodial sentences.

- 5.8.3 If there is evidence to support involvement in an alleged criminal offence, the Chief Officer (Audit and Risk) may make the decision to refer the case to Police Scotland. Any such decision requires to be approved by the Chief Executive. Where the incident involves a break-in, Services are authorised to contact the Police immediately.
- 5.8.4 For cases involving an employee, the Chief Officer should consult with Employee Relations staff to consider whether any disciplinary process is required as a result of the investigation. A member of Internal Audit staff who was involved in the investigation, will attend any subsequent disciplinary hearing as a witness, if requested.

## **5.9 Media Control**

- 5.9.1 The Chief Officer (Strategic Communications and Engagement) has been designated by the Chief Executive as the appropriate officer to manage all contact with the media to ensure that the release of information is properly co-ordinated. No statements relating to fraud or suspected fraud should be given or made to the press by any member of staff unless through the Strategic Communications and Engagement team, who will liaise with the Chief Executive, Deputy Chief Executive and the Chief Officer (Audit and Risk).

## **6. Joint Working**

- 6.1 The Council participates in the National Fraud Initiative, a comprehensive data matching exercise between public bodies to highlight potential frauds and errors. Internal Audit plan and co-ordinate the submission of data and investigation of matches identified.
- 6.2 The Council is an active member of the National Anti-Fraud Network (NAFN) and the Scottish Local Authority Investigator's Group (SLAIG) and liaises closely with other public sector bodies and anti-fraud professionals to raise awareness of the risk of fraud and share up to date information, knowledge and good practice regarding common fraud risks.
- 6.3 The Council, where appropriate, provides information to other public bodies which has been requested under Schedule 2 part 1(2) of the Data Protection Act 2018 to assist in the prevention and detection of crime. Internal Audit co-ordinate all known requests and maintain a log of all requests received, together with appropriate documentation. For some requests, Internal Audit may pass the request to another Service for responding directly.

## **7. Fraud Awareness**

- 7.1 Internal Audit will undertake exercises to raise fraud awareness amongst Council employees on a periodic basis.

## **8. Conclusion**

- 8.1 The Council recognises the importance of making best use of public resources and of demonstrating high standards of corporate governance. The Council takes fraud seriously and all cases of actual and suspected fraud will be vigorously and promptly investigation and appropriate action taken.

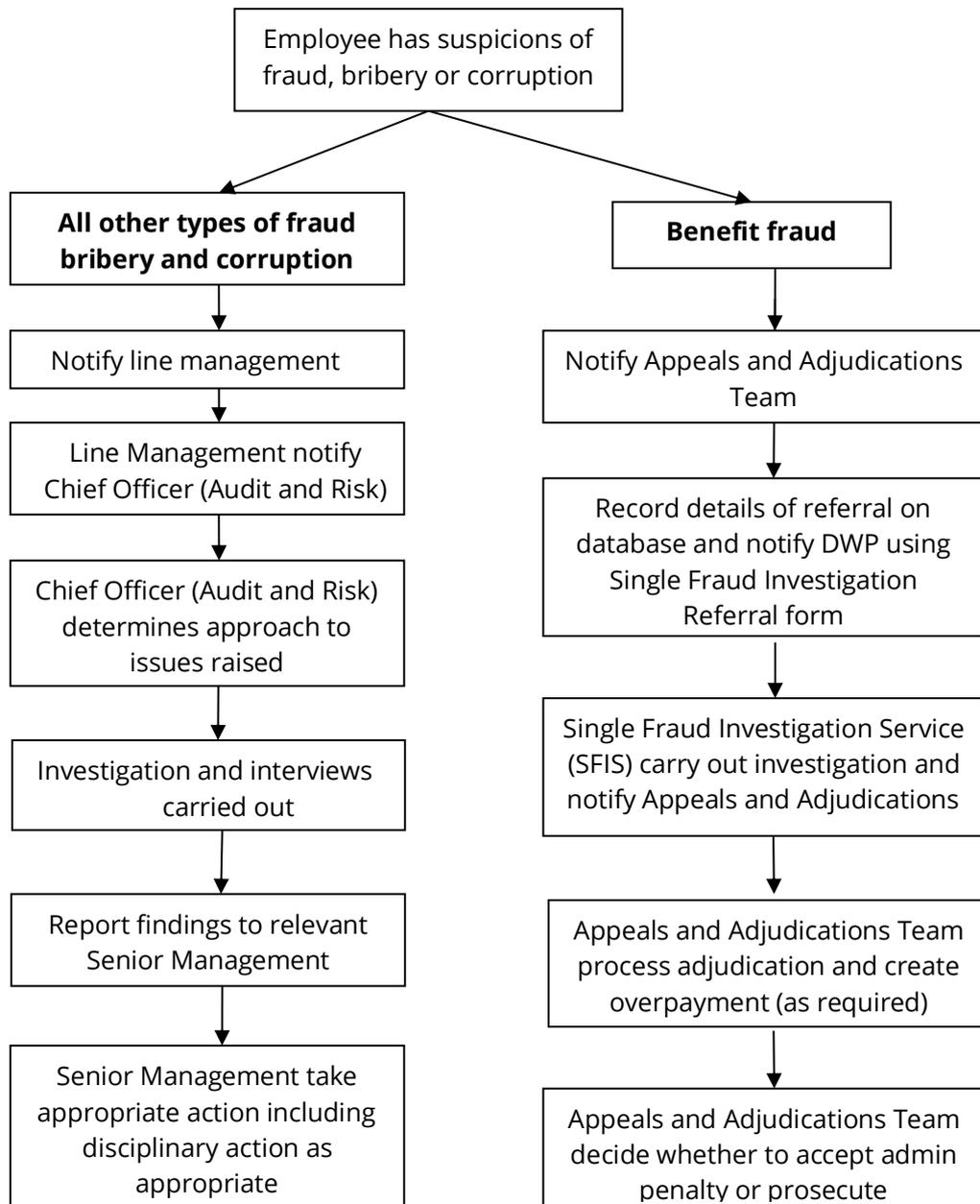
- 8.2 The policy will be reviewed every two years and updated, as appropriate, to reflect any requirement amendments.
- 8.3 Recognised sources of fraud risk for Councils are included at Appendix A.
- 8.4 A flowchart detailing the steps for reporting and responding to fraud is contained at Appendix B.

## IDENTIFIED SOURCES OF FRAUD RISKS FOR COUNCILS

### Examples of fraud, bribery and corruption risks associated with Council Services

Payroll	False employees; fraudulent overtime claims or expenses
Employees	Misappropriation of money, equipment, expenses; time recording irregularities; undeclared conflicts of interest
Tenancy	Fraudulent applications for housing or successions of tenancy; subletting of properties
Benefits (responsibility of DWP)	Fraudulent applications; failure to declare sources of income or capital; failure to declare changes of circumstances
Council tax	Fraudulent applications for discounts and exemptions or council tax support
Business rates	Fraudulent applications for exemptions and reliefs; unlisted properties
Procurement	Tendering issues including conflicts of interest, collusion, disclosure of sensitive information; attempting to influence Council processes and/or decision-making
Payment of creditors	False invoices, inappropriate changes of bank details; double invoicing
Social care fraud, including personal budgets	Overstatement of needs through false declaration; multiple claims across authorities; third party financial abuse by carer, family or organisations; posthumous continuation of claims
Schools	Theft of monies
Identity fraud	False identity/fictitious persons applying for services/ payments
Blue badges	Use of counterfeit/altered badges; use when disabled person is not in the vehicle; use of deceased person's badge; badges issued to institutions being misused by employees
Grants	Claiming when not responsible; work not carried out; funds diverted; ineligibility not declared
Cyber dependent crime	Enables a range of fraud types resulting in diversion of funds, creation of false applications for services and payments
Insurance Fraud	False claims, including slips and trips
Concessionary travel schemes	Use of concession by ineligible person
Immigration	False entitlement to services and payments, sham marriages
Tax evasion	Failing to identify workers/contractors that should be paid via payroll (IR35), failure to deduct income tax at the correct rate, Construction Industry Scheme – suppliers submitting artificially low labour breakdown on their invoices to avoid tax being deducted on labour element

**REPORTING AND RESPONDING TO FRAUD**



### LIST OF RELATED DOCUMENTS

The following list of documents includes other existing policies, procedures and guidance notes which touch upon issues which are of relevance, or are closely related, to fraud matters. The list is not exhaustive and will be subject to periodic update without requiring a formal review of this policy.

- Scheme of Delegation
- Contract Standing Orders
- Financial Regulations
- Public Interest Disclosures Policy
- Discipline Policy
- Chief Officers' Code of Conduct
- Employees' Code of Conduct
- Acceptable Use of ICT Policy
- Information Security Policy
- Money Laundering Policy
- Policy and Procedure on Directed Surveillance, Use of Covert Human Intelligence Sources and Obtaining Communications Data
- Procurement Journey Route maps and tender toolkit