

Failure to Prevent Fraud Offence and Counter Fraud Strategy

To: Audit and Accounts Committee

Meeting Date: 23 July 2025

From: Head of Internal Audit and Risk Management

Electoral division(s): All

Key decision: No

Forward Plan ref: Not Applicable

Executive Summary: This report summarises the reasonable procedures that Cambridgeshire County Council has in place in relation to the new offence of 'failure to prevent fraud' which established through the Economic Crime and Corporate Transparency Act (2023). The report also presents a proposed Counter Fraud Strategy outlining a plan of action to further strengthen the Council's fraud prevention framework.

Recommendation: The Committee is asked to:

- a) approve the proposed Counter Fraud Strategy.
- b) note and comment on the reasonable procedures to prevent fraud.

Officer contact:

Name: Mairead Claydon
Post: Head of Internal Audit and Risk Management
Email: mairiad.claydon@cambridgeshire.gov.uk

1. Creating a greener, fairer and more caring Cambridgeshire

- 1.1 Fraud, theft and corruption within local authorities hinders the achievement of objectives by diverting valuable resources away from essential services and projects, as well as impacting on public trust. Maintaining an effective fraud prevention framework therefore supports Cambridgeshire County Council to achieve all seven of its strategic ambitions.

2. Background

- 2.1 A new offence of 'failure to prevent fraud' was established through the Economic Crime and Corporate Transparency Act (2023), a piece of legislation aimed at enhancing accountability and transparency within organisations, including local councils. The Act mandates that corporate entities must implement adequate measures to prevent fraudulent activity within their operations. The legislation is set to come into effect on October 1st, 2025, and will be applicable to public authorities such as Cambridgeshire County Council. It should also be noted that because the Council is in scope, this means that its subsidiaries are also in scope.
- 2.2 As a result of the provisions of the Act, organisations can be held criminally liable if their employees, subsidiaries, agents or other persons associated with them commit a fraud intending to benefit the organisation, and the organisation did not have reasonable fraud prevention procedures in place. It should be noted that companies within an organisation's supply chain are not 'associated persons' unless they are providing services on behalf of the relevant body.
- 2.3 The 'benefit' from the fraud may be financial or non-financial, and the organisation does not need to actually receive any benefit for the offence to apply; it is enough that the organisation was intended to be the beneficiary. It should be noted that the issue of who is (or was) intended to benefit from the underlying fraud is key to determining whether a relevant organisation can be held accountable for the offence of failure to prevent fraud. The offence does not apply where an employee or other associated person commits a fraud against the Council with the sole purpose of benefiting themselves; however the offence can apply where a fraudster's primary motivation was to benefit themselves, but where their actions would also benefit the organisation in some way.
- 2.4 This new legislation places the onus on organisations such as the Council to demonstrate that they have taken reasonable steps to prevent fraud, which includes implementing robust anti-fraud policies, conducting regular risk assessments, and ensuring proper staff training. Organisations which can demonstrate that they had "reasonable procedures" in place to prevent fraud will be able to use this as a defence.
- 2.5 In light of the introduction of this new legislation, the Internal Audit and Risk Management team at Cambridgeshire County Council have conducted a review of our existing fraud prevention measures to assess the extent to which the Council can demonstrate that it has reasonable procedures in place to prevent fraud (see Section 3, below). The team has also linked this work to the development of a new Anti-Fraud and Corruption Strategy outlining planned actions to further strengthen the Council's fraud prevention framework.

3. Assessment of Current ‘Reasonable Procedures’ to Prevent Fraud

- 3.1 In order to comply with the Act, organisations must prove they have taken reasonable steps to prevent fraud. This allows them to use the defence of having “reasonable procedures” in place. The legislation outlines six principles of reasonable prevention that organisations should implement, to demonstrate they are adequately addressing the risk of fraud. These principles are similar to those found in the Secretary of State guidance for the Bribery Act 2010.
- 3.2 The six principles of reasonable prevention are set out below. The Internal Audit and Risk Management team has conducted a high-level assessment of the current arrangements in place as part of Cambridgeshire County Council’s fraud prevention framework for each point:

1. Top-Level Commitment

Responsibility for the prevention and detection of fraud rests with those charged with the governance of the organisation, who are expected to foster a culture where fraud is unacceptable. The key aspects of the Council’s fraud prevention framework relating to this principle are:

- Cambridgeshire County Council’s Anti-Fraud and Corruption Policy sets out a zero-tolerance commitment to all forms of fraud, bribery, and corruption. This commitment extends from the top-level management down to all associated persons within the organization.
- The Council has a comprehensive fraud prevention policy framework in place, including the Anti-Fraud and Corruption Policy, Anti-Money Laundering Policy, and Whistleblowing Policy. Collectively these policies establish clear roles and responsibilities for the prevention, detection, reporting and investigation of suspected fraudulent activity. These policies are monitored and reviewed by the Council’s Audit and Accounts Committee on a regular basis.
- Regular reporting on whistleblowing and alleged fraudulent activity is provided to CLT and the Audit and Accounts Committee via Internal Audit Progress Reporting.
- Members of CLT are key contacts under the Council’s Whistleblowing Policy and foster an open culture, where staff feel empowered to speak up if they encounter fraudulent practices. CLT and Directors also have the responsibility to ensure that effective systems of control are in place corporately and within their directorate to prevent and detect fraud, and that those systems operate properly. CLT and Directors submit an annual self-assessment of these processes, to be included in the Council’s Annual Governance Statement and provide annual assurance statements to the Audit and Accounts Committee.

2. Risk Assessment

The organisation must assess the nature and extent of its exposure to the risk of employees, agents and other associated persons committing fraud in scope of the offence. The risk assessment should be dynamic, documented and kept under regular review. Particular aspects of the Council's work to maintain current risk assessments relating to the risk of fraud include:

- The Council has a robust risk management policy framework with a clear risk assessment and monitoring process for all risks. The "risk that the Council is a victim of theft, fraud or corruption" is captured and monitored as part of the Strategy and Partnerships Directorate Risk Register. The risk is regularly reviewed and updated as part of ongoing risk management processes, and is currently scored with a residual risk score of 12. A copy of this risk is provided as Appendix 1 to this report.
- Linked to this, more service-specific risks around fraud are captured and monitored elsewhere in corporate and directorate level risk reporting; particularly Risk 8 on the Corporate Risk Register ("the risk that the Council is a victim of cyber crime").
- The Internal Audit team conduct assessments of the risk of fraud, bribery, theft or corruption when developing their Terms of Reference for each individual audit review and as part of the development of the annual Audit Plan.

3. Proportionate Risk-Based Prevention Procedures

Under the legislation, an organisation's procedures to prevent fraud by persons associated with it need to be proportionate to the fraud risks it faces and to the nature, scale and complexity of the organisation's activities. They also need to be clear, practical, accessible, effectively implemented and enforced.

At Cambridgeshire County Council, the key controls in place to prevent the risk of fraud are outlined in the organisation's fraud risk assessment. The particular controls which seek to prevent fraud by persons associated with the Council include:

- Key anti-fraud policies such as the Anti-Fraud and Corruption Policy, Whistleblowing Policy and Anti-Money Laundering Policy which clearly set out how concerns around fraud will be identified, reported, investigated and the consequences for employees or contractors should fraud be identified. They also set clear roles and responsibilities for fraud prevention.
- Key financial and procurement policies such as the Scheme of Financial Management, Contract Procedure Rules and Grants to External Organisations Policy set out controls to prevent fraud within the Council's financial systems and processes, including purchasing and contracting.
- The Council's Codes of Conduct for Officers and Members set clear expectations regarding

- In addition to the above policies, the Council's processes for Declarations of Interest, Related Parties Declarations, the Gifts and Hospitality process and the Members Register of Interests reduce the risk of conflicts-of-interest arising, which may create an incentive for fraudulent activity.
- The ongoing role of Internal Audit includes investigating allegations of suspected fraud; considering how effectively fraud risk is managed as part of all audit reviews; and identifying any themes arising with regards to suspected or actual fraudulent activity reported to the team. Where control weaknesses that may enable fraud are identified by Internal Audit, actions to address this are agreed with management and the implementation of these actions is reported to the Audit and Accounts Committee.
- Individual systems and services have their own specific risk-based prevention procedures in place. For example, this includes separation of duties and access controls in key financial systems and functions (for example, purchasing, payroll and treasury management), as well as the Council's recruitment and management processes which aim to establish the integrity of employees and ensure that colleagues receive sufficient training and supervision.
- The Council's external auditors review the Council's financial statements and its achievement of value for money. While identifying fraud is not their primary focus, they do assess the risk of fraud and provide a view on the effectiveness of the Council's arrangements to manage the risk.

4. Due Diligence

Organisations should apply due diligence procedures, taking a proportionate and risk-based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified fraud risks. At Cambridgeshire County Council, this includes:

- The Procurement Guide sets out the process for proportionate due diligence in contracting. This includes seeking key information from successful bidders, such as insurance certificates, financial accounts, supplier policies, accreditations and DBS checks (where relevant). The Council conducts due diligence checks on major contractors, which include checking for legal events (which would identify e.g. court judgements against a company).
- The Grants to External Organisations Policy sets out proportionate due diligence processes to be undertaken when the Council awards grants to external bodies. For larger awards, this includes a requirement for references; a review of the organisation's governance structure and key policies; and declarations of interests to be made.

5. Communication

Organisations should seek to ensure that their fraud prevention policies and procedures are communicated, embedded and understood throughout the organisation, through internal and external communication. At Cambridgeshire this is a key part of the fraud prevention framework and includes:

- Policies such as the Anti-Fraud and Corruption Policy, Anti-Money Laundering Policy, and Whistleblowing Policy are readily available to all officers on the Council's intranet. The Whistleblowing and Anti-Fraud and Corruption Policies are also available on the Council's external website.
- In 2024, the new Whistleblowing and Fraud eLearning module was launched and is classed as essential (mandatory) training for all officers to complete. This ensures awareness of the Authority's fraud prevention framework across all colleagues, including information on how to identify and report possible fraudulent activity.
- The Internal Audit and Risk Management team conducts periodic awareness campaigns, and an annual staff survey to gauge awareness of, and confidence in, the Council's whistleblowing processes.

6. Monitoring and Review

Ongoing monitoring and review processes are in place to ensure the effectiveness of anti-fraud measures, adapt to new risks, and improve procedures. In particular this includes regular review and update of key policies and reporting on this to the Audit and Accounts Committee, as well as the role of Internal Audit in continually assessing how effectively the risk of fraud is managed and identifying recommended actions to strengthen the Council's fraud prevention controls.

4. Counter Fraud Strategy

- 4.1 The review of the Council's fraud prevention framework highlighted that currently Cambridgeshire does not have a Counter Fraud Strategy in place.
- 4.2 A Counter Fraud strategy is about establishing a clear set of focus areas by which an organisation is going to change how it deals with fraud. It sets out a forward-looking approach aimed at shaping how an organisation prevents, detects, and responds to fraud. Maintaining a Counter Fraud Strategy is recommended by Fighting Fraud and Corruption Locally (2020).
- 4.3 The proposed Strategy is attached as Appendix 2.

5. Significant Implications

5.1 Finance Implications

Maintaining a robust fraud prevention framework serves to protect public funds and ensure best use of the Council's financial resources.

5.2 Legal Implications

This report supports the Council's compliance with the Economic Crime and Corporate Transparency Act 2023.

5.3 Risk Implications

A copy of the Fraud Risk Register is attached as Appendix 1 to the report.

5.4 Equality and Diversity Implications

Not applicable.

6. Source documents

6.1 None.

7. Source Documents

7.1 None