

## NORTH YORKSHIRE COUNTY COUNCIL

## AUDIT COMMITTEE

3 MARCH 2016

## COUNTER FRAUD AND ASSOCIATED MATTERS

## Report of the Head of Internal Audit

**Discussion of Appendices 2 and 3 to this report are likely to include exempt information of the description in paragraph 7 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government [Access to Information] [variation] Order 2006**

**1.0 PURPOSE OF THE REPORT**

- 1.1 To report on the number and type of investigations undertaken by Veritau Limited during 2015/16 to date.
- 1.2 To consider proposed changes to the County Council's whistleblowing policy framework prior to approval.
- 1.3 To consider the Annual Fraud Risk Assessment for the County Council.

**2.0 BACKGROUND**

- 2.1 In the current economic climate, all organisations are at an increased risk of fraud and corruption. Reported cases of fraud increased by 5% in the year to September 2015 with notable increases in fraud against banks, insurance companies and other financial sector organisations. The fastest growing risks are seen to be cyber crime and fraud caused by insiders (including malicious employees stealing, manipulating or destroying data). In its final annual fraud report '*Protecting the Public Purse*', published in October 2014, the Audit Commission estimated that fraud costs local government £2.1 billion, although this figure was probably an underestimate. Detected fraud in English councils during 2014/15 totalled £207m, representing an increase of 11.1% compared to the previous year. The main types of local government fraud continue to be housing tenancy, council tax, procurement, social care and 'internal' fraud.
- 2.2 Reduced resources mean that local authorities have less capacity to investigate suspected fraud or undertake proactive counter fraud activities. In addition, responsibility for benefit fraud investigation is transferring from local authorities to the Department for Work and Pensions as part of the Single Fraud Investigation Service (SFIS) project. Many councils are therefore losing qualified and experienced fraud investigators and hence the ability to address fraud risks. Whilst Veritau maintains a corporate fraud team, outside London only a third of councils have such arrangements.

2.3 In July 2014, CIPFA established a new 'centre of excellence' to combat fraud. The new centre is headed by Rachel Tiffen, who was previously deputy director of the now disbanded National Fraud Authority. The centre is working closely with the Department for Communities and Local Government (DCLG), the Cabinet Office, the National Crime Agency (NCA) and other agencies to develop policies, tools and guidance to help public sector organisations to identify and address fraud. One of its first outputs was the Code of Practice on managing the risks of fraud and corruption. The Code highlighted five key principles which public sector organisations should consider:

- Acknowledge responsibility

Corporate leaders should acknowledge their responsibility for ensuring that the risks associated with fraud and corruption are managed effectively across all parts of the organisation;

- Identify risks

Fraud risks should be identified in order to understand specific exposures to risk, changing patterns in fraud and corruption threats and the potential consequences to the organisation and its service users;

- Develop a strategy

Each organisation should adopt a counter fraud strategy setting out its approach to managing its risks and defining responsibilities for action;

- Provide resources

Each organisation should make available appropriate resources to support the counter fraud strategy;

- Take action

Each organisation should put in place the policies and procedures to support the counter fraud and corruption strategy and take action to prevent, detect and investigate fraud.

2.4 An updated national fraud strategy '*Fighting Fraud Locally*' is due to be published within the next few months.

2.5 Whilst the County Council has a good record in maintaining standards of probity and propriety, it is essential that its arrangements for reducing the risk of loss from fraud and corruption remain effective. As a consequence the Counter Fraud Strategy and the associated policies are kept under review, and updated as required.

2.6 In addition, the County Council in partnership with the City of York Council, Ryedale District Council, Richmondshire District Council, Hambleton District Council, and Selby District Council successfully bid for additional government funding to combat fraud. The funding was made available by the Department for Communities and Local Government (DCLG) and was intended to improve capacity in this area. The

total allocation was £170k over two years and this is being used to investigate social care, council tax/NNDR and procurement related fraud across the partner councils.

### 3.0 THE COUNTER FRAUD POLICY FRAMEWORK

#### Background

- 3.1 The counter fraud policy framework includes the Counter Fraud Strategy, the Whistleblowing Policies and the Anti Money Laundering Policy.
- 3.2 The Counter Fraud Strategy was updated in March 2015 to reflect the best practice guidance contained in the new Code of Practice. In addition, a new Fraud Prosecution and Loss Recovery policy, setting out the measures that can be taken to recover fraud losses, was approved. The Anti Money Laundering Policy has also been recently updated. No further amendments are considered necessary to either the Strategy or these policies.
- 3.3 The Whistle blowing policy framework was updated in March 2014 to reflect recent legislative changes. The framework consists of a policy covering County Council employees, Members and contractors, plus a related policy for schools. It is now considered appropriate to simplify arrangements and to adopt a single policy. This change also reflects the increasing diversity of support available to schools. A copy of the revised policy is attached as **Appendix 1** with the proposed amendments shown as tracked changes. The related guidance for managers is also being updated to reflect the revised policy.

### 4.0 INVESTIGATIONS UNDERTAKEN IN 2015/16

- 4.1 Concerns and allegations of possible fraudulent or corrupt working practices are raised with Veritau via the County Council's whistleblowing arrangements or directly by management and staff. Not all investigations result in sufficient evidence being obtained to support the allegations whilst other concerns prove to be unfounded. However, where evidence is found of fraud or wrongdoing, the following factors are often relevant:
- the need for managers and staff to remain vigilant and to question unusual transactions or patterns of behaviour;
  - the need for staff to protect physical and information assets;
  - the importance of sharing information about possible fraud risks with other councils and/or with other agencies;
  - the importance of pro-active counter fraud measures to help prevent and detect fraud;
  - the need for managers and staff to report concerns to Veritau at the earliest opportunity.
- 4.2 **Appendix 2** provides a summary of the number and type of investigations undertaken by Veritau during 2015/16 to date. Details of the cases investigated in the previous three years are provided for comparison purposes.

## 5.0 FRAUD RISK ASSESSMENT

5.1 Internal Audit completes an annual Fraud Risk Assessment, designed to identify the activities and areas within the County Council, which present the greatest risk of loss. This Risk Assessment is informed by the history of events and losses suffered by the County Council together with the results of recent investigations into suspected fraud, corruption and other irregularities. National issues and trends are also taken into account. The results of the Assessment are used by:

- management to develop or strengthen existing fraud prevention and detection measures;
- Veritau to further revise the Counter Fraud Policy Framework;
- Veritau to focus future audit and counter fraud work (as set out in the Annual Audit Plan).

5.2 **Appendix 3** provides the outcomes of the 2015/16 Annual Fraud Risk Assessment exercise.

## 6.0 RECOMMENDATIONS

Members are asked to:

6.1 note the investigations carried out by Veritau in 2015/16 to date, and the outcome of the annual Fraud Risk Assessment.

6.2 approve the proposed changes to the County Council's whistle blowing policy.

M A THOMAS  
Head of Internal Audit

## BACKGROUND DOCUMENTS

Relevant audit reports kept by Veritau Ltd at 50, South Parade

Report prepared and presented by Max Thomas, Head of Internal Audit.

County Hall  
Northallerton

11 February 2016



# North Yorkshire County Council

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|------------------------|
| <b>Policy Document</b> |
| <b>Whistleblowing</b>  |

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| <b>2016</b> |
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## 1.0 INTRODUCTION

- 1.1 The County Council is committed to the provision of the highest quality services to its residents and is proud of its track record of probity and high ethical standards. However, it also recognises that to full accountability for those services. Whilst the County Council has in place rules, regulations, quality standards and procedures to ensure that the highest standards of conduct and commitment to service delivery are followed, irregularities, wrong-doing or serious failures in standards can do sometimes occur. The County Council wants to identify and remove such malpractice in the performance and delivery of its services.
- 1.2 The greatest deterrent to malpractice or wrongdoing is the probability that it will be reported and investigated vigorously, that those who are responsible for it will be punished and that the matter will be promptly remedied. This Policy is therefore intended as a clear statement that any malpractice by members, employees or third parties (including contractors) reported to the County Council will be swiftly and thoroughly investigated. The County Council will also look at ways to ensure that such malpractice or wrongdoing can be prevented for the future.

## 2.0 AIMS AND SCOPE OF THE POLICY

- 2.1 This Policy provides all employees, agency workers, schools' employees, contractors (including their staff) and Mmembers of the County Council with:
- avenues to raise concerns and receive feedback on any actions taken;
  - reassurances that they will be protected from reprisals or victimisation for whistleblowing.
- 2.2 Set out below is a list which is intended to illustrate the types of issues which may be considered as malpractice or wrongdoing and can be legitimately raised under this Whistleblowing Policy:
- a) any offence, unlawful act, whether criminal or a breach of civil law, failure to comply with legal obligations or where a miscarriage of justice has occurred, is occurring or is likely to occur;
  - b) maladministration, as defined by the Local Government Ombudsman;
  - c) breach of any statutory Code of Practice;
  - d) breach of, or failure to implement or comply with any County Council policy or procedure rules; determined by the County Council, Executive or Committee of the County Council
  - e) failure to comply with appropriate professional standards;
  - f) corruption, theft or fraud; including obtaining money (eg grants) without entitlement

- g) misuse or damage of County Council assets; ~~including stores, equipment, vehicles, buildings, computer hardware and software~~
- h) ~~endangering risks to~~ the health and safety of any individual or the abuse of any vulnerable person; ~~with actions which are likely to cause physical danger, or to give rise to a risk of significant damage to property~~
- i) failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income to the County Council; ~~to the County Council or would otherwise seriously prejudice the County Council;~~
- j) unethical conduct ~~corrupt practices~~, the abuse of power, or the use of the County Council's powers and authority for any unauthorised or malicious ulterior purpose;
- k) unfair discrimination in the County Council's employment or the provision of services;
- l) causing damage to the environment;
- m) the deliberate falsification or destruction of information or data;
- n) the deliberate concealment of information in relation to any of the items on this list.

2.3 This Whistleblowing Policy is primarily intended for people to raise concerns that are in the public interest and where the interests of others or of the organisation itself are at risk. It is intended to supplement, rather than to replace, the existing grievance procedures whereby employees of the County Council may already raise complaints or matters of genuine concern relating to their own employment. ~~It is therefore designed to provide a channel for those instances where the person reporting the matter feels that, for any reason, they cannot make use of those existing complaints procedures.~~

### 3.0 EMPLOYEE CO-OPERATION AND SAFEGUARDS

3.1 In many cases it is ~~an employee~~ of the County Council who are most likely to be in the best position to learn of any malpractice or wrongdoing within the County Council or school setting and to identify something which falls below the standards which the County Council and the public its customers are entitled to expect. The County Council expects the fullest co-operation of all ~~its~~ employees in securing the highest standards of service to the local residents ~~of North Yorkshire~~. This means that, where an employee or Member of the County Council becomes aware of, or suspects, malpractice, the County Council and school governors will expect them to report these suspicions. ~~Where an employee fails to report their suspicions, they become themselves implicated in the wrongdoing, and~~ the County Council and school governors will treat any failure by an employee to report such matters as a serious matter which may, in the case of an employee, result in disciplinary action being taken, ~~amount to a disciplinary matter and~~ or may, in the case of a Member be regarded as, ~~to a matter, depending on the circumstances, that may amount to~~ a breach of the Members' Code of Conduct.



- 3.2 This Policy statement has been discussed with the relevant trade unions and professional associations and has their support.
- 3.3 The County Council will respect (so far as it can legally) the confidentiality of any whistleblowing complaint received, where the complainant requests that confidentiality but cannot guarantee that the investigation process will not result in colleagues speculating on the identity of the whistleblower. ~~It must be appreciated that~~ it will be easier to follow up and to verify complaints the facts of a case if the complainant is prepared to give his/her name. ~~and u~~Unsupported anonymous complaints and allegations are much less powerful and therefore will have to be treated with caution. There will be circumstances where information must be disclosed for legal reasons, or to enable legal steps to be taken, e.g. there may be an obligation to disclose under the Freedom of Information Act provisions, or if the circumstances amount to a serious crime there may be circumstances where information will have to be passed to senior officers or to external agencies such as the police or external auditors.
- 3.4 Any reporting system will be of little effect if those who should use it are afraid that, as the result of making their report, they may experience recriminations, victimisation or harassment. The County Council will therefore not tolerate any attempt ~~on the part of any employee or member~~ to take reprisals against any person who has reported a serious and genuine concern. The County Council will treat any such recriminations, victimisation or harassment ~~by any employee or member of the County Council~~ as a serious matter which may, in the case of an employee, result in disciplinary action being taken amount to a disciplinary matter and or which may, in the case of a Member, be regarded to a matter, depending on the circumstances, that may amount to as a breach of the Members' Code of Conduct. ~~A whistleblower has the right to sue anyone who is involved in such conduct and the County Council could be held liable if it has not taken all reasonable steps to prevent such victimisation from occurring.~~ Individuals may also have statutory protection under the Public Interest Disclosure Act 1998, which aims to protect individuals who make certain disclosures of information in the public interest and who are then victimised in their employment. If a whistleblower who has made a valid complaint feels that they have been victimised as a result of raising concerns they can raise the matter directly with the Head of Internal Audit, Veritau who will raise the matter immediately with the appropriate Corporate Director, or the Chief Executive Officer if the complaint relates to a Corporate Director, who will take appropriate action.
- 3.5 The County Council ~~is proud of its reputation for having the highest standards of probity. It will therefore ensure that the necessary resources are put into~~ put into investigating any complaints ~~which it receives~~s. As a consequence of this it will view ~~very~~ seriously any knowingly false or malicious allegations which it receives, and will regard the making of any deliberately malicious or vexatious allegations by any employee ~~or member of the County Council~~ as a serious disciplinary offence.
- 3.6 The Whistleblowing Policy will be publicised to all staff, schools' employees, mMembers and contractors via appropriate communication channels.

## 4.0 HOW TO RAISE A CONCERN

4.1 Employees are expected to initially report any concerns to their line manager. It is envisaged that a Line Manager will be the first point of contact in the majority of cases. For school based staff this will normally be the relevant head of department, head teacher or principal. It will be their responsibility to initially investigate all matters reported to them promptly in accordance with the procedure notes issued. If employees feel unable to report concerns in this manner then they should contact their Assistant Director, or in the case of school based staff, the Chair of Governors.

4.2 It is, however, appreciated that there may be times when an employee ~~of the County Council~~ feels unable to use the above procedure, for example when ~~the Whistleblower~~ feels that their ~~Line m~~Manager may be involved in the malpractice or has failed to take appropriate action when the matter has been raised previously. In such circumstances the Whistleblower may wish to make a whistleblowing complaint under this Policy. The County Council has therefore appointed the Head of Internal Audit, Veritau to act as its Whistleblowing Officer, with the following remit:

- a) to receive and record any complaints made under this Policy;
- b) to ensure as far as possible, the confidentiality of any whistleblowing complainant who requests that their complaint be treated in confidence subject to paragraph 3.3 above;
- c) to investigate promptly any whistleblowing complaint and to respond directly to the complainant, with a right of access to the Chief Executive Officer and all ~~M~~Members and employees of the County Council or school and to all documents and records of the County Council or school;
- d) ~~to report to the appropriate Service Unit Head Corporate Director or head teacher~~ where the investigation identifies a serious cause for concern within the responsibilities of that officer and to recommend the use of any relevant statutory powers or duties. Where the complaint relates to the conduct of a ~~m~~Member or a Corporate Director~~one of the Service Unit Heads~~, he/she should report to the Chief Executive Officer (and also to the Monitoring Officer in case of complaints in relation to Member conduct). Where the complaint relates to the Chief Executive Officer, he/she should report to the Corporate Director – Strategic Resources. Where the complaint relates to a head teacher or principal, he/she should report to the Chair of Governors;
- e) to report as appropriate, either jointly with the Corporate Director(s) concerned or in his/her own right, to the County Council, the Executive and/or any Committee or Sub-Committee of the County Council;
- f) to recommend, in conjunction with the Chief Executive Officer or Assistant Chief Executive (Legal and Democratic Services), to settle appropriate action to resolve a complaint or recompense a complainant; and

g) to report annually to the Corporate Director – Strategic Resources and where required, to the Standards and Audit Committees on the number of concerns raised under this Whistleblowing Policy.

4.3 The Head of Internal Audit, Veritau can be contacted by writing a letter in a sealed envelope marked Strictly Private and Confidential, addressed to:

Max Thomas (Head of Internal Audit)  
Veritau Ltd  
County Hall  
Racecourse Lane  
Northallerton  
North Yorkshire  
DL7 8AL

or by telephoning (01609) 532143. In addition there is a direct and confidential whistleblowing hotline number (01609) 760067, which is available 24 hours a day. ~~There is also an on-line form, available on the Internet, which can be completed anonymously.~~

~~4.4 For contractors, a clause will be inserted in all standard County Council contracts highlighting that the Whistleblowing Policy applies to all their staff working on County Council business. It will place a requirement on these contractors to publicise the Whistleblowing Policy to all their staff involved with their contract for the County Council.~~

## 5.0 HOW THE COUNTY COUNCIL WILL RESPOND

5.1 In order to protect both individuals and the County Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific policies or procedures (for example child protection or discrimination issues) will normally be referred to the appropriate department for separate consideration under those procedures.

5.2 Some concerns may be resolved by agreed action without the need for detailed investigation.

5.3 Within 10 working days of a concern being received, the line manager or the officer who is designated to carry out the whistleblowing investigation (on behalf of the Head of Internal Audit) will write to the whistleblower:

- acknowledging that the concern has been received;
- indicating how it-s/he proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- stating whether any initial enquiries have been made; and
- stating whether further investigations will take place, and if not, why not.

5.4 The amount of contact between the officers considering the issues and the whistleblower, 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~~may be sought from the whistleblower.

5.5 When any meeting is arranged, the whistleblower has the right, if they so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.

5.6 The ~~County Council~~ will, as far as it is able, ~~take steps to~~ minimise any difficulties which the whistleblower may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the County Council will, where appropriate and as far as it is able to do so, provide advice about the procedure.

5.7 The County Council accepts the whistleblower needs to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, information about the outcomes of any investigations will be provided.

## 6.0 HOW MATTERS CAN BE TAKEN FURTHER

6.1 This Policy is intended to provide staff with an appropriate avenue to raise concerns within the County Council. If staff employees have reported a concern in accordance with the Council's Whistleblowing Policy but are not satisfied that the issues have been properly addressed then they may contact:

- ~~Local Council Member (if staff member lives in the area of the Council);~~
- Chair or any Member of the County Council's Standards Committee;
- Chair or any Member of the County Council's Audit Committee;
- The External Auditor;
- The NSPCC (for concerns about children at risk of abuse)<sup>1</sup>;
- Relevant professional bodies or regulatory organisations<sup>2</sup>, for example, the Information Commissioner's Office.

## 7.0 INDEPENDENT ADVICE

7.1 Free, confidential advice on how to raise a concern about malpractice at work can be sought from the independent charity Public Concern at Work on 020 7404 6609.

## 8.0 REVIEW OF THE POLICY

8.1 The Policy will be subject to review as and when required.

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<sup>1</sup> The NSPCC offers a dedicated national whistleblowing hotline (see [www.nspcc.org.uk](http://www.nspcc.org.uk) for further details)

<sup>2</sup> The Department for Business, Innovations and Skills maintains a list of prescribed persons who may be contacted