



1. Statement of Intention

The East London Waste Authority (ELWA) is committed to the proper accountability of public funds. The Authority condemns fraud and corruption in public life and requires holders of public office and its employees to comply with all relevant codes and standards of conduct. A set of Principles is attached to this Statement.

2. Response to Fraud and Corruption

- i) We recognise the importance of taking the strongest possible action against offenders in deterring against any fraudulent activity within the organisation and services provided to the public and, to this end, we will seek prosecution wherever appropriate.
- ii) We have well defined procedures to deal with financial irregularity and corruption – whether perpetrated by our staff (including staff of Constituent Councils who have dealings with ELWA) or Members, or by the public or contractors in their business dealings with the Authority.
- iii) Those procedures are included within:-
 - the Constitution, including Contracts Guidance Notes, Contract Rules, Financial Rules
 - the Code of Conduct for Members and Officers of the Constituent Councils
 - Schemes of delegation
 - Internal financial control procedures (for example in respect to the payment of invoices).
- iv) Reassurance concerning the compliance with procedures is evidenced by:
 - the annual Statement of Internal Control
 - the reports of the External and Internal Auditor
 - the Complaints and Whistleblowing Procedures.

3. Working in Partnership

We are unequivocal in our support of the Police and other external bodies in fighting fraud and corruption within the public sector. We will actively foster relationships with external organisations for the purpose of examining new initiatives that help to combat fraud. The Constitution describes the necessary arrangements in respect of proposed partnership arrangements.

4. Particular Issues for ELWA

- i) The Members of ELWA are appointed by the four Constituent Councils and are elected Members of those Councils. Each Constituent Council has adopted the mandatory provisions of the Model Code of Conduct under the Local Government Act 2000. ELWA's Constitution requires that any breach or alleged breach by a Member of the Codes of Conduct arising from activities in that Member's capacity as a Member of ELWA will be referred by the Managing Director to that Member's Constituent Council for action in accordance with its Code of Conduct. .

- ii) The staff of ELWA are employed by one or other of the Constituent Councils under arrangements that exist between ELWA and the Councils. As such all staff that work on behalf of ELWA are required to conduct themselves in a manner that would not breach ELWA's rules or their respective council's Code of Conduct.
- iii) ELWA's Constitution requires that any breach or alleged breach by an employee of the Code of Conduct arising from activities on behalf of ELWA will be referred by the Head of Paid Service to that employee's Constituent Council for action in accordance with that Council's Code of Conduct.
- iv) It is the responsibility of all officers within the Authority to establish and maintain effective systems of internal control and to ensure that the Authority's resources are properly applied. This includes the responsibility for the prevention and detection of fraud and corruption.
- v) The Constitution sets out the Financial Rules for the Authority including the main responsibilities of the Finance Director, and the treatment of Financial Irregularities including the involvement of the Appointed Officers, the Head of Paid Service and the Chair and Vice Chair. Any action taken will not override the Constituent Councils' disciplinary procedures or whistle blowing schemes.
- vi) The long term Integrated Waste Management Contract with Shanks East London contains a specific clause on the measures to prevent Corrupt Gifts and Fraud.

5. Other Relevant Documents

This is Document 1 of the Anti Fraud and Corruption Strategy. Other documents within the Anti Fraud and Corruption Strategy are:

Document 1: Statement and Principles (Reference PN.01)

Document 2: Guidance for Staff (Reference GN.01)

Document 3: This document (Reference PN.02)

Document 4: Whistleblowing Procedure – Information for Managers (Reference GN.02)

Document 5: Fraud Response Plan (Reference PN.03)

Document 6: Extracts from the Integrated Waste Management Contract (Reference GN.03)

Document 7: Copies of the Policy of Shanks Waste Management (Reference GN.04)

6. Raising Concerns

We encourage the reporting of concerns regarding fraud and corruption through normal channels or through the Whistleblowing arrangements. Details of the Authority's arrangements can be found in:

- The Whistleblowing Procedure (Document 3 – PN.02)
- The Fraud Response Plan (Document 5 – PN.03)

PRINCIPLES

The Authority requires holders of public office and its employees to:

- Take decisions solely in pursuance of the Authority's statutory functions and in the public interest to the exclusion of private and personal interest.
- Not place themselves under any financial or other obligation to outside individuals or organisations that might influence or be perceived to influence them in the performance of their duties.
- In carrying out public duties, including making public appointments, awarding contracts, or recommending individuals for awards or benefits, to make choices on merit in accordance with defined guidelines.
- To be accountable for their decisions and actions to the public and submit themselves to whatever scrutiny is appropriate to their office.
- To be as open as possible about all the decisions and actions that they take; to give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- To declare any private interest which is relevant to their public duties (private interest, in this context, includes interests of both a monetary and non-monetary nature, whether to the advantage or disadvantage of the individual, and in any circumstances where the interest might be perceived by the public to influence decision making).
- To take positive steps to resolve any conflicts of interest in a way that first protects the public interest and maintains public confidence; and to take advice from senior officers in any case of doubt.
- To promote and support these principles by leadership and example.

1. This document is to be issued to all staff with the purpose of: -
 - Outlining the process for dealing with concerns about fraud or corruption;
 - Engaging them in the prevention of fraud and corruption;
 - Clarifying ELWA's commitment to combat fraud and corruption;
 - Clarifying acceptable and unacceptable practices, and standards of behaviour expected from members of staff.

2. Staff are expected to read and understand the contents of this document, and must abide by its guidance in the course of their employment with the organisation. Staff can address any queries they may have about this strategy to their Manager or the Executive Director.

Notes

- 1) The term "*Staff*" applies to persons working on behalf of ELWA including staff seconded from Constituent Councils and other persons working as agents for ELWA during the course of their work.

- 2) All references to the term "*Fraud*" include fraud, theft and other irregularities – as defined in paragraph 5.

ANTI-FRAUD AND CORRUPTION STRATEGY

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1. Introduction

This document sets out both the process for staff who wish to notify any suspicions and how the Organisation's officers should respond in the event of being notified of a suspected fraud or misuse of public money. It is an important strategy as the Organisation is committed to the principles of probity and accountability.

2. Public Service Values - Corporate Governance

The document recognises that high standards of personal and professional conduct are a basic requirement throughout the Public sector. It defines three crucial public service values, which staff, must follow in the course of their professional duties.

2.1 Accountability

Everything done by staff of ELWA must be able to stand the tests of scrutiny, public judgements on propriety, and professional codes of conduct. As the public sector is publicly funded, ELWA is accountable to Parliament for the services it provides and for the effective and economical use of taxpayers' money, with the proper stewardship of public monies requiring value for money to feature foremost in the day to day duties of staff at all levels.

2.2 Probity

There is an absolute standard of honesty required from staff in dealing with the activities, transactions and assets of the Organisation. Integrity should be the hallmark of all personal conduct in decisions affecting customers, staff and suppliers, and the use of information acquired in the course of public sector duties.

2.3 Openness

There should be a willingness to be open with the public, staff and customers in the normal course of public sector business.

3. Fraud Prevention

3.1 There is a duty on all staff to minimise the opportunity for fraud to be perpetrated.

3.2 The financial affairs of ELWA are carried out within rules laid down in the Authority's Constitution – which are designed to minimise the opportunities for fraud. All staff must be aware of these instructions, and staff who handle or requisition goods or services and handle cash must follow the procedures and ensure that they are complied with.

4. Responsibilities

4.1 Staff

Each employee must ensure that care is taken over the use and security of all official property, and must tell their appropriate level of management immediately if an actual or suspected fraud or other irregularity has occurred.

4.2 Management

Management (including all levels of operational management) must establish systems, in which there are appropriate controls built in, to prevent fraud and detect acts of fraud. They must take immediate action if fraud or other irregularities are reported or discovered.

5. Definition of Fraud, Theft and Other Irregularities

5.1 An irregularity is any action by staff, which breaches the required high standards of financial integrity expected by the public.

5.2 Irregularities fall broadly within the following categories, the first three of which are criminal offences:

5.2.1 theft - the dishonest taking of property belonging to another person with the intention of depriving the owner permanently of its possession;

5.2.2 fraud - involves the use of deception to obtain an unjust or illegal financial advantage;

5.2.3 bribery and corruption - giving people money or favours to undertake a specific course of action;

5.2.4 failure to observe the Financial and Contract Rules in the Constitution.

6. Notifying Suspected Fraud, Theft and Other Irregularities

6.1 Suspected fraud can be detected in a number of ways but in all cases it is important that staff feel able to report their concerns with total confidentiality.

6.2 The appropriate method for staff to report any suspected fraud is via their line manager as follows:

6.2.1 If an employee discovers a suspected fraud then it should be reported to their manager straight away.

6.2.2 Managers must immediately report the incident, in writing, to the Chief Auditor, Alan Perry
Telephone: 020 8708 3384 / alan.perry@redbridge.gov.uk

6.3 In some cases - for example, where the suspicions relate to the line manager - the notifying individual may prefer to report the suspicion to an independent officer. In such circumstances, reporting options are as follows:

6.3.1 Staff can write to the Finance Director, Geoff Pearce
Telephone: 020 8708 3588 / geoff.pearce@lbbd.gov.uk

6.3.2 Staff can write to the Managing Director, Rob Whiteman
Telephone: 020 8227 2789 / rob.whiteman@lbbd.gov.uk

- 6.4 Whenever a report is made, confidentiality will be maintained in all circumstances other than where the report is shown to be malicious.
- 6.5 If the Finance Director is being accused of fraud the report must be made to the Managing Director.
- 6.6 Members of the public may report allegations or suspicions of fraud being perpetrated by employees to the Executive Director, Managing Director, Finance Director or the Chair of ELWA. The matter will then be handled in the same manner as any other reported fraud.

7. Investigating Suspected Fraud

- 7.1 Once fraud is suspected it is critical that any investigation is conducted in a professional manner aimed at ensuring that the current and future interests of both the Organisation and the suspected individual(s) are protected - where the protection of the suspected individual(s) during any investigation is to be treated as being of equal importance, as a suspicion should not be seen as a guilt to be proved.
- 7.2 The agreed disciplinary procedure relevant to the Member of Staff will be applied at all times during any investigation.
- 7.3 It is crucial that the notifying employee does not feel threatened. Therefore, if necessary, and as far as possible ELWA undertakes to protect the identity of such employees and not to release the source of notification at any time during the investigation.
- 7.4 The Finance Director must undertake the actions detailed below.
 - 7.4.1 The individual's line director and the relevant Personnel Manager should assess whether there is a need for any employee to be suspended. The decision should be kept under review at all stages of the ensuing investigation.
 - 7.4.2 Notify ELWA's Internal Auditors of all suspected frauds upon receipt of such information.
 - 7.4.3 Consider, with the Internal Auditor, at what stage the Police are notified. Where the answer to the following criteria is "yes", the police should be notified immediately:
 - i. Is there a reasonable suspicion of fraud or a corrupt practice?
 - ii. Is there reasonable certainty that anything obvious has not been overlooked?
 - 7.4.4 Identify a course of action to proceed with any investigation, and appoint a manager to oversee the investigation.
 - 7.4.5 Identify the reporting process.

- 7.4.6** Ensure that strict confidentiality is continuously maintained, including that of any witnesses.
- 7.5** Once the Police are involved further internal investigations may be suspended if improper or inappropriate investigations might jeopardise the Police case.
- 7.6** At the request of the Finance Director, ELWA's Internal Auditors may co-ordinate the investigation.
- 7.7** When either ELWA or ELWA's Internal Auditors undertake any further investigations, any information collected must be fully documented.
- 7.7.1** A file should be opened to record details of all:
- i. Telephone conversations;
 - ii. Face-to-face discussions;
 - iii. Records and documents reviewed;
 - iv. Tests undertaken and their results.
- 7.7.2** The file should be indexed and all details recorded no matter how insignificant they may initially appear.
- 7.7.3** They must ensure the correct form of evidence is obtained and appropriately retained, in relation to:
- i. Prime documents
 - ii. Certified copies
 - iii. Physical items
 - iv. Secondary evidence (e.g., discussions etc)
 - v. Circumstantial evidence
 - vi. Hearsay.
- 7.8** All interviews must be conducted in a professional manner and all confidentiality's respected.
- 7.9** Prior to any interview of the individual being investigated, that individual should be informed that the investigating manager or ELWA's Internal Auditors wish to discuss the incident with them and that they may have a representative present at the interview.
- 7.10** Where witnesses are asked to give statements by ELWA or ELWA's Internal Auditors, they should only be asked to give specific factual reports of events relevant to the investigation.
- 7.11** Witness statements should be in a written format wherever possible. Where, for whatever reason, this is not possible, the investigation manager or the Organisation's Internal Auditors should make a written note of all conversations held in relation to the investigation.
- 7.12** As far as possible, any request for anonymity by witnesses will be fully respected.

7.13 In order to facilitate the investigation of the suspected fraud, confidentiality should be maintained by all parties, particularly the investigator, witnesses and others involved with the investigation.

8. Liaison with External Auditors

The will be done by the Finance Director who will report all suspected frauds to ELWA's External Auditors at the earliest opportunity.

9. Liaison with the Police

9.1 The Police are the experts at investigating criminal fraud, and they will advise on the likely outcome of any intended prosecution. The Finance Director should contact the Police as soon as an illegal act is suspected, after discussing the position with the ELWA's Internal Auditors. It should be noted that the Police welcome early notification of suspected fraud.

9.2 The Police and the authority, in either case will appoint a liaison officer this will not necessarily mean that the individuals concerned will automatically take responsibility for an investigation. This will fall to the appointed investigating officer in either organisation. Liaison officers are intended as a conduit between the two organisations to facilitate communication and access.

9.3 If the Police decide that a formal investigation is necessary, all staff should co-operate fully with such an investigation.

9.4 Where the Police decide that a formal investigation is necessary, consideration should be given to the suspension of any internal investigation.

9.5 All staff will be expected to co-operate fully with the Police investigation and may be asked to give statements to the Police as well as to the Organisation's Internal Auditors.

9.6 A strategy meeting should be held at the earliest opportunity involving Police Investigators, Internal & External Audit, Finance Director (or deputy) and in some cases representatives of the legal and personnel departments of the relevant Constituent Councils.

9.7 Where the Police decide not to formally investigate this will not prejudice any internal disciplinary procedures.

10. Reporting on the Investigation

10.1 In major investigations an interim confidential report should be made by ELWA's Internal Auditors to the Finance Director and any other officer decided upon at the preliminary stage.

10.2 The Interim Report should set out:

- i. The findings to date;
- ii. The interim conclusions drawn from those findings; and
- iii. It should seek approval to continue the investigation if this is appropriate.

10.3 At the end of the investigation a final report will be produced which sets out all the facts relating to the case and management action that should be taken together with recommendations that should be implemented to prevent similar instances recurring.

11. Involvement of the public sector Executive

The Finance Director must notify the public sector Executive of all frauds in accordance with *FDL(95)27, Guidance on Losses & Special Payments*.

12. Personnel Policy

12.1 Any investigation of suspected fraud will be pursued in accordance with the relevant Constituent Council's agreed disciplinary procedure.

12.2 Any request for a reference in respect of an employee dismissed for fraud or any associated irregularity, or who has resigned whilst being investigated in relation to a suspected fraud, must only be provided following consultation with the relevant Personnel Department in the Constituent Council.

12.3 Members of staff approached to provide a reference for an employee dismissed for fraud or any associated irregularity, or who has resigned whilst being investigated in relation to a suspected fraud, in a personal capacity will be personally liable for the information supplied and the Organisation will not accept any responsibility for references supplied in such a capacity.

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APPENDIX

Other Relevant Documents

This is Document 2 of the Anti Fraud and Corruption Strategy. Other documents within the Anti Fraud and Corruption Strategy are:

- Document 1: Statement and Principles (Reference PN/01)
- Document 2: This document (Reference GN/01)
- Document 3: Whistleblowing Procedure – Information for Employees and for people who have dealings with the Authority (Reference PN/02)
- Document 4: Whistleblowing Procedure – Information for Managers (Reference GN/02)
- Document 5: Fraud Response Plan (Reference PN/03)
- Document 6: Extracts from the Integrated Waste Management Contract (Reference GN/03)
- Document 7: Copies of the Policy of Shanks Waste Management (Reference GN/04)



1. Information for Employees and for People who have dealings with the Authority

The purpose of this procedure is to enable you to raise your concerns with the Authority in confidence without any fear of reprisal. We can learn a lot from what you tell us. Your information is important to us and we are looking to ensure that the highest standards of conduct and services are maintained. We therefore ask that you do not take your concerns outside the Authority other than as stated at the end of this leaflet. All outside enquiries about any investigation relating to your concern must be referred to the Finance Director. When raising your concern you must declare any personal interest you have in the matter.

This procedure will help employees to:

- Discuss in confidence with a Senior Officer, any concerns you may have regarding a serious malpractice in the Authority
- Seek reassurance that any proven malpractice will be stopped
- Be safe in the knowledge that you will not be victimised

2. What is Whistleblowing?

All of us at one time or another have concerns about what is happening at work or within a particular organisation. Usually these concerns are easily resolved. However, when they are about serious malpractice like financial irregularities, dangerous working conditions, discrimination or fraud, it can be difficult to know what to do.

You may be worried about raising such issues or may want to keep concerns to yourself, perhaps feeling that it is none of your business or that it is only a suspicion. You may feel that raising your concern would be disloyal to colleagues, managers or the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way.

The Authority has therefore a procedure to enable you to raise your concerns about serious malpractice at an early stage. We want you to say something when it is a concern rather than wait for proof.

It is impossible to give an exhaustive list of the activities that constitute misconduct or malpractice but, broadly speaking, we would expect you to report the following:

- Criminal offences
- Failure to comply with legal obligations or miscarriages of justice
- Actions which endanger the health or safety of staff or the public
- Actions which cause damage to the environment
- Actions which are intended to conceal any of the above

If in doubt – raise it!

This procedure is a central part of the Authority's programme to improve the delivery of services to the public, and it provides us with an opportunity to address a potentially serious problem before it is too late. We will do everything possible to protect your confidentiality if required.

This procedure should not be confused with the Authority's Complaints Procedure which should be used where a customer has a specific complaint about the quality of service delivery, or the Grievance Procedure which should be used when an employee is aggrieved about their own employment situation.

3. As An Employee, How Do I Raise My Concerns?

Where you have a concern, we hope you will be able to raise it with your manager within the Authority or with the relevant Waste Manager, Chief Finance Officers, Chief Auditors or Chief Personnel Officers in your employing Constituent Council (Switchboard contact numbers are shown below). This may be done verbally or in writing.

If you feel unable to follow that route, because they are in some way involved, your concern may be discussed in confidence with, or addressed to, either of the following ELWA Chief Officers. Both are based in Lynton House, Ilford.

Alan Perry is the Chief Auditor of both the London Borough of Redbridge and ELWA:
Tel: 020 8708 3384 (24 hr answerphone)
e-mail: alan.perry@redbridge.gov.uk

Geoff Pearce is the Finance Director of both the London Borough of Redbridge and ELWA:
Tel: 020 8708 3588
Email: geoff.pearce@redbridge.gov.uk

4. As A Member Of The Public, How Do I Raise My Concerns?

Where you have a concern, we hope that you will be able to raise it at the relevant ELWA location. This may be done verbally or in writing. If you feel unable to do that because they are in some way involved, your concern may be discussed in confidence with, or addressed to, either of the following Chief Officers.

Alan Perry is the Chief Auditor of the London Borough of Redbridge and ELWA:
Tel: 020 8708 3384 (24 hr answerphone)
e-mail: alan.perry@redbridge.gov.uk

Geoff Pearce is the Finance Director of both the London Borough of Redbridge and ELWA:
Tel: 020 8708 3588
Email: geoff.pearce@redbridge.gov.uk

5. Whistleblowing Procedures

Separate to this (ELWA) Whistleblowing procedure, our Constituent Councils and our Contractor have their own Whistleblowing procedures. Copies of these can be obtained as follows:

London Borough of Barking and Dagenham	Tel: 020 8592 4500 www.lbbd.gov.uk
London Borough of Havering	Tel: 01708 434343 www.havering.gov.uk
London Borough of Newham	Tel: 020 8430 2000 www.newham.gov.uk
London Borough of Redbridge	Tel: 020 8554 5000 www.redbridge.gov.uk
Main Contractors - Shanks East London	Tel: 01708 634540 www.shanks.co.uk/eastlondon

6. What Happens Next?

Having alerted to us your concern, it is our responsibility to investigate the issue. The initial stage will be to discuss the issue with you, and then assess what further action may be taken. If you want feedback on the action we have taken we will contact you in due course, however if you wish to remain anonymous you can telephone us at a later date.

Where the issue cannot be resolved quickly i.e. it requires more detailed consideration either because of the complexity of the concern or the possibility of other proceedings, an investigation will be carried out under the direction of the Managing Director, Finance Director or the Chief Auditor for ELWA.

7. What Assurances Can Be Given To You?

All concerns raised under this procedure, regardless of their nature, will be treated seriously and sensitively by highly trained and experienced officers. Where practicable immediate steps will be taken to remedy the situation. However, the final outcome may take longer depending upon the issue that is raised.

We shall make every effort to keep your identity confidential if you wish this to be the case. If this is not possible, for example if you are required to give evidence/a formal statement, e.g. a court case or disciplinary hearing, you will be told and we will discuss this with you.

The earlier and more open the expression of a concern, the easier it will be for senior management to take action.

The Authority will not tolerate harassment or victimisation of anyone raising a concern under the procedure of good faith, regardless of whether or not it proves well-founded. If anyone tries to discourage you from coming forward to express a concern, we will treat this as a disciplinary offence. In the same way, we will deal severely with anyone who criticises or victimises you after a concern has been expressed. The Public Interest Disclosures Act became law in 1999 and gives a worker the right not to be victimised or dismissed because he/she has made a protected disclosure.

The Authority will monitor the effectiveness of the procedure and carry out an annual review.

8. What Can I Do To Help?

The purpose of this procedure is to enable you to raise your concerns with the Authority in confidence without any fear of reprisal. We can learn a lot from what you tell us. Your information is important to us and we are looking to ensure that the highest standards of conduct and services are maintained. We therefore ask that you do not take your concerns outside the Authority other than as stated at the end of this document. All outside enquiries about any investigation relating to your concern must be referred to the Chief Auditor or Finance Director. When raising your concern you must declare any personal interest you have in the matter.

9. What Happens If An Unfounded Malicious Concern is Raised?

Individuals are encouraged to come forward in good faith with genuine concerns in the knowledge that they will be taken seriously. If individuals raise malicious unfounded concerns, attempt to make mischief, or attempt to make a personal gain, this will also be taken seriously and may constitute a disciplinary offence or require some other form of penalty appropriate to the circumstances.

10. What Happens After the Concern Has Been Investigated?

You will be informed, where requested and subject to legal constraints, of the outcome of the action taken to resolve your concern.

Where action is not taken you will be given an explanation.

There will be an expectation on the managers of ELWA to minimise the risk of re-occurrence wherever possible.

11. What If I Am Unhappy With The Way In Which The Issue Has Been Investigated?

If you are not satisfied with the outcome of an investigation, we would prefer that you raised this with us, explaining why this is the case. Your concern will be looked at again if there is good reason to do so.

The Authority would prefer that a serious concern is raised responsibly rather than not at all. Despite our assurances, you may feel that it is more appropriate to raise your concern with an external organisation, such as a regulator. It is, of course, open for you to do so provided you have sufficient evidence to support your concern.

We strongly advise that before reporting your concern externally, you seek advice from one of the following:

- As an employee: Public Concern at Work, a registered charity which advises on serious malpractice within the work place, can be contacted on 020 7404 6609.
- As an employee: Your trade union.
- As a member of the public or an employee: The Audit Commission, 'prescribed persons' under the Public Interest Disclosure Act, have set up an Anti-fraud and Corruption Unit which can be contacted on 020 7630 1019.

While we cannot guarantee that we will respond to your concern in the way you might wish, we will try to handle the matter fairly and properly. By using this procedure, you will help us to achieve this.

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APPENDIX

Other Relevant Documents

This is Document 3 of the Anti Fraud and Corruption Strategy. Other documents within the Anti Fraud and Corruption Strategy are:

- Document 1: Statement and Principles (Reference PN.01)
- Document 2: Guidance for Staff (Reference GN.01)
- Document 3: This document (Reference PN.02)
- Document 4: Whistleblowing Procedure – Information for Managers (Reference GN.02)
- Document 5: Fraud Response Plan (Reference PN.03)
- Document 6: Extracts from the Integrated Waste Management Contract (Reference GN.03)
- Document 7: Copies of the Policy of Shanks Waste Management (Reference GN.04)



INFORMATION FOR MANAGERS

This document sets out guidance on confidential reporting, i.e. “Whistleblowing”, for use by Chief Officers and line managers in taking referrals by employees within their service area.

1. Introduction

- 1.1.** ELWA is committed to tackling malpractice and combating fraud committed against it by either an internal or external source. This approach and emphasis is embodied in the Authority’s Anti-Fraud & Corruption Strategy.
- 1.2** Whistleblowing is the action taken by an employee to disclose malpractice in the form of irregularity, wrong-doing or serious failures of standards of work. Whilst this process has always been available to employees, the whistleblowing scheme aims to formalise the arrangements and provide employees with the assurance that they will be free from retribution.
- 1.3.** An employee’s concerns about malpractice may include concerns about possible corruption, dangerous procedures risking health and safety, abuse of clients, evasion of statutory responsibilities, or breach of standing orders. This procedure should not be used for personal grievances about promotion or disputes between officers.
- 1.4.** This code sets out the procedure you should follow when a referral has been made to you, and also provides guidance to help you to ensure that employees feel as comfortable as possible with making referrals.

2. Status of the Code

- 2.1.** This code of practice is complementary to the Constituent Councils’ Employee Code of Conduct. It applies to all staff working on behalf of ELWA.
- 2.2.** The staff of ELWA are employed by one or other of the Constituent Councils under arrangements that exist between ELWA and the Councils. As such all staff that work on behalf of ELWA are required to conduct themselves in a manner that would not breach their respective Council’s Code of Conduct.

3. Safeguards

3.1. Harassment or Victimisation

The Authority will not tolerate harassment or victimisation and will take action to protect an employee when they raise a concern. Under the Public Interest Disclosure Act, whistleblowers who are victimised will be able to claim compensation at an Industrial Tribunal with awards being uncapped.

3.2. Existing Procedures

If a member of staff is already the subject of disciplinary or redundancy procedures within their Constituent Council, this will not be halted as a result of whistleblowing.

3.3. Untrue Allegations

If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, the allegation is found to be frivolous or malicious, disciplinary action will be taken against the employee blowing the whistle.

3.4. Confidentiality and Anonymous Allegations

The whistleblowers identity should never be revealed without their full agreement. Concerns expressed anonymously may be investigated although they are much less powerful. Management will need to consider the seriousness of decisions raised, the credibility of the concern, and the likelihood of confirming the allegation from attributable sources.

4. Procedure

4.1. Where an employee has concerns about malpractice and it is not appropriate to raise them through other procedures such as the Authority's Complaints Procedure, they should be raised through the whistleblowing procedures.

4.2. Wherever possible we would hope that an employee feels able to raise the concern **within** the Authority rather than overlooking a problem or blowing the whistle outside. Concerns should be raised in the first instance :-

a) with the member of staff's line manager or Chief Officer within ELWA

if that is felt to be inappropriate then,

b) with the Chief Auditor of ELWA or the Chief Auditor of the relevant Constituent Council or the Chief Personnel Officer of the relevant Constituent Council.

if that is felt to be inappropriate then,

c) with the Authority's External Auditors, or Public Concern At Work.

if that is felt to be inappropriate then,

d) with the Audit Commission's Anti-fraud and Corruption Unit

4.3. All issues of a financial nature should be immediately reported to the Chief Auditor of ELWA.

4.4. It is never easy for an employee to report concerns about malpractice especially when they involve other colleagues. Try to ensure that you are open to, and ready to listen and respond to, all concerns. Be mindful of the following factors:-

Remember there are two sides to every story.

Respect and heed legitimate employee concerns about their own safety or career.

- 4.5. Offer to report back to the concerned employee about the outcome of the investigation, subject to legal constraints, and on any action that is proposed.
- 4.6. Investigations should be undertaken both thoroughly and promptly. Where an allegation focuses upon malpractice within more than one service area, the matter should be reported to either the Chief Auditor or Chief Personnel Officers. It is likely that the investigations of complicated or disputed cases will be led by the Managing Director of ELWA.
- 4.7. The Chief Auditor is able to provide specific advice on conducting an investigation, in respect of documentation, taking statements, preserving evidence and interviewing.
- 4.8. The Chief Auditor should be advised of any matter **before** it is referred to the Police.

5. CONTACTS

The relevant Chief Officer of ELWA is Tony Jarvis

Tel: 020 8270 4965
tony.jarvis@lbbd.gov.uk

The Managing Director of ELWA is Rob Whiteman

Tel: 020 8227 2789
rob.whiteman@lbbd.gov.uk

The Finance Director of ELWA is Geoff Pearce

Tel: 020 8708 3588
geoff.pearce@lbbd.gov.uk

The Chief Auditor of ELWA is Alan Perry

Tel: 020 8708 3384
alan.perry@redbridge.gov.uk

The relevant Waste Managers, Chief Finance Officers, Chief Auditors and Chief Personnel Officers can be contacted within each Constituency Council switchboard numbers:

London Borough of Barking and Dagenham

Tel: 020 8592 4500
www.lbbd.gov.uk

London Borough of Havering

Tel: 01708 434343
www.havering.gov.uk

London Borough of Newham

Tel: 020 8430 2000
www.newham.gov.uk

London Borough of Redbridge

Tel: 020 8554 5000
www.redbridge.gov.uk

Revised: May 2006
Tony Jarvis

APPENDIX

Other Relevant Documents

This is Document 4 of the Anti Fraud and Corruption Strategy. Other documents within the Anti Fraud and Corruption Strategy are:

- Document 1: Statement and Principles (Reference PN/01)
- Document 2: Guidance for Staff (Reference GN/01)
- Document 3: Whistleblowing Procedure – Information for Employees and for people who have dealings with the Authority (Reference PN/02)
- Document 4: This document (Reference GN/02)
- Document 5: Fraud Response Plan (Reference PN/03)
- Document 6: Extracts from the Integrated Waste Management Contract (Reference GN/03)
- Document 7: Copies of the Policy of Shanks Waste Management (Reference GN/04)

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- 1 INVESTIGATION FLOWCHART
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It is essential that anyone involved in reporting or investigating fraud and corruption is fully aware of correct procedures to follow to avoid compromising the outcome.

1. Introduction

The Authority is committed to protecting the public funds with which it has been entrusted. Minimising losses to fraud and corruption is an essential part of ensuring that all of the Authority's resources are used for the purpose for which they are intended.

The public is entitled to expect the Authority to conduct its affairs with integrity, honesty and openness, and demand the highest standards of conduct from those working for it and with it.

The Authority approved an Anti Fraud & Corruption Strategy (AFCS) in June 2006. The strategy sets as the Authority's main objective the promotion of a culture that will not tolerate fraud and corruption whether perpetrated inside or outside of the organisation. The AFCS also emphasises that ELWA will take the strongest possible appropriate action, including prosecution, against offenders.

The key to minimising the incidence of fraud and corruption is in developing effective preventative measures. However, no system of preventative controls is foolproof and in circumstances where fraud and corruption is evident or suspected, it is essential that officers know what to do so that appropriate and prompt remedial action is taken.

The Fraud Response Plan (Reference PN/03) provides such guidance to assist officers and to ensure effective and timely action is taken and gives direction to anyone wanting to report matters of concern. Other documents that you may need to refer to, if dealing with fraud, and corruption include:

- Policy Note (PN/01): Anti Fraud & Corruption Strategy – Statement & Principles
- Guidance Note (GN/01): Anti Fraud & Corruption Strategy – Guidance for Staff
- Policy Note (PN/02): Anti Fraud & Corruption Strategy - Whistleblowing Procedure – Information for Employees and for People who have dealings with the Authority;
- Guidance Note (GN/02) Anti Fraud & Corruption Strategy - Whistleblowing Procedure – Information for Managers
- Guidance Note (GN/03) Anti Fraud & Corruption Strategy – Extracts from the Integrated Waste Management Strategy Contract
- Guidance Note (GN/04) Anti Fraud & Corruption Strategy – Copies of the Policy of Shanks Waste Management.
- Audit Protocol & Audit Charter
- Financial Rules of the Authority (see Constitution)
- Codes of Conduct for Members and Employees (see Constitution)
- Disciplinary Procedure (see Constitution)

Whenever fraud and corruption occurs, there is the probability of the matter being referred to the Police at some stage. Ultimately, it will be for the Police, in conjunction with the Crown Prosecution Service, to determine if there are sufficient grounds and evidence for prosecution. The Police have stated that they cannot prosecute over 50% of fraud and corruption cases because of inappropriate action taken before the case is referred to them. There are a number of legislative requirements that need to be complied with where criminal proceedings are likely, in particular:

- Human Rights Act
- Data Protection Act – this is particularly important when divulging/sharing information concerning an individual with a third party.
- Police and Criminal Evidence Act (PACE)
- Regulation of Investigatory Powers Act (RIPA) which covers the use of covert surveillance, the use of informants and access to communications data.

2. Objectives of the Fraud Response Plan

To ensure that timely and effective action can be taken to:

- prevent losses of funds or other assets where fraud has occurred and to maximise recovery of losses
- minimise the occurrence of fraud by taking rapid action at the first signs of a problem
- identify the fraudsters and maximise the success of any disciplinary/legal action taken
- minimise any adverse publicity for the organisation, suffered as a result of fraud
- identify any lessons which can be acted upon in managing fraud in the future
- reduce adverse impacts on the business of the organisation

3. Definition of Fraud and Corruption

Fraud

Although there is no precise legal definition of fraud, the term is used to describe a multitude of offences including deception, forgery, theft, misappropriation, malicious damage, actual or attempted break-in, collusion and falsification of any records or documents. The Audit Commission define fraud as “*the intentional distortion of records to conceal the misappropriation of assets or for other gain*”

Corruption

“*The offering, giving, soliciting or acceptance of inducements which may influence a persons actions*”. It is important to remember that this definition is wider than the scenario that an inducement has been given and this influenced a person’s actions: if one party makes an offer of, or solicits, an inducement then a corrupt act has occurred, whether or not it is accepted by the second party.

4. The Authority's Response

The Authority has an established framework for responding to fraud and irregularity consisting of:

- Rules and requirements as reflected in the Financial Regulations (see Constitution)
- Defined roles and responsibilities (see Constitution)
- Agreed best practices for conducting investigation work

The Authority's Rules require that matters involving any financial irregularities are notified immediately to the Finance Director. In instances involving an Authority employee the Head of Paid Service should also be notified who will then take such action as is deemed appropriate.

Internal Audit will investigate all other appropriate cases of suspected financial irregularity. The contact numbers can be found at the end of this document.

The Authority also provides a means of reporting concerns through its Whistleblowing policy. The respective roles of officers are outlined as follows and contact numbers are provided in Appendix 2;

Finance Director:

The Finance Director is responsible for ensuring the proper financial administration of the Authority's activities including responding to fraud. Under the Accounts and Audit Regulations 2003, the Finance Director has a responsibility to maintain an adequate Internal Audit function.

Legal Adviser:

The Legal Adviser is the Authority's Monitoring Officer in line with the Local Government Act 2000, to guard against illegality, impropriety and maladministration in the Authority's affairs.

Appointed Officers:

Each Appointed Officer has a responsibility for establishing and maintaining adequate system controls within their respective Areas. This includes responsibility for the prevention and detection of fraud. Appointed Officers are responsible for implementing the requirements of the Authority's overall strategy for combating fraud and corruption.

Other ELWA Officers:

Other ELWA Officers are in a position to take responsibility for the prevention and detection of fraud and corruption within their work area. However, as soon as an officer suspects fraud or corruption they must in all instances seek advice in line with the Authority's Anti Fraud & Corruption Strategy.

Investigators:

All investigations into fraud or corruption matters will be undertaken by the relevant officers from Internal Audit, and other relevant officers within the Authority or Constituent Councils. Where such investigations involve employees, a Personnel Officer shall also be consulted before the investigations commence. Officers conducting investigations have powers which allow them access to various records and other information which may be deemed relevant. Investigating officers must work within legislative requirements and relevant codes of conduct.

Employees:

All employees are required to act in accordance with the Staff Code of Conduct of their employing Constituent Council. The Constitution and Financial Regulations place responsibility for the prevention and detection of fraud with all employees. Any such concerns should be raised in line with the Authority's Anti Fraud & Corruption Strategy.

Members:

All Authority Members are required to act in accordance with the relevant Constituent Council Members Code of Conduct. Members also have a duty to report any issues of concern to the Finance Director. The relevant Constituent Council's Standards Committee has a specific role in hearing and dealing with any issues regarding breaches of Members conduct.

Personnel/Human Resources Officers:

The relevant Constituent Council's Personnel or Human Resources officers will provide advice in making decisions with regards to disciplinary proceedings.

Legal Adviser:

The Legal Adviser will be consulted, where appropriate, to advise on legal proceedings, including the recovery of assets.

Corporate Communications:

The Managing Director will be informed of any high profile fraud cases so that the corporate media response can be considered.

See Appendix 2 for List of Contacts.

5. The Investigation Process

(a) What to do in the event of suspected fraud or corruption

The Constitution sets out the reporting requirements where fraud and corruption is suspected. A key requirement is that the Finance Director/Head of Audit should be notified immediately irregularity is suspected. Further advice as to the way forward can be provided at that time. Where employees are, or may potentially be involved, the relevant Constituent Council's Chief Personnel Officer/Head of Human Resources should also be alerted.

In most instances, management will undertake the initial "fact finding" to determine if there is evidence of fraud. As part of this evidence gathering, management will need to give due regard to:

- **Obtaining and retaining any original documentation**
- **Certifying copies of original documents**
- **Making clear and legible notes of any interview or telephone conversation**
- **Keeping clear and dated records of any other actions/decisions**
- **Accessing Computer held records need to be treated with particular care.**
- **Maintaining confidentiality**

Internal Audit is available to offer advice prior to any "fact finding" work commencing on any specific course of action that may be necessary. There will be some circumstances where Internal Audit will need to undertake all stages of investigatory work.

In the event that the "fact finding" confirms that there are grounds to suspect/confirm an irregularity has occurred/is occurring, the matter must be immediately referred to the Finance Director/Head of Audit. Depending on the circumstances, it may also be necessary to advise other officers including the Managing Director, Legal Adviser and relevant Chief Personnel Officer/Head of Human Resources, as well as relevant Members.

(b) Initial examination confirms the suspicion. What next?

Note: If there is a need to interview an individual and there is a prior suspicion that they have committed a fraud you must obtain advice and guidance from Internal Audit, Legal and Personnel to ensure that the requirements of the Police and Criminal Evidence Act are complied with. There are also particular requirements for interviews that are recorded. Only individuals who have had specific training should conduct interviews under caution – as a general rule these interviews are best left to the Police. You also need to ensure that you meet any internal requirements concerning potential disciplinary action.

Again it is vital that clear records are maintained of investigative work and decisions – these records must be signed and dated.

If initial examination confirms the suspicion that a fraud has been perpetrated, then to prevent the loss of evidence that will be essential for subsequent disciplinary action or prosecution, management should take steps to ensure that all original documentation is preserved in a safe place for further investigation. Additionally, the organisation may suspend or change the duties of an individual involved pending the outcome of an investigation. Suspension or other action does not imply guilt; it is another safeguard to prevent the removal or destruction of evidence. The relevant Constituent Council's Chief Personnel Officer/Head of Human Resources and Finance Services must be consulted prior to any decision to suspend.

Where it seems likely that the case could lead to prosecution, the police will need to be alerted at an early stage so that joint investigation arrangements can be made, if necessary. This will be facilitated if previous contact has been made with local police and formal liaison arrangements have been set up. On occasions, the Police can be approached informally and will give advice as to whether they would be likely to investigate and any steps to take in preparing the case. Referral to the Police should only be made following consultation with the Finance Director/Head of Audit.

At an early stage, it will be necessary to decide what type of investigation to hold, who is to lead it and what the main objectives are. The investigation of fraud is a specialist subject and should not be undertaken by people without the necessary skills and training.

Depending on the nature and circumstances of the irregularity, a number of potential routes may be followed:

- Immediate referral to the police
- Management conduct the investigation supported by Internal Audit and other relevant service areas e.g. Legal and Personnel/Human Resources Services.
- Internal Audit undertake an independent investigation supported by relevant service area.
- External Audit may need to conduct their own investigation.

The above are not mutually exclusive. Each case needs to be considered on merit but there are common factors and processes to bear in mind when progressing the investigation.

Irrespective of the investigation route, it is essential to plan the investigation identifying:

- A Lead Officer.
- Resources required e.g. other investigating staff.
- Timescales for the investigation (this should be realistic and not rushed).
- Anticipated scope/outcome of the investigation – it is too easy to expand the investigation to the extent that costs of the investigation outweigh the outcomes.
- Action Plan and Review Processes.

(c) What sort of things can be evidence?

Note: Evidence used during cases involving financial irregularities will be made available to the employee to comply with disclosure requirements.

Original documents and certified copies

The best form of evidence is original documentation and you should always strive to obtain them. In some cases this may not be possible and so a copy will have to suffice. Where a copy is used it should be clearly endorsed as a copy and if possible certified as a true copy of the original, preferably by the person who took the copy from the original source document.

Sometimes the original document will have been destroyed due to its age and a microfilm copy is available in which case the microfilm copy can be used provided that an appropriate senior person authenticates it. The certification should be a written endorsement on the rear of the document, signed and dated.

Computer held data

Information held on a computer may provide evidence either of the situation in the records at a given point in time or that a fraud has been committed. If the information is from a mainframe/mini computer system and is as a result of exception reports or data from records held within a particular software package then printouts timed and dated can be used as evidence. All the data should have details of the time and data of printing on it from the system or, failing that, the evidence must be endorsed by the investigator substantiating the validity of the detail contained in the print out.

However, where the information is held on the hard disc of a personal computer or on a floppy disc then alternative methods need to be used. The disc needs to be copied and preserved for evidence purposes and then the copy used to identify stored evidence. Printouts taken can then be authenticated in the normal way. The person reviewing the hard disc will need to record all the files examined and detail any findings. Working papers need to be signed and dated.

Access to other computerised data including e-mail accounts/logs, telephone records and door entry systems can only be made in particular circumstances and in accordance with the Council's policies and guidelines.

Further advice/assistance can be obtained from Information & Business Systems, Personnel, Legal and Finance Services.

Physical evidence

Physical verification of a situation is necessary when the investigation arises from, or involves deficiencies in, cash, stores or other assets. As a result the objective of a physical count of either cash or stores is to determine and record that actual value of the cash/stores present at a fixed point in time.

Once the count has been completed investigations can begin to verify the amount and determine the extent of any shortfalls.

Counting the cash - All cash held by the person should be counted at the same time in the presence of the individual (to prevent the same cash being presented more than once to cover a shortage). The cash count should include a detailed analysis of cash by denomination, a list of all cheques, any cash subsequently introduced by the cashier after having been informed of a shortage and requesting a recount.

If the person says they took the money home for safe keeping then the investigator should accompany them to go and get it. This action will either support the person's claim or alternatively determine that there is a shortage when the person fails to produce the money.

Note: Searches of individuals, their desks or their possessions should not be conducted without prior advice from Personnel/Human Resources Services.

Cartons of goods at stock checks – should all be opened and their contents counted to ensure that the true stock figure is identified, otherwise empty cartons could mask a shortfall.

Multiple/Group stores – should all be checked without warning at the same time to prevent the transfer of items between locations to cover up discrepancies.

Observation – sometimes this can be a useful means of verifying actions by others and also events. Normally two people are involved to corroborate the evidence collected.

Covert Observation/Video & Photographic evidence

Occasionally it may be necessary to consider the use of covert video surveillance to provide evidence. Appropriate guidance should be sought from Personnel and Internal Audit before video surveillance is commissioned. All covert observations must be conducted in accordance with the requirements of the Regulation of Investigatory Powers Act (RIPA).

If videos are to be used in evidence they should have the data and time continuously displayed. The original tape should be preserved intact as evidence of the event. A copy of the video should be made and only the copy viewed, this is because every time you stop and start the tape a "footprint" is left on the tape. The original tape can then be used in Court as evidence.

When the copy is viewed, the person needs to note the time of the event and exactly what occurred. These notes become part of the evidence and must be signed and dated by the person viewing the videotape.

Sharing/Providing Intelligence with others

In general, information related to a specific investigation can be shared/provided with other relevant bodies provided it can be demonstrated that the information is provided for the purpose of prevention and detection of fraud or other offence. Many of the Council's forms now tell individuals that their data may be shared for anti-fraud purposes. If you are unsure about providing information, requesting or sharing data seek advice from Internal Audit before doing so.

(d) How do I secure the evidence?

All original documents involved should be stored securely, preferably by removal from site to a secure store. Where the record would be in normal use then the original should be copied and the copy placed as a substitute.

Where cash deficiency is being investigated then the current receipt book should be removed and a new one substituted. If the system has a management/audit trail roll then that should be removed and replaced with a clean one, with the original held in safe keeping.

Individual documents should be placed in clear plastic wallets removing the need to punch holes in them for filing purposes.

It is very easy for records to be amended or destroyed, particularly if they are held electronically, and so care needs to be taken to ensure that the likely source of records is secured and the suspects barred access. This may involve moving computers or other equipment to a secure location so that they cannot be tampered with. If the evidence is potentially on videotape then the original tape should be taken and stored safely for later action.

It is important to consider the size, nature and impact of the fraud and/or corruption discovered. In all cases the Authority's insurers should be informed of the loss, via the Finance Director. In many instances External Audit will need to be informed. If there are other people involved in the area such as a regulatory body they should also be informed at the earliest opportunity. In all cases they will want to know the extent of the losses, how it happened, what changes have been made to prevent a re-occurrence and what action is being taken to recover the loss and prosecute/punish the person responsible.

In some instances the press office will need to be informed to ensure that adverse publicity can be avoided or minimised.

6. Outcomes of the Investigation

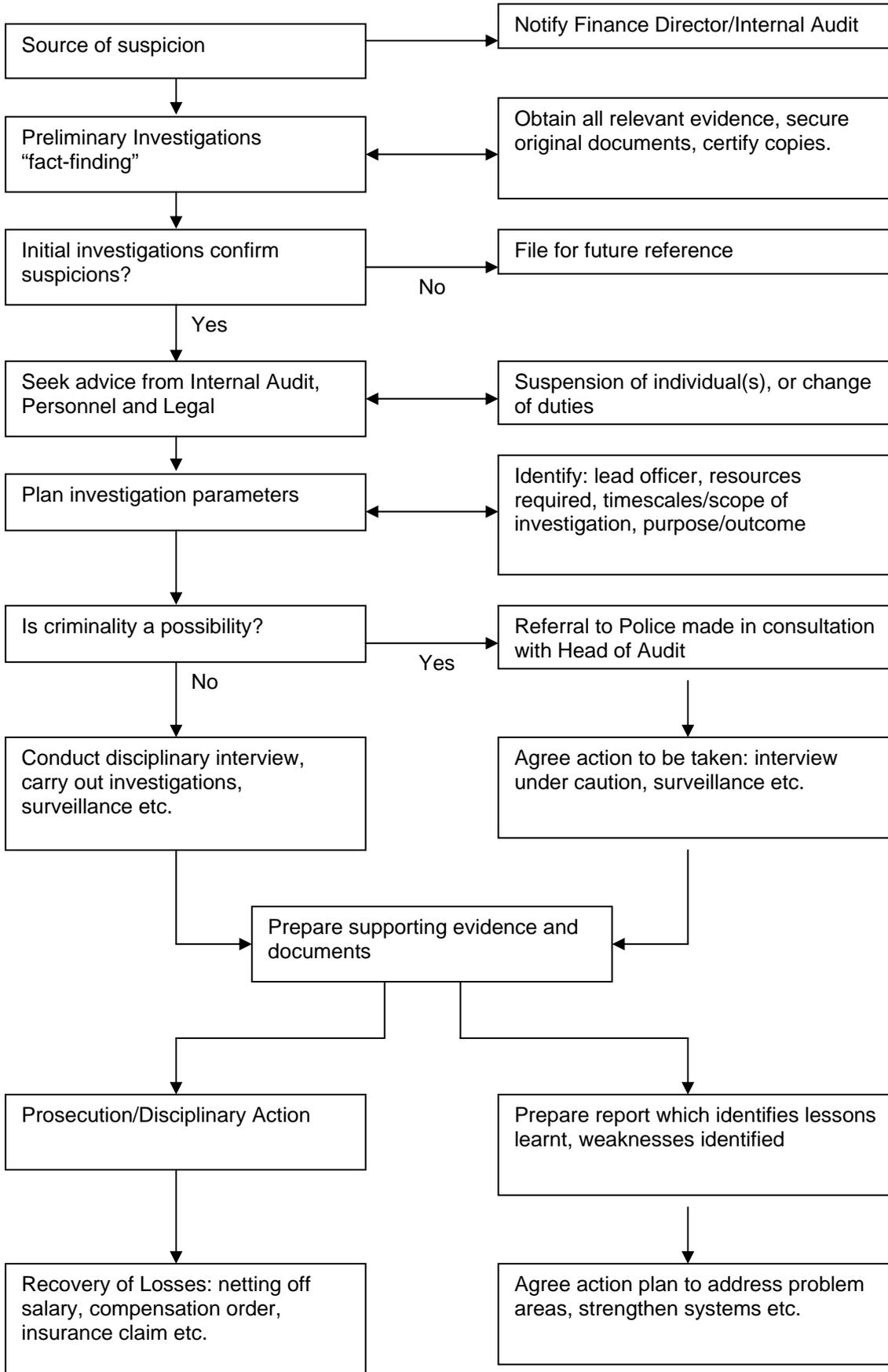
In general, each case needs to be dealt with based on its particular circumstance. The type and level of investigation (including resources to be allocated) will be for the lead officer to determine. Typically the outcome from an investigation is likely to be some or all of the following:

- Disciplinary and/or other criminal or civil actions against the individual(s) concerned.
- Recovery of losses/additional costs through for example, "Proceeds of Crime" actions; repayment by the offender; insurance cover.
- Identifying and reporting to relevant parties the events/circumstances of the fraud including "lessons to learn".
- An action plan to help prevent repeat offences and where, applicable to warn others of the risks to enable them to take appropriate preventative action.

Tony Jarvis, ELWA
John Jones, Internal Audit

Investigation Flow Chart

Appendix 1



Points of Contact

Appendix 2

Position	Officer	Location	Telephone No:
Managing Director and Head of Paid Service	Rob Whiteman	LBBB	020 8227 2789
Finance Director (and Whistleblowing contact)	Geoff Pearce	LBR	020 8708 3588
Technical Director	Cynthia Griffin	LBH	01708 432260
Operations Director	Shirley Clark	LBN	020 8430 2000
Executive Director	Tony Jarvis	Arden House	020 8270 4965
General Manager	John Wilson	Arden House	020 8270 4997
Contract Manager	Dave Hawes	Arden House	020 8270 4980
Office Manager	Shirley Gray	Arden House	020 8270 4964
Head of Audit (and Whistleblowing contact)	Alan Perry	LBR	020 8708 3130
Principal Audit Manager	John Jones	LBR	020 87083192
Insurance Manager	Roger Walton	LBR	020 8708 3540
Legal Adviser and Monitoring Officer	Robin Hanton	LBBB	020 8708 3201
Personnel			
Head of Human Resources	Christine Shepherd	LBBB	020 8227 2130
Head of Human Resources	Jackie Atchinson	LBH	01708 432181
Head of Human Resources	Susan McNally	LBN	020 8430 6157
Chief Personnel Officer	Marj Keddy	LBR	020 8708 3974

LBBB London Borough of Barking and Dagenham
 LBH London Borough of Havering
 LBN London Borough of Newham
 LBR London Borough of Redbridge

Subject/Organisation	Web Site Address
CIPFA	www.cipfa.org.uk
Audit Commission	www.audit-commission.gov.uk
Metropolitan Police	www.met.police.uk/index.html
Public Concern at Work (Whistleblowing & PIDA)	www.pcaw.co.uk
Human Rights	www.dca.gov.uk/hract/hramenu.html
Information Commissioner (Data Protection Act)	www.informationcommissioner.gov.uk
RIPA – Home Office	www.homeoffice.gov.uk/crimpol/crimreduc/regulation/index.html
RIPA – OSC	www.surveillancecommissioners.gov.uk
Proceeds of Crime Act	www.homeoffice.gov.uk/crimpol/oic/proceeds/index.html

Guidance on how to react to suspected fraud is provided in the body of the Fraud Response Plan. However there are some common sense rules which can be applied in all cases where an irregularity is suspected:

Do

- ✓ **Be responsive to concerns**
The Authority encourages staff to voice any reasonably held suspicion as part of developing an effective anti-fraud culture.
- ✓ **Note details**
Note all relevant details and get as much information as possible. For example, what was said in telephone or other conversations, the date and time and the names of any parties involved. Also, note any documentary evidence which may exist to support the allegation made.
- ✓ **Evaluate the allegation objectively**
Before taking the matter further, consider whether any of the suspicions appear to be justified. Be objective when making this evaluation, consider the facts as they appear based on the information to hand. If in doubt report your suspicions anyway, and always retain a record of this evaluation, even if it is decided not to take it further.
- ✓ **Advise the appropriate person**
This is normally your line manager, but if this was inappropriate you may want to advise your Head of Service or the other contacts outlined in the Whistleblowing scheme.
- ✓ **Deal with the matter promptly, if you feel your concerns are warranted**
Any delay may cause further financial loss to the Authority.

Don't

- ✗ **Do nothing**
- ✗ **Ridicule suspicions raised by staff**
The Authority cannot develop an effective anti-fraud culture if staff are reluctant to pass on their concerns to management. Employees may be reluctant to raise concerns for fear of ridicule or recrimination. You need to ensure that all staff are given a fair hearing. Additionally you should reassure staff that they will not suffer recrimination as a result of raising any reasonably held suspicion.
- ✗ **Approach or accuse individuals directly**
- ✗ **Convey your suspicions to anyone other than those with the proper authority**
- ✗ **Try to investigate the matter yourself**
Poorly managed investigations by staff who are unfamiliar with evidential requirements are highly likely to jeopardise a successful criminal prosecution.

Irregularity

A suspicion of fraudulent or corrupt activity/action which deliberately disregards the Authority's Constitution and Financial Rules or procedures with the intention of personal gain. Other irregularities might include the inappropriate use of the Authority's computer or telephone systems.

Fraud

Although there is no precise legal definition of fraud, the term is used to describe a multitude of offences including deception, forgery, theft, misappropriation, malicious damage, actual or attempted break-in, collusion and falsification of any records or documents. The Audit Commission define fraud as "*the intentional distortion of records to conceal the misappropriation of assets or for other gain*"

Corruption

"*The offering, giving, soliciting or acceptance of inducements which may influence a persons actions*". It is important to remember that this definition is wider than the scenario that an inducement has been given and this influenced a person's actions: if one party makes an offer of, or solicits, an inducement then a corrupt act has occurred, whether or not it is accepted by the second party.

Whistleblowing

The Authority has a Whistleblowing scheme to encourage employees to raise any serious concerns they may have in a responsible manner. The scheme ensures that all allegations are formally recorded and adequately investigated. The scheme also provides protection for staff who raise issues, confidentiality of the issues/individuals concerned and deals with malicious allegations.

Officers should report their concerns via their line manager. However if it is thought that they might be involved, or there may be a conflict of interest, then the scheme provides alternative reporting lines.

The introduction of this scheme could result in improvements being made to our systems. The procedure is endorsed by Members, who receive periodic reports on the scheme's operation. Further information and reporting arrangements are available on the website

Human Rights Act 1998 (HRA)

This Act gives individuals a number of rights in line with the European Convention on Human Rights (ECHR). The Act made it unlawful for a public authority to act in a way which is incompatible with the convention's rights. In relation to the Fraud Response Plan the most relevant Articles in the Act are likely to be:

3. the right not to be subjected to inhuman or degrading treatment
6. the right to a fair trial
7. the right not to be punished without law
8. the right to respect for privacy (see RIPA)
14. the right to enjoy all the freedoms of the convention without discrimination

Data Protection Act 1998 (DPA)

The DPA protects the rights of individuals where personal data relating to them is processed. The 1998 Act expanded the coverage of the 1984 Act, relating to personal information processed by automatic systems, to include manual data. The disclosure of personal data must be in line with the Second Principle of the Act, although Section 29(4) provides an exemption for offences concerning the fraudulent use of public funds. Standard wording which has been agreed with the Information Commissioner should be used when requesting or supplying information disclosures for fraud investigations.

Police & Criminal Evidence Act 1984 (PACE)

This Act covers a wide range of issues relating to the gathering of evidence. The aspects most relevant to the Fraud Response Plan relate to conducting interviews under caution. The Act stipulates the manner in which these must be conducted, the records which must be kept, and the wording of the caution itself. N.B. Only individuals who have had specific training should conduct interviews under caution – as a general rule these interviews are best left to the Police.

Regulation of Investigatory Powers Act 2000 (RIPA)

Part II of this Act provides a statutory framework for undertaking covert investigative techniques and ensuring that they are compliant with the European Convention on Human Rights. The Act enables Local Authorities to undertake certain covert investigative techniques providing they have been authorised by an appointed officer and fulfil the necessary requirements. Codes of Practice and authorisation forms have been produced by the Home Office, these are provided on the website together with ELWA's own guidelines.

Part I Chapter II of this Act relates to the acquisition and disclosure of communications data e.g. subscriber information, itemised telephone records, and mobile phone cell site locations. This part of the Act has been implemented more recently: the Home Office's Codes of Practice are still at draft stage and ELWA has yet to implement full procedures.

Public Interest Disclosure Act 1998 (PIDA)

This Act gives workers the right not to be victimised or dismissed as a result of a disclosure which is protected by the Act. Where a whistleblower is victimised in breach of the Act, they can bring a claim to an employment tribunal for compensation. Awards are based on losses suffered and are unlimited. As the Act relates to "workers" this is wider than just employees and also includes contractors, agency staff, etc. Further information is provided on the website under Whistleblowing.

Proceeds of Crime Act 2002 (POCA)

This Act has criminal and civil provisions relating to the recovery of the proceeds of crime, including the freezing of suspect's assets through confiscation orders. These orders can now be obtained by the Police at an earlier stage in an investigation. The Act also includes new regulations regarding money laundering.

Indications of Fraud/Areas of Risk

The Metropolitan Police have determined that the causes of fraud are:

- overriding existing controls 42%
- lack of separation of duties 22%
- lack of supervision 20%
- lack of checks 15%
- other 1%

Common events which sometimes may be the first indication of fraud include:

- budget overspends,
- inexplicable variances,
- unusual transactions/records,
- “control freaks”,
- non adherence to procedures/Standing Orders,
- requests for inspections to be deferred,
- individuals living beyond their means.

Common risk areas include:

- cash:
 - budget monitoring,
 - bank reconciliation,
 - poor record keeping,
 - post opening procedures,
 - informal petty cash arrangements.
- assets:
 - physical security,
 - out of date inventories are a potential risk of loss, but may also impact on any subsequent insurance claim.
- recruitment (employees and agency staff):
 - identity checks,
 - poor staff vetting.
- staffing:
 - skill shortages,
 - undue influence / autocratic behaviour,
 - lack of appreciation of the necessity, or even legal requirements, of some procedures.
- procurement:
 - splitting of contracts to avoid tendering / quotation procedures,
 - acceptance of gifts or hospitality.

Fundamental controls which can help to prevent fraud / loss include:

- maintaining best practice and operating quality systems,
- regular monitoring to ensure things are on track,
- clear audit trails,
- consistency of approach, a zero tolerance to fraud.

-oOo-

Introduction

ELWA has entered into a long term PFI Integrated Waste Management Contract with Shanks East London. That contract contains specific provisions in respect of corruption and fraudulent activity. These are set out below.

Clause 54

Corrupt Gifts and Fraud

- 54.1 If the Contractor or any Sub-contractor (or anyone employed by them as appropriate or any of its or their agents or shareholders) commits any Prohibited Act, then the Authority shall be entitled to act in accordance with this Clause 54.
- 54.2 If a Prohibited Act is committed by the Contractor or by any of its employees, with the knowledge and consent of the Contractor, then the Authority may terminate the Contract by giving notice to the Contractor.
- 54.3 If the Prohibited Act is committed by any employee of the Contractor acting without the knowledge and consent of the Contractor, then the Authority may give notice to the Contractor of termination and the Contract shall terminate, unless within twenty (20) Business Days of receipt of such notice the Contractor terminates the employee's employment and (if necessary) procures the performance of such part of the Services by another person.
- 54.4 If the Prohibited Act is committed by a Sub-contractor or by an employee of that Sub-contractor with that Sub-contractor's knowledge and consent then the Authority may give notice to the Contractor of termination and the Contract will terminate, unless within twenty (20) Business Days of receipt of such notice the Contractor terminates the relevant Sub-contract and procures the performance of such part of the Services by another person.
- 54.5 If the Prohibited Act is committed by an employee of a Sub-contractor acting without the knowledge and consent of that Sub-contractor, then the Authority may give notice to the Contractor of termination and the Contract will terminate, unless within twenty (20) Business Days of receipt of such notice the Sub-contractor terminates the employee's employment and (if necessary) procures the performance of such part of the Services by another person.
- 54.6 The Contractor undertakes to make all Sub-contractors and other relevant persons aware of the provisions of this Clause 54 and to take all reasonable steps to prevent Prohibited Acts.
- 54.7 Any notice of termination under this Clause 54 shall specify:
- a) the nature of the Prohibited Act;
 - b) the identity of the person whom the Authority reasonably believes has committed the Prohibited Act; and
 - c) the date on which the Contract will terminate, in accordance with the applicable provision of this Clause 54.

The amount of compensation to be paid following termination of the Contract under this Clause 54 shall be calculated in accordance with the provisions of paragraph 4 of Schedule 14 (Compensation upon Termination).

Prohibited Act - Definition

The definition of a Prohibited Act in the above clause is as follows:

“Offering giving or agreeing to give any servant of the Authority or Constituent Boroughs any gift or consideration of any kind as an inducement or reward:

- a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Contract or any other contract with the Authority or Constituent Boroughs; or
- b) for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority or Constituent Boroughs;
- c) entering into this Contract or any other contract with the Authority in connection with which commission has been paid or has been agreed to be paid by the Contractor or on its behalf, or to its knowledge (other than bona fide bonus payments to its employees and/or consultants or advisers), unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to and approved by the Authority;

Committing any offence:

- a) under the Public Bodies Corrupt Practices Act 1889 or the Prevention of Corruption Act 1889-1916; or
- b) under legislation creating offences in respect of fraudulent acts; or
- c) at common law in respect of fraudulent acts in relation to this Contract or any other contract with the Authority; or
- d) defrauding or attempting to defraud or conspiring to defraud the Authority.”

APPENDIX

Other Relevant Documents

This is Document 6 of the Anti Fraud and Corruption Strategy. Other documents within the Anti Fraud and Corruption Strategy are:

- Document 1: Statement and Principles (Reference PN/01)
- Document 2: Guidance for Staff (Reference GN/01)
- Document 3: Whistleblowing Procedure – Information for Employees and for people who have dealings with the Authority (Reference PN/02)
- Document 4: Whistleblowing Procedure – Information for Managers (Reference GN/02)
- Document 5: Fraud Response Plan (Reference PN/03)
- Document 6: This document (Reference GN/03)
- Document 7: Copies of the Policy of Shanks Waste Management (Reference GN/04)