

## **Anti-Fraud, Bribery and Corruption Policy 2021-2022**

### **Introduction**

This document sets out the Norfolk County Council (NCC) policy in preventing, detecting and where required dealing with identified or suspected fraud, bribery and corruption, and: provides the procedure on the reporting lines within NCC for such concerns to be raised.

NCC is committed to the eradication of fraud, bribery and corruption (including theft) and to the promotion of high standards of integrity. Fraud, Bribery and Corruption are not acceptable, and will not be tolerated. NCC will seek the appropriate disciplinary, regulatory, civil and/or criminal sanctions against fraudsters and where possible, will attempt to recover losses. The aim of this policy and response plan is to protect the public purse, NCC, its staff and its service users from corrupt activities that would undermine NCC's aims and objectives of meeting public service requirements.

To meet its objectives and priorities in 'Caring for Norfolk', NCC has adopted the staged strategic approach detailed within the document: 'Fighting Fraud and Corruption Locally (FFCL), the local government counter fraud and corruption strategy for the 2020's':

- 1) **Govern:** having robust arrangements and executive support to ensure anti-fraud, bribery and corruption measures are embedded throughout NCC.
- 2) **Acknowledge:** acknowledging and understanding fraud risks and committing support and resource to tackling fraud in order to maintain a robust anti-fraud response.
- 3) **Prevent:** preventing and detecting more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture.
- 4) **Pursue:** punishing fraudsters and prioritising the recovery of losses via a triple track approach (Civil, Criminal or Disciplinary), developing capability and capacity to investigate fraudsters and developing a more collaborative and supportive law enforcement response.

NCC will endeavour to take all necessary steps to counter fraud, bribery and corruption (including theft) in accordance with guidance or advice issued by central government, the police service and other professional agencies and organisations such as; the Chartered Institute of Public Finance and Accountancy (CIPFA).

Further information on the activities undertaken by NCC in pursuance of the strategic goals can be found in the NCC Anti-Fraud, Bribery and Corruption Operational strategy (v2017).

**Scope**

This policy applies to all employees of NCC as well its members, contractors, suppliers, partners, consultants, wholly/partly owned companies and their subsidiaries, and external organisations

This policy also applies to members of the public and other parties who have a business relationship with NCC.

This policy relates to all forms of fraud, bribery and corruption (including theft) and is intended to provide assistance to all those who may identify any suspected criminal activity that has a financial implication on NCC's resources.

This policy, along with the NCC Anti-Fraud, Bribery and Corruption Operational Strategy (v2017) aims to:

- Provide a robust framework for responding to allegations of fraud, bribery and corruption and provide advice and information on various aspects of fraud and the implications of an investigation.
- Ensure a counter fraud, bribery and corruption culture is promoted and embedded across NCC's members, employees, consultants, suppliers, contractors, outside agencies and their employees, any other party that NCC is in a formal partnership relationship with including the wholly and partly owned companies.
- Ensure that any financial irregularity or suspected financial irregularity or allegation of fraud, bribery or corruption involving any of the stakeholders mentioned above is promptly reported via the correct reporting lines and investigated to a conclusion.
- Provide information to everyone within NCC about the risk of fraud, bribery corruption and promote an environment where staff feel able to raise concerns sensibly and responsibly and;
- Ensure the appropriate sanctions are considered following an investigation via a triple track approach, which may include any or all of the following:
  - Criminal prosecution;
  - Civil proceedings; and/or
  - Disciplinary action (including referrals to professional bodies and regulators)

So far as practical, this policy should be brought to the attention of all those mentioned above so as to enable the reporting of any concerns relating fraud, bribery and corruption in the appropriate manner.

**Policy**

All those mentioned within the scope of this policy have an explicit responsibility to protect the assets of the NCC, including all buildings, equipment and monies from fraud, bribery, corruption and theft.

NCC positively encourages anyone having a reasonable suspicion that fraud, bribery and/or corruption is occurring (which impacts NCC) to raise any concerns that they may have in accordance with this policy.

The NCC's Whistleblowing Policy, states that no individual will suffer any detrimental treatment as a result of reporting 'reasonably held' suspicions. NCC is committed to the enforcement of this policy and its provisions ('reasonably held' means suspicions other than those which are raised maliciously and are subsequently found to be groundless).

The Public Interest Disclosure Act 1998 came into force in July 1999 and gives statutory protection, within defined parameters, to staff members who make disclosures about a range of subjects, including fraud, bribery and corruption, which they believe to be happening within the organisation employing them.

Any disclosure made by an employee will count as a "qualifying disclosure" if the employee reasonably believes that the disclosure is both "made in the public interest" and fits into of the categories set out in Employment Rights Act 1996 as follows;

- (a) That a criminal offence has been committed, is being committed or is likely to be committed,
- (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) That a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) That the health or safety of any individual has been, is being or is likely to be endangered,
- (e) That the environment has been, is being or is likely to be damaged, or
- (f) That information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

NCC will investigate all allegations of fraud, bribery and corruption and take appropriate action against those who are found to breach its policies and procedures, or have committed a criminal offence, including possible criminal prosecution. Additionally, NCC will take steps to recover any assets lost as a result.

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Malicious unfounded allegations may be subject to a full investigation and appropriate disciplinary action.

Anyone having reasonable suspicions that fraud, bribery or corruption has occurred (or may occur) should report it to the Chief Internal Auditor or Chief Legal Officer immediately so that a proper assessment of the allegation can be made and that appropriate investigation be undertaken by trained individuals.

Bribing anybody is absolutely prohibited. This means that you will not offer, promise, reward in any way, or give a financial or other advantage to any person in order to induce that person to perform his/her function or activities improperly. Similarly, you are not permitted to receive a financial or other advantage from any person in order to induce you to perform your function or activities improperly.

NCC procures goods and services ethically and transparently with quality, price and value for money determining the successful supplier/contractor, not by receiving (or offering) improper benefits. NCC will not engage in any form of bribery, neither in the UK nor abroad. NCC and all employees, irrelevant of their grade and position, shall at all times comply with the Bribery Act 2010 and with this policy. The use of intermediaries for the purpose of committing acts of bribery is prohibited.

Where NCC is engaged in commercial activity it could be considered guilty of a corporate bribery offence if an employee, agent, subsidiary or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for NCC and it cannot demonstrate that it has adequate procedures in place to prevent such. NCC does not tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.

Recovery of any losses will always be sought – see section on sanctions and redress.

**Conflicts of Interest**

All employees of NCC, as well its members must consider their personal or business commitments and, where they could have a perceived or direct interest on a matter or they may have some influence over a decision being taken by the Council, they must openly declare this interest and not participate in discussions about it, or be part of any decision making processes. The rules relating to the disclosure and registration of interests are set out in the Code of Conduct for employees, and the Code of Conduct for members.

**Facilitation Payments**

Facilitation payments are prohibited under the Bribery Act like any other form of bribe. They shall not be given or received by NCC, or by NCC members and employees whether working in the UK, or abroad.

**Gifts and Hospitality**

Courtesy gifts and hospitality must not be given or received in return for services provided or to obtain or retain business but shall be handled openly and unconditionally as a gesture of esteem and goodwill only. Gifts and hospitality shall always be of symbolic value only, appropriate and proportionate in the circumstances, and consistent with local customs and practices. They shall not be made in cash. Please refer to NCC's Standards of Conduct and Behaviour Policy (P319) and register for further guidance.

Under no circumstances should any gifts or hospitality be accepted from contractors or suppliers who are potential tenderers in the period leading up to the tendering and awarding of any contract by NCC.

**Definitions****Fraud**

The Fraud Act 2006 came into force on 1 July 2007 and created three main criminal offences:

Fraud by false representation;  
Fraud by failing to disclose information; and,  
Fraud by abuse of position.

For fraud to occur it must be established that the offenders conduct is dishonest, and it is their intention to make a gain, or cause a loss (or the risk of a loss) to another.

Upon conviction, offences of fraud carry a maximum sentence of 10 years imprisonment.

**Bribery and corruption**

The Bribery Act 2010 reformed criminal law regarding bribery related offences, making it easier to tackle this offence proactively in both the public and private sectors. Four main offences of bribery were created as a result of the act:

- Offence of bribing another person  
Offence of being bribed
- Bribery of foreign public officials
- Failure of commercial organisations to prevent bribery

The corporate offence of failure to prevent bribery means that commercial organisations (including public organisation's wholly owned companies, subsidiary companies, and traded services) and their boards may be exposed to criminal liability if it is found that adequate procedures to prevent bribery have not been implemented.

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Bribery is generally defined as giving or offering someone a financial or other advantage to encourage that person to perform their functions or activities improperly or; to reward that person for having already done so; or requesting, agreeing to receive or accepting the advantage offered.

Upon conviction, offences of bribery carry a maximum sentence of 10 years imprisonment and unlimited fines.

It is a common law offence of bribery to bribe the holder of a public office and it is similarly an offence for the office holder to accept a bribe.

Bribery prosecutions tend to be most commonly brought using specific pieces of legislation dealing with bribery, i.e. under the following:

- Bribery Act 2010
- The Anti-terrorism, Crime and Security Act 2001.

**Public Service Values**

All those who work for or are in contract with NCC and its members should exercise the following when undertaking their duties:

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|-----------------------|--|
| <b>Selflessness</b>   | Should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.             |
| <b>Integrity</b>      | Should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.                   |
| <b>Objectivity</b>    | Should, in carrying out public business, (including making public appointments, awarding contracts, or recommending individuals for rewards and benefits), make choices on merit.                    |
| <b>Accountability</b> | Are accountable for their decisions and actions to the public and must submit them to whatever scrutiny is appropriate to their office.  |
| <b>Openness</b>       | Should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest demands. |
| <b>Honesty</b>        | Have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.                          |

**Leadership** Should promote and support these principles by leadership and example.

These standards are national benchmarks that support NCC policies and procedures.

## **Roles and Responsibilities**

**Elected Members:** Required to support and promote the development of a strong Anti-fraud, bribery and corruption culture by working to promote NCC's zero tolerance approach to tackling financial crime and:

- Keep up to date with relevant legislation and responsibilities related to fraud, bribery and corruption.
- Raise matters of concern that may come to their attention.
- Encourage the public to report concerns
- Pass on concerns raised by the public to the appropriate personnel.
- Participate in relevant reviews, disciplinary hearings or appeals as required.

**Audit Committee:** To have oversight of the anti-fraud and corruption arrangements including the strategy, policies and any associated guidance. Review, consider, approve and monitor the strategy and consider the adequacy and effectiveness of the arrangements for anti-fraud, Bribery, Corruption and Whistleblowing.

**Managing Director:** (Including NCC Companies): Has overall accountability for the effectiveness of the Council's arrangements for countering fraud, bribery, corruption, and theft.

**Section 151 Officer:** Required by the Local Government Act 1972, the Section 151 Officer is nominated to take responsibility for making arrangements for the proper administration of a local authority's financial affairs, including anti-fraud and corruption strategies and measures. Norfolk County Council's Section 151 Officer is the Executive Director of Finance and Commercial Services.

**Monitoring Officer (Chief Legal Officer):** To advise Councillors and officers on ethical issues, standards and powers to ensure that the Council operates within the Law and statutory Codes of Practice. Assisted by advice from the Chief Internal Auditor to lead on the promotion of the Strategy including training and publicity. To review the Strategy as required and report annually to the Audit Committee.

**Chief Internal Auditor:** To support and advise the Chief Legal Officer in respect of the internal audit function and; include an assurance statement on Anti-Fraud, Bribery and Corruption controls in the Annual Report to the Audit Committee. To develop on-going measuring and monitoring techniques to evaluate, remedy and continuously improve fraud, bribery and corruption prevention and

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detection. The measurable criteria and results are to be reported to the Audit Committee. To ensure that anti-fraud and corruption work is risk assessed and adequately staffed. To risk assess allegations as they arise and investigate where appropriate

**Norfolk Audit Services (NAS):** Responsible for implementing the NCC Operational Strategy and investigating any fraud, bribery and corruption issues. To monitor, action and respond to whistle blowers as required. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this policy and that action is identified to improve controls and reduce the risk of recurrence. To report on Anti-Fraud and Corruption arrangements to the Audit Committee on an annual basis

**Human Resources (HR):** Will liaise closely with Managers and Internal Audit from the outset, where an employee is suspected of being involved in fraud, Bribery, Corruption or Theft in accordance with the NCC Disciplinary Policy and Disciplinary Action Review Group (DARG) Guidance. The HR Department shall advise those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures. Close liaison between NAS and HR will be essential to ensure that any parallel sanctions (i.e. criminal and disciplinary) are applied appropriately, effectively and in a coordinated manner.

**Managers:** To promote employee awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit or Chief Legal Officer. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption, theft or bribery and to reduce these risks by implementing robust internal controls and monitoring these controls. To report suspicions or incidents promptly.

**Employees:** To comply with Council policies and procedures, to be aware of the possibility of fraud, bribery corruption or theft and to report promptly any genuine concerns to Chief Internal Auditor, the Chief Legal Officer, the Managing Director or the Executive Director of Finance and Commercial Services.

**Members of the Public, Partners, Owned Companies, Suppliers, and Contractors & Consultants:** To report any genuine concerns or suspicions relating to fraud, bribery, corruption or theft to NCC.

**External Audit:** Any incident or suspicion that comes to External Audit's attention will be passed immediately to Chief Legal Officer.

**Information Management and Technology:** The Head of IM&T will contact the NAS in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate internet/intranet, e-mail, telephone, PDA use and any offence under the Computer Misuse Act 1990.



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Human Resources will be informed if there is a suspicion that an employee is involved.

**The Response Plan**

This section outlines the action to be taken where fraud, bribery or other illegal acts involving dishonesty, inappropriate Internet use, or damage to property are discovered or suspected. For completeness, it also deals with the action to be taken where theft is discovered or suspected.

Investigation of the majority cases of alleged fraud, bribery or corruption reported will be the responsibility of NAS. NAS will regularly report to the Chief Legal Officer on the progress of an investigation.

Through the DARG guidance NAS, along with Human Resources and the Chief Legal Officer (or nominated person) will decide who will conduct the investigation and when/if referral to the police is required (with the agreement of the Managing Director).

**Reporting fraud, bribery or corruption**

If any of the concerns mentioned in this document come to the attention of a member, employee or any other person associated with NCC, they should report it to the **Chief Internal Auditor** or **Chief Legal Officer immediately**. Employees can also call the NCC Whistleblowing line on 01603 224433 as an alternative to internal reporting procedures if staff wish to remain anonymous. This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting NCC. It allows NCC staff members who are unsure of internal reporting procedures to report their concerns in the strictest confidence.

**Contact information for the above is listed in Appendix A.**

Any allegations of fraud, corruption, theft or bribery made against our Members will be fully investigated in accordance with the provisions of the Local Government Act 2000 and any subsequent statute or codes of practice.

Following an appropriate investigation, the Standards Committee is responsible for the initial assessment into Members misconduct.

The Council will fully assist the Standards Committee or other law enforcement agencies with any investigation concerning a Member.

Allegations about Members that are received by Internal Audit will be referred immediately to the Monitoring Officer. The Monitoring Officer may utilise Internal Audit for the purposes of any investigation relating to financial matters.

Anonymous letters, telephone calls etc. are received from time to time from individuals who wish to raise matters of concern, but not through official channels.

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While the allegations may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and should always be taken seriously.

Sufficient enquiries will be made by NAS to establish whether or not there is any foundation to the allegations. If the allegations are found to be malicious, they will also be considered for further investigation as to their source.

For all of NCC's wholly or partly owned companies it is the responsibility of managers to establish and maintain systems of internal control and to ensure that the Council's resources are properly applied.

Any allegations of fraud, corruption, theft or bribery made against the employees of wholly or partly owned companies will be fully investigated in accordance with disciplinary procedures, statute or codes of practice. Following an appropriate investigation, the company's Managing Director or equivalent is responsible for the initial assessment into employee misconduct.

For external organisations and members of the public, any matters that are raised will be considered and if appropriate formally investigated or referred to the Police.

**External Communications:** Individuals (be they members, employees, agency staff, contractors or suppliers) must not communicate with any member of the press, media or another third party about a suspected fraud as this may seriously damage the investigation and any subsequent actions to be taken. Anyone who wishes to raise such issues should discuss the matter with either the Managing Director or Chief Legal Officer.

**Training:** NCC will provide training to all relevant employees on a periodical basis to make them aware of our Anti-Fraud and Bribery and Corruption Policy and guidelines, including how employees may report suspicion. Further information can be found in the NCC Operational Strategy (v2017).

### **Sanction and Redress**

In cases of fraud, bribery, corruption and theft, separate or coinciding sanctions may be applied. For example:

- Disciplinary action relating to the conduct of an employee may be instigated alongside the use of civil law to recover lost funds; and
- The use of criminal law to apply an appropriate criminal penalty upon an individual may be used alongside disciplinary action - if appropriate. (This list is non-exhaustive).

Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. The appropriate senior manager, in conjunction with the HR department, will be responsible for initiating any necessary disciplinary action. Arrangements may be made to recover losses via payroll if the subject is still employed by NCC. In all cases, current legislation must be complied with.

The civil recovery route is also available to NCC if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court. Each case needs to be discussed with Chief Legal Officer to determine the most appropriate action.

Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the police. Outcomes can range from a criminal conviction to fines and imprisonment.

The seeking of financial redress or recovery of losses will always be considered in cases of fraud or bribery that are investigated by NAS or NCC where a loss is identified. Redress can take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the organisation and the offender to repay monies lost. The decisions for redress will be taken in the light of the particular circumstances of each case.

Redress allows resources that are lost to fraud and bribery to be returned to the NCC for use as intended, for provision of high-quality public services. Depending on the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under Proceeds of Crime Act 2002 (POCA). This means that a person's money or assets are taken away from them if it is believed that the person benefited from the crime. It could also include restraining assets during the course of the investigation. When considering seeking redress recovery may also be sought from on-going salary payments or pensions.

When taking into consideration all the facts of a case, it may be that (upon agreement with the Chief Legal Officer and Managing Director) in some cases NCC decides that no further recovery action is taken.

### **Review of the Policy**

This policy will be reviewed by NAS every two years or sooner depending on legislative changes.

### **Additional Information**

**Any abuse or non-compliance with this policy or procedures may be subject to investigation and appropriate disciplinary action.**

### **Related Documents**

NCC Anti-Fraud, Bribery and Corruption Operational Strategy - (v2017)  
Whistleblowing Policy  
Standards of Business Conduct Policy  
Disciplinary Policies and Guidance  
Constitution

**Appendix A - Reporting Concerns**
**What to do:**

If any of these concerns come to light you must immediately report your suspicions and what you have discovered to one of the following:

Name	Email	Telephone number
Adrian Thompson Chief Internal Auditor	<a href="mailto:adrian.thompson@norfolk.gov.uk">adrian.thompson@norfolk.gov.uk</a>	01603 222777
Helen Edwards Practice Director	<a href="mailto:helen.edwards2@norfolk.gov.uk">helen.edwards2@norfolk.gov.uk</a>	01603 222971
Whistleblowing Hotline	<a href="mailto:reportconcerns@norfolk.gov.uk">reportconcerns@norfolk.gov.uk</a>	01603 224433