

ESSEX FIRE AUTHORITY ANTI-FRAUD POLICY



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ANTI FRAUD POLICY

SCOPE

1. This policy applies to all staff and Members of the Authority, contractors, suppliers and service users.

DEFINITION

2. To have a clear understanding of fraud a clear definition is needed.
3. Fraud is the deliberate changing of financial statements or other records by either a member of the public or someone who works for the Authority, the theft or unauthorised use of equipment, the theft of money or services or their diversion for personal and unlawful gain.

FRAUD ACT 2006

4. A person is guilty of fraud if they are in breach of the following sections:-
 - a) Section 2 - fraud by false representation,
 - b) Section 3 – fraud by failing to disclose information, and
 - c) Section 4 – fraud by abuse of position.

Fraud by False Representation

5. A person is in breach of this section if they:-
 - a) Dishonestly make a false representation, and
 - b) Intend, by making the representation:-
 - (i) to make a gain for themselves or others, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Fraud by Failing to Disclose Information

6. A person is in breach of this section if they:-
 - a) Dishonestly fail to disclose to another person information which they are under a legal duty to disclose, and
 - b) Intend, by failing to disclose the information:-
 - (i) to make a gain for themselves or others, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Fraud by Abuse of Position

7. A person is in breach of this section if they:-
 - a) Occupy a position in which they are expected to safeguard, or not to act against, the financial interests of another person,

- b) Dishonestly abuse that position, and
- c) Intend, by means of the abuse of that position-
 - (i) to make a gain for themselves or others, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

THEFT ACT 1968 AND THEFT ACT 1978 (as amended)

8. The Theft Act 1968 defines a number of criminal offences including theft and the achievement of a gain through deception. These include the following:

Theft

9. A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

Obtaining Pecuniary advantage by Deception

10. A person who by any deception dishonestly obtains for himself or another any pecuniary advantage.

Obtaining Services by Deception

11. This includes remission or avoidance of a debt achieved through deception.

BRIBERY ACT 2010

12. The Bribery Act of 2010 has introduced the offences of offering and receiving a bribe. It places specific responsibility on the Authority to have in place sufficient and adequate procedures to prevent bribery and corruption taking place. Under the Act, Bribery is defined as “Inducement for an action which is illegal unethical or a breach of trust. Inducements can take the form of gifts loans, fees rewards or other privileges. Corruption is broadly defined as the offering or the acceptance of inducements, gifts or favours payments or benefit in kind which may influence the improper action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.
13. To demonstrate that the Authority has in place sufficient and adequate procedures and to show openness and transparency all staff are required to comply with the requirements of Declaration of Interest Policy. Should members of staff wish to report any concerns or allegations, they should contact the Authority’s Bribery Compliance Officer (or equivalent)

AIMS AND OBJECTIVES

14. The aim of an anti-fraud policy statement is to establish ground rules which clarify that fraud will not be tolerated and spell out the consequences of fraud. One of the basic principles of this policy is to ensure proper use of the public’s money in the operation and management of the fire and rescue service and to demonstrate that the Authority has a commitment to the highest level of ethical and moral standards. The policy statement also sets out the framework to ensure a fast and appropriate response to instances of alleged fraud. The overall objective is to limit the Authority’s exposure to fraud and to minimise financial loss and the potential adverse affects on its image and reputation in the event of its occurrence.

SUMMARY OF POLICY

15. The Authority will:-
- Institute and maintain cost effective measures and procedures to deter fraud.
 - Take firm and vigorous action where appropriate against any individual or group perpetrating fraud against the Authority.
 - Encourage employees to be vigilant and to report any suspicion of fraud, and provide suitable channels of communication and ensure sensitive information is treated appropriately.
 - Rigorously investigate instances of alleged fraud and pursue perpetrators to seek restitution of any asset fraudulently obtained together with the recovery of costs.
 - Assist the police and all other appropriate authorities in the investigation and prosecution of those suspected of fraud.
16. The detection, prevention and reporting of fraud is the responsibility of all Members and employees of Essex Fire Authority. The Authority expects the following of Members and employees:
- To act with integrity at all times;
 - To comply with the seven principles of public life;
 - To adhere to the appropriate Code of Conduct;
 - To comply with Standing Orders and Financial Regulations; and
 - To raise concerns as soon as any impropriety is suspected.

ANTI-FRAUD STRATEGY

17. The Fire Authority's current arrangements are aimed at tackling fraud, corruption, theft, and breaches of regulations.
18. The arrangements can be categorised under the following main heads:
- culture
 - raising concerns
 - prevention (e.g. effective control systems)
 - detection and investigation
 - training
19. They are supported by scrutiny of the Authority's affairs by a range of bodies and individuals, including:
- Our external auditor appointed by the Audit Commission;
 - Our internal auditors;
 - Members through the Audit, Governance and Review Committee;
 - Central government departments / inspectorates
 - H M Revenue and Customs
 - Authority residents and businesses;

- Suppliers;
- Service Users; and
- Employees of the Authority.

CULTURE

20. The Authority's culture is intended to foster honesty and integrity, and to support the seven principles of public life. These are selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Both Members and employees are expected to lead by example in adhering to regulations, procedures and practices.
21. Equally, members of the public, clients and external organisations (such as suppliers and contractors) are expected to act with integrity and without intent to commit fraud against the Authority in any dealings they may have with the Authority. As part of the culture the Authority will provide clear routes by which concerns can be raised by both Members and employees, and by those outside the service. A whistle blowing policy is in place and the availability of this policy to staff, suppliers and other third parties has been communicated.
22. Senior management are expected to deal promptly, firmly and fairly with suspicions and allegations of fraud or corrupt practice and to inform the Finance Director & Treasurer of any suspicions or allegations in a timely manner. The Finance Director & Treasurer is responsible for ensuring that any instances of fraud are reported to the Audit, Governance and Review Committee, and if appropriate to the full Authority. The Authority has in place two committees whose monitoring roles are relevant:-
 - The (Joint) Standards Committee which sets and monitors standards of conduct of elected Members; and
 - The Audit, Governance & Review Committee which reviews activities of the audit functions.
23. All staff, Members, contractors and suppliers have a responsibility to consider the risk of fraud in the activities for which they are responsible and to report any suspicions or allegations of fraud to the Finance Director & treasurer in a timely manner.

RAISING CONCERNS

24. Members, employees and the general public are an important element in the Authority's stance on fraud and corruption. They are encouraged to raise any concerns they may have in respect of fraud and corruption. A number of different channels for communication are available, including line managers, auditors, senior officers, and Members.
25. The Authority's whistleblowing policy gives further guidance on how to raise concerns and the support and safeguards available to those who do so. These safeguards offer a framework of protection against victimisation or dismissal and may include identity concealment and protection from harassment.
26. Members of the public may also use the Authority's complaints procedure for this purpose where appropriate. Line managers and directors are responsible for following-up any allegations of irregularity; it is their responsibility to inform the Treasurer to the Authority immediately of such allegations and the results of their investigations.
27. Concerns may also be reported directly to the Finance Director & Treasurer by any employee, contractor or supplier. Reporting can be email to mike.clayton@essex-fire.gov.uk or by telephone to Mike Clayton on 01376 576109.

28. The Authority and its senior management are committed by this policy to deal firmly with any proven financial malpractice. Where, after a proper audit investigation carried out by or on behalf of the Treasurer, there is evidence that financial impropriety has occurred, the Authority 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. The decision to refer to the Police may be made by either the Finance Director & Treasurer, the Chief Fire Officer or the Clerk to the Authority. It is the Authority's decision to make reference to the Police and no other employee is authorised to make such a referral without the authority of one of the three posts listed above.
29. Where the outcome of audit or Police investigation indicates improper conduct by an employee, the Authority's Disciplinary Procedures will normally be applied by the senior managers of the service concerned. The recovery of defrauded funds is an essential part of the Authority's strategy.
30. When it is found that fraud or corruption has occurred due to a breakdown in the Authority's systems or procedures, directors, in consultation with the Treasurer, are responsible for ensuring that appropriate improvements in systems of control are implemented in accordance with audit recommendations.
31. The Authority will work with the Police and the Crown Prosecution Service to ensure that the provisions within the Proceeds of Crime Act 2002 and the associated Money Laundering Regulations are used to full advantage should a fraud have occurred.

PREVENTION

32. The Authority has a series of comprehensive and inter-related procedures to ensure proper conduct of its affairs, which comprise:
 - Standing Orders;
 - Financial and Procurement Regulations;
 - Code of Conduct for Members;
 - Code of Conduct for Employees;
 - Codes of Conduct issued by relevant Professional Institutes;
 - Financial Instructions and Procedures;
 - Local Government Act 1972 - Section 117;
 - Local Government Act 1972 - Section 151;
 - Accounts and Audit Regulations 1996;
 - Public Interest Disclosure Act 1998;
 - Complaints Procedures;
 - Whistle Blowing Policy
 - Disciplinary Procedure; and
 - ICT Security Policy.
33. Internal audit undertake an annual programme of reviews which is closely aligned with the organisation's risk base, designed to provide the assurance over the systems of internal control. The system of internal control is based on an on-going process designed to identify the principal risks, to evaluate the nature and extent of those risks and to manage them effectively. Managing the risk of fraud forms part of this process.

34. The assessment of the internal financial controls in particular involves electronic data interrogation techniques which closely focuses internal audit's detailed substantive work on identified areas of concern and therefore assists towards fraud prevention.
35. Members are expected to adhere to and to operate within:
 - Standing Orders; and
 - The Code of Conduct for Members
36. These matters are brought to the attention of elected Members following their election or as part of their declaration of acceptance of office. The Authority has adopted a Code of Conduct for its elected Members and its independent Members and they are required upon appointment to the Authority to sign an undertaking to comply with the Code of Conduct before they act as members of the Authority and must also register their financial and other interests with the Monitoring Officer within 28 days of appointment to the Authority. It is the duty of the Member to notify the Monitoring Officer of any changes to their original registration.
37. Employees are required to operate within the following guidelines:
 - A key measure in the prevention of fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees in terms of their propriety and integrity. Written references for potential employees are obtained as part of the recruitment process.
 - Employees, once recruited, are expected to adhere to the Authority's Code of Conduct for Employees and to follow standards of conduct issued by their personal professional institute, where applicable.
 - Disciplinary Procedures for all categories of employee will be applied to deal with improper conduct.
38. The following internal control measures are also in force:
 - The Monitoring Officer (Clerk to the Authority), has a duty to report to the Authority where it appears to him that any proposal, decision or omission by the Authority, a committee, a sub-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.
 - The Treasurer has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure the proper administration of the Authority's financial affairs.
 - Under the Accounts and Audit Regulations 1996, the Authority is required to maintain an adequate and effective system of internal audit. Internal auditors evaluate risks and review the adequacy of control within the Authority.
 - Operational systems and procedures will incorporate efficient and effective internal controls, both financial and non-financial. Directors 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 Internal Audit and the Audit & Review Committee.

DETECTION AND INVESTIGATION

39. Whilst having regard to the requirements of the Data Protection legislation, the Authority actively participates in an exchange of information with external agencies on fraud and corruption activity in relation to public bodies. This includes the bi-annual national fraud initiative where data from all public sector bodies is shared and analysed.

40. The operation of preventive systems, particularly internal control systems within the Authority, help to deter any fraudulent activity. However, such activity may nevertheless occur. It is often the alertness of elected Members, staff and the general public to the possibility of fraud and corruption that leads to detection of financial irregularity. In such a situation the Authority has in place arrangements to enable any such information to be properly dealt with, investigation and detection to occur, and appropriate action to be taken.
41. The Financial Regulations and the Authority require that the Treasurer be notified immediately of all financial or accounting irregularities or suspected irregularities or of any circumstances which may suggest the possibility of irregularities including those affecting cash, stores, property, remuneration or allowances. Reporting of suspected irregularities is essential as it facilitates a proper investigation by experienced staff, and ensures the consistent treatment of information regarding fraud and corruption.

FRAUD RESPONSE PLAN

42. When so notified, the Finance Director & Treasurer will instigate an investigation and determine who is the appropriate person to carry out the investigation. Should the allegation involve the Finance Directorate this decision will be made by the Chief Fire Officer after consultation with the Clerk.. The designated officer, auditor or other advisor will:
 - deal promptly with the matter
 - record evidence received
 - ensure the security and confidentiality of evidence
 - work closely with senior managers of the service concerned and other agencies, such as the Police and Courts to ensure that all issues are properly investigated and reported upon
 - ensure maximum recoveries are made on behalf of the Authority, and
 - assist the service managers to implement Authority disciplinary procedures where considered appropriate (referral to the Police will not prohibit or restrict action under the Disciplinary Procedure).
43. In cases of suspected payroll irregularities whilst a fraud investigation would normally be instigated, discussion will occur between Treasurer and Director of Human Resources and Organisational Design if it is thought a disciplinary investigation is more appropriate

ANTI-BRIBERY POLICY

44. The Authorities Financial and Procurement Regulations cover the procedures to be followed when purchasing goods or services on behalf of the Authority. 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 Finance Director & Treasurer. Acceptance of any such offer will be dealt with through the Authority's disciplinary policy as gross misconduct.
45. In those areas where staff are concerned with activities that generate operational income for the Authority all commercial proposals for the sales process, including discounts and similar offers shall be approved by the head of the Department concerned. No proposals that include benefits other than for the direct customer for the goods and services involved may be entered into without the prior written permission from the Finance Director & Treasurer.

TRAINING

46. An important contribution to the continuing success of an anti-fraud strategy, and its general credibility, lies in the effectiveness of programmed training, of both Members and employees, throughout the organisation.
47. This will be achieved through the development of both induction and refresher training for all personnel involved in internal control systems to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced.
48. The investigation of fraud and corruption rests with the Treasurer and the Internal Audit contractor. It is essential that there are an adequate number of trained employees able to undertake this work, and this requirement is reflected in the contractual arrangements for the provision of Internal Audit services.

CONCLUSION

49. The Authority has in place a clear network of systems and procedures to prevent and detect fraud and corruption. These arrangements should keep pace with any future developments in techniques for preventing and detecting fraudulent activity.
50. To this end the Authority maintains a continuous overview of such arrangements. Through the Treasurer it will ensure a regular review of Standing Orders, Financial Regulations, key control systems and audit arrangements is conducted.