

Agenda Item 10

JOINT AUDIT COMMITTEE  
29 September 2022

**ANTI FRAUD BRIBERY AND CORRUPTION POLICY  
AND FRAUD RESPONSE PLAN**

1. **PURPOSE OF REPORT**

- 1.1 Anti-Fraud and Corruption policies were last reviewed by the Committee in September 2020 and it was agreed in the Committee Workplan for a review in 2022/23. This report is to provide members the opportunity to comment upon this refreshed document prior to being approved by the respective organisations.

2. **BACKGROUND**

- 2.1 JAC's terms of reference includes a requirement to review and monitor the effectiveness of the Commissioner's and Chief Constable's policies on fraud, bribery and corruption.
- 2.2 The Policy has been reviewed in consultation with the Head of Professional Standards, the Chief Finance Officer and the Director of Commercial Services.
- 2.3 The policy was reviewed in 2020 and the changes in the 2022 includes reference to the introduction of Annual Integrity Health Checks (AIHC) across WMP and the College of Policing's Guidance on Outcomes in Police Misconduct Proceedings (2022). In addition, the policy also details pension forfeiture as a potential action.

3. **RECOMMENDATIONS**

- 3.1 The Committee are requested to consider and comment on the attached policy.

**CONTACT OFFICER**

Name: Mark Kenyon  
Title: PCC, Chief Finance Officer

**BACKGROUND DOCUMENTS**

None



## Anti - Fraud, Bribery and Corruption Policy

### Police and Crime Commissioner for the West Midlands and West Midlands Police

The Police and Crime Commissioner for the West Midlands and West Midlands Police are committed to the principles of equality and diversity. No member of the public, member of staff, volunteer or job applicant shall be discriminated against on the grounds of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.

<b>Document Control</b>
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<b>Title:</b>	Anti - Fraud, Bribery and Corruption Policy for the Police and Crime Commissioner for the West Midlands and West Midlands Police
<b>Purpose:</b>	Policy outlining the roles & responsibilities for the prevention and detection of fraud, bribery & corruption
<b>Author:</b>	Chief Finance Officer (CFO)
<b>Other relevant policies:</b>	<ul style="list-style-type: none"> <li>Business Interests Policy</li> <li>Code of Conduct Policy</li> <li>Gifts &amp; Hospitality Policy</li> <li>Whistleblowing Policy</li> <li>Protocol between Internal Audit &amp; Professional Standards Departments for reporting, managing and investigating suspicions and allegations in respect of financial irregularities &amp; fraud</li> </ul>
<b>Responsible Officers:</b>	<ul style="list-style-type: none"> <li>Chief Finance Officer (CFO)</li> <li>Force Chief Finance Officer (FCFO)</li> </ul>
<b>Lead Officer:</b>	Mark Kenyon, Chief Finance Officer (CFO)
<b>Target Audience:</b>	All staff groups

	Agency & Partnership Staff Third party organisations and suppliers
<b>Reviewed By:</b>	Joint Audit Committee (JAC)
<b>Date:</b>	29 September 2022
<b>Review Date:</b>	29 September 2024

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## 1. INTRODUCTION

### General

- 1.1 One of the basic principles of public sector organisations is the proper use of public funds. It is, therefore, important that all those who work in the public sector are aware of the risk of and means of enforcing the rules against fraud, bribery and other illegal acts involving dishonesty. In carrying out its functions and responsibilities the Police and Crime Commissioner for the West Midlands (PCCWM) and West Midlands Police (WMP) are firmly committed to dealing with and reducing fraud, bribery and corruption and will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against perpetrators both within and outside of the organisation.
- 1.2 PCCWM and WMP wishes to encourage anyone having suspicions of fraud to report them. Any employee reporting reasonably held suspicions should not suffer as a result of the allegations, so long as the allegations are made without malice and in the public interest. Victimising or deterring staff and police officers from reporting concerns is a serious disciplinary matter.
- 1.3 PCCWM and the local policing body, the West Midlands Police Force (WMP), already have procedures in place that reduce the likelihood of fraud and/or bribery occurring, including standing orders, financial regulations, documented procedures, and systems of internal control and risk management.
- 1.4 The Anti-Fraud, Corruption & Bribery Policy forms part of the overall governance arrangements for PCCWM and WMP, and provides a framework for the prevention, detection and investigation of fraud.

### Aims and Objectives

- 1.5 The purpose of this policy is to provide a strategic overview outlining the framework arrangements in place to develop and maintain an anti-fraud culture within PCCWM and WMP, which encourages prevention, promotes detection and provides an effective process for reporting and investigating suspected acts of fraud.

### Scope

- 1.6 The policy should be read in conjunction with the organisation's Whistleblowing Policy and applies to police officers, all civilian and police staff, contractors and any third party or agency staff working on behalf of PCCWM and WMP.
- 1.7 The policy is also supported by the following inter related policies, regulations, orders and protocols:
  - Gifts & Hospitality Policy
  - Financial Regulations
  - Whistleblowing Policy
  - Police Officer and Staff Business Conduct Policy
  - Code of Conduct Policy
  - Corporate Governance Framework

## 2. KEY LEGISLATION

### 2.1 Fraud Act 2006

The Act provides a statutory definition of the criminal offence of fraud, as classified under three main headings:

- **Fraud by false representation** – dishonestly and knowingly making an untrue statement with the intention of making a gain or causing another to make a loss. This includes anything said, written or entered into a system or device.
- **Fraud by (wrongfully) failing to disclose information** – dishonestly failing to disclose information that should legally be disclosed with the intention of making a gain or causing another to make a loss; and
- **Fraud by abuse of position** – someone in a post in which they are expected to protect the interests of another dishonestly doing something or failing to do something with the intention of making a gain or causing another a loss.

Those found guilty under the Act are liable for a fine or imprisonment, with a maximum custodial sentence of ten years.

### 2.2 Bribery Act 2010

Corruption is defined as “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.”

The Act strengthened UK anti-bribery and corruption legislation and created a new offence which can be committed by organisations which fail to prevent persons associated with them from committing bribery on their behalf. Offering and requesting a bribe for financial or other advantage does not have to go direct to the person being influenced and there is no materiality threshold in the Act.

Individual offences under the Act are as follows:

- Bribing another person
- Receiving a bribe, and
- Bribery of foreign public officials

### 2.3 Theft Act 1968

The basic definition of theft under the Act is that “a person is guilty of theft if s/he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; It is immaterial whether the appropriation is made with a view to gain, or is made for the thief’s own benefit.”

Those found guilty under the Act are liable for a fine or imprisonment, with a maximum custodial sentence of seven years.

### **3 CULTURE**

- 3.1 The PCCWM and WMP promote a zero tolerance approach towards fraud, bribery, corruption and other malpractice for personal gain. Dishonesty, lack of integrity, avoidance of controls and failure to comply with agreed policies will not be tolerated.
- 3.2 It is the responsibility of managers and individual employees to create and maintain a culture underpinned by the seven principles of public life defined by the Nolan Committee, i.e. selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.
- 3.3 The PCCWM and WMP promote a climate of open communication, whereby all staff should be able to raise concerns about financial malpractice without fear of victimisation and with the protection afforded by the Employment Rights Act 1996. The Whistle Blowing Policy of the PCCWM and the confidential reporting mechanism of the Professional Standards Department support these principles.
- 3.4 The actions and responsibilities outlined within this Policy aim to help the PCCWM and WMP to ensure that the culture and tone of the organisation continues to be one of honesty and opposition to fraud and corruption.
- 3.5 It must be recognised that the PCCWM and WMP will not accept intentional misuse of the reporting and investigative process. It is the PCCWM's and WMP's policy to deal with any intentional abuse of the policy, such as raising malicious allegations, as a disciplinary matter.

### **4 DETERRENCE**

- 4.1 The publication of this Anti-Fraud, Bribery and Corruption Policy and regularly reinforcing that the PCCWM and WMP operate a zero tolerance approach will help deter those considering perpetrating fraudulent acts.
- 4.2 In order to deter any persons from attempting to defraud the PCCWM and WMP, appropriate action will be taken to publicise the general outcomes of disciplinary action and to remind employees of the control measures that are in place.
- 4.3 Where any loss is incurred to fraud and corruption the PCCWM and WMP will take action to affect maximum recoveries.
- 4.4 Managers are encouraged to conduct self-assessments of the systems and procedures for which they are responsible and to regularly test high risk systems, for example income collection and banking procedures.
- 4.5 The Joint Audit Committee receives regular reports on Professional Standards Department activity and these will include summary details of investigations into allegations of fraud and financial impropriety.
- 4.6 There is a high degree of external scrutiny of the PCCWM and WMP's affairs by a variety of bodies including the appointed External Auditors. Although the primary

purpose of this scrutiny is not to detect fraud or corruption, the knowledge that regular inspections take place should act as a deterrent.

## **5 PREVENTION**

- 5.1 All individuals within the PCCWM and WMP have their role to play in ensuring that attempts at fraudulent behaviour are unsuccessful. Appendix 1 identifies the roles and responsibilities that key groups and individuals play in reducing the risk of fraud against the PCCWM and WMP.
- 5.2 WMP have introduced an Annual Integrity Health Check (AIHC) this is for all staff members and is a conversation with their line manager which is recorded on the Oracle system which ensures staff understand the relevant policies: i.e. gifts and hospitality, business interests etc. It also provides an opportunity for staff to declare any changes in circumstances.

## **6 DETECTION**

- 6.1 The array of preventative systems, particularly internal control systems within the organisation, helps to provide indicators of, and help to detect, any fraudulent activity.
- 6.2 The annual programme of Internal Audit work includes reviews of areas at risk of fraud. Any irregularity identified by Internal Audit as part of its normal review function will be reported and investigated in accordance with the Fraud Response Plan (Appendix 2).
- 6.3 It is the responsibility of management to prevent and detect fraud and corruption. It is, however, often the alertness of staff and the public that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may have been committed or is in progress.
- 6.4 Despite the best efforts of managers and auditors, many frauds are discovered by chance, or 'tip-off', and the PCC and Chief Constable have arrangements in place to enable such information to be properly dealt with.
- 6.5 There is participation in the National Fraud Initiative data matching exercises and investigations of matches that are identified. Where any instances of fraud or overpayment are identified action is taken to recover any losses.

## **7. INVESTIGATION**

- 7.1 The Fraud Response Plan, as set out in Appendix 2, gives full guidance on how the PCC and WMP conduct investigations into allegations of fraud and the roles and responsibilities of all parties involved.
- 7.1 When managers suspect that fraudulent activity may have occurred they must report this immediately to the Head of Professional Services and / or the Head of Internal Audit. Once the potential extent of the allegation has been established the Head of Professional Services, the Head of Internal Audit and representatives of HR and Legal will meet to agree the strategy and approach for conducting the audit investigation and appoint the Investigating Officer.
- 7.2 Investigating Officers are required to ensure that investigations are fair, complete and objective and that they comply with the relevant statutory requirements and Disciplinary Procedures. The Investigating Officer must be suitably trained and



experienced in undertaking fraud investigations and the evidence needs to be collected to a criminal evidence standard.

## **8 SANCTIONS**

- 8.1 After an investigation, sanctions will be applied where fraud and corruption are proven to be present. This will be undertaken in a comprehensive, consistent and proportionate manner whereby all possible sanctions - disciplinary, civil and criminal - are considered. The level of sanction pursued will be considered at the end of the investigative process when all evidence is available. The sanction will be considered in line with the College of Policing's Guidance on Outcomes in Police Misconduct Proceedings (2022).
- 8.2 The outcome of a disciplinary process may include a range of levels of warning or, where gross misconduct is found, dismissal of the individual concerned.
- 8.3 When fraud or impropriety has been perpetrated by organisations or individuals with whom the PCC / WMP has a contractual relationship, robust action will be taken including, where appropriate, the termination of the contract, publication of findings and civil recovery proceedings.

## **9 REDRESS**

- 9.1 The manager responsible for the service in which a loss has occurred as a result of fraud or other misconduct must ensure that all possible means to recover losses are pursued and that effective co-operation takes place between interested parties.
- 9.2 When an employee offers to resign before a disciplinary hearing takes place the manager of the service concerned must consult the Head of Professional Standards, Human Resources and Legal services to decide the most appropriate action to be taken and how to enforce the repayment of all losses incurred by the PCC and WMP.
- 9.3 When a case leads to a criminal prosecution, the investigating police officer will be asked to submit a request that an order for compensation is made by the Court, unless otherwise decided.
- 9.4 When neither a voluntary agreement nor a compensation order is made the manager will consult with Legal Services about other legal action that can be taken to recover the organisation's losses. This may include making application for recovery from an employee's pension fund.

## **10 SUBSEQUENT ACTION**

- 10.1 Where an investigation identifies an incident of fraudulent behaviour, the Internal Audit team will review the internal controls and report on the weaknesses in the system that had allowed this fraud to occur. This will be reported to the relevant manager and it will be the manager's responsibility to promptly and robustly implement agreed actions to resolve this.
- 10.2 The external auditor for the PCC and WMP will be informed by the Head of Internal Audit of all major incidents of fraud or financial impropriety and on occasion it may also be necessary to inform other organisations such as HM Revenue and Customs and the Department of Work and Pensions.

- 10.3 Details of investigations of fraud will be reported to the Joint Audit Committee. The Professional Standards Department (PSD) may also consider pension forfeiture and make an application to the Office of Police and Crime Commissioner (OPCC) for this to be progressed.

## **11 MONITORING AND REVIEW**

- 11.1 Monitoring and auditing is essential to ensure that controls are appropriate and robust enough to prevent or reduce fraud. The CFO will monitor the operation of this policy and the application of controls, which will form part of the Internal Audit work plan, and will report any non-compliance to the CFO in the first instance. The effectiveness of the policy should form part of the Annual Report from the CFO. Continued failure to implement this policy should be reported by the CFO to the JAC.
- 11.2 All employees should be made aware of this policy and have clear access to it via the Intranet. The policy should be highlighted in all induction training and documentation for new employees and staff working in partnership or agency arrangements. The attention of contractors and suppliers of goods and services should be drawn to the requirements of the policy.
- 11.3 The policy will be formally reviewed by the CFO on a bi-annual basis.

## **12 TRAINING**

- 12.1 The PCC and Chief Constable both recognise that the continuing success of their joint Anti-Fraud and Corruption Policy and its general credibility will depend largely on the effectiveness of programmed training and the responsiveness of the PCC, Chief Constable and their respective employees throughout the organisations. To facilitate this, the PCC and Chief Constable support the concept of induction and training and appraisal and development for employees, particularly those involved in internal control systems, to ensure that a thorough understanding of their responsibilities and duties in this respect are regularly highlighted and reinforced. Heads of Departments and other line managers should ensure that employees have access to the relevant rules and regulations and that they receive suitable training. Employees must make sure that they read and understand the rules and regulations that apply to them and act in accordance with them. Employees who do not comply with these rules and regulations risk disciplinary action being taken against them.

**Anti- Fraud, Bribery and Corruption – Roles and Responsibilities**

<b>Group or individual</b>	<b>Fraud and Corruption prevention responsibilities</b>
All Employees	<p>Employees, at all levels, have a responsibility to adhere to legal requirements, codes of conduct, standard procedures and best professional practice as well as raise any suspicions that they may have of fraudulent activity, whether attempted from within the PCCWM and WMP or by any outside individual, group or organisation.</p> <p>Concerns can be raised without fear of recrimination through the Confidential Reporting process.</p> <p>Employees are expected to follow the relevant code of conduct, gifts and hospitality policies, IT security policies and to declare any interests they have in contracts that have been, or are proposed to be, entered into by the PCCWM and WMP.</p>
All Managers and Budget Holders	<p>Managers are responsible for assessing the risk of fraud in their area and ensuring there are appropriate and effective controls in place to mitigate the risk. Budget holders in particular have a key accountability and responsibility to operate financial controls, as set out in the Financial Regulations.</p> <p>Managers who receive information about any suspected fraud or corruption must, in accordance with the PCCWM's Confidential Reporting process and Fraud Response Plan, report it immediately to Professional Standards and/or the Head of Internal Audit, who will ensure that the appropriate senior managers are informed and investigation protocols are followed.</p> <p>Managers must maintain a continuous assessment of risks associated with the service activities for which they are responsible, including risks of fraud and impropriety, and maintain effective controls to mitigate those risks. Managers should promptly implement agreed management actions where weaknesses in controls are identified during audit reviews.</p> <p>When policies, service delivery arrangements (such as partnerships) and systems are being developed managers should obtain appropriate advice from Finance, Internal Audit and Legal Services.</p> <p>Managers must invoke disciplinary policies and practices in the event of suspected fraudulent activity by employees arising from breaches of Codes of Conduct or incidents of whistleblowing.</p>
All recruiting managers	<p>Recruiting managers must manage the risk of inappropriate or fraudulent appointment of employees (or volunteers) by adhering to recruitment and selection policies and procedures. It is essential that effective reference and propriety checks are undertaken.</p> <p>Where necessary, recruiting managers are responsible for undertaking the appropriate level of Disclosure and Barring Services and vetting checks.</p>

<b>Group or individual</b>	<b>Fraud and Corruption prevention responsibilities</b>
The Chief Financial Officer (Section 151 Officer)	<p>The CFO has a statutory responsibility under Section 151 of the Local Government Act 1972 for ensuring that adequate systems and procedures are in place for the PCCWM and WMP's financial affairs. The CFO is also the professional advisor to the Police and Crime Commissioner in respect of financial propriety.</p> <p>The CFO is responsible for undertaking a continuous internal audit, under the shared control of the CFO/FCFO, of the accounting, financial and other operations within PCCWM and WMP, including to what extent assets and interests are accounted for and safeguarded from losses due to fraud and other offences.</p> <p>The CFO will be responsible for monitoring the actions taken in respect of all allegations of fraud reported to the Professional Standards Department (PSD), irrespective of whether the matter is the subject of criminal investigation, of any loss, financial irregularity or suspected irregularity, including those relating to cash, physical assets or other property of the organisation.</p> <p>The CFO will monitor the implementation of the Anti - Fraud, Bribery and Corruption Policy and will report to the CFO/FCFO on its effectiveness and appropriateness.</p> <p>The CFO will undertake pro-active work within the agreed Internal Audit Plan to detect cases of fraud and corruption, particularly where system weaknesses have been identified. Where this work identifies cases of fraud these will be referred to the Head of Professional Standards (HOPS) for investigation.</p>
Force Section 151	<p>The Force Section 151 Officer is appointed by the Chief Constable and is responsible for managing the finance function within WMP, including the maintenance of financial and accounting systems, risk management systems and the system of internal control.</p>
The Joint Audit Committee	<p>The JAC will review and consider the Anti-Fraud, Corruption and Bribery Policy which will be reviewed bi-annually.</p> <p>The JAC will receive a joint report from the CFO/ Force Section 151 Officer detailing the current status of all fraud investigations in progress and any sanctions and redress taken.</p> <p>The JAC will review and approve the Anti-Fraud, Corruption and Bribery Work Plan produced by the HOPS.</p> <p>The JAC will review and consider the Anti-Fraud, Corruption and Bribery Annual Report.</p>
The Head of Professional Standards (HOPS)	<p>The HOPS will receive and review all allegations or reported suspicions of fraud from managers, staff, and third parties, in conjunction with Internal Audit, HR and Legal Services and is responsible for managing the criminal or disciplinary investigation of all cases agreed with the CFO and FCFO.</p> <p>The HOPS will develop an Anti-Fraud, Corruption and Bribery Work Plan which will be presented to the Joint Audit Committee (JAC) for approval prior to the commencement of the financial year. The Work Plan will include proposals for providing training and information to staff, in order to raise awareness across the organisation.</p> <p>The HOPS will provide an Anti-Fraud, Corruption and Bribery Annual Report for the JAC which will provide a summary of the work undertaken during the year. The Report will include the measures taken to develop an anti-fraud culture within the organisation, and work undertaken relating to the detection and investigation of fraud.</p>

<b>Group or individual</b>	<b>Fraud and Corruption prevention responsibilities</b>
Internal Audit team	<p>This service helps in fostering the anti-fraud approach of the organisation, and provides appropriate publicity and raises awareness.</p> <p>The service monitors and reviews the existence, appropriateness, and effectiveness of internal controls, including those controls which aim to manage the risk of fraud. The outcome of this work will inform their opinion on the internal control environment, future internal audit plans and ultimately the Annual Governance Statement.</p> <p>The service liaises with the Professional Standards Department in respect of the investigation into allegations of fraud and corruption.</p> <p>The service leads on the PCCWM's and WMP's participation in the National Fraud Initiative, which is an exercise based upon the exchange and comparison of information with other authorities and agencies. It identifies possible fraudulent activity across a range of areas, including payroll, pensions and creditor payments.</p>
Third Parties acting on behalf of PCCWM and WMP	<p>The attention of all staff working for third parties acting on behalf of the organisation must be drawn to the requirements of this policy.</p>

### The Fraud Response Plan

#### Reporting fraud, bribery and corruption

1. All managers, staff, third parties and other parties must report suspicions allegations of fraud to the HOPS or the Head of Internal Audit.
2. The HOPS will review, in conjunction with Internal Audit, HR and Legal Services each suspicion or allegation made to determine whether or not an investigation is required. Where appropriate, the HOPS will liaise with the CFO and FCFO to agree the type of investigation required (i.e. criminal or disciplinary). The HOPS will report all allegations received to the CFO, including the action to be undertaken. The HOPS will report progress in respect of each case to the CFO on a monthly basis.
3. The HOPS will arrange for criminal investigations to be undertaken by an appropriately skilled investigator in all cases where fraud is suspected, which is likely to result in prosecution.
4. The HOPS will arrange for disciplinary investigations to be undertaken by an appropriately skilled investigator, where allegations are founded but unlikely to result in a prosecution.
5. Where the suspicion or allegation is founded and there is potential for criminal prosecution, the HOPS must appoint an investigator with the required level of skills and resources for the criminal investigation needed.
6. Where the suspicion or allegation is founded but there is no potential for criminal prosecution, the HOPS must appoint an investigator with the required level of skills and resources for the disciplinary investigation needed.
7. Where cases are proven, the HOPS will agree with the CFO and FCFO the sanctions and redress to be sought. Where the case is not proven, the case should be formally closed and an internal report provided to the CFO and FCFO.
8. Where the suspicion or allegation is unfounded the case should be formally closed and an internal report provided to the CFO and FCFO.
9. The disciplinary procedures of the organisation must be followed where an employee is suspected of being involved in a fraudulent or other illegal act.
10. The HOPS will maintain a case management record detailing the suspicion or allegation made and the action taken regarding the investigation. This record should be regularly updated and will be subject to monitoring by the CFO.