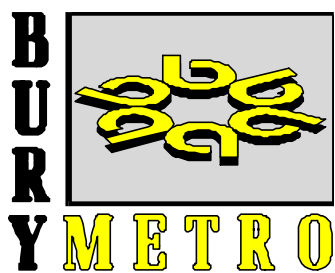


**BURY METROPOLITAN BOROUGH  
COUNCIL**

**ANTI-FRAUD AND CORRUPTION  
STRATEGY**



**DIRECTOR OF FINANCE AND E-GOVERNMENT  
May 2003**

# CONTENTS

INTRODUCTION

PART 1 POLICY AND STRATEGY

PART 2 WHISTLEBLOWING POLICY

PART 3 HOUSING BENEFIT/COUNCIL TAX  
BENEFIT FRAUD PROSECUTION  
POLICY

PART 3A TERMS OF REFERENCE FOR BENEFIT  
FRAUD STAFF

PART 4 STANDARDS OF CONDUCT

PART 5 MEMBERS GUIDANCE -  
OUTSIDE BODIES

PART 6 LOCAL CODE OF CORPORATE  
GOVERNANCE

## **INTRODUCTION**

Bury MBC, in carrying out its functions and responsibilities, has always subscribed to a culture of openness and fairness and has expected that elected members and employees at all levels will observe the highest standards of propriety and accountability. This is part of the ethos at Bury and is underlined by strong systems of internal control, including standing orders and financial regulations. In the light of the Nolan Report and several well publicised fraud and corruption cases, it became accepted that standards and practices needed to be formalised and developed into a distinct anti-fraud and corruption strategy.

This strategy started life as a series of short statements declaring the Council's determination to root out and deal with fraud and corruption. It has gradually evolved into a compendium of strategies, setting out the various measures across the authority designed to combat fraud and corruption, and bringing them together in one document. It is recognised that each of the parts making up this overall strategy will often need to be considered in their own right, without direct reference to the others. The strategy has therefore been designed in sections, so that each can be removed as a stand-alone document when required.

It could be argued that there are parts that don't belong here, or that other policies or strategies should be included. These views are welcome. This is a living document, constantly under review, and continually being consulted upon. At any one time it represents this Council's current position, and is a declaration that it will not tolerate fraud and corruption.

**Mike Owen**

**Director of Finance and E-Government**

# METROPOLITAN BOROUGH OF BURY ANTI-FRAUD AND CORRUPTION STRATEGY

## PART 1 – POLICY AND STRATEGY

### **POLICY**

The public is entitled to expect conduct of the highest standard from members and officers of the Council. Bury MBC recognises the need for the highest standards of probity in dealing with public money, and is firmly committed to the prevention, detection and investigation of all forms of fraud and corruption. It will deal equally with perpetrators from inside and outside the authority.

### **DEFINITIONS**

- **Fraud:**

*“Those intentional distortions of financial statements or other records which are carried out to conceal the misappropriation of assets or otherwise for gain”*

The “intentional” nature of the act distinguishes it from simple error.

- **Corruption:**

*“The offering, giving, soliciting or acceptance of an inducement or reward which may influence the actions taken by the authority, its members or officers”*

**Note:** this policy is intended to cover all financial and other irregularities, which may affect the Authority, including theft. However, it will not compromise the Council’s equal opportunities policy or any obligations as an employer under the code of conduct for local government employees.

## **STRATEGY**

This strategy is concerned with the Authority's philosophy on fraud and how it will react to fraud, helping to engender an anti-fraud culture throughout the Authority. It sets out the various measures set in place to combat fraud and corruption as follows:

- minimising the risk of fraud and corruption arising
- measures taken to detect the occurrence of fraud
- procedures to be observed covering the investigation of fraud when it does arise

## **MINIMISING THE RISK OF FRAUD AND CORRUPTION**

- ***The Control Environment***

The key to prevention of fraud is the creation of a sound control environment with well established and accepted systems and effective controls. This is the approach adopted at Bury, where appropriate systems and controls are established and maintained by management. Members and officers alike support the anti-fraud and corruption culture throughout the authority.

- ***Standards and Probity Committee***

The "control environment" in its entirety is overseen by the Council's Standards and Probity Committee and embraces a wide range of managerial, financial and operational controls. This function is supported by the Council's Standards and Probity Officer.

- ***Audit Sub Committee***

The Council has established an Audit Sub Committee to oversee all internal and external audit activities relating to the Council and report to Standards and Probity Committee. The Council's Chief Internal Auditor and Standards and Probity Officer report directly to this sub committee.

- ***Internal Audit***

Under the guidance and management of the Director of Finance and E Government, the Council maintains a strong and independent internal audit function to provide a continuous review of systems and controls, and the control environment. Internal Audit reports to the Audit Sub Committee and is also subject to the scrutiny of the Council's external auditors.

- ***Codified Guidance***

Register of Members Pecuniary Interests, Members and Officers Codes of Conduct, Standing Orders, and Financial Regulations provide the rules of conduct and a framework within which Members and officers operate. Regular checks are carried out to ensure compliance with these. NB Codes of Conduct for Members and Officers have been produced under the requirements of the Local Government Act 2000. Details are shown in Part 4.

- ***Deterrence***

There are two elements to fraud, i.e. intent and opportunity. Our main weapon is the removal of opportunity. This, and the certainty that fraud will be rooted out and dealt with, help to provide a deterrent.

## ***DETECTING THE OCCURRENCE OF FRAUD***

- ***Internal Control***

Management use a wide range of control mechanisms as a means of prevention. However, the same controls also serve as a means of detection, and the different levels of scrutiny should assist in the early identification of any form of irregularity. The importance of maintaining controls at all times, particularly during periods of upheaval and change, cannot be over-emphasised.

- ***Systems Testing***

Internal Audit carry out tests specifically designed to identify any occurrences of fraud. These include sample testing based on the audit risk assessment, and checks in connection with data matching exercises, and are in addition to the tests conducted as part of the systems audit process.

- ***Benefit Investigations***

A dedicated Investigations and Overpayments team operates within the Revenues Division for the purposes of investigating Housing and Council Tax Benefit fraud. The team carries out proactive investigatory work, in addition to following up referrals.

N.B. It should be noted that over 95 percent of discovered fraud, in local government, relates to benefits.

- ***Information Received***

Irregularities that do come to light are often discovered as a result of information received from a range of sources. In particular, surveys have shown that employees often have knowledge, information or concerns, which for various reasons they are reluctant or afraid to pass on. The Council's

Whistleblowing Policy (see Part 2) sets out the procedures for dealing with such concerns in a discreet and sympathetic manner, and is designed to emphasise joint ownership of the “control environment”. Whilst seeking to discourage any form of mischievous or malicious allegation, the Council will treat seriously any information received, and will endeavour to investigate information provided, whatever the source.

## **REPORTING AND INVESTIGATING FRAUD**

- **Suspicion of Fraud**

Detection of fraud is primarily a management responsibility, although there are several ways in which fraud can come to light. When an irregularity is suspected by management, procedures for notification are clearly set out in financial regulations.

Extract (4.3) from Financial Regulations:

*“Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council, or any suspected irregularities in the exercise of the functions of the Authority, then the Chief Officer concerned shall forthwith notify the Chief Executive and the Director of Finance and EG who shall take such steps as they consider necessary by way of investigation and report.”*

- **Notification of Fraud**

In practice the Chief Officer concerned will usually inform the Chief Internal Auditor who will consult the Director of Legal and Democratic Services. Any suspected frauds, discovered as a result of Internal Audit activity, will be reported to the appropriate level of management by the Chief Internal Auditor.

- **Liaison with Police**

Advice will need to be given regarding police involvement. If there are immediate indications of criminal activity at the outset, then the police must be informed immediately. Otherwise, advice will be offered as the investigation proceeds. Internal Audit will maintain links with the local police and will make the necessary arrangements for police involvement.

- **Suspension**

It may become necessary to suspend one or more officers if the presence of such officer(s) would impede an investigation, or be likely to lead to the loss or destruction of evidence. This is a management responsibility but appropriate advice will be available from Personnel and Internal Audit.

- ***Investigation***

The Chief Internal Auditor and the Director of Legal and Democratic Services, after consultation with any other appropriate Chief Officer, will advise the reporting Chief Officer on the need for, and the conduct of, further investigations. Internal Audit will assist with, or conduct the investigation if this is considered necessary. In any event they will need to be kept fully informed of any developments. This communication is essential. Incorrect procedures in the course of an investigation, particularly when conducting interviews, may render the evidence inadmissible at a later date. The Director of Legal and Democratic Services and Chief Internal Auditor will advise on the application of PACE (the Police and Criminal Evidence Act), which contains specific provision for the conduct of interviews under caution. As a general rule all such interviews will be conducted by the police, who have the necessary facilities and expertise.

- ***Benefit Fraud Investigation***

The one exception to the above procedures is in respect of benefit frauds. The Financial Services Division has its own Benefits Investigations and Overpayments team, trained to deal with benefits fraud and to interview under caution when necessary. Any decision to prosecute, as a result of such an investigation, will be taken in accordance with the Bury MBC Housing Benefit/Council Tax Benefit Fraud Prosecution Policy (see Part 3), and will be the subject of a private prosecution.

- ***Whistleblowing***

Procedures are set out in Part 2.

- ***Outside Bodies***

Membership of outside bodies is a regular feature of duties performed by Members and officers of the authority. Guidance is given at Part 5.

- ***Disciplinary Procedures***

It should be clearly understood that investigations carried out under Financial Regulation number 4 are entirely separate from the Council's disciplinary procedures. Following an investigation/report a Chief Officer may initiate action under those procedures. The investigation may lead to criminal proceedings, which can become a lengthy process, and which will usually require a higher degree of proof than that required in disciplinary action. The outcome of one is not always dependent on the other, and disciplinary action should be concluded as quickly as possible, unless advice is specifically given to the contrary. The Director of Legal and Democratic Services will advise if such action is likely to jeopardise any other proceedings.



- ***Guidance for Disciplinary Hearings***

When an employee has been found to have committed an act of gross misconduct, involving theft from any client of the Council, member of the public, or other party, then the action to be taken should be in accordance with disciplinary procedure which states “offences of gross misconduct may lead to dismissal”. The Council, whilst being fair, must also be seen equally to be firm and consistent.

# METROPOLITAN BOROUGH OF BURY ANTI-FRAUD AND CORRUPTION STRATEGY

## **PART 2 – CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY**

### **1.0 INTRODUCTION**

- 1.1 The Nolan Committee on Standards in Public Life made clear recommendations that local authorities should adopt 'Whistleblowing' procedures, and the Public Interest Disclosure Act 1998 gives protection to 'whistleblowers' who are treated unfairly. This policy addresses those issues.
- 1.2 Employees are often the first to realise that there may be something seriously wrong within their workplace or within a Department of the Council itself. However, they may choose not to express their concerns if they feel that by speaking out it would be disloyal to their superior(s), colleagues or to the Council, or if they fear harassment or victimisation. In such circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, employees and others with serious concerns about any aspect of the Council's work (including activities within schools), are encouraged to voice them. In so doing it is recognised that in certain cases they will have to proceed on a confidential basis.
- 1.4 This policy makes it clear that staff should be encouraged and enabled to raise serious concerns within the Council without fear of reprisal, rather than overlooking a problem or blowing the whistle outside. It is intended to help build an environment of openness within the Council.
- 1.5 This policy applies to all staff working for the Council, both full and part-time, temporary and casual including those that are based within the authority's schools and within aided and foundation schools. It also covers Council Members, school Governors and agency and contractors' staff. References to 'employees' within the Policy covers all of these categories.
- 1.6 The policy has been subject to local consultation with appropriate trade unions and professional associations and has their support.

## **2.0 AIMS AND SCOPE OF THIS POLICY**

2.1 The policy aims to:

- provide an avenue for all those to whom the policy applies to raise concerns and receive feedback on any action taken;
- allow them to take the matter further if they are dissatisfied with the response received;
- reassure them that they will be protected from reprisals or victimisation for confidential reporting in good faith.

2.2 There are existing procedures in place for employees to legitimately complain about harassment, violence and aggression, discrimination and instances where they feel that they have a grievance. The Confidential Reporting Policy is intended to cover concerns that fall outside the scope of other procedures.

2.3 Concerns must be raised when employees reasonably believe that one or more of the following has occurred or is likely to:

- a criminal offence
- failure to comply with statutory or legal obligations
- improper or unauthorised use of public or other funds
- a miscarriage of justice
- endangering health and safety
- damage to the environment
- maladministration, misconduct or malpractice
- deliberate concealment of any of the above

Alternatively, the disclosure may be related to any breach of the Council's Standing Orders, Financial Regulations, policies or agreed procedures, including those relating to Governing Bodies. The overriding concern should be that it would be in the public interest for malpractice to be corrected and, if appropriate, sanctions applied.

## **3.0 HOW TO RAISE A CONCERN**

3.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This may include Head Teachers, Chairs of Governing Bodies or other senior officers of the Council. However, much depends on the seriousness and sensitivity of the issues involved, and who you think is involved in the malpractice. If, for example, you believe that your own line manager or supervisor is involved, then you may approach a manager or supervisor from another unrelated service. You may also contact your trade union.

- 3.2 In any event you may also approach one of the following officers, in confidence, to raise a specific concern or to obtain advice and guidance on how matters of concern may be pursued:
- Chief Executive –  
Mark Sanders, Tel: 0161-253 5102
  - Director of Finance and E Government –  
Mike Owen, Tel: 0161-253 5002
  - Director of Legal and Democratic Services –  
Jayne Hammond, Tel: 0161-253 5230
  - Chief Internal Auditor –  
Jim Butterworth, Tel: 0161-253 5084
- 3.3 You may also take the matter outside the Council to one of the bodies referred to in section 6.
- 3.4 Whilst concerns are best raised in writing they can also be expressed verbally through a telephone call. Where a concern is expressed verbally an employee can also ask for a meeting with an appropriate person.
- 3.5 In any event, as much information as possible should be given and this should include:
- the background to the concern;
  - names of individuals, dates and places where applicable;
  - the reasons why there are concerns;
- 3.6 The earlier you express the concern, the easier it is for action to be taken.
- 3.7 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

#### **4.0 HOW THE COUNCIL WILL RESPOND**

- 4.1 Any officer that receives a concern must make a full written note of the points raised and then pass on the concern to one of the officers listed in paragraph 3.2.
- 4.2 Careful consideration will then be given to the matter and to the action to be taken depending upon the nature of the concern. In order to protect individuals and the Council, initial enquiries will be made to

decide whether an investigation is appropriate and, if so, what form it should take.

- 4.3 The action taken by the Council will depend on the nature of the concern. The matters raised may:
- be investigated internally (see paragraph 4.4 below)
  - be referred to the Police
  - be referred to the Audit Commission
  - form the subject of an independent inquiry.
- 4.4 Because of the specific responsibilities of Governing bodies, concerns relating to schools will be the subject of separate investigatory procedures. These may involve the Headteacher of the relevant school, the Chair of the Governing Body (in conjunction with the Director of Education and Culture), and one of the officers referred to in paragraph 3.2.
- 4.5 Concerns or allegations that fall within the scope of specific procedures will normally be referred for consideration under those procedures. Allegations relating to child abuse for example will be dealt with in accordance with the Authority's Child Protection Procedures (Management Handbook 7.9).
- 4.6 Some concerns may be resolved by agreed action without the need for investigation.
- 4.7 Within ten working days of a concern being received, the Council will write to you:
- acknowledging that the concern has been received;
  - indicating how it proposes to deal with the matter;
  - giving an estimate of how long it will take to provide a final response, telling you whether any initial enquiries have been made, and telling you whether further investigations will take place, and if not, why not.
- 4.8 The amount of contact you have with the officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from you in a discreet manner.
- 4.9 When any meeting is arranged, you have the right, if you wish, to be accompanied by a trade union/professional association representative or a friend. The meeting can be off site if requested.

- 4.10 The persons investigating the concerns will produce a written report that:
- outlines the complaint;
  - details the investigation process;
  - gives the outcome of the investigation;
  - details recommendations where appropriate.
- 4.11 The Council accepts that employees need to be assured that the matter has been properly addressed. Thus, subject to legal constraints and confidentiality issues, you will receive information about the outcomes of any investigations.
- 4.12 If the person who expressed the concern is not satisfied with the outcome they have a right to take matters further as explained in section 6 of this policy.
- 4.13 The Council will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.

## **5.0 SAFEGUARDS**

### ***Harassment or Victimisation***

- 5.1 The Council recognises that the decision to report a concern is not an easy one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take appropriate action, including the application of the Disciplinary Procedure, to protect an employee who raises a concern in good faith.
- 5.2 In accordance with the Public Interest Disclosure Act an employee cannot be dismissed or selected for redundancy as a result of making a disclosure. In addition, an employer cannot withhold a pay rise, object to a promotion or not give training.
- 5.3 This does not mean that if an employee is already the subject of disciplinary or redundancy procedures that those procedures will be halted as a result of confidential reporting.

### ***Confidentiality***

- 5.4 The Council will respect confidentiality and all steps will be taken to ensure that confidentiality is maintained throughout the process. However, it must be appreciated that the investigation process may reveal the source of the information. Any statement made by you may be required as part of the evidence.

### ***Anonymous Allegations***

5.5 The Council would encourage employees to put their name to allegations because concerns expressed anonymously are much less powerful. However, the Council also recognises that some employees would not wish to do this. Where a concern is expressed anonymously it will be considered at the discretion of the Council and in exercising this discretion the factors to be taken into account would include:

- the seriousness of the issue(s) raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources.

### ***Untrue Allegations***

5.6 If an employee makes an allegation in good faith but it is not confirmed by the investigation no action will be taken. If however, an employee makes a malicious or vexatious allegation, disciplinary action may be taken.

## **6.0 HOW THE MATTER CAN BE TAKEN FURTHER**

6.1 This policy is intended to provide you with an avenue to raise concerns **within** the Council. The Council hopes you will be satisfied with the response to your concern. If you are not, you must indicate this to the Chief Executive. If you feel it is right to take the matter outside the Council, the list below shows possible contact points:

- any Member of the Council
- any member of a Governing Body (in the case of any issue relating to a school)
- the Audit Commission (telephone 0161-253-5036 or 02572-30303 or 020 7630 1019)
- relevant trade unions, professional bodies or regulatory organisations
- your solicitor
- the Police

6.2 Alternatively you may seek independent advice from the charitable body '**Public Concern at Work**'. This organisation operates a help-line and a mediation service and it can be contacted on **0207 404 6609**. They can give you free, confidential advice at any stage of the process.

6.3 If you do take the matter outside the Council, then you need to ensure that you do not disclose confidential information or that disclosure would be privileged. You can check this with the one of the contact points listed in section 3.

- 6.4 If concerns are raised through professional bodies, or trade unions then it is expected that the professional body/trade union representatives will act in accordance with this policy, and with the Public Interest Disclosure Act, with regard to the information disclosed. Such a disclosure made by an employee will not be treated as grounds for disciplinary proceedings.

## **7.0 THE RESPONSIBLE OFFICER**

- 7.1 The Chief Executive has overall responsibility for the maintenance and operation of this policy, and will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality). The Chief Executive will report as necessary to the Council.

## **8.0 REVIEW**

- 8.1 This policy will be subject to annual review in consultation with the appropriate trades unions. A summary of concerns raised under this policy will be prepared on an annual basis.

**Mike Owen**  
**Director of Finance and E-Government**



# METROPOLITAN BOROUGH OF BURY ANTI-FRAUD AND CORRUPTION STRATEGY

## **PART 3 – HOUSING BENEFIT/COUNCIL TAX BENEFIT – FRAUD PROSECUTION POLICY**

### **1.0 INTRODUCTION**

- 1.1 The Authority has the right to prosecute or appear in any legal proceedings under s 222 of the Local Government Act 1972.
- 1.2 The authority to prosecute fraudulent HB/CTB claimants is a matter delegated to the Director of Finance & E-Government.
- 1.3 The prosecutions will be brought on behalf of the Authority in the name of the Director of Legal and Democratic Services, on the instructions of the Director of Finance & E-Government. The Director of Legal and Democratic Services is obliged to consider and review the decision to prosecute in accordance with the criteria set down in the Code of Conduct for Crown Prosecutors. The Law Society Practice Rules require observance of this Code by all prosecutors.
- 1.4 Referrals may also be made in certain circumstances to the Department for Work and Pensions who may take the Authority's case into account whilst taking a prosecution for other fraudulently claimed benefits, or to the police, as appropriate.

### **2.0 SPECIFIC PRINCIPLES**

- 2.1 In all cases of fraud the Authority will actively consider Prosecution, Administrative Penalty or a Formal Caution. In coming to this decision between the three options the Authority will have regard to the sums involved, and where the penalty or caution is refused, proceed to prosecution having regard to the issues outlined in the following section.
- 2.2 In all cases a report will be prepared by the Senior Benefits Officer (Investigations & Overpayments) for consideration by the Benefits Manager who will in turn sanction and progress the appropriate course of action. Once a case is considered appropriate for the application of a sanction, a decision will be taken whether to prosecute, levy an Administrative Penalty or apply a Formal

Caution, having regard to the sums involved and the individual circumstances of the person involved.

- 2.3 In deciding whether a case is suitable for the application of a sanction the Authority will take a number of issues into account, and these are outlined in section 3.

### **3.0 ISSUES TO BE TAKEN INTO ACCOUNT**

In this section appropriate officers shall mean the Benefits Manager, Senior Benefits Officer (Investigation & Overpayments, Director of Legal and Democratic Services or other officer involved in a decision to apply a sanction as the appropriate method of disposal following an investigation.

- 3.1 ***When considering a case for the application of a sanction or closure of a case, appropriate officers shall have regard to the following: -***

**(i) Strength of the evidence obtained**

Evidence may be defined as something that tends to prove a fact. Substantive evidence is essential for a successful conviction e.g. an employer may be required to produce wage records in court. In any case the Director of Legal and Democratic Services would review the evidence when asked to prosecute on behalf of the authority.

**(ii) Failure in investigation**

This will include cases where all the correct legal requirements, have not been followed.

- 3.2 ***Once the issues shown at 3.1 have been considered, the appropriate officers will then have regard to all or some of the following issues, which are not necessarily in hierarchical order:-***

**(i) The amount of money obtained and the duration of the offence:**

It is not normally practical to prosecute where the amount of the overpayment is less than the cost of proceedings, however Formal Cautions or Administrative Penalties remain an option. However, the amount of the overpayment may be disregarded in the case of a persistent offender or any other case where prosecution may be warranted. For example, where prosecution may have a significant deterrent effect, or where the type of fraud is prevalent in this area.

**(ii) The offender's physical or mental well-being:**

Sanctions should not be pursued where it is considered that personal or mental health problems have contributed to the reasons for committing the offence. Detrimental effects to the person's health as a result of sanction proceedings must also be considered. Obvious examples include heart disease, nerves (including threat/suspicion of suicide); individuals with perceived or known low mentality or any case where it appears that health would be affected detrimentally.

**(iii) Voluntary disclosure**

Voluntary disclosure only occurs when a claimant, of his or her own free will, reveals a fraud of which Bury MBC was unaware. Disclosure will not be deemed to be voluntary when for example the issue of a benefit review form has solicited or prompted the disclosure in some way.

**(iv) Any previous incidence of fraud**

Where fraud has been established in the past, including cases where a sanction may or may not have been applied.

**(v) Failure in benefits administration, including unreasonable delay**

Whilst it is recognised that under the Social Security Administration Act 1992 that making a false claim is an offence, irrespective of whether benefit is obtained. Where in the view of appropriate officers some failure in benefits administration has allowed a fraud to succeed e.g. where benefit is paid on incomplete information, where if the information had been complete and verified, the benefit may not have been paid.

**(vi) Social factors**

Where, for example, in the view of appropriate officers of the Authority, the suspect may have committed the fraudulent action by a particularly stressful domestic situation, having regard to para 6.2 of the Code of Conduct for Crown Prosecutors (as referred to at 1.3 to this Policy) which states that "often the prosecution should go ahead and those factors be put to the court for consideration when sentence is being passed".

**4.0 A case will not be deemed unsuitable for the application of a sanction simply because those involved have or are in a position to repay, the amount owing.**

## **METROPOLITAN BOROUGH OF BURY ANTI-FRAUD AND CORRUPTION STRATEGY**

These Terms of Reference are included in Appendix K in the Benefits Sections, Investigation Team Procedure Manual.

### **PART 3A – TERMS OF REFERENCE FOR BENEFIT FRAUD STAFF**

Bury MBC has a duty to the people of the Borough, on whose behalf it works, and to the Secretary of State for Social Security, on whose behalf it administers Housing and Council Tax Benefit, to ensure that the monies paid out go to those who are genuinely entitled.

These aims complement the Authority's Corporate Aim of Social Inclusion.

Those people who receive Benefits but would not be entitled, were their true circumstances known, must be identified, investigated and, where appropriate, sanctioned so that the Benefits system can be seen as secure and continue to provide the assistance required to those in need.

In its efforts to counter Benefit fraud, the Benefit Section's Investigation Team shall

- take the necessary steps to deter fraudulent claims from being submitted
- prevent the payment of these claims by the effective pre-payment screening of cases and the information supplied in support of the claim
- detect suspect cases through risk analysis and referral from assessment staff
- investigate those cases detected, using the methods open to the Investigation Team.

## **DETECTING FRAUD**

The Authority shall have

- a Corporate Anti-Fraud Strategy
- a Corporate 'Whistleblowing' Policy
- a Housing and Council Tax Benefit Fraud Prosecution Policy

Within the Benefits Section, the Investigation Team will

- ensure effective arrangements to identify and recover fraudulent overpayments in accordance with the Benefits legislation
- run a publicity programme, including press releases for all prosecuted cases
- subscribe to a 'Hotline' to assist the public in making referrals of suspect claims and ensure it is suitably advertised
- provide clear guidance to Benefits staff on procedures in the case of suspected internal fraud
- carry out a risk analysis, identifying high risk groups in order to develop and implement procedures to reinforce other deterrence related work
- actively participate in the Greater Manchester Fraud Investigation Group (GMFIG)
- actively participate in the Joint Operational Board and Regional Boards to support the governments aim of promoting Joint Working between the Department for Work and Pensions and Local Authority's.

## **LEGISLATION**

Claiming Housing and Council Tax Benefit that you are not entitled to is a criminal offence. The investigation of criminal offences is bound by a significant number of legal requirements. Investigation Team members shall have ready access to all information, procedures, appropriate training and legal advice necessary for them to carry out their duties in accordance with this governing legislation, including (but not exclusive to):

### **Benefits Legislation**

- Housing Benefits (General) Regulations 1987
- Council Tax Benefit (General) Regulations 1992
- Social Security Administration Act 1992
- Social Security (Fraud) Act 1997

### **Investigation and Interviewing Legislation**

- Police And Criminal Evidence Act 1984
- Criminal Procedures and Investigation Act 1996
- Human Rights Act 1998
- Data Protection Act 1998

### **Covert Surveillance Legislation**

- Regulation of Investigatory Powers Act 2000

### **Prosecution Legislation**

- Theft Act 1968 & 1978
- Criminal Law Act 1977
- Criminal Justice Act 1988
- Proceeds of Crime Act 1995 & 2002

## **PREVENTING FRAUD**

The Authority shall aim to maximise resources to prevent fraud by

- increasing fraud awareness to staff administering Benefit
- increasing fraud awareness in all staff (internal and external) who deal with those people claiming Benefit
- making best use of “pre-payment” visits to ensure that customers have declared their true circumstances
- liaising with Internal Audit and The Audit Commission to prevent internal and external fraud
- participating in the Audit Commission’s National Fraud Initiative exercise
- implementing initiatives to update recruitment procedures for all new staff to the Benefits Section to assist in preventing internal fraud
- identifying and implementing changes to the internal systems of the Benefits Section to reduce the potential for fraud to enter the system
- actively applying sanctions in accordance with the Housing Benefit Prosecution Policy and associated guidance
- publicising appropriate cases of people convicted of offences



## **DETECTING FRAUD**

The Investigation Team shall aim to maximise the number of suspect Benefit claims it detects by

- issuing clear referral criteria to staff on which claims to refer to designated Counter Fraud Officers for investigation
- having arrangements in place to provide feedback to assessment staff on the outcome of major referrals
- having effective arrangements in place to exploit existing data to help detect suspect Benefit claims
- input into and output from national and local data matching exercises including the National Fraud Initiative operated under the auspices of the Audit Commission
- maintaining a close working arrangement with the Department for Work and Pensions (DWP) to share information to assist in the detection and investigation of potentially fraudulent claims
- ensuring availability of management information on sanctions applied to assess performance against our internal targets

## INVESTIGATING FRAUD

The Investigation Team shall in its efforts to maximise the effectiveness of its counter fraud investigations have

- effective procedures for prioritising the referrals it receives
- robust case management systems including document imaging, enabling management to monitor the workload of case officers to a successful conclusion
- effective arrangements to maximise value for money from the use of investigative resources
- clear and consistent working methods and standards for investigating and for documenting the results of investigations
- effective liaison arrangements with the DWP Counter Fraud Inspection Service (CFIS)
- a regular programme of staff training to enable investigators to maintain the ability to undertake investigations to the highest standards
- maximise the use of available information to further investigations:

These include but are not restricted to

- Housing Benefit and Council Tax records
  - Register of Electors information
  - Other internal records
  - Accessing credit references
  - Telephone subscriber records
  - Utility records
  - Covert surveillance
  - Bank accounts
  - Loan applications
  - Access to employers' and landlords' records under the Authorised Officers Powers of s109/110 Social Security Administration Act 1992
- conducting Interviews under Caution to obtain the pertinent facts of a case to establish if an offence has occurred

## FRAUD REFERRALS

The Authority shall actively encourage all staff, and Benefits staff in particular, to make referrals of cases where fraud is suspected.

- This is a key step in detecting and deterring fraud.
- Establishes the Authority's reputation for rigour in claims processing.
- Gives the Investigation Section information to assist in the establishment of risk analysis to indicate the type of fraud which may be prevalent in the area.
- Helps identify any weaknesses in Benefits administration systems and any necessary remedial action.
- Ensures the full and effective use of investigation resources.
- Gives management a level of assurance that fraud is being identified and referred to the appropriate officers.
- Leads to and promotes overpayment recovery which, in turn, increases the funds available to the Authority.

The ability to make good quality referrals will ensure that

- frauds do not go unnoticed
- frauds can be detected, prevented and deterred
- investigative effort is sharply focused rather than speculative
- frauds may be investigated promptly, before large amounts of public money are spent
- fraudulent overpayments are minimised
- any recurrent or critical weaknesses in Benefits administration may be identified and remedied quickly
- staff competencies and job satisfaction are increased

The Authority shall ratify its commitment to deter, prevent, detect and investigate fraud and promote referrals to the Investigation and Overpayments Team within Benefits, and co-ordinate other Authority-wide initiatives including the Anti-Fraud Strategy and Whistleblowing Policy.

# METROPOLITAN BOROUGH OF BURY ANTI-FRAUD AND CORRUPTION STRATEGY

## **PART 4 – STANDARDS OF CONDUCT – (LOCAL GOVERNMENT ACT 2000 PART III)**

### ***NEW CODES OF CONDUCT***

Part III of the Local Government Act 2000 established new arrangements governing the standards of conduct of Members and Employees.

The Act allows the Secretary of State to issue orders which will specify the principles which are to govern the conduct of Members and Employees in England and Wales. Before making the orders the Secretary of State is undertaking a consultation exercise with representatives of Local Government which will form the basis of new national Model Codes of Conduct.

Once the Model Codes of Conduct have been issued Local Authorities will have six months in which to devise local Codes of Conduct for Members and employees based on the national model. Local Authorities must publish their Codes of Conduct and make them available for public inspection. Local Authorities will also be required to send copies to the Secretary of State.

When a Council adopts a new Code of Conduct each existing Member of the Authority must give to the Authority a written undertaking that they will perform their functions in accordance with the new Code. If a Member fails to do so within two months of the Code being adopted their office will become vacant. For any newly elected Members to a Council they will be required to declare that they will follow the Authority's Code of Conduct when making their declaration of acceptance of office under Section 83 of the Local Government Act 1972.

Part III of the Act also requires each Local Authority to establish its own Standards Committee which will be responsible for promoting and maintaining high standards of conduct by Members and Co-opted Members of the Authority. The membership of the Standards Committee must include two Members of the Authority and at least one person who is not a Member or an Officer of the Authority.

### ***Disciplinary Procedures***

Allegations that a Member has failed or may have failed to comply with the Authority's Code of Conduct will not be dealt with by their Council. A person may make written allegations to the Standards Board for England. The

Standards Board will then decide whether to investigate. If an investigation is undertaken an Ethical Standards Officer appointed by the Standards Board will be asked to undertake an investigation to determine:-

- if there is evidence of any failure to comply with the Code of Conduct of the relevant Authority concerned
- that no action needs to be taken in respect of the matters which are subject to the investigation
- that the matters which are the subject of the investigation should be referred to the Monitoring Officer of the relevant Authority concerned or
- that the matters which are the subject of the investigation should be referred to the President of the Adjudication Panel for England for adjudication by a tribunal.

Ethical Standards Officers will have extensive powers available to them to ensure that all relevant information is disclosed. An Ethical Standards Officer at the conclusion of the investigation will produce a report setting out their findings and in certain cases allegations will be referred to an Adjudication Panel for further consideration.

In certain instances an Ethical Standards Officer can produce an interim report before the investigation is complete if it appears that the Member has failed to comply with the Code of Conduct of their Local Authority and that the nature of the failure is such as to lead to the likely disqualification of the Member under the Act or that it is in the public interest to suspend or partially suspend that Member immediately. If an interim report is produced the matter is automatically referred to the Adjudication Panel for further consideration.

If any case is referred to the Adjudication Panel the Member concerned is given the opportunity to appear before the Panel or to be represented by Counsel or a Solicitor in order to present their case. At the conclusion of the hearing a report will be published and made publicly available.

The Adjudication Panel has the power to suspend or partially suspend a Member or to completely disqualify them from office and to determine how long the suspension or disqualification should last up to a maximum of five years.

Any Member who has such a finding made against them may appeal to the High Court against the decision.

The Act also changes the role of the Monitoring Officer. He or she may assist in any investigations which are undertaken. The Standards Committees may act on any matters arising from investigations or any guidance and instructions issued by the National Standards Board.

The Monitoring Officer will also be responsible for ensuring that a register of interests of Members is maintained.

# METROPOLITAN BOROUGH OF BURY ANTI-FRAUD AND CORRUPTION STRATEGY

## **PART 5 – GUIDANCE FOR MEMBERS AND OFFICERS ON HOW TO REPORT SUSPECTED FRAUD AND CORRUPTION WITHIN OUTSIDE BODIES**

### ***INTRODUCTION***

Membership of outside bodies has become a regular feature of the duties performed by both Councillors and Officers in Local Government service including voluntary organisations, Local Government Associations and companies.

### ***THE ROLES AND RESPONSIBILITIES OF MEMBERS AND OFFICERS***

In carrying out their roles Councillors and Officers will act both as individuals and as representatives of the Council. This means:-

- Acting according to the rules, constitution and framework set by the outside body
- Making independent and personal judgements in line with their duty of care to the outside body
- Reporting back at least annually to the Council or relevant Committee
- Behaving ethically and following as far as applicable the National Code of Local Government Conduct
- Taking an active and informed role in the management of the outside bodies affairs
- Not representing the political party to which the Councillor owes their political loyalty
- To take part in the outside body's discussions and decisions
- Not to look at things simply from the Council's perspective
- To take an active part in meetings and events organised by groups.

In performing these duties and roles, Members may become suspicious or suspect fraud and/or corruption. Dependent on the nature of the outside organisation, Members could find themselves liable if they do fail to report or act upon any suspicions of fraud or corruption.

By and large it will not be the responsibility of the Council to investigate any accusations of fraud and corruption. For the vast majority of organisations with which the Council works, there are regulatory and inspectorate bodies to whom such reports should be made.

Before deciding to formally report any suspicions of impropriety, Members and Officers must seek the advice of the Monitoring Officer (the Director of Legal and Democratic Services), who will then advise on the most appropriate action to take, and will, on behalf of the Member, inform the relevant regulatory or inspectorate body for the organisation concerned.



# METROPOLITAN BOROUGH OF BURY ANTI-FRAUD AND CORRUPTION STRATEGY

## PART 6 – LOCAL CODE OF CORPORATE GOVERNANCE

### 1.0 **INTRODUCTION**

- 1.1 The term corporate governance came into common use in the UK in a private sector context following publication of the Cadbury Report in 1992 (*The Report of the Committee on the Financial Aspects of Corporate Governance*). This report defined corporate governance as being:

*“The system by which organisations are directed and controlled”*

- 1.2 The public sector originally built its approach to corporate governance by focussing on the financial reporting and accountability aspects of Cadbury, and this was reflected in the work of the Nolan Committee in the early 1990s. However since that time the focus has changed and whilst control and accountability remain essential to good local government the importance of community leadership, innovation and partnership has now been recognised.

- 1.3 Corporate governance is now seen as being:

*“The system by which local authorities direct and control their functions and relate to their communities”*

- 1.4 This definition is taken from a Corporate Governance Framework that has been produced by the Chartered Institute of Public Finance and Accountancy (CIPFA) and by the Society of Local Authority Chief Executives and Senior Managers (SOLACE) in an attempt to pull together the principles developed by Cadbury, Nolan and latterly the DTLR.

- 1.5 The Framework defines the principles that should underpin the governance of each local authority and it urges all authorities to

- Review existing corporate governance arrangements against the Framework;

- prepare, adopt and maintain an up-to-date local code of corporate governance; and
- make a statement annually in its Statement of Accounts, and refer to it in its Best Value Performance Plan, on how the authority is complying with its local code, including how it has monitored the effectiveness of its corporate governance arrangements in the year and any planned changes for the coming year.

1.6 This Code defines the key principles of good corporate governance, it explains the different dimensions of a local authority's business to which these principles need to apply and it sets out a Code of Corporate Governance for the Council that embraces the CIPFA/SOLACE Framework.

## 2.0 **THE ELEMENTS OF CORPORATE GOVERNANCE**

2.1 Authorities must be able to demonstrate that they are complying with the underlying principles of good governance which are:

- **openness** and inclusivity;
- **integrity**; and
- **accountability**.

2.2 If they are to do this, these principles need to be translated into a framework which seeks to ensure that they are fully integrated in the conduct of the authority's business and establishes a means of demonstrating compliance. Therefore, local authorities will need to demonstrate that their systems and processes are:

- monitored for their **effectiveness** in practice
- subject to review on a continuing basis to ensure that they are **up to date**.

2.3 The concept of leadership overarches the principles of corporate governance. The principles of good governance can only be adhered to if leadership is exercised through:

- the local authority providing vision for its community and leading by example in its decision-making and other processes and actions
- members and managers conducting themselves in accordance with the highest standards.

- 2.4 When reviewing corporate governance arrangements authorities are recommended to use the so-called vowel test in order to ensure that compliance is demonstrated through:

Accountability;  
Effectiveness;  
Integrity;  
Openness and inclusivity; and by keeping their arrangements  
Up-to-date

- 2.5 The fundamental principles of corporate governance, therefore, need to be reflected in the different dimensions of a local authority's business. It is important to recognise that the dimensions are not mutually exclusive - for example, standards of conduct are part of every dimension.

#### **Dimension 1- Community Focus**

Through carrying out their general and specific duties and responsibilities and their ability to exert wider influence, local authorities should:

- work for and with their communities
- exercise leadership in their local communities, where appropriate
- undertake an 'ambassadorial' role to promote the well-being of their area, where appropriate.

#### **Dimension 2 -Service Delivery Arrangements**

A local authority should ensure that continuous improvement is sought, agreed policies are implemented and decisions carried out

#### **Dimension 3 -Structures and Processes**

A local authority needs to establish effective political and managerial structures and processes to govern decision-making and the exercise of authority within the organisation.

#### **Dimension 4 -Risk Management and Internal Control**

An authority needs to establish and maintain a systematic strategy, framework and processes for managing risk.

#### **Dimension 5 -Standards of Conduct**

The openness, integrity and accountability of individuals within a local authority form the cornerstone of effective corporate governance. The reputation of the authority depends on the standards of behaviour of everyone in it, whether members, employees or agents contracted to it. Therefore, members and senior officers of a local authority will need to:

- exercise leadership by conducting themselves as role models for others within the authority to follow
- define the standards of personal behaviour that are expected from members and staff and all those involved in service delivery

### 3.0 **CODE OF CORPORATE GOVERNANCE**

- 3.1 Bury MBC recognises that it is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.
- 3.2 In discharging this accountability Members and officers will be responsible for putting in place proper arrangements for the governance of the authority's affairs and the stewardship of the resources at its disposal
- 3.3 To this end the authority has approved and adopted this Code of Corporate Governance which is consistent with the principles and reflects the requirements of the CIPFA/SOLACE Framework "*Corporate Governance in Local Government : A Keystone for Community Governance*".
- 3.4 To achieve the principles of good corporate governance, the authority will:

#### **COMMUNITY FOCUS**

- publish on a timely basis an Annual Report presenting an objective, understandable account of the authority's activities and achievements and its financial position and performance
- publish on a timely basis a Best Value Performance Plan presenting an objective, balanced and understandable account and assessment of the authority's current performance in service delivery and its plans to maintain and improve service quality
- put in place proper arrangements for the independent audit and review of the financial and operational reporting processes
- put in place proper arrangements designed to encourage individuals and groups from all sections of the community to engage with, contribute to and participate in the work of the authority and put in place appropriate monitoring processes to ensure that they continue to work in practice
- make an explicit commitment to openness in all of its dealings, subject only to the need to preserve confidentiality in those

specific circumstances where it is proper and appropriate to do so

- establish clear channels of communication with all sections of the community and other stakeholders, and put in place proper monitoring arrangements to ensure that they operate effectively
- ensure that a vision for the local community, and for strategic plans, priorities and targets, is developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that the vision, plans, priorities and targets are clearly articulated and disseminated

## **SERVICE DELIVERY ARRANGEMENTS**

- set standards and targets for performance in the delivery of services on a sustainable basis and with reference to equality policies
- put in place sound systems for providing management information for performance measurement purposes
- monitor and report performance against agreed standards and targets and develop comprehensive and understandable performance plans
- put in place arrangements to allocate resources according to priorities
- foster effective relationships and partnerships with other public sector agencies and the private and voluntary sectors
- respond positively to the findings and recommendations of external auditors and statutory inspectors and put in place arrangements for the effective implementation of agreed actions

## **STRUCTURES AND PROCESSES**

### **Balance of Power and Authority .**

- put in place clearly documented protocols governing relationships between members and officers
- ensure that the relative roles and responsibilities of executive and other members, members generally and senior officers are clearly defined

### **Roles and Responsibilities -Members**

- meet on a formal basis regularly to set the strategic direction of the authority and to monitor service delivery
- develop and maintain a scheme of delegated or reserved powers, which should include a formal schedule of those

matters specifically reserved for the collective decision of the authority

- put in place clearly documented and understood management processes for policy development, implementation and review and for decision-making, monitoring and control, and reporting; and formal procedural and financial regulations to govern the conduct of the authority's business
- put in place arrangements to ensure that members are properly trained for their roles and have access to all relevant information, advice and resources necessary to enable them to carry out their roles effectively
- define formally in writing the role of the executive member(s) of the authority, to include responsibility for providing effective strategic leadership to the authority and for ensuring that the authority successfully discharges its overall responsibilities for the activities of the organisation as a whole
- define clearly in writing the roles and responsibilities of all members of the local authority, together with the terms of their remuneration and its review

#### **Roles and Responsibilities -Officers**

- make the Chief Executive or equivalent responsible to the authority for all aspects of operational management
- make the Director of Finance and E-Government responsible to the authority for ensuring that appropriate advice is given to it on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control
- make the Monitoring Officer/Director of Legal and Democratic Services responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with
- define clearly in writing the roles and responsibilities of all senior officers, together with the terms of their remuneration and its review
- adopt clear protocols and codes of conduct to ensure that the implications for supporting community political leadership for the whole council are acknowledged and resolved

#### **RISK MANAGEMENT AND INTERNAL CONTROL**

- develop and maintain robust systems for identifying and evaluating all significant risks which involve the proactive

participation of all those associated with planning and delivering services

- put in place effective risk management systems, including systems of internal control and an internal audit function. These arrangements will aim to ensure compliance with all applicable statutes, regulations and relevant statements of best practice and need to ensure that public funds are properly safeguarded and are used economically, efficiently and effectively, and in accordance with the statutory and other authorities that govern their use
- ensure that services are delivered by trained and experienced people
- put in place effective arrangements for an objective review of the effectiveness of risk management and internal control, including internal audit
- maintain an objective and professional relationship with their external auditors and statutory inspectors
- publish on a timely basis, within the Annual Report, an objective, balanced and understandable statement and assessment of the authority's risk management and internal control mechanisms and their effectiveness in practice

## **STANDARDS OF CONDUCT**

- develop and adopt formal codes of conduct defining the standards of personal behaviour to which individual members, officers, and agents of the authority are required to subscribe and put in place appropriate systems and processes to ensure that they are complied with
- put in place arrangements to ensure that members and employees of the Authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice
- put in place arrangements to ensure that their procedures and operations are designed in conformity with appropriate ethical standards, and to monitor their continuing compliance in practice
- put in place arrangements for whistle blowing to which staff and all those contracting with the council have access.

3.5 The Monitoring Officer/Director of Legal and Democratic Services will be responsible for:

- Overseeing the implementation and monitoring of the Code;
- reviewing the operation of the Code; and

- reporting annually to the Standards Committee on compliance with the Code and any changes that may be necessary to maintain it and ensure its effectiveness in practice.

- 3.6 In addition the Chief Internal Auditor will be responsible for reviewing independently the Code and reporting to the Audit Sub-Committee annually, to provide assurance on the adequacy and effectiveness of the Code and the extent of compliance with it.
- 3.7 Details of the extent to which the authority is complying with the Code will be included within the annual Statement of Accounts and the Best Value Performance Plan.

#### 4.0 **IMPLEMENTATION**

- 4.1 Many of the documents and processes needed to demonstrate compliance with the Code are already in existence, particularly within the Council Constitution and revised Code of Conduct. However, in line with good practice recommended within the CIPFA/SOLACE Framework, the Council has established a Best Value Review team to drive forward the implementation of the Code.
- 4.2 The Team will undertake an audit of compliance, identify gaps and drive forward the implementation of necessary action plans.
- 4.3 Initial development work will be required in the following areas:
- Production of an Annual Report
  - Production of Departmental Service Delivery and Development Plans
  - Implementation of Investors in People across the Council
  - Development of a corporate performance management system
  - Introduction of a Risk Management Policy and Strategy
  - Up-dating of the Council's Complaints Procedure
- 4.4 Many of these actions are already underway and regular progress reports will be taken to the Council's Standards Committee.