

**Tyne and Wear Fire  
and Rescue Service**



**FPP020 -  
Counter-Fraud  
Framework**



## **1 Introduction**

- 1.1 Tyne and Wear Fire and Rescue Service (the Service) is committed to preventing, detecting and deterring fraud, bribery and corruption to ensure public funds are used for their intended purposes. The objective of this framework is to limit the Service's exposure to fraud, bribery and corruption, minimise financial loss and the potential adverse effects on the Service's reputation in the event of an occurrence.
- 1.2 The Service expects the highest ethical standards from its staff and maintains a zero tolerance approach to fraud, bribery and corruption, whether it is attempted from outside or within the Service. This framework sets out the Service's counter fraud approach and includes definitions and guidance for staff about how to report concerns and the investigation process.
- 1.3 Staff are encouraged to raise a concern whether suspected or identified and the Whistleblowing (confidential reporting) Policy provides guidance on how to do this and safeguards those who do so.
- 1.4 All cases of suspected fraud, bribery or corruption must be reported to the Deputy Chief Fire Officer (DCFO). In the event this is not appropriate or possible, and / or the concern relates to the DCFO, then the matter can be raised with the Chief Fire Officer (CFO), Finance Director (Section 151 Officer), Senior Information Risk Officer (SIRO), Monitoring Officer or any other member of the Executive Leadership Team (ELT).
- 1.5 All cases of suspected financial irregularity must be reported to the Finance Director (Section 151 Officer).
- 1.6 Failure to comply with this framework and policies contained may result in sanctions being considered and where appropriate, applied.

## **2 Aims**

- 2.1 This framework forms part of the Service's counter fraud approach and includes interrelated policies and procedures including the Code of Conduct and Ethics, Standing Orders, Financial Regulations and the whistleblowing (confidential reporting) policy. This document includes policies and procedures that are specifically targeted at countering fraud, bribery and corruption. These are attached as the following appendices:
  - Appendix A - Reporting categories by which fraud, bribery and corruption are reported;
  - Appendix B - Anti-bribery policy outlining measures to combat acts of bribery by staff or to anyone carrying out business for or on behalf of the Service
  - Appendix C - Fraud response plan, which provides guidance on reporting concerns and the investigation process.
  - Appendix D - Sanctions policy explaining how to determine which sanctions are appropriate when fraud, bribery or corruption is identified.
- 2.2 Collectively the framework aims to:
  - Embed a culture where staff are empowered to challenge dishonest behaviour;
  - Actively prevent, deter and promote detection of fraudulent and corrupt acts;
  - Maintain awareness of emerging fraud risks such as those associated with digital and cyber security;
  - Ensure a quick and appropriate response to instances of alleged fraud, bribery or

corruption; and

- Provide clear guidance on the roles and responsibilities of staff for investigative and remedial action.

### 3 Definitions

- 3.1 **Fraud** – is a criminal offence as defined by the Fraud Act 2006. Most commonly, it occurs when a person dishonestly makes a false representation in order to gain for themselves or cause loss to another.
- 3.2 **Bribery** – is the act of offering, giving, receiving, or seeking an inducement or reward intended to influence the performance of a relevant function or duty to gain a personal, commercial, regulatory, or contractual advantage. Inducements can take the form of gifts, loans, fees, rewards or other privileges.
- 3.3 **Corruption** – is the abuse of entrusted power for private gain. It affects everyone who depends on the integrity of people in a position of Service. The Bribery Act 2010 repealed all Corruption Acts in whole and therefore, whilst corruption exists as a term, any offences committed would fall under the Bribery Act.
- 3.4 Appendix A provides definitions and legal background in respect of fraud, bribery and corruption.

### 4 Culture

- 4.1 The Service is committed to the highest ethical standards by encouraging staff to adhere to the behaviors set out in the Code of Conduct and Ethics, as well as abiding by all legal rules, regulations, policies and procedures.
- 4.2 The Service expects that staff carrying out its business will do so in the public interest and the promotion of a strong anti-fraud culture is vital to this. It is important that staff actively support the Code of Conduct and Ethics by applying the ethical principles to their own behaviors and challenging poor or dishonest behavior. This should deter potential fraudsters but it will also encourage a safe environment in which individuals can raise concerns.
- 4.3 The whistleblowing (confidential reporting) policy supports this framework by providing a mechanism for staff to raise serious concerns. A qualifying disclosure is defined as any disclosure of information about something that an individual ‘reasonably believes’ has occurred, is occurring or is likely to occur, relating to one or more of the following:
- A criminal offence
  - A breach of any legal obligation
  - A miscarriage of justice
  - Endangering the health and safety of any individual (including risks to staff, volunteers, contractors, visitors and members of the public)
  - Damage to the environment
  - Deliberately concealing of information about any of the above<sup>1</sup>.

### 5 Strategic approach

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<sup>1</sup> This might cover, for example, breaches of confidentiality; conflicts of interest; negligent advice; financial fraud, bribery, harassment of others; and health and safety breaches.

5.1 Fraud is secretive and conducted in a manner that fraudulent actions are actively concealed. Therefore it is important that the Service operates a strong and robust anti-fraud culture and the four step approach is detailed in the table below:

- Acknowledge
- Prevent
- Detect
- Respond.

<b>Acknowledge</b>	<ul style="list-style-type: none"> <li>• Acknowledge and understand fraud and misconduct risks;</li> <li>• Consider the risks the Service faces from fraud, bribery and corruption;</li> <li>• Develop and maintain a strong framework of internal controls;</li> <li>• Commit support and resources to tackling fraud; and</li> <li>• Maintain a robust counter fraud response.</li> </ul>
<b>Prevent</b>	<ul style="list-style-type: none"> <li>• Develop and maintain an effective and strong anti-fraud culture;</li> <li>• Implement a robust anti-fraud and misconduct programme;</li> <li>• Ensure the Code of Conduct and Ethics is effectively communicated;</li> <li>• Conduct staff and third-party due diligence; and</li> <li>• Provide fraud awareness training.</li> </ul>
<b>Detect</b>	<ul style="list-style-type: none"> <li>• Promote whistleblowing and the policy;</li> <li>• Maintain and promote a confidential reporting hotline;</li> <li>• Make use of data and technology to prevent and detect fraud and wrongdoing;</li> <li>• Enhance fraud controls and processes; and</li> <li>• Share knowledge and data of known fraud and best practice on fraud risk and prevention.</li> </ul>
<b>Respond</b>	<ul style="list-style-type: none"> <li>• Develop and maintain internal investigation protocols and disclosure protocols;</li> <li>• Provide a consistent and effective response for dealing with fraud cases;</li> <li>• Develop capability and capacity to pursue fraud and wrongdoing;</li> <li>• Collaborate across fire sector and with law enforcement; and</li> <li>• Ensure capability and capacity to investigate and prosecute fraud.</li> </ul>

5.2 Acknowledge

5.2.1 The Service acknowledges that fraud risks exist from both within and outside the Service. These are recorded on the corporate risk register that is updated on a regular basis to reflect emerging risks and changes to the likelihood and impact of risks in light of developments.

5.2.2 The Service’s internal control environment is designed to prevent and detect irregularity, misconduct, and fraud. This framework includes the following key documents:

- Code of Conduct and Ethics;
- Codes of Conduct issued by relevant Professional Institutes;
- Standing Orders;
- Financial Regulations;
- ICT Information Security Policy;
- Acceptable Use Policy (ICT);

- Complaints Policy and Procedure;
- Whistleblowing (confidential reporting) Policy and Procedure; and
- Discipline Policy and Procedure.

5.2.3 The Service's response to fraud, bribery and corruption is documented in a Fraud Response Plan (Appendix C), which is designed to make suitable resources and support available should any wrongdoing arise.

5.2.4 The success of this framework is dependent on the awareness and training of staff. In recognition of this, the Service will include information on the counter fraud framework in relevant training and e-learning packages including the anti-fraud and bribery training. This should assist staff with the identification of instances of possible fraud, bribery or corruption.

5.2.5 The Service regularly reviews its approach to tackling fraud, bribery and corruption, taking into consideration emerging risks, themes and trends from both within the Service, across the wider fire sector and any national developments.

### 5.3 Prevent

5.3.1 The detection, prevention and reporting of fraud is the responsibility of all staff and they are expected to:

- Act with integrity at all times;
- Comply and adhere to the Code of Conduct and Ethics; and
- Raise concerns as soon as any impropriety is suspected.

5.3.2 The Anti-bribery policy (Appendix B) provides an overview of the Service's approach to reducing and controlling the risk of bribery.

5.3.3 The Service's business is scrutinised by a range of bodies and individuals, including:

- The Fire Authority and its associated committees which include the independently chaired Governance Committee;
- External Audit;
- Internal audit;
- His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS);
- His Majesty's Revenue and Customs (HMRC);
- Suppliers;
- Service users; and
- The Public.

5.3.4 The Service will improve internal controls and processes by learning from instances of proven fraud, bribery and corruption and will also take into account any findings from the work of Internal Audit.

5.3.5 Internal Audit undertake an annual programme of audit, which is closely aligned with the Service's risk base, designed to provide assurance over the systems of internal control. The system of internal control is based on an ongoing process designed to identify the principal risks, evaluate the nature and extent of those risks and to manage them effectively. Managing the risk of fraud forms part of this process.

5.3.6 The assessment of internal financial controls by Internal Audit not only involves electronic data interrogation techniques, but risks are assessed based on previous work carried out

over a three-year period as part of Internal Audit's rolling programme. Therefore the work of Internal Audit assists towards fraud prevention.

5.3.7 A key measure of prevention is to take effective steps at the recruitment stage to identify potential employees in terms of their propriety and integrity. Hiring managers should comply with the Recruitment Policy when conducting pre-employment checks such as verifying identity, obtaining references, confirming the right to work in the UK and, when necessary, Disclosure and Barring Service (DBS) checks. Once recruited, staff are expected to adhere to the Code of Conduct and Ethics and where applicable to follow standards of conduct issued by professional institutes. The Discipline Policy and Procedure will be applied to deal with improper conduct.

5.3.8 The Monitoring Officer has a duty to report to the Fire Authority where it appears that any proposal, decision or omission by the Service, committee or officer has given rise to, (or is likely to give rise to) a contravention of any enactment, rule of law or statutory code of practice.

5.3.9 The Finance Director (Section 151 Officer) has a statutory responsibility under Section 73 of the Local Government Act 1985 to ensure the proper administration of the Service's financial affairs.

- Under the Accounts and Audit Regulations 2015, the Service is required to maintain an adequate and effective system of internal audit. Internal auditors evaluate risks and review the adequacy of control within the Service to minimise fraud and error.
- Operational systems and procedures will incorporate efficient and effective internal controls, both financial and non-financial.
- Managers are required to ensure that such controls, including those in a computerised environment, are properly maintained and documented. The existence and appropriateness of controls is independently monitored by the Governance Committee.

## 5.4 Detect

5.4.1 Preventative systems, particularly internal controls within the Service, have been designed to prevent and deter fraud, bribery and corruption.

5.4.2 Staff are the first line of defence against most acts of attempted fraud, bribery or corruption. The Service expects and requires staff to be alert to the risks and possibilities of fraudulent attempts and to raise any such concerns at the earliest opportunity.

5.4.3 Staff also have a duty to protect the assets of the Service, including information, as well as property. When they have a concern of this nature, they are expected to report it, as soon as possible in accordance with the Whistleblowing (confidential reporting) Policy.

5.4.4 The Service will not tolerate the victimisation or harassment of anyone raising a genuine concern. Staff are expected to report concerns and are afforded protection from harassment or discrimination by the Public Interest Disclosure Act 1998. Any harassment or victimisation of a 'whistle-blower' will be treated as a serious disciplinary offence, which will be dealt with under the Service's Discipline Policy and Procedure.

5.4.5 The Service proactively seeks to prevent, deter and detect fraud, bribery and corruption by using all available resources and technology and will take part in exercises such as data matching to minimise the fraud risk and loss to public funds.

5.4.6 The Service will, where appropriate, seek to make the best use of publicity to prevent, deter,

and detect any instances of fraud, bribery and corruption.

5.4.7 Whilst having regard to the requirements of Data Protection legislation, the Service actively participates in the exchange of information with external agencies on fraud, bribery and corruption in relation to public bodies. This includes the National Fraud Initiative where data from all public sector bodies is shared and analysed to help prevent and detect fraud and error.

## 5.5 Respond

5.5.1 Fraud, bribery and corruption will not be tolerated and where it is identified, the Service will deal with proven wrongdoings in the strongest possible terms and in line with the Sanctions Policy (Appendix D). This may include collaboration with the police, government departments, and other fire and rescue services.

5.5.2 The Service will make every effort to recover funds including, where appropriate, making best use of legislation such as the Proceeds of Crime Act 2002.

5.5.3 Where information relating to a potential or actual offence or wrongdoing is uncovered, a comprehensive and objective investigation will be conducted. Any investigation will take account of relevant policies and legislation.

5.5.4 The purpose of any investigation is to gather all available facts to enable an objective and credible assessment of the suspected violation and to enable a decision to be made as to a sound course of action.

5.5.5 The Financial Regulations require that the Finance Director (Section 151 Officer) be informed of matters, which involve, or may involve, financial irregularity. Reporting of suspected irregularities is essential as it facilitates a proper investigation and ensures the consistent treatment of information regarding fraud, bribery or corruption.

5.5.6 In such instances, the DCFO will work closely with the Finance Director (Section 151 Officer), the investigating officer and any other relevant persons to ensure that all allegations and evidence are properly investigated and reported upon.

5.5.7 Referral to the police on matters of alleged fraud, bribery or corruption is a matter for the CFO in consultation with the DCFO and Finance Director (Section 151 Officer). Any referral made to the police, will not prohibit action under the Service's disciplinary processes.

5.5.8 In cases of alleged fraud, bribery or corruption involving staff, the Service may pursue the case through its disciplinary processes, even if the member of staff has resigned.

## 6 Reporting

6.1 Responsibilities contained within this policy rest with the CFO but its delivery will be led by the DCFO.

6.2 Where appropriate reports will be presented to the Governance Committee summarising any investigations which have taken place and / or any counter fraud work.

6.3 This framework will be reviewed on an annual basis.

## APPENDIX A – Reporting categories

Reporting category	Description	Examples (not an exhaustive list)	Legislation / Policies
Fraud by false representation (Section 2)	Dishonestly by knowingly making an untrue or misleading representation to make gain, cause loss or expose the Service to the risk of loss.	Lying about something with the intention to cause a gain or loss i.e. submitting incorrect expense, mileage or timesheet claims; falsely claiming to hold a qualification.	Fraud Act 2006
Fraud by failure to disclose information (Section 3)	Dishonesty by intentionally withholding information to make gain, cause loss or expose the Service to the risk of loss.	Not declaring something where you have a legal duty to do so i.e. failing to declare pecuniary interests or assets as part of a means tested assessment.	
Fraud by abuse of position (Section 4)	Dishonestly abuse that position to make a gain for themselves or others, or to cause loss to another or to expose another to a risk of loss.	Where someone abuses a position of trust where there is an expectation to safeguard the financial interest of another and places another at financial risk or causes a loss i.e. nepotism; using your position for financial gain	
Active bribery (Section 1)	Offering, promising or giving a bribe to reward a person for improperly performing a relevant function.	<p>The Act refers to financial or other advantage, so covers more than the payment of money and can include:</p> <ul style="list-style-type: none"> <li>• gifts and hospitality.</li> <li>• employing the relatives of public officials.</li> <li>• paying for travel expenses and accommodation costs.</li> <li>• engaging the services of a company which a public official has an interest in (e.g. as a shareholder).</li> </ul>	Bribery Act 2010
Passive bribery (Section 2)	Requesting, agreeing to accept or receiving a bribe as a reward for improperly performing a relevant function.		
Bribing a foreign public official (Section 6)	With the intention of obtaining or retaining business or an advantage in the conduct of business		
Failure of a commercial organisation to prevent bribery (Section 7)	Failing to prevent bribery that is intended to obtain or retain business or an advantage in the conduct of business	Demonstrate adequate procedures are in place designed to prevent bribery.	
Corruption	Offering, giving, seeking or accepting any inducement	Accepting money to ensure a contract is	



	or reward which may influence a person's actions, or to gain a commercial or contractual advantage	awarded to a particular supplier	
False Reporting	Intentional manipulation of financial or non-financial information to distort or provide misleading reports.	Falsifying statistics to ensure performance targets are met; delaying payments to distort financial position	Theft Act 1968
Misuse of public funds	The use of public funds for ultra vires expenditure or expenditure for purposes other than those intended.		Financial Regulations
Procurement	Any matter relating to the dishonest procurement of goods and Services by internal or external persons.	Breach of the Procurement Standing Orders; collusive tendering; falsifying quotations.	Procurement Standing Orders
Misconduct	Failure to act in accordance with the Code of Conduct, Service / Service policies or management instructions.	Undertaking additional work during contracted hours; inappropriate use of Service assets and equipment	Code of Conduct and Ethics
Poor control	Weak local or corporate arrangements that result in the loss of Service assets or a breach of Service policy.		ICT Information Security Policy

## **APPENDIX B – Anti-Bribery Policy**

### **1 Policy statement**

- 1.1 The Service will not tolerate bribery or corruption in any form or at any level and is committed to policies and procedures to prevent, deter and detect bribery.

### **2 Introduction**

- 2.1 The Service expects its business to be conducted with integrity, openness and accountability. To maintain these high standards there is a requirement for staff to behave honestly and lawfully.
- 2.2 The Financial Regulations and Standing Orders cover the procedures to be followed when purchasing goods or services and any offer during this process that may be considered as an inducement or bribe from a potential or successful tenderer or supplier must be reported to the DFCO and Finance Director (Section 151 Officer). Acceptance of any such offer will be dealt with through the Service's Discipline Policy as gross misconduct.
- 2.3 This policy forms part of the Service's counter fraud framework and Appendix A sets out the definitions and legal background in respect of bribery and the Service's approach to bribery including fulfilling its duties under the Bribery Act 2010 (the Act).

### **3 Scope of the policy**

- 3.1 This policy applies to all areas of Service business and any act of bribery by a person outside the Service will be a matter for the police.
- 3.2 This policy should be read alongside the Code of Conduct and Ethics, whistleblowing (confidential reporting) policy and other relevant policies (Financial Regulations and Standing Orders) should be referred to where appropriate.
- 3.3 Failure to comply with this policy will result in action being considered under the Sanctions Policy (see Appendix D).

### **4 Definitions and legal background**

- 4.1 Bribery is the act of offering, giving, receiving or seeking an inducement or reward intended to influence the performance of a relevant function or duty to gain a personal, commercial, regulatory or contractual advantage. Inducements can take the form of gifts loans, fees rewards or other privileges.

#### **Bribery Act 2010**

- 4.2 The Bribery Act of 2010 places specific responsibility on the Service to have in place sufficient and adequate procedures to prevent bribery and corruption taking place. The Act includes four key offences (see Appendix A). The Act makes no distinction between a bribe being offered, promised or given directly or through a third party. Further, it makes no difference whether the person requesting, agreeing to accept or receiving the bribe knows or believes that the performance of the function will be improper; or whether this person asks another person to carry out the improper performance of the function on their behalf.
- 4.3 Good practice and robust governance arrangements include having adequate procedures

in place to prevent bribery and protect the Service from reputational and legal damage. Whether the Service's procedures are 'adequate' will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation.

#### Public Contracts Regulations 2006

- 4.4 The Public Contracts Regulations 2006 place a duty on the Service to automatically and perpetually exclude from participation in a procurement procedure any company or director that has been convicted of a corruption offence.

### **5 The Service's approach to bribery**

- 5.1 The Service has in place a framework of arrangements intended to manage the risk of bribery and to ensure business is conducted to the highest standards. This policy does not change the requirements of other guidance, which includes:

- The Codes of Conduct and Ethics, which requires staff to declare any secondary employment, personal or pecuniary interests and gifts and hospitality, which set out the restrictions on accepting gifts and hospitality and the need to register approved gifts that are accepted; and
- Financial Regulations and Standing Orders governing the negotiation of contracts.

- 5.2 In the context of this policy, it is unacceptable for staff to:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation that a business advantage will be received, or to reward a business advantage already given;
- Give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to 'facilitate'<sup>2</sup> or expedite a routine procedure;
- Accept payment from a third party that is known or suspected to be offered with an expectation that it will obtain a business advantage for them;
- Accept a gift or hospitality from a third party if it is known or suspected that it is offered with an expectation that a business advantage will be provided by the Service in return;
- Retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy; or
- Engage in activity in breach of this policy.

### **6 Reporting suspected bribery**

- 6.1 Staff should report any suspected acts of bribery even if they have been offered an inducement from another party and this was declined.
- 6.2 The Service has put in place a safe environment to report suspected cases of bribery. The Fraud Response Plan (see Appendix C) provides full details of who to contact.

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<sup>2</sup> Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions, including but not limited to: awarding contracts; making appointments to temporary or permanent positions; and determining eligibility to receive Services.

## **APPENDIX C - Fraud response plan**

### **1 Introduction**

- 1.1 This plan provides guidance on the action to be taken where fraud, bribery or corruption against the Service is suspected or discovered. It sets out who staff should report their concerns to and the investigation process.
- 1.2 This document forms part of the Service's counter fraud framework and should be read in conjunction with the whistleblowing (confidential reporting) policy, Code of Conduct and Ethics, Standing Orders, Financial Regulations and Discipline Policy.
- 1.3 The objectives of this plan are to ensure timely and effective action can be taken to:
- Minimise the risk of inappropriate action or disclosure which would compromise an investigation;
  - Ensure there is a clear understanding of who will lead any investigation and keep other individuals informed and involved as appropriate;
  - Prevent further loss of funds or other assets and maximise recovery of losses;
  - Identify the perpetrator and secure sufficient evidence necessary for disciplinary or legal action;
  - Review the reasons for the incident and identify the measures required to prevent a reoccurrence;
  - Reduce the adverse impacts on the business of the Service and minimise adverse publicity arising from fraud; and
  - Identify any action needed to strengthen future responses to fraud.

### **2 Reporting your concerns**

- 2.1 All cases of suspected fraud, bribery or corruption must be reported to the DCFO. In the event this is not appropriate or possible, and / or the concern relates to the DCFO, then the matter can be raised with the CFO, Finance Director (Section 151 Officer), SIRO, Monitoring Officer or any other member of the ELT.
- 2.2 All cases of financial irregularity should be reported to the Finance Director (Section 151 Officer).
- 2.3 Staff can also raise a concern with someone independent of the above and approach:
- The Monitoring Officer at Sunderland City Council at PO Box 100, Civic Centre, Sunderland, SR2 7DN or by email to [City.Solicitor@sunderland.gov.uk](mailto:City.Solicitor@sunderland.gov.uk) or
  - Internal Audit at Sunderland City Council contact email / telephone number to be added.
- 2.4 In addition, the Service procure the outsourced whistleblowing hotline Safecall. This hotline is available to staff 24 hours a day, 365 days a year and allows staff to disclose concerns to the highest levels of management. For further information please visit [www.safecall.co.uk](http://www.safecall.co.uk) Staff can choose to make a disclosure either anonymously or not via Safecall and should consider the following:
- There will not be any opportunity to ask follow up questions or seek clarification if reported anonymously, which may prevent an investigation from reaching a satisfactory conclusion and the individual will not be informed of the outcome.
  - If the disclosure is reported and the individual is not anonymous, they may have be

communicated with and informed of an outcome if there is an opportunity to.

- The whistleblowing (confidential reporting) policy sets out the Service's zero tolerance approach to harassment or victimisation and its commitment to protect those who raise concerns in good faith.

2.5 If a disclosure is made in good faith, but it is not confirmed by an investigation, no action will be taken against the individual who reported the concern. However, disciplinary action may be taken if a disclosure is proven to be frivolous, malicious or for personal gain.

### **3 Initial response**

3.1 If a staff member reports a disclosure of fraud, bribery or corruption you must:

- Listen patiently and without prejudice to their concerns;
- Ask whether they wish to remain anonymous (obtaining contact details if not);
- Treat all information seriously and in strict confidence;
- Obtain as much information as possible during the referral (but do not conduct your own investigation), such as:
  - Outline of the allegations and their impact
  - People involved including job role in the case of employees
  - Amount of money and/or details of other assets involved
  - Timescales (one-off or ongoing)
  - Evidence (available notes, documents or other evidence); and
- Not interfere with any evidence and ensure it is kept secure.

3.2 The DCFO and Finance Director (Section 151 Officer) must be informed of any fraud, bribery or corruption disclosures so they can agree proposed action. Additional information may be required before determining whether a full investigation is necessary and advice will be given on how to approach this without alerting the suspected perpetrator.

3.3 When a decision is made not to conduct a full investigation, the DCFO and Finance Director (Section 151 Officer) will offer advice and assistance to improve management controls and minimise adverse impacts on the Service.

3.4 Where an allegation involves a staff member, it may not be appropriate for them to remain in their role whilst the investigation is undertaken. A risk assessment and decision to suspend the staff member (or move them to alternative duties) will be taken by the DCFO in consultation with the line manager and advice from Human Resources.

### **4 Investigating officer**

4.1 The DCFO will evaluate the outcomes from the initial enquiries to determine whether a full investigation is warranted and, if so, appoint an investigating officer, which may include an officer from another Service.

4.2 The investigating officer will remain impartial throughout the investigation and will:

- Conduct the investigation in a prompt manner;
- Obtain evidence in line with the guidance in section 5 of this policy;
- Record and secure all evidence obtained;
- Ensure any information and/or knowledge is contained;
- Involve and notify other key officers as appropriate (ELT, Human Resources,

Insurance, Internal Audit); and

- Conclude the investigation in line with guidance in section 6 of this plan.

## **5 Evidence**

- 5.1 It is essential that all available evidence relating to the allegation is preserved. This involves a fine balance between not alerting the suspected perpetrator before it is appropriate, complying with Service policies and ensuring evidence remains admissible in a court of law.
- 5.2 Legislative requirements must also be fulfilled, in particular those of the Police and Criminal Evidence Act 1984 (PACE). The most common forms of evidence are given below:

### ***Service premises***

- 5.3 Inspection of any Service premises or property must be witnessed by at least one manager. A list of the contents should be made and the list signed and dated by the investigating Officer and the witness as being a true record of what was found.
- 5.4 Cash or other valuables must not be removed without first speaking with the Human Resources Director to agree such action and arrange alternative secure storage.

### ***Original documents***

- 5.5 Original documents should be obtained and retained, handled as little as possible and placed in a protective folder. Under no circumstance must they be marked in any way. All copies of original documents or screen images should be formally certified as a true copy with the date of copying. A record of all documents detailing how, when and where they were obtained should be maintained.

### ***Computer data***

- 5.6 When evidence is held on a computer hard drive, the computer should be secured. No attempt to access or download information from the computer should be undertaken by the investigating officer. Information may also be held on the Service's network, for example, networked folders and emails.
- 5.7 In both cases, the Head of ICT will advise on the most appropriate way of retrieving the data in accordance with Service policy and the rules of evidence.

### ***Video footage***

- 5.8 If it is suspected that CCTV or other camera systems may have information of value, secure the hard copy media or arrange for a certified download of the data to take place that is compliant with PACE requirements. Advice should be sought from the SIRO about how to proceed.

### ***Interviews***

- 5.9 A record of interviews or meetings held including the date, location, attendee(s) and summary notes should be recorded as a minimum. When obtaining evidence through interviews or meetings the investigating officer should be aware of how much (or little) information needs to be shared for the meeting to be useful.
- 5.10 Interviews with the suspected perpetrator should be conducted by two people. The original copies of handwritten notes made during the interview in addition to any subsequently typed notes should be retained. The notes should reflect a full account of the conversation.

## **6 Investigation conclusion**

- 6.1 The investigation conclusion should be presented together with the evidence and notes, to the DCFO who will review the outcome of the investigation.
- 6.2 Conclusions must be based solely on the available evidence and any recommended sanction should be in accordance with the Sanctions Policy (Appendix D). The investigating officer should be prepared to give a statement, if required, as part of any subsequent disciplinary or legal action.
- 6.3 The DCFO will take into account the investigating officers conclusions when agreeing the appropriate action to take including sanctions. Where wrongdoing is confirmed the matter shall be reported to the CFO, Finance Director (Section 151 Officer), Monitoring Officer and any other relevant persons or organisations.
- 6.4 Where there is evidence that financial impropriety has occurred, the Service will normally expect the circumstances to be referred to the police for advice, further investigation, and prosecution of the offender if considered appropriate by the Crown Prosecution Service (CPS). The decision to refer to the police should be made by the CFO in consultation with the DCFO, Finance Director (Section 151 Officer) and Monitoring Officer.
- 6.5 Where the outcome of the investigation indicates improper conduct by a member of staff, the Service's Discipline Policy will be applied. The recovery of defrauded funds is an essential part of this framework.
- 6.6 When it is identified that fraud, bribery or corruption has occurred due to a breakdown in systems or procedures, the DCFO in consultation with the Finance Director (Section 151 Officer) are responsible for ensuring that appropriate improvements in systems of control are implemented in accordance with investigation recommendations. Information gained during investigation may also be used to help disclose similar frauds within the Service.
- 6.7 Due to the requirements of the Data Protection Act 2018 and the Service's duty of confidentiality to its staff, investigation outcomes may be limited for those outside the Service.

## **7 Press and publicity**

- 7.1 Publicity can act as a strong deterrent to fraud and corruption with publicity of successful cases demonstrating the Service's zero tolerance approach. Under no circumstance, however, must details of any cases suspected or under investigation be released to the press or public.
- 7.2 All press and publicity, whether internal or external, will be managed by the Service's Communications team. Disclosure of details of a case, successful or otherwise, to the media without the express Service of Communications may be dealt with as a disciplinary matter.
- 7.3 Publicity within the Service will be managed by the DCFO in consultation with the Communications team. Case details in any such publicity will be anonymised

## **APPENDIX D - Sanctions policy**

### **1 Policy statement**

1.2 The Service will ensure that:

- Appropriate sanctions are applied in all proven cases of fraud, bribery and corruption;
- Public funds are recovered wherever possible; and
- The sanction decision making process is robust, transparent and fair.

### **2 Introduction**

- 2.1 The Service takes its responsibility to protect public funds seriously and expects its business to be conducted to the highest ethical and legal standards. Where there is evidence of fraud, bribery or corruption against the Service, those responsible, whether internal or external to the Service, will be held accountable for their actions using the sanctions available.
- 2.2 This policy forms part of the Service's counter fraud framework and sets out the range of sanctions available; and guidance on determining the appropriate action to take.
- 2.3 This policy is not prescriptive. A range of factors will require consideration before deciding on the appropriate sanction, including the individual circumstances of each case and the seriousness of the offence.

### **3 Sanction options**

- 3.1 Where there is evidence of fraud, bribery or corruption, the following options will be considered:
- No further action
  - Referral to professional bodies
  - Disciplinary action
  - Civil proceedings
  - Criminal prosecution
- 3.2 These options are not mutually exclusive and parallel sanctions may be pursued.

#### **No further action**

- 3.3 The Service may consider closing a case without taking any further action. This may be due to the following factors:
- Evidence is not robust or reliable
  - The offence is minor
  - The cost to pursue the case is not proportionate to the offence committed.

#### **Referral to professional bodies**

- 3.4 Where there is adequate evidence that a person or entity has breached professional duties or responsibilities, the Service will refer the matter to the relevant professional body. This may include the DBS if there is evidence of a safeguarding concern.



## **Disciplinary action**

- 3.5 Where an allegation is made against a member of staff the investigating officer will consult with Human Resources and line manager regarding risk assessments and disciplinary action. Any disciplinary action will be in accordance with the Discipline Policy. Sanctions may include warnings or dismissal on the grounds of gross misconduct.
- 3.6 Additional sanction options will be considered alongside any disciplinary action including referral to professional bodies, civil proceedings and criminal prosecution.

## **Civil proceedings**

- 3.7 Where evidence is insufficient to prove a case beyond reasonable doubt, and therefore successful criminal prosecution is unlikely, the Service may consider civil proceedings for which the standard of proof is on the balance of probability.
- 3.8 Regardless of whether any sanction action is taken, the Service will always seek recovery of overpaid, misused or unfairly gained monies. The following measures may be considered in the pursuit of financial recovery:
- Consultation with the Service's Payroll and Pensions Teams to redress financial loss caused by employees;
  - Legal action such as search orders and freezing / tracing injunctions to preserve evidence and assets; and
  - Recovery of money through appropriate legal proceedings.

## **Criminal prosecution**

- 3.9 Where there is sufficient evidence to indicate that a criminal act has taken place, the case may be referred to the police. The decision to refer the issue to enforcement agencies, such as police, will be taken by the CFO as advised by the DCFO, Finance Director (Section 151 Officer) and / or the Monitoring Officer.
- 3.10 Any referral made to the police, will not prohibit action under the Service's disciplinary processes.
- 3.11 The police or CPS will provide a final decision on whether to pursue the case. This decision will consider the following:
- Evidential criteria such that the evidence must be:
    - Clear, reliable and admissible in court
    - Strong enough for a realistic chance of prosecution; to prove a case 'beyond reasonable doubt'
  - Whether prosecution is in the public interest, taking into account:
    - Seriousness and/or monetary value of the offence
    - Cost and proportionality of the prosecution
    - Age, health and level of culpability of the suspect
    - Circumstances of and harm caused to the victim
    - Other factors such as community impact

- 3.12 Where the Service considers it "expedient for the promotion or protection of the interests" of its residents, Section 222 of the Local Government Act 1972 empowers the Service 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 any enactment.

3.13 The Service will only consider undertaking prosecutions through this route under exceptional circumstances and any decision to do so will be taken by the CFO as advised by the DCFO, Finance Director (Section 151 Officer) and Monitoring Officer.

3.14 Any criminal proceedings will include an attempt to recover money under the Proceeds of Crime Act 2002.

#### **4 Leaving the Service**

4.1 During the course of an investigation or disciplinary action, the staff member suspected of fraud, bribery or corruption may choose to resign from their employment with the Service. In this case, following a review of evidence, the Service may continue to pursue referral to professional bodies, civil proceedings or criminal prosecution.

4.2 The staff member's line manager will also consult with Human Resources to determine whether it will be appropriate to provide a reference to future employers.

#### **5 Publicity**

5.1 Guidance on publicity is available in the Fraud Response Plan (Appendix C). The decision to publicise outcomes will consider the following criteria:

- Interests of Tyne and Wear Fire and Rescue Service;
- Interests of Tyne and Wear residents; and
- Deterrent value to others.