

SANCTIONS POLICY (FRAUD)

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DOCUMENT CONTROL

Changes History

Issue No	Date	Amended By	Summary of Changes
1.0	18/06/2019	Christos Constantinou	Creation of Sanction policy document
1.1	22/07/2019	Christos Constantinou	Review and minor changes
1.2	23/07/2020	Christos Constantinou	Review and minor changes
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Authorisation (Responsible Owner)

Role	Name	Approval Date
Counter-Fraud Manager	Christos Constantinou	17/05/2023

Approval (Accountable Owner)

Role	Name	Approval Date
Chief Financial (S151) Officer	Louise Aynsley	22/05/2023

Reviewers (Consulted)

Role & Review Responsibilities	Name	Approval Date
Peter Frost	Head of Internal Audit	18/05/2023

Distribution List - Once authorised (Informed)

Name	Organisation
All County Council Staff & Councillors	County Council

Review Period

Date Policy to be Reviewed	By whom
31/05/2024	Christos Constantinou

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INTRODUCTION

1. Suffolk County Council takes its responsibility to protect public funds seriously and expects its business to be conducted to the highest ethical and legal standards. The Council has a zero tolerance to fraud, theft and corruption. Where there is evidence of fraud, theft or corruption against the Council, those responsible, whether internal or external to the Council, will be held accountable for their actions using the full range of sanctions available. The use of sanctions is governed by this policy that sets out appropriate action to take.
2. This Policy forms part of the Council's counter fraud framework and its objectives are:
 - 1) To ensure sanctions are applied fairly and consistently;
 - 2) To ensure sanctions are applied in an efficient and cost-effective way;
 - 3) To set out the range of sanctions available;
 - 4) To ensure the sanction decision making process is robust, transparent and fair.
3. The Council will investigate allegations of fraud, theft, corruption or irregularity. This will be in line with the Council's Fraud Response Plan. Following an investigation, a range of factors will require consideration before deciding on appropriate sanction, including the individual circumstances of each case, the impact on the individual and the wider community, and the seriousness of the offence.

SANCTION OPTIONS

4. Where there is evidence of fraud, theft or corruption, the following options will be considered:
 - 1) No further action;
 - 2) Referral to professional bodies;
 - 3) Disciplinary action;
 - 4) Civil proceedings;
 - 5) Criminal prosecution
 - 6) Simple Caution.
5. The Council will consider any of the above options and parallel sanctions may be pursued.

No further action

6. The Council may consider, following an investigation, closing a case without taking any further action.

Referral to professional bodies

7. Where there is adequate evidence that a person or entity has breached professional duties or responsibilities, the Council will refer the matter to the relevant professional body.

Disciplinary Action

8. In the event that an allegation is made against a Council employee, Internal Audit & Counter Fraud Services will consult with the Council's Human Resources (HR) Team and appropriate action will be taken through following the HR Disciplinary Policy. The investigating officer may be a member of Internal Audit & Counter Fraud Services or support may be provided to the investigating officer appointed through the HR Disciplinary process.
9. Sanctions may include warnings or dismissal and alongside this, additional sanction options will be considered including referral to professional bodies, civil proceedings and criminal prosecutions.
10. If during the course of an investigation or disciplinary action, the employee suspected of fraud, theft or corruption chooses to resign, the Council will continue to pursue referral to professional bodies, civil proceedings or criminal prosecution where appropriate.
11. In the event of an allegation against a County Councillor in relation to fraud, theft or corruption against the Council, this will be reported to the Monitoring Officer, who will agree the action to be taken with the Chief Executive and Chief Financial Officer. Depending on the circumstances of the case, criminal proceedings may be instigated also.

Civil Proceedings

12. The Council may take civil proceedings where appropriate.
13. Regardless of whether or not any sanction action is taken, the Council will seek, where appropriate, to recover any overpaid, misused or unfairly gained monies. The following measures may be considered in the pursuit of financial recovery:
 - Consultation with the Council's Payroll and Pensions Teams to redress financial loss caused by employees. The Council will attempt to recover the loss from the capital value of the individual's accrued benefits in the Pension Scheme if they are a member, which are then reduced as advised by the actuary;
 - Recovery of money through appropriate legal proceedings;
 - Legal action such as search orders and freezing / tracing injunctions to preserve evidence and assets.

14. There will be overpayments which are not due to fraud, and the Council will determine appropriate recovery in these cases.

Criminal Prosecution

15. Where the Council considers it 'expedient for the promotion or protection of the interests of the inhabitants of their area', Section 222 of the Local Government Act 1972 empowers the Council to:
- Prosecute or defend or appear in legal proceedings and, in the case of civil proceedings, institute them in their own name; and
 - In their own name, make representations in the interests of residents at any public inquiry held by or on behalf of a public body under an enactment.
16. Furthermore, Section 223 of the Local Government Act 1972 allows a 'Local Authority to authorise any member if its staff to prosecute or defend designated matters in magistrates' court'.
17. In the most serious of cases, the Council will consider the prosecution of those offenders suspected to have committed fraud or theft. Where the Council considers there is sufficient evidence (based on the Code for Crown Prosecutors) to indicate a criminal act has taken place, a decision will be made whether to undertake a criminal prosecution utilising the Council's Legal Services (or contracted legal representatives). This decision will be made by the Head of Internal Audit, the Head of Legal Services, the Section 151 Officer and the relevant Director (or delegated appropriately).
18. Before a decision is taken whether or not to prosecute, the Council will be guided by the Code for Crown Prosecutors and will only initiate legal action if, following legal advice, it has satisfied the following two tests:
- 1) Evidential Test – the evidence must be:
 - a) Clear, reliable and admissible in court; and
 - b) Strong enough for a realistic chance of prosecution. i.e. to prove a case 'beyond reasonable doubt'.
 - 2) Public Interest Test – whether the prosecution is in the public interest, taking into account:
 - a) Seriousness and / or monetary value of the offence;
 - b) Cost and proportionality of the prosecution;
 - c) Age and health of the suspect;
 - d) Culpability of the suspect;
 - e) Circumstances of and harm caused to the victim; and
 - f) Impact on the community.

19. Where a case has been referred to the Police to investigate, the final decision as to whether or not to pursue the case will be taken by the Police or the Crown Prosecution Service.
20. The Council will conduct the investigation in accordance with the Criminal Procedure and Investigations Act 1996 and the Police and Criminal Evidence Act 1984.
21. Criminal proceedings may be brought for a suspected offence under the following legislation:
 - The Theft Act 1968 (as amended 1996);
 - The Fraud Act 2006;
 - Forgery and Counterfeiting Act 1981;
 - Computer Misuse Act 1990;
 - Identity Documents Act 2010;
 - The Bribery Act 2010;
 - Road Traffic Regulation Act 1984;
 - Any other relevant provision in law.
22. Any criminal proceedings will include an attempt to recover money under the Proceeds of Crime Act 2002.

Simple Caution

23. A Simple Caution (previously known as a Formal Caution) is an admission of guilt to the commission of an offence for which there is a realistic prospect of conviction. It is not a form of sentence or a criminal conviction.
24. The benefit of the Simple Caution is that the offender is thereby diverted from the Criminal Justice System; the offence is recorded by the Council and should the individual or body re-offend, the caution, as an admission of guilt, may be cited in evidence against them in any subsequent proceedings under the provisions of the Criminal Justice Act 2003.
25. It is, however, emphasised that issuing a Simple Caution must only be used where a prosecution could be properly brought. It follows therefore, that if an offender refuses to agree a Simple Caution the matter should normally be referred for prosecution.
26. The criteria for offering a Simple Caution is as follows:
 - a) The offender is 18 years old, or over;
 - b) There is sufficient evidence to provide a realistic prospect of conviction;
 - c) The offender makes a clear, reliable and recordable admission of the offence, which is compliant to the Police and Criminal Evidence Act 1984;

- d) It is in the public interest to issue a Simple Caution to dispose of the matter;
 - e) The offender agrees to being cautioned.
27. Cautions will be considered in any case that would ordinarily meet the public interest test for prosecution but where there are specific circumstances that weigh firmly against it.
28. There will be occasions where not all of the above criteria are met, however a caution may still be appropriate. Every case will be considered on its own merits and legal advice will be sought where there is doubt whether a caution is an appropriate method. All decisions to offer a caution will be fully documented and the factors used in reaching the decision recorded.
29. Simple Cautions shall be administered by a suitably trained officer to whom the relevant authority has been delegated. It is essential that the offender understands the significance of signing a caution and gives his/her informed consent. This means that the officer administering the caution must fully explain the implications and consequences to the offender. Once the Simple Caution has been administered, the offender should sign a form accepting the terms of the caution and should be given a copy of the acceptance pro-forma to take away.
30. The details of the Simple Caution must be immediately and accurately recorded on the Council's Cautions Register.

Parallel Sanctions

31. It is preferable for the appropriate sanctions to proceed simultaneously, but it is not necessary for anyone to await the result of another before concluding. However, due consideration must be given to all proceedings to ensure that one does not impact improperly upon another. The decision to run parallel sanctions will be determined on a case by case basis.

PARTNERSHIPS

32. Where appropriate, the Council will work in partnership with other organisations such as the Police, other Local Authorities, Department for Work and Pensions, His Majesty's Revenue and Customs, UK Borders Agency and the Home Office.

PUBLICITY

33. It is the Council's intention to positively promote this Policy, as well as the outcome of any prosecutions, which will deter others from fraudulent activity and reassure the public that the Council does act against those committing, or attempting to commit, fraudulent and or corrupt acts. Consideration will be given to whether the outcome of any sanction case should be reported to the

community via various media channels. Publicity, where appropriate, will ensure the profile of counter fraud activity remains at a level which will contribute to ensuring the key objectives of preventing and detecting fraud are met.

RELATED POLICIES

- **Anti-Fraud and Corruption Policy**

This Policy is part of the Council's Constitution and sets out the Council's approach to countering fraud and corruption.

- **Code of Conduct**

The Council's Code of Conduct sets out the minimum standards that employees should observe. It helps maintain and improve standards and protect employees from misunderstanding or criticism.

- **Whistleblowing Procedure**

Whistleblowing is 'making a disclosure in the public interest'. The Council's Whistleblowing Procedure provides a mechanism through which people can raise concerns considered 'protected disclosures' in addition to a systematic process for the making and / or investigating of such disclosures.

- **Anti-Money Laundering Policy**

Money laundering is the method by which 'dirty' money is passed through financial systems to appear like 'clean' money. The Council's Anti-Money Laundering Policy sets out the procedures to be followed to enable the Council to meet its legal obligation and prevent, detect and report any suspected money laundering.

- **Anti-Bribery Policy**

Bribery is the giving or receiving of financial or other advantage in connection with the "improper performance" of a position of trust. The Council's Anti-Bribery Policy provides a framework for employees to understand bribery and prevent, detect and report its occurrence.

- **Fraud Response Plan**

This policy provides sets out how the Council will respond to allegations and provides guidance on how to report suspected fraud.