



Comhairle nan Eilean Siar
Internal Audit
Anti-Fraud, Corruption, Bribery and Irregularity
Strategy and Response Arrangements

20 March 2023

**COMHAIRLE NAN EILEAN SIAR
INTERNAL AUDIT ANTI FRAUD, CORRUPTION, BRIBERY AND
IRREGULARITY STRATEGY**

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1 INTRODUCTION

- 1.1 The Comhairle is committed to a culture of honesty, integrity and propriety in the use of public funds and in the holding of public office. It will not tolerate fraud, corruption, bribery or irregular practice in the administration of its responsibilities from inside or outside the organisation. The Comhairle is therefore committed to the rigorous maintenance of arrangements for the prevention and detection of fraud, corruption and other irregularities. Furthermore, the Comhairle is committed to reduce losses to fraud and corruption that may affect its objectives.
- 1.2 The Comhairle and its Management Team acknowledge the threats and harm associated with fraud and corruption. It is therefore important that the culture within the Comhairle fosters openness and resilience to such attempts and promotes good governance in all of its activities, together with accountability of its managers in their respective duties.

2 DEFINITIONS

Fraud

The intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain.

Corruption

The offering, giving, soliciting or acceptance of an inducement or reward that may influence the action of any person to the detriment of the Comhairle or to the unapproved or unlawful benefit of the perpetrator.

Irregularity

Other illegal acts (or those in breach of Comhairle policies and guidelines) characterised by deceit, concealment or violation of trust.

Bribery

The offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.

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3 RELATIONSHIP WITH COMHAIRLE POLICIES

3.1 A number of Comhairle policies, Codes of Conduct and Constitutional Documents interface with this internal audit policy note. These include:-

- Financial Regulations
- Standing Orders
- Scheme of Delegation
- Contract Regulations
- Scheme of Appointments
- Disciplinary and Grievance Procedures (Employment Handbook)
- Local Government Code of Conduct
- Registers of Members Interests
- Registers of Gifts and Hospitality
- Internal Audit Fraud Procedure Guidelines
- Policy for Reporting Concerns at Work (Public Interest Disclosure Act (“Whistleblowing”))
- Complaints Procedures
- Comhairle Press Code
- Policy on Employee Contact with the Media
- Information Security Policy
- Building and Corridor Access and Visitors

3.2 Good practice in corporate governance in public sector authorities requires that codes of conduct and practice should be in place. The published codes of conduct and practice referred to in 3.1 above are intended to provide practical advice on the standards that are expected. Failure to follow the guidance may result in disciplinary action being taken.

3.3 In practice, under Section 95 of the Local Government (Scotland) Act 1973 it is the responsibility of the Director of Strategic Finance to make arrangement for the proper administration of the Comhairle’s financial affairs.

3.4 As outlined in the Comhairle’s Financial Regulations, directors are obliged to notify the Director for Strategic Finance in the event of any suspected irregularity, and the Director of Strategic Finance is obliged to take such steps as he considers necessary by way of investigation and reporting. It is the responsibility of the Director for Strategic Finance to notify the Chief Executive and the Monitoring Officer of the outcome of the investigation and, where agreed with these officers, to inform the Police.

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4 PREVENTION AND DETERRANCE

4.1 The Comhairle has implemented arrangements in a number of areas, aimed at deterring fraud, corruption and irregularity. These include:-

4.2 **Corporate Strategy**

The Comhairle has a stated aim and value of “displaying the highest standards of integrity in public life.” Through its elected Members and employees, it is committed to operating under appropriate codes of practice to ensure the highest standards of integrity in the delivery of services and in its dealings with the public.

4.3 **Organisation culture**

The Comhairle is determined that the culture and tone of the organisation meets the expectations of the Committee of Standards in Public Life and is committed to the principles contained in the Nolan report of objectivity, openness, leadership, accountability, honesty, selflessness and integrity.

The Comhairle expects Members and employees to lead by example in ensuring opposition to fraud, corruption and irregularity, in ensuring adherence to rules and regulations and in ensuring that all procedures and practices are beyond reproach.

The Comhairle requires all individuals and organisations with which it deals in any capacity to behave towards the Comhairle with integrity and without intent or actions involving fraud or corruption.

Comhairle employees and members of the public are encouraged to raise any concerns they may have on these issues, which impact on Comhairle activities using the Comhairle’s complaints procedure.

The Comhairle supports induction and work related training particularly for employees involved in internal control systems to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced and that best practice is followed across all Comhairle services.

As part of its responsibilities, the Comhairle internal audit section is required to investigate activities involving fraud and corruption. Its training plans reflect the requirement for audit staff to be properly and regularly trained.

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4.4 Preventative Measures

The Comhairle's scheme of Delegation, Standing Orders and Financial Regulations set out a framework for dealing with the affairs of the Comhairle and all employees have a duty to comply with their provisions.

4.6 Thorough documentation is expected of all financial and operational systems. Every effort must be made to continually review and develop these systems in line with best practice to ensure efficient and effective internal controls, to deter fraudulent activity and detect error.

4.7 The adequacy and appropriateness of the Comhairle's financial systems is independently monitored and assessed by external audit and the control and operating systems by internal audit. Senior management is committed to continuously improving the systems for which it is responsible, both through its own self-assessments and by positive response to audit recommendations.

4.8 Members must have regard to the National Code of Local Government Conduct and acceptance of their appointment includes an undertaking to be guided by the national code.

4.9 Employee recruitment is required to be in accordance with policies agreed by the Comhairle and written references must be obtained to confirm the integrity of potential employees before employment offers are made.

4.10 Comhairle employees are expected to follow any code of conduct related to their personal professional qualifications.

4.11 Any offers of gifts or hospitality, which are in any way related to the performance of their Comhairle duties, must be discussed by the employee with their line manager and acceptance of gifts or hospitality may be required to be declared in the public register.

4.12 Employees are not permitted to retain any fee, commission or other payment collected or received by them arising in any way, from or through their Comhairle employment except with the written consent of their head of department. In the case of directors, the appropriate committee must issue consent. Any employee in breach of these regulations may be liable to summary dismissal.

4.13 Comhairle employees must declare any interests that they may have in any contracts entered into by the Comhairle and these must be noted in a register maintained for that purpose.

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- 4.14 Comhairle managers must take cognisance of the risks associated with fraud and corruption as part of the Comhairle's risk management arrangements and in any subsequent mitigation of risks identified as part of that process.
- 4.15 The Comhairle's Internal Audit section will undertake proactive reviews in areas where fraud and corruption are deemed to be more susceptible.

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5 DETECTION

- 5.1 The Comhairle will be robust in dealing with any malpractice and can be expected to deal timeously and thoroughly with any person who attempts to defraud the Comhairle or who engages in corrupt or irregular practices, whether they are Members, employees, tenants or unrelated third parties.
- 5.2 All suspicions of impropriety must be reported to the Director for Strategic Finance and will be appropriately investigated, these include cases identified in the National Fraud Initiative (NFI) and through any other data matching exercise.
- 5.3 The Chief Executive, in consultation with the Director for Strategic Finance and Monitoring Officer will ensure that matters are reported to the Police if there are reasonable grounds for believing that a criminal offence has been committed.
- 5.4 The Comhairle's Disciplinary Procedures may be used where the outcome of investigation indicates improper behaviour on the part of employees.
- 5.5 Where loss has been suffered through fraudulent activity, the Comhairle may pursue the perpetrator for recovery, including taking appropriate legal action.
- 5.6 In the majority of cases it is the diligence of employees and the alertness and good citizenship of the public at large, which enables detection to occur.
- 5.7 All instances of fraud or irregularity in the Comhairle are investigated by the internal audit section on behalf of the Director for Strategic Finance or the Chief Executive. Depending on the nature and the anticipated extent of the allegations, the Internal Audit section will normally work closely with management and other agencies, such as the Police, to ensure that all allegations and evidence are properly investigated and reported upon. Where there is a joint approach by the Police and Internal Audit, a framework is agreed prior to Internal Audit's involvement, this is to minimise repetition of work and to prevent complications where prosecution is considered. The detailed arrangements for the investigation of any suspected fraud or irregularity is contained in the guidelines used by the Internal Audit section and in the complaints and whistle blowing procedures issued by the Monitoring Officer.
- 5.8 The Comhairle has adopted a policy on covert surveillance which complies with the Code of Practice. While the use of covert surveillance is unusual in internal audit investigations and will generally only be used in exceptional circumstances, when the technique is to be used the policy and the principles contained therein will be complied with and the directed surveillance will be properly authorised.

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- 5.9 The Bribery Act came into force on 1st July 2011 requiring local authorities such as the Comhairle to make arrangements for the prevention of bribery. The Comhairle has adopted policies and procedures which promote well managed risk, a culture of openness, codes of conduct, disciplinary procedures, recruitment and selection processes, gifts and hospitality register and a 'Whistleblowing policy.
- 5.10 The Comhairle will work with all relevant partner agencies such as the Department for Work and Pensions, Police Scotland, Procurator Fiscal and Her Majesty's Revenue and Customs in order to both minimise the risk of fraud and corruption but also pursue prosecution, where appropriate.

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6 INTERNAL AUDIT RESPONSE ARRANGEMENTS

- 6.1 Operational procedures have been developed for use by internal audit staff when undertaking investigations into fraud, corruption and other irregularities. By complying with these procedures, internal audit staff will be in a position to demonstrate compliance with current accepted good practice and should increase the likelihood of fully informed conclusions being reached, supported with audit evidence of the appropriate professional standard.
- 6.2 Under section 95 of the Local Government (Scotland) Act 1973 it is the responsibility of the Director for Strategic Finance to make arrangement for the proper administration of the Comhairle's financial affairs.
- 6.3 Under the Comhairle's Financial Regulations, Heads of Service and Directors are obliged to notify the Director for Strategic Finance in the event of any suspected irregularity, and the Director for Strategic Finance is obliged to take such steps as he considers necessary by way of investigation and reporting. It is the responsibility of the Director for Strategic Finance to notify the Chief Executive and the Monitoring Officer of the outcome of the investigation and, where agreed with these officers, to inform the Police.

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7 INVESTIGATIONS

- 7.1 The Internal Audit section will, on behalf of the Director for Strategic Finance, carry out necessary investigations and report to the Director for Strategic Finance. All special investigations will normally be led by the most senior member of the internal audit team, who will decide which member of the team should be involved in the exercise, based on their knowledge of their skills and experience.
- 7.2 The aims of internal audit investigations undertaken under the terms of Financial Regulation 6 & 7 are: -
- a) To obtain evidence to support conclusions as to guilt or vindication - it is just as important to the Comhairle to establish innocence in the case of an incorrect accusation as it is to confirm that an irregularity has been perpetrated;
 - b) To identify appropriate methods of recovery of money or property which has been misappropriated; and
 - c) To suggest ways in which internal controls might be improved to reduce the risk of similar instances occurring in future - Internal Audit should identify how the irregularity was allowed to happen and recommend what controls should be in place to deter repetition and facilitate detection of similar irregularities in the future.

Securing evidence and prevention of further loss

- 7.3 It is not within the remit of the Internal Audit function to recommend whether disciplinary action should be taken or what form such action should take. However there are some circumstances where, on finding a misappropriation, the perpetrator should be denied access to the area in which the misappropriation occurred in order to prevent the destruction or removal of evidence which may be required to support disciplinary or criminal action.
- 7.4 To facilitate this, on confirming that misappropriation has occurred, the Internal Audit team must contact the Director for Strategic Finance who, in turn, will contact the director of the employee concerned in order to take the decision on whether or not to suspend the employee.
- 7.5 If the Director for Strategic Finance or the Chief Executive are not available, then Internal Audit should advise the appropriate director of their findings, giving him or her the necessary information to reach a decision on the appropriate action.

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- 7.6 In circumstances where suspension is considered appropriate, the relevant director should arrange for the suspect to be supervised at all times before leaving the Comhairle's premises. The suspect should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the Comhairle. Security passes, keys to premises, offices and furniture should be returned. The suspect should be denied access to Comhairle premises during the suspension and access permissions to the Comhairle's computer systems should be withdrawn.
- 7.7 The internal audit team should consider whether it is necessary to investigate systems other than those which have given rise to the investigation, through which the suspect may have had opportunity to misappropriate Comhairle or client assets.

Establishing evidence

Information gathering

- 7.8 In advance of undertaking investigative interviews, internal audit staff should obtain written details of the nature of the alleged irregularity and gather and review information on expected practice e.g. from constitutional documents, staff guidance notes and handbooks etc. A terms of reference or detailed complaint for the investigation should be prepared and should normally be approved by the Director for Strategic Finance and the director of the department in which the investigation will be undertaken be informed of the investigation/complaint.
- 7.9 The senior member of the internal audit team will: -
- Maintain familiarity with the Comhairle's disciplinary procedures and regulations, so that evidence requirements will be met during any investigation;
 - Consider whether there is a need for audit staff to be trained in evidence rules and hold a certificate in investigative practice; and
 - Ensure that staff involved in fraud investigations are familiar with and follow rules on the admissibility of documentary and other evidence in criminal proceedings.

Interviews

- 7.10 Under the current Financial Regulations, the Director for Strategic Finance or his authorised representative, in this case the Internal Audit section, have the authority to require and receive such explanations as are necessary concerning any matter under examination. This may preclude an employee from having formal representation at the fact-finding stage of an investigation. However, reasonable

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adjustments will be made in terms of complying with the Equality Act 2010, where appropriate.

- 7.11 In practice, interviews will be attended by two members of internal audit staff, who must introduce themselves to the interviewee, present their identification and explain the purpose of the meeting. In advance of the interview, a detailed list of questions will be prepared, aimed at obtaining the necessary information from the interviewee. Additional follow up questions will generally need to be raised during the course of the interview. During the course of questioning, the interviewee will be asked to provide evidence supporting his or her responses, and this evidence should be retained by internal audit staff and held in a secure location.
- 7.12 On completion of any investigative interview, the audit staff present must prepare detailed notes of the interview, which should be signed as a true record by both members of staff and retained as audit evidence.
- 7.13 Once the facts have been established, any further interviews with employees must be formal and the interviewee should be offered the right to be accompanied during the interview. This may be a Union representative if they so desire. However, reasonable adjustments will be made in terms of complying with equalities legislation, where appropriate.
- 7.14 Internal Audit staff undertaking investigative interviews must have had the appropriate training.

Recovery of losses

- 7.15 The internal audit investigation team will, as far as possible, quantify the amount of any loss arising from investigated fraud or irregularity. Repayment of the lost amount should be pursued by the Comhairle in all cases.

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8 REPORTING TO COMHAIRLE MEMBERS & EXTERNAL AUDIT

- 8.1 Any incident of suspected or actual fraud, corruption or other irregularity which is subject of an internal audit investigation report will be made available to the members of the Audit and Scrutiny Committee through normal operational procedures. The reports contain details and recommendations arising from the specific investigation, along with recommendations for improvements in internal control to reduce the risk of similar instances arising in future. Where action is required to strengthen internal control, a follow up review will be undertaken to confirm that agreed improvements have been implemented by management.
- 8.2 The investigation reports will be made available to the external auditors. In specific cases, investigation reports will be made available to the Police and Procurator Fiscal.
- 8.3 An annual return will also be made to external audit detailing the number, nature and value of all first and second tier instances of fraud and irregularity (as defined by Audit Scotland) which have arisen during the course of the financial year.

9 CONCLUSIONS

- 9.1 The Comhairle has in place a number of systems and procedures to deter and investigate fraud, corruption and other irregularities. It keeps these arrangements under continuous review to keep pace with new developments in preventative and detection techniques aimed at minimising the risk of fraudulent or corrupt activity that may affect its operations. The overview of these arrangements is achieved, in particular, through the Director for Strategic Finance and the Comhairle's internal and external auditors.