

# SWINDON BOROUGH COUNCIL

## FRAUD RESPONSE PLAN



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**Head of Internal Audit**

**DATE: October 2011**

**VERSION: 3.1**

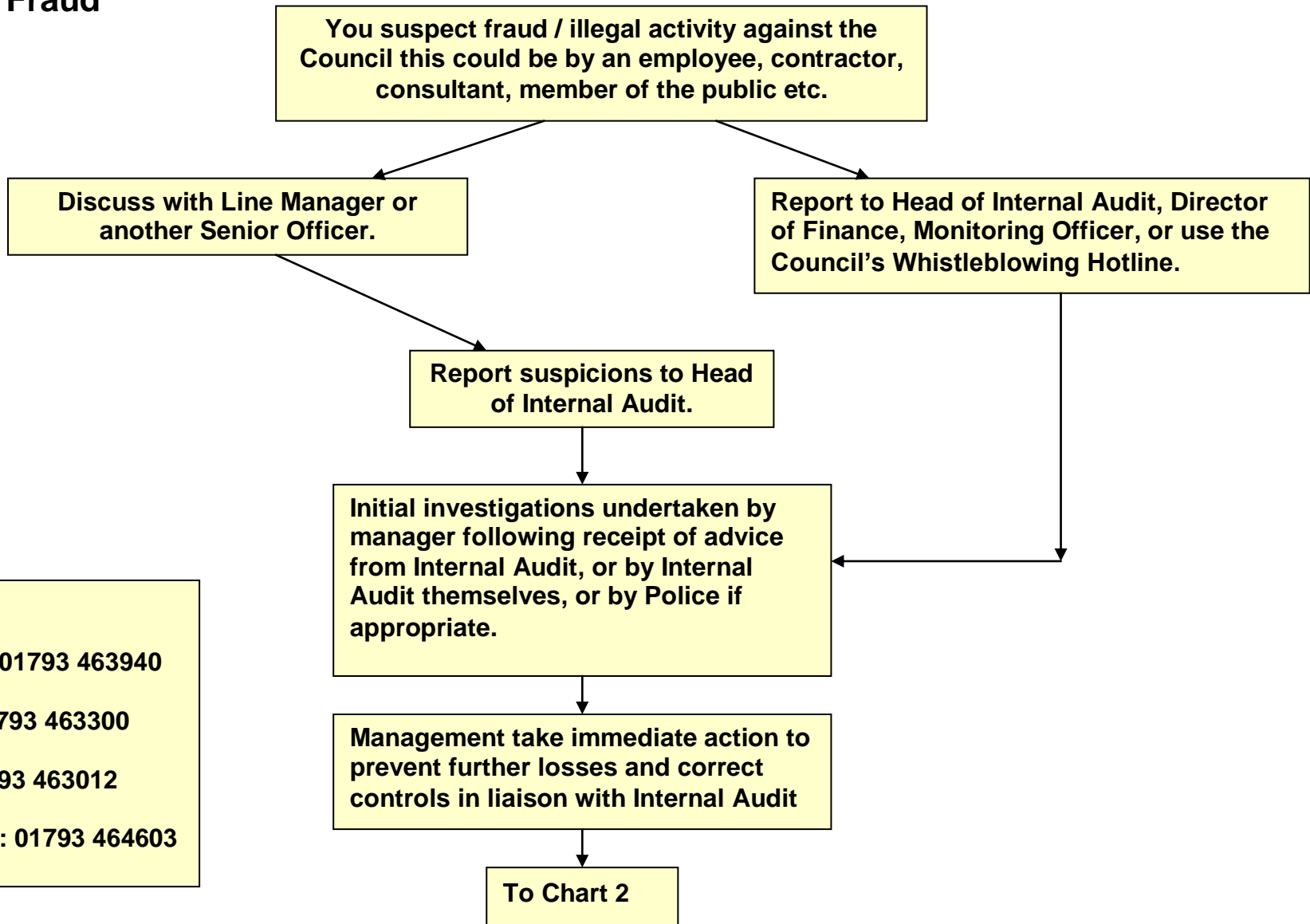
## 1. Introduction

- 1.1 The Council is committed to protecting the public funds with which it has been entrusted. Minimising the losses to fraud and corruption is an essential part of ensuring that all of the Council's resources are used for the purpose for which they are intended, namely the provision of high quality services to the citizens of the borough. The Council has a range of policies and procedures that facilitate this process and form equally important parts of the Council's overall strategy. These include the Anti-Fraud and Bribery Strategy, the Whistleblowing Policy and the Surveillance Policy (RIPA).
- 1.2 This document is intended to provide direction and help to officers and members in reporting and reacting with suspected cases of theft, fraud and corruption. It also gives direction to others wanting to report matters of concern in these areas.
- 1.3 ***The two flowcharts (Chart 1 and Chart 2) on pages 3 and 4 give a brief overview as to how an allegation should be dealt with.***

## 2. Scope of Response Plan

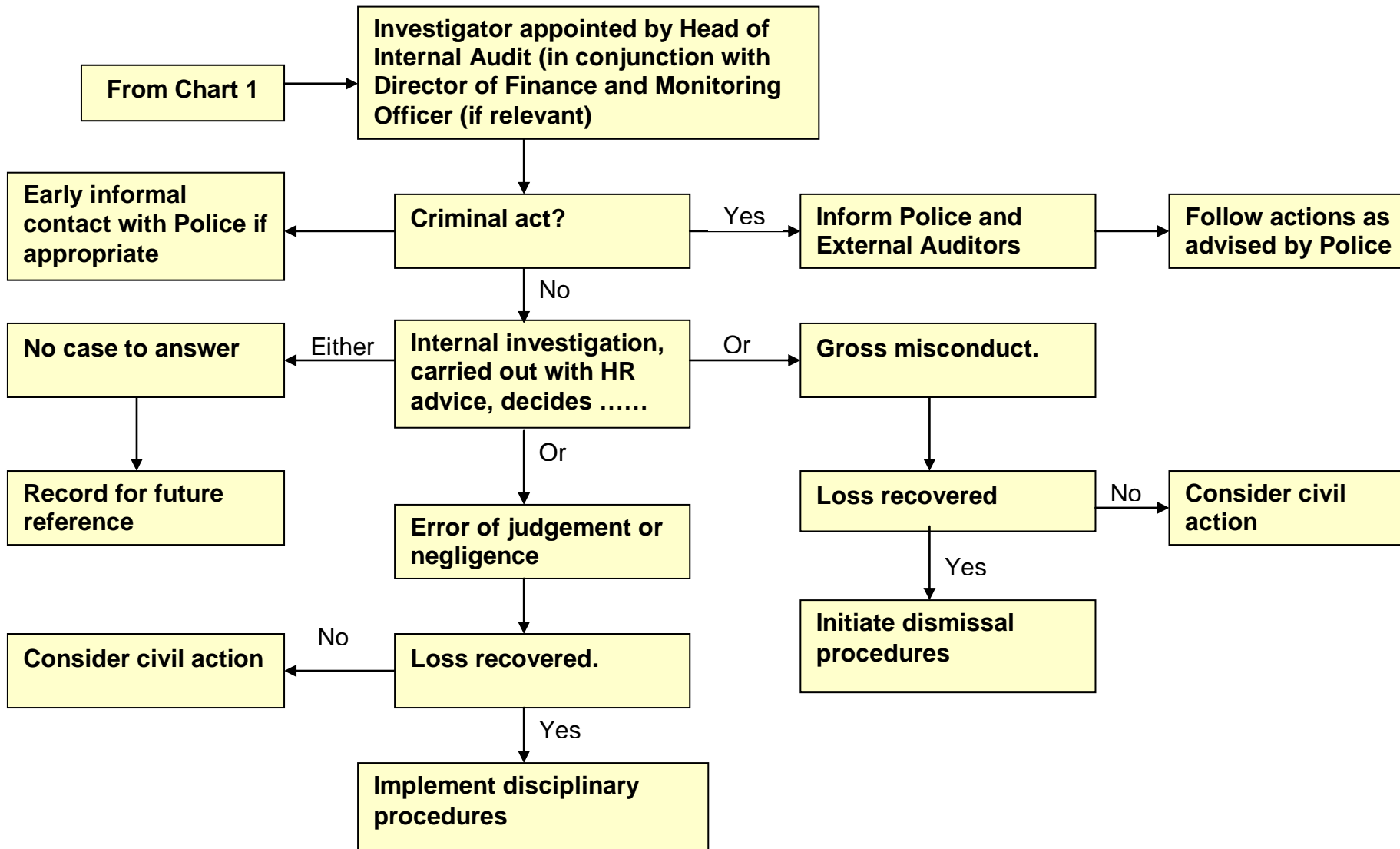
- 2.1 The scope of this response plan is not limited to fraud and bribery but is applicable to any suspected act of financial impropriety. This includes any act that puts the Council's resources at risk.
- 2.2 The exception to this are the arrangements for reporting Housing Benefit Fraud, which is dealt with in the Council's "Reporting Fraud" document for Housing Benefit claims. The Council's in-house Benefit Fraud Team investigates these frauds.
- 2.3 Definitions of what constitutes a fraud can be found in the Council's Anti-Fraud and Bribery Strategy.

# 1. Reporting Fraud



**Contact Numbers:**  
Head of Internal Audit: 01793 463940  
Director of Finance: 01793 463300  
Monitoring Officer: 01793 463012  
Whistleblowing Hotline: 01793 464603

## 2. Conducting the Investigation



### 3. Reporting Suspicions

If fraud or bribery is suspected, then the matter should be reported without delay. Officers should report to a line manager at the outset and retain all evidence. If it is thought that the line manager may be involved, or that there may be a conflict of interest, the matter should be reported directly to a more senior officer, or to the:

- Head of Internal Audit
- Director of Finance
- Monitoring Officer (Director of Law and Democratic Services)

Employees may raise their concerns verbally, or preferably in writing, to ensure allegations are reflected accurately to those conducting investigations.

Employees who make a written allegation should ensure their account includes the background, history and nature of their concern (including names and relevant dates and locations, where applicable) and the reason why they are particularly concerned about the situation.

Internal Audit also provides a 24-hour Whistleblowing hotline that employees can use to report their concerns (telephone number 01793 464603). Messages left are treated as strictly confidential and are only accessed by authorised Internal Audit staff.

Employees can leave their personal details when calling the hotline or make the allegations anonymously. It should be noted that it is considerably more difficult to investigate anonymous allegations.

Alternatively contact can be made by writing to the Head of Internal Audit, Civic Offices, Euclid Street, Swindon. SN1 2JH or e-mail at [nhobbs@swindon.gov.uk](mailto:nhobbs@swindon.gov.uk)

If in doubt, Public Concern at Work ([www.pcaw.co.uk](http://www.pcaw.co.uk)) will give free and totally independent advice on how to proceed (contact [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk) or telephone 020 7404 6609).

If suspicions have been reported through the Whistleblowing Policy they will be reported to the Council's Monitoring Officer who, in liaison with the Head of Internal Audit and Chair of Standards Committee, will appoint an appropriate investigating officer (for more details see the Whistleblowing Policy which is available on the Intranet).

### 4. Investigation

#### ***Managers & Supervisors:***

As soon as an officer reports fraud or corruption, the manager or supervisor should, in all instances, seek advice from Internal Audit.

The Manager should:

- Obtain a written record of the concerns from the person making the allegations, or in cases where they have discovered the potential fraud, prepare a written report themselves. This should include:
  - Background details and nature of the suspicions (including relevant names, dates and locations).
  - Details of the job and areas of responsibility of the individuals implicated.
  - Why the person raising the matter is concerned.
  - Action taken to date.
  - A description of the systems, controls and procedures that should be operating within the area subject to abuse.
- Contact the Head of Internal Audit as soon as possible to discuss the seriousness and factual basis of the allegations and the next steps to be taken.
- Take care, at this stage, to ensure that the suspect(s) are not alerted to the potential investigation and the confidentiality of informants is not compromised.
- Under no circumstances take any action to investigate the allegations themselves, or allow employees to do so, without sanction or guidance from Internal Audit. This includes interviewing, or observation, of suspects in connection with the suspected act. This is to ensure that evidence is collected in a way that complies with relevant legislation and does not compromise the investigation and/or subsequent disciplinary procedures/prosecutions.

### ***Internal Audit:***

Once an allegation has been made and an investigation deemed necessary it is likely that Internal Audit will either conduct the investigation or be involved in some way.

Internal Audit will take appropriate advice from the Council Human Resources directorate and, where relevant, the Police during the course of their investigation.

The purpose of the audit investigation is to establish the facts in an equitable and objective manner. The process will involve the use of authority or delegated powers to:

- screen allegations, or information, to gauge their credibility;
- secure all evidence;
- interview suspects;
- interview witnesses;
- take statements;
- liaise with departments, or other agencies (including the Police).

Where evidence of offences or irregularities is found, the Council will take suitable further action. The investigating officer will compile a report of their findings for submission to the department concerned detailing their recommendations regarding disciplinary action or referring to the Police (see below).

## **5. Establishing and Securing Evidence**

In order to initiate disciplinary/criminal proceedings against a suspect of financial misconduct it is essential that evidence be secured in a legally admissible form, without alerting suspects at the outset of the investigation.

As such, managers and staff should not attempt to collect any form of evidence (e.g. records, statements or surveillance evidence) without sanction from Internal Audit, who will be responsible for co-ordinating the collection of evidence as part of any internal investigation. Any IT equipment that may hold evidence should be secured without being accessed by anyone.

Staff collecting evidence (whether audit staff or otherwise) should ensure it is stored securely at all times and is not tampered with, that no marks are made on original documents and a record is kept of anyone handling evidence. The Data Protection Act should be complied with at all times.

Staff responsible for interviewing suspect(s) should be trained in the requirements of the Police and Criminal Evidence Act 1984. Failure to comply with PACE requirements in interviews will mean that nothing said by the suspect will be admissible in a court of law.

Staff responsible for commissioning and carrying out surveillance of suspects should do so in accordance with the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Council's Policy and Protocol on Surveillance. Failure to comply with RIPA will make all surveillance evidence inadmissible in court and may leave the Council liable to court action. The Council's Monitoring Officer or Head of Internal Audit can provide advice in the requirements of RIPA.

## **6. Police Referral Procedures**

The decision to refer a matter to the Police will only be taken by the Head of Internal Audit, in consultation with the Director of Finance, the appropriate Head of Service and the Director of Law and Democratic Services and where appropriate the Chief Executive. In such cases the Head of Internal Audit will instigate contact with the Police.

The Head of Internal Audit shall handle all requests from the Police for additional evidence, statements or any other form of assistance.

## **7. Prevention of Further Losses**

When a suspected fraud is reported the Head of Internal Audit will liaise with the Head of Service and appropriate Human Resources Manager to determine the most appropriate course of action to prevent any further losses to the Authority being incurred.

This may require the suspension of the suspected individual(s) concerned. The normal circumstances for suspension would be:

- Where the continued employment of the individual(s) could lead to further losses.
- Where the continued employment of the individual(s) could jeopardise the investigation (where the individuals could destroy or remove evidence).
- Where the Police have charged the officer with a criminal offence relating to the Council.

All suspensions will be carried out in line with the Standards of Conduct and Disciplinary Procedure. Suspension does not constitute disciplinary action.

Any security passes and keys to Council property should be obtained from the suspect(s) along with other Council owned items (such as laptops), and returned to the appropriate officer or kept securely pending investigation. The appropriate Systems Administrators should be contacted to disable access to all relevant IT systems.

To prevent further losses and where it will not prejudice any subsequent investigation, management should liaise with Internal Audit to remedy any identified control weaknesses that have permitted the act of financial impropriety to be undertaken.

### **8. Recovery of Losses**

Managers should seek to recover any losses incurred through acts of financial impropriety from the offenders concerned. Management should consult the Director of Law and Democratic Services to establish the options available to recover losses.

Where substantial potential losses have been identified at the outset of an investigation, management should seek legal advice immediately from the Director of Law and Democratic Services regarding the need to freeze the suspect's assets through the Court, pending conclusion of the investigation.

### **9. Publicity and Dealing with the Media in Connection with Suspected or Proven Fraud**

Any public statements regarding pending, current or completed investigations or allegations of financial impropriety should only be made through the Communications team, by contacting the Director of Partnership, Policy and Communications.

Officers, Members and third parties of the Council should not make any public statement regarding suspected financial impropriety in order to avoid making libellous statements, or statements that may prejudice investigations, or any subsequent disciplinary/legal action. All such statements will be co-ordinated by the Communications team. If contacted by the public or the press, SBC personnel



(including members and third parties) should refer those making the enquiry to the Director of Partnership, Policy and Communications.

The Director of Partnership, Policy and Communications should optimise the publicity opportunities available to make employees and the public aware of the Council's commitment to taking action on acts of financial impropriety. As such any action taken relating to acts of financial impropriety should be reported in the press, as a deterrent to other potential offenders.

## 10. Roles and Responsibilities (who does what)

**Director of Finance:** has overall responsibility for the Council's response to fraud and to oversee the action taken to investigate.

**Head of Internal Audit:** has responsibility for investigation of fraud and advising on action to be taken.

**Directors:** have responsibility for establishing and maintaining adequate system controls within their directorates, including responsibility for prevention and detection of fraud and ensuring staff awareness.

**Monitoring Officer (Director of Law and Democratic Services):** has responsibility for operation of the Council's Whistleblowing Policy.

**Managers and supervisors:** have responsibility for the prevention and detection of fraud and corruption within their work area and for swiftly reporting allegations brought to them (see Reporting Suspicions, section 3 of this Appendix).

**Investigating Officers (usually a member of the Internal Audit team)**  
Have responsibility for investigating matters of suspected fraud or corruption complying with relevant legislation and best practice/guidance.

**Employees:** are required to act in accordance with the Staff Code of Conduct to report all actual or suspected cases of financial impropriety.

**Human Resources:** will provide timely advice and guidance on Council policies and procedures during the course of any investigation and any subsequent disciplinary action.

**External Contractors/Third Parties:** should immediately contact the relevant service manager, or any of the personnel listed in section 3 of this Appendix, with concerns they have whilst working within the Council.

**Council Members:** are required to act in accordance with the Members Code of Conduct and should report any suspected, or detected, acts of financial impropriety immediately to the Monitoring Officer, Head of Internal Audit, Director of Finance or Chief Executive.